

THE VOICE OF ETHICS

A Publication of the Ohio Ethics Commission

2024 Quarter 3



*Fall is
in the air*

The Ohio Ethics Law: 1974 - 2024

Notes from the Commission Chairman

Marking the 50th Anniversary of Ohio's Ethics Law, effective from 1974 in the criminal code, it's timely to recall the ongoing impact. At the Commission, we can cite the broad bipartisan support and backing of all Ohio Governors since its adoption, plus strong cooperation we have had throughout 88 Counties for enforcement. This partnership has underlined integrity expected in duties of officials and added protection for taxpayers and use of public funds.

The Law was written in an era of notable Federal failures (the "Watergate" scandals), when Congress also passed a reform Act. In Ohio the Law mandated well-defined rules for all public management and employees, with required specific personal financial disclosures - over 10,000 filed annually with the Commission by officials and candidates for office. Those aim to help confirm compliance with prohibitions against conflict-of-interest in public positions, applying Ohio Code legal procedures for violations.

(Enactment also created 2 other separate systems overseeing standards of ethics in public service - for the General Assembly and for the Judiciary sector. Too, periodically since 1974 provisions strengthening coverage have been added to authority and duties of The Ethics Commission, some affecting other State procedures and others regarding violative conduct involving public contracts and private businesses. The wider objectives enhance care intended for honest services in exercise of public work.)

Coordinate with electoral history, our Commission's membership is evenly identified (3 persons each from each major political party) and has received biennial budgeting for a quality professional staff. Observing statutory confidentiality in attending allegations of violations, the Commission meets regularly and processes complaints or occurrences. Its investigations and authority apply open findings to the relevant level of government, with certain final dispositions of cases going into the courts.

For decision processes in the public sector, the Law has a provision - unique in the 50 States - that aims to avoid officials or employees taking wrongful action regarding funds and public agencies. This authority is important in duty assigned the Commission, enabling our issuance of specific Advisory Opinions for direct guidance. These may affect the prospective propriety of individual actions or services for government categories or constituencies. With such guidance, the Law provides immunity when advice is followed for given situations, and may also apply to similar actions in other jurisdictions.

Besides the several hundred formal advisories from the Commission, all kept online, in the past decade we have increased staff legal Advisories, with monthly Commission review, answering frequent queries related to various government activities. The Law also put emphasis on providing training and compliance information. That purpose has been busily served by the Commission's dedicated staff, in sessions presented both online and directly in various jurisdictions and locations around the State. These have benefited wide awareness, and often qualify for Continuing Education credits.

The Commission is glad to note the Law's continuing value in services all across Ohio.

- *Merom Brachman, Chairman, Ohio Ethics Commission*

It's Election Year: What is a Public Employee to Do? (or NOT to Do?)

Election season frequently generates questions and calls to the Ohio Ethics Commission and other public agencies. This article provides information regarding questions that can arise regarding election issues.

While the Ethics Commission does not have any jurisdiction over campaign finance or elections laws or rules in Ohio, there are three provisions in the Ethics Law that address campaign contributions:

Coercing Campaign Contributions (R.C. 2921.43(C)): The Ethics Law prohibits the coercion of campaign contributions for any candidate, campaign committee, legislative campaign committee, or PAC in return for appointing, securing employment, promoting, or otherwise affecting any material aspects of someone's public employment.

Voluntary Campaign Contributions (R.C. 2921.43(F)): The Ethics Law permits anyone to make voluntary campaign contributions to any person or campaign fund.

Ordinary Campaign Contributions (R.C. 102.03(G)): The Ethics Law does not restrict ordinary campaign contributions given to a public official. The Ethics Law, as amended in 1986, however, expressly restricts campaign contributions to a public official where evidence of wrongdoing as described by law is present.

However, where there is evidence of wrongdoing in connection with a campaign contribution, and a nexus exists between the officer and the contributor, the Ethics Laws' conflict-of-interest protections apply. A nexus exists between an elected state officer and a person contributing if the contributor is doing or seeking to do business with, regulated by, or interested in matters pending before, the state office he holds.



See the [Advisory Opinion No. 2002-03](#) for more information.



The Ohio Auditor of State's Office also has helpful information online regarding other prohibitions, including the use of public funds to support or oppose elections or levy or bond issues. Public agencies and personnel are permitted to provide factual information to the public regarding the public finances and the impact that the passage or failure of levies or bond issues might have on the public jurisdiction. However, public entities and personnel are not allowed to use public funds to attempt to influence how taxpayers vote.

Public employees and officials, as private citizens, have the right to participate in the political process. However, such participation must occur during time they were not being compensated by the public and without using public funds. See [Ohio Auditor of State Levy FAQs Aug 2023.pdf](#)



For information regarding campaign finance and fair campaign practices, contact the [Ohio Elections Commission](#). For information regarding the elections process, contact the [Ohio Secretary of State](#).

2024 is Marching On! Still Time for Ohio Ethics Law Training!

Since 2024 is more than half over (yikes!), it is a good time to provide a reminder of training options regarding the Ohio Ethics Law. If you are required by Executive Order, internal policies, licensing obligations, etc., we have numerous training options that are convenient and efficient.

Online training choices include our annual e-course: "[The Ohio Ethics Law 2024: 50 Years of Promoting Governmental Ethics](#)" and our [live webinars](#) (we offer both an introductory webinar as well as a deeper study webinar).

Special note for attorneys: our e-course and webinars are approved for one hour of general CLE. For the required 2.5 attorney conduct CLE hours, register for either our virtual CLE on October 1st or an in-person option on November 21st.

If your office would like to discuss the possibility of hosting an in-person session, email susan.willeke@ethics.ohio.gov for more information.



An Ethics Tool for our Friends in Law Enforcement

As a “thank you” for the men and women of law enforcement, we have designed an [e-course](#) especially for you! How does the Ethics Law interact with your career and public service? What should you know about accepting gifts? Do conflicts of interest arise for police officers and county sheriffs? Dive into this customized e-course to ensure that you comply with the law even as you enforce it.

As an added bonus, this course has been approved for one general credit hour of Continuing Professional Training by the Ohio Peace Officer Training Academy. We hope you find this course helpful and convenient and that you feel free to contact the Ohio Ethics Commission if we can offer any additional information or assistance.



[The Ohio Ethics Law and Law Enforcement e-course](#)



ASL Opportunity for Ohio Ethics Law Webinar

Each month, the Ohio Ethics Commission presents a one-hour webinar which provides a solid overview of the Ohio Ethics Law with summations of conflicts of interest, gift restrictions, public contract prohibitions, nepotism, post-employment, and more.

On Friday, September 27, 2024, at 10am, this live webinar will provide real-time American Sign Language (ASL) interpretation. Learners will be able to see both the presenter and an ASL interpreter as they learn more about the Ohio Ethics Law.

The webinar meets the annual training requirement for state employees and officials and is also approved for one general hour of Continuing Legal Education for attorneys. [Registration](#) is open so sign up today!



[The Ohio Ethics Law Webinars](#)



Updated Administrative Rule for Settlements

The Ohio Ethics Commission is statutorily charged with investigating potential criminal violations of the Ethics Law and related statutes. Commission investigations may result in several outcomes, including: referring the matter for criminal prosecution; closing the matter due to insufficient evidence; or resolving the case under the Commission's settlement authority.

The Commission's settlement process is detailed in [Ohio Administrative Code section 102-11-01](#). The Commission considers several factors in determining whether to settle an investigation with the accused, including the severity of the alleged conduct and the existence of mitigating factors, such as self-reporting potential violations. All the Commission's settlements are reduced to a written agreement that is a public record.



The Commission occasionally receives referrals from other agencies detailing facts that either are not in dispute or are of a less serious nature than other cases under investigations. To address those concerns in an efficient manner, the Commission may issue a confidential letter of censure, advising the accused that the reported activity potentially violates the Ethics Law and should cease immediately and that continued activity in violation of the Ethics Law may result in a formal investigation and potential prosecution.

Effective September 9, 2024, the Commission amended this rule by changing the procedure from issuing a censure letter to issuing a "[Notice of Potential Violation](#)." This amendment enables the Commission to address less severe violations that it might not otherwise prioritize as an investigation in a timely manner and without devoting extensive investigative resources. The amended rule also provides that the Commission may, in its discretion, issue a public Notice of Potential Violation so that both the complainant and the accused's public agency may be notified of this resolution.



Ohio Ethics Commission
William Green Building
30 West Spring Street, L3
Columbus, Ohio 43215-2256
(614) 466-7090

www.ethics.ohio.gov