

THE VOICE OF ETHICS

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Kindness is like snow -
it beautifies everything it covers.

- Kahlil Gibran, Poet



The Ohio Ethics Law and Discounts

Public officials and employees routinely negotiate or authorize vendor contracts. Of course, the primary concern of public servants when making decisions regarding public contracts should be obtaining goods and services at the lowest available cost for their public agency, rather than securing any personal benefit.

Public officials or employees who negotiate or authorize a vendor's contract are prohibited from personally accepting any discount offered by the vendor for their own personal use. Furthermore, they should not suggest that the vendor offer an employee discount as part of the public contract.

However, the Ethics Law does not prohibit public servants who are not negotiating or authorizing public contracts from accepting modest discounts from vendors. Here are a few helpful advisory opinions on this interesting topic:

Discounts to a Uniform Group of People

[Advisory Opinion 2001-08](#) concluded that companies are not prohibited from promising or giving a uniform discount on its goods or services to a large class of individuals comprised of public officials and employees, even if some members of the class serve public agencies that either purchase goods and services from, or regulate, the company.

The law does prohibit, however, a company that does business with, or is regulated by, public agencies from promising or offering a discount on its services that is limited to individual public officials or employees who have official duties and responsibilities that affect the financial interests of the company. The vendors also cannot promise, offer, or give discounts to a group of public employees which are selective, differential, or in disproportion to the benefits provided to all other public officials and employees who comprise the class that is eligible for the discount.

In other words, discounts cannot be offered on a selective basis to specific employees with whom the company has either business or regulatory dealings. The proposed discounts would have to be offered to a large class comprised of public officials and employees regardless of the public duties performed by those officials and employees.



Police Officers and Discounts

[Advisory Opinion 92-015](#) explained that city police officers are prohibited from accepting a discount offered by a retailer in the city when the discounts are:

1. of a substantial value; and
2. offered only to a selective or limited class of city employees in recognition of their public duties (e.g. the discount is offered only to police officers and not all public employees or officials in that city).

As noted above in [Advisory Opinion 2001-08](#), the law prohibits a vendor from promising or offering public employees a discount on its goods or services if the vendor limits the discount offer to employees who have official duties and responsibilities that affect the vendor's financial interests, or the vendor offers greater discounts to employees with duties and responsibilities that affect the vendor's financial interests than it offers to other employees. Therefore, police officers should decline discounts that are not available to other public servants in the area.



[Advisory Opinion 2011-08](#) opined on vendors who routinely offer the employees of its customers a discount if the employees purchase the vendor's products for their personal use.

The advisory opinion concluded that officials or employees of governmental agencies who do not negotiate or authorize the agency's contract with the vendor can accept a discount on goods from an agency vendor provided that the vendor:

1. offers the same discount to all of its customers;
2. offers the same discount to all eligible officials or employees of the agency; and
3. does not offer discounts in exchange for the performance of any official or employee's official duties.

Note that a discount that is specifically given to a public servant in exchange for the performance of his or her duties is considered prohibited "Supplemental Compensation." For example, if a discount is offered exclusively to a selective or limited group of public employees, the discount may be compensatory in nature. If, however, the vendor routinely offers this kind of discount to the employees of its public and private customers, the discount is not directed at any selective or limited class of public employees, and the employees do not exchange any obligation with the vendor in return for the discount, it is not prohibited under the Ethics Law.

These are just a few of the advisory opinions providing guidance to those in public service who wish to do the right thing! Need more? Check out [our website](#) or contact us for more information!

It's the Most Wonderful Time of the Year...to Ask About Gifts!

What's on your gift list this year? A new sweater? A tennis racket? Tickets to a game? A partridge in a pear tree?

No matter what's on your list, be aware that some gifts are problematic for public employees and officials if offered or given by any person, company, organization, or other entity, that is:

- Doing or seeking to do business with the public agency the official serves;
- Regulated by the agency the official serves; or
- Interested in matters before the agency the official serves.

Are all gifts prohibited from these sources?

No, you can accept a gift of nominal value, such as a t-shirt, mouse pad, coffee mug, a small box of candy, or a dreidel made out of clay! If the sources described above offer something more substantial, simply decline it.

Can public co-workers exchange gifts?

Yes, in general, co-workers are not improper sources to one another. Managers may give gifts to staff members, though not as compensation for the performance of public duties. Finally, while those in management may accept (not solicit) gifts from staff, the amount that staff members individually contributed should be nominal and nobody should be coerced to contribute.



May I attend a holiday open house hosted by an agency vendor?

Yes. The per-person value of an open house is unlikely to be a substantial thing of value. If, however, the event is lavish, you should decline or pay the per-person cost to attend.

One of the companies we regulate sent us a meat and cheese gift basket valued at \$150.00. Can we keep it if we share it?

No. If the value of the item is substantial, as in this instance, the giver is prohibited from giving it even if you share it. The substantial gift may not be used as a "raffle prize" for employee or re-directed to an employee as it is still a substantial thing of value from a prohibited source. Less expensive items, such as cookie trays or a box of donuts, would not be considered substantial, unless given repeatedly in which the cumulative value of becomes substantial.

What about cash tips or substantial gift cards from vendors, citizens, regulated parties, etc.?

No. The Ohio Ethics Law prohibits public officials or employees from receiving compensation from anyone other than the agency they serve.

May I purchase two tickets to a traveling holiday Broadway musical from my agency's vendor?

Yes, the Ethics Commission has advised that when a public official or employee is offered tickets to sporting events, concerts, theater performances, or any similarly valued event, the public official or employee must pay either the face value for the tickets or the amount the giver paid for the tickets – whichever is higher.



Do I ever have to disclose a gift?

Yes. If you're a financial disclosure filer, you may have to disclose sources of gifts. You need to disclose all sources of gifts (except most family members) even if the person who gave it to you doesn't have any connection with your public agency. Please see [Advisory Opinion 94-003](#) for more guidance.

Does the Ohio Ethics Commission have any resources about gift restrictions under the Ethics Law?

Absolutely. There are numerous resources available to help you in understanding and complying with this part of the Ohio Ethics Law. Some of the most commonly referenced materials include [Advisory Opinion 2001-03](#) and our [Gift Information Sheet](#).



'Tis the Holiday Season

'Tis the Holiday season
And all through the state
Public servants are seeing
Gifts both small and great

A gift of hot cider
Or maybe a mug
Can leave us all feeling
As if we've been hugged!

But we are public servants
So this must ring true
We should ask this one question:
Is it something we can do?

We may love getting presents
But is there a flaw?
Could some nicer gifts
Violate the Law?

We can't take expensive gifts
From those we regulate
Or those who do with business with us
(Even if they're great)!

Those who want our business
Are equally verboten
From giving us gifts
And making us feel beholden

If they have an interest in matters
Before our public office
Saying "no thanks" to that fancy gift
Helps us to remain cautious

So, as we each celebrate
This holiday season
Don't take the expensive stuff
It just stands to reason!

Please enjoy this festive month
As we near the New Year
And for more information
See the info right [here](#)!

*Happy Holidays from the
Ohio Ethics Commission!*



We Want to Hear From You!

We are already planning our newsletters for 2023 and we would love to hear what's on your mind! What questions do you have about the Ethics Law? What articles would be helpful in the New Year? We'd be honored to address some of the questions or concerns you have, so please share with us how we can make your 2023 more ethical by e-mailing susan.willeke@ethics.ohio.gov!

If this newsletter was forwarded to you, you can sign up to receive it electronically each quarter by submitting your e-mail address on our [newsletter page](#).

2023



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