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Federal judge to resign from OSU Board of Trustees

By Laura A. Bischoff

Columbus bureau

COLUMBUS — U.S. District Court Judge Algenon Marbley will resign from the Ohio State University Board of Trustees and teach law school classes at no charge for two semesters to resolve a state ethics case against him, according to a settlement reached with the Ohio Ethics Commission on Thursday.

State Auditor David Yost and Franklin County Prosecutor Ron O'Brien agreed to the sanctions so the case will not be prosecuted.

In a written statement and his resignation letter, Marbley said he disagrees with the Ethic Commission's analysis but added, "I respect their authority and I strive to assure that my conduct is viewed at all times as ethical and appropriate. That is why I act now to resolve this matter fully."

Marbley was appointed to the federal bench by President Bill Clinton in November 1997, began teaching at the OSU Moritz College of Law in 2000 and was appointed to the OSU Board of Trustees by Democratic Gov. Ted Strickland in May 2007. Since 2007, he has been paid \$141,319 for his teaching services at the university.

Under the agreement, Marbley acknowledged that receiving payment for teaching and serving as a trustee is contrary to published advisory opinions from the ethics commission; agreed to resign from the OSU board effective Jan. 30; and teach for free in the spring and fall semesters next year.

After the ethics investigation was opened in February, Marbley taught for a trial practice course without compensation in March and April.

"This is about the lawfulness of the payments, not the quality of his teaching," said Ohio Ethics Commission Director Paul Nick. "A trustee of a public university cannot be paid by the institution he serves."

The state ethics laws are designed to protect the public against self-dealing and nepotism. One law prohibits public officials from having an interest in a public contract with the government entity they are connected to. The Ohio Ethics Commission has jurisdiction over this criminal statute.

Another long-standing law prohibits Ohio State trustees and their relatives from holding professorships or other positions that are paid out of state or university funds.

University internal auditors first raised alarms about Marbley's dual role in December 2012. Auditors also noted that Marbley's daughter-in-law had a \$30,000-a-year job at OSU. The final audit was issued in October 2013 and the university contacted the Ohio Ethics Commission in November 2013.

Marbley and the university had argued that his situation met the criteria for an exemption because he is paid the going rate, provides a necessary and unique service and his contract was executed at arm's length.

OSU trustees, who are not compensated, oversee academic programs, budgets and administration and employ faculty and staff at the state's flagship university.

Marbley's dual roles as teacher and trustee have been public for years. He disclosed his teaching income on annual public filings with the 6th Circuit Court of Appeals in Cincinnati and his biography on the OSU trustees' website says he teaches at the Moritz College of Law.

Marbley said in his statement that he is paid the going rate for federal judges and he told Strickland's office about the teaching work before he was appointed.

"At all times, I have been transparent and forthcoming about my 14 years of teaching and, at all times, I fulfilled and took seriously my ethical obligations as a trustee and as a federal judge," Marbley said in his resignation letter to OSU.

IN-DEPTH COVERAGE

In March, our Columbus bureau broke the news that the Ohio Ethics Commission was investigating U.S. District Court Judge Algenon Marbley. The judge had been serving as both a paid law school professor and unpaid trustee at Ohio State University — an arrangement that conflicts with state ethics laws. Follow our statehouse team on Twitter at @Ohio_Politics

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