

DELAWARE COUNTY

Subject	Effective	Supersedes	This Sheet	T.Sheets
Ethics Policy	05/14/2001	N/A	1	9

1.0 Purpose

To maintain the integrity of Delaware County as well as the confidence the public has in the County, it is essential that County employees must not use their public positions for personal gain. To achieve this goal, all employees must act in an ethical manner and avoid conflicts of interests as provided by Ohio law.

2.0 Scope

This policy pertains to all departments operating under the authority of the Delaware County Board of Commissioners.

3.0 Distribution

To all departments operating under the authority of the Delaware County Board of Commissioners.

4.0 Definitions

As used in Chapter 102 of the Ohio Revised Code and incorporated into this policy:

(A) "Compensation" means money, thing of value, or financial benefit. "Compensation" does not include reimbursement for actual and necessary expenses incurred in the performance of official duties.

(B) "Public official or employee" means any person who is elected or appointed to an office or is an employee of any public agency. "Public official or employee" does not include a person elected or appointed to the office of precinct, ward, or district committee member under section 3517.03 of the Revised Code, any presidential elector, or any delegate to a national convention. "Public official or employee" does not include a person who is a teacher, instructor, professor, or any other kind of educator whose position does not involve the performance of, or authority to perform, administrative or supervisory functions.

(C) "Public agency" means the general assembly, all courts, any department, division, institution, board, commission, authority, bureau or other instrumentality of the state, a county, city, village, township, and the five state retirement systems, or any other governmental entity. "Public agency" does not include a department, division, institution, board, commission, authority, or other instrumentality of the state or a county, municipal corporation, township, or other governmental entity that functions exclusively for cultural, educational, historical, humanitarian, advisory, or research purposes; does not expend more than ten thousand dollars

per calendar year, excluding salaries and wages of employees; and whose members are uncompensated.

(D) "Immediate family" means a spouse residing in the person's household and any dependent child.

(E) "Income" includes gross income as defined and used in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, interest and dividends on obligations or securities of any state or of any political subdivision or authority of any state or political subdivision, and interest or dividends on obligations of any authority, commission, or instrumentality of the United States.

(F) Except as otherwise provided in division (A) of section 102.08 of the Revised Code, "appropriate ethics commission" means:

(1) For matters relating to members of the General Assembly, employees of the General Assembly, employees of the Legislative Service Commission, and candidates for the office of member of the General Assembly, the Joint Legislative Ethics Committee;

(2) For matters relating to judicial officers and employees, and candidates for judicial office, the Board of Commissioners on Grievances and Discipline of the Supreme Court;

(3) For matters relating to all other persons, the Ohio Ethics Commission.

(G) "Anything of value" has the same meaning as provided in section 1.03 of the Revised Code and includes, but is not limited to, a contribution as defined in section 3517.01 of the Revised Code.

(H) "Honorarium" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or similar gathering. "Honorarium" does not include ceremonial gifts or awards that have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; or earned income from any person, other than a legislative agent, for personal services that are customarily provided in connection with the practice of a bona fide business, if that business initially began before the public official or employee conducting that business was elected or appointed to his office or position of employment.

5.0 Policy

I. INTRODUCTION

In order to maintain the integrity of Delaware County as well as the confidence the public has in the County, it is essential that County employees must not use their public positions for

personal gain. To achieve this goal, all employees must act in an ethical manner and avoid conflicts of interests as provided by Ohio law.

Under Ohio law and County policy, no employee shall use his or her official position for personal gain, participate directly or indirectly in any activity in conflict with his or her official duties, or disclose confidential information regarding County business to any outside party for his or her personal benefit.

Any employee in violation of this policy will be subject to disciplinary action up to and including termination of employment and/or referral for criminal prosecution. Any employee with questions regarding whether or not his or her actions are in violation of this policy should direct questions to the immediate supervisor, department director, or appointing authority.

II. OHIO ETHICS LAW

A. Statutory Overview

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 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; and
- creates three agencies to administer the law:
 - the Ohio Ethics Commission;
 - the Joint Legislative Ethics Committee; and
 - the Supreme Court Board of Commissioners on Grievances and Discipline.

The Ohio ethics law in its entirety is incorporated into this policy.

III. PROHIBITED CONDUCT

Ohio 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 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 ethics law and also by County policy.

A. Misuse of Official Position

A County 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.

County officials and employees must avoid situations in which they might gain personally as a result of the decisions they make or influence as public servants. For example, a County official or employee who owns property and profits by influencing his public agency to buy that property would be in violation of this prohibition. A County official or employee is also prohibited from using his position to benefit others, such as business associates and family members, because his relationship with those individuals could impair his objectivity in his public duties.

Two related provisions of the ethics law prohibit:

- A public official or employee from soliciting or accepting anything of value that would create a substantial and improper influence upon the official in his public duties; and
- Any person from promising or giving a public official or employee anything of value that would create a substantial and improper influence upon the official in his public duties.

These provisions prohibit a County 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. However, reimbursement for legitimate County business-related travel expenses as provided by the County's Employee Travel and Expense Reimbursement Policy is not prohibited.

Similarly, a private citizen may not promise or give things of value to a County official or employee under circumstances that create a conflict of interest. All County officials and employees should avoid all conduct that creates the appearance of impropriety.

This section may be violated if a County official or employee is designated as a beneficiary in the will of a client who was served by the County official or employee in his official capacity, when the client is not a relative or personal friend of the client apart from the County official or employee's official duties. In such circumstances, the County official or employee must inform the appointing authority of the bequest, which may be referred to the Ohio Ethics Committee for investigation or prosecution when appropriate.

B. The "Revolving Door" Restriction

A present or former County official or employee is prohibited from representing anyone before any public agency, including his former employer, on any matter in which he personally participated in his official capacity. This prohibition is in effect during public service and

generally remains in effect for one year following departure from public service. It does not prohibit a public servant from representing his former public agency.

The revolving door restriction applies to all former County officials and employees, including professionals such as attorneys, accountants, and engineers. The restriction prohibits a former public servant from improperly using insider knowledge or exerting influence with his former co-workers on a matter in which he personally participated while in public service. Since this influence could be used to benefit his client, the revolving door provision prohibits the former public servant from performing this type of representation. However, it does not apply to matters in which the former public servant did not participate as a public official.

Stricter provisions exist for certain former County officials and employees under Ohio ethics law. Specifically, a former County official or employee who participated as a County official or employee in administrative matters pertaining to solid or hazardous waste management, handling, transporting, or disposal is prohibited for a period of two years after his public service from representing, before any public agency, an owner or operator of a waste facility, or an applicant for a permit or license for a facility, on any matter in which he personally participated in his official capacity.

C. Sale of Goods/Services and Representation of Clients before Public Agencies

A County official or employee is prohibited from receiving compensation, other than from his own County agency, for services rendered in a matter before any agency of the governmental entity with which he serves. An example of this kind of activity would be a County employee who prepares private tax returns, without using public time or resources, and wishes to represent a client before a County department. The law generally prohibits him from performing this representation. In addition, public officials and employees are specifically prohibited from selling goods and services to public agencies, except through competitive bidding.

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

- The County official or employee is doing business with or representing the client before an agency other than the one he serves; and
- Prior to conducting the business or providing the representation, the County official or employee files a statement with his own agency, the agency to which he plans to sell goods or services, and the Ohio Ethics Commission.

The statement described above must:

- Contain specific information, including the names of the public agencies involved and a brief description of the business to be conducted; and

- Contain the County official or employee'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 County employee would be required to file a statement with his own public agency (e.g., the appointing authority by which he is employed), the agency before which he plans to appear for compensation (e.g., the County department before which he wishes to appear), and the Ohio Ethics Commission before he could represent a client before a County department. Finally, the 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 County department before which he wishes to appear. Thus, the County employee 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.

D. Confidential Information

Ohio ethics law prohibits present and former County officials or employees from disclosing or using any information appropriately designated by law as confidential. This prohibition remains in effect as long as the information remains confidential.

E. License or Rate-Making Proceedings

A County official or employee is restricted from participating in license or rate-making proceedings that would affect the licenses or rates of any business if he or members of his immediate family own more than five percent of that business. A public servant is also prohibited from participating in license or rate-making proceedings that affect any person to whom the official, his immediate family, or any business of which he or his family members has sold more than \$1,000 of goods or services.

F. Public Contracts and Public Investments

A County official or employee is prohibited from having a financial or fiduciary interest in a public contract. A public contract includes any purchase or acquisition of goods or services, including employment, by or for the use of a public agency. Specifically, a County official or employee is prohibited from authorizing, voting, or otherwise using the authority or influence of his office to secure approval of a public contract in which the official, a family member, or a business associate has an interest in the investment.

A County official or employee is also prohibited from having an interest in a public contract with his public entity, or an agency with which he is connected, even if he does not participate in the issuance of the contract. A County official or employee may have an interest in

a public contract with the public entity that he serves if he meets the conditions set forth in two exemptions to this prohibition.

The two exemptions are:

- A County official or employee is not deemed to be "interested" in a public contract with his public agency if all of the following conditions apply:
 - his interest in the corporation is limited to being either a stockholder or a creditor of the corporation;
 - he either holds less than five percent of the outstanding stock of the corporation, or he is a creditor owed less than five percent of the outstanding debt of the corporation; and
 - he informs his public agency of his intentions by filing an affidavit with the agency prior to entering into the contract; and
- The prohibitions do not apply if all of the following conditions are met:
 - the County official or employee takes no part in the deliberations and decisions on the transaction;
 - the County official or employee informs his public agency of his interest;
 - the contract involves necessary supplies or services that are not obtainable elsewhere at the same or lower cost or that are part of a contract established before he was hired; and
 - the public agency is given treatment at least equal to that given to other clients involved in similar transactions.

An example of this situation might be a County official or employee who operates a paving company and contracts with the County for road-paving work. The County official or employee may be in violation of the public contract prohibitions of the ethics law and County policy unless he can affirmatively show that he meets the limited conditions outlined above.

G. Soliciting or Receiving Improper Compensation

A County 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 County official or employee to perform his official duties. In addition, a public servant is prohibited from soliciting or accepting anything of value, or coercing a campaign contribution, in exchange for an appointment to a public position, or any other kind of personnel action, such as a promotion or transfer.

A County official or employee who receives compensation or anything of value, including honoraria and gifts, in connection with his or her official duties from any source other than the public agency must report such receipt to the appointing authority.

Employees of departments under the authority of the Board of Commissioners will complete and submit to the director of his/her division, an *Ethics Reporting Form* every January 15, April 15, July 15, and October 15 to report any items received for the previous quarter. The report shall be forwarded by chain-of-command through supervisors and directors to the Director of Administrative Services for review and assessment. The Director of Administrative Services will report any questionable receipts to the County Administrator for possible violation of this policy.

This section may be violated if a County official or employee is designated as a beneficiary in the will of a client who was served by the County official or employee in his official capacity, when the client is not a relative. In such circumstances, the County official or employee must inform the appointing authority of the bequest, which may be referred to the Ohio Ethics Committee for investigation or prosecution when appropriate.

IV. REPORTING PROCEDURE

A County official or employee who suspects that a violation of this policy and/or Ohio ethics law has occurred must file a written report with the appointing authority containing the following information:

- the reporting employee's name, address and telephone number
- the name, position, address and telephone number (if known) of the alleged violator
- a summary of the facts relevant to the allegation, attaching any supporting documentation (e.g., notes, minutes of meetings, contracts, deeds, etc.)
- the name, address and telephone number (if known) of any other persons with knowledge of the alleged violation
- the signature of the reporting employee

Upon receiving a report alleging a violation of this policy, the appointing authority will conduct an investigation. Violators will be subject to appropriate discipline up to and including termination. In addition, the appointing authority may refer the allegation to the Ohio Ethics Committee and/or appropriate law enforcement for investigation and/or criminal prosecution.

V. PENALTIES

Violation of any of the above provisions will result in discipline up to and including termination of employment. In addition, all of the provisions of Ohio ethics law, which are incorporated into this policy, are criminal prohibitions. Any information indicating that a County official or employee may have violated provisions of the Ohio ethics law may be referred for investigation and prosecution. Most of the provisions, including the conflict of interest prohibitions, are first-degree misdemeanors, punishable by a maximum fine of \$1000, a maximum prison term of six months, or both. However, certain provisions of the public contract prohibitions are fourth degree felonies, punishable by a maximum fine of \$2500, a maximum prison term of eighteen months, or both.