

R.C. 102.04(B) also applies to state officials and employees. A state official or employee is prohibited from **selling goods or services**, except through competitive bidding, to any state agency.



Example: An employee of the Ohio ABC Department is prohibited from selling goods to the ABC Department unless the sale is competitively bid and she submits the lowest and best bid.

There is one exception to this restriction, which applies to non-elected state officials and employees (R.C. 102.04(D)). The exception applies when:

1. The official or employee is selling to a state agency other than the one he or she serves; and
2. The official or employee files a statement (described in R.C. 102.04(D)) with both agencies, and the Ethics Commission, disclosing the activity. The statement can be found on the Commission's Web site.



Example: The employee of the ABC Department can sell goods to a state board, commission, department or agency other than the ABC Department, such as the 123 Board, provided that she meets the exception. If she sells to the 123 Board, she must file the statement with the ABC Department, the 123 Board, and the Ethics Commission.



[Advisory Opinion 89-010](#)



The final restriction, **R.C. 102.04(C)**, applies to officials and employees of local public agencies - that is, agencies such as cities, counties, and school districts.

R.C. 102.04(C) prohibits an official or employee of a local agency from receiving compensation, from anyone other than the department or sub-unit of the agency he or she serves, to perform services on matters before any other department or sub-unit of the local agency.



Example: An employee of a city zoning department cannot accept compensation from a client to prepare plans that will be filed with and approved by the zoning department, because the approval of the plans is a matter that is before her city department.

There is one exception to this restriction, which applies to non-elected officials and employees of local agencies (R.C. 102.04(D)). The exception applies when:

1. The official or employee is performing services on a matter that is pending before a department or sub-unit of the agency other than the one he or she serves; and
2. The official or employee files a statement (described in R.C. 102.04(D)) with both agencies, and the Ethics Commission, disclosing the activity. The statement can be found on the Commission's web site.



Example: An employee of the city zoning department can accept compensation to represent a client before the city public utilities department provided that she files the required R.C. 104.04(D) statement with the city zoning department, the city public utilities department and the Ethics Commission.



[R.C. 102.04\(D\) Statement](#)



Chapter 9 - Public Contracts

Public Contract Law (R.C. 2921.42(A)(1), (A)(2), (A)(3), and (A)(4))

There are four main restrictions in R.C. 2921.42. The laws prohibit a public official or employee from:

1. Authorizing a public contract in which the official, a family member, or a business associate has an interest (R.C. 2921.42(A)(1)) (NOTE: This is the section that prohibits nepotism, or authorizing an employment contract for a family member. See Chapter 10);
2. Authorizing an investment of public funds in which a family member or business associate has an interest or from which a family member or business associate receives a fee (R.C. 2921.42(A)(2));
3. Profiting from a public contract authorized by the official or by a board on which he or she sits unless the contract was competitively bid and awarded to the lowest and best bidder (R.C. 2921.42(A)(3)); and
4. Having an interest in a public contract of any public agency with which he or she is connected (R.C. 2921.42(A)(4)).

A public contract is any purchase or acquisition of goods or services by any public agency. Public contract also includes employment with any public agency. (R.C. 2921.42(I))

Authorizing a Public Contract (R.C. 2921.42(A)(1)): The Ethics Law prohibits a public official or employee from authorizing a public contract if the official, a family member, or a business associate has an interest in the contract. A public official has “authorized” a contract if he or she has taken any action to secure the contract. For example, a public official has authorized a contract if he or she:

- Voted to award the contract;
- Signed the contract;
- Recommended the contract to other officials or employees; or
- Taken any other official action on the contract.



Example: A business associate of a school board member is also a partner in a law firm. If the school district would like to hire the law firm, the board member is prohibited from taking any formal or informal action to secure the contract because his business associate, as a partner, has an interest in any contract awarded to the law firm.



A “business associate” includes any individuals, companies, or organizations with which the official is acting together to pursue a common business purpose. [Advisory Opinion 2009-05](#) and [Advisory Opinion 2009-06](#).

Examples of a public official’s business associates include, but are not limited to, the official’s: (1) partners in a partnership; (2) co-owners of a business; (3) outside employer; and (4) co-members of an LLC.



[Advisory Opinion 2009-06](#) and [Advisory Opinion 2013-01](#)

Profiting from a Public Contract (R.C. 2921.42(A)(3)): This restriction prohibits a public official or employee from occupying a position of profit in the any public contract that he or she authorized. In other words, a public official cannot receive a definite and direct financial benefit from any contract that was authorized:

- By the official; or
- By any board or commission on which he or she served (even if the official didn’t vote on the authorization).

This restriction applies to the official or employee during public service and for one year after leaving public service. The restriction does not apply to competitively bid contracts awarded to the lower and best bidder.

A person who is employed by a company occupies a position of profit in a public contract awarded to the company if:

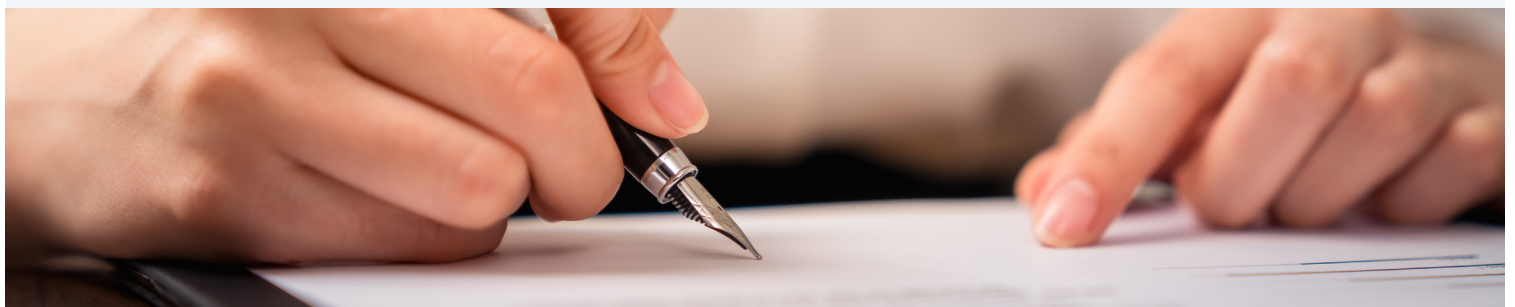
- The company depends on the contract;
- The employee receives compensation, fees, or other direct benefit from the contract; or
- The employee’s job would not exist without the contract.



[Advisory Opinion 2016-01](#) , [Advisory Opinion 88-008](#) and [Advisory Opinion 2009-05](#)



Example: A state department director authorized an unbid contract to a private company. The department director could not accept employment with the company, within twelve months after leaving her job with the state, if she would be paid from the contract proceeds or otherwise profit from the unbid contract she awarded.



Having an Interest in a Public Contract (R.C. 2921.42(A)(4)): A public official or employee is prohibited from having an interest in a contract entered into by his or her public agency. Usually, a public official or employee cannot sell goods or services to his or her own agency.

A public official or employee is prohibited from having a definite and direct interest in a contract with his or her public agency. A prohibited interest can be either financial or fiduciary in nature.

Example: A city police officer cannot sell consulting services to the city he serves because he would have a financial interest in the contract.



If the police officer serves as a board member of the non-profit organization, he would have a fiduciary interest in the contracts of the organization. If the organization received a grant from the city, the police officer would have a prohibited fiduciary interest in the contract even if he received no financial benefit from it.



There are two exceptions to this prohibition. A public official or employee does not have a prohibited interest in a contract with his or her own agency if:

1. The official's interest is limited to being a minority stockholder or a creditor of a company that sells goods or services to the agency. The official or employee must file an affidavit with the agency disclosing his or her interest in the contract (R.C. 2921.42(B)).
2. The official can meet all parts of a four-part test (R.C. 2921.42(C)). The four parts are:
 - The contract is for necessary goods or services;
 - The goods or services are unobtainable elsewhere for the same or lower cost or are part of a course of dealing that began before the official started serving the public agency;
 - The official or employee gives the public agency the same or better treatment than other clients or customers; **and**
 - The official or employee takes no part in the deliberations or decisions of the public agency on the contract.

Void and Unenforceable (R.C. 2921.42(H)): This section establishes that contracts and investments in which an official, or the official's family members or business associates, have an interest in violation of R.C. 2921.42(A) are void and unenforceable.

Specific Exceptions (R.C. 2921.42(D) and (G)): These two sections contain specific exceptions to the public contract law that apply to certain limited groups of public officials and employees.

R.C. 2921.42(D) allows employees of public agencies to apply for and receive housing rehabilitation loans from their own public agencies. The exception does not apply to elected officials. More information about the exception can be found in [Advisory Opinion 95-007](#).

R.C. 2921.42(G) applies to township trustees in small townships, for contracts that are under \$5,000 a year.

Legal Officers (R.C. 2921.42(F)): Under this section, prosecuting attorneys and chief municipal legal officers are exempted from some of the Ethics Law, and are permitted to hire their business associates. This section is parallel to the prohibition in R.C. 102.03(K), which exempts legal officers from the provisions in the conflict of interest law. The application of this exception is spelled out more fully in R.C. 2921.421.



Chapter 10 - Public Jobs and Family Members

Public Jobs and Family Members (R.C. 2921.42(A)(1))

Whenever a public agency hires an employee, that employment is a “public contract.” A public official or employee is prohibited from hiring a family member or using his or her position in any way to secure employment of a family member. An official or employee cannot hire these family members, **regardless** of whether they live in the same household with the official or employee:

- Spouse;
- Parents or grandparents;
- Children or grandchildren;
- Siblings; and
- Step-children or step-parents.

An official or employee also cannot hire these family members if they live in the same household with the official or employee:

- Uncles and aunts;
- Cousins;
- Nieces and nephews;
- In-laws; and
- Anyone else related to the official or employee by blood or by marriage.



More information about nepotism restrictions can be found in [Advisory Opinion 2010-03](#) and in the Public Jobs and Family Members chapter of the [Public Contracts Fact Sheet](#).



Example: The adult daughter of a regional transit authority employee has applied to become a bus driver. The regional transit authority can hire the employee’s daughter, but the employee cannot take any action to get the job for his daughter. If she is hired, the employee cannot use his position in any way to get any employment benefits, such as raises or promotions, for his family member.



There are more specific rules that apply when an official's or employee's minor child is applying for employment with the agency.



More information about these restrictions can be found in the Public Jobs and Family Members chapter of the [Public Contracts Fact Sheet](#).

Void and Unenforceable (R.C. 2921.42(H)): This section establishes that contracts and investments in which an official, or the official's family members or business associates, have an interest in violation of R.C. 2921.42(A) are void and unenforceable.

Use of Position to Secure Benefit (R.C. 102.03(D)): The conflict of interest law prohibits a public official or employee from using or authorizing the use of his or her public position to get a benefit for him or herself or for anyone else with whom he or she is closely connected. The law also prohibits the official or employee from using his or her public position to avoid a detriment for the official or employee or closely connected person. This means that a public official or employee cannot act on a matter before his or her public agency if the matter definitely and directly affects:

- The official or employee;
- One of the official's or employee's family members; or
- One of the official's or employee's business associates.



Chapter 11 - Supplemental Compensation

Supplemental Compensation (R.C. 2921.43)

Supplemental Compensation (R.C. 2921.43(A)(1)): This section prohibits a public official or employee from soliciting or accepting compensation from any source other than his or her public employer for the performance of his or her public duties. A private party also cannot promise or give a public official or employee compensation for performing his or her public duties.



Example: A park district employee is responsible for removing fallen limbs and trees from park and adjoining property following storms. The employee is prohibited from accepting a gift, money, or any other benefit from an owner of adjoining property for removing a fallen park-owned tree from that person's property.



More information about this restriction can be found in [Advisory Opinion 2011-05](#) and the Supplemental Compensation chapter of the [Gifts and Other Things of Value Fact Sheet](#).

Securing or preferring employment (R.C. 2921.43(B)): A public servant cannot solicit or accept, and no one can give a public servant, anything of value to appoint, secure, promote, or otherwise affect material aspects of any person's public employment.



Example: A city firefighter who is next on a promotion list cannot offer to pay a person who currently holds the position as an incentive to retire before the promotion list expires.



[Advisory Opinion 97-001](#)

Criminal Offenses (R.C. 2921.43(D)): This section establishes that violations of R.C. 2921.43 are criminal offenses and establishes the levels of the offenses.

Disqualification (R.C. 2921.43(E)): This section states that any person who is convicted of a violation of R.C. 2921.43 will be disqualified from public office, public employment, or any position of public trust, for seven years from the date of the conviction.

Chapter 12 - Election Related Issues

Election Related Issues (R.C. 2921.43(C) and (F); R.C. 102.03(G))

The Ethics Commission does not have any jurisdiction over campaign finance or elections laws or rules in Ohio. For guidance on these types of questions, you should contact the Ohio Secretary of State's Office or the Ohio Elections Commission. There are however a three provisions in the Ethics Law that address campaign contributions.

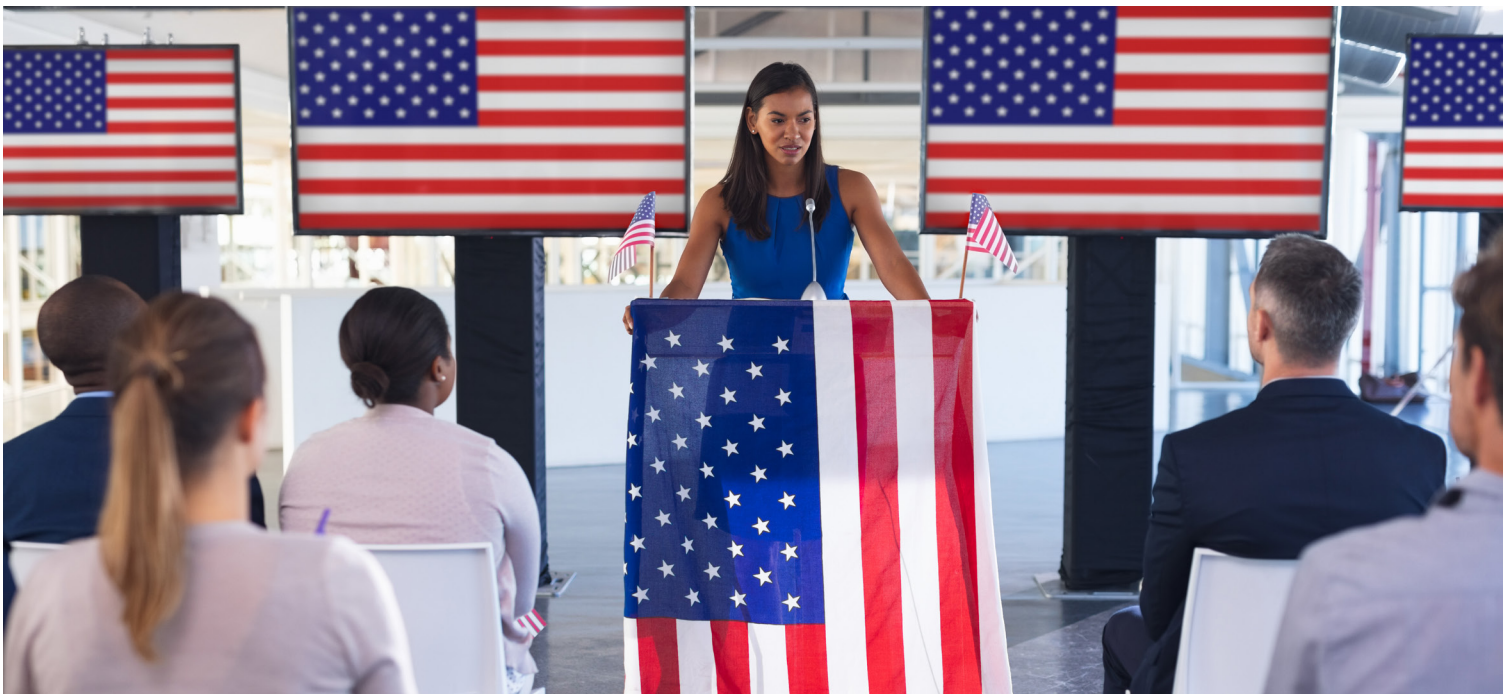


[Advisory Opinion 2002-03](#)

Coercing Campaign Contributions (R.C. 2921.43(C)): This section prohibits any person from coercing campaign contributions for any candidate, campaign committee, legislative campaign committee, or PAC in return for appointing, securing employment, promoting, or otherwise affecting any material aspects of any person's public employment.

Voluntary Campaign Contributions (R.C. 2921.43(F)): This section makes it clear that a person can make voluntary campaign contributions to any person or campaign fund.

Ordinary Campaign Contributions (R.C. 102.03(G)): Ordinary campaign contributions given to an elected official are not prohibited, even where a nexus exists between the public office and the contributor. However, where there is evidence of wrongdoing as set forth in R.C. 102.03(G), in connection with a campaign contribution, and a nexus exists between the officer and the contributor, the conflict of interest protections set forth in R.C. 102.03(D), (E), and (F) will apply to the parties to the contribution.



Chapter 13 - Restrictions

Restrictions (R.C. 102.99)

The final section of Chapter 102 establishes the restrictions for any person who violates the Ethics Law and related statutes. All of the provisions of the Ethics Law are criminal prohibitions. Most of the provisions are first-degree misdemeanors, with a maximum fine of \$1000, a maximum jail term of six months, or both. However, two of the public contract prohibitions are fourth-degree felonies, with a maximum fine of \$5000, a maximum prison term of 18 months, or both. A person who is convicted of receiving supplemental compensation will be barred from holding public office, public employment, or any position of public trust for seven years.



Conclusion

Every public agency must give each official or employee who serves the agency a copy of the [Ohio Ethics Law](#). This overview is intended to give public officials and employees some basic information about how the law applies to them. The overview briefly summarizes each provision of the law and, when available, provides examples of the restrictions and links to additional resources.

This overview is not intended to substitute for the Ethics Law or for an advisory opinion of the Ohio Ethics Commission. For guidance on a specific situation, please contact the Commission at (614) 466-7090.



The Ohio Ethics Commission

30 West Spring Street
Columbus, Ohio 43215-2256

Phone: (614) 466-7090

Fax: (614) 466-8368

www.ethics.ohio.gov