

Did You Know?

Conflicts of Interest and Ethics

You want to run for township trustee, but you or your company has a contract with the township. Can you still be a candidate for trustee? What happens if you win? You can certainly run for election as there is nothing in the Ohio Revised Code that would prohibit a person from seeking election in such a situation. However, should you be elected, there are ethics laws that must be followed.

The Ohio Ethics Law was originally enacted in 1973 to promote confidence in government. The law establishes a code of conduct making it illegal for state and local public officials and employees to take official action if they have certain conflicts of interest. Furthermore, the law establishes procedures by which citizens may participate in the enforcement of the law.

Three agencies were created within the three branches of Ohio government to administer the Ethics Law. The Joint Legislative Ethics Committee serves the legislative branch, the Ohio Supreme Court Board of Commissioners on Grievances and Discipline serves the judicial branch, and the Ohio Ethics Commission serves the administrative branch and all others.

Ohio's Ethics Law recognizes that many public officials and employees are in a position to make or influence decisions that directly affect their personal interests. The Ethics Law attempts to prevent this type of activity. Generally, a public official or employee may not participate in matters that involve his or her own financial interests or those of his or her family or business associates. The following types of conduct are prohibited or restricted pursuant to the Ethics Law.

Misuse of Official Position

A public official or employee may not use, or authorize the use of, his or her public position to benefit himself or herself or others in circumstances that create a conflict of interest where his or her objectivity could be impaired. Public officials and employees must not act on situations in which they might gain personally as a result of the decision they make or their influence as public servants. A public official or employee is also prohibited from using his or her position to benefit others, such as family members or business associates, because his or her relationship with those individuals could impair his or her objectivity in his or her public duties.

Sale of Goods and Services to and Representation of Clients Before Public Agencies

A public official or employee is prohibited from receiving compensation from any source other than his own public agency, for services rendered in a matter before any agency of the governmental entity he or she serves. An example of this would be a township trustee who is also an attorney and wishes to represent a township employee in a personnel matter. This is prohibited under the law.

Helpful Ethics Guidance for State and Local Board and Commission Members

DO:

- Avoid any action that might give rise to the appearance of impropriety
- Abstain from all formal and informal issues if you have a relationship with a private company or organization that is seeking public funds, employment or other governmental action
- Withdraw completely from questions or issues regarding those who do business with the board or have direct interests before, or are regulated by the board where your interest, or the interest of your family or a business associate, is presented

DON'T:

- Solicit or accept anything of value from anyone doing business with your board
- Use your position to obtain financial gain or benefit for yourself, a family member, or anyone with whom you have a business or employment relationship
- Vote, authorize, recommend or in any other way use your position to secure the approval of board services, supplies, property, investments or other contracts or acquisitions in which you, a family member or anyone with whom you have an ongoing business relationship, has an interest
- Be paid for personal services rendered on matters before, or sell goods or services to your board
- Solicit or accept honoraria, unless you meet the limited exceptions allowed by law
- Use or disclose confidential information protected by law, unless appropriately authorized
- Use or authorize the use of your title, the board or its name in a manner that suggests impropriety, favoritism, or bias by the board or any board official or employee

Confidential Information

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

License or Rate Making Procedures

A public official or employee is restricted from participating in license or rate making proceedings that would affect the licenses or rates of any business if he or she or members of his or her immediate family own more than 5 percent of that business. Additionally, he or she is prohibited from participating in proceedings that affect any person to whom the official, his or her immediate family, or any business to which he or she or his or her family members has sold more than \$1,000 worth of goods or services.

Public Contracts and Public Investments

A public official or employee is prohibited from having a financial or fiduciary interest in a public contract. A public contract includes any purchase or acquisition of goods or services or real property and employment contracts. A public official is prohibited from authorizing, voting or otherwise using the authority or influence of his or her office to secure approval of a public contract in which the official, a family member or a business associate has an interest. A public official is also prohibited from having an interest in a public contract with his or her public entity even if he does not participate in the issuance of the contract.

Soliciting or Receiving Improper Compensation

A public official or employee is prohibited from receiving compensation, in addition to that paid by his or her public agency, for performing his or her official duties. A private business or person is prohibited from giving any supplemental compensation to a public servant to perform his or her official duties. A public servant is prohibited from soliciting or accepting anything of value, 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.

Nepotism

The Ohio Ethics Law prohibits a public official or employee from hiring, or using a public position to secure the hire of, a family member. Public entities are required to conduct all hiring activity in a fair, open and impartial manner; giving precedence or advantages to family members in public hiring is unfair to other applicants who may be equally or even more qualified. Public officials or employees

are required by law to completely remove themselves from participating in the hiring process if any family member is competing for a public job. A public servant also cannot hire anyone to whom he or she is related by blood or marriage and who is also residing in the same household with the official or employee. Additionally, the law prohibits a public official or employee from using his or her position to influence another person to hire a family member.

All of the provisions of the Ethics Law are criminal prohibitions. Most of the provisions, including conflict of interest prohibitions, are first degree misdemeanors, punishable by a maximum fine of \$1,000, a maximum prison term of six months, or both. Certain violations, such as nepotism or relating to public contracts are fourth degree felonies, punishable by a maximum fine of \$5,000, a maximum prison term of 18 months, or both.

Any person can refer information that indicates a local government public official or employee may have violated any of the criminal provisions of the Ethics Law, to the Ohio Ethics Commission. Most investigations are initiated upon charges received by the Commission. When the Ethics Commission receives a charge or allegation of unethical conduct, staff determines whether the alleged misconduct falls within the authority of the Commission. If so, the staff initially reviews allegations and investigative priorities to determine whether to further review the allegation based on existing prioritized investigations and available resources. The Commission can then direct staff to conduct a confidential investigation into the factual support for the charge and the severity of the alleged Ethics Law violation. At the conclusion of an investigation, which may include a formal hearing upon a sworn complaint, the Ethics Commission may refer the matter for prosecution to the appropriate prosecuting authority. It can also resolve a charge with the accused person, or close the matter.

The above information is neither all-inclusive nor does it list the many exceptions to the Ethics Law. Many situations are subject to interpretation by the courts, the Ohio Ethics Commission and the Ohio Attorney General. If you think you have a conflict of interest or to learn more about Ohio's Ethics Law, please visit www.ethics.ohio.gov.

***The information contained herein was taken from documents posted to www.ethics.ohio.gov*

**Did You Know is for informational purposes only and not intended as legal advice.*