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## **The Private Sector**

The Ohio Ethics Law was enacted in 1973 to make sure that public officials and employees make decisions without being influenced by personal, family, or private business interests. But did you also know that the private sector can also be subject to Ohio's Ethics Law?

Companies and organizations that do or seek to do business with, are regulated by, or have an interest in a matter pending before a government office, also have responsibilities under this law. While this may come as a surprise to some, the truth is, everyone in Ohio, including those in the private sector, have the right to expect that government decisions, such as public contracts and other public expenditures, are made based on objective criteria and not by a specific public official's financial or familial interests.

As a result, the private sector should be aware of the entire Ethics Law, but there are several areas that are especially important to those who interact with government on a regular basis.

### ***Can I give gifts or other things of value to public officials or employees?***

For many private companies, sending gifts to clients is a normal course of conducting business. However, companies that work with government offices need to know that the Ethics Law limits gift-giving to public officials and employees.

While private sector parties may voluntarily donate items or services to public agencies, (provided no official or employee personally benefits), R.C. 102.03(F) prohibits "improper sources" from promising, offering, or giving "substantial" things of value to a public official or employee.

An “improper” source is any person or party who:

- Is doing business with a public agency
- Is seeking to do business with a public agency
- Is regulated by a public agency
- Has a specific interest in matters before a public agency.

Any private entity that has one of the above connections to a public entity is an “improper” source of gifts and cannot offer or give “substantial” gifts to a public official or employee.

### ***What are the consequences for violating the law?***

Any person who violates R.C. 102.03(F) is subject to the following penalties: (1) prohibition from participating in a public contract with any public agency in Ohio for a period of two years; (2) payment of an additional fine equal to the amount of the thing of value given in violation of R.C. 102.03(F); and (3) payment of the Ethics Commission’s costs of investigation and [prosecution](#).

### ***What is a “substantial” gift?***

“Substantial” gifts could include [jewelry](#), the [promise of future employment](#), meals at expensive [restaurants](#), entertainment activities, such as exclusive golf [outings](#) or season tickets for a professional sports [team](#), or travel, meal and lodging [expenses](#). Public officials or employees participating in private sector events must be provided a method to pay the fair share of the [costs](#).

Small gifts that are not prohibited include meals at a family restaurant, promotional items, a basic t-shirt, or an inexpensive entertainment [activity](#). However, multiple items of minimal value should not be offered to public servants if the combined value becomes substantial. It is also helpful to keep in mind that individual government agencies may have policies that are even more strict than the Ethics Law.

### ***Can I pay for travel expenses and honoraria for public speakers?***

Covering the cost of travel or offering honoraria (payments for speaking [engagements](#)) to public speakers or dignitaries is a common practice in the private sector. However, the Ethics Law limits such practices when interacting with public officials.

This provision of the Ethics Law differs on whether the public official is required to file Financial Disclosure Statements with the Ohio Ethics Commission. For those who must file this statement, the Ethics Law:

- Prohibits private sector parties from offering honoraria to disclosure filers, but
- Does not prohibit private sector parties from providing actual travel expenses to disclosure filers at meetings where:
  - the public official will participate in a panel, seminar, or speaking engagement or
  - the public official will attend a meeting or convention of a national organization to which any state agency pays dues.

***What if the public speaker is a public employee or official, but is speaking on matters unrelated to his or her public duties?***

If public officials or employees will attend events not related to their public duties, honorarium or travel expenses may be accepted if the private entity paying for the honorarium or travel expenses is not doing or seeking to do business with, regulated by, or interested in matters before that public employee's agency.

Non-filers may accept travel expenses if the event is unrelated to their public duties and the source of the travel expenses is not doing or seeking to do business with, regulated by, or interested in matters before that public employee's agency.

***What information can a former public official or employee share?***

Current and former public officials or employees are prohibited from disclosing confidential information learned in the course of [public duties](#). There is no time limit for this restriction. Therefore, when hiring a public official or employee into your organization, remember that the public official or employee cannot reveal confidential information obtained while serving in his or her former public role.

***Can I give a public official or employee something for their work?***

A private sector party cannot promise or give anything of value to a public servant with the intent to compensate the public servant for some official action, inaction, or decision. This can include money, gifts, and [travel expenses](#). Please note that both private and public sector parties can be charged with a first-degree misdemeanor for violating [this law](#). Additionally, public employees found guilty are prohibited from holding any public job or position for [seven years](#).

### ***Can I hire someone who used to be a public official or employee?***

It is neither illegal nor uncommon for public officials or employees to leave public service and transition to the private sector. However, it's important to understand that the Ethics Law prohibits private parties who do business with or have interests before a public agency from offering things of value, including employment, to the officials and employees of the agency. Therefore, public employees seeking positions with private entities may be restricted from continuing official interactions on behalf of their agencies during the hiring process.

Furthermore, the Ethics Law limits "revolving door" activity, just as non-compete agreements impose limits in the private sector, to protect against conflicts of interest. Individuals who leave government service have, in effect, a "cooling off" period before they can "represent" new employers or clients before government agencies on matters in which they had participated at the former public agency.

"Representation" includes making any kind of formal or informal appearance before or having any kind of written or oral communication with any public agency (not just the official's former agency) on behalf of that person.

While most former public officials have a one-year restriction, there is a two-year restriction for former Public Utilities Commission commissioners and attorney examiners, former officials who exercised discretion regarding solid or hazardous waste matters, and former members of employees of the Ohio Casino Control Commission.

### ***What is the Supplemental Compensation prohibition?***

A private organization is prohibited, regardless of its motivation, from augmenting or supplementing the salary of a public official or employee. Payment to a public servant from any source other than the public agency he or she serves – known as [Supplemental Compensation](#) – may give rise to divided loyalties and motivate the public servant to make decisions that benefit the source of the supplemental compensation to the detriment of the citizens served. Citizens should be secure in the conviction that their elected, appointed, and employed public servants are endeavoring to serve their interests, and not the interests of private parties.

***i*** ***Need more information?***

- [Advisory Opinion 79-006](#) (private sector and honoraria)
- [Advisory Opinion 89-014](#) (travel, meal and lodging from vendors)
- [Advisory Opinion 90-001](#) (vendors covering travel, meal, and lodging expenses incurred in inspecting vendor's product)
- [Advisory Opinion 92-015](#) (public employees and discounts)
- [Advisory Opinion 99-003](#) (private sector and honoraria)
- [Advisory Opinion 2001-03](#) (vendor sponsoring golf outing)
- [Advisory Opinion 2001-04](#) (vendor offering gifts to school district officials and employees)
- [Advisory Opinion 2023-01](#) (private sector and donations to public agencies)