

The Ohio Ethics Law and Post-Employment E-Course Transcript

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The Ohio Ethics Law and Post-Employment

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 post-employment. We begin with an example.

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(video)

Dear Ohio Ethics Commission: I work for the city of Anywhere, Ohio.

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(visually resembles an email)

Owens, Ashley Job Advice

Dear Ohio Ethics Commission: I work for the city of Anywhere, Ohio. For the past year, I have been working on a community development project with several of my colleagues. As part of this project, we are working with a consulting company to revitalize several neighborhoods in our community. Please note that I had nothing to do with securing the city contract for the consultant nor did I assign myself to the project. It's just one of several that are on my project load. There is an issue that has arisen that I would like to get some guidance on. The consultant that we have been working with recently posted a new position on their website. It's for a Project Development Manager, similar to what I am doing now, but on the private sector side. It pays more and I would be able to work from home which would save me money and be helpful for my family life. Considering that I have been working on this project, but that I had absolutely nothing to do with initiating the project or getting the contract for the consultant, am I allowed to apply for the job? I'd really like to, but I went to training that your office provided last year, and I want to make sure I don't get into any trouble, either. Thank you for any help you can provide.
Sincerely, Ashley Owens

For the past year, I have been working on a community development project with several of my colleagues. As part of this project, we are working with a consulting company to revitalize several neighborhoods in our community.

Please note that I had nothing to do with securing the city contract for the consultant nor did I assign myself to the project. It's just one of several that are on my project load. There is an issue that has arisen that I would like to get some guidance on.

The consultant that we have been working with recently posted a new position on their website. It's for a Project Development Manager, similar to what I am doing now, but on the private sector side.

It pays more and I would be able to work from home which would save me money and be helpful for my family life.

Considering that I have been working on this project, but that I had absolutely nothing to do with initiating the project or getting the contract for the consultant, am I allowed to apply for the job?

I'd really like to, but I went to training that your office provided last year, and I want to make sure I don't get into any trouble, either. Thank you for any help you can provide. Sincerely, Ashley Owens

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Imagine that you are the writer of this e-mail. How would you feel about the prospect of making more money and working from home?

Select your reaction



What is your reaction? Imagine that you are the writer of this e-mail. How would you feel about the prospect of making more money and working from home?

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This scenario is a great example of how several areas of the Ethics Law can be invoked in one situation.

On one hand, we can easily identify a potential conflict of interest in that this city employee is thinking of seeking a job - a thing of value - from a consulting company with contracts before her city.

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So, our first piece of feedback for this letter-writer would be: good for you! You are reaching out to the Ethics Commission before applying for this job. That's a smart move and one that will help you proceed with proper guidance.

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Let's assume, then, that Ashley sought guidance from the Ethics Commission and her supervisor allowed her to completely withdraw from the matter.

Because she was able to be completely recused from anything dealing with that consulting company at the city, she would, in fact, be able to apply for the job.

And let's further assume that Ashley successfully gets the job and is now working for this consulting company.

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Post-Employment, AKA the Revolving Door

This is where the final part of the Ohio Ethics Law that we will study today is brought into play. It's called "Post Employment" or the "Revolving Door."

When public employees and officials are thinking of leaving a public job or public office, this is the part of the law to review and understand.

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Post-Employment

ORC 102.03(A) prohibits:

- Representation
- Matter with personal participation
- One year after leaving public service

This is the part of the law that prohibits former public employees or officials from "representing" someone on a matter in which they had personally participated in their former public role.

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Representation

- Any communication
- With anyone in public service

"Representation" has two components: the first is that it's any form of communication - letters, meetings, text messages, phone calls, whatever. Any communication at all.

The second component is that my letter, meeting, phone call etc. would be with someone in public service. It could be the public agency I left, but it could also be any other public entity.

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In a nutshell, then, if this letter-writer accepts the new job and then communicates in any form with any public agency on behalf of her new employer, she is "representing."

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Personal Participation

- Making decisions
- Approving
- Disapproving
- Recommending
- Investigating
- Supervising other public servants

We see, then, that it's illegal for former public employees and officials to represent new jobs, bosses, companies, agencies, etc. on any matter in which they had personally participated in their previous public role.

Incidentally, "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.

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To conclude this scenario, then, if Ashley is able to apply and legally accept the job, then she will have a "cooling off" period in which she will not be able to reach out to her former public agency,

or any public agency regarding this project that she had worked on at the city. As you may suspect, the Ethics Commission has many resources regarding this area of the law on our website, so be sure to check it out!

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Now, that example may seem fairly straightforward, so in this next example, let's switch it up a little bit. Let's meet Carter and Melissa and see what post-employment issues arise next.

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Carter Hancock is the Assistant Director of Training for a large state agency. Under the direction of his Deputy Director, Carter creates and oversees mandatory online training courses for thousands of state employees each year.

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Last year, Carter recommended that his office work with a consultant to create numerous online courses that would be made available to all state agencies.

This saves time and money for the state as it prevents each agency from creating its own courses and it also ensures consistency in the course message.

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After receiving permission to pursue the project, Carter got to work developing bid specifications that would be advertised to any e-course designers that wished to bid on the project.

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This is Melissa Grayson, the owner of Grayson Digital Inc., a successful and highly-respected e-learning creation company. Melissa's company submitted a bid proposal to the state of Ohio based on the bid specs created by Carter.

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After the contract submission deadline, Carter reviewed bid proposals from numerous agencies. Based on his review, Carter recommended Grayson Digital to his Deputy Director.

Although Carter was not the final-decision maker, his boss did accept his recommendation and Grayson Digital got the contract.

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Carter and Melissa begin meeting together on a regular basis and the project is well underway. Carter is impressed with Melissa and believes that they work well together.

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In fact, Carter has been making plans for his retirement from the public sector and he begins to wonder if he could work for Grayson Digital after his retirement. He enjoys the work and is intrigued with the idea of working in the private sector.

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Imagine that Carter retires and you are hired to replace him. How would you feel if he became the point person on the contract for Grayson Digital and wanted to re-negotiate the scope of the project?

Select your reaction



What is your reaction? Imagine that Carter retires and you are hired to replace him. How would you feel if he became the point person on the contract for Grayson Digital and wanted to re-negotiate the scope of the project?

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Did this one seem a little more involved or complex? It's understandable if it did because there are several issues to be aware of in the scenario you just watched.

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First of all, nobody faults Carter for pondering his next adventure after he retires. And the fact that he enjoys working with Melissa would just add to his intrigue in potentially working for Grayson Digital eventually.

But this would be a good time for Carter to contact the Ethics Commission to get some information before he moves forward.

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The Ethics Law doesn't prohibit Carter from going to work for Grayson Digital after he retires - as long as he isn't using his current public job to solicit the future job.

But assuming he retires and then reaches out to Grayson and they choose to hire him, well then, good for him! However, if he does, in fact, go to work for Grayson, there are some restrictions of which Carter needs to be aware.

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We heard during the scenario that Carter wasn't the final decision-maker regarding which e-course company to retain. BUT, Carter was responsible for creating the bid specifications of the contract. In essence, Carter helped to create a public contract.

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As a result, if Carter moves forward into his "post-employment" days, he would not be allowed to work for Grayson on this very project - the one he actually helped to create.

He would also not be allowed to reach out to his former public agency regarding the project since - as we discussed in the first post-employment scenario - he can't represent his new company on projects in which he had participated.

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Now, if future projects arise at Grayson - projects that didn't exist when Carter worked for his public agency - he is permitted to work on those projects.

The law does not prohibit him from working on future projects; he just can't work on the contract he helped to bring into existence, and he can't represent his new employer on projects on which he had worked.

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That's a lot of information to take in, but before we leave our post-employment discussion, there are a few exceptions to note. The first one applies only to non-elected public officials and employees.

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Point to Note!

Move from state agency to state agency? No post-employment. (exception: audits and investigations)

State agency to local government agency or private sector? Post-employment!

County agency to another agency (in same county)? No post-employment. (exception: audits and investigations)

Remember when we talked about representing your new employer before a public agency?

That restriction doesn't apply if a state employee or official simply moves to another state agency, with the exception of audits and investigations that he had participated in.

The law does apply to state officials and employees when they leave state service for another type of public sector job or the private sector.

The same is true for local governments. The representation restriction does not apply, for example, if a county employee switches from one job to another within that same county government. Again, except for audits and investigations.

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Two-Year Restrictions

- Public Utilities Commission
- Solid or hazardous waste
- Ohio Casino Control Commission

For the vast majority of public officials and employees, the post-employment prohibition applies for one year after leaving a public position. There are a few public positions that have two-year restrictions:

Former commissioners and attorney examiners of the Public Utilities Commission, public employees who exercised discretion regarding solid or hazardous wastes and members and staff of the Ohio Casino Control Commission.

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Confidentiality

ORC 102.03(B) prohibits:

- Disclosing or using confidential information
- Accessed in public position
- Unless authorized

Our final discussion today is regarding the confidentiality provision of the law that prohibits public officials or employees from disclosing or using any confidential information they accessed in a public position.

This restriction is in effect both during and after a person's public service so we always like to include this reminder when we talk about post-employment.

Remember, if you had access to confidential information in your public job, as long as that information remains confidential, you must maintain that confidentiality, both during and after your years of public service.

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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. 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

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[Ohio Ethics Law Overview \(PDF\)](#)