



Ohio Ethics Commission

8 East Long Street
10th Floor
Columbus, Ohio 43215

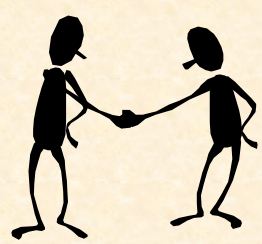
Phone: 614/466-7090
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Website: www.ethics.ohio.gov


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Introductions

- David E. Freel
Executive Director



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What do we mean when we talk about “ethics”?

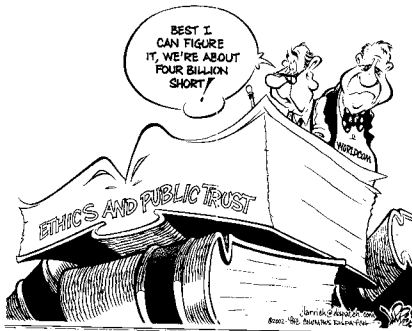
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“Ethics” - Definitions

“1. the study of standards of conduct and moral judgment; moral philosophy. 2. the system or code of morals of a particular philosopher, religion, group, profession, etc. 3. the branch of philosophy dealing with values relating to human conduct with respect to the right and wrong of certain actions and to the goodness and badness of the motives and ends of such actions.”

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Wednesday, July 3, 2002 Page A10



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William A. Schreyer

Chairman Emeritus, Merrill Lynch & Co., Inc.

“With our national litigation binge, we've seen a shift from a moral standard to a legal standard. It becomes not what you should or shouldn't do, but what your lawyers can find a loophole for. Of course, such an attitude strips social behavior of its ethical content. It sends people through life as moral neuters.”

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Dennis Prager

Author, Theologian, and Radio Talk Show Host

“Governments have never been known for their ethics. More important, a society does not rise or fall on the ethics of its leaders anyway. It rises or falls on the ethics of its bus drivers, its plumbers, its teachers, you and me. There is a vast amount of thinking that goes like this: ‘If I can get away with it, I shall do it.’ That’s the root of the ethical crisis.”

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James Madison

“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.”

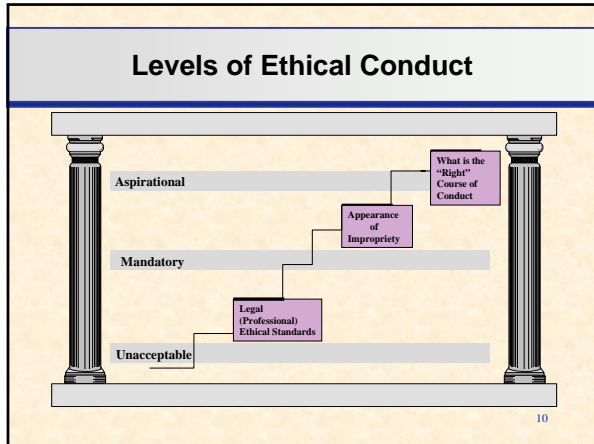
-- The Federalist

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Michael Josephson

“We judge ourselves by our intention, but we are judged by our last worst act.”

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The Ohio Ethics Law and Commission

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- ### Origin and Application of the Ohio Ethics Law
- To prevent public officials and employees with conflicts of interest from acting on those conflicts
 - To provide remedies of education, advice and enforcement
 - Applies to *all* public officials and employees at every level of government in Ohio, and those who do business with them
 - Estimated 18,700 elected office holders and 590,000 public employees subject to the law
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History

- Post-Watergate enactment in 1973
- Created a new ethical standard by:
 - Requiring personal financial disclosure
 - Creating conflict of interest *standards* with *criminal* penalties
 - Establishing uniform review of questions by statewide commissions of three branches of government



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What does the Ethics Law do?

<ul style="list-style-type: none"> ▪ Protects against unethical conduct re: <ul style="list-style-type: none"> • Public contracts • Revolving door • Confidentiality • Representation • Conflict of interest • Supplemental compensation 	<ul style="list-style-type: none"> ▪ Does not include protections re: <ul style="list-style-type: none"> • Open meetings • Public records • Elections • Compatibility • Civil service • Lawyers • Personal behavior
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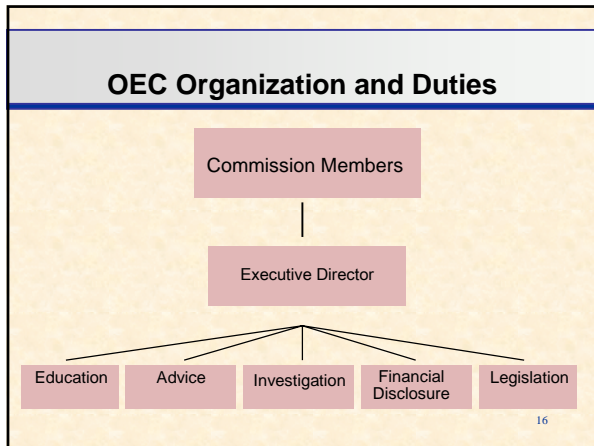
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The Ethics Commission

<ul style="list-style-type: none"> ▪ Composition: <ul style="list-style-type: none"> • 6 members, bi-partisan • Cross-section of public and private citizens • Appointed by Governor, confirmed by Senate • Staggered, 6-year terms 	<ul style="list-style-type: none"> ▪ Authority: <ul style="list-style-type: none"> • Administers the Ethics Law (RC 102) and related statutes (RC 2921.42 and 2921.43) for all public officials and employees at the state, county municipal, township and other levels of government
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Education

- Provide training and information sessions regarding conflict of interest and financial disclosure
- Statewide coverage, free of charge
 - Presented 161 sessions in 2004
- Informational materials
- Website www.ethics.ohio.gov


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Advice

- Unique authority to interpret ethics statutes
- Opinions issued *before* someone acts
- Provide immunity from criminal prosecution, civil action, removal *if* recipient complies with opinion
- High demand for advice, exceeds resources
- Telephone guidance and assistance

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Investigation



- Investigative authority over complaints and charges
- Statewide authority
- *Confidential* process
- 5 criminal investigators
- Charges can result in criminal prosecution

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Financial Disclosure Statements (FDS)

- **Purpose:**
 - Remind officials of possible financial conflicts
 - Place those potential conflicts in the public eye
 - Filing year reflects previous year's finances
 - 10,500 filed yearly
 - Most due April 15th
- **Who has to file?**
 - City, county, state elected officials (& candidates)
 - School board members & candidates >12,000
 - Superintendents, treasurers, business managers
 - Other state administrative officials
- **Exempted from filing, but still subject to the law:**
 - village & township elected officials
 - most public employees

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Legislative Advice

- S.B. 286 enabling public faculty to engage in technology entrepreneurship (2000)
- S.B. 133 enacting reform in the public retirement systems (2004)

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General Rule

- Whenever my personal financial interests, or those of my family members, or those of my business associates are involved in a situation before me, there is an ethics issue.



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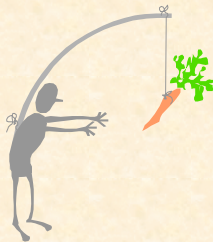
Conflict of Interest RC 102.03 (D) and (E)

- I can't *use my authority or influence* to secure anything of value if it could have a *substantial and improper* influence upon me in the performance of my duties.
- I can't *solicit or accept* anything of value if it could have a *substantial and improper* influence upon me in the performance of my duties.



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Conflict of Interest RC 102.03 (F)



- No *person* shall promise or give me anything of value if the thing of value has a *substantial and improper* influence upon me in the performance of my duties.
- Applies to private parties

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“Use of Authority”

- Prohibits active use of authority
- Does not require quid pro quo
- Prohibition against taking *any* action, including voting, discussing, deliberating, formally or informally lobbying, on any matter where something of value would go to you, your family, your business associates, or others with whom you have a relationship that would affect your objectivity

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Things of Value



- “Anything of value” is defined to include money, goods, chattels, future employment, interest in realty, and “every other thing of value”



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Substantial and Improper

- “Substantial”: Look to the *value* of the thing
- It is substantial if it is not nominal or de minimus
 - Season baseball tickets are substantial
 - Home remodeling work is substantial
- “Improper”: Look to the *source* of the thing
- Improper sources include parties doing or seeking to do business with, regulated by, or interested in matters before the agency

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Employment is a Thing of Value

- I am prohibited from soliciting, accepting, or using my position to seek employment from improper sources

Exception:

- I am not prohibited from soliciting or accepting employment from an improper source if I can abstain from participating in any action that affect the interest of the prospective employer

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Travel, Meals and Lodging

- I am prohibited from accepting anything of value, including travel, meals and lodging from any improper source, including parties that are *doing* business or *seeking* to do business with, *regulated* by, or *interested* in matters before my agency



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Gifts



- I am prohibited from accepting gifts from any party that is *doing* or *seeking* to do business with, *regulated* by, or *interested* in matters before my agency

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Golf Outings



- Payment of a substantial thing of value in the form of green fees, golf cart rental fees, and food and beverages
- Adv. Op. 2001-03

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Public Contract Restraints RC 2921.42

- These are three of the five:
 - I can't...
 - *authorize or use my authority* to secure a public contract for myself, my family members, or my business associates
 - *have an interest in the profits* or benefits of a public contract entered into by an agency I am "connected with"
 - *profit from a contract* I approved, or was authorized by a body of which I was a member, *unless* competitively bid and awarded to the best and lowest bidder

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Public Contract Terms

<p>"Public Contract"</p> <ul style="list-style-type: none"> • Purchase or acquisition of any property or services, <i>including</i> employment, and any design, construction, alteration, repair, or maintenance of any public property 	<p>"Public Official"</p> <ul style="list-style-type: none"> • Any elected or appointed officer, or employee, or agent of the state or any political subdivision <p>"Interest"</p> <ul style="list-style-type: none"> • interest in a public contract <i>must</i> be definite and direct, may be either pecuniary or fiduciary
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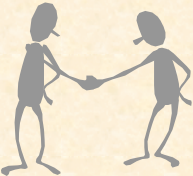
Public Contract Exceptions

- In situation where all of these are present:
 - Necessary supplies, services
 - Unobtainable elsewhere for same or lower cost, or through continuing course of dealing
 - Equal treatment given agency
 - Arm's length, full disclosure, no participation

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Nepotism R.C. 2921.42 (A)(1)

- I am prohibited from authorizing employment, or using my authority to secure employment, or employment benefits, for any member of my family



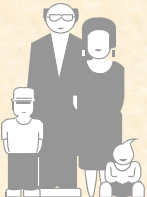
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“Family Member”

Two groups are included:

- Spouse
- Sibling
- Parent
- Grandparent
- Child
- Grandchild
- Step-children

- Any other person related by blood or marriage and residing in the same household



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“Business Associate”

- Any person or entity you are engaged in an on-going business enterprise with

- Examples:
 - Employer
 - Partner
 - Co-owner
 - Company own stock in

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**General Revolving Door
RC 102.03(A)**



- I can't, during my public service and for one year after, *represent* anyone on any *matter* in which I *personally participated* while I was a public official

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Revolving Door Terms

- “Matter”
 - any case, proceeding, application, determination, *issue or question*
- “Personal Participation”
 - decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion, including supervision

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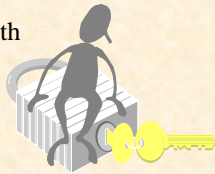
Revolving Door Terms (con't)

- “Representation”
 - formal or informal appearance before, or any written or oral communication with, *any* public agency
 - includes preparing documents, regardless of who signs them
 - applies even if represented party is a public agency
 - doesn't include behind-the-scenes consultation

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Confidentiality RC 102.03(B)

- *Lifetime* prohibition on disclosure and use of confidential information both during and after leaving public office
- No financial gain required
- Exception for appropriate authorization



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Supplemental Compensation

- I cannot accept any compensation from any party for the performance of public duties:
 - Misdemeanor with additional 7-year ban from holding public position
- Restriction extends to private sector parties promising or giving supplemental compensation

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Additional Consideration:


- All public officials and employees must receive a copy of the Ethics Law within fifteen days of hire, election, or appointment [RC 102.09(D)]



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Common Sense Summary

- **Can't...**
 - authorize a contract or use authority to secure authorization of a contract for self, family, business associates
 - solicit or accept things of value
 - disclose or use confidential information
 - receive additional compensation for performance of official duties
 - represent parties on matters in which public servant involved
 - participate in matters where public servant has a conflict of interest
- **When in doubt, call 614/466-7090**



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Ted Koppel

“In the purest form, truth is not a polite tap on the shoulder. It is a howling reproach. What Moses brought down from Mount Sinai were not the Ten Suggestions.”

Henry Wadsworth Longfellow

“It takes less time to do a thing right than to explain why you did it wrong.”

Mark Twain

“Always do what is right. It will gratify most of the people, and astound the rest.”

Contact us:

- Remember the General Rule.
- Trust your gut.
- Call the Commission...

before you act!



**If you have questions,
please call...**



**The Ohio Ethics Commission
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Web site: www.ethics.ohio.gov

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