

The Ohio Ethics Law and Firefighters Part 2: Gifts E-Course Transcript

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Welcome to the Ohio Ethics Commission's four part series of e-courses on the Ohio Ethics Law with a focus on how the law impacts the essential work of firefighters and safety service professionals.

This is part two of the series and focuses on gifts. We encourage you to review part one of the series, which focuses on Conflicts of Interest and Post-Employment, if you are not familiar with how those topics relate to the duties of firefighters.

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The Ohio Ethics Law

- Conflicts of Interest
- Post-Employment
- Gifts
- Public Contracts
- Nepotism
- Sales to Public Agencies

Gifts ORC 102.03(E)

Gifts

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Gift Restrictions

ORC 102.03(E) Public officials may not solicit or accept substantial gifts from improper sources

ORC 102.03(F) Improper sources may not promise, offer, or give substantial gifts to public officials and employees

In the private sector, it's common practice to give gifts, to wine and dine clients, to take them golfing.

Public service is a different story. The Ethics Law prohibits a public official or employee from soliciting or accepting anything of value that could have a substantial and improper influence on that official or employee.

These gift restrictions apply to all public officials and employees at all levels of government in our state. The Ethics Law does not provide a specific dollar amount as a "cut off" for gift acceptance. Instead, the Ethics Law just states substantial and improper.

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Improper Sources

- Doing business with
- Seeking to do business with
- Regulated by
- Interested in matters before

First, let's look at the word "improper" which essentially refers to the giver of things of value to a public employee or a public official.

Improper sources under the law include anyone who is doing business with your agency or seeking to do business, regulated by your agency or has specific interests in matters before your public agency.

Anyone in these categories are improper sources and would be prohibited from providing substantial things of value to public employees and public officials.

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Substantial Things of Value

Could include:

- Golf outings
- Payment of debts
- Loans
- Travel expenses
- Lavish meals
- Season tickets
- Significant discounts

So what is a substantial thing of value? Like I said, the law doesn't specifically define a dollar amount, so the Ethics Commission, which interprets and advises on the law, has given examples of substantial gifts in its advisory opinions.

Some examples of gifts that would be off-limits because they are substantial could include golf outings, payment of debts or loans, travel expenses, lavish meals, season tickets for a professional sports teams or theatre series,

or significant discounts on major consumer items.

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Value relative to the recipient, not the giver

Please note that when we talk about substantial value, this is value relative to the recipient, not the giver. Sometimes we hear that a vendor's box seat at the Reds game is going to go unused. You know, already paid for, just gonna go to waste if I don't go.

No. The value to the public employee or official is substantial. Our advice is to play it safe and pay your own way. Pay the ticket price or the fair market value, whichever is higher.

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Nominal Things of Value

Could include:

- Plate of homemade cookies
- Promotional pen or pencil
- Inexpensive box of chocolates
- Sandwich
- Coffee cup

There are small gifts, or nominal gifts, that are not prohibited by law and therefore not illegal to accept. Maybe you'll still choose to decline even modest gifts to avoid the appearance of impropriety, that's very noble but not necessary.

It is worth noting that regularly accepting such gifts on a routine basis from the same source could present a problem as the Commission has cautioned that nominal items could have a substantial cumulative value over time.

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Supplemental Compensation

ORC 2921.43 prohibits:

- Accepting anything of value
- From anyone other than public employer
- For performing public duties

Now I'd like to pivot to another part of the law, which is the prohibition against "supplemental compensation."

This prohibits public officials and employees from being compensated for doing their jobs from anyone other than their own public entity.

That means that no one other than your job can compensate you for doing your job - no tips, additional fees, as the statute says, "anything of value."

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Can a firefighter accept a gift card?

This is one of the most common questions we get from firefighters. Can firefighters accept gift cards as a "thank you" for the valuable work they do?

And the answer is No. No one but our own public agency is allowed to give us "anything of value" to do our public job.

Anything of value of course includes substantial gifts but also includes any tips or additional compensation, whether in the form of cash or gift cards.

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Advisory Opinion 92-015

Opinion on accepting special discounts

Prohibited from accepting discount if the discount is:

of a substantial value and offered only to a limited class of public employees (e.g. only to a city's police officers and not all public employees in that city)

And that "anything of value" includes discounts. In 1992 the Commission issued Advisory Opinion 92-015, the opinion on accepting special law enforcement 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 (as in, the discount is offered only to police officers and not all public employees or officials in that city).

This applies to all public servants, including firefighters. We must decline discounts that are not available to other public servants in the area.

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Now I'll give you some gift scenarios to answer. This isn't graded so don't worry about repercussions for getting something wrong but give these some thought.

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Can the chief make a policy allowing firefighters to accept tickets to a professional sporting event as long as they are not unduly influenced as a result?

Yes No

(select one)

Can the chief make a policy allowing firefighters to accept tickets to a professional sporting event as long as the firefighters are not unduly influenced as a result?

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No

No! The Ohio Ethics Law is not a policy, it's not a suggestion, it's a criminal law. Agencies can make their own policies that are MORE stringent than the Ethics Law, but they cannot make a policy that just magically makes it OK to break the law.

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Is it okay for a company that sells office equipment to the fire department to donate a photocopier to the department?

Yes No

(select one)

Is it okay for a company that sells office equipment to the fire department to donate a photocopier to the department?

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Yes

Yes! The Ohio Ethics Law does not prohibit private companies from donating stuff to public entities, as long as no official or employee of the public entity benefits personally from the donation, and so long as the donation is voluntary.

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A fire chief can take his family for a week-long spring break vacation in the Florida Keys and stay in an ocean-front home (with a deep-sea fishing boat) owned by a vendor of his department if he pays him \$500, which the vendor says is "fair market value."

Yes No

(select one)

A fire chief can take his family for a week-long spring break vacation in the Florida Keys and stay in an ocean-front home

(with a deep-sea fishing boat) owned by a vendor of his department if he pays him \$500, which the vendor says is 'fair market value.'

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No

No. Substantial gift in the way of a massive discount from an improper source. You know the chief could not rent a beachfront property with a boat in the Florida Keys for a week for \$500, so it's definitely not fair market value.

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Firefighters should be cautious about accepting free food and beverages from local restaurants.

Yes No

(select one)

Firefighters should be cautious about accepting free food and beverages from local restaurants.

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Yes

Yes, as I said firefighters should be cautious accepting discounts.

I love the sentiment in wanting to express appreciation for the wonderful work that you all do but the Ethics Law is clear that targeted discounts is not a legal way to do it.

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A city has a five-year contract to purchase computer hardware and software. Firefighters can take advantage of software discounts the company offers to clients.

Yes No

(select one)

A city has a five-year contract to purchase computer hardware and software. Firefighters can take advantage of software discounts the company offers to clients.

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Yes

Yes, as long as the company routinely offers the discount to all its clients and the agency makes the discount available to all agency employees, and not just a select few.

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Advisory Opinion 2001-08

Discounts to a large class of public employees

This is stated in Advisory Opinion 2001-08, which concludes that companies are not prohibited from giving a uniform discount to a large class of public officials and employees.

Again, it can't be to a select group of public employees that perform a specific set of duties as that falls into the supplemental compensation restrictions, and it can't be specific to a group with whom the company has either business or regulatory dealings.

If it's all city employees, all county, state, etc., it's fine. Now, the only people that can't take advantage of those sort of discounts are the public employees or officials that actually negotiated them.

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A fire chief is attending an out-of-state conference. He can attend a behind-the-scenes tour of a professional football stadium, paid for by a vendor at the conference, because the event is "part of" the conference.

Yes No
(select one)

A fire chief is attending an out-of-state conference. He can attend a behind-the-scenes tour of a professional football stadium, paid for by a vendor at the conference, because the event is "part of" the conference.

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No

Nope. A wannabe vendor at a conference is an improper source, and this improper source provided this substantial thing of value. If it's off-site it cannot be lumped in as part of the conference.

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At the same conference, the chief is prohibited from accepting a flat screen TV that was donated to the conference by a vendor even if the winner is selected in a random drawing.

Yes No
(select one)

At the same conference, the chief is prohibited from accepting a flat screen TV that was donated to the conference by a vendor even if the winner is selected in a random drawing.

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Yes

Yes, the chief is prohibited from accepting it for personal use. No doubt there. However, chief CAN take it back to the station for public use, maybe let's say for public facing signage in the lobby at the station.

Big difference between a gift or donation benefiting the public and a gift or donation benefiting a public employee.

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To assist in making the best purchasing decision, an assistant chief can accept travel expenses from an IT company to go to Los Angeles to see the IT product in use.

Yes No

(select one)

To assist in making the best purchasing decision, an assistant chief can accept travel expenses from an IT company to go to Los Angeles to see the IT product in use.

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No

No. While it may seem like a good idea, it would still be accepting something substantial (travel costs) from an improper source (company seeking to do business with the agency). We have a few opinions that do touch on this.

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[Advisory Opinion 89-013 Accepting travel, meals and lodging](#)

[Advisory Opinion 90-001 Offering travel, meals and lodging](#)

Advisory Opinion No. 89-013 states that accepting this type of travel violates 102.03(D) and (E), which prohibit public employees and officials from securing, soliciting, or accepting anything of value from improper sources.

While 90-001 states that 102.03(F) prohibits those improper sources from offering or giving those substantial things of value, which does include travel.

Even if we're not talking about a commercial airline ticket, even if it's hitching a ride with executives on a company's private plane that was headed to that destination anyway, the value of that travel to the person receiving it is substantial.

Therefore, this is prohibited.

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Captains who travel for an approved conference can take along their spouses provided that the public would not incur any additional cost as a result of their spouses' travel.

Yes No

(select one)

Captains who travel for an approved conference can take along their spouses provided that the public would not incur any additional cost as a result of their spouses' travel.

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Yes

Yes, if the public does not incur any addition cost this is fine.

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Remember, the Ethics Law prohibits a public official or employee from soliciting or accepting anything of value that could have a substantial and improper influence on that official or employee.

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I also want to note that substantial things of value from improper sources are illegal regardless of whether the official or employee was influenced by the gift.

Simply accepting a substantial gift from an improper source is a potential crime under the Ethics Law, even if that acceptance did not change my behavior or the outcome of some specific matter or project.

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So, to summarize the gift provision of the Ohio Ethics Law: if we are offered a gift during our years of public service, we are legally obligated to ask two questions:

Is the gift substantial? and Is the gift from an improper source? If it's a substantial gift from an improper source, it is illegal.

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That concludes the Gifts portion of this e-course series. I've thrown a lot of info at you and I certainly don't expect you to have memorized it all.

The biggest takeaway I want to leave you with is that the Ethics Commission is here to help guide you through these issues. Be on the lookout for potential conflicts, and know that the Ethics Commission is here to help guide you through them.

Whether you are calling our advisory attorneys or searching our website for more information, we are here for you!

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Relevant Fact Sheets

[Gift Fact Sheet Directory](#)

[Accepting Gifts, Meals or Entertainment](#)

Helpful information regarding what public servants may or may not accept

[Gift and Entertainment Bulletin](#)

Guidance on what can and cannot be accepted as gifts and entertainment

[Overview of the Ohio Ethics Law](#)

Explains and describes the law in layperson easy-to-understand terms

Relevant Advisory Opinions

Relevant Advisory Opinions

[Gift Advisory Opinions](#)

[Advisory Opinion No. 92-015](#)

Accepting special discounts on food, etc.

[Advisory Opinion 2001-08](#)

Discounts to a large class of public employees

[Advisory Opinion 89-013](#)

Accepting travel, meals and lodging

[Advisory Opinion No. 90-001](#)

Offering travel, meals and lodging

[Advisory Opinion No. 2000-05](#)

Paid township volunteer firefighters are public employees and subject to the Ethics Law

Here on our website you'll find all those Advisory Opinions I specifically mentioned in addition to lots of other helpful information on gifts as they relate to the Ohio Ethics Law.

I do recommend following up this course with part 3 of this 4 part series, which covers Public Contracts.

Thank you so much for the critical work that you do, and thank you for taking the time to review how the Ohio Ethics Law and the Ohio Ethics Commission can assist you in that work.