

# OHIO ETHICS COMMISSION

**Merom Brachman**  
*Commission Chair*

**David E. Freel**  
*Executive Director*



8 East Long Street, 10<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-7090  
Fax: (614) 466-8368  
Website: <http://www.ethics.state.oh.us>

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Advisory Opinion Number 2002-01  
May 10, 2002

Syllabus by the Commission:

- (1) All public officials and employees who are required to file financial disclosure statements pursuant to Divisions (A) and (B) of Section 102.02 of the Revised Code, except those public officials and employees otherwise subject to Section 102.022 of the Revised Code, must disclose the source of a gift valued at over seventy-five dollars;
- (2) As set forth in Section 102.022 of the Revised Code, officials and employees of political subdivisions who receive less than \$16,000 a year for serving in their public positions, and members of the board of trustees of any state institution of higher education as defined in Section 3345.011 of the Revised Code, must disclose the source of a gift valued at over five hundred dollars;
- (3) The "source" of a gift required to be reported under Section 102.02 may be composed of one person or a group of persons;
- (4) If the source of a gift is a group of persons, and the filer knows the group source at the time the gift is presented, the filer must identify and disclose the group as a source of a gift;
- (5) The conclusions in this advisory opinion apply to any person who is required, by Divisions (A) or (B) of Section 102.02 of the Revised Code, to file a financial disclosure statement with the Ohio Ethics Commission on or after January 1, 2003.

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In your letter to the Ohio Ethics Commission, you have asked for guidance about the financial disclosure filing requirement. You have explained that you are a county elected official. You state that the staff in your public office joined together, without compulsion or any improper solicitation by you, to give you a gift valued at over seventy-five dollars. You have asked whether the Ohio Ethics Laws and related statutes require a person who files a financial disclosure statement to disclose the source of a collective or group gift valued at over seventy-five dollars.

**Brief Answer**

The Ohio Ethics Law requires that a county elected official must disclose the source of any gift valued at over seventy-five dollars, regardless of whether the gift was provided by one person or a group of people. A county elected official who receives a gift valued at over seventy-five dollars from a group must disclose the group in a manner sufficient to identify the members of the group at the time the gift was given.

**Disclosure of Gifts-R.C. 102.02(A)(7)**

As a county elected official, you are subject to the financial disclosure requirements set forth in R.C. 102.02(A). Ohio Ethics Commission Advisory Opinion No. 89-007. R.C. 102.02(A)(7) provides that every person who is required to file a disclosure statement by R.C. 102.02(A)(7), excluding those officials and employees described in R.C. 102.022, must disclose:

[T]he source of each gift of over seventy-five dollars . . . received by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year. (Emphasis added.)

R.C. 102.02 excludes most gifts provided by family members and gifts provided by will or trust.

A gift is a voluntary transfer of property by one to another without any consideration or compensation therefor. Adv. Ops. No. 94-003 and 96-003; *Hamon v. Moore*, 8 Ohio St. 239, 243 (1858). R.C. 102.02(A)(7) does not require a public official or employee to report the amount or nature of a gift, although listing that information may, at times, clarify the disclosure. R.C. 102.02(A)(7) requires a public official or employee to report only the source of a gift if the gift is valued at over seventy-five dollars. When the seventy-five-dollar threshold is reached, no further disclosure is necessary.

Therefore, as an elected county official, you are required to disclose any source of a gift valued at over seventy-five dollars. If one member of your staff provided you with a gift of this value, R.C. 102.02(A)(7) would clearly require that you disclose that person as the source of a gift on your disclosure statement. The question presented is whether the law requires you to disclose, as the source of a gift, a group of your employees who pool their resources to buy you a gift valued at over seventy-five dollars.

R.C. 1.41 and 1.43(A) provide that, in all statutes of the Ohio Revised Code, the use of the singular includes the use of the plural, and the use of the plural includes the use of the singular. The Ohio Supreme Court has stated: "In the absence of clear language [in a statute] to the contrary, or evidence which adequately demonstrates that such a construction is out of context with the remaining language of that statute or its related provisions," the guidelines set forth in R.C. 1.43(A) should be applied. *Wingate v. Hordge*, 60 Ohio St.2d 55, 58 (1979).

The Commission has already stated that the requirement to disclose the source of a "gift" valued at over seventy-five dollars, as set forth in R.C. 102.02(A)(7), includes the requirement to disclose a source of multiple gifts, if the total value of the gifts is over seventy-five dollars. Adv. Op. No. 94-003. The Commission concluded that such disclosure is consistent with the object sought by the General Assembly, in enacting R.C. 102.02(A), of a comprehensive disclosure of

personal financial information by public officials and employees as a means of promoting public confidence in the integrity of government. The Commission stated:

It is obvious that if R.C. 102.02 (A)(7) were constructed other than to require full disclosure . . . the intent and purpose of the Ethics Law could be easily circumvented and there would exist an opportunity for public officials or employees to accept a substantial thing of value in violation of the Ethics Law, as well as other criminal statutes which are outside the Ethics Commission's jurisdiction, see e.g., R.C. 2921.02, while escaping the scrutiny of the Ethics Commission and the public.

Adv. Op. No. 94-003. See also Joint Legislative Ethics Committee Advisory Opinion No. 00-002 (the value of gifts accumulates, and a member of the General Assembly must disclose any source of multiple gifts if the total value of the gifts is over the disclosure amount).

Consistent with the Commission's holding in Advisory Opinion No. 94-003 regarding the purpose of disclosure and applying the principles of statutory construction set forth in R.C. 1.43 to R.C. 102.02(A)(7), the requirement that a public official disclose the "source" of a gift valued at over seventy-five dollars, as set forth in R.C. 102.02(A)(7), includes the requirement that the filer disclose a group of people that is, collectively, the source of the gift. As an example, if a financial disclosure filer were to receive a gift valued at one hundred dollars that the filer knows was given by a married couple, the filer would be required to disclose the couple as the source of the gift, even though it is possible that neither of the spouses individually contributed more than seventy-five dollars toward the total cost of the gift.

In the situation you have set forth, you are required to disclose your office staff as the source of a gift if the total value of the gift provided to you by your office staff as a result of pooling their resources is over seventy-five dollars. You are not required to disclose your staff as the source of a gift if individual members of your staff, independent of one another, purchase separate gifts for you during the year and the total value of the gifts from these individual staff members is over seventy-five dollars.

In addition, if there is an identifiable group of individuals within your larger staff, such as a division or section of the staff, and you are aware that the group was the source of the gift at the time the gift was presented to you, you would be required to include the name of the division or section as a part of the disclosure of the group to provide meaningful disclosure pursuant to R.C. 102.02. You are not, however, required to list the individual members of the group in such a situation.

Absent an improper solicitation, or the use of authority by the potential recipient or someone else on the recipient's behalf attempting to secure the gift, the Commission notes that the Ethics Law does not prohibit public officials and employees from giving gifts of a modest character, or pooling their resources to provide a gift to another public official or employee. However, it must at all times be clear that the officials or employees who provided or contributed to the gift acted of their own volition, with no coercion by other parties. R.C. 102.03(E) prohibits a public official from soliciting anything of value, including a gift, that could have a substantial and improper influence upon the official with respect to the performance of his duties. See Adv.

Op. No. 2001-04. R.C. 102.03(E) would prohibit a public official from improperly using his position or authority over those regulated by, doing or seeking to do business with, or interested in matters before the public agency he serves, or over employees who are subordinate to the official individually or as a group, to secure a gift. Anyone approached to contribute to a group gift must be able to decline without suffering any form of reprisal or repudiation.

**Disclosure of Gifts-R.C. 102.022(B)**

As stated above, the requirements in R.C. 102.02(A)(7) apply to all public officials and employees who file financial disclosure statements, except those officials and employees listed in R.C. 102.022. The officials and employees listed in R.C. 102.022 are officials and employees of political subdivisions, who receive less than \$16,000 a year for serving in their public positions, and members of the boards of trustees of state institutions of higher education as defined in R.C. 3345.011.

Public officials and employees subject to R.C. 102.022 must disclose sources of gifts valued at over five hundred dollars. R.C. 102.022(B). Therefore, for example, if a city official, who receives less than \$16,000 for his service to the city, were to receive a group gift valued at over five hundred dollars, he would be required to disclose the group as the source of a gift. As stated above, a public official or employee subject to R.C. 102.022(B) must disclose sufficient information about the gift so that it is possible to determine the members of the group at the time the gift was presented.

This advisory opinion is based on the facts presented. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that: (1) All public officials and employees who are required to file financial disclosure statements pursuant to Divisions (A) and (B) of Section 102.02 of the Revised Code, except those public officials and employees otherwise subject to Section 102.022 of the Revised Code, must disclose the source of a gift valued at over seventy-five dollars; (2) As set forth in Section 102.022 of the Revised Code, officials and employees of political subdivisions who receive less than \$16,000 a year for serving in their public positions, and members of the board of trustees of any state institution of higher education as defined in Section 3345.011 of the Revised Code, must disclose the source of a gift valued at over five hundred dollars; (3) The "source" of a gift required to be reported under Section 102.02 may be composed of one person or a group of persons; (4) If the source of a gift is a group of persons, and the filer knows the group source at the time the gift is presented, the filer must identify and disclose the group as a source of a gift; and (5) The conclusions in this advisory opinion apply to any person who is required, by Divisions (A) or (B) of Section 102.02 of the Revised Code, to file a financial disclosure statement with the Ohio Ethics Commission on or after January 1, 2003.

  
Merom Brachman, Chair  
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