

The Ohio Ethics Law and Conflicts of Interest E-Course Transcript

Slide 1

The Ohio Ethics Law and Conflicts of Interest

Thank you for participating in this e-course, created and presented by the Ohio Ethics Commission.

This brief course will not cover the entire Ethics Law, but rather focus specifically on the prohibitions related to conflicts of interest. We begin with an example.

Slide 2

(exchange visually resembles a social media comment thread)

Spread the word! I am finally putting my house up for sale! If you know anyone interested in moving to the North Ridge neighborhood, my house is a completely remodeled three-bedroom, one-bathroom ranch home. Good neighborhood and school district. I will post pics soon so stay tuned!

Brooke, that's great news! My cousin might be interested. Do you know what you're going to list it for?

I finally finished the appraisal, so I'm thinking around \$195,000.

I'm confused. You did your own appraisal? I thought the county did that.

Brooke: Spread the word! I am finally putting my house up for sale! If you know anyone interested in moving to the North Ridge neighborhood, my house is a completely remodeled three-bedroom, one-bathroom ranch home.

Good neighborhood and school district. I will post pics soon so stay tuned!

Margo: Brooke, that's great news! My cousin might be interested. Do you know what you're going to list it for?

Brooke: I finally finished the appraisal, so I'm thinking around \$195,000.

Damon: I'm confused. You did your own appraisal? I thought the county did that.

Slide 3

(exchange visually resembles a Facebook comment thread)

Hi Damon! I work for the county auditor's office, remember?

Okaaaaaay....but you did your own appraisal? That's allowed?

As long as we do the appraisals objectively, it's no big deal. Are you going to buy my house or are you just going to bust my chops? :)

No comment. Hope you got a lawyer. JK.

Brooke: Hi Damon! I work for the county auditor's office, remember?

Damon: Okaaaaaay....but you did your own appraisal? That's allowed?

Brooke: As long as we do the appraisals objectively, it's no big deal. Are you going to buy my house or are you just going to bust my chops? :)

Damon: No comment. Hope you got a lawyer. Just kidding!

Slide 4

Imagine that you are interested in buying this house. Please select the reaction emoji that best expresses how you would feel about this homeowner/seller appraising her own property.

Select your reaction



What is your reaction? Imagine that you are interested in buying the house in this example. Please select the reaction emoji that best expresses how you would feel about this homeowner, this seller, appraising her own property.

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Even if someone isn't really familiar with the Ohio Ethics Law, this example might seem rather obvious, right? A county employee who is charged with the responsibility of appraising properties actually appraises her own property.

Seems a fairly glaring problem, doesn't it?

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Conflicts of Interest

Ability to be objective

Could be impaired by interests of

- Self
- Family members
- Business associates

Yet, this is a great example of what a conflict of interest can look like. In public service, we have a "conflict of interest" when our ability to be objective could be impaired.

That could happen due to our own self-interests, or the interests of our family members, or even of our outside business associates.

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If you've been with us for past courses, you might already know that having a conflict of interest isn't actually illegal. The truth is, conflicts occur all the time.

A city employee works in a building department and his or her parent has a building permit pending before that department. See? A conflict of interest! But not a reason to panic.

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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

The Ohio Ethics Law doesn't make it illegal for a public employee or official to have a conflict. It prohibits us from acting on the conflict. That's a big difference.

If that city building department employee stays away from all aspects of the parents' building permit, no problem under the Ethics Law! It's when that employee takes any action on that issue that we have a problem.

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Acting on a conflict of interest is illegal
REGARDLESS of whether or not a
public employee or official believes
he or she behaved objectively.

Now, before we move on, it's important to note that acting on a conflict of interest is illegal regardless of whether or not a public employee or official believes he or she has behaved objectively.

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Think about that Facebook posting we just reviewed. It's entirely possible that Brooke conducted a fair and accurate appraisal of her own property. But under the Ohio Ethics Law, that's completely irrelevant.

Under the statute, Brooke simply wasn't allowed to appraise her own property. That's exactly what we're talking about when we use the phrase "acting on a conflict."

It's illegal for her to take any action on her own property at her public job - even if she behaved objectively in her appraisal. Okay, let's move on to our next example!

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(website advertising an HR business)

Blake Harris

I am a professional Human Resources Consultant and I can meet your HR needs!

Do you have a small thriving business, but not ready for a full-time HR staff?

I can assist you!

- recruit top candidates
- ascertain the “right job” for the “right candidate”
- conduct background checks and reference checks
- train new hires

By retaining my services, you save your business time and money!

You can trust my work ethic and background!

- I work for Anywhere County, Ohio – the largest county in Ohio!
- I have worked in the county HR department for 24 years
- Started as HR Analyst (9 years)
- Promoted to Employee Relations/Labor Relations Manager (7 years)
- Have served as Associate Director of HR for the past 6 years
- Degree: B.A. in Human Resources, Magna Cum Laude
- Employee of the Month in the county HR department 17 times
- County Employee of the Year in 2016

Call me today to solve your HR problems!

Ohio’s largest county entrusts me with its HR needs; so can you!

As a small business owner you've got plenty on your plate. You're "big picture", let me handle the HR stuff!

I'm Blake Harris, professional Human Resources Consultant and I can take some of the weight off your shoulders.

Finally you can afford to develop your work force and grow your business. I'll help you find the people you need on your team.

I've got experience you can trust. I am Employee Relations Manager for Anywhere County, Ohio. That should tell you something right there.

If the largest county in Ohio has relied on me for the last 24 years and counting, so can you! Save time, save money - save sanity! Call me today.

Slide 12

Imagine that you owned a competing HR consulting business. Please select the reaction emoji that best expresses how you would feel about this public employee using his public job as leverage to attract clients to his private business.

Select your reaction



What is your reaction? Imagine that you owned a competing HR consulting business.

Please select the reaction emoji that best expresses how you would feel about this public employee using his public job as leverage to attract clients to his private business.

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This one's a little more complex, isn't it? Blake might be a talented and treasured employee in the Anywhere County, Ohio HR office. No question there.

And perhaps Blake is very gifted in HR consulting in the private sector, too. That's certainly a possibility.

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But that doesn't mean that we don't have a problem here under the Conflict of Interest statutes. Several problems, in fact.

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To begin with, Blake is clearly using a public job to garner clients in a private business.

Listing public credentials, years of service at the county job, accolades from the public agency, and actually invoking the county name as a sign of trustworthiness would all be violations of the Ohio Ethics Law.

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Don't forget that all taxpayers - including you - have the right to know that public officials and employees pursue the public's best interest.

Using our public positions to secure personal benefits - like clients in our private businesses - is simply a bad idea. And more importantly, it's illegal.

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This is also an appropriate time to note that public employees and officials who have outside businesses or consulting work cannot use other public resources for their private businesses, either.

This would include the use of things like public time, agency badges, computers, vehicles, office supplies, cell phones, or any other public resource.

Slide 18

Representation

ORC 102.04(A) and (C) prohibit:

- Representation
- Matter with personal participation

Finally, there is an area of the law called "representation" that prohibits a public official or employee from representing a private client before his or her own public agency.

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For example, let's say that Blake has a client in the outside HR consulting business. Blake can never be paid by that client for contacting the county agency on behalf of that private client.

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Okay, enough lecturing! Let's get back to our examples! It's easy to think of so-called "bad" people violating the Ethics Law.

But what about perfectly decent, hard-working and likable people in public service who are confronted with a conflict of interest that they didn't see coming? What happens then? Well, let's take a look!

Slide 21

Video

Supervisor: So, in all, Marty, you're pretty happy with this new tree company we're using?

Marty: Yeah, they're doing great. I like them because they actually have experience in public parks, not like the last company we used who was just a private development company. So I think we made a good choice, all in all.

Supervisor: Good, let me know if there are any problems. Okay, Scott, what are you working on this month?

Scott: Well, among other things, I am putting together my research information on the pros and cons of the department selling Blue River Park. I should have that report to you by the end of the month.

Marty: Selling the park? What is this about? What's going on? This is new to me.

Supervisor: What's going on is that the department can't keep up with the costs of operating the parks; we don't charge the public to use them and we're running out of money to support maintenance costs and personnel.

So we're trying to figure out how to handle it. I thought you knew about this.

Marty: I mean, I knew about the budget troubles, but this is the first I've heard of us selling a park. Incidentally, selling it to whom? And why Blue River?

Scott: Because I crunched the numbers, that's why. Of all the parks we operate, Blue River has the fewest annual visitors and the fewest environmental issues to consider.

If a development company wants to come and put houses or companies on the land, it would have the least environmental impact than if we sold any other park.

Marty: A development company? Are you kidding?

Scott: Look, Marty, this isn't personal. I'm just giving you my objective overview of the situation.

Marty: Not personal! How can you say that?

Supervisor: Hold on; what on earth is going on here?

Scott: Well, Marty lives near Blue River Park.

Marty: Near it? My backyard touches the park property. My kids can wake up in the morning and see deer, raccoon and every bird you can imagine from their bedroom window!

What is your reaction?

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Imagine that your home is next to this park. How would you feel if you heard it was being sold for development?

Select your reaction



Imagine that your home is next to this park. How would you feel if you heard it was being sold for development?

Slide 23

Video

Supervisor: Ah, I see. So, this potential sale would, pardon a pun, hit close to home.

Marty: You could say that. I can't believe we were thinking about doing this. Selling a public park to a development company who will pave over streams and hiking paths? Have we completely lost our sight of the mission?

Supervisor: Look, I understand where you're coming from. But I don't think we have a choice at this point. It's either sell a park, continue layoffs and aggravate dangerous maintenance problems at the parks.

Marty: We can't let this happen, we just can't. I just got a home equity loan.

Scott: So, it's not selling a park in general that bothers you; it's selling this particular park, right?

Marty: Look, don't get me wrong. I don't like the idea of any public park becoming a mall or housing development. But do you have any idea what this is going to do to my property value?

To have the view from our decks go from trees and wildlife to becoming a shopping center parking lot? I might as well tell my kids they're gonna have to pay for their own college someday.

Scott: What if I took another look at the numbers? I mean, Blue River really is the best bang for the buck, but Cliff Ridge came in a close second in terms of low annual visiting numbers.

Marty: Could you? I mean, just look at the numbers.

Supervisor: Wait a minute, I'm not so sure about this.

Marty: Look, all I'm asking is that we consider some of the alternatives. Scott just said that the numbers at Cliff Ridge are low as far as visitors. Can we just reconsider this?

What is your reaction?

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Imagine that you owned a home next to Cliff Ridge, the park with the second lowest visiting numbers. How would you feel if you overheard this conversation?

Select your reaction



Imagine that you owned a home next to Cliff Ridge, the park with the second lowest visiting numbers. How would you feel if you overheard this conversation?

Slide 25

You have to feel for Marty, don't you? This isn't a bad guy. He seems to be a well-respected employee and a family man to boot. And you can't blame him for being shocked.

He appears to be genuinely blind-sided by this announcement of selling the park. But our empathy for him shouldn't cloud the issue.

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Clearly, it isn't Marty's fault that he finds himself in this conflict of interest. But frankly, he just isn't allowed to get involved in this conversation or this project - at all.

Not in this meeting and not anywhere down the road. He simply cannot be involved.

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Abstain from

- Voting
- Discussing
- Reviewing
- Recommending
- Inspecting
- Investigating

When public officials and employees are faced with a conflict of interest, they are required by law to abstain from anything that relates to that conflict.

Anything. That means not voting, not discussing, not reviewing or recommending, not inspecting or investigating...you get the idea.

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So, even when it feels personal - like it did for Marty in this video - whenever something at your public job could have a definite and direct impact on you, your family, or your business associates, recusal is the only legal option.

At the end of the day, recusal protects you and it protects the public.

Slide 29

We have one more video for you here and this next one really begins to connect the line between conflicts and that gift portion of the Ohio Ethics Law.

In this video, we're going to tag along as a health department employee inspects the restaurants at an Ohio casino. Let's check in!

Slide 30

Video

James: Anything else you need, Jackie?

Jackie: Nope, I think I got it all.

James: Any major concerns I need to know about?

Jackie: For the most part, everything looks good. I'll finish my report back at the office and I'll send it to you tomorrow.

James: Great, thanks!

Jackie: So, things going okay for you here?

James: No complaints, just really busy.

Jackie: I can imagine, with opening two new restaurants in the last month, not to mention the new frozen yogurt shop.

That's a lot to oversee. But you're doing a good job; like I said, my report should be really positive.

James: I appreciate that. Well hopefully there's light at the end of the tunnel. I've just been approved to hire two additional service compliance people to report to me.

Jackie: Is that right?

James: Yes, and I can't wait. Well, don't get me wrong, I love this job; it's just, it'll be nice to have the additional hands on deck.

Jackie: I bet. So, have you already posted the position?

James: No, not yet. Why? You know somebody who might be a good fit?

What is your reaction?

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Imagine that you have a son that has been looking for a great job opportunity like this. How would you feel hearing about these job openings?

Select your reaction



Imagine that you have a son that has been looking for a great job opportunity like this. How would you feel hearing about these job openings?

Slide 32

Video

Jackie: Well, to be honest, my son is having a hard time finding full time work. He finished his undergrad work last spring but now all he can find is part-time stuff.

James: Yeah, it is a tough time for college grads. But we wanted to find someone who had previous experience.

Jackie: Yeah, I can understand that, but he's a really quick learner and so eager to please.

Besides, he'd be a great fit for what you need here; he is a double major in finance and hotel management.

And since he's young, you could start him at a lower pay rate until he gets his feet under him.

James: Hmm

What is your reaction?

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Imagine that you are this business owner. How would you feel about the public employee that inspects your business asking you to hire her son?

Select your reaction



Imagine that you are this business owner. How would you feel about the public employee that inspects your business asking you to hire her son?

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Are you in the mood for frozen yogurt now? I know I am! Well, even though this conversation between these two folks might seem relatively innocent, this scenario does illustrate the purpose of the Ohio Ethics Law:

that public officials and employees cannot represent their own interests or those of closely related parties, like family members.

Slide 35

Can the health department inspector's son apply for a job at the casino? Certainly. But she can't use her public job to help him get it.

The bottom line is the public's interest supersedes our own, so what we just witnessed in this video would clearly be a problem under the Ohio Ethics Law.

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The good news is that any of the public employees or officials that we just met in these scenarios don't have to find themselves in problematic situations.

They - and you - should feel free to contact the Ethics Commission before acting on a potential conflict of interest.

We much prefer assisting people in public service in making the correct and legal choice than to ever have to conduct an investigation. So, please, contact us or check out our website if you ever have questions!

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Ohio Ethics Commission

(614) 466-7090

www.ethics.ohio.gov

Congratulations!

You have completed

The Ohio Ethics Law and Conflicts of Interest

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