



Avoiding Criminal & Civil Liability

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The Bottom Line

“There is no such thing as a minor lapse of integrity.”

-Tom Peters



Ohio Ethics Laws



The Bottom Line

In other words, you should not and must not act out of self interest.

Be very sensitive and alert to any situation or circumstance that may even remotely hint of a possible violation or charge being made against you.

HEADLINES FROM THE ETHICS COMMISSION

FORMER SENIOR
ATTORNEY GENERAL
OFFICE OFFICIALS
CHARGED WITH ETHICS
VIOLATIONS

FORMER UPPER
ARLINGTON CITY
ENGINEER FOUND
GUILTY

FORMER CLEVELAND
CITY COUNCIL MEMBER
FOUND GUILTY

ETHICS VIOLATIONS
FILED AGAINST
UNIVERSITY OF AKRON
TRUSTEE JACK
MORRISON, JR.

COUNTY
COMMISSIONER
VIOLATED ETHICS LAW

FORMER CLARK
COUNTY EMERGENCY
MANAGEMENT AGENCY
DIRECTOR ROBERT HUPP

HOUSING AUTHORITY
DIRECTOR CONVICTED
OF ETHICS

FORMER BOARD OF
ELECTIONS DEPUTY
DIRECTOR PLEADS
GUILTY

ETHICS VIOLATIONS
FILED AGAINST FORMER
BOARD OF ELECTIONS
DEPUTY DIRECTOR
MICHAEL

ETHICS VIOLATION FILED
AGAINST FORMER BWC
CHIEF INVESTMENT
OFFICER JAMES
MCLEAN

ETHICS VIOLATIONS
FILED AGAINST FORMER
BWC OVERSIGHT
COMMISSION MEMBER
GEORGE L. FORBES

FORMER COUNTY
TREASURER PLEADS
GUILTY TO ETHICS
CHARGE

GENERAL PROHIBITIONS – R.C. 102.03

You must not **use your influence** to secure anything of value or the promise or offer of anything of value that may influence your duties

You must not **solicit anything of value** that may influence your duties




REMEMBER
THESE RULES

The Mom Rule - If
you're Mom
wouldn't
approve, then
don't do it

Listen for the
Voice

The 20/20
Hindsight Rule



UNLAWFUL INTEREST IN A PUBLIC CONTRACT – R.C. 2921.42

1

Criminal statute
permitting jail time
and fines

2

Applies to all public
employees

3

Prohibits public
employees from
holding an interest
in certain public
contracts

4

Violators face up to
18 months in prison

WHAT IS A PUBLIC CONTRACT?

- Includes the purchase of **any** property, goods, or services for use by the public entity
- Also includes contracts for design, construction, renovation, or repair of public buildings

WHAT IS AN INTEREST?

- ▶ A public employee has an interest in a public contract if:
 - He takes part in contract negotiations
 - His salary is based on proceeds of the contract
 - He receives a share of the contract's proceeds in the form of a commission
 - His duties and responsibilities include participation in the administration or execution of the contract
 - His tenure is dependent upon the public entity receiving the award of the contract



WHAT IS UNLAWFUL?

- Using your influence to secure a contract in which you or your family have an interest
 - **4th Degree Felony – up to 18 months in prison**
- Using your influence to secure investment of public funds in a bond, share, etc., in which you or your family have an interest
 - **4th Degree Felony – up to 18 months in prison**
- Profiting from a public contract authorized by you or the commission, unless the contract was let by competitive bidding
 - **1st Degree Misdemeanor – up to 6 months in prison**
- Having an interest in the profits or benefits of a public contract entered into by Company
 - **1st Degree Misdemeanor – up to 6 months in prison**

THEFT IN OFFICE – R.C. 2921.41

- Criminal statute specifically addressing theft committed by public employees
- Applies where employee uses his position to commit theft
- Also applies where employee uses his position to permit another individual to commit theft
- Statute intended to protect the public from theft of property purchased with public funds





THEFT OF PUBLIC PROPERTY

A public employee is guilty of theft in office regardless of the value of the property taken

Includes old, out-dated equipment

Also includes public entity's supplies and inventory



- THEFT IN
OFFICE -
SENTENCING

- Forever disqualified from public employment
- Restitution may be made by garnishing PERS account
- 5th degree felony for property \$1 - \$499
 - 6 – 12 months in prison
- 4th degree felony for property \$500 - \$4,999
 - 6 – 18 months in prison
- 3rd degree felony for property \$5,000 or more
 - 1 – 5 years in prison



OEPA Liabilities



OEPA Criminal Enforcement

The Special Investigations Unit is the criminal investigative branch of Ohio EPA and investigates:

- ▶ illegal disposal or abandonment of waste (solid waste, hazardous waste and construction and demolition debris);
- ▶ burial of waste at unpermitted locations;
- ▶ unpermitted discharges into waters of the state or to wastewater treatment plants;
- ▶ bypassing treatment systems;
- ▶ falsification of documents such as manifests, waste receipt logs and monthly operating reports; and,
- ▶ making false statements to regulatory personnel.

ENFORCEMENT STATISTICS

Enforcement Statistics Summary Convictions/Pleas/Sentences

	Calendar Year				
	2015	2014	2013	2012	2011
Conviction/Plea	26	18	23	20	31
Felony Charges	44	17	25	14	28
Misdemeanor Charges	21	5	10	13	13
Jail Time Served (months)	37.5	39.1	25.6	5.3	3
Jail Time Suspended (months)	101	84	56	36	82
Home Incarceration (months)	0	14	9	4.5	17
Community Service (hours)	1,500	1,368	888	1,608	2,064
Fines/Restitution	\$619,191	\$931,928	\$411,652	\$2,811,007	\$1,240,490



OPERATOR COMPLIANCE

- There are over 8,000 certified operators in Ohio
- Enforcement actions against operators are publically available:
<http://epa.ohio.gov/ddagw/enforcement#113854687-certified-operators>
- Can be career ending
- Notice provided to all entities for which operator is list as OoR



WHAT DOES IT TAKE?

- Fraudulently obtained or attempted to obtain any certificate or renewal thereof, or
- Performed the duties of an operator in a negligent or incompetent manner, or
- Knowingly or negligently submitted misleading, inaccurate, or false reports, documents, or applications to any governmental organization or their employer, or
- Operated in a manner endangering the public health or welfare, or
- Operated in such a manner to have violated or caused to be violated any provisions of Chapter 6109 or 6111 of the Revised Code, or
- Represented themselves as a certified operator without a valid certificate, or
- Performed the duties of an operator of record without a valid certificate of the appropriate field and classification, unless in accordance with the exemptions and exceptions contained in this chapter, or
- Had a certificate suspended or revoked in any other jurisdiction.



Questions?



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