

**Office of Government Ethics**  
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**Letter to the Chairman of a National Commission**  
**dated June 24, 1993**

This letter is in response to a request you made during an ethics briefing on May 24, 1993, for a written statement of the information provided. I am informed that you have received a memorandum dated May 27, 1993, from an Associate Counsel to the President, which addresses the applicability of ethics laws and regulations.

It is our understanding from the White House that each of the non-Federal members of [your] Commission was appointed to represent the interests of [one of several specific groups]. Each of these members should refer to his or her letter of appointment to confirm that fact and to focus upon the interest he or she is to represent.

When an individual has been appointed by the Government to an advisory board or commission to represent a certain group that clearly has an interest in the subject of discussion, the individual is not considered an employee or special Government employee for the purposes of the conflict of interest statutes. That individual has been asked to represent a particular bias. On the other hand, an employee or a special Government employee is asked to provide his or her own best judgment without representing any particular point of view and, more importantly, in a manner that is free from any conflict of interest. Therefore, only employees and special Government employees are subject to the conflict of interest laws. Representatives are not covered by the laws; otherwise the purpose of their services would be thwarted.

In the absence of applicable statutes or regulations governing their conduct, representative members should comport themselves with integrity so as not to trade upon their positions on the Commission for their own personal benefit. Not only will they avoid potential criticism, but also the work of the Commission will not be unnecessarily questioned.

Finally, during the briefing, I understand that two specific questions were asked. One dealt with whether the conflict of interest rules apply to Federal advisory committee members. I have

already answered that question in the previous discussion of the differences between a special Government employee member of an advisory committee and a representative member of an advisory committee. The second question was whether those Commissioners, appointed as representatives, would have to file a financial disclosure report. The answer to that question is no. Only employees or special Government employees are required to file either a public or a confidential financial report at this time. The primary purpose of a financial disclosure report is to provide guidance to an individual on how to avoid potential conflicts that appear on the report and, in the case of public reports, to allow the public to assure itself that an employee is acting in a manner that does not conflict with his or her financial interests. Since representative members are not subject to these rules, that purpose does not exist.

The opinions contained in this letter with respect to the inapplicability of conflict of interest laws and regulations are directed to those non-Federal members of the Commission appointed as representatives. Individuals appointed to the Commission, who already hold a Federal office, continue to be subject to ethics laws and regulations applicable to them because of that Federal office held prior to their appointment to the Commission.

I hope this information proves useful to you.

Sincerely,

Stephen D. Potts  
Director