

# THE VOICE OF ETHICS

A Publication of the  
Ohio Ethics Commission

Summer 2016 Edition



THE  
OHIO ETHICS LAW  
&  
THE PRIVATE SECTOR



## 2016 Targeting Fraud – Safeguarding Integrity Conference

Wednesday, November 2 & Thursday, November 3, 2016  
Columbus, Ohio

In observance of National Fraud Awareness Week ... Franklin University, the National White Collar Crime Center, the Ohio Ethics Commission, the Ohio Inspector General, and the Ohio Investigators Association have collaborated together once again to present the 5th Annual two-day training conference: Targeting Fraud – Safeguarding Integrity. This conference will examine the investigative process of uncovering fraud and explore a wide spectrum of subjects, including the topics of ...

- The relationship between human behavior, risk, and wrongdoing;
- Using digital forensics to identify and investigate fraud;
- Fighting fraud in the livestock show industry;
- The role of the IRS investigating cases involving tax violations, narcotics, identity theft, money laundering, and terrorism;
- A journalist's investigation uncovering unprecedented corruption in the poverty-stricken community of Bell, California.

[Click Here](#) to register for the conference.

### Cost & Deadline

Early registration before October 1, 2016: \$100

On or after October 1, 2016: \$125

This conference has been approved for **16 hours of Continuing Professional Education (CPE) credit** from the Accountancy Board of Ohio and for **12 hours of General Continuing Legal Education (CLE) credit** from the Supreme Court of Ohio.



# Extra! Extra! Read All About It!

## New Ethics Law E-Courses Available!

Each year, the Ethics Commission releases an annual online e-course that offers a general overview of the Ohio Ethics Law. These new e-courses challenge learners to apply knowledge regarding the Ohio Ethics Law, including: conflicts of interest, public contracts, nepotism, post-employment and representation. Click [here](#) to view the 2016 annual Ethics Law e-course.

The Commission also recognizes, however, that many questions arise regarding specific areas of the law and that a public official or employee may want additional information regarding a specific issue under the law. To address this need, the Ethics Commission has created numerous short e-courses to answer commonly asked questions regarding specific topics under the Ohio Ethics Law.

These short e-courses enhance understanding of the Ethics Law in public agencies and are available on-demand. An additional benefit of the short e-courses is the “springboard” effect – these online courses are a great way to begin discussion in your office or municipality. Due to their brevity and specificity, they are especially appropriate for staff meetings. Click [here](#) to review a list of all the short e-courses on the Ethics Commission’s web site.

We are excited to announce that we have recently added three new e-courses to our e-course catalog! After reviewing them, don’t hesitate to contact our office if we can be of further assistance on these issues!

### [The “Conference Question”](#)

Heading off to a work conference or seminar? Before you pack your bags, be aware of several restrictions under the Ohio Ethics Law regarding attendance at conferences. This e-course will answer some of the most commonly questions regarding conference issues, such as travel expenses, door prizes, and receptions.

### [The Ohio Ethics Law and Job – Seeking Restrictions](#)

If the next chapter of your career is calling, this e-course is for you. Under the Ohio Ethics Law, there are restrictions regarding job – hunting for public officials and employees. This course will address concerns regarding applying for jobs with regulated communities, conflicts of interest, and more!

### [The Ohio Ethics Law and Newly Elected Office Holders: What Should You Know?](#)

You won the election? Congratulations! One of the most important things you can do as an elected – office holder is to earn and sustain the public’s trust. This e-course is a brief introduction to some of the provisions of the Ethics Law you’ll want to understand so that you are well – equipped to comply with the law.

# The Ohio Ethics Law and the Private Sector: What you Need to Know

## Why does it matter?

Everyone – both in the public and private sectors – has the right to expect that government actions and decisions are in the public's best interest. For example, as a taxpayer, you deserve to know that public expenditures and decisions are based on objective criteria and not on the financial or familial interests of a specific public official.

The Ohio Ethics Law provides a uniform standard of conduct that prohibits public officials and employees from participating in decisions or actions that directly involve the officials' own financial interests, or those of his/her family or business associates.

## Is the private sector subject to Ohio's Ethics Law?

It is commonly known that Ohio's public employees and officials – elected, appointed, and hired – are subject to the Ethics Law. Not everyone is aware, however, that the private sector can also be subject to two provisions of the law. This article will outline those portions of the law as well as offer information regarding other aspects of the Ethics Law as it pertains to the private sector.

## The Ethics Law and the Private Sector

### Gifts

Sending gifts to clients is often a normal course of conducting business in the private sector. When working with government offices, however, the private sector must be aware that the Ethics Law limits gift-giving to public officials and employees. This is one of the statutory provisions to which private sector parties can be subject.

- Ohio Revised Code 102.03(F) prohibits “improper” sources from promising or giving “substantial” things of value to public officials or employees
- An “improper” source is any person or party who:
  - Is doing business with a public agency
  - Is seeking to do business with a public agency
  - Is regulated by a public agency
  - Has a specific interest in matters before a public agency
- “Substantial” (prohibited) things of value may include:
  - Expensive restaurant meals
  - Entertainment activities (e.g. golf outings, professional sports tickets)
  - Jewelry
  - Travel, meals, and lodging expenses



- If public officials or employees are invited to substantial events (such as a golf outing), a method to allow them to pay their fair share of the event should be provided
- Small or minimal gifts (e.g. a coffee mug or an inexpensive meal at a family restaurant) are not considered “substantial” but should not be provided to public officials or employees on multiple occasions since adding the value together over time can be substantial
- Private sector parties may voluntarily donate items or services to public agencies, provided no official or employee personally benefits
- Be aware that individual government agencies may have policies that are even more stringent than the Ethics Law
- Thank you notes (especially if copied to agency supervisor or director) are preferable to gifts!
- See this [information sheet](#) for additional information on gifts

## Supplemental Compensation

Supplemental Compensation is the other statutory provision under which the private sector can be directly regulated. This restriction ensures that public officials and employees owe allegiance only to the government agency he or she serves.

- Private sector parties cannot give anything of value to a public official or employee with the intent to compensate him or her for performing a public job
- Such compensation could include:
  - Money
  - Gifts
  - Travel expenses
- Both private and public sector parties guilty of violating the Supplemental Compensation can be charged with a first-degree misdemeanor
- Additionally, public employees and officials found guilty of soliciting or accepting Supplemental Compensation are prohibited from holding any public job or position for seven years



## Honoraria

An honorarium is a gift or gratuity provided for a professional service, such as presenting a speech at a conference.

- Government officials and employees who file financial disclosure statements with the Ethics Commission may not accept honoraria
- Non-disclosure filers may only accept honoraria if the event is unrelated to their public duties and the source of the honoraria is not an improper source to that person’s public agency



## Post – Employment

The Ethics Law limits “revolving door” activity, just as non-compete agreements impose limits in the private sector, to protect against conflicts of interest.

- Those leaving public service have a “cooling off” period before they can “represent” new employers or clients before government agencies on certain matters
- “Representation” includes any formal/informal appearance before or having any communication (written or oral) with any public agency
- Be aware that former government employees or officials may not represent your company before any public agency on matters in which he or she had personally participated
- For most, the restriction is one year
- See this information sheet for more information on [post – employment](#)

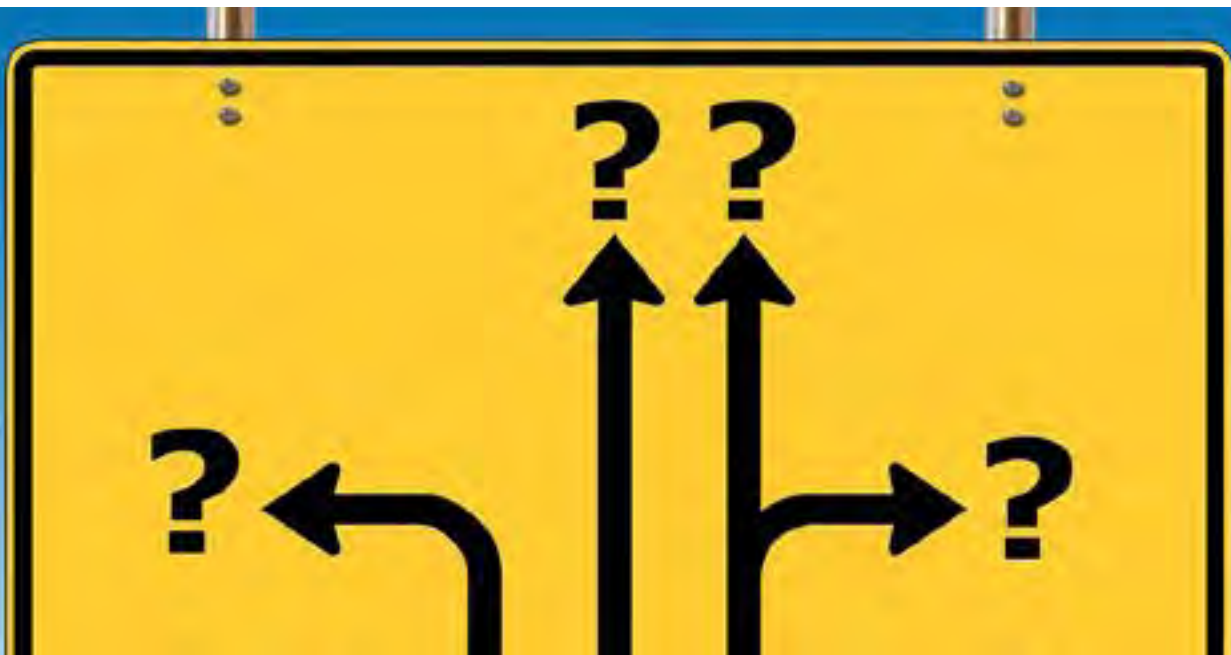


## Confidentiality

In the course of performing public duties, many public officials and employees encounter or have access to information that is confidential. Under the Ethics Law, information may be confidential because of statutory provision or because a public agency has deemed it necessary.

- A public official or employee is prohibited from using or disclosing confidential information
- This restriction does not have a time limit. Anyone who has left public service – for any reason – is restricted from disclosing confidential investigative information
- When hiring a former public official or employee, be aware the he or she cannot reveal confidential information obtained while serving in the former public role

## **Questions?**





## New Advisory Opinion Available!

At its June meeting, the Ohio Ethics Commission issued a formal Advisory Opinion regarding public officials employed by companies or nonprofit organizations that seek financial support from public entities. [Advisory Opinion 2016 – 01](#) is a restatement of several previously issued informal advisory opinions and provides more in-depth guidance regarding potential conflicts of interest.

The Ethics Commission drafted the opinion after receiving inquiries in the past several years from public officials across the state who work for nonprofit organizations. Certainly, it is not uncommon for nonprofits to seek financial assistance from public agencies. The questions arise when an employee of a nonprofit also serves on a public body that may receive a request for financial assistance. For example, a director of a nonprofit is elected to a city council and the nonprofit then pursues a grant from the city. Advisory Opinion 2016 – 01 was drafted to address such actual and potential situations.

The advisory opinion concludes that a public official would be prohibited from being employed by a nonprofit organization under two circumstances:

1. The creation or operation of the nonprofit would be “dependent” on the public agency’s financial assistance. The Commission considered several factors in defining when a nonprofit would be “dependent” on the financial assistance of a public agency, including the amount of the financial assistance and its proportional effect on the nonprofit’s operations. The opinion determines that if a nonprofit organization receives 25 percent or more of its funding during either a calendar or fiscal year from a public agency, there is a presumption that the nonprofit is “dependent” on the public agency’s financial assistance.
2. The public official would profit from the award of the public money. For example, if the public official received commissions or fees from a public grant or his/her position or continuation of his/her employment with the nonprofit is dependent upon the award of the grant.

If you have questions regarding the information in [Advisory Opinion 2016 – 01](#), contact the Ohio Ethics Commission at (614) 466 – 7090.



**OHIO ETHICS COMMISSION**  
**William Green Building**  
**30 West Spring Street, L3**  
**Columbus, Ohio 43215-2256**  
**(614) 466-7090**

[www.ethics.ohio.gov](http://www.ethics.ohio.gov)

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