

Financial Disclosure Statement Frequently Asked Questions

Who must file a Disclosure?

- Certain public officials and candidates for certain offices are required to file Financial Disclosure Statements with the Ethics Commission.
- Candidates for all state and county offices must file a Disclosure within 10 days of filing their Certificates of Announcement with the Secretary of State's office. Those who are elected must then file a Disclosure annually.
- Members of state boards, commissions and agencies who are appointed by the Governor must file within 30 days after assuming their duties. They must then file annually during the time they serve in an appointed position.
- **State Executive Branch** Cabinet secretaries, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, and department heads are also required to file Disclosures annually.

Who does not need to file?

- Candidates who have filed a Statement based upon their current public position **do not** need to file another Statement as a result of being a candidate for that or another position.
- Political party executive committee candidates and delegates to party conventions **do not** need to file a Disclosure.
- Filers who are no longer in a public position or elected office required to file a Disclosure as of February 1 need not file a Disclosure.

Why must I file a FDS?

The Ethics Act contains provisions requiring certain public officials and employees to file Financial Disclosure Statements. Each question on the Disclosure is specifically required by the Act.

What if I do not file a Disclosure?

The Ethics Act provides that: "any person who knowingly fails or refuses to file a financial statement ... is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 nor more than \$1,000."

In addition, the Ethics Act provides that: "no candidate for public office may maintain his or her place on a ballot and no public official may take the oath of office or enter or continue upon his or her duties or receive compensation from public funds unless he or she has filed a financial disclosure statement with the state Ethics Commission ..." (See W. Va. Code § 6B-2-6(c)).

What happens if a filer intentionally files a false Disclosure or conceals a material fact on the Disclosure?

The Ethics Act provides that: "any person who ... willfully and knowingly filing a false financial statement or knowingly and willfully concealing a material fact in filing the

statement is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000, or confined in jail not more than one year, or both.”

Are completed Disclosures available to the public?

Yes. All Disclosures, except for the cover page entitled “Contact Information & Signature Sheet,” are available to the public. In addition, Disclosures filed by some officials are posted on the Ethics Commission’s website. Those include Disclosures filed by members of the Legislature, justices on the Supreme Court, elected members of the Executive Department and candidates for all of these positions.

What rules apply to part-time members of boards or commissions who were appointed by the Governor

If a person appointed to a board or commission receives no compensation pursuant to statute (other than expense reimbursement), he/she need not disclose: (1) his/her spouse’s sources of income over \$1,000 or (2) the spouse’s business interests valued at \$10,000 or more, provided that the spouse or a business with which he/she is associated is not regulated by the board, has no contracts with the board and receives no grants or appropriations from the board. The filer must sign a statement verifying these facts on Worksheet A on the Financial Disclosure Statement.

The filer’s income and business information must still be provided even if his/her spouse need not disclose this information.

Do employees of the Legislative branch need to file?

No.

I am a State employee, and my job title has the word “director” in it. Must I file?

Yes. The following must file a Disclosure: “[State executive department] secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.” See W. Va. Code § 6B-2-6(a)(3); Advisory Opinion 2014-13 (holding that “it is clear from a plain reading of § 6B-2-6(a)(3) that public servants holding the title of ‘director’ are covered by this statutory requirement”); Advisory Opinion 2017-06 (finding that positions listed in W. Va. Code § 6B-2-6(a)(3) describe positions falling under the executive branch of state government).

I am a State employee, and I have two titles: a civil service classification (for example, Director I) and a working title (for example, Supervisor of Maintenance). Do I file?

Yes. Since one of your titles contains the word “director,” you are required to file.

How do I file online?

Go to www.ethics.wv.gov. If you have filed online previously, you may use the username and password that you used earlier. If your password has expired, you will be prompted to create a new one. If you have forgotten your password, you may use the “forgot password” feature to receive a temporary password via email. If you have

forgotten your username or are unable to reset your password, you may call West Virginia Interactive at (304) 414-0265 for assistance.

If you have not previously filed online, go to www.ethics.wv.gov under “Financial Disclosure,” then to “Online Financial Disclosure Filing.” You must create your own username and password. After doing so, call the Ethics Commission at (304) 558-0664 to get a PIN number.

If I file online, do I need to print my Disclosure and send it to the Ethics Commission?

No.

I am filing online and the form will not let me proceed to the next screen; what do I do?

Press the **ADD** button to continue to the next screen.

If I discover that I failed to report something, may I amend my Disclosure?

Yes. If you filed online, you may amend your form by clicking on the “amend” button. This feature is available up to one year after your initial filing. If you submitted a paper Disclosure, you may send a complete amended Disclosure as an attachment to an email to the Commission. You also may mail your amended complete Financial Disclosure to the Commission via U.S. Mail.

Can I fax the form to you?

No. Completed Financial Disclosures may be hand delivered or sent through the U.S. Mail. Disclosures also may be emailed to the Ethics Commission at ellen.m.briggs@wv.gov; please sign your form in blue ink and attach it to the email. The Commission does not accept emailed Disclosures which attach photographs of a Disclosure.

I filed a Disclosure because I was a candidate for an elected office. I won the election. Do I need to file another Disclosure?

No. Only one Disclosure per year needs to be filed.

The Governor appointed me to serve on a board. What do I need to do for the Ethics Commission?

You must complete a Financial Disclosure Statement and return it to the Ethics Commission within 30 days of being appointed. You must then file a new Disclosure by February 1 each year you are in your public service position.

I filed my Disclosure in July when I received my appointment letter from the Governor. Do I need to file another one next year?

Yes. You must file a Disclosure annually as long as you are in your public service position. Disclosures are due on February 1.

In May, the Governor appointed me to a board, and I filed the Disclosure. In August, the Governor appointed me to an additional Board. Do I have to complete another Disclosure for this second appointment?

No. You need to file only one Disclosure each year. Include the names of both boards on your next Disclosure.

I resigned my position on a state board last year. Do I still have to file a Disclosure?

No. You do not need to file a Disclosure unless you serve in a different position which must file a Disclosure. You must notify the Ethics Commission with a brief statement explaining that you no longer serve in the position. The Commission will then remove your name from its database.

I forgot my PIN number to file online; who do I contact?

Call the Ethics Commission at (304) 558-0664.

I forgot my username and password; who do I contact?

Call West Virginia Interactive at (304) 414-0265.

For what year do I provide information on my Financial Disclosure?

You must report information for the preceding calendar year. Therefore, on the Disclosure which you file in 2018, you must report employment, contracts and other information for calendar year 2017.

Some questions seem to ask for similar information. For example, I already listed my business in question 4. Do I have to list the same information other places on the Disclosure?

Yes. Certain information may have to be listed several times to comply with the requirements which the West Virginia Legislature placed in the Ethics Act.

I own a new retail business but did not made any money during the reporting year. Do I still need to list it?

Yes. Your business name and address must be listed in question 4. In addition, if your business has a fair market value of at least \$10,000, you must also list it in question 14.

I do contract work and receive IRS 1099 forms. How do I record this information?

If you earned more than \$1,000 from your contract work, list it in question 13. If the income was from a contract with a state, county, municipal or other local governmental entity, then you must also list it in question 9.

Why does Question 9 require information about “Sales or Contracts with State, Local or County Government”?

The Ethics Act prohibits elected public officials and full-time public employees, whether appointed or employed, from having a financial interest in any contract, purchase or sale over which their public position gives them control, unless the total value of such contracts, purchases or sales does not exceed \$1,000 in a calendar year. Even then,

the public official may not be involved in influencing the award of the contract. This \$1,000 exception may not be relied upon by county officials who are governed by the stricter limitations in W. Va. Code § 61-10-15, which is not part of the Ethics Act.

The Ethics Act prohibition also extends to contracts in which the public servant's spouse, dependent parents, or dependent children have a financial interest, as well as to any business with which the public servant or his or her immediate family members are associated.

For purposes of this prohibition, public servants and their immediate family members are associated with a business if any one of them is a director or officer in the business, or if they hold stock in the business which constitutes 5% or more of the outstanding stock of any class.

This provision applies only to:

- (1) those contracts your job gives you authority to award or control and
- (2) those purchases and sales you are authorized to make or direct others to make.

Part-time appointed officials (except those county officials covered by W. Va. Code § 61-10-15) are not subject to the prohibition, provided they recuse themselves from considering and acting on such matters consistent with the voting provisions of the Act.

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