

# **Ethics Is Everybody's Business**



## **The Ohio Ethics Commission**

*“No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity.”*

- James Madison in *The Federalist*

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# THE OHIO ETHICS LAW

The Ohio Ethics Law was originally enacted in 1973 to promote confidence in government. The law:

- Establishes a code of conduct making it illegal for state and local public officials and employees to take official action if they have certain conflicts of interest
- Provides for the filing of financial disclosure statements by many public officials, and for public inspection of those statements
- Establishes procedures by which citizens may participate in the enforcement of the law
- Creates agencies within the three branches of government to administer the law
  - The Joint Legislative Ethics Committee (serving legislators)
  - The Supreme Court Board of Commissioners on Grievances and Discipline (serving judges)
  - The Ohio Ethics Commission (serving all others)

# Prohibited Conduct

Ohio's Ethics Law recognizes that many public officials and employees are in a position to make or influence decisions that directly affect their personal interests. The Ethics Law attempts to prevent this type of activity. Generally, a public official or employee may not participate in matters that involve his own financial interests or those of his family or business associates. The following types of conduct are prohibited or restricted by Ohio's Ethics Law.

## Misuse of Official Position

A public official or employee may not use, or authorize the use of, his public position to benefit himself or others in circumstances that create a conflict of interest where his objectivity could be impaired. This is a general restatement of one of the most important prohibitions in the Ethics Law.

Public officials and employees must not act in a way that creates a conflict of interest or the appearance of a conflict of interest. This includes using their public position to benefit themselves or others in circumstances that create a conflict of interest where their objectivity could be impaired.

These provisions prohibit a public official or employee from soliciting or accepting gifts, travel expenses, consulting fees, or any other thing of substantial value from a party that is interested in, regulated by, or doing or seeking to do business with his public agency. Similarly, a private citizen may not promise or give things of value to a



**Non-elected officials and employees** may be exempted from both of these prohibitions if the following conditions are met:

1. The official or employee is doing business with or representing the client before an agency other than the one he serves
2. Prior to conducting the business or providing the representation, the public servant files a statement with his own agency, the agency to which he plans to sell goods or services, and the appropriate ethics agency.

The statement described above must contain:

1. Specific information, including the names of the public agencies involved and a brief description of the business to be conducted; and
2. The public servant's declaration that he will not participate in his public capacity, for a period of two years, in any matter involving the personnel of the agency with which he is conducting business or before which he is representing any clients.

In the example of the private tax service, the city transportation department employee would be required to file a statement with his own public agency (the transportation department), the agency before which he plans to appear for compensation (the city tax or finance department), and the Ohio Ethics Commission, before he could represent the client before the tax or finance department. Finally, the city transportation department employee must declare on the statement that he will abstain for a period of two years from official participation in any matters related to the personnel of the city tax or finance department. Thus, the public servant may conduct business with, or represent clients before, an agency other than the one he serves provided he is not an elected official and, where appropriate, follows the exemption provided by the law.







An example of this situation would be a county official or employee who operates a paving company and contracts with his county for road-paving work. This county official or employee could be in violation of the public contract prohibitions of the Ethics Law unless he can clearly demonstrate that he meets the limited conditions outlined above.

## **Soliciting or Receiving Improper Compensation**

A public official or employee is prohibited from receiving compensation, in addition to that paid by his public agency, for performing his official duties. A private party is also prohibited from giving any supplemental compensation to a public servant to perform his official duties. In addition, a public servant is prohibited from soliciting or accepting

# Financial Disclosure Requirement

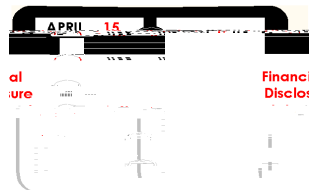
## General Information

Under the Ethics Law, many public officials and employees

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# Information the FDS Filer Must Disclose

Along with general personal information, most FDS filers identify the





## **Filing of statements and availability of filed statements**

Three ethics agencies receive FDS from the public officials over whom they have jurisdiction:

- Members of, employees of, and candidates for the Ohio General Assembly file with the Joint Legislative Ethics Committee
- Members and employees of, and candidates for the judiciary file with the Supreme Court Board of Commissioners on Grievances and Discipline
- All others file with the Ohio Ethics Commission

Copies of most FDS forms are available for public inspection from the Ethics Commission and other ethics agencies. However, the Ethics Law requires that the Ethics Commission keep some statements confidential, such as those filed by school district employees. Blank FDS forms may be obtained from any county board of elections or from any ethics agency.

## **INVESTIGATIONS BY THE ETHICS COMMISSION**

Any person can refer information that indicates a public official or employee may have violated any of the criminal provisions of the Ethics Law, to the ethics agency that has jurisdiction over the official or employee in question. Allegation forms are available from the Ethics Commission to refer information relating to public servants within its authority.

All Ethics Commission investigations and hearings are **confidential**. Breach of confidentiality by Commission members or employees is a criminal offense. At its discretion, the Commission may share or disclose information with an investigating or prosecuting authority when necessary and appropriate for the conduct of an investigation. However, the Commission generally cannot disclose to others the existence, status, or result of any investigation.

Citizens may contact the Ethics Commission to make a charge or allegation of unethical conduct, or file a sworn complaint alleging specific personal knowledge of facts and evidence supporting each element of an Ethics Law violation. Most investigations are initiated upon charges received by the Commission.

When the Ethics Commission receives a charge or allegation of unethical conduct, staff determines whether the alleged misconduct falls within the authority of the Commission. If so, the staff initially reviews allegations and investigative priorities with an Investigative Committee of the Commission to determine whether to further review the allegation based on existing prioritized investigations and available resources. The Commission can then direct the staff to conduct a confidential investigation into the factual support for the charge and the severity of the alleged Ethics Law violation.

The Commission's authority is analogous to the role of a grand jury. At the conclusion of an investigation, which may include a formal hearing upon a sworn complaint, the Commission may refer the matter for prosecution to the appropriate prosecuting authority. It can also resolve a charge with the accused person, or close the matter. The resolution may include: mediation of the dispute; financial restitution; rescission of affected contracts; forfeiture of any benefits resulting from this activity; or resignation of the public official or employee involved.

The Commission has no authority to prosecute public officials or employees independently. If it finds that the evidence supports a serious violation and determines that a resolution is not an option, the findings are turned over to the appropriate prosecuting authority for criminal prosecution. The referral remains confidential unless the prosecutor fails to act on the referral within 90 days. If the prosecutor fails to take any action with respect to the referral within that time, the Commission may make the referral public, though it can not comment regarding the merits of its findings.

