



OHIO ETHICS COMMISSION

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PROPERTY MATTER AFFECTING FAMILY MEMBER: Ethics Commission Information Sheet # 13

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 serves a public agency that is considering a matter involving the property of her family member.

III. Summary of the Law

The Ethics Law does not prohibit a person from serving in a public position simply because her family member owns or has an interest in property that will be affected by an action of the public agency she serves. However, in order to protect the public by making sure that an official is not improperly influenced by the interests of a family member, the Ethics Law does limit the official from participating, in any way, in a property matter in which her family member has an interest.

IV. Participating in a Property Matter—R.C. 102.03(D) and (E)

R.C. 102.03(D) prohibits an official from using the authority or influence of her public position, formally or informally, in any matter that would render a definite and direct financial benefit or detriment for a person with whom the official has a close family relationship, such as a spouse, sibling, child, or parent.²

R.C. 102.03(E) prohibits an official from soliciting a particular and definite benefit for a person with whom the official has a close family relationship.

R.C. 102.03(D) prohibits an official from taking any formal or informal action on any matter that would provide a definite, financial benefit or detriment to property owned by her relative.³ With respect to the

property matter, an official is prohibited from:

- voting;
- participating in discussions;
- participating in deliberations;
- making recommendations;
- providing advice;
- formally or informally lobbying; or
- taking any other action on the matter.

In other words, an official is prohibited from taking any action that would result in an increase in, or avoid a decrease to, the value of her family member's property.

If, for example, the brother of a city planning commission member has a zoning variance request pending before the planning commission, the planning commission member is prohibited from deliberating about, voting on, discussing, recommending any action on, or taking any other formal or informal action regarding her brother's variance request.

R.C. 102.03(D) also prohibits an official from using the authority or influence of her position over employees or officials of the agency, with respect to an issue that affects the value of property a relative owns.

If the brother of a city planning commission member has a zoning variance request pending before the planning commission, the planning commission member is prohibited from lobbying other commission members about the variance and from recommending that an employee take action regarding the variance. R.C. 102.03(E) prohibits the planning commission member from improperly soliciting any financial benefit to the value of property her brother owns.

R.C. 102.03(D) also prohibits the official from participating, formally or informally, with respect to land use, zoning, or development matters before the public agency that affect land adjacent to or near her relative's property that will result in a definite and direct increase or decrease to the value of the relative's property.

For example, if a property owner has requested a zoning variance for property that is adjacent to property owned by the brother of a planning commission member, the commission member is prohibited from taking any of the actions described above regarding the variance.

V. **Actions that are not Prohibited**

There are some actions that an official is not prohibited from taking even though they may affect the value of property her family member owns.

R.C. 102.03(D) and (E) do not prohibit an official from participating or voting on general legislation (such as the adoption of a new or amended zoning code) that provides a uniform benefit to all or most property within the public agency, including the property owned by a relative.⁴

For example, if the planning commission is considering a change to the setback requirement in the city's zoning code that will affect all of the property owners in the city, including the relatives of planning commission members, in the same manner, the Ethics Law does not prohibit the commission members from participating in discussion or adoption of the change.

However, if the setback requirement will only affect a small percentage of

properties in the community, and a relative of a commission member owns one of the properties, the commission member is prohibited from participating in discussion or adoption of the change.

VI. Other Considerations

Any public official whose family member has an interest in a property matter before the public agency she serves should ask her supervisor, or legal counsel for the public agency she serves, whether the agency has any additional policies or rules regarding these situations. (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.)

VII. 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 her.

The Laws discussed in this information sheet (R.C. Sections 102.03(D) and (E)) are first-degree misdemeanors. The maximum penalty upon conviction of a violation of a first-degree misdemeanor is six months in prison and/or a \$1000 fine.

VIII. Conclusion

Please contact the Ethics 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:

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Rev'd March 2005

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 Ohio Ethics Commission Advisory Opinions No. [79-008](#), [88-004](#), and [98-002](#).

³ Adv. Ops. No. [79-008](#), [88-004](#), and [92-013](#).

⁴ Adv. Ops. No. [88-004](#).