

# THE VOICE OF ETHICS

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## How does the Ethics Law Pertain to You?

Most people are aware that Ohio's public servants – elected, appointed, and hired public officials and employees – are subject to the Ohio Ethics Law. Many people, however, do not realize that the private sector can also be subject to the Ethics Law. Companies and organizations that do or seek to do business with, are regulated by, or have an interest in a matter pending before a government office, are also subject to the Ethics Law.

Private sector companies and organizations are encouraged to know and understand the Ethics Law. It is possible, however, for government agencies to have ethics policies that are more stringent than the Ethics Law (though not less stringent). Therefore, it is beneficial for any private sector party doing or seeking to do business with a public office to inquire about such policies, as well.

The Ohio Ethics Commission is available to both the public and private sectors to answer questions or offer additional information regarding compliance with the Ethics Law.



### The Ethics Law: A Hindrance or Help to the Private Sector?

If you have ever done business with a government office or official, you may be aware of the prohibitions of the Ethics Law. But have you ever considered how the Ethics Law benefits your company?

Everyone benefits when public employees and the private sector work together in the best interests of Ohio. Those in the

private sector, therefore, have the right to expect that decisions made about public expenditures, such as public contracts, are made based on objective criteria and not on the financial or familial interests of a specific public official. This is just one example of how the Ethics Law protects you and your business. Read on for more information!

### Private Sector FAQ:

- Is my business subject to the Ethics Law?
- Are there restrictions when working with public officials?
- Can I treat a public servant to a meal or a round of golf?
- How does the Ethics Law benefit my company?
- How do I find more information?

# The Ethics Law Protects You!



Ohio's Ethics Law recognizes that many public officials and employees have authority to spend money or make or influence decisions that directly affect their own personal, family, or private business interests. Therefore, the Ethics Law was enacted to ensure that public officials and employees are not influenced by such interests when making decisions on behalf of a public agency. The Ethics Law provides a uniform standard of conduct that prohibits any public official or employee from participating in actions or decisions that directly involve the official's own financial interests, or those of his family, business associates, or employer.

The Commission provides advice, guidance, and educational opportunities to help public entities, private businesses, and non-profit organizations understand the law. The Commission also oversees public disclosure to remind public officials of those financial interests that might impair their judgment on behalf of the public. The financial disclosure process also informs the public about the financial interests of their public servants and assists in instilling confidence in their actions. Finally, when necessary, the Commission conducts professional and confidential investigations into allegations of unethical activity and secures remedial response.



## SSSHHH!! That's Confidential!

The Ethics Law prohibits a former public official from using or disclosing confidential information acquired by the official in the course of his duties, unless he is authorized to do so. There is no time limit for this restriction.

Therefore, when hiring a former public official or employee, remember that he will not be able to reveal confidential information obtained while serving in his former public role.

## What about Honoraria and Travel Expenses?

Private sector parties are prohibited from offering honoraria to public officials and employees who are required to file Financial Disclosure Statements with the Ethics Commission. Almost 11,000 public officials, including state, county and city elected officials are required to file annually, as well as candidates for those offices, and certain high-ranking state employees.

The Ethics Law permits disclosure filers to accept actual travel expenses to meetings where the public official or employee will participate in a panel, seminar, or speaking

engagement or to a meeting or convention of a national organization to which any state agency pays dues.

Public officials and employees who are not required to file financial disclosure with the Ethics Commission may accept an honorarium or travel expenses for an event not related to the public employee's public duties, as long as the private entity paying for the honorarium or travel expenses is not doing or seeking to do business with, regulated by, or interested in matters before that public employee's agency.

***“Character is the only secure foundation of the state.”***

-Calvin Coolidge

# Marketing to Public Employees: Promotion or Problem?

For many private companies, sending “thank you” gifts, holiday gifts, or other gifts to their clients or prospective clients is a normal course of conducting business. However, private sector companies interacting with government offices should be aware that the Ethics Law limits gift giving to public servants.

The law prohibits a private sector party who is subject to the Ethics Law from promising, offering, or giving anything of value, including a gift, meal, or entertainment to a public servant that could have a “substantial” and “improper” influence upon him in the performance of his duties.

“Substantial” gifts could include meals at expensive restaurants, entertainment activities, such as

exclusive golf outings or season tickets for a professional sports team, jewelry, or travel, meal and lodging expenses.

Small gifts that will not have a substantial influence on an official, even if provided by an improper source include meals at a family restaurant, a book, promotional items, or an inexpensive entertainment activity or meal.

While an official is not prohibited from accepting a nominal gift of this kind, an official could be influenced in the performance of his duties by accepting multiple items of minimal value from the same source if the value of these items, added together, is substantial. In some circumstances, accepting

items of minimal value may create an appearance of impropriety, even if it is not illegal.

Private sector parties and organizations may voluntarily donate items, services, or money to any public agency, as long as no official or employee of the agency personally benefits.



## Public Contracts 101

Under Ohio law, a public contract is any purchase or acquisition of goods or services by or for the use of a public agency. The Ethics Law prohibits a public official or employee from authorizing, voting, or otherwise using the authority or influence of her office to secure approval of a public contract in which the official, a family member, or a business associate has an interest.

Public officials or employees who help secure a public contract for family members or business associates in the private sector could be convicted of a fourth degree felony. Owners, trustees, and employers of private companies and organizations should be aware of this and not request that their family members or business associates who are also public servants attempt to influence a public contract decision in their favor.

## Supplemental Compensation? What's That?

A private sector party cannot promise or give anything of value to a public servant if it is given with the intent to compensate him for some official action, inaction, or decision. The point of this restriction is to make sure that a public servant owes his allegiance to, and only to, the government agency he serves. Compensation to a public servant can include money, gifts, and travel expenses. A public servant who is convicted of accepting supplemental compensation is prohibited from holding public office, employment, or any position of public trust for seven years after conviction of this first-degree misdemeanor.



***“Relativity applies to physics, not ethics.”***

-Albert Einstein



*“Character is  
much easier kept  
than recovered.”*

-Thomas Paine

## Revolving Door Restrictions Matter

Generally, the Ethics Law prohibits an official from representing any person, including an individual, corporation, partnership, association, or public entity before any public agency on any matter in which the official personally participated. Even though it is called “Revolving Door” law, this restriction applies to officials during their public service and for one year after leaving public service. “Representation” includes making any kind of formal or informal appearance before, or having any kind of written or oral communication with any public agency (not just the official’s former

agency) on behalf of that person.

There are longer restrictions for two groups of government officials. Former Public Utilities Commission commissioners and attorney examiners are prohibited from representing utilities before state agencies for two years. Former officials who exercised discretion regarding solid or hazardous waste matters are also subject to a two-year revolving door restriction.

An official has “personally participated” in a matter if he had substantial involvement in decision, approval, disapproval,

recommendation, rendering advice, or investigation on the matter.

An official has also personally participated in a matter if she has supervised other public officials and employees on the matter.

A “matter” includes any case, proceeding, application, determination, issue, question, application, problem, dispute or policy decision. A matter does not mean simply a subject matter; it is the underlying issue or question, regardless of whether it involves in the same parties.

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**Questions? Concerns? Need more information? Contact us!**