

The Ohio Ethics Law and Law Enforcement E-Course Transcript

Introduction

Slide 1

Welcome to the Ohio Ethics Commission's e-course on the Ohio Ethics Law with a focus on how the law impacts the essential work of Law Enforcement professionals.

While the Ethics Law regulates everyone in public service, those in law enforcement may face specific issues and questions that we would like to offer information on in this virtual class.

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Slide 5

You will print or save your certificate at the end of the course. This course has been approved for one hour of Continuing Professional Training by the Ohio Peace Officer Training Academy.

So please make sure that you retain your certificate so that you can submit it for credit to OPOTA. Now, let's take a look at the Ohio Ethics Law and Law Enforcement!

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[The Ohio Ethics Law](#)

[Ohio Revised Code Chapter 102](#)

Related Statutes

[Ohio Revised Code Section 2921.42](#)

[Ohio Revised Code Section 2921.43](#)

The Ohio Ethics Law was created by the General Assembly in 1973 in the wake of the Watergate Scandal, which prompted a number of states to create their own governmental ethics laws.

The purpose of the Ohio Ethics Law is to protect the public from public servants' conflicts of interest - the financial, family, or business conflicts that can easily arise.

It encourages impartiality in governmental decisions by restricting public actions on matters in which public officials and employees have definite and direct conflicts of interest, and promotes the public's confidence in the actions of public agencies.

The Ohio Ethics Law is found in Ohio Revised Code Chapter 102 as well as two provisions in Chapter 2921, Ohio's Criminal Code.

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[Advice](#)

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[Financial Disclosure](#)

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The Ohio Ethics Commission was created in Chapter 102. We are an independent state agency which administers the Ethics Law for the Executive Branch of state government as well as Ohio's local governments.

Judicial and Legislative have their own Ethics Law related entities. Our primary responsibilities include: Advising public servants on how to comply with the Ohio Ethics Law, Educating on Ohio Ethics Law, Administering the Financial Disclosure Program, Investigating violations of the Ethics Law and Recommending legislation related to ethics, conflicts of interest, etc.

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[The Ohio Ethics Law](#)

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The Ohio Ethics Law prohibits public officials and employees from spending public money or making public decisions on matters in which they have a conflict of interest.

The Ethics Law applies to everybody in public service, at all levels. Elected, appointed, full-time, part-time, management, non-management, this law does apply.

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My wife is actually a park ranger at a Metro Park in the Columbus area.

I was at a recent holiday party chatting with her coworkers on what I do, educating on Ohio Ethics Law, and her partner at the time, who is a law enforcement officer, mind you, said,

“Oh yeah, Ethics Law? Yeah, that stuff’s more for managers than us.”
And that’s not the case. And that actually came up within a matter of weeks.

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One day my wife, in talking about her work day, mentioned how this same coworker was shopping for his new office desk for the ranger station. A normal, legitimate public expense, using public money.
And because it’s public money, the Ethics Law has something to say about that decision.

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You see, the Ohio Ethics Law protects you, me, and all taxpayers by providing accountability between the public and its governments. It’s what makes nepotism illegal in government.

It’s why a health department inspector couldn’t take a big gift from a restaurant that he or she was inspecting. It’s what would stop my wife’s coworker, there, from using Metro Parks money to buy an office desk from, say, his brother’s business.

Stuff like that. As a taxpayer, this is important to me! I need to trust that public servants’ bank accounts or families or outside businesses don’t have the opportunity to unfairly influence decisions that affect my life and my tax dollars.

And as a public servant, I HAVE to have the public’s trust to effectively do my job. The Ohio Ethics Law is how we public servants maintain that trust.

Conflicts of Interest

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The Ohio Ethics Law
Conflicts of Interest
Post-Employment
Gifts
Public Contracts
Nepotism
Sales to Public Agencies
Conflicts of Interest
ORC 102.03(D)

First we’ll discuss Conflicts of Interest.

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Think of a “conflict of interest” as a tug of war that could potentially happen when I have my own personal interest in a public matter. So I have my own personal interest on one side, and the public’s best interest on the other.

That’s what a “conflict of interest” is. When our ability to be objective could POTENTIALLY be impaired by our own interests, or the interests of family members or business associates.

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Conflicts of Interest

ORC 102.03(D) prohibits:
Acting or making decisions
In matters that affect
Self, family members or business associates

ORC 102.03(D) prohibits public officials and employees from acting or making decisions in matters that affect themselves, their family members, or business associates. The Ethics Law doesn't prohibit us from having conflicts.

What is illegal is when people in public service act in these situations where they have these conflicts. It's that action that can violate the law and betray the public's trust.

Slide 15

Public employee inspects sister's daycare

I've got some examples of Conflicts for you and this is the one that really brought it all home for me when I started learning about all this. A public employee inspects her sister's daycare.

My son went to a local family owned daycare and obviously I had to trust those folks. Let's say that the owner has a sister who works for the Ohio Department of Jobs and Family Services.

I'd expect that she would do a fine job. But there's no way I would be comfortable with her inspecting her sister's daycare.

That's what the Ethics Law does, keeps people out of these situations where they might have a reason to be less objective,

makes sure that I, the taxpayer who depends on the daycare, who depends on ODJFS to license and inspect the daycare, don't have to worry about public servants' conflicts of interest.

Slide 16

Police chief uses government email address to email hundreds of people recommending his son's invention

Another example, a police chief uses his government e-mail address to e-mail hundreds of people to recommend his son's invention.

Using his public position to benefit his family member, taking an official action in this matter where he has that conflict of interest.

Slide 17

Police department employee solicits a job from a vendor whose project she manages for her department

Another conflict example, and one that will tie into our upcoming discussions on gifts and post-employment. A police department employee solicits a job from a vendor whose project she manages for her department.

She is using that public position to benefit herself.

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Now I've got a few scenarios and quick questions I want you to answer. This isn't graded so don't worry about repercussions for getting something wrong but please give these some thought.

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Can the sibling of a police officer seek help from the department knowing his sister works there?
(select one)

YES
NO

Can the sibling of a police officer seek help from the department knowing his sister works there?

Slide 20

Yes, absolutely. First off the Ethics Law generally only applies to public employees and officials so him seeking help can't violate the law, the Law applies to the public servant here, the police officer. So yes, the sibling can seek help. Next question.

Slide 21

A police officer has a brother who owns a local sports pub. Can the officer be the lead investigator on a recent robbery at his brother's pub?

(select one)

YES
NO

A police officer has a brother who owns a local sports pub. Can the officer be the lead investigator on a recent robbery at his brother's pub?

Slide 22

No, the officer can't take any action in this matter. Like we said, the pub owner is absolutely entitled to the department's help, it's the officer who must recuse himself from being involved in this matter.

Slide 23

Can a Village Council member vote on a Water Bill Forgiveness initiative, effectively relieving himself of more than \$5,000 in water bill debt to the village?

(select one)

YES
NO

Can a Village Council member vote on a Water Bill Forgiveness initiative, effectively relieving himself of more than \$5,000 in water bill debt to the village?

Slide 24

The answer here is No, voting is taking that action in this matter that has a definite and direct impact on him.

Slide 25

Is it illegal for a police chief to steer city vendor contracts to an employee of his private company?

(select one)

YES
NO

Is it illegal for a police chief to steer city vendor contracts to an employee of his private company?

Slide 26

Yes, illegal - taking that action on that matter that benefits a business associate.

Slide 27

May a police officer apply for a job with a company within the jurisdiction he serves?
(select one)

YES

NO

May a police officer apply for a job with a company within the jurisdiction he serves?

Slide 28

This one is a maybe - again, going to delve into this a bit more in both Gifts and Post-Employment, but if this company is not directly dealing with the police department (as in, has or wants to have a contract, stuff like that)

and this officer is recused from anything dealing with this company at the department he is probably fine. If it's a vendor to the department and he signed off on the contract, definitely not.

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Is it okay for a police officer to use his police credentials on a website to advertise his private business?
(select one)

YES

NO

Is it okay for a police officer to use his police credentials on a website to advertise his private business?

Slide 30

Definitely not, we cannot use our public positions to benefit ourselves.

Slide 31

Recusal is to abstain from

Voting

Discussing

Reviewing

Recommending

Inspecting

Investigating

Any time one of us in public service is faced with a conflict of interest, we are required to abstain from taking any action on that matter, to recuse ourselves.

Not just the final decision, we can't participate in ANY PART of the process, such as reviewing plans, discussing the project with co-workers or making recommendations on the contract.

Acting on a conflict of interest is illegal in public service in Ohio regardless of whether the public employees or officials believe that they can behave objectively.

For example, it is possible that a public employee inspecting her sister's daycare could proceed objectively, or maybe even more stringently than another inspector would. But that's simply not relevant.

Those of us in public service are statutorily prohibited from acting on a conflict, regardless of whether we behaved objectively.

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Protecting the public against conflicts of interest is really at the heart of the Ohio Ethics Law. All Ohioans have the right to expect that governments in Ohio operate objectively and fairly.

You and I shouldn't ever have to wonder if inspectors or officials or anyone else making decisions on our behalf is being objective - it should be a given.

Slide 33

And the people that we serve should have no reason to question our work. You might feel perfectly capable of being objective in a conflict of interest situation.

Maybe the public could win that tug of war against your own interests and biases, but by acting you open yourself up to uncertainty; you plant a seed of doubt that erodes that public faith that we all need to do our jobs.

Recusing yourself from acting upon a conflict of interest isn't just the law, at the end of the day it's also just the right thing to do.

Representation

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Representation

ORC 102.04(A) and (C) prohibit:

Representation

Matter with personal participation

Now I want to quickly cover another relevant area of the Ethics Law known as "representation."

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Representation

ORC 102.04(A) and (C) prohibit:

Representation

Matter with personal participation

The term "representation" is used throughout the Ohio Ethics Law. You're probably familiar with lawyers "representing" clients, but it's not just a lawyer thing.

You "represent" someone when you speak on their behalf, formally or informally. Representation can be submitting paperwork, appearing on a client's behalf at a hearing or meeting, and so on.

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For example, let's say I approve building plans at a public agency, and I have an outside business making building plans for private clients. Well, then MY clients and MY plans have a totally unfair advantage if I'm the one deciding whether to approve them or not.

I can't try to circumvent this, either. Representation is prohibited even if I wouldn't personally submit the plans I drafted for my client. AND I can't represent a client before ANY division of my agency, even if I were recused.

Now, representation isn't only prohibited for current public servants which brings us to our next topic.

Post-Employment

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Post-Employment

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Post-Employment

ORC 102.03(A)

Post-Employment

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Post-Employment

ORC 102.03(A) prohibits:

Representation

Matter with personal participation

One year after leaving public service (for most)

In discussing Post-Employment we often illustrate it with the concept of "the revolving door" where someone goes into the revolving door to leave public service and just swings right back around into the building,

only now they're working another job, representing someone else. The Ohio Ethics Law puts some restrictions on this.

Under the post-employment law, present or former public officials or employees are not allowed to "represent" someone before any public agency on a matter in which they had personally participated for one year after leaving public service.

We just covered representation, so what is personal participation?

Slide 39

Personal Participation

Making Decisions

Approving

Disapproving

Recommending

Investigating Supervising Staff

Personal participation includes not only making decisions or having approval or disapproval over a matter, but also any recommendations, investigations, or supervising of other public servants on the matter.

Slide 40

Now, the post-employment restriction doesn't mean you can't discuss this stuff at a new job. It just means that during this "cooling off" period you would be more of an in-house consultant on matters that you had personally participated in, rather being the person to request or attend meetings, etc.

Slide 41

The Ethics Law prohibits people in public service from misusing their influence with a former employer to give taxpayers a fair "playing field" by ensuring that they are fairly represented in all interactions between public and private sectors.

It also ensures that current public servants aren't making decisions with future job prospects in mind. "Feathering the nest", so to speak.

Confidentiality

Slide 42

Confidentiality
ORC 102.03(B) prohibits:
Disclosing or using confidential information
Accessed in public position
Unless authorized

One more brief topic that follows us out the door, confidentiality. The confidentiality provision of the law prohibits public officials or employees from disclosing or using any confidential information they accessed in a public position.

Unless the public agency has authorized the disclosure or use of the confidential information, this restriction is in effect both during and after a person's public service.

Essentially, as long as the information remains confidential, both current and former public officials and employees must maintain that confidentiality.

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For more information on
[Conflicts of Interest and Post-Employment](#)

Conflicts of Interest

[Conflicts of Interest FAQs and additional resources](#)

[Conflicts of Interest Advisory Opinions](#)

[Advisory Opinion No. 83-006](#)

Police officer buying something at police auction

[Informal Opinion 2001-INF-1114](#)

Police officer participating in government program for home buyers in city

[Informal Opinion 1997-INF-0314-1](#)

Head of crime lab engaging in outside forensic science consulting

Post-Employment

[Post-Employment FAQs and additional resources](#)

[Post-Employment Advisory Opinions](#)

Before we move on to the next part of our course, we want to make sure you're familiar with the many resources on our website regarding conflicts of interest and post-employment restrictions.

Feel free to pause the course and click the above links. If you can't find what you're looking for, please don't hesitate to reach out to us.

Gifts

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Gifts

ORC 102.03(E)

The next part of the Ethics Law we'll highlight is regarding gift restrictions.

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Gift Restrictions

ORC 102.03(E)

Public officials may not solicit or accept substantial gifts from improper sources

ORC 102.3(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 team or theatre series,

or significant discounts on major consumer items.

Slide 48

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.

Slide 50

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 speakers fees, as the statute says, "anything of value."

Slide 51

Can an officer accept a gift card?

This is one of the most common questions we get from law enforcement. Can law enforcement officers accept gift cards given as a "thank you" for the valuable work that 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 law enforcement 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). Therefore, police officers should decline discounts that are not available to other public servants in the area.

Slide 53

Now I'll give you some gift scenarios to answer. Again, questions in this course aren't graded but please give these some thought.

Slide 54

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

(select one)

YES

NO

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

Slide 55

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 magically makes it OK to break the law which I'm sure is not a surprise to you all.

Slide 56

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

(select one)

YES

NO

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

Slide 57

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.

Slide 58

A police 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."

(select one)

YES

NO

A police 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. 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.

Slide 60

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

(select one)

YES

NO

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

Slide 61

Yes, as I said officers 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. Police officers can take advantage of software discounts the company offers to clients.

(select one)

YES

NO

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

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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 sorts of discounts are the public employees or officials that actually negotiated them.

Slide 65

A police 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.

(select one)

YES

NO

A police 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.

Slide 66

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.

(select one)

YES

NO

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.

Slide 68

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

(select one)

YES

NO

To assist in making the best purchasing decision, a police 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. 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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Police chiefs 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.

(select one)

YES

NO

Police chiefs 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, if the public does not incur any additional 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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For more information on Gifts

Gifts

[Gift FAQs and additional resources](#)

[Gift Advisory Opinions](#)

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

Accepting special law enforcement discounts on food, etc.

[Advisory Opinion 2001-08](#)

Discounts to a large class of public employees

[Advisory Opinion No. 89-013](#)

Accepting travel, meals and lodging

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

Offering travel, meals and lodging

Please take advantage of this helpful information as I think you'll find many of your gift questions have been addressed in the past and are available to assist you today.

Public Contracts

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Public Contracts

ORC 2921.42(A)

Now, let's move on to the next part of the Ethics Law, public contracts!

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Public Contracts

ORC 2921.42(A) prohibits:

Profiting from public contracts authorized

Profiting from public funds invested

Occupying a position of profit

Having a financial or fiduciary interest

A public contract exists any time a public agency purchases or acquires goods and services.

Whether it's ten dollars or ten thousand dollars, whether it's a competitively bid contract or just putting money in a parking meter - public money being spent is a public contract under the Ethics Law.

There are several Public Contract prohibitions in the Ethics Law, and a couple of them are fourth-degree felony violations, which means prison time.

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Profiting from Contracts Authorized

ORC 2921.42(A)(1) prohibits:

Authorizing public contract

Where they, their families, or business associates would profit

The first of those is 2921.42(A)(1), which prohibits anyone in public service from authorizing or using the authority of their public position to assist in securing a public contract for themselves, their families, or their business associates.

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Sergeant owns a uniform store, buys pants for his department's cadets from his own store

An example of this would be a sergeant who owns a uniform store and buys pants for his department's cadets going through the training academy from his own store.

Using department funds for a purchase is a public contract, and he is granting himself that public contract, giving himself those public funds.

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Those uniforms are obviously necessary, and he may be giving the department a fair price or even a discount - it doesn't matter, because the Law prohibits him from doing this.

The public shouldn't have to chase down his receipts to ensure that public servants are being good stewards of tax dollars, they deserve to know that, in government's ordinary course of business, public servants are not granting themselves public contracts.

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I mention this back in the Conflicts of Interest section when discussing a public servant inspecting her own sister's daycare.

As a taxpayer, I am already putting so much trust into those public officials and employees that represent and serve me.

I deserve assurance that those servants do so without the added baggage of their own family or business partners or bank accounts potentially tipping the scales.

Slide 84

Officer does freelance work for a video production company, recommends the company to her agency for training videos

Our next example - an officer does freelance work for a video production company and recommends that company to her department for training videos. This was actually one that I had to be aware of when I started working at the Ethics Commission.

I came from a video production company and still did a little bit of freelance writing and producing for it after I left full time employment there.

There have been times where the Ethics Commission was recording a training video and could benefit from using that team that I worked with,

but, if that company were going for a contract with the Ethics Commission, I could not recommend them in any way or even weigh in, on competitors or anything else, because that company is my business associate.

And that's true even if I weren't working on that project for that production company.

Slide 85

County employee approves lead paint abatement grant for sister's house

Another example of a public contract violation - a county employee approves a lead paint abatement grant for his sister's house.

Any expenditure of public money is a public contract so giving your sister a grant is a violation of the public contract provision of Ethics Law.

She can apply for this grant, the public employee just cannot be involved in any way, he must be completely recused from it.

No giving a coworker a heads up that it's his sister, no recommending his coworker take a close look at it, and certainly no signing off on it himself.

Everyone applying for those grants deserves the same honest opportunity to get them, without worrying about public employees influencing the decision in favor of family members, business associates, or even themselves.

Slide 86

Recusal is to abstain from

Voting

Discussing

Reviewing

Recommending

Inspecting

Investigating

We can't advocate, we can't be involved, we must recuse. Recusal doesn't just mean abstaining from a final decision, it means we can't participate in ANY PART of the process.

No reviewing plans, no discussing the project with co-workers, no making recommendations on contracts or grants. Complete recusal is required.

Slide 87

Now I'll give you some public contract scenarios to answer.

Slide 88

Should a police chief abstain from discussion or decision-making regarding his adult child's IT bid to the city?

(select one)

YES

NO

Should a police chief abstain from discussion or decision-making regarding his adult child's IT bid to the city?

Slide 89

I hope you got this one correct, yes, he must be completely recused from any discussion or decision making on this contract if his kid has a bid in on it.

Slide 90

Officer on Cops and Kids Day planning committee, can his outside employer ask him to recommend them as a vendor?

(select one)

YES

NO

An officer is passionate about community outreach and works on the Cops and Kids Day planning committee, can his outside employer ask him to recommend them as a vendor?

Slide 91

Well, the answer is yes, his outside employer can ask him, the Ethics Law doesn't bind that outside employer. But the officer's answer to the question had better be:

"No I can't recommend your company because the Ohio Ethics Law says it's a fourth-degree felony if I do and I'm not risking my full time job and prison time just so that you have maybe a little bit of a leg up at setting up at this event."

Slide 92

Can a sheriff be involved in hiring a construction company to update the sheriff's office when that company always uses his son as a plumbing subcontractor?

(select one)

YES

NO

Can a sheriff be involved in hiring a construction company to update the sheriff's office when that company always uses his son as a plumbing subcontractor?

Slide 93

Yikes. The answer is a resounding NO.

Slide 94

The Ohio Ethics Commission has stated in numerous Advisory Opinions dating back several decades that even a subcontract with a public agency is still a public contract.

So, if we know it's illegal to be involved in authorizing a public contract with our agencies for our family members and outside business associates, that would be equally true for subcontracts, as well.

Even if my family member or private business associate is not the contractor who is actually seeking a contract with my own public entity,

I'm still required to recuse myself even if it does feel indirect because my relative or business associate would still benefit from that public contract. Therefore, it's still a violation of the Ethics Law.

Slide 95

To be fair, if I were part of approving a public contract with no way of knowing that the primary contractor MIGHT eventually consider my family or business associate's company, I may be perfectly fine under the law.

If, however, I KNEW that my relative or business associate had already given a quote, was pursuing the subcontract, was already lined up to do work if the primary contractor got the contract with my agency, etc.,

I could be looking at a fourth-degree felony under the law. Please be aware, this is not an uncommon situation; contractors often have subcontractors already lined up and ready to go even before they obtain the public contract.

Slide 96

To me, this public contract stuff is COMPLICATED. Which is why we have a website full of information and advisory attorneys on call if you ever need advice on how to handle these complex situations!

Nepotism

Slide 97

[The Ohio Ethics Law](#)

[Conflicts of Interest](#)

[Post-Employment](#)

[Gifts](#)

[Public Contracts](#)

[Nepotism](#)

[Sales to Public Agencies](#)

[Nepotism](#)

[ORC 2921.42\(A\)\(1\)](#)

Next up - a specific Public Contract violation that you might know as Nepotism.

Slide 98

[Nepotism](#)

[ORC 2921.42\(A\)\(1\) prohibits:](#)

[Authorizing public contract](#)

[Where they, their families, or business associates would profit](#)

[Which includes public jobs!](#)

As I said earlier, no one in public service can authorize or use their public position to assist in securing a public contract for themselves, their families, or their business associates. And a public job is a public contract.

It's public money being spent, just in the form of salary or benefits. And just like any other violation of 2921.42(A)(1), nepotism in Ohio is a potential fourth-degree felony.

The public has a right to know that government work, decisions, and expenditures take place in a way that benefits the public, not individual public servants or their families.

Slide 99

The Ethics Law does NOT prohibit more than one family member from looking for a job from the same public agency or even actually working at the same public agency.

What's illegal is when public officials or employees use their public positions to hire family members into public jobs or somehow influence the hiring process for their family members.

Slide 100

And this does extend beyond just hiring.

If a family member were to legally get a job at your agency, you could not be their direct supervisor or participate in any decisions on matters that affect a family member's employment, such as raises, promotions, or performance evaluations.

You must have two layers of supervision to keep you from having influence in that ongoing public contract with your family member.

Slide 101

Family
Spouse
Domestic partner
Sibling
Parent
Stepparent
Child
Stepchild
Grandparent
Grandchild

When the Ethics Law says family member, it means a spouse or domestic partner, sibling, parent or stepparent, child or stepchild, grandparent, or grandchild. These relatives are your family regardless of where they live.

Extended family members, such as cousins or in-laws, are considered family only when the extended relative lives in our home.

Slide 102

OK, I gotta admit, I came from the private sector and this was all a SHOCK to me when I started at the Ethics Commission!

My Mom works for a county public utilities department (in Maryland) and my Dad was an inspector for a federal agency - I thought for sure I could count on them for a good reference if I were to ever apply for a job where they work.

But the fact of the matter is - they would have to completely recuse themselves.

Slide 103

Mom informing her supervisor that her son put in an application at the Public Utilities Division where she works

Examples of nepotism would include my Mom letting her supervisor know that I had put in an application to be a maintenance tech at the Garrett County Sanitary District.

She definitely cannot use her public position to give me a leg up in getting a job at her agency.

Slide 104

Mom calling over to the court house to let them know that her son put in an application to be an inspector with Permits and Inspections

Another example would be my Mom calling over to the courthouse to let them know that I put in an application with the Permits & Inspection Division of the Department of Planning & Land Management to be an inspector, which

coincidentally my brother-in-law happens to be and no my Mom didn't have anything to do with that. Plus, as I said, in-laws are only considered family when they live in our home, so we're safe, OK?

Slide 105

Now, a few nepotism scenarios to respond to.

Slide 106

City offers cash bonus to employees who recommend a family member for open positions, can you recommend your brother?

(select one)

YES

NO

A city needs officers and offers a cash bonus to current employees who recommend a family member for open positions. Can you, an officer with the city, recommend your brother for a job?

Slide 107

No! An Ohio Ethics Law violation is still a crime even if the city erroneously asks you to commit it. They can't make it not a crime.

Slide 108

Park board commissioner abstains from all discussion on the hiring of his daughter as a park ranger, must he abstain from signing off on her swearing in?

(select one)

YES

NO

A park board commissioner abstains from all discussion on the hiring of his daughter as a park ranger, must he abstain from signing off on her swearing in?

Slide 109

Yes, he must still abstain every step of the way. Give her a hug at the swearing in, but do not be involved in any official capacity.

Slide 110

[Advisory Opinion 90-010](#)

[City director or fire chief authorizing employment for son at fire department](#)

Advisory Opinion No. 90-010 is worth noting here. It was initiated by a fire department but still applies as they are also required to pass civil service tests.

Even when family earns the job on their own and proves their worthiness to hold the position we must be completely removed from the employment process.

If you are the sole or ultimate hiring authority and there is absolutely no other person or entity who may exercise such hiring authority your family member cannot get that position.

Slide 111

[Manager has a brother that works for department, can she be involved in discussions on promotions, raises, overtime, discipline, etc.?](#)

(select one)

YES

NO

A member of management has a brother that works for the department, can she be involved in management type discussions on his promotion, raises, overtime, discipline, etc.?

Slide 112

No, she cannot have that sort of influence on that ongoing public contract that her brother has.

Slide 113

[Informal Advisory Opinion 2005-INF-0811](#)

[Family seeking employment at law enforcement agency](#)

We have a few opinions that address this and one that touches on this topic as it pertains to Law Enforcement specifically, because it is common for families to have proud histories of this sort of public service.

But you gotta maintain those layers of separation to ensure objectivity and fairness.

Slide 114

Do note that public offices are permitted to have internal policies that are even more stringent than the Ethics Law. Especially on nepotism. So talk to your legal council or the Ethics Commission if you have any questions.

Slide 115

[For more information on](#)

[Public Contracts and Nepotism](#)

Public Contracts

[Public Contract FAQs and additional resources](#)

[Public Contract Advisory Opinions](#)

Nepotism

[Nepotism FAQs and additional resources](#)

[Nepotism Advisory Opinions](#)

[Informal Opinion 2005-INF-0811](#)

Family seeking employment at law enforcement agency

[Advisory Opinion No. 90-010](#)

City director or fire chief authorizing employment for son at fire department

And of course, we also have additional public contract resources on our website for your perusal and assistance.

Check out our online fact sheets and advisory opinions and let us know if you need any additional information.

Sales to Public Agencies

Slide 116

The Ohio Ethics Law

Conflicts of Interest

Post-Employment

Gifts

Public Contracts

Nepotism

Sales to Public Agencies

Sales to Public Agencies

ORC 2921.42(A)(4)

And finally, Sales to Public Agencies.

Slide 117

Sales to Public Agencies

ORC 2921.42(A)(4) prohibits:

Having an interest

In a public contract

Any connected agency

There is another aspect of public contracts that is important to understand and comply with. Ohio Revised Code 2921.42(A)(4) prohibits having an interest in a public contract with any connected agency.

“Having an interest in a public contract” isn’t limited to making money from a public contract, but making money from a public contract is certainly “an interest.”

Slide 118

Recusal as Solution?

Recusal doesn’t solve this problem. It IS possible for a member of your family to get a contract with your public agency if you are able to recuse yourself from any aspect of the process.

But that is not a solution for this part of the law. We are prohibited from having that continued interest.

As public employees and officials, we cannot sell goods or services to our own public entities, even if we play no role in approving or securing the public contract.

In other words, it’s illegal for public employees and officials to serve as vendors to their own public entities, even if they did not actually authorize the contract.

Any business that we own or co-own should not be considered a potential vendor to our own agencies.

Slide 119

Obviously, it’s not uncommon for people in public service to have outside jobs or outside businesses. But we need to be aware that the Ethics Law prohibits us from having a financial interest in the contracts of our own public agencies.

Generally speaking, public officials and employees can have outside businesses, but they can’t sell goods or services to their public entity. Some quick examples:

Slide 120

Sergeant owns a uniform store, buys pants for his department’s cadets from his own store

Earlier we used an example of a sergeant who owns a uniform store and buys pants for his department’s cadets going through the training academy from his own store.

His one action violates multiple parts of the public contract prohibitions, because he 1) used his authority to authorize his public contract

and 2) had an interest in a public contract, he made money on the contract.

Slide 121

Township office manager owns a cleaning company which gets the contract to clean township offices

Another example of a violation of this sales to public agencies prohibition would be a township office manager whose cleaning company gets the contract to clean township offices.

Even if she wasn’t involved in the decision to authorize the contract, you can see the definite conflict there, right? How that has so much potential to violate the public’s trust that government decisions and expenditures are fair and objective?

Slide 122

If you are taking this e-course and you own or co-own a business in your private life, that’s great! We hope it’s a productive and meaningful journey and we’d be happy to help answer any questions you ever have about your business and the Ohio Ethics Law.

But you also need to assume that the public entity you serve will never be one of your clients. In fact, don’t even attempt to serve as a vendor to your own public entity and you’ll always be safe under the law.

Slide 123

Four Part Exception

Goods or services must be necessary

Public servant must be recused

Must be as good as service to other customers

Cannot be obtained elsewhere for a similar or lower cost

The only way it could be possible to sell goods or services to your own public agency would be to meet a very specific exception under the Ohio Ethics Law. This exception is a four part one and all four parts must be met:

The purchase of goods or services must be necessary; The public servant must be able to be completely recused from the discussion and decision-making processes;

The public servant must be able to provide as good or even better service to the public entity; and The goods or services cannot be obtained somewhere for a similar or lower cost;

I want to stress that last one - the goods or services cannot be obtained somewhere for a similar or lower cost.

In other words, if there is ANYone else that can clean my township's offices for an equal or reasonably similar price, they must go with that vendor, and not me, since I work for the township.

Slide 124

This four part exception can allow smaller governments in Ohio to take care of business while staying on budget.

For example, if a county office can get its vehicles repaired by a company owned by a county employee instead of taking the cars to a garage 50 miles farther away,

that county employee may well meet this exception and they are welcome to call our advisory attorneys to discuss it.

Now, if someone in Franklin County were to call us and ask if they can have county vehicles repaired by a shop owned by a county employee,

we're going to be pretty skeptical that there aren't other shops in Columbus that could do the same work for a similar price.

Slide 125

It's possible to sell goods or services to public agencies other than your own but there are factors to consider. All police officers, whether at the city, county, township, or village levels,

be aware that you work for that entire governmental body - not just the department or office where you report to work each day.

For example, if you are a deputy sheriff in Washington County you could not be a vendor to ANY Washington County government office, not just the department where you work.

For state highway patrol officers, it is possible to sell goods and services to a state agency OTHER than the Ohio Department of Public Safety,

but you would be required to complete a 102.04(D) statement which can be found on the Ohio Ethics Commission's web site.

Slide 126

This is a lot of confusing contract stuff but I'm gonna make it pretty easy and give you a pro-tip, it is safest to assume that you will not be a vendor to the public entity you serve, bottom line.

Slide 127

Now a few final scenarios for you, on this topic of Sales to Public Agencies.

Slide 128

Can a park ranger make the promotional t-shirts for the park's Folk Fest?

(select one)

YES

NO

A metro park is planning a folk music festival and would like to hire a company to print up some promotional t-shirts to give away to guests.

One of the rangers has a shirt printing side hustle and can make the shirts for a very reasonable price, would that be OK?

Slide 129

No. Can't do it, she cannot sell goods and services to her own agency. The size of the sale doesn't matter, the reasonableness of her fee doesn't matter, still a violation.

I'm sure that are lots of folks that would jump at the chance to do this job for a reasonable fee so there's no way she would be able to meet that four part exception.

Slide 130

[Advisory Opinion 83-004](#)

[Police officer selling to city department](#)

The Ethics Commission's Advisory Opinion 83-004 was written in response to a city police officer who wanted to sell trophies and awards to the city's parks and rec department.

It emphasizes the importance and challenge of meeting the four part exception. I will include a link to the opinion at the end of this section if you would like to take a look at it.

Slide 131

Can a police chief solicit potential employment with a city agency before stepping down as chief?

(select one)

YES

NO

OK next one - Can a police chief solicit potential employment with a city agency before stepping down as chief?

Slide 132

Definitely not. This one taps into a number areas of the law - he is soliciting a substantial thing of value, he is using the authority of his position to secure a public contract, lots of bad news here.

Slide 133

[Police officer does some snow plowing on the side. Can he be on the department's to-call list for quick emergency jobs?](#)

(select one)

YES

NO

Police officer does some snow plowing on the side. Can he be on the department's to-call list for quick emergency jobs?

Slide 134

No. As we've said, no matter the amount of the contract, whether it's ongoing or just an "as-needed" basis, we can't have a public contract with our agency.

Slide 135

Would a city employee be prohibited from marketing software that he helped a computer software firm develop under a contract with the city to computerize police and fire reporting and dispatching?

(select one)

YES

NO

Would a city employee be prohibited from marketing software that he helped a computer software firm develop under a contract with the city to computerize police and fire reporting and dispatching?

Slide 136

Yes, he would be prohibited.

Slide 137

Advisory Opinion 84-013

City employee marketing software developed by private employer

In fact, this was the exact question addressed in Advisory Opinion 84-013, and amongst the issues raised this opinion explicitly states that the Ethics Law prohibits a city employee from knowingly soliciting or receiving

a commission, payment, or fee, or having any other interest in the profits or benefits of a contract between the city and a computer software firm with which he is associated.

Slide 138

Public Contracts

ORC 2921.42(A) prohibits:

Profiting from public contracts authorized

Profiting from public funds invested

Occupying a position of profit

Having a financial or fiduciary interest

So to recap, here are the Public Contract provisions of 2921.42(A). In this section we have been diving into 2921.42(A)(4), bullet point 4 there.

And in the Public Contracts section, we discussed (A)(1) which is bullet point 1. Now, for completeness's sake I'm going to mention 2 and 3 though they are a bit more niche.

Profiting from Public Funds Invested

Slide 139

Profiting from Public Funds Invested

ORC 2921.42(A)(2) prohibits:

Investment of public funds

Where they, their families, or business associates would profit

2921.42(A)(2) prohibits the investment of public funds where they, their family member or business associate would benefit. That includes not only having an interest but also underwriting or receiving brokerage, origination or servicing fees.

Occupying a Position of Profit

Slide 140

Occupying a Position of Profit

ORC 2921.42(A)(3) prohibits:

Member of authorizing board

Profiting from contract

Unless competitively bid

Applies for one year after leaving board

And 2921.42(A)(3) prohibits occupying a position of profit. A public servant occupies a position of profit in a public contract if the contract was authorized by the public official, or by a body, committee, or board on which he or she sits,

unless the contract is competitively bid and awarded to the lowest and best bidder. This is prohibited even if the public servant doesn't participate in the approval or authorization of the contract, AND applies for one year after leaving public service.

Slide 141

For example, let's say a county sheriff authorizes a contract with a consulting company. That sheriff could not step down from that elected office to accept a job with that consulting firm if he or she would be paid from the payment from the county.

This would be true for one year after leaving the sheriff's office even if the sheriff did not approve the contract with the intent of later accepting a position with that company.

Slide 142

For more information on Sales to Public Agencies

Sales to Public Agencies

[Sales to Public Agencies FAQs and additional resources](#)

[Sales to Public Agencies Advisory Opinions](#)

[Advisory Opinion No. 83-004](#)

Police officer selling to city department

[Advisory Opinion No. 84-013](#)

City employee marketing software developed by private employer

I would be remiss if didn't provide one more reminder of the resources available on our website to supplement the information we discussed today, including sales to public agencies.

Check it out and let us know if you have any questions.

Conclusion

Slide 143

You did it! You have completed this course regarding the Ohio Ethics Law and Law Enforcement. Now you will print or save your certificate to prove it.

Slide 144

Conclusion

Be sure to hit **SUBMIT** before leaving this screen!

Next

Please provide the following information, being sure to scroll all the way down and hit the **SUBMIT** button. Once you have hit the **SUBMIT** button to submit your information, select **NEXT** to continue.

Slide 145

Print your certificate or save it to PDF!

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This certificate is your proof of course completion. Save it, print it, screen shot it, take a picture of it with your phone! Just be sure to get **SOME** record of it to prove that you have completed this training.

Once you have your certificate you are ready to self-submit your completion of this class to OPOTA!

Follow your normal procedure through their website to obtain credit.

Should you be audited, the Ethics Commission will be able to verify your completion of this class for five years. Nevertheless, please retain this certificate in your files.

Once you have printed or saved your certificate please select the **NEXT** button.

Slide 146

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We hope you found this course informative and helpful and will always feel comfortable reaching out to us if we can be of any further assistance.

Please know how much the Ethics Commission's members and staff appreciate you and all you do.

We hope that our partnership in investigations, advice, and education benefits you as much as it does us.

Thank you again and be safe out there!