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INFORMATION SHEET: ADVISORY OPINION NO. 2026-01
CIVIL LEGAL DEFENSE FUNDS

What is the question in the opinion?

Does the Ethics Law prohibit a public official or employee from soliciting or accepting contributions to a fund established for his or her legal defense in a civil case?

What is the brief answer in this opinion?

While the Ethics Law does not absolutely prohibit such contributions, there are limits on the solicitation or acceptance of contributions for a legal defense fund in a civil case. A public official or employee is prohibited from soliciting or accepting contributions for his or her legal defense fund in a civil case from any individual, corporation, partnership, non-profit entity, or other person that is doing or seeking to do business with, regulated by, or interested in matters before the public agency he or she serves. This restriction also prohibits any other person from soliciting contributions to a public official's legal defense fund from any of these sources. A public official is not prohibited from using his or her official title in a solicitation for legal defense funds. However, the solicitation cannot imply that the public agency sanctions or endorses the legal defense fund by, for example, using the public agency's seal or letterhead.

To whom do the conclusions in this opinion apply?

The conclusions in this opinion apply to all individuals who are elected or appointed to, or employed by, any public agency, including but not limited to any state agency, county, city, township, school district, public library, and regional authority, regardless of whether the person is: (1) compensated or uncompensated; (2) serving full-time or part-time; or (3) serving in a temporary or permanent position.

When did the conclusions in this opinion become effective?

The opinion became effective upon acceptance by the Ethics Commission.

For More Information, Please Contact:

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AN ETHICS COMMISSION ADVISORY OPINION. ADVISORY OPINION NO.
2026-01 IS ATTACHED.**

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Formal Advisory Opinion
Number 2026-01
January 22, 2026

Syllabus by the Commission:

- (1) Divisions (D) and (E) of Section 102.03 of the Revised Code prohibit a public official or employee from soliciting or accepting contributions for his or her legal defense fund in a civil case from parties who are doing or seeking to do business with, regulated by, or interested in matters pending before the public agency.
- (2) Divisions (D) and (E) of Section 102.03 of the Revised Code do not prohibit a public official from using his or her official title in a solicitation for legal defense funds. However, the solicitation cannot imply that the public agency sanctions or endorses the legal defense fund by, for example, using the public agency's seal or letterhead.
- (3) Division (F) of Section 102.03 of the Revised Code prohibits any person who is doing or seeking to do business with, regulated by, or interested in matters pending before the agency from promising or giving a contribution to the public official's or employee's legal defense fund in a civil case.
- (4) Pursuant to the financial disclosure provisions contained in Section 102.02 of the Revised Code, a public official or employee who is required to file a financial disclosure statement, and who accepts contributions to a legal defense fund, must disclose the sources of contributions as sources of gifts regardless of whether the contributions were made directly to the official or employee or indirectly to a third-party for his or her use and benefit.

* * *

Introduction

The Ethics Commission previously considered legal defense funds for criminal cases in Advisory Opinion No. 2006-03. In that Advisory Opinion, the Ethics Commission concluded that the Ethics Law prohibits a public official or employee from accepting contributions for his or her legal defense fund in a criminal case from any person or organization that is interested in matters before, regulated by, or doing or seeking to do business with the public agency he or she serves. Subsequently, the Ethics Commission has been asked whether the Ethics Law prohibits a public official or employee from accepting contributions to a legal defense fund for a civil case. This Advisory Opinion applies the same standard from Advisory Opinion No. 2006-03 to civil cases.¹

Conflict of Interest Prohibitions—R.C. 102.03(D), (E), and (F)

The conflict of interest provisions in R.C. 102.03(D), (E), and (F) state:

- (D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.
- (E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.
- (F) No person shall promise or give to a public official or employee anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

R.C. 102.03(D) and (E) prohibit a public official or employee² from recklessly³ accepting, soliciting, or using the authority or influence of his or her office to secure anything of value from a person or entity that is regulated by, doing business or seeking to do business with, or interested in matters before, the agency or office with which the public official serves.⁴ R.C. 102.03(F) imposes a similar prohibition upon the person or entity that improperly promises or gives a thing of value to a public official or employee.⁵ A contribution to a legal defense fund is a thing of value.⁶ Pro bono legal services are also a thing of value.⁷

R.C. 102.03(D) and (E) prohibit a public official or employee from soliciting or accepting a contribution to his or her legal defense fund from any person or entity that is regulated by, doing or seeking to do business with, or interested in any matter before the public agency he or she serves. R.C. 102.03(F) prohibits these sources from promising or giving a contribution to the public official's or employee's legal defense fund.

However, the Ethics Law does not prohibit a public official or employee from soliciting or accepting contributions for his or her legal defense fund in a civil case from parties who are not doing or seeking to do business with, regulated by, or interested in matters pending before the public agency. R.C. 102.03(F) would not prohibit these sources from promising or giving a contribution to the public official's or employee's legal defense fund.

Use of Title in Solicitation

A public official or employee is not prohibited from using his or her official title when soliciting donations for his or her legal defense fund in a civil case. The solicitation may identify the public official or employee's government job and the fact that a legal matter arose during the course of his or her official duties.⁸ However, the solicitation cannot imply that the public agency sanctions or endorses the legal defense fund by, for example, using the public agency's seal or

letterhead.⁹ The public official or employee cannot use his or her public position to secure a donation by implying that he or she will take an action or abstain from an action as a result of the donation.¹⁰ Additionally, a public official or employee is prohibited from using any public resources, including a government email, mailing address, or telephone number, to solicit or accept donations.¹¹

Disclosure of Contributions—R.C. 102.02 and 102.022

The financial disclosure law (R.C. 102.02) requires some public officials and employees to file annual financial disclosure statements that report on financial information for the preceding year. Most filers are required to disclose sources of gifts over \$75 received by the filer or by any other person for the filer's use or benefit.¹² In Advisory Opinion No. 2006-03, the Ethics Commission stated that contributions to a legal defense fund for criminal cases are gifts for purposes of the financial disclosure law. This same principle applies to legal defense funds for civil cases. If a filer receives a contribution to his or her legal defense fund over the threshold amount, the filer must disclose the source of the contribution on his or her financial disclosure statement.¹³

Since the law requires that filers disclose the source of all contributions over the pertinent threshold amount, the filer's legal defense fund cannot accept anonymous contributions.¹⁴ This requirement also helps prevent contributions from prohibited sources that could violate R.C. 102.03(D) and (E).¹⁵

Examples Applying the Ethics Law to Legal Defense Funds

- (1) A city councilmember would be prohibited from soliciting or accepting a contribution to his or her legal defense fund in a civil case from a business that is a vendor of the city. The vendor would be "doing business with" the city and would be a prohibited source of contributions.
- (2) A village administrator would not be prohibited from accepting a contribution to his or her legal defense fund in a civil case from a person who does not reside in the village and is not doing or seeking to do business with, regulated by, or interested in matters pending before the village. The person would not be a prohibited source of contributions to the village administrator's legal defense fund.
- (3) A university administrator wants to retain legal counsel due to a lawsuit filed against the administrator by a student. The administrator uses a university computer to draft a letter soliciting money for the administrator's legal defense fund and sends out the letter on university letterhead. The university administrator likely violated the Ethics Law because the administrator is prohibited from using university resources to solicit funds. Additionally, the administrator's use of the letterhead is misleading and could cause the public to believe the university is endorsing the solicitation.
- (4) A state agency general counsel establishes a fundraiser on a crowdfunding platform to solicit donations to the general counsel's legal defense fund. The general counsel is a

financial disclosure filer under R.C. 102.02. The general counsel is offered two contributions, one from a registered lobbyist that is lobbying before the general counsel's agency and another from an anonymous source. The general counsel is prohibited from accepting contributions from a lobbyist because the lobbyist would be "interested in matters" before the agency. The general counsel is also prohibited from accepting anonymous contributions to the fundraiser because he or she is required to disclose the source of the contributions on his or her financial disclosure statement.

- (5) A local attorney offers to provide pro bono legal services to a township trustee in a civil case. The local attorney has a zoning matter pending before the township and owns several businesses in the township. The local attorney would be considered a prohibited source because he or she is interested in matters before the township. Therefore, R.C. 102.03(F) would prohibit the attorney from providing pro bono legal services to the township trustee because the services are a thing of value, and the attorney is a prohibited source. Additionally, R.C. 102.03(D) and (E) would prohibit the township trustee from soliciting or accepting the services.
- (6) A state retirement system board member is a defendant in a civil lawsuit. A collaborative organization¹⁶ of current and future retirees establishes a legal defense fund for the board member. The collaborative organization would be "interested in matters before" the retirement system because the collaborative organization is advocating for current and future retirees regarding their pension and benefits. Therefore, the collaborative organization would be a prohibited source of legal defense funds for the board member.¹⁷ Additionally, the board member would be required to disclose any money that the board member accepts for his or her legal defense on his or her financial disclosure statement.¹⁸

Conclusion

Limited to questions arising under Chapter 102 and Sections 2921.42 and 2921.43 of the Revised Code, it is the opinion of the Commission, and the Commission advises that:

- (1) Divisions (D) and (E) of Section 102.03 of the Revised Code prohibit a public official or employee from soliciting or accepting contributions for his or her legal defense fund in a civil case from parties who are doing or seeking to do business with, regulated by, or interested in matters pending before the public agency.
- (2) Divisions (D) and (E) of Section 102.03 of the Revised Code do not prohibit a public official from using his or her official title in a solicitation for legal defense funds. However, the solicitation cannot imply that the public agency sanctions or endorses the legal defense fund by, for example, using the public agency's seal or letterhead.
- (3) Division (F) of Section 102.03 of the Revised Code prohibits any person who is doing or seeking to do business with, regulated by, or interested in matters pending before the agency from promising or giving a contribution to the public official's or employee's legal defense fund in a civil case.

- (4) Pursuant to the financial disclosure provisions contained in Section 102.02 of the Revised Code, a public official or employee who is required to file a financial disclosure statement, and who accepts contributions to a legal defense fund, must disclose the sources of contributions as sources of gifts regardless of whether the contributions were made directly to the official or employee or indirectly to a third-party for his or her use and benefit.

Merom Brachman

Merom Brachman, Chairman
Ohio Ethics Commission

The Ohio Ethics Commission Advisory Opinions referenced in this opinion are available on the Commission's website: www.ethics.ohio.gov.

¹ The Joint Legislative Ethics Commission has applied a similar standard to both civil and criminal legal defense funds. Joint Legislative Ethics Commission Advisory Opinion No. 98-002 (Feb. 5, 1998). This advisory opinion does not address the use of campaign funds for legal defense, which is under the jurisdiction of the Ohio Election Integrity Commission. *See* R.C. 3517.15(B)(2).

² R.C. 102.01(B) (“Public official or employee’ means any person who is elected or appointed to an office or is an employee of any public agency...”)

³ *See* Ohio Ethics Commission Advisory Opinions No. 2020-02 and 2025-02; *see also State v. Towns*, 2020-Ohio-5120 (6th Dist.) (applying R.C. 2901.21(B) to R.C. 102.03(B) because “the statute does not indicate a purpose to impose strict liability”); *see generally* Ohio Jury Instructions, CR § 521.17 (Rev. Jan. 30, 2021).

⁴ Adv. Ops. No. 84-010, 92-015, and 2006-03. Employees of a public agency the official or employee serves would be, by virtue of their employment, interested in matters before the public agency. As a result, these employees are prohibited sources of contributions to a legal defense fund for an official or employee of the agency.

⁵ Adv. Ops. No. 90-001, 2001-04, and 2006-03.

⁶ Adv. Op. No. 2006-03.

⁷ *See* Inf. Adv. Op. No. 2003-INF-0910-2 (Furnier) (avoidance of legal fees would provide a thing of value for purposes of R.C. 102.03(D) and (E)); *see* Board of Professional Conduct Advisory Opinion 2019-07 (Aug. 2, 2019) (“A lawyer’s donation of legal services to be used as a charity auction or raffle prize is a thing of value because the charitable organization receives a monetary donation as a direct result of the donation of the lawyer’s services.”); *see also* Board of Professional Conduct Advisory Opinion 91-019 (Aug. 16, 1991) (“With regard to what would be considered something of value, one state has opined that a lawyer may not draft free wills for clients referred by a savings and loan association because the lawyer would in effect be giving something of value to another person for recommending the lawyer.”)

⁸ *See* 5 C.F.R. pts. 2634 and 2635; Office of Government Ethics, *Legal Expense Fund Guide for Employees*, (Nov. 21, 2023), <https://www.oge.gov/Web/OGE.nsf/Resources/Legal+Expense+Fund+Guide+for+Employees>, (accessed Dec. 15, 2025) [<https://perma.cc/T6LR-9RHQ>].

⁹ The Ethics Commission has prohibited public officials or employees from using their official titles to solicit private employment or conduct outside businesses to ensure that the public and potential clients do not become confused as to whether the public agency has endorsed the business. *See* Adv. Op. No. 96-004.

¹⁰ *See* Adv. Op. No. 2006-03.

¹¹ Adv. Ops. No. 96-004 and 2006-03.

¹² Most filers are required to report, as the source of a gift, anyone who gives the filer a gift, or gifts, the total value of which is more than \$75. R.C. 102.02(A)(2)(g). A smaller number of filers, including elected officials who are serving with political subdivisions in positions paid less than \$16,000 a year and university trustees, are required to disclose, as the source of a gift, anyone who gives the filer a gift, or gifts, whose total value is more than \$500. R.C. 102.022(A); *see also* Adv. Op. No. 2009-03.

¹³ R.C. 102.02(A)(2)(g). A financial disclosure filer is not required to disclose the contribution as income. *See* Adv. Op. No. 2006-03. A contribution to the public official’s legal defense fund is also not “compensation” prohibited by

R.C. 2921.43(A)(1). *Id.* Notably, the Internal Revenue Service does not have any guidelines on whether free or pro bono legal services, or contributions to a legal defense fund, are income.

¹⁴ Adv. Op. No. 2006-03.

¹⁵ *Id.*

¹⁶ A “collaborative organization” is a union, chamber of commerce, or other trade or professional association that represents the collective interests of individuals, for-profit organizations, or non-profit organizations. *See* Adv. Op. No. 2008-02.

¹⁷ This also implicates the prohibitions in R.C. 102.03(F).

¹⁸ If the board member accepted legal defense funds from a prohibited source in violation of R.C. 102.03(D) and (E), the board member would still be required to disclose those contributions on his or her financial disclosure statement.