

The Ohio Ethics Law for Public Universities & Colleges



The Ohio Ethics Commission

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Introduction

The Ohio Ethics Law contains conflict of interest, public contract, and supplemental compensation restrictions that apply to public officials and employees in universities and colleges throughout the state. Also, the Ohio Ethics Law requires some public officials and employees to file financial disclosure statements.

The conflict of interest restrictions are found in Chapter 102. of the Ohio Revised Code. In general, public officials and employees cannot use their public positions to secure things of value for themselves, their family members, or their business associates. All public college and university officials and employees are subject to these general conflict of interest provisions except teachers who do not perform administrative or supervisory functions.

The public contract restrictions are found in Section 2921.42 of the Ohio Revised Code. All public college and university officials and employees are subject to the public contract restrictions. These restrictions deal with situations in which the public college or university is acquiring goods or services. College and university officials and employees generally cannot authorize public contracts for themselves, their families, or their business associates. Furthermore, they generally cannot contract with the public college or university they serve.

The supplemental compensation restrictions are found in Section 2921.43 of the Ohio Revised Code. All public college and university officials and employees are subject to the supplemental compensation restrictions. These restrictions prohibit public officials and employees from receiving compensation from anyone other than their public employers for performing their public duties.

Finally, some public officials and employees are required to file financial disclosure statements with the Ohio Ethics Commission. Those required to file financial disclosure statements include trustees and presidents or chief executive officers of every state college and university.

The Ethics Commission has issued several advisory opinions and educational materials that may provide useful guidance for public colleges and universities. The remainder of this document will cover specific areas in which the Ethics Commission tends to get the most questions about the application of the Ethics Law.

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Chapter 1 - General Applicability of Ethics Law

All public college and university officials and employees are subject to the Ohio Ethics Law and related statutes, including public contract and supplemental compensation restrictions. Teachers who do not perform administrative or supervisory functions are not subject to the revolving door and conflict of interest provisions of the Ethics Law, however. This document will outline those restrictions as they apply to public college and university officials and employees. This chapter provides information regarding the general applicability of the Ethics Law to public colleges and universities.

Receipt of the Ohio Ethics Law

Public colleges and universities are required to provide a copy of the Ethics Laws to all college and university officials and employees at the beginning of their public service.



For more information, review [Advisory Opinion 93-017](#).

Dual Public Service

If a public official or employee serves more than one public entity, the official or employee should be aware that provisions within the Ethics Law place restrictions on the official's or employee's ability to act in certain matters and may even act as a bar to the dual service. These restrictions were examined in [Advisory Opinion 91-006](#). In that formal advisory opinion, the Commission stated that dual service raises the issue of "compatibility" of public positions, and the Commission does not have the authority to issue opinions on compatibility.

A public official or employee who serves in more than one public position should contact his or her public entity's legal advisor or the Ohio Attorney General's Office for more information pertaining to the compatibility of the public positions. If the positions are compatible, then several provisions of the Ethics Law may place restrictions on the official's or employee's ability to act when serving in each position. In general, the official or employee is prohibited from participating in matters in one public position in which the other public entity has a definite and direct financial interest. For example, in [Advisory Opinion 91-006](#), the Commission stated that a school board member who also serves as a member of city council is prohibited from participating in matters before city council involving the potential grant of a tax abatement to a business located within the school district that the board member serves.

The public official or employee who serves more than one public agency should also be aware that if there are contracts between the public entities he or she serves, additional restrictions will apply. Further, the official or employee cannot represent one public entity before the other entity he or she serves. Finally, the official or employee cannot disclose or use confidential information acquired while serving either public entity he or she serves. In some situations, the result of the application of these prohibitions may, in effect, act as a complete bar to the dual service.

In summary, dual service issues are fact-specific and sometimes complex, and a public official or employee who serves more than one public entity should seek advice from local counsel and/or from the Ohio Attorney General's Office and the Ohio Ethics Commission.

Additional Information on Dual Public Service

A state employee who wishes to teach at a public college or university that receives grant money from that state agency would be subject to numerous restrictions, including:

- Cannot teach at the public institution if he/she has a definite and direct interest in the grant
- Cannot profit from a grant awarded by a commission on which he/she serves
- Cannot use a public position to secure a position at the public institution that receives grants from the state agency
- Cannot accept a job from the public institution applying for a grant if the state employee cannot abstain from the grant process
- Cannot use a public position to obtain a grant for the public institution where he/she teaches
- Cannot use a public position to obtain something of value from the state agency for the public institution where he/she teaches
- Cannot use a public position to obtain something of value from the college or university.



For more information, review [Advisory Opinion 89-006](#).

The Ohio Ethics Law prohibits a member of village council, who is also employed with a college, from participating in any matter before council if the college has a definite and direct interest in the matter.



For more information, review [Advisory Opinion 2007-01](#).

A student serving as a member of the board of trustees of a university is not prohibited from serving on the student government body for the university. Because the authority of a student trustee is limited, he or she does not exercise sovereign authority and is not an officer, or appointed to an office, of the state and is therefore not subject to the Ohio Ethics Law.



For more information, review [Advisory Opinion 2007-02](#).

A compensated member of a state board, who is also an employee of a public university, is prohibited from accepting compensation from the board for any time while he or she is performing services for the board if he or she is also be paid by the university for the same time.



For more information, review [Advisory Opinion 2011-06](#).

Financial Disclosure Statements

Financial disclosure statements filed by public college and university officials are generally kept confidential, although the Ethics Commission is required to make available for public inspection any portion of the financial disclosure statement that reveals a potential conflict of interest.



For additional information on public and confidential Financial Disclosure Statements, see the [Financial Disclosure Fact Sheet](#).

Chapter 2 - Conflicts of Interest

Conflicts of interest involve public officials and employees taking official action or making decisions in matters that definitely and directly affect themselves, their family members, or their business associates. The basic assumption that underlies the Ethics Law is that Ohioans deserve public servants who advance the public interest rather than their personal interests or those of closely related parties. Simply put, a public official has a “conflict of interest” when his or her ability to be an objective decision-maker could be impaired by his or her own interests, or the interests of family members or business associates.

The Ohio Ethics Law prohibits public officials or employees from participating, in any way, in actions or decisions that definitely and directly involve their own interests, or those of their families or business associates. This chapter will address some of the common conflicts of interest that occur for those serving public colleges or universities, though it should be noted that teachers who do not perform administrative or supervisory functions are not subject to the portion of the Ethics Law discussed in this chapter.

Outside Employment or Business Activity

Many public employees and officials pursue private outside work, consulting, and part-time jobs. While these pursuits are not necessarily prohibited, it's important that public time and equipment not be used for outside business ventures. For example, if your agency has provided you with equipment such as a laptop or a cell phone to carry out public duties from home, they cannot be used for private business or consulting work.



For more information, review [Advisory Opinion 96-004](#).

Student Teaching

Public school district employees are prohibited from soliciting or accepting any payment or other benefit, including fee waivers for courses, from a college or university for serving as a mentor for a student teacher. Likewise, colleges and universities are prohibited from providing compensation to district employees for serving as mentors for student teacher. However, colleges and universities can provide payments or benefits to a district in return for allowing students to student teach or do field experiences in district schools. Districts can use these funds in any way allowed by law.



For more information, review [Advisory Opinion 2011-05](#).

(See also Chapter 4 - Supplemental Compensation - for additional information regarding student teachers).

Foundations

Although the amount and terms of public compensation public colleges and universities provide to college/university presidents are not matters within the purview of the Ethics Commission, the Ohio Ethics Commission has opined on the reception of endowment funds to public colleges and universities.

Provided that the respective Board of Trustees undertake and retain full authority and accountability regarding the use of all public funds for the selection, compensation, and retention of the University President, the Ethics Law and related statutes do not prohibit the University from using endowment funds to support the University President's compensation. However, both the Board of Trustees and the President will be subject to limitations under the Ethics Law and other statutes on solicitations and activities related to the endowment fund should the Board decide to use it to support the President's compensation.



For more information, review [Informal Advisory Opinion 2009-INF-0722](#).

(See also [Chapter 4 - Supplemental Compensation](#) - for additional information).

Chapter 3 - Gifts

Officials and employees at public colleges and universities are sometimes offered gifts by vendors, students, and other parties and therefore must consider whether gifts can be accepted without violating the Ethics Law. This chapter will outline the most common gift issues for those who serve public colleges and universities.

The Ethics Law prohibits a public official or public employee from soliciting or accepting anything of value that could have a substantial and improper influence on the performance of public duties. Nominal or very inexpensive gifts such as a coffee mug, tin of popcorn, or t-shirt are not considered substantial. These types of inexpensive gifts are not prohibited under the Ethics Law, though you may still choose to decline them to avoid even the appearance of impropriety.

Examples of items that the Ohio Ethics Commission has identified as having “substantial” value, however, include tickets to theater or sporting events, vacations, expensive meals, and golf outings. When offered a substantial gift, public officials and employees must identify the giver or source to determine whether it is acceptable. Improper sources of substantial gifts include anyone doing or seeking to do business with, interested in matters before, or regulated by your public college or university.

All public college and university officials and employees are subject to these provisions except teachers who do not perform administrative or supervisory functions. Examples of teachers who perform, or have the authority to perform, administrative or supervisory functions include academic department heads, athletic directors, and coaches.



For additional information regarding general gift restrictions, review the [Gifts and Other Things of Value Fact Sheet](#) and [Advisory Opinion 2001-03](#).

Public College and University Advisory Opinions

1. [Advisory Opinion 2003-03](#): The Ethics Law prohibits a public college employee from accepting anything, including gifts, entertainment, and travel, from any person other than the college, to compensate him or her for the performance of his or her duties. The Ethics Law also prohibits a college employee from soliciting, accepting, or using her position to secure anything of substantial value, including entertainment, gifts, or meals, from a private student loan lender who has or is seeking a contract with the college.

The Ethics Law does not prohibit an official or employee of a public college or university from serving, without compensation, on a customer advisory board organized by a private student loan lender. However, the Ethics Law prohibits the employee from soliciting, accepting, or using his or her position to secure travel, meals, and lodging to attend meetings of the board or entertainment provided at the meetings.

(See also [Chapter 4 - Supplemental Compensation](#) - for additional information).

2. [Advisory Opinion 2011-04](#): The restrictions in the Ethics Law that are discussed in the opinion apply to all community college officials and employees except non-supervisory faculty members.

All officials and employees of a community college, except non-supervisory faculty members, are prohibited from soliciting, accepting, or using their positions to secure, from a publisher or other company doing or seeking to do business with the college:

- a. Travel expenses to attend educational conferences;
 - b. Honoraria to attend educational conferences or compensation for writing or reviewing teaching products unless they are able to withdraw from matters affecting the source of the payments; and
 - c. Royalties for materials used by the college to teach students unless they:
 - can withdraw from matters affecting the source of the payments and
 - do not act in any way to secure the selection of their materials for use by the college.
3. [Advisory Opinion 2011-08](#): An official or employee of a governmental agency, who is not in a position to negotiate or authorize the agency's contract with the vendor, can accept a discount on goods from an agency vendor provided that the vendor:
 - a. offers the same discount to all of its customers;
 - b. offers the same discount to all eligible officials or employees of the agency; and
 - c. does not offer discounts in exchange for the performance of any officials' or employees' official duties.

Chapter 4 - Supplemental Compensation

The provision of the Ethics Law known as “Supplemental Compensation” ensures that public servants are not subject to divided loyalties when performing their public duties. Essentially, the law prohibits public officials or employees from accepting compensation from anyone other than the public entity they serve. It makes no difference whether it’s given to compensate the official or employee for some specific action or decision, or just for the general performance of job duties.

As noted in the chapter on gifts, the Ethics Law does not prohibit college or university officials and employees from accepting a promotional item, such as a pen, pencil, or calendar, or a gift of nominal or de minimis value. However, all college and university officials and employees, including teachers regardless of their job duties, are prohibited from accepting any gift from students, parents, and vendors, if the gift is given to provide payment in return for the performance of official duties.

To summarize this provision of law, public college and university officials and employees should assume that nobody may augment their public salaries, either with money, gifts, the payment of travel expenses, or any other form of supplemental compensation.

Relevant Advisory Opinions

1. [Advisory Opinion 2011-05](#): Teachers and other school district employees may not accept compensation or payment from public or private colleges or universities to serve as classroom mentors for student teachers, host college or university students doing required field experience, or administer the district’s student teacher program.
2. [Informal Advisory Opinion 2009-INF-0722](#): Although the amount and terms of public compensation public colleges and universities provide to college/university presidents are not matters within the purview of the Ethics Commission, the Ohio Ethics Commission has opined on the reception of endowment funds to public colleges and universities.

Provided that the respective Board of Trustees undertake and retain full authority and accountability regarding the use of all public funds for the selection, compensation, and retention of the University President, the Ethics Law and related statutes do not prohibit the University from using endowment funds to support the University President’s compensation. However, both the Board of Trustees and the President will be subject to limitations under the Ethics Law and other statutes on solicitations and activities related to the endowment fund should the Board decide to use it to support the President’s compensation.

Chapter 5 - Public Contracts

This chapter will focus on an area of the Ethics Law often referred to as “Public Contracts.” A public contract exists whenever a public college or university spends money or money is spent for the public college or university. Clearly, all public colleges and universities must purchase certain services or goods to fulfill their mission. Such purchases range from anything such as construction or legal services, or even goods like IT equipment or office furniture. Under the Ohio Ethics Law, every purchase made with public money, whether it’s ten dollars or ten thousand dollars or it’s a written contract or just a casual purchase, is a “public contract.”

There are two specific questions under the public contract statute that arise frequently for public colleges and universities and will therefore be addressed in this section: sales to public agencies and nepotism.

Selling Goods or Services to a Public College or University

The Ohio Ethics Law prohibits public officials and employees from having a financial interest in the contracts of the public agency with which they are “connected.” As a result, in general, college or university officials and employees may not sell goods or services to their college or university. Recusing oneself from the discussion and decision-making does not negate this restriction; under the law, college or university officials and employees cannot serve as vendors to their own college or university, even if they play no role in approving or securing the public contract.



For more information review [Informal Advisory Opinion 2000-INF-0121-2](#) and [Informal Advisory Opinion 2004-INF-1008-2](#).

The only way it could be possible for college or university officials or employees to sell goods or services to their own college or university would be to meet a very specific exception under the Ohio Ethics Law. Please review the Selling Goods and Services to Public Agencies chapter of the [Public Contracts Fact Sheet](#) for information regarding this prohibition and the related exception.

Relevant Advisory Opinions

1. [Advisory Opinion 90-003](#): Public officials and employees may not sell merchandise or profit from sales to the schools they serve. Furthermore, school board members cannot sell goods or services to a booster club when the goods or services would be purchased for the use of the school district the board members serve. However, school board members can donate goods or services to their school districts provided they receive no financial gain from the donation and do not use the donation to secure anything of value for themselves or their businesses.
2. [Advisory Opinion 90-005](#): School board members may not sell goods or services to the districts they serve, regardless of whether such purchases are formal written contracts, or the purchases are made by school district employees on a casual “as needed” basis.

3. [Advisory Opinion 89-006](#): There are restrictions on state employees teaching at public colleges and universities that receive grant money from the employee's state agency. See Chapter 1 of this document for additional information on this Advisory Opinion.

Nepotism

Nepotism restrictions under the Ohio Ethics Law prohibit public officials or employees from authorizing a family member's employment or using their public positions in any way to obtain a public job for a family member. Direct hiring is clearly illegal, but the law also prohibits indirectly influencing the hiring process for a family member. Examples of such indirect – but equally illegal – influences could include recommending a family member, participating in discussions about the family member's job application, or requesting an interview or job for a family member.

This is an important part of the law as fair hiring practices are mandatory in government. Public entities are required to conduct all hiring activity in a fair, open, and impartial manner. Giving precedence or advantages to family members in hiring is unfair to other applicants who may be equally or even more qualified.

In general, family members of public college and university employees can legally pursue jobs at the college or university. However, the applicant's family member who already serves the college or university must be recused from any and every aspect of the hiring process. If a public official or employee can be removed from any discussion, review, decision-making, or any other aspect of the hiring process, his or her family member generally can be awarded the job. In summary, it's not illegal for someone to pursue or obtain a job at a college or university where his or her family member works or serves; it is illegal, however, for the college or university employee or official who is related to the job applicant to be involved in any aspect of the hiring process. Further, a college university official or employee generally cannot be involved in the supervision of a family member if the family member is hired by the college or university.

For additional information regarding nepotism restrictions, review the following Commission documents:



The Public Jobs and Family Members chapter of the [Public Contracts Fact Sheet](#)
[Advisory Opinion 2010-03](#)
[Advisory Opinion 93-008](#) (hiring of minor children at a public college or university).

Chapter 6 - Post-Employment Restrictions

A public official or employee is prohibited from profiting from a contract that the official or employee authorized, or that was authorized by the board of which the official or employee was a member at the time of authorization. This prohibition exists during public service and within one year of leaving public service.

A public official or employee is also prohibited from representing any person, except the college or university he or she served, on any matter in which the official or employee personally participated during his or her public service. This prohibition also exists during public service and within one year of leaving public service. This is commonly referred to as the “revolving door” prohibition.

Finally, a public official or employee is prohibiting from using or disclosing confidential information acquired during his or her service with the college or university. There is no time limit for this prohibition.



For additional information, review the [Revolving Door Law Fact Sheet](#) and [Advisory Opinion 2011-03](#).

Conclusion

As previously mentioned in this document, every public college and university must give each official or employee a copy of the Ohio Ethics Law. This overview is intended to provide some basic information, but is not intended to substitute for the Ethics Law or for an advisory opinion of the Ohio Ethics Commission. It can be a useful supplement to the actual statute, however.

For guidance on a specific situation, please contact the Commission at (614) 466-7090 and visit our website at www.ethics.ohio.gov.