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# HANDBOOK

## Ohio County Commissioners

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## CHAPTER 125

### ETHICS

**Last Revision  
March, 2011**

*\*User Note: Please find attached a glossary of terms in Appendix A.*

#### 125.01 INTRODUCTION

The Ohio Ethics Law was enacted in 1973 and created the following new ethical standards for public officials and employees:

1. Required personal financial disclosure;
2. Created new restrictions upon unethical conduct with criminal sanctions;
3. Established uniform review of ethics issues by statewide commissions of the three branches of government.

Provisions of the Ethics Law, which became effective January 1, 1974, include the following:

1. Prohibits public officials and employees from being involved in certain conflicts of interest;
2. Requires certain elected and high-ranking public officials and employees (in county government only elected officials) to file financial disclosure statements and allows for public inspection of these statements;

3. Establishes procedures by which citizens may participate in the enforcement of the law;
4. Designates three agencies to administer the law:
  - a. **The Ohio Ethics Commission** - The Commission has jurisdiction over Ohio's Executive Branch, i.e. for all public officials and employees at the state and local levels of government, except legislators, judges, and their staffs;
  - b. **The Joint Legislative Ethics Committee** – The Committee has jurisdiction over Ohio's Legislative Branch, i.e. for all employees of, and candidates for, the Ohio General Assembly and employees of legislative agencies as well as all registered legislative agents, executive agency lobbyists, retirement system lobbyists, and their respective employers;
  - c. **The Board of Commissioners on Grievances and Discipline of the Supreme Court** - The Board has jurisdiction over Ohio's Judicial Branch, i.e. for all attorneys and judges.

ORC Chapter 102 contains the Ohio Ethics Law. In addition, the Ethics Commission has authority over ORC Sections 2921.42 and 2921.43 which involve illegal interests in public contracts and supplemental compensation. The Ethics Law applies to all public officials and employees, and is a criminal law. Violations are punishable by criminal fines and jail sentences, as well as removal from office or employment.

County commissioners need to become well informed on the details of the law. It is also important to know that differences may exist between a variety of permissible private sector practices (like exchanges of gifts or business incentives or family favoritism) in contrast to the expectation of Ohio law that there be no personal conflict when public monies are expended. Perhaps the best initial advice for newly elected commissioners is that if a question exists as to whether particular action or conduct is indeed ethical; ask before and not after moving forward with the conduct at issue.

Similarly, as an elected official, commissioners need to recognize that the appearance of impropriety can be nearly as damaging to a political career as an outright violation. The Ohio Ethics Commission goes so far as to recommend that public officials avoid any and all conduct that creates the appearance of impropriety.

All of the provisions of the Ethics Law are criminal prohibitions. Most of the provisions, including the conflict of interest prohibitions, are first-degree misdemeanors, punishable by a maximum fine of \$1000, a maximum prison term of six months, or both. However, certain provisions of the public contract prohibitions are fourth degree felonies, punishable by a maximum fine of \$2500, a maximum prison term of 18 months, or both. Please see Section 125.11 for further discussion of penalties for violating Ohio's Ethics Law.

County officials may obtain further information or answers to specific questions from:

Ohio Ethics Commission  
30 W. Spring Street, L3  
Columbus, OH 43215-2256  
Telephone 614/466-7090  
Fax 614/466-8368  
Web site: [www.ethics.ohio.gov](http://www.ethics.ohio.gov)

## **125.02 OHIO ETHICS COMMISSION**

The Ohio Ethics Commission promotes ethics in public service to strengthen the public's confidence that government business is conducted with impartiality and integrity.

The Commission is a six-member board. Members are appointed by the Governor and their appointments are subject to confirmation by the Senate. Each of the two major political parties is represented by three members. The members serve six-year staggered terms so that the term of one member expires each year. Commission members are compensated \$75 a meeting up to a maximum compensation of \$1800 per year. The Commission appoints an executive director who manages day-to-day operations and staff.

## **125.03 DUTIES AND POWERS**

The duties and powers of the Ohio Ethics Commission include all of the following:

1. To issue advisory opinions concerning ethics, conflicts of interest, and financial disclosure;
2. To provide a continuing program of education concerning the provisions of ORC Chapter 102 and Sections 2921.42 and 2921.43;
3. To receive or initiate complaints against persons alleged to be in violation of the ethics law;
4. To investigate complaints and charges presented to it, and to request further information;
5. To hold a hearing if it finds that there is reasonable cause to believe that the complaint constitutes a violation;
6. To report its findings to the appropriate prosecuting authority and employing authority if it finds that the complaint constitutes a violation;
7. To administer oaths and issue subpoenas;

8. To report on its activities to the majority and minority leaders of the Senate and the House of Representatives at least once a year;
9. To recommend legislation relating to ethics, conflicts of interest, and financial disclosure.

#### **125.04 COVERAGE OF ETHICS LAW**

There are generally three types of county positions: elected, appointed, and employee. The Ohio Ethics Law puts prohibitions on “public officials”. A “public official” is defined as any person, paid or unpaid, and regardless of how much money he or she is paid who does one of the following:

- Is elected or appointed to a full-time or part-time public position;
- Is employed by a public agency in a full time or part-time public job.

Thus, the Ohio Ethics Law covers all county positions including county boards and commissions such as a County Zoning Commission and Board of Appeals, the Board of Developmental Disabilities, and the Children Services Board, to name a few. The only distinction between the various county employees under the ethics law is whether the employee is required to file a financial disclosure statement. For a more detailed discussion on financial disclosure, please see Section 125.07.

#### **125.05 DISTRIBUTION OF ETHICS LAWS**

The county board of elections provides a copy of ORC Chapters 102 and 2921 of the Revised Code, a form for filing the statement required by ORC Section 102.02, and such other materials as required by the ethics commission, to each person requesting petitions for nomination for elective office. Each person receiving the materials shall acknowledge their receipt in writing.

In addition, within 10 days after any person, public official or employee appointed to an office of or employed by a public agency begins the performance of their duties, the employer or appointing authority shall provide a copy of ORC Chapters 102 and 2921 of the Revised Code with such other materials as the ethics commission prepares for distribution. The official or employee shall acknowledge their receipt in writing. In practice, most counties provide such materials in an employee handbook.

#### **125.06 PROHIBITED CONDUCT**

Public officials and employees make or can influence decisions that affect their own interests or the interests of family members, business associates, or others with whom they have close relationships. The Ohio Ethics Law protects against this kind of activity. The following types of conduct are prohibited or restricted by the Ethics Law.

## **1. MISUSE OF OFFICIAL POSITION— ORC 102.03(D), (E), and (H)**

Public officials or employees may not use or authorize the use of the authority or influence of their office or employment to benefit themselves, their family members or business associates, or others in circumstances that create a conflict of interest.

This is a general prohibition and one of the most important in the Ethics Law. It means public officials and employees must avoid situations in which they or others with whom they have a direct family or business relationship could gain personally as a result of the decisions they make or influence as public officials or employees.

For example, a public official or employee who owns property and would profit or experience a loss if their public agency were to buy that property is prohibited from participating in the agency's decision to buy the property and from influencing other public officials and employees who participate in the decision. A public official would also be prohibited from voting on a zoning variance request filed by the owner of property adjacent to the official's property.

A public official or employee is also prohibited from using the authority or influence of the position to benefit others, such as family members or business associates. For example, a public official or employee is prohibited from voting on, discussing, deliberating, making recommendations, or otherwise participating in a regulatory matter involving a business owned by the parents of the official. Likewise, a commissioner would have to recuse himself or herself if an amendment to the county zoning resolution would result in a definite and direct increase or decrease to the value of a relative's or business associate's property.

The official may not be prohibited from taking action if the matter includes general legislation (such as the adoption of a new or amended zoning resolution) that provides a uniform benefit to all or most property within the public agency, including the property owned by a relative. In such instances, the question of whether a conflict exists largely will be fact driven and it may be advisable to ask for an ethics commission advisory opinion in advance of taking any official action.

In situations where a conflict does occur, an official is not only prohibited from voting on such a matter, but also from:

- participating in discussions;
- participating in deliberations;
- making recommendations;
- providing advice; and
- formally or informally lobbying.

Two related provisions of the Ethics Law prohibit any public official or employee from soliciting or accepting any gift or other thing of value, and also prohibit any person from offering or giving a gift or other thing of value to a public official or employee, if

the thing of value would create a substantial and improper influence upon the official in their public duties.

Not surprising, there is often debates as to what constitutes a “substantial and improper” influence on the official. The facts and circumstances of each situation determine whether a gift, meal, entertainment, and other thing of value could have a "substantial" and "improper" influence upon an official in the performance of his or her duties.

Some things of value, because of their source, could have an "improper" influence upon an official in the performance of official duties. A person, company, or other private or public entity or association regulated by, interested in matters before, or doing or seeking to do business with, a public agency is an improper source of gifts, meals, entertainment activities, and other things of value offered to the officials of that agency.

Some things of value, because of their nature, could have a "substantial" influence upon an official in the performance of official duties. Gifts, meals at expensive restaurants, entertainment activities, such as exclusive golf outings and season tickets to the games of a professional sports team, are of a substantial value. In addition, jewelry, discounts on major consumer items, and travel, meal, and lodging expenses are of substantial value.

For example, a public official may not solicit or accept gifts, honoraria, travel expenses, or any other thing of value from a party that is interested in, regulated by, or doing or seeking to do business with the agency of the public official. Similarly, a consultant, contractor, or vendor to a public agency cannot promise or give a gift or other thing of value to a public official or employee of the agency. When a vendor, regulated party, or interested party invites a public official or employee to attend an event or social engagement, the public official or employee should personally pay for the value of the event. In addition, public officials and employees should avoid conduct that creates the appearance of impropriety.

## **2. THE "REVOLVING DOOR" RESTRICTION—ORC 102.03(A)**

A present or former public official or employee is prohibited from representing a client or other person before any public agency, including their former employer, on any matter in which the public official or employee personally participated in an official capacity. This prohibition remains in effect for one year following departure from public service. However, the Ethics Law does not prohibit a public official from representing a former public employer. For example, it would not prohibit a former public official or employee from being retained or employed to represent, assist, or act in a representative capacity for the public agency by which the public official or employee was employed or on which the public official or employee served. Similarly, a former public official or employee is not prohibited from doing ministerial

activities, such as preparing tax returns and filing applications for permits or licenses.

The revolving door restriction applies to all former public officials and employees including, but not limited to, professionals such as attorneys, accountants, and engineers. The law prohibits a former public official or employee from improperly using insider knowledge or exerting influence with their former co-workers on a matter in which they personally participated while in public service. Since this influence could be used to benefit their client, the revolving door provision prohibits such representation. However, the revolving door restriction does not apply to matters in which the former public official or employee did not participate as a public official.

For example, a former county elected official or employee would be prohibited, for one year from the date the official left their county position, from representing a client, customer, or other person before any county agency or department, including the courts. Representation includes appearing on behalf of a client or other person at a formal or informal hearing, or any communication in written or oral form, such as telephone calls, e-mails, meetings, and letters, with county agencies.

Stricter revolving door provisions exist for any former public official or employee who participated as a public official or employee in administrative matters pertaining to solid or hazardous waste management, handling, transporting, or disposal. In this case the former public official or employee is prohibited for a period of two years following departure from public service from representing, before any public agency, an owner or operator of a waste facility, or an applicant for a permit or license for a facility, on any matter in which the official or employee personally participated in an official capacity.

### **3. SALE OF GOODS AND SERVICES TO AND REPRESENTATION OF CLIENTS BEFORE PUBLIC AGENCIES—ORC 102.04**

Public officials and employees are prohibited from receiving compensation, other than from their own public agency, for personally rendering services in any matter before an agency of the governmental entity with which they serve.

Specifically, ORC Section 102.04 prohibits a public official from selling goods or services to the public agency with which the official is connected. A person is “connected” with the agency the official serves. For example, a person who works for the county is connected with all county agencies. Therefore, an employee of the county engineer’s office generally is prohibited from selling computers to the sheriff’s office.

Non-elected officials and employees may be exempt from these prohibitions if the following conditions are met:

- a) The public official or employee conducts the business with, or is paid to represent clients before, a public agency other than the one they serve;
- b) Prior to conducting the business, the public official or employee files a statement with their own agency, the one with which they plan to deal, and the appropriate ethics agency. The statement must contain:
  - i. The names of the public agencies involved and a brief description of the business to be conducted;
  - ii. The public official or employee's declaration that the public official or employee will not participate by virtue of their public position for a period of two years in any matter involving the personnel of the agency with which they are conducting business.

Thus, in the example of the engineer employee, the employee may arrange to conduct such business provided they are not an elected official, and that their public agency (the engineer's office) is not involved. The law further requires the person to "go public" with their intentions by filing a statement with their own public agency (the engineer's office), the one before which they plan to appear for compensation (the sheriff's office), and the Ohio Ethics Commission.

Finally, the non-elected official or employee must declare on the statement that the public official or employee will abstain for a period of two years from official participation in any matters related to the personnel of the public agency with which the non-elected official or employee is conducting business.

Another common situation that merits discussion is in the event a board member seeks employment with the board. The law does not prohibit a former board member from competing for employment with the public agency the public official formerly served in an open and fair employment process if it is clear that the public official did not use their position, while on the board, to secure the job, and that the best and most qualified candidate is selected for the job.

For a sitting board member, the ethics law would prohibit the member from voting on his own employment contract, recommending themselves for employment to the board, or using their position of authority in any manner to secure the contract. Even if the official does not participate in the authorization of the contract, ORC Section 2921.42(A)(3) prohibits an official from profiting from a public contract authorized by themselves or the board unless the contract is competitively bid and employment contracts are not bid, thus prohibiting such employment. Similarly, if a public agency is creating a new employment position, the board member would be prohibited from participating in the matter if the member wishes to apply for the job.



#### **4. CONFIDENTIAL INFORMATION—ORC 102.03(B)**

The Ethics Law prohibits present and former public officials or employees from disclosing or using any information designated by law as confidential. This prohibition remains in effect as long as the information remains confidential.

#### **5. LICENSE OR RATE-MAKING PROCEEDINGS—ORC 102.03(C)**

Public officials and employees are restricted from participating in license or rate-making proceedings in which they, or their family members, have a personal interest.

#### **6. INTEREST IN A PUBLIC CONTRACT—ORC 2921.42**

Public officials and employees are prohibited from having a personal interest in a public contract. Specifically, a public official or employee is prohibited from authorizing, voting, or otherwise using the authority or influence of the official or employee's office to secure approval of a public contract or the investment of public funds in which the public official or employee, a family member, or a business associate, has an interest.

This provision, for example, prohibits public officials and employees from hiring members of their family. This nepotism conflict often arises in consideration of summer jobs for a member of the public official or employee's relatives. A "member of the public official's family" includes but is not limited to the official's spouse, children, whether dependent or not, parents, siblings, grandparents, and grandchildren, regardless of where these relatives live. Also included is any other person related to the official by blood or marriage who resides in the same household as the official. This restriction is one of the felony provisions in the Ethics Law.

Also, a public official or employee cannot have a personal interest in a public contract with their governmental entity, even if the person does not participate in the issuance of the contract. For example, an employee of the county sheriff is prohibited from selling a vehicle to the county auditor's office.

A public official cannot profit from a public contract authorized by the official or any body on which they serve or within one year of leaving office if the contract was not competitively bid and was not let to the lowest and best bidder. This provision, for example, would prevent a county commissioner from authorizing an unbid contract to a company, and then going to work for the company administering the contract. It would also prohibit a county commissioner from selling any goods or services to the county, except through competitive bidding, if the commissioners are required to approve the contract. This is true even if the county commissioner does not personally participate in the award of the contract. A request for proposals is not a competitive bid. (There are other public contract restrictions contained in ORC

Section 2921.42 that are not discussed in this Chapter. Any questions about the statute's application should be directed to the prosecutor or the Ethics Commission.)

However, under certain conditions, public officials may contract with public agencies or have an interest in a public contract. It must be clear that the public official or employee is the best or only source of the goods or services provided to the public agency. The two exceptions are as follows:

- a. A public official or employee is not deemed to be "interested" in a public contract to be awarded to a business if all of the following apply:
  - i. The official or employee's interest in the business is limited to being a stockholder or creditor of the business;
  - ii. The official or employee owns less than five percent of the business's outstanding stock, or is owed less than five percent of the business's total debt;
  - iii. The official or employee informs their public agency of their connection with the business by filing an affidavit with the agency.
- b. The prohibitions do not apply if all of the following conditions are met:
  - i. The public official or employee takes no part in the deliberations and decisions on the transaction;
  - ii. The public official or employee informs the public agency of the of the official or employee's interest;
  - iii. The contract involves necessary supplies or services which are not obtainable elsewhere at the same or lower cost or which are part of a previously established course of dealing;
  - iv. The public agency is accorded treatment at least equal to that accorded other clients involved in similar transactions.

An example of this situation might be a county commissioner who owns a paving company. The commissioner would be prohibited from entering into a contract to provide road paving services to the county unless the commissioner meets the conditions outlined in the Ethics Law. For example, the commissioner must be able to objectively demonstrate that the county could not acquire paving services from any source other than the commissioner's company for the same or lower cost, and that the commissioner did not participate in the award of the contract (However, remember that if the county commissioners have to vote on the award, the contract must be competitively bid, and the commissioner's company must submit the lowest and best bid.).

A contract in which a public official, or any family member or business associate of an official, has an interest in violation of ORC Section 2921.42 is void and unenforceable. Therefore, the contract is entirely destitute of legal effect and incapable of being sued upon or proved.

## **7. SOLICITING OR RECEIVING IMPROPER COMPENSATION—ORC 2921.43**

A public official or employee is prohibited from receiving additional compensation to perform their official duties. In addition, a public official or employee is prohibited from soliciting or accepting anything of value, or coercing a campaign contribution, in exchange for an appointment to a public position, or any other kind of personnel action, such as a promotion or transfer. Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree. A public official convicted of a violation of this section is disqualified from holding any public office, employment, or position of trust in this state for a period of seven years from the date of conviction.

## **125.07 FINANCIAL DISCLOSURE**

Under the Ohio Ethics Law, county, city, and state elected officials and candidates, school district administrators, school board members in districts with more than 12,000 students, and certain high-ranking state administrative employees are required to file annual disclosure statements with the Ohio Ethics Commission. Note that appointed officials are not required to file disclosure statements except those appointed to unexpired elective terms of office. Most statements, including those filed by county elected officials and candidates, are available for public inspection. Certain public officials are exempt from filing financial disclosure statements. They are the following:

1. Village officials and employees;
2. Township officials and employees;
3. Precinct, ward, or district committee persons of a political party;
4. Presidential electors;
5. Delegates to a national convention.

The purpose of the financial disclosure requirement is to assist citizens and the Ohio Ethics Commission in monitoring the areas of potential conflict of interest of public officials. Public disclosure of this information serves as a deterrent to public officials considering such activity.

Most financial disclosure statements identify the following items:

1. All income sources;

2. Investments worth more than \$1,000;
3. Businesses in which the person is an officer or board member;
4. Sources of gifts worth more than \$75;
5. Ohio real estate investments;
6. Creditors owed more than \$1,000;
7. Debtors who owe more than \$1,000;
8. Source and amount of every payment of travel expenses (whether the expenses are paid directly by a public agency or private entity or reimbursed) for travel inside or outside of the state incurred in connection with official duties. (However, not required to file costs associated with use of a vehicle owned or leased by a public agency the public official or employee serves).
9. Source of payment of meals, food, and beverage expenses paid in connection with official duties that exceed \$100 aggregated per calendar year.

Financial disclosure forms may be obtained from any county board of elections or from the Ohio Ethics Commission. Forms are available on the Commission's Web site: <http://www.ethics.ohio.gov/>.

### **125.08 FILING DATES FOR FINANCIAL DISCLOSURE FORMS**

Pursuant to ORC Section 102.09, the Secretary of State and county boards of elections are required to provide each candidate (including an incumbent who has been certified as a candidate) who is required to file a statement with a financial disclosure statement. The candidate is required to acknowledge receipt of the statement in writing.

County elected officials are required to file with the Ohio Ethics Commission each year by April 15. A candidate for office is required to file not later than 30 days prior to the date of the first election in which the name appears on the ballot. A write-in candidate is required to file not later than 20 days prior to the date of the first election in which the name appears on the ballot. Persons appointed to unexpired terms in elective offices have 15 days from the date of their appointment in which to file. For more information, please see Appendix B.

### **125.09 ADVISORY OPINIONS**

The Ohio Ethics Commission issues advisory opinions in response to questions relating to conflicts of interest or financial disclosure before the action transpires or the contract is authorized. Previous opinions, where specifically applicable, may be relied upon in similar situations.

The purpose of an advisory opinion is to provide guidance in writing to a public official before the official engages in an action that may be prohibited by the law. An opinion, if it approves of the activity, provides the public official with immunity from criminal prosecution, civil action, or removal from office. A public official or employee who fails to follow an opinion of the Commission is subject to potential civil and criminal action, and removal from office, for violating the Ethics Law.

Anyone interested in seeking an advisory opinion can contact the Commission and speak to an advisory attorney.

## **125.10 EDUCATION AND PUBLIC INFORMATION**

The Ohio Ethics Commission provides a continuing program of education and public information on the provisions of the Ethics Law and related statutes. The Ethics Commission teaches classes all over the state to elected and appointed state and local officials, public employees, and the general public. The Ethics Commission also produces informational and educational materials on the Ethics Law. The Ethics Commission website ([www.ethics.ohio.gov](http://www.ethics.ohio.gov)) contains a wide range of informational materials, as well as more than 300 formal advisory opinions issued by the Ethics Commission since 1974.

Anyone interested in an ethics presentation can contact the Ethics Commission and speak to an education coordinator.

## **125.11 INVESTIGATIONS**

Any information that indicates that a public official or employee may have violated provisions of the Ethics Law can be referred to the ethics agency that has jurisdiction over the public official or employee in question. Allegation forms are available from the Ethics Commission to refer information relating to public officials and employees within its authority. All Commission investigations and hearings are confidential. Breach of confidentiality by Ethics Commission members or employees is a criminal offense.

When the Ethics Commission receives a charge or allegation of unethical conduct, staff will determine whether the alleged misconduct falls within the authority of the Ethics Commission. If so, the Ethics Commission may direct the staff to conduct a confidential investigation into the charge based upon the factual support for the charge and the severity of the alleged unethical conduct.

After a thorough investigation, Commission staff may file a formal, sworn complaint before the Ethics Commission. The complaint will allege a specific factual violation of the Ethics Law. The Ethics Commission reviews the complaint and determines whether there is reasonable cause to believe that the facts constitute a violation. If so, the Commission must schedule a hearing for the public official or employee.

A citizen may also file a sworn complaint alleging specific personal knowledge of facts and evidence supporting each element of a violation. Most investigations are initiated upon charges received and investigated by the Commission. The Commission may also settle a charge or complaint (including the use of alternative dispute resolution), refer the matter to a local prosecutor, or close the matter.

If the Commission schedules a hearing, the public official or employee has an opportunity to defend himself or herself against the complaint. The public official or employee may be represented by a lawyer. The public official or employee may examine the evidence offered against them and present evidence and witnesses. The public official or employee may also question witnesses and those accusing the public official or employee of misconduct. Hearings are closed to the public.

After a hearing, the Commission must decide by a preponderance of the evidence as to whether the facts stated in the complaint are true and therefore constitute a violation of the Ethics Law. If the Commission finds that a violation has occurred, the findings are turned over to the appropriate prosecuting authority for criminal prosecution. The referral will remain confidential unless the prosecutor fails to act on the referral within 90 days. If the prosecutor fails to take any action with respect to the referral, the Commission may make the referral public.

If the Commission finds that the evidence does not support a violation of the law, the complaint will be dismissed. The matter must remain confidential unless the public official or employee charged with the violation requests that it be made public. Anyone interested in making an allegation of wrongdoing can contact the Commission and speak to an investigator.

## **125.12 PENALTIES FOR ETHICS VIOLATIONS**

If convicted of violating most of the prohibitions in the Ethics Law and related statutes, a public official could be fined a maximum of \$1,000, or imprisoned up to six months, or both. However, if convicted of certain provisions of the prohibition against having an interest in a public contract, which are felonies, a public official could be fined a maximum of \$5,000, or imprisoned up to 18 months, or both.

Specific to ethics violations, Ohio law currently tolls the statutes of limitations for offenses committed by public official or employees, allowing charges to be brought at any time while the accused remains a public official or employee, or within two years after leaving office. This provision allows the Ethics Commission or prosecutors to file charges for an ethical violation against accused parties, even if the violation is discovered after the applicable statute of limitations has expired.

### **Financial Disclosure**

Failing to file a financial disclosure statement in violation of ORC Section 102.02(C) is a fourth-degree misdemeanor criminal offense, punishable by a fine of up to \$250 and/or

a maximum of 30 days in jail (See ORC Sections 102.99(A); 2929.21). In addition, the Ethics Commission is required to assess a late filing fee equal to \$10 per day, up to a maximum late fee of \$250 (See ORC Section 102.02(F)).

Filing a false financial disclosure statement in violation of ORC Section 102.02(D) is a first-degree misdemeanor criminal offense, punishable by a fine of up to \$1000 and/or a maximum of 6 months in jail (See ORC Sections 102.99(A); 2929.21).

### **Conflict of Interest**

Violations of ORC Sections 102.03, 102.04 and 102.07 are first-degree misdemeanor criminal offenses, punishable by a fine of up to \$1000 and/or a maximum of 6 months in jail (See ORC Sections 102.99(B); 2929.21).

### **Unlawful Interest in a Public Contract**

Violations of ORC Sections 2921.42(A)(1) and 2921.42(A)(2) are fourth-degree felony criminal offenses, punishable by a fine of up to \$5000 and/or a maximum of 18 months in prison (See ORC Sections 2921.42(E); 2929.14; 2929.18)

Violations of ORC Sections 2921.42(A)(3) through (A)(5) are first-degree misdemeanor criminal offenses, punishable by a fine of up to \$1000 and/or a maximum of 6 months in jail (See ORC Sections 2921.42(E); 2929.21).

### **Soliciting or Receiving Improper Compensation**

Violations of ORC Section 2921.43 are first-degree misdemeanor criminal offenses, punishable by a fine of up to \$1000 and/or a maximum of 6 months in jail (See ORC Sections 2921.43(D); 2929.21).

In addition, a public official or employee convicted of a violation of ORC Section 2921.43 is disqualified from holding any public office, employment, or position of trust in this state for a period of seven years from the date of conviction (See ORC Section 2921.43(E)).

### *Forfeiture of retirement benefits*

Recent legislation (SB 3, 127<sup>th</sup> GA; SB 219, 128<sup>th</sup> GA) provided a potential forfeiture of retirement benefits in the case of official misconduct. These measures prohibit payment of a retirement benefit, other than a return of contributions, to a person who is convicted of or pleads guilty to bribery, a pattern of corrupt behavior, or theft in office that is a felony offense, if the offense occurred while the person was a member of a state retirement system or alternative retirement plan and held one of the following positions of "honor, trust, or profit":

1. An elective office of the state or any political subdivision;

2. A position on any board or commission of the state that is appointed by the Governor or Attorney General;
3. A position as a public official or employee who is required to file a disclosure statement under the ethics law;
4. A position as a prosecutor;
5. A position as a peace officer or State Highway Patrol superintendent or trooper.



## APPENDIX A

### GLOSSARY

**The following is a glossary of terms used throughout Ohio's Ethics Laws:**

**"Anything of value"** has the same meaning as provided in section 1.03 of the Revised Code and includes, but is not limited to, a contribution as defined in section 3517.01 of the Revised Code.

**"Appropriate ethics commission"** (except as otherwise provided in division (A) of section 102.08 of the Revised Code), means:

1. For matters relating to members of the general assembly, employees of the general assembly, employees of the legislative service commission, and candidates for the office of member of the general assembly, the joint legislative ethics committee;
2. For matters relating to judicial officers and employees, and candidates for judicial office, the board of commissioners on grievances and discipline of the supreme court;
3. For matters relating to all other persons, the Ohio ethics commission.

**"Compensation"** means money, thing of value, or financial benefit. "Compensation" does not include reimbursement for actual and necessary expenses incurred in the performance of official duties.

**"Honorarium"** means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or similar gathering. "Honorarium" does not include ceremonial gifts or awards that have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; or earned income from any person, other than a legislative agent, for personal services that are customarily provided in connection with the practice of a bona fide business, if that business initially began before the public official or employee conducting that business was elected or appointed to the public official's or employee's office or position of employment.

**"Immediate family"** means a spouse residing in the person's household and any dependent child. Please distinguish this definition from the definition of a "member of the family" as interpreted by the Commission in Advisory Opinion No.80-001 for purposes of ORC Section 2921.42 Ohio's nepotism in employment statute.

**"Income"** includes gross income as defined and used in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, interest and dividends on obligations or securities of any state or of any political subdivision or authority of any state or

political subdivision, and interest or dividends on obligations of any authority, commission, or instrumentality of the United States.

**“Public agency”** means the general assembly, all courts, any department, division, institution, board, commission, authority, bureau or other instrumentality of the state, a county, city, village, or township, the five state retirement systems, or any other governmental entity. “Public agency” does not include a department, division, institution, board, commission, authority, or other instrumentality of the state or a county, municipal corporation, township, or other governmental entity that functions exclusively for cultural, educational, historical, humanitarian, advisory, or research purposes; that does not expend more than ten thousand dollars per calendar year, excluding salaries and wages of employees; and whose members are uncompensated.

**“Public official or employee”** means any person who is elected or appointed to an office or is an employee of any public agency. “Public official or employee” does not include a person elected or appointed to the office of precinct, ward, or district committee member under section 3517.03 of the Revised Code, any presidential elector, or any delegate to a national convention. “Public official or employee” does not include a person who is a teacher, instructor, professor, or other kind of educator whose position does not involve the performance of, or authority to perform, administrative or supervisory functions.

## APPENDIX B

### What is a financial disclosure statement?

A financial disclosure statement (FDS) is an annual report filed by many public officials and employees. In a FDS, the filer reports sources of income, investments, real estate holdings, and other financial interests.

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### Where are financial disclosure statements filed?

- Legislators file with the Joint Legislative Ethics Committee;
  - Judges file with the Board of Commissioners on Grievances and Discipline of the Supreme Court; and
  - All others file with the Ohio Ethics Commission.
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### Who is required to file a disclosure statement?

- Elected officials at the state, county, and city levels;
  - Candidates for state, county, and city elective offices;
  - School board members and candidates for school board in school districts with more than 12,000 students;
  - Superintendents, treasurers, and business managers for all school districts;
  - Upper-level state employees, including university presidents; and
  - Members of sovereign power state boards and commissions.
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### What is the purpose of a financial disclosure statement?

This disclosure:

- Reminds public officials of those financial interests that might impair their judgment on behalf of the public;
  - Informs the public of those interests; and
  - Assists in instilling confidence in the actions of public officials.
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### What must be disclosed on the financial disclosure statement?

Most filers must disclose:

- All sources of **income** of any amount;
- **Names of clients as sources of income and individual items of income** if the clients are legislative agents (except where confidentiality is protected by a code of ethics);
- **Source and amount of income** received from any person if the filer knows or has reason to know the person is doing or seeking to do business with filer's public agency;
- All sources of **gifts** over \$75 (excluding most family members);
- All **investments, debtors, and creditors** over \$1000;
- Most ownership and leasehold interests in **real property**;
- Source *and* amount of every payment of **travel expenses** for travel inside or outside of the state incurred in connection with filer's official duties;
- Source of payment of **meals, food, and beverage expenses** paid

in connection with filer's official duties that exceed \$100 aggregated per calendar year; and

- Any **nondisputed information** contained in a statement received, by the filer, from a legislative agent.

University trustees, and persons serving with political subdivisions who are paid less than \$16,000 per calendar year for their public service, are required to make a different disclosure. They disclose:

- Sources of **income** of over \$500;
- Sources of **gifts** over \$500 (excluding most family members);
- **Investments, debtors, and creditors** over \$1000; and
- Most ownership and leasehold interests in **real property**.

There are also different filing requirements and disclosure statements for those who file with other ethics agencies.

- Contact the **Joint Legislative Ethics Committee** at (614) 728-5100 for information regarding legislators, their employees, and candidates for member of the General Assembly.
- Contact the **Supreme Court** at (614) 644-5800 for information regarding judges and judicial candidates.

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**Are statements filed with the Ethics Commission public record?**

Most are, and copies are provided free of charge. However, the Ethics Law requires that some forms to be kept confidential. **Confidential** statements are those filed by:

- Uncompensated members of state boards and commissions and
- School district superintendents, treasurers, and business managers.

Each **confidential** form is reviewed by the Commission for possible conflicts of interest. Any portion of the form that shows possible conflicts is public.

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**What are the financial disclosure filing deadlines?**

- April 15 of each year for many statements;
- Appointees to unexpired elective office: 15 days after qualification for office;
- New appointees/employees (appointed or employed between January 1 and February 15): April 15;
- New appointees/employees (appointed or employed after February 15): 90 days after employment or appointment;
- Candidates (including incumbents who are candidates): 30 days prior to first election at which candidacy will be voted upon; and
- Write-in candidates (including incumbents who are candidates): 20 days prior to first election at which candidacy will be voted upon.

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**What are the penalties for failure to comply?**

- **Failure to file:** Fourth-degree misdemeanor; maximum 30-day sentence, \$250 fine.
- **False filing:** First-degree misdemeanor; maximum six-month sentence, \$1000 fine.
- **Late filing:** Fees will be assessed for each day the statement is late, up to a total late fee of \$250.