

STATE OF OHIO



DEPARTMENT OF REHABILITATION  
AND CORRECTION

SUBJECT:  <b>Ethics</b>	PAGE <u> 1 </u> OF <u> 7 </u>  NUMBER: 31-SEM-01
RULE/CODE REFERENCE: RC 102.01; 102.03; 102.04; 2921.42; 2921.43; 5145.27 EO 2007-01S	SUPERSEDES: 31-SEM-01 dated 01/26/08
RELATED ACA STANDARDS: 4-4069; 2-CO-1C-24; 1-CTA-1C-12 2-1038	EFFECTIVE DATE: January 2, 2012
	APPROVED: 

**I. AUTHORITY**

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

**II. PURPOSE**

The purpose of this policy is to insure that all Ohio Department of Rehabilitation and Correction (DRC) employees as well as persons doing business with, seeking to do business with, regulated by or interested in matters before the Department, are aware of the constraints imposed by Ohio's ethics laws on employees and other individuals.

**III. APPLICABILITY**

This policy applies to all persons employed by the Ohio Department of Rehabilitation and Correction as well as individuals, businesses, and organizations doing business with, seeking to do business with, regulated by, or interested in matters before the Department.

**IV. DEFINITIONS**

**Anything of Value** - Money, bank bills or notes, U.S. treasury notes, and other bills, bonds, or notes issued by lawful authority and intended to pass and circulate as money; goods and chattels; promissory notes, bills of exchange, orders, drafts, warrants, checks or bonds given for the payment of money; receipts given for payment of money or other property; rights in action; realty and interests in realty; promises of future employment; and every other thing of value.

**Conflict of Interest** - A situation where personal considerations affect an employee's public duties and responsibilities.

**Ethics Laws** - Statutes contained in Chapter 102 as well as Sections 2921.42, 2921.421 and 2921.43 of the Ohio Revised Code. Violations of Ohio Ethics Laws carry criminal penalties.

**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.

**Improper Source** - Includes parties doing or seeking to do business with, regulated by, or interested in matters before DRC.

**Ohio Ethics Commission** - A bipartisan body appointed by the Governor and confirmed by the Ohio Senate with the following statutory responsibilities: authority to interpret and provide advice regarding ethics law; provision of ethics education; administration of financial disclosure requirements; investigation of alleged ethics violations; and recommendation of proposed legislation on ethics related issues.

**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, or township, 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; that does not expend more than ten thousand dollars per calendar year, excluding salaries and wages of employees; and whose members are uncompensated.

**Public Contract** - The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the state, any of its political subdivisions, or any agency or instrumentality of either including the employment of an individual by the state, any of its political subdivisions, or any agency or instrumentality of either.

**Public Official or Employee** - 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 who is a teacher, instructor, professor, or other kind of educator whose position does not involve the performance of, or authority to perform, administrative or supervisory functions.

## V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to comply with Ohio's ethics laws. DRC employees, at all times, must abide by these laws, and any guidance issued by the Governor's Office and the Ohio Ethics Commission. Failure to comply may result in discipline, and may result in civil or criminal sanctions.

## VI. PROCEDURES

### A. Purpose of the Ethics Laws

To protect the public from the financial, family, or business conflicts of public servants; to encourage impartiality in governmental decisions by restricting public actions or matters in which public officials and employees have direct and definite conflicts of interest; and to promote citizen confidence in the actions of public agencies.

**B. Public Protections**

1. Restricts participation in public matters involving direct and definite personal, family and business interests of a public official or employee.
2. Limits an employee's compensation for public duties to their public employer.
3. Restricts personal, family, and business interests in public contracts.
4. Prohibits nepotism in public hires and contracts.
5. Conditions former officials and employees' post-employment activity.
6. Control the disclosure of confidential information.
7. Provide protections against influence peddling in public agencies for personal benefit.

**C. General Rule**

Whenever the interests of a public official or the public official's family or business associates are present in an issue before the public official, there is an ethics question.

**D. Conflict of Interest and Supplemental Compensation**

1. Prohibitions (Refer to RC 102.03 (D) (E) & (F):
  - a. A DRC employee is prohibited from actively using his or her authority to secure a substantial and improper thing of value from any improper source. Active use of authority includes voting, discussing, deliberating, or formally or informally lobbying on matters of conflict. Improper sources include parties doing or seeking to do business with, regulated by, or interested in matters before the Department.
  - b. A DRC employee is prohibited from accepting or soliciting a substantial and improper thing of value from any improper source.
  - c. A private party is prohibited from giving or promising a substantial thing of value to a DRC employee.
  - d. The provisions have been broadly construed by the Ohio Ethics Commission. In reality there may be a violation when a public official is involved with a situation that "could" influence his or her judgment. The public official does not have to be influenced. No quid pro quo has to occur.
  - e. To determine what may be substantial look to the value of the thing. Substantial also depends on the circumstances.
  - f. To determine what may be 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 DRC.
2. Application of Prohibitions
  - a. Employment: A public official is prohibited from soliciting, accepting or using his or her position to seek employment from improper sources unless the official can withdraw from participating in any actions that affect the prospective employer and

the abstention is approved by supervisors where required. The official must withdraw from all participation when he or she attempts to secure, or is approached about employment.

- b. Travel, meals, and lodging: A public official cannot accept anything of value including travel, meals, and lodging from an improper source.
- c. Gifts: A public official cannot accept gifts from any party that is doing or seeking to do business with, regulated by, or interested in matters before DRC. DRC employees shall not personally accept any gift valued at more than twenty dollars (\$20) from anyone except close family and personal friends. Token gifts of appreciation worth \$20 or less may be accepted.
- d. Exceptions: Under certain circumstances a public official may accept something of value that is de-minimus in nature. Items in this category may include pens, coffee cups, water bottles, etc. Questions on this issue should be directed to Legal Services.
- e. Honoraria: Most public officials who file financial disclosure statements are prohibited from receiving honoraria from any source. An honorarium constitutes “something of value”. If an employee does not file a financial disclosure statement, they may accept an honorarium as long as it does not come from an “improper source”. Refer to RC 102.01.
- f. Supplemental Compensation: Persons are prohibited from giving, and employees are prohibited from accepting, any compensation, other than allowed by law for the performance of any public duty or responsibility. DRC employees may only be paid by DRC for performing their duties as a DRC employee. Refer to RC 2921.43.
- g. Private and Other Public Employers: A DRC employee is not prohibited by Ohio Ethics Laws from engaging in outside employment under the following conditions:
  - i. If the outside employer is not doing business, seeking to do business, regulated by, or interested in matters before the Department. (Employees must receive approval from their Appointing Authority to engage in any outside employment per the Standards of Employee Conduct.)
  - ii. If the outside employer is doing business, seeking to do business, regulated by, or interested in matters before the Department, the employee, with supervisory approval, removes himself from all matters regarding the outside employer. (If supervisory approval is not granted, the employee is prohibited from engaging in such employment and doing so constitutes an ethics violation and potential criminal offense.)

**E. Public Contract Constraints (Refer to RC 2921.42 & 102.04):**

- 1. DRC employees cannot secure public contracts for themselves, family members or business associates with the Department.

2. DRC employees cannot have an interest in profits or benefits of a public contract entered into by or for the use of DRC.
3. A DRC employee cannot profit from a public contract he or she approved, or that was authorized by a body of which he or she was a member unless the contract was competitively bid and awarded to the lowest and best bidder.
4. DRC employees are prohibited from receiving compensation, directly or indirectly, other than from DRC, for any service rendered personally on any matter before any public agency. No DRC employee may sell or agree to sell, except through competitive bidding, any goods or services to the general assembly or any department, division, institution, instrumentality, board, commission or bureau of the state excluding the courts.
5. Exception: An exception can be made if the employee furnishes the service to another agency besides DRC and files a disclosure statement with DRC, the agency with whom the employee is contracting or providing the services, and the ethics commission. The disclosure form may be found at the Ohio Ethics Commission website at [www.ethics.ohio.gov](http://www.ethics.ohio.gov).

\*Note, the exclusion does not relieve the employee from insuring he or she has no conflict of interest under the above referenced ethics statutes.

#### **F. Post-Employment and Representation Restrictions**

1. DRC employees are prohibited during their employment with DRC, and for one year afterwards, from representing anyone on any matter in which he or she participated while a DRC employee. Refer to RC 102.03
2. Statutory Definitions
  - a. Matter - Includes any case, proceeding, application, determination, issue or question.
  - b. Personal Participation - Includes decision, approval, disapproval, recommendation, the provision of advice, investigation or other substantial exercise of administrative discretion, including supervision.
  - c. Representation - Constitutes a formal or informal appearance before or any written or oral communication with any public agency.
3. Allowable Representation:
  - a. A former DRC employee is not prohibited from representing DRC.
  - b. New matters and matters in which public official did not personally participate.
  - c. Ministerial Functions – Former employees are not prohibited from performing functions like filing or amending tax returns, preparing and filing incorporation papers, and similar documents.
  - d. Proposal, consideration, or enactment of statutes and rules.

**G. Financial Disclosure**

1. **Determination of Required Filers:** The Director of DRC decides which employees are required to file. The Bureau of Personnel maintains the list and it is reviewed annually by the Director/designee for any changes. The Bureau of Personnel provides notice to all required filers upon appointment and annually thereafter.
2. **During Employment:** Every DRC employee required to file a financial disclosure statement must file a complete and accurate statement with the Ethics Commission by April 15 of each year. Any employee appointed to a filing position after February 15 and required to file a financial disclosure statement must file a statement within ninety days of appointment or employment. Employees must file a statement for every year they worked even if employment with the Department has since ceased.
3. **Post Employment:** Employees who file annual financial disclosure statements also have a post employment filing requirement. In the event of retirement or separation, disclosure filers are obligated to file an initial "Post-Employment Disclosure Statement" with the Joint Legislative Ethics Commission no later than the last day of public service. Depending on the response, there may be additional filing requirements. Additional information regarding the Post-employment Disclosure Statement and required forms may be located at <http://www.jlec-olig.state.oh.us>.

**H. Ethics Training and Information**

An ethics component shall be incorporated in both new employee orientation and in-service training. All new employees shall be provided a copy of Chapter 102 and Section 2921.42 of the Ohio Revised Code. They shall acknowledge receipt in writing.

**I. Resources for Answering Questions**

1. **Ethics Commission:** The Commission is statutorily responsible for administering Ohio's ethics laws. It construes those laws as they apply to specific situations, determines if they are violations, and recommends criminal prosecution where appropriate. It investigates reports of suspected wrongdoing, conducts training on ethics issues and is available to provide general as well as specific advice. Employees can contact the Commission at (614) 466-7090. The Commission has authored hundreds of advisories on the applicability of ethics laws to individual circumstances. A wide variety of information, including these advisory reports is available on the Commission web site at [www.ethics.ohio.gov](http://www.ethics.ohio.gov). The site provides guidance in reporting suspected ethics violations. Referrals, investigations and hearings are confidential.
2. **DRC Legal Services:** Legal Services acts as the Department's Ethics Officer and can provide advice based on the statutes, applicable Ethics Commission Advisory Opinions, and the Governor's orders and advisories.