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**THE OHIO ETHICS LAW AND
OFFICIALS AND EMPLOYEES OF CUYAHOGA COUNTY:
Ethics Commission Information Sheet # 10**

I. Introduction

The Ohio Ethics Law and related statutes¹ 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 law protects the public by ensuring that public decisions are impartial and objective, rather than influenced by the personal or business interests of public officials or employees. The Ethics Law is a uniform standard that applies to all who serve as elected or appointed officials, or employees, in public agencies in Ohio, including the newly elected officials serving on the Cuyahoga County Council.

II. Purpose of this Information Sheet

The Ohio Ethics Commission was created to administer, apply, and assist in the enforcement of the Ethics Law for all county officials in the state.² The Ethics Commission prepared this general overview of the Ethics Law for officials and employees in new and existing Cuyahoga County agencies. For clarity, this information sheet uses “county official” to mean any person who is an elected or appointed county officer, a county employee, or a member of a county board.

This information sheet is not an advisory opinion and is not intended to provide advice on specific facts. Any county official with specific questions about the application of the law should contact the Ethics Commission.

III. Summary of the Law

Among other restrictions, the Ethics Law prohibits all county officials from:

- A. Taking actions to secure contracts for themselves, their family, or anyone with whom they have ongoing business relationships;
- B. Hiring, or using their positions to secure jobs or job-related benefits for, their family members;
- C. Profiting from public contracts they authorized;
- D. Having an interest in county contracts;
- E. Using their positions to secure things of substantial value for themselves, their family members, or those with whom they have ongoing business relationships;
- F. Soliciting or accepting things of substantial value for themselves or their family members from vendors, potential vendors, and regulated and interested parties;
- G. Accepting compensation to perform services on any matter before any county office, board, or agency;
- H. Disclosing or using confidential information;

- I. Soliciting or accepting any form of compensation from anyone other than the county for performing county services or to supplement their county compensation; and
- J. Representing others in a matter in which the official or employee was involved.

IV. Specific Restrictions

A. *Authorizing or Securing Contracts*

County officials are prohibited from authorizing, or taking any action to secure authorization, of any public contract in which the official, a family member, or a business associate has an interest.³ An “interest” can be financial or fiduciary.

A county official’s “family members” include the official’s parents, children, step-parents and step-children, grandparents and grandchildren, spouse, and siblings, *regardless of where they live.*⁴ “Family members” also include other people related to the official by blood or marriage and residing in the same household with the official.⁵ “Business associates” include any person, company, organization, or other entity, with which the official has an ongoing business relationships.⁶ Business associates include private or public employers, partners in a partnership, and co-members of an LLC.

A “public contract” includes *any* purchase or acquisition of goods or services by or for the use of the county.⁷ Grants and loans from public agencies are contracts.⁸ Public contracts include purchases of real property and public employment.⁹ (See Nepotism, IV(B), on this page.)

Examples of Restriction

- A member of county council is prohibited from voting to award a contract to the council member’s business or a business

owned by the council member’s partner. The council member is also prohibited from recommending the business or *taking any other action* to secure the contracts.¹⁰

- A county employee is prohibited from reviewing or ranking a contract proposal submitted by a family member’s company *even if* other officials will make the final decision.¹¹
- A county council member who is employed by or a board member of a nonprofit organization is prohibited from voting on, discussing, deliberating about, lobbying for, or taking any other action to secure a county grant or contract for the organization.¹²

B. *Nepotism*

County officials are prohibited from hiring family members.¹³ “Family member” is defined in the previous column.

County officials are *also* prohibited from using their position or influence to secure jobs or contracts for their family members.¹⁴ Even if an official is not the person who makes the final hiring decision, the official is prohibited from recommending, lobbying for, or otherwise attempting to secure a public job for a family member.¹⁵

If a county official’s family member has been lawfully hired by the county or already works for the county, the official is prohibited from using his or her public position to secure job-related benefits for the family member.¹⁶ These restrictions are discussed more fully in many advisory opinions and Information Sheet #1, available on the Commission’s Web site.

Examples of Restriction

- A county council member is prohibited from recommending or voting to hire a family member.¹⁷

- A county official is prohibited from discussing an employment opportunity for a family member with other county officials.¹⁸
- A county official, whose son worked for the county before the official was elected, is prohibited from trying to secure a raise, promotion, or other job benefits for the son.¹⁹

C. *Profiting from a contract*

County officials are prohibited from profiting from contracts authorized by them or by boards on which they serve, unless the contracts are competitively bid and awarded to the lowest and best bidder.²⁰

The restriction applies to a contract authorized by a board on which an official serves *even if* the official does not participate in the board's action on the contract.²¹ This restriction applies during the person's public service and for one year thereafter. (See Section IV(J), on page 5.)

An employee of a company profits from the employer's contracts if: the establishment or continuation of the company or the employee's position is dependent on the contract; the employee will receive a share of the contract's proceeds in a salary, commission, or fee; or the employee receives some other financial gain or benefit that is definitely and directly related to the carrying out and completion of a contract.²²

A person who owns more than one percent of the outstanding stock of a publicly traded company profits from contracts awarded to the company.²³

Examples of Restriction

- A county council member is prohibited from profiting, in any of the ways described in the previous section, from a contract or grant awarded by county council to a

company or organization that employs the council member.²⁴

- A county employee who participated in the authorization of a county contract to a company is prohibited from accepting employment with the company, for one year after leaving county employment, if she will profit from the contract in any of the ways described above.²⁵

D. *Interest in a Contract*

County officials are prohibited from having a definite and direct financial or fiduciary interest in a contract of the county or any other public agency with which the official is connected.²⁶

Exceptions to Restriction

There are two exceptions to this restriction. One applies to a county official who owns stock in companies that may do business with the county.²⁷ The other applies to situations where a contract with a county official is the best or only source of goods or services that are necessary to the county.²⁸

These two exceptions are strictly applied against the official. They are more fully discussed in many Ethics Commission advisory opinions, as well as Information Sheet #2. For guidance about the exceptions, please contact the Commission.

Examples of Restriction

- A member of county council is prohibited from selling goods or services to the county unless the council member can meet an exception.
- A member of county council is prohibited from selling goods or services to other public agencies, if the council member is "connected" to those agencies, because the agencies were created or funded by the county or the county appoints their board.²⁹

E. *Securing Anything of Value*

County officials are prohibited from voting, discussing, deliberating about, recommending, or otherwise taking any action, within the scope of the official's public authority, to secure benefits for the official or any of the official's close family members or business associates.³⁰

Examples of Restriction

- A member of county council is prohibited from voting on a resolution before council that definitely and directly affects the council member's private business.³¹
- The county executive is prohibited from directing the work of county employees on a matter that definitely and directly affects a business owned by the executive's parents.³²
- A council member who also has private employment is prohibited from making recommendations to other members of council on a matter that definitely and directly affects the employer.³³

F. *Securing, Soliciting or Accepting Things of Value*

A county official is prohibited from soliciting, accepting, or using his or her official position to secure "anything of value" that could have a substantial and improper influence on the official.³⁴ Gifts, meals, entertainment, outside employment, and any other items of tangible monetary value are included within the definition of "anything of value."³⁵

Some things of value—because of their *source*—could have an "improper" influence upon officials in the performance of their duties.³⁶ A person or company, or other public or private entity, is an *improper source* of things of substantial value to officials of a public agency if the person, company, or entity

is regulated by, interested in matters before, or doing or seeking to do business with, the agency.³⁷

Some things of value—because of their *nature*—could have a "substantial" influence upon an official in the performance of his or her duties.³⁸ Gifts, meals at expensive restaurants, discounts on major consumer items, travel, lodging, exclusive golf outings, and season tickets to a professional sports team, are of a substantial value.³⁹ Compensation or other benefits for consulting services or outside employment also have a substantial value.⁴⁰ Small gifts of a nominal value, such as a book or a promotional item, will not have a substantial influence on an official.⁴¹ Also, one meal, unless it is of an expensive character, will not have a substantial influence on the official.⁴²

Therefore, a county official is prohibited from soliciting, accepting, or using the authority of his or her public position to secure a gift, entertainment, meal, or any other thing of value for the official, a family member, or business associate, if it is of a substantial nature and is provided by any of these improper sources. The prohibition applies *even if* the official is not required to file a financial disclosure statement or is not required to disclose the item on his or her statement.

Examples of Restriction

- A county council member is prohibited from accepting season tickets to the games of a professional sports team from the owners of the team or any other person, company, or organization the county regulates.⁴³
- A county employee is prohibited from accepting travel-related payments from one of the county's vendors in order to view the vendor's goods or services.⁴⁴

G. *Compensation for Services*

A county official is prohibited from accepting compensation from any source other than the county for performing services related to any matter that is being decided by any office, board, or agency of the county, except the courts.⁴⁵ In other words, a county official cannot do any work, for pay, for a person on a matter that will be filed with or reviewed by any county entity.

An exception to this restriction applies to employees and appointees to *nonelected offices*.⁴⁶ If they file a required statement, these individuals can receive compensation for performing services on matters before county offices *other than* the one by which they are directly employed. For more information about this exception, please contact the Commission. **Again, this exception does not apply to elected county officers.**⁴⁷

Examples of Restriction

- A county council member who is also an engineer is prohibited from accepting compensation to prepare plans or perform any other services for clients on matters the County Engineer or any other county agency. There is no exception available for a county council member.⁴⁸
- A member of the county planning commission who is an attorney is prohibited from accepting compensation to prepare documents on a matter pending before the county council, unless the official can meet the exception mentioned in the discussion above.⁴⁹

H. *Confidential Information*

A county official is prohibited from disclosing or using confidential information acquired in the course of his or her county service.⁵⁰ There is no time limit for this restriction, which applies during and after a

person's service to the county.⁵¹ Questions about whether information is "confidential" as described in this restriction should be directed to the prosecuting attorney.

I. *Supplemental Compensation*

County officials are prohibited from soliciting or accepting compensation from any source other than the county for performing any services within the scope of their public duties or as a supplement to their public compensation.⁵²

"Compensation" includes anything of value, such as wages, gifts, and travel expenses, provided to a county official in exchange for a service.⁵³ A county official or employee cannot accept anything of value from any person, company, or other entity or association, other than the county if it is given with the intent to compensate the official for some action, inaction, or decisions of the official in the performance of his or her public duties or as a supplement to their salary.⁵⁴

In addition to criminal penalties, if a person is convicted of accepting supplemental compensation, the person is prohibited from holding any public office or employment, or a position of public trust, for seven years after the conviction.

Examples of Restriction

- A county official is prohibited from accepting free services in return for the official's performance of a particular public act.⁵⁵
- A county official is prohibited from accepting travel, meals, and lodging expenses from a company that is doing or seeking to do business with the county in order to view and evaluate the vendor's product.⁵⁶

J. “Revolving Door”

County officials are prohibited, during public service and for one year thereafter, from representing any person, before any public agency, on matters in which the officials personally participated during their public service.⁵⁷

Please be reminded that two of the restrictions discussed above also apply to public officials after they leave their public positions. For one year after leaving public service, former county officials are prohibited from profiting, as described in Section IV(C) on pages 3 and 4, from any contracts they authorized or their boards authorized.⁵⁸ As noted in Section IV(H) on page 4, a former public official is prohibited from disclosing or using confidential information acquired during public service.⁵⁹ There is no time limit on this restriction.

Examples of Restriction

- A former county employee, who is now employed by a developer, is prohibited, for one year after leaving county employment, from e-mailing or calling a county employee to ask when an inspection he started while he was a county employee will be completed.⁶⁰
- A former county council member, who is now employed by a law firm, is prohibited for one year after leaving county council, from speaking at a state board meeting, on behalf of his client, when the board is reviewing a policy decision made by the county council while he was a member.⁶¹

V. **Other Considerations**

Contracts entered into in violation of R.C. 2921.42 (discussed in Sections IV(A) through (D) on pages 2 and 3 of this information sheet) are **void and unenforceable.**⁶²

Any county official is welcome to contact the Ethics Commission or ask the county prosecuting attorney for guidance on any of these matters. The county will have an ethics code that adds restrictions. The prohibitions in the Ethics Law and related statutes have applied to all public officials and employees since 1974. They continue to apply to Cuyahoga County officials and will supersede any more limited restrictions in the county’s ethics code. A public agency cannot create a policy that is *less* restrictive than the Ethics Law, but may have a policy that is *more* restrictive provided that it does not conflict with general state law.⁶³

VI. **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 the official.

VII. **Conclusion**

Please see the Commission’s Web site at www.ethics.ohio.gov or contact the Commission if you have questions about this information sheet or the Ohio Ethics Laws. A reference list of Ohio Revised Code sections and Ohio Ethics Commission opinions cited in this information sheet is attached. Copies of the Commission’s formal advisory opinions and other information about the Commission and the law can be obtained from:

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References:

¹ Ohio Revised Code Chapter 102. and Sections 2921.42 and 2921.43.

² Two other state agencies have jurisdiction over ethics issues: The Joint Legislative Ethics

Committee (JLEC) for members and employees of the General Assembly and the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court for judges and judicial employees.

- ³ R.C. 2921.42(A)(1); [Adv. Op. No. 92-002](#).
⁴ [Adv. Op. No. 2010-03](#).
⁵ Id.
⁶ Id.
⁷ R.C. 2921.01(I)(1); [Adv. Op. No. 2009-06](#).
⁸ Id.
⁹ [Adv. Op. No. 88-003](#); [Adv. Op. No. 2010-03](#).
¹⁰ [Adv. Ops. No. 2000-02](#) and [86-004](#).
¹¹ [Adv. Ops. No. 2009-06](#) and [2009-02](#).
¹² [Adv. Op. No. 87-003](#).
¹³ R.C. 2921.42(A)(1).
¹⁴ [Adv. Op. No. 90-010](#).
¹⁵ [Adv. Op. No. 2010-03](#).
¹⁶ Id.
¹⁷ [Adv. Op. No. 2010-03](#).
¹⁸ Id.
¹⁹ Id.
²⁰ R.C. 2921.42(A)(3); [Adv. Op. No. 2000-02](#).
²¹ Id.
²² [Adv. Op. No. 2009-05](#), [91-005](#) and [87-004](#).
²³ [Adv. Op. No. 2009-05](#).
²⁴ [Adv. Op. No. 2001-02](#).
²⁵ [Adv. Ops. No. 91-005](#) and [87-004](#).
²⁶ R.C. 2921.42(A)(4); [Adv. Ops. No. 92-006](#), [89-004](#), and [87-002](#).
²⁷ [Adv. Op. No. 93-001](#).
²⁸ [Adv. Op. No. 90-003](#).
²⁹ [Adv. Op. No. 89-004](#).
³⁰ R.C. 102.03(D) and (E)
³¹ [Adv. Op. No. 2009-06](#).
³² [Adv. Op. No. 2009-02](#).
³³ [Adv. Ops. No. 2008-02](#) and [2007-01](#).
³⁴ R.C. 102.03(D) and (E); [Adv. Ops. No. 2001-04](#), [2001-03](#), and [95-001](#).
³⁵ [Adv. Ops. No. 2001-04](#), [2001-03](#), [95-001](#), [92-015](#), and [89-014](#).
³⁶ [Adv. Op. No. 86-011](#).
³⁷ Id.
³⁸ [Adv. Op. No. 86-011](#).
³⁹ [Adv. Ops. No. 2001-04](#), [2001-03](#), [95-001](#), [92-015](#), and [89-014](#).
⁴⁰ [Adv. Op. No. 96-004](#)
⁴¹ [Adv. Ops. No. 2001-03](#) and [92-014](#).
⁴² [Adv. Ops. No. 86-001](#), [2001-04](#), and [2002-02](#).
⁴³ [Adv. Op. No. 95-001](#).
⁴⁴ [Adv. Op. No. 86-011](#).

- ⁴⁵ R.C. 102.04(C); [Adv. Ops. No. 96-002](#) and [93-004](#).
⁴⁶ Id.
⁴⁷ Id.
⁴⁸ [Adv. Op. No. 83-001](#).
⁴⁹ R.C. 102.04(C); [Adv. Op. No. 93-004](#).
⁵⁰ R.C. 102.03(B); [Adv. Op. No. 93-012](#).
⁵¹ [Adv. Ops. No. 90-012](#) and [88-009](#).
⁵² R.C. 2921.43(A); [Adv. Op. No. 89-014](#).
⁵³ [Adv. Op. No. 92-014](#).
⁵⁴ [Adv. Op. No. 90-001](#).
⁵⁵ [Adv. Op. No. 2001-04](#).
⁵⁶ [Adv. Op. No. 89-014](#).
⁵⁷ R.C. 102.03(A)(1)
⁵⁸ R.C. 2921.42(A)(3)
⁵⁹ R.C. 102.03(B)
⁶⁰ [Adv. Op. No. 91-009](#).
⁶¹ [Adv. Ops. No. 99-001](#) and [2004-04](#).
⁶² R.C. 2921.42(H); [Adv. Op. No. 2009-06](#).
⁶³ Section 3, Article XVIII, Constitution; *Struthers v. Sokol* (1923), 108 Ohio St. 263 (an ordinance is in conflict with a general law if it permits or licenses activity that is forbidden or prohibited by general law, or visa versa); *Niles v. Howard* (1984), 12 Ohio St.3d 162, 165 (a local ordinance is in conflict with general law if it changes the character of an offense).

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