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**ACCEPTING GIFTS, MEALS, ENTERTAINMENT, OR
OTHER THINGS OF VALUE:
Ethics Commission Information Sheet # 7**

I. Introduction

The Ohio Ethics Law and related statutes are found in Ohio Revised Code (R.C.) Chapter 102. and Sections 2921.42 and 2921.43. These laws generally prohibit public officials and employees from misusing their official positions for their own personal benefit or the benefit of their family members or business associates.

The Ethics Law applies to all people who serve as officials and employees for public agencies in Ohio. "Public agencies" include state departments, boards, and commissions, counties, cities, villages, townships, school districts, public colleges and universities, public libraries, port authorities, and all other public entities.

The Ohio Ethics Commission was created to administer, interpret, and assist in the enforcement of the Ethics Law for all officials in the state, except members and employees of the General Assembly and judicial officers and employees.¹ In this information sheet, the word "official" includes any person who serves a public agency, whether elected, appointed, or employed.

II. Purpose of this Information Sheet

The Commission prepared this information sheet to explain how the Law applies when an official is offered a gift, meal, entertainment, and other things of value.

III. General Guidance

Generally, the Ethics Commission advises that officials should not solicit or accept things of value from those parties they regulate or with whom they do business.

IV. Summary of the Law

The Ohio Ethics Law and related statutes prohibit an official from:

- Soliciting, accepting, or using the authority of his public position to secure a gift, meal, entertainment, or other thing of value if it is of a substantial nature and is provided by someone that is regulated by, interested in matters before, or doing or seeking to do business with the agency he serves; and
- Accepting anything, regardless of its value, if the item is provided to the official as compensation for the performance of his public duties.

V. Accepting Gifts

An official cannot solicit, accept, or use the authority of his public position to secure anything of value, including a gift, meal, or entertainment, that could have a “substantial” and “improper” influence upon him in the performance of his duties.²

The facts and circumstances of each situation determine whether a gift, meal, entertainment, and other thing of value could have a “substantial” and “improper” influence upon an official in the performance of his duties.

Some things of value—because of their source—could have an “improper” influence upon an official in the performance of his duties.³ A person, company, or other private or public entity or association that is regulated by, interested in matters before, or doing or seeking to do business with, a public agency is an improper source of gifts, meals, entertainment activities, and other things of value offered to the officials of that agency.⁴

Some things of value—because of their nature—could have a “substantial” influence upon an official in the performance of his duties.⁵ Gifts, meals at expensive restaurants, entertainment activities, such as exclusive golf outings and season tickets to the games of a professional sports team, are of a substantial value.⁶ Jewelry, discounts on major consumer items, and travel, meal, and lodging expenses are also of substantial value.⁷

Therefore, an official cannot solicit, accept, or use the authority of his public position to secure a gift, entertainment, meal, or any other thing of value if it is of a

substantial nature and is provided by an improper source.

Small gifts, such as a book, a meal at a family restaurant, a promotional item, an inexpensive entertainment activity, and other things of nominal value, even if they are provided by an improper source, will not have a substantial influence on an official. An official is not prohibited from accepting these kinds of items.⁸

However, an official could be influenced in the performance of his duties by accepting multiple items of minimal value from the same source if the value of these items, added together, is substantial.⁹ In some circumstances, accepting items of minimal value may create an appearance of impropriety, even if it is not illegal.

As noted above, the Ethics Commission generally advises that officials should not solicit or accept any things of value from parties they regulate or with whom they do business.

VI. Supplemental Compensation

A public servant cannot accept anything of value, from any source other than his public employer, as compensation for the performance of his public duties.¹⁰

A “public servant” is any person who is elected, appointed, or employed by any governmental entity, and any person performing a governmental function—such as a juror, a member of a temporary commission, an arbitrator, an advisor, or a consultant.¹¹ “Compensation” includes anything of value, such as wages, gifts, and travel expenses, provided to a public servant in exchange for a service.¹²

A public servant cannot accept anything of value from any person, company, or other entity or association, other than the public agency he serves, if it is given with the intent to compensate him for some action, inaction, or decisions of the official in the performance of his public duties.¹³

In addition to the criminal penalties discussed below, if a person is convicted of accepting supplemental compensation, the person is prohibited from holding public office, public employment, or any position of public trust for seven years after the conviction.

VII. Financial Disclosure

Some officials are required to file annual financial disclosure statements with the Ethics Commission. These officials are required to disclose, among other items, the sources of gifts provided to them.

There are two value thresholds for disclosure of gifts. Most filers are required to disclose sources of gifts valued over \$75.00. A small number of filers are required to disclose sources of gifts valued over \$500.00. Some filers are also required to disclose sources of meals and travel provided in connection with public duties.

Any official who is required to file a financial disclosure statement should keep complete records of any gifts, and of any meals, food, or beverages, or travel expenses provided in connection with public duties, including source and amount of the items provided, for later disclosure purposes.

VIII. Other Considerations

Any official who is offered a gift, meal, entertainment, or other item should ask his supervisor or legal counsel for the public agency whether the agency has any additional policies or rules about accepting such items. (A public agency cannot create a policy or rule that is less restrictive than the prohibitions described above. However, an agency may have a policy or rule that is more restrictive than the Ethics Law.)

IX. Penalties

The Ethics Law and related statutes are criminal laws. If a person is convicted of violating an ethics law, that person may receive a jail sentence and/or have a fine levied against him.

The ethics laws discussed in this information sheet are first-degree misdemeanors with a maximum penalty of six months in prison and/or a \$1000 fine. However, as noted above, there is an additional penalty for accepting supplemental compensation.

X. Conclusion

Please contact the Commission if you have questions about this information sheet or the Ohio Ethics Laws. This information sheet is not an advisory opinion, and is not intended to provide advice on specific facts. Copies of the Commission's formal advisory opinions can be obtained from: Ohio Ethics Commission, William Green Building, 30 West Spring Street, L3, Columbus Ohio, 432315-2256; telephone (614) 466-7090, and on the Commission's Web site: www.ethics.ohio.gov.

Endnotes:

¹ The ethics agency with jurisdiction over ethics issues related to members and employees of the General Assembly is the Joint Legislative Ethics Committee. The ethics agency with jurisdiction over ethics issues related to judicial officers and employees is the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court.

² R.C. 102.03(D) and (E); Ohio Ethics Commission Advisory Opinions No. 95-001, 2001-03, and 2001-04.

³ Adv. Op. No. 86-011.

⁴ Id.

⁵ Adv. Op. No. 86-011.

⁶ Adv. Ops. No. 95-001, 2001-03, and 2001-04.

⁷ Adv. Ops. No. 92-015, 89-014, and 2001-04.

⁸ Adv. Ops. No. 92-014 and 2001-03.

⁹ Adv. Op. No. 86-003.

¹⁰ R.C. 2921.43(A).

¹¹ R.C. 2921.01(A) and (B).

¹² Adv. Op. No. 92-014.

¹³ Adv. Op. No. 90-001.