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## SEEKING NEW OR OUTSIDE EMPLOYMENT: Ethics Commission Information Sheet # 4

### I. Introduction

The Ohio Ethics Law and related statutes are found in Ohio Revised Code (R.C.) Chapter 102. and Sections 2921.42 and 2921.43. These laws generally prohibit public officials and employees from misusing their official positions for their own personal benefit or the benefit of their family members or business associates.

The Ethics Law applies to all people who serve as officials and employees for public agencies in Ohio. "Public agencies" include state departments, boards, and commissions, counties, cities, villages, townships, school districts, public colleges and universities, public libraries, port authorities, and all other public entities.

The Ohio Ethics Commission was created to administer, interpret, and assist in the enforcement of the Ethics Law for all officials in the state, except members and employees of the General Assembly and judicial officers and employees.<sup>1</sup> In this information sheet, the word "official" includes any person who serves a public agency, whether elected, appointed, or employed.

### II. Purpose of this Information Sheet

The Ethics Commission prepared this information sheet to explain how the Law applies when an official is searching for a new job or outside employment. These restrictions apply regardless of whether the official is seeking a job with a private corporation, a non-profit organization, or another public agency.

Any official who is seeking new employment should also read the Commission's revolving door information sheet (Information Sheet # 5), discussing limitations on the official in a new job.

Any official who is seeking outside employment should also read Ohio Ethics Commission Advisory Opinion No. 96-004, the Commission's advisory opinion on outside employment. The opinion will explain limits on the official's activities regarding outside employment.

### III. Summary of the Law

The Ohio Ethics Law and related statutes prohibit an official from soliciting or using his position to get a job from any person that is:

- Regulated by his public agency;
- Doing or seeking to do business with his public agency; or
- Interested in matters before his public agency.

### IV. Seeking Employment from Related Parties

R.C. 102.03(D) and (E) prohibit an official from soliciting or using his position to get a job from any person that is regulated by, doing business or seeking to do business with, or interested in matters before the public agency he serves.<sup>2</sup>

A person is “seeking employment” if he is responding to a specific job advertisement or posting, or sending resumes, making telephone calls, sending e-mails, or taking any other action to inquire about the availability of an employment position.

## **V. Withdrawal**

There is an exception from this prohibition if the official can and does withdraw completely from any matter involving the party from whom he is seeking or has accepted employment.<sup>3</sup>

If the official is normally required to participate in a matter affecting the party, the public agency must approve his withdrawal.<sup>4</sup> An official cannot effectively withdraw from a matter by simply refusing to perform his job duties. It must be clear that the withdrawal will not impede the official’s ability to perform his job duties.

In order to effectively withdraw from a matter, the official must inform his supervisor of his withdrawal. The supervisor must then either handle the matter herself or reassign the matter to another official or employee. If the matter is reassigned, the person to whom it is reassigned must report to someone who is a superior to, or on the same level as, the official who has withdrawn.<sup>5</sup> The official cannot withdraw from a matter by delegating it to a subordinate employee.

For example, during his job search, an official whose job involves making recommendations about equipment purchases is prohibited from making recommendations about a private firm from whom he is seeking a job.<sup>6</sup> Once the official has accepted a job offer from a private company or another public agency, he is prohibited from participating in matters affecting his new employer during his remaining public employment.<sup>7</sup>

## **VI. Board Member Seeking Job with Board**

The Ethics Law also prohibits a board member from seeking employment with the board he serves. This restriction applies to both elected

and appointed board members. For example, a city council member is prohibited from seeking employment with the city. Also, a member of a state commission is prohibited from seeking employment with the commission.

For more information about these restrictions, please read the Commission’s Information Sheet # 6 on board member’s seeking employment with their own boards.

## **VII. Other Considerations**

Any official who is considering seeking employment with another public agency, or with a private organization or company, should ask his supervisor, or legal counsel for the public agency he serves, whether the agency has any additional policies or rules regarding job-seeking. (A public agency cannot create a policy or rule that is less restrictive than the prohibitions described above. However, an agency may have a policy or rule that is more restrictive than the Ethics Law.)

Any official who is seeking new employment should also read the Commission’s Information Sheet # 5 on revolving door. The restrictions discussed in that information sheet will limit the official’s activities in a new job.

## **VIII. Penalties**

The Ethics Law and related statutes are criminal laws. If a person is convicted of violating an ethics law, that person may receive a jail sentence and/or have a fine levied against him.

Most of the ethics laws discussed in this information sheet (R.C. 102.03(D) and (E)) are first-degree misdemeanors, with a maximum penalty of six months in prison and/or a \$1000 fine.

## **IX. Conclusion**

Please contact the Ethics Commission if you have questions about this information sheet or the Ohio Ethics Laws. This information sheet is not an advisory opinion, and is not intended to provide advice on specific facts.

## Job Seeking Memorandum, Information Sheet #4

Copies of the Commission's formal advisory opinions can be obtained from: Ohio Ethics Commission, William Green Building, 30 West Spring Street, L3, Columbus Ohio, 432315-2256; telephone (614) 466-7090, and on the Commission's Web site: [www.ethics.ohio.gov](http://www.ethics.ohio.gov).

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<sup>1</sup> The ethics agency with jurisdiction over ethics issues related to members and employees of the General Assembly is the Joint Legislative Ethics Committee. The ethics agency with jurisdiction over ethics issues related to judicial officers and employees is the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court.

<sup>2</sup> [Ohio Ethics Commission Advisory Opinion No. 96-004](#)

<sup>3</sup> [Adv. Ops. No. 91-009](#) and [92-005](#).

<sup>4</sup> [Adv. Op. No. 96-004](#).

<sup>5</sup> [Id.](#)

<sup>6</sup> [Adv. Op. No. 86-006](#)

<sup>7</sup> [Adv. Op. No. 91-009](#).