



Department of  
Rehabilitation & Correction

SUBJECT: <b>Ethics</b>	PAGE <u> 1 </u> OF <u> 6 </u>
	NUMBER: <b>31-SEM-01</b>
RULE/CODE REFERENCE: ORC 102.01, 102.03, 102.04; 2921.42, 2921.43; 5145.27; EO 2007-01S	SUPERSEDES: 31-SEM-01 dated 01/02/12
RELATED ACA STANDARDS: 4069, 5-ACI-1C-22; 2-CO-1C-24; 2-CTA-1C-13; 2-1038	EFFECTIVE DATE: <b>March 2, 2020</b>
	APPROVED: 

## I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

## II. PURPOSE

The purpose of this policy is to insure that all Ohio Department of Rehabilitation and Correction (ODRC) employees as well as persons doing business with, seeking to do business with, regulated by or interested in matters before the ODRC, 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 ODRC as well as individuals, businesses, and organizations doing business with, seeking to do business with, regulated by, or interested in matters before the ODRC.

## IV. DEFINITIONS

**Anything of Value** - Includes any money, goods, checks, real estate interests, the promise of future employment, and every other thing of value as defined in R.C. 1.03 and advisory opinions issued by the Ohio Ethics Commission.

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

**Ethics Laws** - Statutes contained in Ohio Revised Code (ORC) Chapter 102 as well as sections 2921.42, 2921.421 and 2921.43.

**Honorarium** - 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 ODRC.

**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 ODRC to comply with Ohio's ethics laws. ODRC 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**

The Ohio Ethics Laws promote the general public interest and support confidence by prohibiting public officials and employees from:

1. Participating in their public role in any action that involves the direct interests of the official, or those of a family member, or another with whom the official has an ongoing private business relationship;
2. Authorizing, or using a public position to secure, a public contract or the investment of public funds in any security that benefits the official, a family member, or a business associate;

3. Improperly profiting from a public contract;
4. Soliciting or accepting substantial and improper things of value, including, outside employment or consultation fees, gifts, or travel, meals and lodging, from those dealing with the public agency;
5. Unauthorized disclosure or use of information deemed confidential by law;
6. Representing others before any public agency in a matter in which the official or employee was involved, both during, and for a period of time (at least one year) after, leaving public service.

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

1. Prohibitions (Refer to ORC 102.03 (D) (E) & (F):
  - a. An ODRC employee is prohibited from actively using their 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 ODRC.
  - b. An ODRC 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 an ODRC employee.
  - d. The provisions have been broadly construed by the Ohio Ethics Commission. There may be a violation when a public official is involved with a situation that “could” influence their judgment. The public official does not have to be influenced. No quid pro quo must 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 ODRC.
2. Application of Prohibitions
  - a. Employment: A public official is prohibited from soliciting, accepting or using their position to seek employment from improper sources unless the official is able to 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 shall not accept anything of value including travel, meals, and lodging from an improper source.
- c. Gifts: A public official shall not accept gifts from any party that is doing or seeking to do business with, regulated by, or interested in matters before ODRC. ODRC employees shall not personally accept any gift valued at more than twenty-five dollars (\$25) from anyone except close family and personal friends. Token gifts of appreciation worth \$25 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 ORC 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. ODRC employees may only be paid by ODRC for performing their duties as an ODRC employee. Refer to ORC 2921.43.
- g. Private and Other Public Employers: Employees must receive approval from their appointing authority to engage in any outside employment per ODRC Policy 31-SEM-10, Outside Employment. An ODRC 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 ODRC.
  - ii. If the outside employer is doing business, seeking to do business, regulated by, or interested in matters before the ODRC, the employee, with supervisory approval, can withdraw 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.)

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

- 1. ODRC employees shall not secure public contracts for themselves, family members or business associates with the ODRC.
- 2. ODRC employees shall not have an interest in profits or benefits of a public contract entered into by or for the use of ODRC.

3. An ODRC employee shall not 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. ODRC employees are prohibited from receiving compensation, directly or indirectly, other than from ODRC, for any service rendered personally on any matter before any public agency. No ODRC 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 ODRC and files a disclosure statement with ODRC, 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 they have no conflict of interest under the above referenced ethics statutes.

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

ODRC employees are prohibited during their employment with ODRC, and for one year afterwards, from representing any person (including a company, nonprofit organization, or public agency) on any matter in which they personally participated while an ODRC employee. Some exceptions may apply. Refer to ORC 102.03

#### **E. Financial Disclosure**

1. Determination of Required Filers: The Director/designee shall determine which employees are required to file financial disclosure statements in accordance with ORC 102.02. The Bureau of Personnel shall maintain the list of required filers and review the list annually for any changes. The Bureau of Personnel shall provide notice to all required filers upon appointment, promotion or employment and annually thereafter.
2. During Employment: Every ODRC employee required to file a financial disclosure statement must file a complete and accurate statement with the Ethics Commission by the deadlines established by the Ethics Commission. Any employee appointed to a filing position after February 15 and required to file a financial disclosure statement must file a statement within ninety (90) calendar days of appointment, promotion or employment. Employees must file a statement for every year they worked even if employment with the ODRC 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>.

**F. Confidentiality (Refer to ORC 102.03(B)):**

ODRC employees who have access to confidential information in their ODRC positions are prohibited from disclosing or using that confidential information, in any way, unless ODRC has authorized the employee to disclose or use it. This restriction is in effect during and after the employee's public service, as long as the information remains confidential.

**G. 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 ORC Chapter 102 and section 2921.42. Employees shall acknowledge receipt in writing.

**H. Resources**

1. The Ohio Ethics 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 may 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. ODRC Chief Legal Counsel shall serve as the ODRC's Chief Ethics Officer and may provide advice based on the statutes, applicable Ethics Commission Advisory Opinions, and the Governor's orders and advisories.