

CUYAHOGA COUNTY COUNCIL
RULES, CHARTER REVIEW, ETHICS AND COUNCIL OPERATIONS COMMITTEE

Meeting Agenda

CUYAHOGA COUNTY COUNCIL CHAMBERS
JANUARY 18, 2011
1:00 pm

Type of Meeting: Committee Meeting

Subject: Ethics

Meeting Chair: Dave Greenspan

Invitees: Councilmember Dale Miller, Vice Chair
Councilmember C. Ellen Connally
Councilmember Dan Brady
Councilmember Sunny Simon
County Executive Ed FitzGerald
Acting Director of Law Ed Morales
Human Resources Director, Elise Hara
Clerk Pro-Tem George Phillips

- I. Call to order
- II. Roll call
- III. Approval of minutes from last meeting
- IV. Open issues
- V. New business
 - a) Discuss Memorandum from Dave Greenspan
 - b) Identify Resource/Reference Materials
 - c) Identify "Best Practices" definitions and terms
 - d) Discuss Public Records Training
 - e) General Discussion
- VI. Adjournment

Ohio Ethics Law and Related Statutes



The Ohio Ethics Commission

Ben Rose, Chair
Merom Brachman
Betty Davis
Diana Swoope

Paul M. Nick,
Interim Executive Director

June 2010

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THE OHIO ETHICS LAW: CHAPTER 102. OF THE REVISED CODE

Section 102.01 As used in this chapter:

(A) "Compensation" means money, thing of value, or financial benefit. "Compensation" does not include reimbursement for actual and necessary expenses incurred in the performance of official duties.

(B) "Public official or employee" means 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 elected or appointed to the office of precinct, ward, or district committee member under section 3517.03 of the Revised Code, any presidential elector, or any delegate to a national convention. "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.

(C) "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, the five 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.

(D) "Immediate family" means a spouse residing in the person's household and any dependent child.

(E) "Income" includes gross income as defined and used in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, interest and dividends on obligations or securities of any state or of any political subdivision or authority of any state or political subdivision, and interest or dividends on obligations of any authority, commission, or instrumentality of the United States.

(F) Except as otherwise provided in division (A) of section 102.08 of the Revised Code, "appropriate ethics commission" means:

(1) For matters relating to members of the general assembly, employees of the general assembly, employees of the legislative service commission, and candidates for the office of member of the general assembly, the joint legislative ethics committee;

(2) For matters relating to judicial officers and employees, and candidates for judicial office, the board of commissioners on grievances and discipline of the supreme court;

(3) For matters relating to all other persons, the Ohio ethics commission.

(G) "Anything of value" has the same meaning as provided in section 1.03 of the Revised Code and includes, but is not limited to, a contribution as defined in section 3517.01 of the Revised Code.

(H) "Honorarium" means any 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. "Honorarium" does not include ceremonial gifts or awards that have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; or earned income from any person, other than a legislative agent, for personal services that are customarily provided in connection with the practice of a bona fide business, if that business initially began before the public official or employee conducting that business was elected or appointed to the public official's or employee's office or position of employment.

(I) "Employer" means any person who, directly or indirectly, engages an executive agency lobbyist or legislative agent.

(J) "Executive agency decision," "executive agency lobbyist," and "executive agency lobbying activity" have the same meanings as in section 121.60 of the Revised Code.

(K) "Legislation," "legislative agent," "financial transaction," and "actively advocate" have the same meanings as in section 101.70 of the Revised Code.

(L) "Expenditure" has the same meaning as in section 101.70 of the Revised Code when used in relation to activities of a legislative agent, and the same meaning as in section 121.60 of the Revised Code when used in relation to activities of an executive agency lobbyist.

Section 102.02

(A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; the administrator of workers' compensation and each voting member of the workers' compensation oversight commission; the chief investment officer of the bureau of workers' compensation; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the tobacco use prevention and control foundation; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; all members appointed to the Ohio livestock care standards board under section 904.02 of the Revised Code; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

The disclosure statement shall include all of the following:

(1) The name of the person filing the statement and each member of the person's immediate family and all names under which the person or members of the person's immediate family do business;

(2)(a) Subject to divisions (A)(2)(b), and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. If the person filing the statement is a member of the general assembly, the statement shall identify the amount of every source of income received in accordance with the following ranges of amounts: zero or more, but less than one thousand dollars; one thousand dollars or more, but less than ten thousand dollars; ten thousand dollars or more, but less than twenty-five thousand dollars; twenty-five thousand dollars or more, but less than fifty thousand dollars; fifty thousand dollars or more, but less than one hundred thousand dollars; and one hundred thousand dollars or more. Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legislative agents. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person who the public official or employee

knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

(b) If the person filing the statement is a member of the general assembly, the statement shall identify every source of income and the amount of that income that was received from a legislative agent during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. Division (A)(2)(b) of this section requires the disclosure of clients of attorneys or persons licensed under section 4732.12 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, if those clients or patients are legislative agents. Division (A)(2)(b) of this section requires a person filing the statement who derives income from a business or profession to disclose those individual items of income that constitute the gross income of that business or profession that are received from legislative agents.

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose in the brief description of the nature of services required by division (A)(2)(a) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(3) The name of every corporation on file with the secretary of state that is incorporated in this state or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in this state in which the person filing the statement or any other person for the person's use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office, or relationship. Division (A)(3) of this section does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

(4) All fee simple and leasehold interests to which the person filing the statement holds legal title to or a beneficial interest in real property located within the state, excluding the person's residence and property used primarily for personal recreation;

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in the person's own name or in the name of any other person, more than one thousand dollars. Division (A)(5) of this section shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of financial institutions shall disclose the names of all state-chartered savings and loan associations and of all service corporations subject to regulation under division (E)(2) of section 1151.34 of the Revised Code to whom the superintendent in the superintendent's own name or in the name of any other person owes any money, and that the superintendent and any deputy superintendent of banks shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1109.44 of the Revised Code to whom the superintendent or deputy superintendent owes any money.

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(3) of this section, who owe more than one thousand dollars to the person filing the

statement, either in the person's own name or to any person for the person's use or benefit. Division (A)(6) of this section shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

(7) Except as otherwise provided in section 102.022 of the Revised Code, the source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received by a member of the general assembly from a legislative agent, received by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from spouses, parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor;

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's official duties, except for expenses for travel to meetings or conventions of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues;

(9) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source of payment of expenses for meals and other food and beverages, other than for meals and other food and beverages provided at a meeting at which the person participated in a panel, seminar, or speaking engagement or at a meeting or convention of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues, that are incurred in connection with the person's official duties and that exceed one hundred dollars aggregated per calendar year;

(10) If the disclosure statement is filed by a public official or employee described in division (B)(2) of section 101.73 of the Revised Code or division (B)(2) of section 121.63 of the Revised Code who receives a statement from a legislative agent, executive agency lobbyist, or employer that contains the information described in division (F)(2) of section 101.73 of the Revised Code or division (G)(2) of section 121.63 of the Revised Code, all of the nondisputed information contained in the statement delivered to that public official or employee by the legislative agent, executive agency lobbyist, or employer under division (F)(2) of section 101.73 or (G)(2) of section 121.63 of the Revised Code.

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement no later than the thirtieth day before the primary, special, or general election at which the candidacy is to be voted on, whichever election occurs soonest, except that a person who is a write-in candidate shall file the statement no later than the twentieth day before the earliest election at which the person's candidacy is to be voted on. A person who holds elective office shall file the statement on or before the fifteenth day of April of each year unless the person is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within fifteen days after the person qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April or, if appointed or employed after that date, within ninety days after appointment or employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

The appropriate ethics commission, for good cause, may extend for a reasonable time the deadline for filing a statement under this section.

A statement filed under this section is subject to public inspection at locations designated by the appropriate ethics commission except as otherwise provided in this section.

(B) The Ohio ethics commission, the joint legislative ethics committee, and the board of commissioners on grievances and discipline of the supreme court, using the rule-making procedures of Chapter 119. of the

Revised Code, may require any class of public officials or employees under its jurisdiction and not specifically excluded by this section whose positions involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The appropriate ethics commission shall send the public officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required unless the public official or employee is appointed after that date, in which case the notice shall be sent within thirty days after appointment, and the filing shall be made not later than ninety days after appointment.

Except for disclosure statements filed by members of the board of trustees and the executive director of the tobacco use prevention and control foundation and members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation, disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.

(C) No person shall knowingly fail to file, on or before the applicable filing deadline established under this section, a statement that is required by this section.

(D) No person shall knowingly file a false statement that is required to be filed under this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, the statement required by division (A) or (B) of this section shall be accompanied by a filing fee of forty dollars.

(2) The statement required by division (A) of this section shall be accompanied by the following filing fee to be paid by the person who is elected or appointed to, or is a candidate for, any of the following offices:

For state office, except member of the state board of education	\$65
For office of member of general assembly.....	\$40
For county office	\$40
For city office	\$25
For office of member of the state board of education.....	\$25
For office of member of the Ohio livestock care standards board.....	\$25
For office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board	\$20
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$20

(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section.

(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.

(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee of ten dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed two hundred fifty dollars.

(G)(1) The appropriate ethics commission other than the Ohio ethics commission shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state.

(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code, into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation and statutory functions of the commission.

(H) Division (A) of this section does not apply to a person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517. of the Revised Code; a presidential elector; a delegate to a national convention; village or township officials and employees; any physician or psychiatrist who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code and whose primary duties do not require the exercise of administrative discretion; or any member of a board, commission, or bureau of any county or city who receives less than one thousand dollars per year for serving in that position.

Sec. 102.021

(A)(1) For the twenty-four month period immediately following the end of the former state elected officer's or staff member's service or public employment, except as provided in division (B) or (D) of this section, each former state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code shall file, on or before the deadlines specified in division (D) of this section, with the joint legislative ethics committee a statement that shall include the information described in divisions (A)(2), (3), (4), and (5) of this section, as applicable. The statement shall be filed on a form and in the manner specified by the joint legislative ethics committee. This division does not apply to a state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code, who leaves service or public employment, and who takes another position as a state elected officer or staff member who files or is required to file a disclosure statement under that section.

No person shall fail to file, on or before the deadlines specified in division (D) of this section, a statement that is required by this division.

(2) The statement referred to in division (A)(1) of this section shall describe the source of all income received, in the former state elected officer's or staff member's own name or by any other person for the person's use or benefit, and briefly describe the nature of the services for which the income was received if the source of the income was any of the following:

- (a) An executive agency lobbyist or a legislative agent;
- (b) The employer of an executive agency lobbyist or legislative agent, except that this division does not apply if the employer is any state agency or political subdivision of the state;
- (c) Any entity, association, or business that, at any time during the two immediately preceding calendar years, was awarded one or more contracts by one or more state agencies that in the aggregate had a value of one hundred thousand dollars or more, or bid on one or more contracts to be awarded by one or more state agencies that in the aggregate had a value of one hundred thousand dollars or more.

(3) If the former state elected officer or staff member received no income as described in division (A)(2) of this section, the statement referred to in division (A)(1) of this section shall indicate that fact.

(4) If the former state elected officer or staff member directly or indirectly made, either separately or in combination with another, any expenditure or gift for transportation, lodging, or food or beverages to, at the request of, for the benefit of, or on behalf of any public officer or employee, and if the former state elected officer or staff member would be required to report the expenditure or gift in a statement under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code, whichever is applicable, if the former state elected

officer or staff member was a legislative agent or executive agency lobbyist at the time the expenditure or gift was made, the statement referred to in division (A)(1) of this section shall include all information relative to that gift or expenditure that would be required in a statement under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code if the former state elected officer or staff member was a legislative agent or executive agency lobbyist at the time the expenditure or gift was made.

(5) If the former state elected officer or staff member made no expenditure or gift as described in division (A)(4) of this section, the statement referred to in division (A)(1) of this section shall indicate that fact.

(B) If, at any time during the twenty-four month period immediately following the end of the former state elected officer's or staff member's service or public employment, a former state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code becomes a legislative agent or an executive agency lobbyist, the former state elected officer or staff member shall comply with all registration and filing requirements set forth in sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code, whichever is applicable, and, the former state elected officer or staff member also shall file a statement under division (A)(1) of this section except that the statement filed under division (A)(1) of this section does not need to include information regarding any income source, expenditure, or gift to the extent that that information was included in any registration or statement filed under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code.

(C) Except as otherwise provided in this division, division (A)(2) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in this division to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in this division to disclose in the brief description of the nature of services required by division (A)(2) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(D)(1) Each state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code and who leaves public service or public employment shall file an initial statement under division (A)(1) of this section not later than the day on which the former state elected officer or staff member leaves public service or public employment. The initial statement shall specify whether the person will, or will not, receive any income from a source described in division (A)(2)(a), (b), or (c) of this section.

If a person files an initial statement under this division that states that the person will receive income from a source described in division (A)(2)(a), (b), or (c) of this section, the person is required to file statements under division (A)(2), (3), (4), or (5) of this section at the times specified in division (D)(2) of this section.

If a person files an initial statement under this division that states that the person will not receive income from a source described in division (A)(2)(a), (b), or (c) of this section, except as otherwise provided in this division, the person is not required to file statements under division (A)(2), (4), or (5) of this section or to file subsequent statements under division (A)(3) of this section. If a person files an initial statement under this division that states that the person will not receive income from a source described in division (A)(2)(a), (b), or (c) of this section, and, subsequent to the filing of that initial statement, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division, and the person thereafter shall file statements under division (A)(2), (3), (4), or (5) of this section at the times specified in division (D)(2) of this section.

(2) After the filing of the initial statement under division (D)(1) of this section, each person required to file a statement under division (A)(2), (3), (4), or (5) of this section shall file it on or before the last calendar day of January, May, and September. The statements described in divisions (A)(2), (3), and (5) of this section shall relate to the sources of income the person received in the immediately preceding filing period from each source of income in each of the categories listed in division (A)(2) of this section. The statement described in division (A)(4) of this section shall include any information required to be reported regarding expenditures and gifts of the type described in division (A)(4) of this section occurring since the filing of the immediately preceding statement.

If, pursuant to this division, a person files a statement under division (A)(2) of this section, the person is required to file statements under division (A)(4) of this section, and subsequent statements under division (A)(2), (3), or (5) of this section, at the times specified in this division. In addition, if, subsequent to the filing of the statement under division (A)(2) of this section, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section that was not listed on the statement filed under division (A)(2) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division regarding the new income source.

If, pursuant to this division, a person files a statement under division (A)(3) of this section, except as otherwise provided in this division, the person thereafter is not required to file statements under division (A)(2), (4), or (5) of this section, or to file subsequent statements under division (A)(3) of this section. If, subsequent to the filing of the statement under division (A)(3) of this section, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division regarding the new income source, and the person thereafter shall file statements under division (A)(4) of this section, and subsequent statements under division (A)(2) or (3) of this section, at the times specified in this division.

(3) No fee shall be required for filing an initial statement under division (D)(1) of this section. The person filing a statement under division (D)(2) of this section that is required to be filed on or before the last calendar day of January, May, and September shall pay a ten dollar filing fee with each such statement not to exceed thirty dollars in any calendar year. The joint legislative ethics committee may charge late fees in the same manner as specified in division (G) of section 101.72 of the Revised Code.

(E) Any state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code and who leaves public service or public employment shall provide a forwarding address to the officer's or staff member's last employer, and the employer shall provide the person's name and address to the joint legislative ethics committee. The former elected state officer or staff member shall provide updated forwarding addresses as necessary to the joint legislative ethics committee during the twenty-four month period during which division (A)(1) of this section applies. The public agency or appointing authority that was the last employer of a person required to file a statement under division (A)(2) of this section shall furnish to the person a copy of the form needed to complete the initial statement required under division (D)(1) of this section.

(F) During the twenty-four month period immediately following the end of the former state elected officer's or staff member's service or public employment, no person required to file a statement under this section shall receive from a source described in division (A)(2)(a), (b), or (c) of this section, and no source described in division (A)(2)(a), (b), or (c) of this section shall pay to that person, any compensation that is contingent in any way upon the introduction, modification, passage, or defeat of any legislation or the outcome of any executive agency decision.

(G) As used in this section "state elected officer or staff member" means any elected officer of this state, any staff, as defined in section 101.70 of the Revised Code, or any staff, as defined in section 121.60 of the Revised Code.

Sec. 102.022

Each person who is an officer or employee of a political subdivision, who receives compensation of less than sixteen thousand dollars a year for holding an office or position of employment with that political subdivision, and who is required to file a statement under section 102.02 of the Revised Code, and each member of the board of trustees of a state institution of higher education as defined in section 3345.011 of the Revised Code who is required to file a statement under section 102.02 of the Revised Code, shall include in that

statement, in place of the information required by divisions (A)(2), (7), (8), and (9) of that section, the following information:

(A) Exclusive of reasonable expenses, identification of every source of income over five hundred dollars received during the preceding calendar year, in the officer's or employee's own name or by any other person for the officer's or employee's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code or patients of persons certified under section 4731.14 of the Revised Code. This division shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of the business or profession.

(B) The source of each gift of over five hundred dollars received by the person in the officer's or employee's own name or by any other person for the officer's or employee's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, received from parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor.

Section 102.03

(A)(1) No present or former public official or employee shall, during public employment or service or for twelve months thereafter, represent a client or act in a representative capacity for any person on any matter in which the public official or employee personally participated as a public official or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.

(2) For twenty-four months after the conclusion of service, no former commissioner or attorney examiner of the public utilities commission shall represent a public utility, as defined in section 4905.02 of the Revised Code, or act in a representative capacity on behalf of such a utility before any state board, commission, or agency.

(3) For twenty-four months after the conclusion of employment or service, no former public official or employee who personally participated as a public official or employee through decision, approval, disapproval, recommendation, the rendering of advice, the development or adoption of solid waste management plans, investigation, inspection, or other substantial exercise of administrative discretion under Chapter 343. or 3734. of the Revised Code shall represent a person who is the owner or operator of a facility, as defined in section 3734.01 of the Revised Code, or who is an applicant for a permit or license for a facility under that chapter, on any matter in which the public official or employee personally participated as a public official or employee.

(4) For a period of one year after the conclusion of employment or service as a member or employee of the general assembly, no former member or employee of the general assembly shall represent, or act in a representative capacity for, any person on any matter before the general assembly, any committee of the general assembly, or the controlling board. Division (A)(4) of this section does not apply to or affect a person who separates from service with the general assembly on or before December 31, 1995. As used in division (A)(4) of this section "person" does not include any state agency or political subdivision of the state.

(5) As used in divisions (A)(1), (2), and (3) of this section, "matter" includes any case, proceeding, application, determination, issue, or question, but does not include the proposal, consideration, or enactment of statutes, rules, ordinances, resolutions, or charter or constitutional amendments. As used in division (A)(4) of this section, "matter" includes the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments. As used in division (A) of this section, "represent" includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person.

(6) Nothing contained in division (A) of this section shall prohibit, during such period, a former public official or employee from being retained or employed to represent, assist, or act in a representative capacity for the public agency by which the public official or employee was employed or on which the public official or employee served.

(7) Division (A) of this section shall not be construed to prohibit the performance of ministerial functions, including, but not limited to, the filing or amendment of tax returns, applications for permits and licenses, incorporation papers, and other similar documents.

(B) No present or former public official or employee shall disclose or use, without appropriate authorization, any information acquired by the public official or employee in the course of the public official's or employee's official duties that is confidential because of statutory provisions, or that has been clearly designated to the public official or employee as confidential when that confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business.

(C) No public official or employee shall participate within the scope of duties as a public official or employee, except through ministerial functions as defined in division (A) of this section, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation, or association in which the public official or employee or immediate family owns or controls more than five per cent. No public official or employee shall participate within the scope of duties as a public official or employee, except through ministerial functions as defined in division (A) of this section, in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or employee or immediate family, or a partnership, trust, business trust, corporation, or association of which the public official or employee or the public official's or employee's immediate family owns or controls more than five per cent, has sold goods or services totaling more than one thousand dollars during the preceding year, unless the public official or employee has filed a written statement acknowledging that sale with the clerk or secretary of the public agency and the statement is entered in any public record of the agency's proceedings. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code.

(D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(F) No person shall promise or give to a public official or employee anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(G) In the absence of bribery or another offense under the Revised Code or a purpose to defraud, contributions made to a campaign committee, political party, legislative campaign fund, political action committee, or political contributing entity on behalf of an elected public officer or other public official or employee who seeks elective office shall be considered to accrue ordinarily to the public official or employee for the purposes of divisions (D), (E), and (F) of this section.

As used in this division, "contributions," "campaign committee," "political party," "legislative campaign fund," "political action committee," and "political contributing entity" have the same meanings as in section 3517.01 of the Revised Code.

(H)(1) No public official or employee, except for the president or other chief administrative officer of or a member of a board of trustees of a state institution of higher education as defined in section 3345.011 of the Revised Code, who is required to file a financial disclosure statement under section 102.02 of the Revised Code shall solicit or accept, and no person shall give to that public official or employee, an honorarium. Except as provided in division (H)(2) of this section, this division and divisions (D), (E), and (F) of this section do not prohibit a public official or employee who is required to file a financial disclosure statement under section 102.02 of the Revised Code from accepting and do not prohibit a person from giving to that public official or employee the payment of actual travel expenses, including any expenses incurred in connection with the travel for lodging, and meals, food, and beverages provided to the public official or employee at a meeting at which the public official or employee participates in a panel, seminar, or speaking engagement or provided to the public official or employee at a meeting or convention of a national organization to which any state agency, including, but not limited to, any state legislative agency or state institution of higher education as defined in

section 3345.011 of the Revised Code, pays membership dues. Except as provided in division (H)(2) of this section, this division and divisions (D), (E), and (F) of this section do not prohibit a public official or employee who is not required to file a financial disclosure statement under section 102.02 of the Revised Code from accepting and do not prohibit a person from promising or giving to that public official or employee an honorarium or the payment of travel, meal, and lodging expenses if the honorarium, expenses, or both were paid in recognition of demonstrable business, professional, or esthetic interests of the public official or employee that exist apart from public office or employment, including, but not limited to, such a demonstrable interest in public speaking and were not paid by any person or other entity, or by any representative or association of those persons or entities, that is regulated by, doing business with, or seeking to do business with the department, division, institution, board, commission, authority, bureau, or other instrumentality of the governmental entity with which the public official or employee serves.

(2) No person who is a member of the board of a state retirement system, a state retirement system investment officer, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds shall solicit or accept, and no person shall give to that board member, officer, or employee, payment of actual travel expenses, including expenses incurred with the travel for lodging, meals, food, and beverages.

(I) A public official or employee may accept travel, meals, and lodging or expenses or reimbursement of expenses for travel, meals, and lodging in connection with conferences, seminars, and similar events related to official duties if the travel, meals, and lodging, expenses, or reimbursement is not of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties. The house of representatives and senate, in their code of ethics, and the Ohio ethics commission, under section 111.15 of the Revised Code, may adopt rules setting standards and conditions for the furnishing and acceptance of such travel, meals, and lodging, expenses, or reimbursement.

A person who acts in compliance with this division and any applicable rules adopted under it, or any applicable, similar rules adopted by the supreme court governing judicial officers and employees, does not violate division (D), (E), or (F) of this section. This division does not preclude any person from seeking an advisory opinion from the appropriate ethics commission under section 102.08 of the Revised Code.

(J) For purposes of divisions (D), (E), and (F) of this section, the membership of a public official or employee in an organization shall not be considered, in and of itself, to be of such a character as to manifest a substantial and improper influence on the public official or employee with respect to that person's duties. As used in this division, "organization" means a church or a religious, benevolent, fraternal, or professional organization that is tax exempt under subsection 501(a) and described in subsection 501(c) (3), (4), (8), (10), or (19) of the "Internal Revenue Code of 1986." This division does not apply to a public official or employee who is an employee of an organization, serves as a trustee, director, or officer of an organization, or otherwise holds a fiduciary relationship with an organization. This division does not allow a public official or employee who is a member of an organization to participate, formally or informally, in deliberations, discussions, or voting on a matter or to use his official position with regard to the interests of the organization on the matter if the public official or employee has assumed a particular responsibility in the organization with respect to the matter or if the matter would affect that person's personal, pecuniary interests.

(K) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with division (B) of section 309.06 and section 2921.421 of the Revised Code, for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with sections 733.621 and 2921.421 of the Revised Code, for a township law director appointed under section 504.15 of the Revised Code to appoint assistants and employees in accordance with sections 504.151 and 2921.421 of the Revised Code, or for a coroner to appoint assistants and employees in accordance with division (B) of section 313.05 of the Revised Code.

As used in this division, "chief legal officer" has the same meaning as in section 733.621 of the Revised Code.

Sec. 102.031

(A) As used in this section:

(1) "Business associate" means a person with whom a member of the general assembly is conducting or undertaking a financial transaction.

(2) "Contribution" has the same meaning as in section 3517.01 of the Revised Code.

(3) "Employee" does not include a member of the general assembly whose nonlegislative position of employment does not involve the performance of or the authority to perform administrative or supervisory functions; or whose nonlegislative position of employment, if the member is a public employee, does not involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or execution of other public trusts.

(B) No member of the general assembly shall vote on any legislation that the member knows is then being actively advocated if the member is one of the following with respect to a legislative agent or employer that is then actively advocating on that legislation:

(1) An employee;

(2) A business associate;

(3) A person, other than an employee, who is hired under contract to perform certain services, and that position involves a substantial and material exercise of administrative discretion in the formulation of public policy.

(C) No member of the general assembly shall knowingly accept any of the following from a legislative agent or a person required to file a statement described in division (A)(2) of section 102.021 of the Revised Code:

(1) The payment of any expenses for travel or lodging except as otherwise authorized by division (H) of section 102.03 of the Revised Code;

(2) More than seventy-five dollars aggregated per calendar year as payment for meals and other food and beverages, other than for those meals and other food and beverages provided to the member at a meeting at which the member participates in a panel, seminar, or speaking engagement, at a meeting or convention of a national organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or at a dinner, party, or function to which all members of the general assembly or all members of either house of the general assembly are invited;

(3) A gift of any amount in the form of cash or the equivalent of cash, or a gift of any other thing of value whose value exceeds seventy-five dollars. As used in division (C)(3) of this section, "gift" does not include any contribution or any gifts of meals and other food and beverages or the payment of expenses incurred for travel to destinations either inside or outside this state that is received by a member of the general assembly and that is incurred in connection with the member's official duties.

(D) It is not a violation of division (C)(2) of this section if, within sixty days after receiving notice from a legislative agent that the legislative agent has provided a member of the general assembly with more than seventy-five dollars aggregated in a calendar year as payment for meals and other food and beverages, the member of the general assembly returns to that legislative agent the amount received that exceeds seventy-five dollars.

(E) The joint legislative ethics committee may impose a fine of not more than one thousand dollars upon a member of the general assembly who violates division (B) of this section.

Section 102.04

(A) Except as provided in division (D) of this section, no person elected or appointed to an office or employed by the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts, shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter that is before the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts.

(B) Except as provided in division (D) of this section, no person elected or appointed to an office or employed by the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts, shall 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.

(C) Except as provided in division (D) of this section, no person who is elected or appointed to an office of or employed by a county, township, municipal corporation, or any other governmental entity, excluding the courts, shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is before any agency, department, board, bureau, commission, or other instrumentality, excluding the courts, of the entity of which he is an officer or employee.

(D) A public official who is appointed to a nonelective office or a public employee shall be exempted from division (A), (B), or (C) of this section if both of the following apply:

(1) The agency to which the official or employee wants to sell the goods or services, or before which the matter that involves the rendering of his services is pending, is an agency other than the one with which he serves;

(2) Prior to rendering the personal services or selling or agreeing to sell the goods or services, he files a statement with the appropriate ethics commission, with the public agency with which he serves, and with the public agency before which the matter is pending or that is purchasing or has agreed to purchase goods or services.

The required statement shall contain the official's or employee's name and home address, the name and mailing address of the public agencies with which he serves and before which the matter is pending or that is purchasing or has agreed to purchase goods or services, and a brief description of the pending matter and of the personal services to be rendered or a brief description of the goods or services to be purchased. The statement shall also contain the public official's or employee's declaration that he disqualifies himself for a period of two years from any participation as such public official or employee in any matter involving any public official or employee of the agency before which the present matter is pending or to which goods or services are to be sold. The two-year period shall run from the date of the most recently filed statement regarding the agency before which the matter was pending or to which the goods or services were to be sold. No person shall be required to file statements under this division with the same public agency regarding a particular matter more than once in a calendar year.

(E) No public official or employee who files a statement or is required to file a statement under division (D) of this section shall knowingly fail to disqualify himself from any participation as a public official or employee of the agency with which he serves in any matter involving any official or employee of an agency before which a matter for which he rendered personal services was pending or of a public agency that purchased or agreed to purchase goods or services.

(F) This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

Section 102.05

There is hereby created the Ohio ethics commission consisting of six members, three of whom shall be members of each of the two major political parties, to be appointed by the governor with the advice and consent of the senate. Within thirty days of the effective date of this section, the governor shall make initial appointments to the commission. Of the initial appointments made to the commission, one shall be for a term ending one year after the effective date of this section, and the other appointments shall be for terms ending two, three, four, five, and six years, respectively, after the effective date of this section. Thereafter, terms of office shall be for six years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of his appointment until the end of the term for which he was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall hold office for the remainder of that term.

No person shall be appointed to the commission or shall continue to serve as a member of the commission if the person is subject to section 102.02 of the Revised Code other than by reason of his appointment to the commission or if the person is a legislative agent registered under sections 101.70 to 101.79 of the Revised Code or an executive agency lobbyist registered under sections 121.60 to 121.69 of the Revised Code. Each member shall be paid seventy-five dollars for each meeting held in the discharge of his official duties, except that no member shall be paid more than eighteen hundred dollars in any fiscal year. Each member shall be reimbursed for expenses actually and necessarily incurred in the performance of his official duties.

The commission shall meet within two weeks after all members have been appointed, at a time and place determined by the governor. At its first meeting, the commission shall elect a chairman and other officers that are necessary and shall adopt rules for its procedures. After the first meeting, the commission shall meet at the call of the chairman or upon the written request of a majority of the members. A majority of the members of the commission constitutes a quorum. The commission shall not take any action without the concurrence of a majority of the members of the commission.

The commission may appoint and fix the compensation of an executive director and other technical, professional, and clerical employees that are necessary to carry out the duties of the commission.

The commission may appoint hearing examiners to conduct hearings pursuant to section 102.06 of the Revised Code. The hearing examiners have the same powers and authority in conducting the hearings as is granted to the commission. Within thirty days after the hearing, the hearing examiner shall submit to the commission a written report of his findings of fact and conclusions of law and a recommendation of the action to be taken by the commission. The recommendation of the hearing examiner may be approved, modified, or disapproved by the commission, and no recommendation shall become the findings of the commission until so ordered by the commission. The findings of the commission shall have the same effect as if the hearing had been conducted by the commission. Hearing examiners appointed pursuant to this section shall possess the qualifications the commission requires. Nothing contained in this section shall preclude the commission from appointing a member of the commission to serve as a hearing examiner.

Section 102.06

(A) The appropriate ethics commission shall receive and may initiate complaints against persons subject to this chapter concerning conduct alleged to be in violation of this chapter or section 2921.42 or 2921.43 of the Revised Code. All complaints except those by the commission shall be by affidavit made on personal knowledge, subject to the penalties of perjury. Complaints by the commission shall be by affidavit, based upon reasonable cause to believe that a violation has occurred.

(B) The appropriate ethics commission shall investigate complaints, may investigate charges presented to it, and may request further information, including the specific amount of income from a source, from any person filing with the commission a statement required by section 102.02 or 102.021 of the Revised Code, if the information sought is directly relevant to a complaint or charges received by the commission pursuant to this section. This information is confidential, except that the commission, in its discretion, may share information gathered in the course of any investigation with, or disclose the information to, the inspector general, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate ethics commission. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, or is a voting member of the workers' compensation oversight commission the appropriate ethics commission, in its discretion, also may share information gathered in the course of an investigation with, or disclose the information to, the attorney general and the auditor of state. The person so requested shall furnish the information to the commission, unless within fifteen days from the date of the request the person files an action for declaratory judgment challenging the legitimacy of the request in the court of common pleas of the county of the person's residence, the person's place of employment, or Franklin county. The requested information need not be furnished to the commission during the pendency of the judicial proceedings. Proceedings of the commission in connection with the declaratory judgment action shall be kept confidential except as otherwise provided by this section. Before the commission proceeds to take any formal action against a person who is the subject of an investigation based on charges presented to the commission, a complaint shall be filed against the person. If the commission finds that a complaint is not frivolous, and there is reasonable cause to believe that the facts alleged in a complaint constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall hold a hearing. If the commission does not so find, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of its finding. The person against whom the complaint is directed shall be given reasonable notice by certified mail of the date, time, and place of the hearing and a statement of the charges and the law directly involved, and shall be given the opportunity to be represented by counsel, to have counsel appointed for the person if the person is

unable to afford counsel without undue hardship, to examine the evidence against the person, to produce evidence and to call and subpoena witnesses in the person's defense, to confront the person's accusers, and to cross-examine witnesses. The commission shall have a stenographic record made of the hearing. The hearing shall be closed to the public.

(C)(1)(a) If, upon the basis of the hearing, the appropriate ethics commission finds by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall report its findings to the appropriate prosecuting authority for proceedings in prosecution of the violation and to the appointing or employing authority of the accused. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, the commission shall also report its findings to the Ohio retirement study council.

(b) If the Ohio ethics commission reports its findings to the appropriate prosecuting authority under division (C)(1)(a) of this section and the prosecuting authority has not initiated any official action on those findings within ninety days after receiving the commission's report of them, the commission may publicly comment that no official action has been taken on its findings, except that the commission shall make no comment in violation of the Rules of Criminal Procedure or about any indictment that has been sealed pursuant to any law or those rules. The commission shall make no comment regarding the merits of its findings. As used in division (C)(1)(b) of this section, "official action" means prosecution, closure after investigation, or grand jury action resulting in a true bill of indictment or no true bill of indictment.

(2) If the appropriate ethics commission does not find by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code or if the commission has not scheduled a hearing within ninety days after the complaint is filed or has not finally disposed of the complaint within six months after it has been heard, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of the finding, but in this case all evidence and the record of the hearing shall remain confidential unless the accused person also requests that the evidence and record be made public. Upon request by the accused person, the commission shall make the evidence and the record available for public inspection.

(D) The appropriate ethics commission, or a member of the commission, may administer oaths, and the commission may issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and records. The commission shall issue subpoenas to compel the attendance of witnesses and the production of documents upon the request of an accused person. Section 101.42 of the Revised Code shall govern the issuance of these subpoenas insofar as applicable. Upon the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold proceedings in accordance with Chapter 2705. of the Revised Code. The commission or the accused person may take the depositions of witnesses residing within or without the state in the same manner as prescribed by law for the taking of depositions in civil actions in the court of common pleas.

(E) At least once each year, the Ohio ethics commission shall report on its activities of the immediately preceding year to the majority and minority leaders of the senate and house of representatives of the general assembly. The report shall indicate the total number of complaints received, initiated, and investigated by the commission, the total number of complaints for which formal hearings were held, and the total number of complaints for which formal prosecution was recommended or requested by the commission. The report also shall indicate the nature of the inappropriate conduct alleged in each complaint and the governmental entity with which any employee or official that is the subject of a complaint was employed at the time of the alleged inappropriate conduct.

(F) All papers, records, affidavits, and documents upon any complaint, inquiry, or investigation relating to the proceedings of the appropriate ethics commission shall be sealed and are private and confidential, except as otherwise provided in this section and section 102.07 of the Revised Code.

(G)(1) When a complaint or charge is before it, the Ohio ethics commission or the appropriate prosecuting authority, in consultation with the person filing the complaint or charge, the accused, and any other person the commission or prosecuting authority considers necessary, may compromise or settle the complaint or

charge with the agreement of the accused. The compromise or settlement may include mediation, restitution, rescission of affected contracts, forfeiture of any benefits resulting from a violation or potential violation of law, resignation of a public official or employee, or any other relief that is agreed upon between the commission or prosecuting authority and the accused.

(2) Any settlement agreement entered into under division (G)(1) of this section shall be in writing and be accompanied by a statement of the findings of the commission or prosecuting authority and the reasons for entering into the agreement. The commission or prosecuting authority shall retain the agreement and statement in the commission's or prosecuting authority's office and, in the commission's or prosecuting authority's discretion, may make the agreement, the statement, and any supporting information public, unless the agreement provides otherwise.

(3) If a settlement agreement is breached by the accused, the commission or prosecuting authority, in the commission's or prosecuting authority's discretion, may rescind the agreement and reinstitute any investigation, hearing, or prosecution of the accused. No information obtained from the accused in reaching the settlement that is not otherwise discoverable from the accused shall be used in any proceeding before the commission or by the appropriate prosecuting authority in prosecuting the violation. Notwithstanding any other section of the Revised Code, if a settlement agreement is breached, any statute of limitations for a violation of this chapter or section 2921.42 or 2921.43 of the Revised Code is tolled from the date the complaint or charge is filed until the date the settlement agreement is breached.

Section 102.07

No member, employee, or agent of the Ohio ethics commission, board of commissioners on grievances and discipline of the supreme court, or joint legislative ethics committee shall divulge any information or any books, papers, or documents presented to the commission, joint legislative ethics committee, or board of commissioners on grievances and discipline without the consent, in writing, of the appropriate ethics commission, unless such books, papers, or documents were presented at a public hearing, except as provided in section 102.06 of the Revised Code.

No person shall divulge information that appears on a disclosure statement and is required to be kept confidential under division (B) of section 102.02 of the Revised Code.

Section 102.08*

* *See also following version of this section and explanation after that version.*

(A)(1) Subject to division (A)(2) of this section, the board of commissioners on grievances and discipline of the supreme court and the house and senate legislative ethics committees may recommend legislation relating to ethics, conflicts of interest, and financial disclosure and shall render advisory opinions with regard to questions concerning these matters for persons for whom it is the appropriate ethics commission. When the appropriate ethics commission renders an advisory opinion relating to a special set of circumstances involving ethics, conflict of interest, or financial disclosure under Chapter 102. or section 2921.42 or 2921.43 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonably rely upon the opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code based on facts and circumstances covered by the opinion, if the opinion states there is no violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code. Except as otherwise provided in division (A)(2) of this section, the appropriate ethics commission shall include in every advisory opinion it renders a statement as to whether the set of circumstances described in the opinion constitutes a violation of section 2921.42 or 2921.43 of the Revised Code. The appropriate ethics commission shall provide a continuing program of education and information concerning the provisions of Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and other provisions of law pertaining to ethics, conflicts of interest, and financial disclosure. As used in division (A) of this section, "appropriate ethics commission" does not include the Ohio ethics commission.

(2) The board of commissioners on grievances and discipline of the supreme court shall issue advisory opinions only in a manner consistent with Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.

(B) The Ohio ethics commission may recommend legislation relating to ethics, conflicts of interest, and financial disclosure and may render advice with regard to questions concerning these matters for persons for whom it is the appropriate ethics commission. When the Ohio ethics commission renders a written formal or staff advisory opinion relating to a special set of circumstances involving ethics, conflict of interest, or financial disclosure under Chapter 102. or section 2921.42 or 2921.43 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonably rely upon the opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code based on facts and circumstances covered by the opinion, if the opinion states there is no violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code. The commission shall provide a continuing program of education and information concerning the provisions of Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and other provisions of law pertaining to ethics, conflicts of interest, and financial disclosure. [Am. Sub. H.B. 285, effective 03-02-94.]

Section 102.08*

* *See also preceding version of this section and explanation below.*

(A) The Ohio ethics commission, the board of commissioners on grievances and discipline of the supreme court, and the joint legislative ethics committee may recommend legislation relating to ethics, conflicts of interest, and financial disclosure, and render advisory opinions with regard to questions concerning these matters for persons for whom it is the appropriate ethics commission.

(B) When the Ohio ethics commission or the board of commissioners on grievances and discipline of the supreme court renders an advisory opinion relating to a special set of circumstances involving ethics, conflict of interest, or financial disclosure under Chapter 102., section 2921.42, or section 2921.43 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonably rely upon such opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code based on facts and circumstances covered by the opinion, if the opinion states there is no violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code.

(C) When the joint legislative ethics committee renders an advisory opinion that has been publicly sought and that relates to a special set of circumstances involving ethics, conflicts of interest, or financial disclosure under Chapter 102. or section 2921.42 or 2921.43 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonable rely upon such opinion and shall be immune from criminal prosecutions; civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code based on the facts and circumstances covered by the opinion, if the opinion states that there is no violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code. When the joint legislative ethics committee renders an advisory opinion that has been publicly sought, the advisory opinion is a public record available under section 149.43 of the Revised Code.

(D) When the joint legislative ethics committee renders a written opinion that has been privately sought and that relates to a special set of circumstances involving ethics, conflicts of interest, or financial disclosure under Chapter 102. or section 2921.42 or 2921.43 of the Revised Code, the written opinion does not have the legal effect of an advisory opinion issued under division (C) of this section. When the joint legislative ethics committee renders a written opinion that has been privately sought, the written opinion is not a public record available under section 149.43 of the Revised Code. The proceedings of the legislative ethics committee relating to a written opinion that has been privately sought shall be closed to the public and records relating to these proceedings are not public records available under section 149.43 of the Revised Code.

The person to whom a written opinion is issued under this division may request the committee to issue the written opinion as an advisory opinion. Upon receiving such a request and with the approval of a majority of the members of the committee, the committee may issue the written opinion as an advisory opinion. If the

committee issues the written opinion as an advisory opinion, the advisory opinion has the same legal effect as an advisory opinion issued under division (C) of this section and is a public record available under section 149.43 of the Revised Code.

(E) The joint legislative ethics committee shall issue an advisory opinion under division (C) of this section or a written opinion under division (D) of this section, whether it is publicly or privately sought, only at a meeting of the committee and only with the approval of a majority of the members of the committee.

(F) The appropriate ethics commission shall provide a continuing program of education and information concerning the provisions of Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and other provisions of law pertaining to ethics, conflicts of interest, and financial disclosure. [Am. Sub. H.B. 492, effective 05-12-94.]

** R.C. 102.08 was amended by Am. Sub. H.B. 285 (eff. 03-02-94) and Am. Sub. H.B. 492 (eff. 05-12-94). Harmonization pursuant to R.C. 1.52 is in question. Both versions are presented here.*

Section 102.09

(A) The secretary of state and the county board of elections shall furnish, to each candidate for elective office who is required to file a financial disclosure statement by section 102.02 of the Revised Code, a financial disclosure form, and shall notify the appropriate ethics commission, within fifteen days of the name of the candidate, and of the subsequent withdrawal, disqualification, or death of the candidate. The candidate shall acknowledge receipt of the financial disclosure form in writing.

(B) The secretary of state and the county board of elections shall furnish to each person who is appointed to fill a vacancy for an unexpired term in an elective office, and who is required to file a financial disclosure statement by section 102.02 of the Revised Code, a financial disclosure form, and shall notify the appropriate ethics commission within fifteen days of being notified by the appointing authority, of the name and position of the public official and the date of appointment. The person shall acknowledge receipt of the financial disclosure form in writing.

(C) The public agency or appointing authority that employs, appoints, or promotes any public official or employee who, as a result of such employment, appointment, or promotion, is required to file a financial disclosure statement by section 102.02 of the Revised Code, shall, within fifteen days of the employment, appointment, or promotion, furnish the public official or employee with a financial disclosure form, and shall notify the appropriate ethics commission of the name and position of the public official or employee and the date of employment, appointment, or promotion. The public official or employee shall acknowledge receipt of the financial disclosure form in writing.

(D) Within fifteen days after any public official or employee begins the performance of official duties, the public agency with which the official or employee serves or the appointing authority shall furnish the official or employee a copy of Chapter 102. and section 2921.42 of the Revised Code, and may furnish such other materials as the appropriate ethics commission prepares for distribution. The official or employee shall acknowledge their receipt in writing. The requirements of this division do not apply at the time of reappointment or reelection.

Section 102.99

(A) Whoever violates division (C) of section 102.02 or division (C) of section 102.031 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates division (D) of section 102.02 or section 102.021, 102.03, 102.04, or 102.07 of the Revised Code is guilty of a misdemeanor of the first degree.

CHAPTER 2921.

Section 2921.01 As used in sections 2921.01 to 2921.45 of the Revised Code:

(A) "Public official" means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers.

(B) "Public servant" means any of the following:

(1) Any public official;

(2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor, or consultant;

(3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this division if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general, or special election, or if the person campaigns as a write-in candidate in any primary, general, or special election.

(C) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

(D) "Official proceeding" means any proceeding before a legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath and includes any proceeding before a referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with an official proceeding.

(E) "Detention" means arrest; confinement in any vehicle subsequent to an arrest; confinement in any public or private facility for custody of persons charged with or convicted of crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States; hospitalization, institutionalization, or confinement in any public or private facility that is ordered pursuant to or under the authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as provided in this division, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; supervision by an employee of the department of rehabilitation and correction of a person on any type of release from a state correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this state by a private person or entity, pursuant to a contract entered into under division (E) of section 311.29 of the Revised Code or division (B) of section 5149.03 of the Revised Code. For a person confined in a county jail who participates in a county jail industry program pursuant to section 5147.30 of the Revised Code, "detention" includes time spent at an assigned work site and going to and from the work site.

(F) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

(G) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.

(H) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," "political party," and "political contributing entity" have the same meanings as in section 3517.01 of the Revised Code.

(I) "Provider agreement" and "medical assistance program" have the same meanings as in section 2913.40 of the Revised Code.

Sec. 2921.42.

(A) No public official shall knowingly do any of the following:

(1) Authorize, or employ the authority or influence of the public official's office to secure authorization of any public contract in which the public official, a member of the public official's family, or any of the public official's business associates has an interest;

(2) Authorize, or employ the authority or influence of the public official's office to secure the investment of public funds in any share, bond, mortgage, or other security, with respect to which the public official, a member of the public official's family, or any of the public official's business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees;

(3) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission, or board of which the public official was a member at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder;

(4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which the public official is connected;

(5) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law and that involves more than one hundred fifty dollars.

(B) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family, or any of a public official's business associates shall not be considered as having an interest in a public contract or the investment of public funds, if all of the following apply:

(1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization, that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;

(2) The shares owned or controlled by that person do not exceed five per cent of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five per cent of the total indebtedness of the corporation or other organization;

(3) That person, prior to the time the public contract is entered into, files with the political subdivision or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.

(C) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates has an interest, when all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved;

(2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision or governmental agency or instrumentality involved;

(3) The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;

(4) The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family, or business associate, and the public official takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract.

(D) Division (A)(4) of this section does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

(E) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of division (A)(1) or (2) of this section is a felony of the fourth degree. Violation of division (A)(3), (4), or (5) of this section is a misdemeanor of the first degree.

(F) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with sections 309.06 and 2921.421 of the Revised Code, for a chief legal officer of a municipal

corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with sections 733.621 and 2921.421 of the Revised Code, or for a township law director appointed under section 504.15 of the Revised Code to appoint assistants and employees in accordance with sections 504.151 and 2921.421 of the Revised Code.

(G) This section does not apply to a public contract in which a township trustee in a township with a population of five thousand or less in its unincorporated area, a member of the township trustee's family, or one of the township trustee's business associates has an interest, if all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the township and the amount of the contract is less than five thousand dollars per year;

(2) The supplies or services are being furnished to the township as part of a continuing course of dealing established before the township trustee held that office with the township;

(3) The treatment accorded the township is either preferential to or the same as that accorded other customers or clients in similar transactions;

(4) The entire transaction is conducted with full knowledge by the township of the interest of the township trustee, member of the township trustee's family, or the township trustee's business associate.

(H) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.

(I) As used in this section:

(1) "Public contract" means any of the following:

(a) 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;

(b) A contract for the design, construction, alteration, repair, or maintenance of any public property.

(2) "Chief legal officer" has the same meaning as in section 733.621 of the Revised Code.

Sec. 2921.421

(A) As used in this section:

(1) "Chief legal officer" has the same meaning as in section 733.621 of the Revised Code.

(2) "Political subdivision" means a county, a municipal corporation, or a township that adopts a limited home rule government under Chapter 504. of the Revised Code.

(B) A prosecuting attorney may appoint assistants and employees, except a member of the family of the prosecuting attorney, in accordance with division (B) of section 309.06 of the Revised Code, a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation may appoint assistants and employees, except a member of the family of the chief legal officer or official designated as prosecutor, in accordance with section 733.621 of the Revised Code, and a township law director appointed under section 504.15 of the Revised Code may appoint assistants and employees, except a member of the family of the township law director, in accordance with section 504.151 of the Revised Code, if all of the following apply:

(1) The services to be furnished by the appointee or employee are necessary services for the political subdivision or are authorized by the legislative authority, governing board, or other contracting authority of the political subdivision.

(2) The treatment accorded the political subdivision is either preferential to or the same as that accorded other clients or customers of the appointee or employee in similar transactions, or the legislative authority, governing board, or other contracting authority of the political subdivision, in its sole discretion, determines that the compensation and other terms of appointment or employment of the appointee or employee are fair and reasonable to the political subdivision.

(3) The appointment or employment is made after prior written disclosure to the legislative authority, governing board, or other contracting authority of the political subdivision of the business relationship between the prosecuting attorney, the chief legal officer or official designated as prosecutor in a municipal corporation, or the township law director and the appointee or employee thereof. In the case of a municipal corporation, the disclosure may be made or evidenced in an ordinance, resolution, or other document that does either or both of the following:

(a) Authorizes the furnishing of services as required under division (B)(1) of this section;

(b) Determines that the compensation and other terms of appointment or employment of the appointee or employee are fair and reasonable to the political subdivision as required under division (B)(2) of this section.

(4) The prosecuting attorney, the elected chief legal officer, or the township law director does not receive any distributive share or other portion, in whole or in part, of the earnings of the business associate, partner, or employee paid by the political subdivision to the business associate, partner, or employee for services rendered for the political subdivision.

(C) It is not a violation of this section or of section 102.03 or 2921.42 of the Revised Code for the legislative authority, the governing board, or other contracting authority of a political subdivision to engage the services of any firm that practices the profession of law upon the terms approved by the legislative authority, the governing board, or the contracting authority, or to designate any partner, officer, or employee of that firm as a nonelected public official or employee of the political subdivision, whether the public office or position of employment is created by statute, charter, ordinance, resolution, or other legislative or administrative action.

Section 2921.43

(A) No public servant shall knowingly solicit or accept, and no person shall knowingly promise or give to a public servant, either of the following:

(1) Any compensation, other than as allowed by divisions (G), (H), and (I) of section 102.03 of the Revised Code or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

(2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

(B) No public servant for the public servant's own personal or business use, and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

(1) Appointing or securing, maintaining, or renewing the appointment of any person to any public office, employment, or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion, or other material aspects of employment.

(C) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity shall coerce any contribution in consideration of either of the following:

(1) Appointing or securing, maintaining, or renewing the appointment of any person to any public office, employment, or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion, or other material aspects of employment.

(D) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(E) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment, or position of trust in this state for a period of seven years from the date of conviction.

(F) Divisions (A), (B), and (C) of this section do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity, from accepting voluntary contributions.

**FOR MORE INFORMATION, OR ADDITIONAL MATERIALS ON THE OHIO ETHICS
LAW, PLEASE CONTACT:**

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[Rev. 6/10]

PROPOSED CUYAHOGA COUNTY CODE OF ETHICS

-- revised and approved 10/01/2010, Code of Ethics Workgroup

We, the Code of Ethics Workgroup, citizens of Cuyahoga County charged by the Cuyahoga County Transition Advisory Group Executive Committee with preparing the way for a new era of responsible ethical government in Cuyahoga County, respectfully submit the following recommendations to the Cuyahoga County Council

We urge the adoption of these recommendations, in order to assure a mechanism for all persons participating in and contracting with, and otherwise doing business with our County to ascertain clear, understandable, ethical standards and to comply with those standards. We further urge the adoption of the recommendations for ongoing education with respect to those standards, disclosure mechanisms to facilitate transparency in the operations of government, and protection of whistleblowers to encourage openness in reporting from within government operations. We consider essential to the purposes of our charge, and therefore recommend the establishment of an independent Board of Ethics to advise, investigate, and seek prosecution of those who would undermine good government by conduct at variance with the standards set forth here.

In fulfillment of our charge we submit and urge the adoption of the following Cuyahoga County Code of Ethics.

-- Code of Ethics Workgroup
Members and Friends of the League of Women Voters

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ARTICLE I: PREAMBLE

Residents of Cuyahoga County have the right to expect the highest ethical behavior from the County's elected and appointed officials and employees. Ethical behavior requires that County officials and employees, as stewards of the common good, must be honest, impartial and responsible to the people. This Code shall serve not only as a basis for discipline, but also and more importantly, as a guide to nurture and sustain an ethical culture.

To meet these expectations, ethical officials and employees of Cuyahoga County will:

- Perform their duties with transparency, competence and impartiality;
- Comply faithfully with all laws and regulations applicable to the County;
- Promote decisions that benefit public interest, not private advantage;
- Keep safe all funds and properties of the County;
- Inspire public confidence in County government;
- Promote a work environment free of discrimination and distress;
- Aim for the best product for the lowest cost without sacrificing quality and fiscal responsibility;
- Show civility and respect in all dealings with colleagues, associates and the public;
- Collaborate with public agencies, local governments and other organizations to further the interests of the County;
- Avoid outside interests incompatible with the proper and lawful discharge of duty;
- Reject favoritism and all attempts to influence County decisions unfairly.

The County Council of Cuyahoga County, recognizing that representative government depends upon maintaining the trust of its citizens, does hereby enact the following Code of Ethics to ensure the highest standards of conduct for themselves, all elected and appointed officials, and all County employees. All such persons shall be well informed of their responsibilities toward that end.

ARTICLE II: GENERAL PROVISIONS

A. DEFINITIONS

All definitions pertaining to this Code are found in Article VI.

B. COVERED PERSONS

The provisions of this Code of Ethics shall apply to all elected and appointed officials and all employees of Cuyahoga County, its administrative departments, agencies, boards and commissions, including the providers of all County adjunct judicial services. In addition, parts of this Code shall also govern lobbyists, contractors and others who seek to influence or do business with the County. This Code of Ethics does not govern the conduct of the Courts of Common Pleas and Appeals which, together with all of their employees, remain covered by the Ohio Ethics Law for the State Judiciary.

C. RELATIONSHIP TO OHIO LAW

Cuyahoga County continues to be governed by existing Ohio Ethics Law and guided by the Ohio Ethics Commission, and it is the intention of this Code to reinforce rather than to replace that principled oversight. That body of law is a guide to the conduct of all covered persons. It is incorporated and restated herein for reference, and should be updated whenever those laws are amended.

D. MINIMUM STANDARD

This countywide Code of Ethics shall constitute a minimum standard for ethical conduct and practices in Cuyahoga County government. Other offices, departments or agencies may impose rules in addition to those enumerated here,

including but not limited to the provisions of this Code. If the provisions of this Code conflict with any other County ordinance, regulation or rule, this Code shall control.

E. ESTABLISHMENT OF A COUNTY ETHICS BOARD

The County Council hereby establishes the Cuyahoga County Ethics Board, which shall be scrupulously independent and shall be guaranteed sufficient resources to assure compliance with County ethics provisions, vigorously educate all covered persons, investigate and act upon complaints, render advice, maintain records and monitor necessary technology for transparency. [See Article V]

F. SEVERABILITY

The various provisions of this Code of Ethics are intended to be severable, and the validity or invalidity of one or more such provisions shall not affect the validity of the remaining provisions.

G. AMENDMENT

The County Council, as initiated by its own members, by citizens or by the County Executive, or as recommended by the County Ethics Board, may amend any provision of this Code of Ethics which is not otherwise mandated by the Ohio Revised Code [hereafter, ORC] or the Charter of Cuyahoga County.

ARTICLE III: PROHIBITED CONDUCT

A. PENALTIES

1. **Violations of Ohio Law.** Except as otherwise noted or as later amended, violation of an Ohio statute by engaging in prohibited conduct as detailed in this section constitutes a first-degree misdemeanor, punishable by up to six months in prison and a fine of up to \$1000. [ORC 102.099(A) and (B); ORC 2929.21 to .28]
2. **Violations of County Ordinance.** Covered persons who engage in conduct prohibited by this Cuyahoga County Code of Ethics shall be subject to prosecution and liable for penalties set force in Article V.C.5 of this Code.

B. MISUSE OF OFFICIAL POSITION

1. **Misuse of Official Position.** No covered persons, either during or for one year after County service, shall use their County positions to advocate before their agencies for their own financial interest or for that of clients, family members or business associates. [ORC 102.03(A)]
2. **Misuse of Confidential Information.** No covered persons, either during or at any time after County service, shall divulge without authorization any confidential information which has been officially so designated as essential to the proper conduct of County business. [ORC 102.03(B)]
3. **Misuse of Authority to Secure Anything of Value.** No covered persons shall use their authority to secure anything of value which could improperly influence the discharge of official duties. [ORC 102.03(D)]
4. **Misuse of County Resources.** No covered persons shall use, request, or permit the private use of County resources, including but not limited to motor vehicles, equipment and supplies. Printing, mailing or electronic communicating of personal or political material is likewise prohibited.
5. **Nepotism, Patronage.** No covered persons shall participate in any employment decisions involving family members or business associates. Nor shall they provide unsolicited recommendations for jobs or contract awards to family members or business associates seeking to do business with the County or to influence its actions.

C. GIFTS AND HONORARIA

1. **Soliciting or Accepting Anything of Value.** No covered persons shall solicit or accept anything of value for themselves or family members -- including money, goods, hospitality, property, services, campaign contributions or promise of employment -- which could improperly influence the discharge of official duties. [ORC 102.03(E), (F) and (G)]
2. **Gifts from Prohibited Sources.** No prohibited sources shall give or promise anything of value to county officials or employees or their family members. [See IV.D.3] [ORC 102.03(E) and (F)]
3. **Accepting Honoraria.** No covered persons who are required to file financial disclosure forms shall solicit or accept honoraria, except for actual travel expenses or for recognition unrelated to their County office or position. [ORC 102.03(H)(1)]

D. UNLAWFUL INTEREST IN CONTRACTS

1. **Conflict of Interest in County Contracts.** No covered persons shall authorize or use their influence to authorize any contract in which they, their family members or business associates have an interest. This includes employment contracts. Violation of this law constitutes a fourth-degree felony, punishable by a sentence of between six and eighteen months and/or a fine of up to \$5,000. [ORC 2921.42(A)(1) and (E)]
2. **Profit or Gain from County Contracts.** No covered persons shall have interests in any contracts awarded by their agency, unless competitively bid and awarded to the lowest bidder. Exempted from this prohibition are no-bid contracts for less than \$150 which are not required by law to be opened to competitive bidding. See ORC 2921.42 (B) for other exceptions to this law. [ORC 2921.42(A)(4) and (5)]
3. **Voiding of Tainted Contracts or Investments.** Any contract or investment in which covered persons, their family members or business associates are found to have had an improper interest shall be void and unenforceable. [ORC 2921.42(H)]

E. OTHER CONFLICTS OF INTEREST

1. **County Investments.** No covered persons shall authorize or use their influence to authorize the investment of County funds in any security in which they, their family members or business associates have an interest or receive fees. Violation of this law constitutes a fourth degree felony, punishable by a sentence of between six and eighteen months and/or a fine of up to \$5,000. [ORC 2921.42(A)(2) and (E)]
2. **Outside Employment.** No covered persons, either during or for one year after service, shall hold any position of profit in any entity seeking a no-bid contract with a County agency on which they currently or previously served. [ORC 2921.42(A)(3)]
3. **Secondary Employment.** No covered persons compensated by the County shall engage in secondary employment if that employment is incompatible with the proper discharge of official County duties or might impair objectivity or independent judgment on the job. This includes elective office in another jurisdiction or in a political party.
 - a. All covered persons shall disclose secondary employment in writing to the Human Resources Department and to the County Ethics Board on an official form approved by the latter, updating this information whenever it changes.
 - b. Prior to accepting an additional job, such persons shall obtain official advice from the County Ethics Board, which must respond within five business days of the request. The Board in its discretion may limit the type of classifications of secondary employment that require disclosure (III.C.3.a) and/or prior approval (III.C.b.)

c. In situations pre-dating the adoption of this Code of Ethics, the covered person shall seek official advice from the County Ethics Board, within sixty days of the effective date of this Code.

d. *Penalty* – If the secondary employment is ruled a conflict of interest, the covered person shall either terminate that employment or face dismissal from County service, in compliance with existing personnel practices and collective bargaining agreements.

4. **Board Appointments.** No appointee to a County policy-making board or commission shall have one or more of the following conflicts of interest with the intended board's objective and impartial operations:

- a. Elected or appointed employment with the County during the 12 months immediately preceding the board appointment;
- b. One or more family members or business associates serving on the same board; or
- c. An interest in one or more contracts in effect with or under consideration by that board.

5. **Failure to Recuse Oneself.** No covered persons shall fail to recuse themselves from participation or decisions in any matters pending before their agencies in which they have personal or family financial or professional interests. [ORC 102.04(E)]

F. IMPROPER COMPENSATION

1. **Gratuities for Regular Duties and Internal Favors.** No covered persons shall knowingly solicit or accept additional compensation for performing regular official duties. [ORC 2921.43(A)(1) and (2).] Likewise, no covered persons shall receive direct or indirect gratuities for personally assisting others with matters pending before their own agency. [ORC 102.04(C).] Exemptions to the latter prohibitions apply:

- a. If the agency in question is not the one on which the official or employee currently serves; or
- b. If prior to rendering this personal service, the official or employee files a disclosure statement with the County Ethics Board, with the agency with which s/he serves, and with the agency with which the personal service is to be rendered. [ORC 102(D)(1) and (2)]

2. **Gratuities for Employment Favors.** No covered persons shall solicit or accept anything of value in exchange for appointing a person to a County office, position or agency; or for granting preferential treatment (salary, duties, promotion) to a County employee. [ORC 2921.43(B)(1) and (2)]

3. **Penalties for Violations.** Covered persons who solicit or accept improper compensation are guilty of a first-degree misdemeanor and if convicted, shall be disqualified from County employment for seven years. [ORC 2921.43(D) and (E)]

G. CAMPAIGN CONTRIBUTIONS

1. **Campaign Contributions for Employment Favors.** No person campaigning for County elected office, or their representatives, shall solicit or accept campaign contributions in exchange for appointments to, preferential treatment in, or promises of future County employment. [ORC 2921.43(C)(1) and (2)]

2. **Employee Contributions to an Elected Employer.** No covered persons in County employ shall make political contributions or raise funds for their own elected County employer. Exempted from this total prohibition are voluntary employee contributions to candidates for any other public office. [Ed. note: Fangman v. City of Cincinnati USDC 1:08cv702]

3. **Contribution Limits.** No County elected officials, their campaign committees or political action committees shall accept individual contributions or loans of more than \$1,000 for County Executive or Prosecutor candidates and \$750 for County Council candidates, per election.

H. IMPROPER TREATMENT OF EMPLOYEES

1. **Discrimination.** No covered persons, operations or entities of Cuyahoga County shall favor or discriminate against anyone because of race, religion, age, ethnicity, gender, sexual orientation, disability or political affiliation, pursuant to U.S. Law [Civil Rights Act of 1964, 43 U.S.C. §2000e et. seq.] and the Cuyahoga County Charter.
2. **Sexual Harassment.** No covered person shall harass or otherwise make unwelcome sexual advances that interfere with job performance, create a hostile work environment, or attempt to make a person's submission or rejection of sexual advances a condition of his/her employment or appointment status. [Section 703 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.]

J. FALSE FILINGS, FRIVOLOUS COMPLAINTS AND FAILURE TO REPORT.

1. **Filing False Information.** No person shall knowingly file false information with the County Ethics Board on a registry or disclosure report mandated by this Code of Ethics.
2. **Filing a Frivolous Complaint.** No person shall file a complaint with the County Ethics Board which is frivolous or malicious in nature, or which is not in good faith. [See Article V.C.2.d.]
3. **Failure to Report.** No covered person or employee of a contractor bound by the "Whistleblower" obligations of this Code shall fail to report criminal or unethical conduct which s/he knows or reasonably should know. [See Article IV. F.]

K. EX PARTE COMMUNICATION

No member, employee or legal representative of the County Ethics Board, acting in an investigation or hearing pursuant to Article V of this Code, shall participate in or consider any private communication with or on behalf of one party in a proceeding outside of the presence or active participation of other parties to the proceeding.

ARTICLE IV: DISCLOSURE, TRANSPARENCY & PREVENTION

A. ETHICS SIGN-OFF

1. **Signed Ethics Statement.** All covered persons shall receive personal copies of this Code of Ethics and shall sign an ethics statement saying that they have read, understood and agreed to abide by the standards set forth. The signed ethics statement shall be a condition of employment, and signed ethics statements for all covered persons shall be kept with their personnel files.
 - a. *Inaugural Practice* -- The County Executive, as a part of the orientation process for current and new employees of this charter government, shall ensure that a portion of each information session be dedicated to a discussion of ongoing State and new County ethics provisions. This Code shall be included in all orientation materials and/or employee handbooks.
 - b. *Ongoing Practice* -- After the establishment of a County Ethics Board and the completion of the inaugural practice, ethics training and signed ethics statements for new covered persons shall be the responsibility of the Ethics Board.
2. Any covered person who does not submit this signed ethics statement within 30 days of receiving the information shall be subject to the penalties set forth in Section V.C.5.
3. **Appointees to Boards and Commissions.** All appointees to boards and commissions shall, prior to accepting such appointment, and as a condition of such appointment, sign the ethics statement referenced in IV. A.1.b of this Code. Specifically, each such appointee shall submit a statement certifying that the appointee is in compliance with the provision of IV.B.4.b) and has no interests that conflict with the exercise of board duties. Failure to do so

invalidates the appointment. Appointees to advisory boards shall also sign the ethics statement but are not subject to conflict of interest prohibitions and certifications. All ethics statements and certifications shall be kept by the County Ethics Board.

B. FINANCIAL DISCLOSURE

The following shall file financial disclosure statements with the Ohio Ethics Commission by April 15 of each year and file a duplicate with the County Ethics Board: County elected officials, appointed or hired heads of all County offices and departments, and all holders of other substantive positions in County agencies, boards and commissions. The Board, pursuant to its rulemaking authority, shall determine precisely which positions are subject to this provision. In addition, candidates for County elective office required by Ohio Law to file financial disclosure statements shall file a duplicate statement with the Board. The County Ethics Board shall make the disclosures available to public inspection. [ORC 1.02]

1. **Fees.** The fee required by Ohio law shall accompany each filing to the Ohio Ethics Commission. [ORC 1.02.02 (E)(1)]

2. **Penalties.** Penalties for late filing, failure to file, or filing false information shall conform to state law. [ORC 102.02(F) and 102.099]

C. CAMPAIGN DONOR DISCLOSURE

All candidates for election or re-election to any County office shall provide the Board with duplicates of all reports of donations filed with the County Board of Elections. Such candidates shall also identify the primary employer of all individual donors who contribute an amount in excess of \$100.00 per election.

D. LOBBYIST REGISTRY AND REPORTS

1. **Registry.** All lobbyists shall register with Cuyahoga County on a form devised by the County Ethics Board. The form shall include the entity for which the person is lobbying, the employer's name, type of business and current contact information.
2. **Gift Prohibition or Limit.** Lobbyists shall not pay Food and beverage expenses on behalf of any County elected or appointed official in amounts that exceed \$100 annually. All other monetary or non-monetary gifts or gratuities by lobbyists to County officials or employees are prohibited.
3. **Campaign Contributions.** Campaign contributions to County elected officials shall conform to U.S. and Ohio campaign finance law and this Code [Article III.G].
4. **Reports.** All lobbyists shall file a report to the Ethics Board every April 15 and October 15 containing the following:
 - a. A current list of the contracts or policies they are trying to influence;
 - b. Campaign contributions to County elected officials, as permitted by U.S. and Ohio campaign finance law and this Code of Ethics. [Article III.G]
 - c. Food and beverage expenses that shall not exceed a \$100 annual limit per elected or appointed County official.
 - d. A \$25 filing fee to help defray administrative costs.
5. **Gift Prohibition.** All monetary or non-monetary gifts or gratuities by lobbyists to County officials or employees are prohibited, with the exceptions noted above. [See Article IV.D.2.b and c]
6. **Transparency.** The County Ethics Board shall review and make all registrations and bi-annual filings available for public inspection.

E. CONTRACTOR REGISTRY

1. **Registry.** All contractors doing or seeking to do business with the County must register with the County department responsible for procurement and the County Ethics Board, using the form determined by the Ethics Board. Information to be submitted shall include but not be limited to: corporate name, address, type of business and names of principals and contracts with the County during the past four years. Registration shall be valid for twelve months and shall be accompanied by an annual filing fee of \$50 to help defray administrative costs. As necessary, the department responsible for procurement may choose to require additional information.
2. **Signed Ethics Statement.** Contractors shall also sign an ethics statement indicating they have read, understood and agreed to follow the pertinent sections of this Code of Ethics.
3. **First-time Awards.** Registration and the signed ethics statement shall be pre-conditions for the signing of any first-time contract with the County. This provision does not prevent contractors not currently on the registry from submitting competitive bids.
4. **Penalties.** Contractors who fail to comply with provisions 1, 2, and 3, if applicable, shall be prohibited from entering into any contracts with the County until they are in compliance. Contractors who are found [Article V.C. 5.b] to be in violation of this Code of Ethics shall be removed from the registry and be prohibited from entering into contracts with the County for a period determined by the County Ethics Board, along with such other penalty (ies) as the Board may deem appropriate.
5. **Transparency.** The County Ethics Board shall make the documents specified in Article IV.E.1 and 2 available for public inspection.

F. WHISTLEBLOWER PROTECTION

The rights, responsibilities, prohibitions and protections prescribed in this section apply to all covered persons as well as to all contractors and their employees. In this section only, the following definitions shall apply: a "Supervisor" is a public official or employee with authority over the employment status of the complainant or whistleblower; and an "Employer" is a principal of a private entity working on a County contract and with authority over the employment status of others.

1. **Rights.** All covered persons and contractual employees have, without impediment, the following rights:
 - a. To speak freely about work-related matters, including unlawfully suppressed information, suspected illegal or unethical conduct, or suspected misuse of County funds or other resources;
 - b. To communicate freely with County Council members or investigators and to respond with candor to Council inquiries or investigations;
 - c. To expect reasonable conditions of employment, respect for individual privacy and unrestricted access to their personal and personnel records.
2. **Responsibilities.** Covered persons, contractors or employees of contractors who believe they have knowledge of criminal or ethical misconduct shall make immediate, lawful and protected disclosure to their supervisors, employers, or to the County Ethics Board. Supervisors or employers receiving such a report shall immediately refer the complaint to the County Ethics Board.
3. **Protections and Prohibitions.** No covered persons, contractors or employees of contractors shall retaliate against a complainant or whistleblower because of lawful, protected disclosure or refusal to comply with an illegal order. Specifically, no supervisor or employer shall discharge, demote, suspend, threaten, harass, deny promotion to or in any other manner discriminate against a complainant or whistleblower because of lawful and protected disclosure.

4. **Posting of this Policy.** All County offices, departments and agencies shall conspicuously display notices of whistleblower rights, responsibilities and protections. The County Ethics Board shall also devise additional means to keep all covered persons and the public informed.
5. **Penalties.** Any supervisor or contractor found to have violated these provisions shall incur such penalties and liabilities allowable by law for the relief necessary to make the whistleblower whole. This shall include but not be limited to penalties and liabilities determined by the County Ethics Board or other law enforcement authority, subject to employment procedures and collective bargaining agreements. [Article V.C.5] Contracts held by entities whose employers are found to be in violation of this whistleblower section shall be void and unenforceable. [See Article III.D.3]

ARTICLE V. CUYAHOGA COUNTY ETHICS BOARD

A. ESTABLISHMENT.

This ordinance hereby establishes the Cuyahoga County Ethics Board (Ethics Board or Board) composed of five respected, independent, civic-minded, resident citizens who shall administer both the letter and the spirit of this Code of Ethics.

1. **Terms of office.** Board members shall serve staggered, three-year, uncompensated terms, beginning with the appointment of one member for a one-year term, two members for two-year terms, and two members for three-year terms.
2. **Nominating, appointing and confirming authorities.** Leaders of established countywide, nonpartisan, nonprofit entities interested in good government and institutional integrity shall be invited to submit to the County Executive the names of two nominees for each expected Board vacancy. At the discretion of the County Council, suggested nominating authorities may include the NAACP, the Norman Minor Bar Assn., an inter-faith clergy group, the Greater Cleveland Partnership, the Young Presidents' Organization, the Cleveland Metropolitan Bar Association, the City Club, a local university ethics faculty, the Center for Community Solutions, the North Shore Federation of Labor, a County employee association or the League of Women Voters. The County Executive shall appoint Ethics Board members from the lists provided, which appointments shall be confirmed by a two-thirds majority vote of the County Council.
3. **Board Composition.** The Board, in the aggregate, shall consist of members who:
 - a. Reflect the range of communities in Cuyahoga County and include at all times at least one member from the City of Cleveland;
 - b. Consist of no more than three members of the same political party;
 - c. Reflect the diversity of age, gender and race of the County's population;
 - d. Have no record of criminal conduct;
 - e. Hold no positions of financial, political or business interest in County governmental affairs during their term of service;
 - f. Make no monetary or non-monetary political contributions to any candidates for District or County office during their terms of service; and
 - g. Have signed the ethics statement required of all County covered persons, stating that they have read, understood, and agreed to abide by the standards set forth.
4. **Vacancies.** To fill an Ethics Board vacancy, the County Executive shall appoint a replacement from the same list or shall request further nominees from the nominating authorities. Such interim appointees shall also be confirmed by a two-thirds majority vote of the County Council.

5. **Removal.** A Board member may be removed for cause by a two-thirds vote of the County Council. S/he shall receive written notice of charges and shall be granted a hearing, on request, to show reason why s/he should not be removed.
6. **Organization.** Within four weeks of Board confirmation and every anniversary thereafter, the five members shall convene and elect a Chair, who shall then preside for one year. The Board shall meet in public session at least four times each calendar year and shall post all minutes and records of official actions on line. The Board shall adopt needed procedural rules within 60 days of the first meeting. Three members shall constitute a quorum, and in the absence of a quorum the Board shall conduct no business. At the end of each calendar year, the Board shall submit to the County Executive and the County Council a written summary of the year's actions and accomplishments.
7. **Support.** The County Ethics Board shall be furnished with such supplies, professional assistance and technical support as necessary for the discharge of the Board's duties as mandated in this Code of Ethics.

B. DUTIES

The Cuyahoga County Ethics Board shall see that the following duties are fulfilled:

1. **Appointment of a County Ethics Officer.** Appoint a salaried, full-time County Ethics Officer who is licensed to practice law in Ohio and has at least two years of experience in ethics or related civil or municipal law. The Ethics Officer is the agent of the County Ethics Board and shall be delegated the responsibility for carrying out the decisions and duties of the Board and the requirements of this Code of Ethics. These delegated duties may include rendering official advice, processing or initiating complaints, conducting inquiries and investigations, acting in the capacity of counsel for the Ethics Board, hiring staff and consultants, managing office functions, developing reporting forms and convening the Internal Ethics Committee.
2. **Additional Staffing.** Approve, in consultation with the County Ethics Officer, the hiring or other arrangements to obtain such educational, technical or clerical assistance as may be necessary and sufficient to fulfill the Board's assigned duties.
3. **Education and Training.** Provide a periodic, mandatory training course for all covered persons and new County personnel in the requirements and processes mandated by this Code of Ethics, and determine the timetable for such training. The training may be jointly undertaken with the Human Resources Department. Initial training of the entire workforce shall be completed within the first calendar year after the passage of this Code. Educational duties shall include but not be limited to:
 - a. Receiving from every covered person a signed ethics statement of understanding and intent to abide by the provisions of this Code;
 - b. Informing all contractors and vendors of all applicable provisions of this Code.
 - c. Informing all covered persons of their rights, responsibilities and protections under this Code's whistleblower provisions;
 - d. Maintaining an up-to-date educational publication for covered persons highlighting the expectations, requirements and recourses set forth in this Code; and
 - e. Posting the full text of this Code of Ethics for public access on the County's website.
4. **Advice.** Determine and render written, official advice as to whether given facts or circumstances constitute a conflict of interest or a violation of this Code of Ethics.
5. **Complaints.** Receive or initiate, inquire into and take action as necessary on complaints or allegations by covered persons, the general public or the Ethics Board itself regarding suspected violations of this Code of Ethics. (See V. C.)

6. **Public Meetings.** Conduct at least four public Board meetings per year. Additional meetings shall be called by the Chair or by three Board members in a written request to the Chair.
7. **Forms.** Devise all forms as necessary to fulfill the requirements of this Code of Ethics.
8. **Electronic Management and Data Monitoring.** Monitor submitted disclosures, registries and reports. Post and maintain the data required by this Code as electronic public documents.
9. **Administrative Fees.** Impose and collect all fees which this Code and its enforcement may require and apply them to the Ethics Board's administrative costs.
10. **Rules and Procedures.** The Board shall prescribe regulations to carry out the purposes of this Code. These regulations may contain such provisions as in the judgment of the Board are necessary or proper to effectuate the purposes of this Code, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.
11. **Oaths and Subpoenas.** Administer oaths, issue subpoenas and compel witnesses or evidence, as needed, to implement this Code.
12. **Recommendations to County Council and County Executive.** Make recommendations to the County Council and the County Executive about amendments to this Code of Ethics.
13. **Annual Report to County Council and County Executive.** Make and publish an annual report to the County Council and the County Executive, detailing all activities and dispositions of complaints conducted during the prior calendar year.
14. **Internal Ethics Committee.** Communicate with employees of County offices and departments by means of an Internal Ethics Committee. The director of each County office and department shall select from its employees a representative to serve on an Internal Ethics Committee, subject to the approval of the County Ethics Officer. Such representatives shall serve as liaisons between departmental employees and the Board and shall have the following additional responsibilities:
 - a. Understand thoroughly the provisions and processes of this Code of Ethics;
 - b. Attend periodic meetings called by the Ethics Board or its County Ethics Officer;
 - c. Disseminate within the office or department the appropriate policies or materials relating to ethics for employees;
 - d. Assist in the required education and training sessions within the office or department.

C. DUE PROCESS

1. **Complaints.** Any individual who believes a violation of this Code of Ethics has occurred may initiate a complaint either with the Cuyahoga County Ethics Board or the Ohio Ethics Commission. This Code outlines the procedure to be followed by the County Ethics Board.
 - a. The complaint shall be in writing and filed with the County Ethics Officer;
 - b. The complaint shall contain the name, address and phone number of the complainant, name and position of the respondent, a statement of the alleged facts and circumstances, and a certification that this complaint represents what the complainant in good faith believes to be a violation of this Code of Ethics.
 - c. The County Ethics Officer shall, within five business days of receipt, date stamp it, acknowledge its receipt to the complainant, submit it to the Ethics Board and notify the respondent. The Ethics Officer and the Ethics Board shall otherwise keep its substance confidential.
 - d. Anonymous complaints may be lodged in person or via a "Whistleblower Hotline," as established by the Ethics Board.

2. **Preliminary Inquiries.** The County Ethics Officer shall initiate the process by filing each complaint received with the County Ethics Board and shall complete a preliminary inquiry within 45 days. The Ethics Officer shall keep all information, records and proceedings confidential. Outcomes of the inquiry may be as follows:
 - a. *Investigation* -- Upon determination that a violation may have occurred and upon notification of the respondent, a full investigation shall commence.
 - b. *Referral* -- Upon determination that federal or state criminal violations may have occurred, the County Ethics Officer, with notice to the Board, shall refer the complaint to the Ohio Ethics Commission or the appropriate county, state or federal enforcement entity. If the inquiry is referred, the County Ethics Officer shall notify the complainant and the respondent within one week.
 - c. *Termination*-- The County Ethics Officer, with notice to the Board, may terminate the inquiry (1) if the events occurred before the adoption of the provision violated; (2) if the respondent is not a person covered by this Code of Ethics; or (3) if there is insufficient evidence to believe that the Code has been violated. If the inquiry is terminated, the County Ethics Officer shall notify the complainant and the respondent within one week.
 - d. *Determination of frivolous complaint* -- The County Ethics Officer shall file a complaint against any person whom s/he believes has violated this Code's prohibition against frivolous or malicious complaints. [See Article III.J.2]

3. **Conduct of Investigations.** The Board or the County Ethics Officer acting in its name shall conduct interviews, take statements, receive and inspect documents and records and otherwise obtain evidence and gather information by lawful means, including subpoena power. They shall keep information, records and proceedings confidential. Within 60 days of commencing the investigation, the Board shall:
 - a. Terminate the investigation if no violation is found, and notify the complainant and the respondent immediately;
 - b. Extend the investigation for up to 60 additional days, upon showing of need;
 - c. Issue a confidential findings report of the investigation to the respondent, who may, within 30 days, accept or reject the finding, request or waive a hearing, or opt for settlement;
 - d. Make an effort, if a violation is found, to resolve it voluntarily by settlement. Options for settlement may be an administrative fee or community service.

4. **Hearings.** Upon request of the respondent, the Board shall conduct a hearing within 45 days. Time may be extended for cause upon application to the Board. A notice of the hearing, its date, time and location, shall be issued to the respondent or to his/her counsel.
 - a. The respondent shall have access to evidence the Board intends to use at the hearing, as well as to any evidence from the investigation which might substantiate innocence.
 - b. The hearing and all papers, records and disclosures will be confidential except for the contents of the final order which shall be public.

5. **Penalties.** The Board shall, upon finding violation(s) of this ordinance, determine and impose civil penalties as provided in this subsection. The following County penalties shall be available:
 - a. *Warning* -- a confidential letter of warning to the respondent alone, if violation was inadvertent or unintentional;
 - b. *Admonition* -- a letter to the respondent, complainant, County Council and County Executive, indicating that the respondent has been found to have violated this ordinance;
 - c. *Censure* -- Notification to the respondent, complainant, County Council and County Executive, indicating that a violation took place and expressing strong disapproval of the respondent's actions;
 - d. *Ban on further contracts with the County* -- In the case of a contractor's violation of this Code, removal from the contractor registry for a period to be determined by the Board;
 - e. *Administrative Fee* -- as set forth in this Code;
 - f. *Restitution, recovery of damages and litigation costs* -- as determined by the Board;

g. *Suspension* -- Recommendation to the appropriate hiring authority for suspension from employment without pay, in compliance with existing personnel practices and collective bargaining agreements;

h. *Expulsion/Dismissal* -- Recommendation to the appropriate hiring authority for revoking the employment contract with the County, in compliance with existing personnel practices and collective bargaining agreements;

i. *Removal from elective office* -- Recommendation for removal process as provided in the County Charter.

6. **Disposition.** In cases where recommended penalties involve altering employment contracts, the Human Resources Commission shall notify the Board of the disposition of those recommendations within 30 days.

7. **Appeal.** Upon imposition of such penalties by the Ethics Board or upon recommendation of employment sanctions, the aggrieved party may file an appeal within 30 days to the Court of Common Pleas in accordance with applicable law.

ARTICLE VI. DEFINITIONS

GENERAL PROVISIONS -- Except as listed below, words used in this Code of Ethics conform to accepted common usage and specifically to general usage prescribed in the Ohio Revised Code, §1.43.

administrative fee -- the civil penalty equivalent of a fine, levied by and payable to the County Ethics Board.

advice -- A written, expert judgement and recommendation by the County Ethics Officer as to whether an issue raised poses ethical problems and how the issue may best be resolved. If the recipient acts in accordance with that advice, s/he is in compliance with the Code of Ethics.

agency -- Any department, office, board, commission or other public body established by official action of Cuyahoga County or its Charter.

anything of value -- See GIFT.

board (lower case) -- An abbreviation for any authority, board, commission or special district to which County officials appoint at least one member or to which County funds are appropriated.

business associate -- Any person or firm with whom any County official or employee may have a business or financial relationship by virtue of ownership, control, position, influence, or other financial interest.

campaign contribution -- Any monetary or non-monetary donation to a person campaigning for County elected office.

compensation -- Monetary or non-monetary payment for labor or services, including but not limited to salary, fee or gratuity.

complainant -- A person who submits a complaint of ethical misconduct to the County Ethics Board.

conflict of interest -- A situation in which two interests collide, preventing impartial decision-making. [See also INTEREST]

contract -- A binding, legal agreement providing goods or services, including employment.

contractor -- A person or business -- including but not limited to service providers, vendors, consultants and their subcontractors -- that provides goods or services to the County under terms specified in a binding, officially approved agreement.

covered persons -- All elected and appointed County officials and employees. This includes Council members and staff, the Prosecuting Attorney and staff, and all County-appointed members and employees of paid and volunteer boards and commissions or their agencies. Sections of this Code also apply to contractors and lobbyists. [See II.A.]

day -- A calendar day, unless otherwise noted.

disclosure -- The reporting of financial information, personal or business connections, gifts, activities, campaign contributions or potential conflicts of interest.

due process -- A course of formal legal proceedings carried out regularly with established rules and principles; a fundamental right of any covered person accused of a violation of this Code of Ethics.

family members -- Persons related by blood or by significant relationship such as sharing a household. Specifically, the term references a spouse, domestic partner, parent/guardian, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, first cousin, plus step-, half- and in-law equivalents. [See also IMMEDIATE FAMILY]

finding -- The official decision reached by the County Ethics Board after thorough investigation or a formal hearing.

gift -- Anything of value, including but not limited to money, goods, future employment, interest in realty, payments, loans and services. [See also HONORARIUM]

gratuity -- Supplementary compensation as a "tip" to an official or employee for having granted any favor or service to the donor.

honorarium -- Payment of money or anything of value, directly or indirectly, to an elected or appointed County official or employee (or to any other person on his or her behalf) as consideration for a speech, a presentation, or a written document that relates to the official's or employee's County position.

immediate family -- Spouse or domestic partner, children, parents and step-equivalents.

interest -- Being in a position to gain or profit from a financial or personal connection to a party seeking to do business with the County or any of its agencies. This includes but is not limited to the role of owner, part owner, officer, partner, legal counsel or board member of a company or organization.

lawful disclosure -- Public divulgence of a County matter not legally required to be kept confidential because of personal privacy, ongoing litigation, or property negotiations. [See also PROTECTED DISCLOSURE, WHISTLEBLOWER]

lobbyist -- An individual wholly or partially compensated for direct, private communication with County policy-making officials or their staffs, with the purpose of influencing the expenditure of funds in the awarding of a contract or other financial arrangement; or for making direct, private contact with same to promote, advocate or oppose the passage, modification, defeat, approval or veto of any legislation or policy.

nepotism -- The practice of hiring or appointing family members to positions, or of awarding other favors to same.

nominating authority -- Leader of a nonprofit entity invited to provide suggested nominees to the County Executive for appointment to the County Ethics Board.

official -- A person who is elected or appointed to head a County office, department or agency or board.

patronage -- The practice of hiring or appointing political allies or business associates to governmental positions.

personal gain -- Any benefit or advantage a County official or employee receives when an interested party enters into a contract with the County.

prohibited source -- A party that gives or promises an unlawful gift to any covered person, specifically a party doing or seeking to do business with, regulated by, or interested in matters before the County, its departments, agencies, boards or commissions, including any lobbyist or contractor.

protected disclosure -- Rightful public divulgence of a County matter covered by the whistleblower provisions of this Code. [See also LAWFUL DISCLOSURE and section V.F.1 above]

recusal/to recuse -- The act of removing oneself from decision-making in matters where one has a conflict of interest.

respondent -- A person accused of ethical misconduct in a complaint submitted to the County Ethics Board.

secondary employment -- Compensated employment in addition to a covered person's employment with the County.

settlement -- Mutual agreement between a complainant, a respondent and the County Ethics Board, in which the complainant agrees to dismiss the complaint, and the respondent agrees not to pursue his/her defenses and to accept a penalty mediated with the Ethics Board.

to waive -- To give up, voluntarily, a legal right to which one is entitled.

whistleblower -- A person who reports possible crimes or violations of this Code of Ethics.

POST SCRIPTS: ADDITIONAL IDEAS FOR INCLUSION IN THIS CODE:

The Code of Ethics Workgroup encountered several other good ideas which were not duly pursued by our established study and consensus process. We include them here as suggestions for additional provisions which the County Council may wish to consider as they ready this Code for passage during Winter 2010-2011:

1. **“Pay to Play.”** An additional provision under the Campaign Contribution heading. See recommendation of Campaign Finance Workgroup.
2. **Second Financial Disclosure requirement every October 15 to the County Ethics Board.** This would align with the Contractor and Lobbyist registries to permit easier searching and cross-referencing. See recommendation of Campaign Finance Workgroup.
3. **Spousal Disclosure.** Possible item to be added to the Ohio Financial Disclosure Form.
4. **Gift Log.** To be required of all covered persons, lodged and posted online at the County Ethics Board. This idea was not explored fully enough by this workgroup.
5. **“Clean Elections”** -- A proposal for public financing of County elections which could remove one root cause of much unethical conduct. This idea would have no place in a Code of Ethics, but would nevertheless impact positively upon the cultural change this workgroup would like to effect in Cuyahoga County. See recommendation of the Campaign Finance Workgroup.

Section 3: **CODE OF ETHICS**

3.01 Ethics Policy

It is the policy of the County to carry out its mission in accordance with the strictest ethical guidelines and to ensure that County members and employees conduct themselves in a manner that fosters public confidence in the integrity of the County, its processes, and its accomplishments. Failure to adhere to the standards of ethical conduct may subject an employee to discipline, up to and including removal, pursuant to Section 13 of this Manual as well as criminal prosecution in certain cases.

3.02 Compliance with Ohio Ethics Laws

County officials and employees are required to abide by the State of Ohio's ethics laws, as found in the Ohio Revised Code and as interpreted by the Ohio Ethics Commission and Ohio courts. A copy of these laws will be provided to each employee upon commencement of their employment with the County. These laws are also available at www.ethics.ohio.gov. Each employee shall be required to sign a form acknowledging receipt of this document and the form shall be placed in each employee's personnel file.

3.03 General Standards of Ethical Conduct

The following is a non-exclusive general summary of the restraints on the conduct of all County officials and employees.

No County official or employee shall:

- Use their public position to obtain any benefit for themselves, an immediate family member (as defined in Section 9.03 of this Manual), or anyone with whom they have a business or employment relationship;
- Solicit or accept anything of value from anyone doing business with the County;
- Solicit or accept employment from anyone doing business with the County, without prior written authorization from a Director or higher-level County official. The official or employee must first withdraw from any decision-making activity affecting the party offering employment and the County must approve the withdrawal;
- Use or disclose confidential information protected by law, unless appropriately authorized;

EXHIBIT A

- Be paid or accept any form of compensation for personal services rendered on a matter before the County or the departments, offices, agencies and/or other bodies reporting to it;
- Hold or benefit from a contract with, authorized by, or approved by the County (*see Revised Code Section 2921.42* for exceptions);
- Vote, authorize, recommend, or in any other way use their position to secure approval of a County contract in which themselves, an immediate family member (as defined in Section 9.03 of this Manual), or anyone with whom they have a business or employment relationship, has an interest;
- Solicit or accept payment for services provided as an officer or employee of the County;
- During public service, and for one year after leaving public service, represent any person, in any fashion, before any public agency with respect to a matter in which the official or employee personally participated while serving with the County; or
- Use, or authorize the use of, their title, the name Cuyahoga County, or the County's logo in a manner that suggests impropriety, favoritism, or bias by the County or the official or employee.

3.04 "Moonlighting" Policy

The County does not prohibit an employee from securing additional employment outside of their employment with the County, so long as the following conditions are met:

- The employee provides notice of their outside employment to Human Resources prior to beginning work with the second employer;
- The employee's outside employment does not interfere in any way with their ability to perform the duties of their position with the County; and
- The employee's outside employment does not place the employee in violation of the County's Code of Ethics (*see Section 3*), including, but not limited to, creation of a conflict of interests.

NOTE: Individual Department's may have "moonlighting policies" that require that employees place Department Management on notice of additional employment outside of their employment with the County. Department management, however, shall not prohibit an employee from pursuing additional employment unless one of the above-cited conditions is not met. Employees should consult their Departmental policies and procedures manual for more information.

3.05 Political Activity

No employee in the classified service of the County shall directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political party or for any candidate for public office. Nor shall any employee in the classified service of the County be an officer in any political organization or take part in politics other than to vote as the officer or employee pleases and to express freely political opinions.

The following are examples (non-exclusive) of permissible activities for County employees in the classified service:

- Registration and voting;
- Expression of opinions, either oral or written;
- Voluntary financial contributions to political candidates or organizations;
- Circulation of nonpartisan petitions or petitions stating views on legislation;
- Attendance at political rallies;
- Signing nominating petitions in support of individuals;
- Display of political materials in the employee's home or on the employee's property;
- Wearing political badges or buttons, or the display of political stickers on private vehicles; and
- Serving as a precinct election official for the Board of Elections.

The following activities are prohibited to County employees in the classified service:

- Candidacy for public office in a partisan election;
- Candidacy for public office in a nonpartisan general election if the nomination to candidacy was obtained in a partisan primary or through the circulation of nominating petitions identified with a political party;
- Filing of petitions meeting statutory requirements for partisan candidacy to elective office;
- Circulation of official nominating petitions for any candidate participating in a partisan election;
- Service in an elected or appointed office in any political organization (e.g., partisan precinct committee);
- Acceptance of a party-sponsored appointment to any office normally filled by partisan election;
- Campaigning by writing for publications, by distributing political material, or by writing or making speeches on behalf of a candidate for partisan elective office, when such activities are directed toward party success;
- Solicitation of any assessment, contribution or subscription, either monetary or in-kind, for any political party or partisan political candidate;
- Solicitation of the sale, or actual sale of political party tickets;
- Partisan activities at the election polls, such as solicitation of votes for other than nonpartisan candidates and nonpartisan issues;

- Service as a witness or challenger for any party or partisan committee;
- Participation in political caucuses of a partisan nature; and
- Participation in a political action committee which supports partisan activity.

An employee that is considering in engaging in any political activity that may potentially be prohibited under this policy should consult with Human Resources for guidance. An employee who engages in any of the prohibited activities listed above may be subject to disciplinary action, up to and including removal.

3.06 Employment of Relatives

Relationship to another individual employed by the County will not constitute a bar to initial employment. The County extends equal consideration to all applicants and candidates for employment. Neither positive nor negative weight shall be considered when a relationship exists with another County employee.

To preclude actual favoritism or the appearance of favoritism in the employment relationship, no employee shall take any part in the selection process for a position for which a relative is an applicant. In addition, an individual may not be assigned or accept employment in a department in which supervisory authority and/or responsibility directly affecting that department is provided by a relative of the individual. Employees who become related as a result of marriage (their own or that of a relative) will be transferred to another work unit. An employee will not participate in decisions involving a direct benefit to relatives such as employment, retention, appraisal, promotion, salary, and leave of absence.

For purposes of this Section, “relatives” include anyone who is related as husband, wife, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, sister-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

STATE OF OHIO
COUNTY OF CUYAHOGA

AN ORDINANCE TO ESTABLISH IN CUYAHOGA COUNTY, OHIO A
COMMITMENT TO ETHICAL PRACTICES; TO PROVIDE PROCEDURES
FOR IMPLEMENTATION AND ENFORCEMENT; AND FOR OTHER
PURPOSES

WHEREAS, Article III, Sec. 3.09 of the Charter of the Cuyahoga County, Ohio (the "County") empowers the County with legislative power to introduce, enact and amend ordinances and resolutions within the legislative power of the County, and

WHEREAS, the County wishes to adopt Ethics Ordinances and regulations governing the conduct of County elected officials, appointed officials, and employees, establishing procedures for ethics complaints and setting forth penalties for violations of such rules and procedures; and

NOW, THEREFORE, the County Executive and County Council, pursuant to their authority, do hereby adopt this Ordinance to supersede any and all previous ethics or related ordinances heretofore enacted by Cuyahoga County, Ohio.

ETHICS

In General

Sec. 1-100. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Associated, when used with reference to a business or an organization, includes any business or organization in which a public servant or a public servant's partner in interest is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least five percent of the outstanding equity, or any business or organization in which a public servant or a partner in interest has a personal interest.

Benefit means

- (1) Anything having a monetary value in excess of \$100.00;
- (2) Anything, regardless of its monetary value, perceived or intended by either the one who offers it or the one to whom it is offered to be sufficient in value to influence a public servant in the performance or nonperformance of an official action; or
- (3) Anything, regardless of its monetary value, which, under the circumstances, a reasonably prudent person in the position of the public servant to whom the thing is or may be offered, would recognize as being likely to be intended to influence the public servant in the performance or nonperformance of an official action.

The term "benefit" includes, but is not limited to, a valuable act, advance, award, contract, compensation, contribution, deposit, emolument, employment, favor, fee, forbearance, fringe benefit, gift, gratuity, honorarium, loan, offer, payment, perquisite, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these things will be conferred in the future. The term "benefit" shall not include food and beverage.

Board means The Board of Ethics established by the County to operate under the provisions of this ordinance, unless the context clearly indicates otherwise; used generically, the term "Board" may mean any voting body:

(1) Which is established to participate as a body in some manner in the conduct of the County government, including participation which is merely advisory, whether established by State law, County Charter, ordinance, contract, executive action or any other lawful means; and

(2) Any part of which its membership is appointed by the County Executive or County Council acting on behalf of the County; but the term "Board" does not include a board, commission or committee which is the governing body of a separate political subdivision of the state, or whose membership, after appointment, is not subject to any regulation by the County Council; nor does it include any county administrative agency, bureau, department, division or office which is administered by individuals rather than by a body.

Business means an activity, association, commercial entity, corporation, enterprise, firm, franchise, holding company, joint stock company, organization, partnership, receivership, self-employed individual, sole proprietorship, trust or other legal entity established to earn or otherwise obtain money, whether for profit or nonprofit, excluding a municipal corporation or governmental entity.

Business with which a public servant is associated or associated business means a business in which any of the following applies:

(1) The public servant is an owner, partner, director, officer, employee or independent contractor in relation to the business;

(2) A public servant's partner in interest is an owner, partner, director or officer;

(3) The public servant or a partner in interest is a stockholder of close corporation stock which is worth at least \$1,000.00 at fair market value or which represents more than a five percent equity interest;

(4) The public servant or a partner in interest is a stockholder of publicly traded stock which is worth at least \$5,000.00 at fair market value or which represents more than five percent equity interest, other than publicly traded stock under a trading account if the public servant reports the name and address of the stockholder; or

(5) Any business, regardless of ownership or value, by whom or for whose benefit a decision maker is influenced to act in the hope or expectation of obtaining a personal benefit for the public servant or for a partner in interest of the public servant.

Candidate means an individual who is a candidate for an elective county office, as defined in the County Charter, or an applicant for County employment or for an appointive County position.

Child means a son or daughter (whether by marriage, lineal descent or adoption), whether or not the son or daughter is the biological offspring of the legal parent or parents and whether or not the son or daughter is financially dependent on the parent or parents.

Compensation means any benefit conferred upon or received by any person in return for services rendered or to be rendered.

Complainant means the person who has filed a written complaint, signed and sworn alleging a violation of the ethics ordinance.

Confidential information means information which has been obtained in the course of holding public office, employment, an independent contract or otherwise acting as a public servant and which information is not available to members of the public or other law or regulation and which the public servant is not authorized to disclose, including:

- (1) Any written information that could lawfully be excepted from disclosure pursuant to state law, unless the public servant disclosing it is authorized to do so by state law or pursuant to some other pertinent law, policy or procedure;
- (2) Any other information which, if it were written, could be excepted from disclosure under state law, unless the public servant disclosing it is authorized to do so by the state law, or pursuant to some other pertinent law, policy or procedure; and
- (3) Information which was obtained in the course of or by means of a record or oral report of a lawful executive or closed session, whether or not the disclosure of the information would violate state law, unless the public servant disclosing it is authorized by state law to do so, or unless the public servant disclosing it has been properly authorized to disclose it pursuant to an applicable law, policy or procedure; however, when such information is also available through channels which are open to the public, this provision does not prohibit public servants from disclosing the availability of those channels.

Conflict of interest means not only a personal interest, as defined in this ordinance, but also a professional or nonpecuniary interest, such as arises when the County Director of Law is precluded from representing one public servant because of the County Director of Law's preexisting attorney-client relationship with another public servant.

Decision maker means any public servant or group of public servants empowered to act in a discretionary manner on behalf of the County in any capacity whatsoever, including the making of recommendations. To the extent this ordinance is applicable to them, any volunteer or independent contractor who is empowered to exercise any discretionary power which could influence a public servant in the performance or nonperformance of an official action. In this ordinance, the term "decision maker" is used to represent any and every public servant who could take any discretionary action regarding a matter in which a public servant or a partner in interest has or may have a conflict of interest, or as a result of which a public servant might receive a personal benefit.

Decision making means the exercise of any discretionary public power in any capacity whatsoever, including the making of recommendations, by any public servant whose action pertains to a matter in which a public servant or a public servant's partner in interest has or may have a conflict of interest, or as a result of which a public servant might receive a personal benefit.

Disclose means, unless the context of this ordinance indicates otherwise, to provide the County Clerk with written notice of a conflict of interest or a potential conflict of interest, and any other pertinent information, including the nature and extent of the public servant's conflict of interest, the decision maker who may act on the matter, and the name and address of any person alleged to have a conflict of interest or a potential conflict of interest. Unless this ordinance or a law which supersedes it requires or permits another procedure, information shall be deemed disclosed if any public servant within a reasonable time before any official action is to be taken by the decision maker provides the County clerk with written notice disclosing the conflict or potential conflict. For purposes of this provision, the phrase "within a reasonable time" means within adequate time to allow the County Clerk, acting within the County's normal schedule and procedures for transmitting written documents, to forward the disclosure to the decision maker before whom the matter is pending or may be brought, and within adequate time to allow the decision maker to review the disclosure before taking any official action.

Employee means a person, other than an elected public officer, employed and paid a salary to work for the County, whether under civil service or not, whether full-time, part-time, or on a contract basis, and including those officially selected by not yet serving.

Expenditure means a payment, distribution, loan, advance, deposit, or gift of money or anything of value.

Gift means any benefit or thing or act of monetary value which is conveyed to or performed for the benefit of a public servant or a partner in interest, including any advance, award, contract, contribution, deposit, employment, favor, forbearance, gift, gratuity, honorarium, loan, payment, service, subscription, or the promise that any of these things or acts of value will be conferred in the future, if such thing or act of value is conferred or performed without the lawful exchange of consideration which is at least equal in value to the thing or act conferred or performed.

Immediate family means:

- (1) A public servant's spouse, children, grandchildren, parents, parents-in-law, grandparents, grandparents-in-law, sisters, sisters-in-law, brothers, brothers-in-law, sons-in-law, daughters-in-law, nieces, nephews, aunts, or uncles (whether by marriage, lineal descent or adoption);
- (2) A public servant's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the public servant or from whom the public servant receives, directly or indirectly, more than one-half of his or her support; and
- (3) An individual claimed by the public servant or the public servant's spouse as a dependent under the United States Internal Revenue Code.

Interest means any personal benefit accruing to a public servant or the public servant's partner in interest, whether in the public servant's own name or the name of any person or business from which the public servant is entitled to receive any personal benefit, as a result of a matter which is or which is expected to become the subject of an official action by or with the County.

Loan means a transfer of money, property or anything else of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part.

Matter means, unless the context of this ordinance indicates otherwise, any act, action, agenda item, allegation, application, amendment, auction, bill, business, case, charge, claim, consideration, contract, controversy, decree, deed, deliberation, discussion, hearing, issue, lease, license, measure, offer, order,

ordinance, permit, personnel action, petition, policy, presentation, procedure, privilege, proceeding, project, proposal, proposition, purchase, recommendation, regulation, rental, request, resolution, sale, subject, transaction, use, variance or other discretionary choice pending before a County decision maker when a public servant or a partner in interest has a personal interest in the outcome of the decision, or the decision may result in a personal benefit to a public servant or a partner in interest.

Ministerial action means a simple and definite action or function imposed by law where no exercise of discretion or judgment is required.

Negotiating concerning prospective employment means one or more discussions between a public servant and a potential employer other than the County concerning the possibility of the public servant or a partner in interest considering or accepting employment with the employer, in which discussion the public servant responds in a positive way.

Office means any of the following:

- (1) An elective position within the government of the County; or
- (2) An appointive County position that does not serve at the pleasure of the County council.

Officer means any person elected or appointed to hold an office, as defined in the Charter of the County.

Official action means any act, action, approval, decision, denial, directive, disapproval, inaction, order, performance, nonperformance, recommendation, vote, or other direct result of a public servant's exercise of discretionary authority in connection with the public servant's public position.

Official duty means any official action or ministerial action which a public servant is obligated or authorized to perform by virtue of being a public servant.

Organization means, unless the context indicates otherwise, any nonprofit business other than an individual or governmental agency.

Partner in interest means, when used in this ordinance in connection with a public servant, as in the phrase "a public servant or a partner in interest," any and all of the following:

- (1) A member of the public servant's immediate family;
- (2) A business with which the public servant or a member of the public servant's immediate family is associated;
- (3) Any other person with whom the public servant or a member of his or her immediate family is in business, or is negotiating or has an agreement concerning future employment or the future conferring of any personal benefit, whether in the public servant's own name or the name of any business or person from whom the public servant is entitled, or expects to become entitled, to receive any personal benefit, as a result of a contract or transaction which is, or which is expected to become, the subject of an official action by or with the County. The term partner in interest does not imply or require any form of legal partnership or formal agreement; or

(4) When used in the phrase "a public servant or a partner in interest," the term "partner in interest" refers only to a partner in interest of the public servant to whom reference is being made, and not to any other person's partner in interest.

Personal benefit means any benefit which is offered or received, or perceived to be offered or received, primarily for the purpose of influencing the manner in which a public servant performs or refrains from performing an official action, so that an attempt is made to induce the public servant, or the public servant is induced, to act in favor of some interest other than the public interest on the basis of an expectation or hope that the public servant or a partner in interest of the public servant will obtain some private gain by acting against the public interest; provided, however, that the term "personal benefit" within the meaning of this ordinance does not include any of the following, which, although they may benefit individual public servants, are deemed to be primarily public benefits rather than personal benefits:

- (1) Payment by the County of salaries, compensation or employee benefits, or payment by an employer or business other than the County of salaries, compensation, employee benefits or pursuant to a contract, when the payment is unrelated to a public servant's status as a public servant and is not made for the purpose of influencing, directly or indirectly, the vote, official action or decision of a public servant;
- (2) Fees, expenses, or income, including those resulting from outside employment, which are permitted and reported in accordance with the policies of the County;
- (3) Authorized reimbursement of actual and necessary expenses;
- (4) Admission, regardless of value, to events to which public servants are invited in their official, representative capacity as public servants;
- (5) Campaign or political contributions which are made and reported in accordance with state law;
- (6) Reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official County business, if furnished by the sponsor of such public event; or in connection with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity; this provision applies only if the County does not also pay the person for the same activity;
- (7) Awards publicly presented in recognition of public service, acts of heroism or for solving crimes;
- (8) Anything of value, regardless of the value, when the thing of value is offered to the County, is accepted on behalf of the County, and is to remain the property of the County;
- (9) Commercially reasonable loans made in the ordinary course of the lender's business in accordance with prevailing rates and terms, and which do not discriminate against or in favor of an individual who is a public servant because of such individual's status as a public servant;
- (10) Complimentary copies of trade publications;
- (11) Any unsolicited benefit conferred by any one person or business if the economic value totals less than \$250.00 per calendar year, and if there is no express or implied understanding or agreement that a vote, official action or decision of a public servant will be influenced;

(12) Reasonable compensation for a published work which did not involve the use of the County's time, equipment, facilities, supplies, staff or other resources, if the payment is arranged or paid by the publisher of the work;

(13) Reasonable compensation for a published work which did involve the use of the County's time, equipment, facilities, supplies, staff or other resources, if the payment of the compensation to the public servant is lawfully authorized by a representative of the County who is empowered to authorize such compensation;

(14) Anything of value, if the payment, gift, or other transfer of value is unrelated to and does not arise from the recipient's holding or having held a public position, and if the activity or occasion for which it is given does not involve the use of the County's time, equipment, facilities, supplies, staff or other resources which is not available to the general public;

(15) Anything of value received as a devise, bequest or inheritance;

(16) A gift received from a relative within the third degree of consanguinity, under the civil law computation method, to the public servant, or the spouse of such a relative or

(17) A gift received from a spouse of a public servant, or a spouse's relative within the third degree of consanguinity to the spouse, under the civil law computation method.

Personal interest means a direct or indirect interest having value peculiar to a particular individual or group, whether the value is pecuniary or non-pecuniary, which value may accrue to such individual or group or result in such individual or group deriving or potentially deriving a personal benefit as a result of the approval or denial of any ordinance, resolution, order or other official action, or the performance or nonperformance thereof, by a public servant, and which interest is not shared by the general public.

Public servant means the County Executive, members of the County Council, county court judges, employees, volunteers or any other representatives of the county. The term "public servant" includes all individuals appointed by the County Executive and/or County Council as appropriate to County authorities, commissions, committees, boards, task forces, or other bodies which can or may vote or take formal action or make official recommendations to the County Executive and/or County Council.

Reasonable means fair, proper, equitable and just under the circumstances.

Records means any minutes, papers, documents, completed forms, or other records maintained by a public agent for the purpose of fulfilling the disclosure requirements of this ordinance.

Relative means a person who is related to an official or employee (whether by marriage, lineal descent or adoption) as spouse, parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, parents-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law.

Respondent means the person against whom a complaint has been made alleging a violation of the ethics ordinance.

Volunteer means an individual who is permitted by the County, or by a person authorized to act on behalf of the County, to assist public servants in performing any kind of official duty or action without any expectation of receiving compensation.

Voting body means the County Council and any other County authority, board, commission, committee, council or group, regardless of whether its function is legislative, administrative, quasi-administrative or quasi-judicial or any combination thereof, which must act as a body on the basis of a vote of some or all of its members.

Sec. 2-100. Declaration of policy.

(1) The County government is a representative democracy. Those who are elected, appointed, hired, volunteer or campaign to serve the public as representatives accept a public trust, which they share with those whom they elect, appoint, hire or otherwise enlist to help them serve the public. Public trust requires that acts which are contrary to the public interest be defined and prohibited; that there be an orderly procedure for raising and addressing ethical questions; that ethical behavior be encouraged and suitably rewarded; and that unethical behavior be discouraged and suitably disciplined through a process which is fundamentally fair.

(2) It is the responsibility of each public servant to act in a manner which contributes to cultivating public trust in the integrity of government and avoiding even lawful activity when the appearance of impropriety would lessen the public's confidence.

(3) In adopting this ordinance, the County recognizes that:

(a) Public servants are also members of society and, therefore, share the same general personal and economic interests in the decisions and policies of government as all members of the community;

(b) Public servants retain their rights to publicly express their views on matters of general public interest, and to express their opinions on the effect of public actions on their personal or economic interests or rights;

(c) It is sound public policy for standards of ethical conduct for public servants to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are personal, material and avoidable;

(d) Public servants are entitled to engage in employment, professional or business activities, other than official duties, in order to support themselves and their families and to maintain a continuity of professional or business activity, and are entitled to maintain investments.

(4) This ordinance provides the minimum standards below which a public servant's conduct cannot fall without the risk of penalty. The principal policy which forms the foundation of this ordinance is to encourage internal commitment by establishing and maintaining a work environment which supports integrity with pride and enthusiasm. A work environment which supports integrity includes public servants who:

(a) Recognize with gratitude that the primary reason they hold a public position is to serve the public;

(b) Are motivated and committed to pursue ethical ideals which always exceed minimum standards and often achieve the highest standards;

(c) Encourage ethical practices which protect, advance and promote the public interest;

- (d) Recognize that the most effective way to eradicate unethical practices is to consistently act ethically themselves, and to consistently react appropriately with respect to the ethical decisions of others;
- (e) When they observe serious unethical practices, promptly disclose them to appropriate authorities, and encourage others to do the same;
- (f) Ensure that those for whom they are responsible are aware of minimum standards of ethics below which their conduct cannot fall without the risk of disciplinary consequences; and
- (g) When circumstances warrant, appropriately discipline those who are proven to have engaged in unethical behavior.

Sec. 2-106. Purposes of ordinance.

This ordinance, including the definitions set forth in section 2-104, is adopted to:

- (1) Identify the minimum standards of ethical conduct which public servants must meet;
- (2) Adequately educate public servants, in the principles of ethics;
- (3) Encourage public servants to pursue the highest ethical ideals which they can achieve;
- (4) Provide a process by which public servants may identify and resolve ethical issues;
- (5) Provide a process to ensure the prompt disclosure by public servants of serious unethical practices, and encourage others to do the same;
- (6) Provide a fair and impartial process by which alleged violations of this ordinance may be heard;
- (7) Provide for a just and reasonable balance among the rights of all individuals who are directly affected by the operation of this ordinance; and
- (8) Establish penalties, as appropriate, for public servants who violate the public trust.

Sec. 2-107. Applicability of ordinance.

This ordinance applies to all public servants, as the term is defined in this ordinance. It shall not apply to a County Court Judge when the Judge is acting in a judicial capacity.

Sec. 2-108. Exemptions.

- (1) This ordinance does not prevent any public servant from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her public duties, provided that the public servant complies with all applicable County requirements, including any requirements imposed by this ordinance.

(2) No public servant shall be deemed to have a conflict of interest by virtue of carrying out any contract pursuant to which the public servant directly or indirectly received income or benefits in the form of compensation for the performance of official duties.

(3) A former public servant is not prohibited from entering into a contract to represent the County in any matter for a period of no less than 12 months from separation from the county.

(4) No public servant shall be deemed to have a conflict of interest by virtue of sharing, directly or indirectly, in the benefit of a lawful County action when the benefit to the public servant is substantially the same as the benefit to the public at large or to a segment of the public to whom the benefit is provided in a nondiscriminatory manner.

(5) This ordinance does not prohibit any public servant from taking any action to approve the lawful payment of salaries, employee benefits, reimbursements of actual and necessary expenses, or other lawful payments which are authorized in accordance with County policies.

(6) This ordinance does not prohibit a public servant from taking any official action properly within the scope of his or her duties with respect to any proposal to enact or modify law or public policy.

(7) This ordinance does not prohibit an elected official or other public servant from raising campaign contributions in any manner which is otherwise permitted by law.

(8) This ordinance does not prohibit communication between an individual or organization and a candidate regarding the candidate's views, record or plans for future action regarding an issue or measure in an attempt to determine a candidate's viewpoints or how the candidate plans to act in the future, if such communication results in an endorsement of the candidate, a decision not to endorse the candidate, or a contribution or expenditure required to be recorded or reported under a state statute.

(9) Actions which might otherwise be alleged to constitute a conflict of interest shall be deemed to comply with this ordinance and not to be a conflict of interest if:

(i) Before acting, the public servant requested and received a written opinion from the County's Director of Law or a formal ethics opinion or a confidential advisory opinion from The Board in accordance with the procedures established in this ordinance;

(ii) The material facts, as stated in the request for an opinion, are true and complete; and

(iii) The actions taken were consistent with the opinion.

Sec. 3-100. Penalties.

Any violations of this ordinance shall be punishable to the maximum extent permitted by law. Any disciplinary action shall be carried out in accordance with the provisions of this ordinance, as well as any other laws, policies and procedures applicable to the position of the offender and the gravity of the offense. The Board is permitted to take any action which it is otherwise lawfully permitted to take, including, but not limited to, any one or combination of the following which The Board deems appropriate under the circumstances:

(1) *Letter of Notification.* The Board may issue a letter of notification when it finds that a violation of this ordinance was clearly unintentional or inadvertent. The letter may advise the Respondent of any steps to be taken to avoid future violations.

(2) *Letter of Admonition.* The Board may issue a letter of admonition when it finds that the violation of this ordinance was minor and/or may have been unintentional or inadvertent.

(3) *Letter of Reprimand.* The Board may issue a letter of reprimand when it finds that the Respondent has intentionally or knowingly violated this ordinance.

(4) *Recommendations to County Council.* When The Board finds that the Respondent has intentionally or knowingly violated this ordinance, The Board may make a recommendation to the County Executive and County Council, including but not limited to a recommendation for suspension, forfeiture of office or removal from office, and/or banning or temporarily suspending the Respondent's (or Respondent's associated businesses or organizations') right to solicit, bid on or obtain a contract with or from the County, as allowed by applicable law.

(5) *Referral to Ethics Training.* Upon finding of violation of this ordinance, The Board may require that the Respondent undergo ethics training in addition to or in lieu of any other penalties imposed upon the Respondent.

Sec. 3-110. Penalties cumulative.

The penalties prescribed in this ordinance shall be cumulative and not exclusive of each other or of any other penalties which may be imposed pursuant to any other laws or policies.

Sec. 3-111. Liberal construction of ordinance.

The provisions of this ordinance are to be construed liberally, to the end that the public interest be fully protected, and shall be construed in a manner consistent with all applicable federal and state laws and applicable provisions of the County Charter.

Sec. 3-112. Duties of public servant.

(1) No public servant or former public servant shall divulge any confidential information to any person who is not authorized to have it nor divulge to any unauthorized person confidential information acquired in the course of holding his or her position in advance of the time prescribed by the County Executive, County Council, administrators, or other applicable law for its release to the public.

(2) All public servants shall respond fully and truthfully to any inquiries by the County's Director of Law or The Board in connection with the investigation of an alleged or potential violation of this ordinance. All public servants shall cooperate fully in any investigation by the county's Director of Law or The Board, and shall locate, compile and produce for them such information as they may request, unless the information requested is exempt from disclosure under this ordinance or other applicable law.

(3) Except as set forth below in paragraph (4) of this section, within a reasonable period of time, all public servants must report a violation of this ordinance of which they have knowledge to the county's

Director of Law, County Clerk or the County Executive – within 5 business days,, who shall forward such report to The Board.

- (4) Public servants are not, however, required to report a violation that has already been reported.
- (5) In addition to being a violation of other laws, it is also a violation of this ordinance for any public servant to:
 - (a) Be convicted of any felony or misdemeanor involving moral turpitude;
 - (b) Be found liable of violating any federal, state, county or municipal law prohibiting discrimination or sexual harassment;
 - (c) Be found liable of violating any federal, state, county or municipal laws prohibiting retaliation against public servants who assert a lawful claim of any nature or otherwise engage in lawfully protected activity; or
 - (d) Be found liable of violating any state laws governing lobbying activities or regulating political activity.

Sec. 3-113. Conflict of interests and personal benefits prohibited

- (1) Except as otherwise permitted under applicable federal, state and county laws and policies, including the county's procurement policies, no public servant shall have a personal interest in any official action.
- (2) No public servant shall accept or receive, directly or indirectly, from any person, including one whose identity is unknown to the public servant, any personal benefit under circumstances in which it can reasonably be inferred that the benefit is intended to influence the public servant or as a reward for any official action of the public servant.
- (3) No person, including any vendor, contractor, business, or Board of the County, shall offer or give any personal benefit to any public servant or any partner-in-interest of the public servant.
- (4) No public servant or partner in interest of that public servant shall solicit from any person, directly or indirectly, any personal benefit, regardless of value, or the promise of receiving a personal benefit in the future, for the public servant.
- (5) No current or former public servant shall intentionally use or disclose information gained in the course of, or by reason of, his or her official position or activities in any way that could result in the receipt of any personal benefit for the public servant, for a partner in interest of that public servant, or for any other person. This provision shall not:
 - (a) Prohibit the disclosure of public information;
 - (b) Prohibit the disclosure of information the public servant has been authorized to disclose;
 - (c) Prohibit the disclosure of any such information to incumbent public servants to whom the information may be pertinent;

(d) Prevent the disclosure of violations of this ordinance or other illegal acts to the proper authorities; or

(e) Prohibit the disclosure of any such information the disclosure of which is required by law.

Sec. 3-114. Duty to leave meeting.

(1) To avoid the appearance of impropriety, after any public servant or a partner in interest is determined to have a conflict of interest or a potential conflict of interest in any matter, and once all questions relating to the conflict of interest have been answered to the satisfaction of the decision maker, the public servant shall immediately leave the meeting room, except that if the matter is being considered at a public meeting, the public servant may remain in the area of the room occupied by the general public.

(2) Nothing herein shall require members of voting bodies to leave their seats while action is taken regarding any item contained on a consent agenda on which there is no deliberation, the public servant's conflict has been disclosed, and the public servant abstains from voting on the item.

Sec. 3-115. Public contracts.

(1) The County is prohibited from entering into any contract with a business in which a public servant or a public servant's partner in interest has a controlling interest involving services or property of a value in excess of \$2,500.00.

(2) Any public servant who has or may have a personal interest in any contract shall disclose such interest prior to the first of any of the following events:

- (a) The solicitation of a contract;
- (b) The bidding of a contract;
- (c) The negotiation of a contract; or
- (d) The approval of a contract by the County Council.

(3) Any contract entered into in violation of this section may be voided by the County in an action commenced within three years of the date on which The Board, or the department or officer acting for the County in regard to the allocation of funds from which such payment is derived, knew or should have known that a violation of this section occurred. This section does not affect the application of any state statute.

(4) Mandatory provision in volunteer agreements. Volunteers share in receiving the public's trust and in the responsibility to contribute to creating and maintaining an ethical work environment. Volunteers serve without the expectation of receiving any compensation from the County, and it is improper for any volunteer to seek any compensation. Volunteers, unless expressly authorized by a public servant empowered to grant such authorization, are prohibited from acting as volunteers in any matter in which they have a conflict of interest or a potential or alleged conflict of interest; or in any matter in which they hope to receive any personal benefit.

Sec. 3-116. Disclosure of conflict of interest or potential conflict of interest.

(1) A member of the County Council who has or may have a conflict of interest in a matter which requires an official action by any decision maker shall, before the matter is decided, disclose the conflict of interest or the potential or alleged conflict of interest. If the member of the County Council believes that no conflict of interest exists, or that despite any alleged or potential special interest, such County Councilmember is nevertheless able to vote and otherwise participate fairly, objectively and in a manner consistent with the public interest, then the member shall so state in the written disclosure.

(2) If any member of The Board has or may have a conflict of interest in any matter before The Board, such member shall not appear before The Board, discuss, debate, deliberate about, acc upon, vote upon or otherwise participate in or influence the decision-making process pertaining to the matter in which the member has a conflict of interest.

(3) Any public servant who has or may have a conflict of interest shall disclose it. After receiving a disclosure, the County Clerk shall:

(a) Maintain a record of such disclosure; and

(b) Promptly forward copies of the disclosure to any person named in the disclosure, The Board and the county's Director of Law.

(4) Any public servant who believes that any other public servant has a conflict of interest in any agenda item before a governmental body shall disclose such interest to the County Clerk, and the County Clerk shall forward copies of such disclosure to the person alleged to have a conflict of interest, The Board and the County's Director of Law.

(5) A public servant, in addition to disqualifying her/himself from participation in any decision regarding the pecuniary or employment interest of a partner in interest, shall make known the existence of the relationship and the interest by filing with the County Clerk a written disclosure of the relationship and the nature and extent of the conflict of interest involved.

Sec. 3-117. Unauthorized outside employment.

(1) *Purpose of policy.* The purpose of the policy governing unauthorized outside employment is to prevent conflicts of interest and conflicts of loyalty; to prevent abuses regarding dual compensation, payment for work not done, or unlawful gifts of public funds; and to prevent excessive loss of efficiency in the performance of public service.

(2) *Conflict of interest.* A public servant shall not accept any employment, nor enter into any contract, nor perform any service for compensation that results in a financial conflict of interest or a conflict of loyalties which would affect the performance of the public servant's official duties.

Sec. 3-118. Prohibited conduct, and other abuses or misuses of position.

(1) Public servants of the County shall treat all citizens with courtesy, impartiality, fairness, and equality under the law, and shall avoid both actual and potential conflicts between their private self-interest and the public interest. Prohibited conduct of each such public servant shall include, but not be limited to, the following:

- (a) Granting or making available to any person any special consideration, treatment, advantage, or favor beyond that which it is the general practice to grant or make available to the public at large;
- (b) Requesting, using or permitting the use of any publicly owned or publicly supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of oneself or any other person, except as otherwise allowed by law;
- (c) Participating in the deliberation of or voting on any matter involving personal financial or personal interest;
- (d) Engaging in private employment with, or rendering services for, any private person who has business transactions with the County, unless the public servant has made full public disclosure of such employment;
- (e) Accepting any gift, whether in the form of money, thing, favor, loan, or promise, that would not be offered or given to the public servant if the individual were not a public servant;
- (f) Disclosing any confidential information concerning any public servant, or any other person, or any property or governmental affairs of the County, without prior formal authorization of the County council;
- (h) Using or permitting the use of confidential information to advance the financial or personal interest of the public servant or any other person;
- (g) Ordering any goods and services for the County without prior official authorization for such an expenditure;
- (h) Use his or her superior position to request or require an employee to:
- (i) Do clerical work on behalf of the public servant's family, business, social, church or fraternal interest when such work is not furthering a County interest;
- (ii) Perform any work outside the employee's normal course of County employment;
- (iii) Purchase goods and services for personal, business, or political purposes; or
- (iv) Work for him or her personally without offering just compensation;
- (i) A public servant shall not draw per diem or expense monies from the County to attend a seminar, convention or conference and then fail to attend the seminar, convention, or conference without refunding the pro-rata unused per diem or expense monies to the County.
- (2) No public servant shall hold any other office, elected or appointed, in any other governmental entity, when the duties of such office are incompatible with the proper discharge of the public servant's duties with the County. For purposes of this ordinance, the holding of any office, elective or appointive, with any other governmental entity by any member of the County Council or of a board is hereby prohibited in any one of the following circumstances:
- (a) Where one office is subordinate to the other;

- (b) Where one office carries the power of removal of the other; or
- (c) Where the occupancy of both offices is prohibited by the County Charter or other law.
- (3) No public servant shall falsely represent his or her personal opinion to be the official position of the County, and no public servant shall falsely represent his or her personal opinion to be the official position of any board. This subsection shall not apply to statements of elected officials made in the course of fulfilling the responsibilities of their offices or in running for election to office.
- (4) All public servants have a fiduciary duty to use County fiscal and human resources in a manner which advances the public interest, and to refrain from using County resources for their personal benefit; therefore, public servants are prohibited from using County resources in any manner which violates any applicable law or policy, and are expressly prohibited from using any County resources to obtain any personal benefit.
- (5) No public servant shall use his or her official authority or position to influence or interfere with or affect the results of any election, nor to solicit or receive contributions from County employees in connection with any County election.
- (6) No public servant shall suppress any public document, record, report or any other public information available to the general public because it might tend to unfavorably affect their private financial, personal, or political interest.
- (7) When a public servant, in the course of carrying out his or her duties, has been offered or is discussing future employment with a business that is presently dealing with the County concerning matters within the public servant's current official duties, that person shall disclose such possible future employment to the County clerk. The County clerk shall disclose such possible future employment to the County council.
- (8) No member of the County Council having a personal interest in a matter shall represent himself or any other person before the County Council in connection with that matter, nor in connection with any matter in which a partner in interest has a personal interest, except in cases where a legal right to self-representation exists.
- (9) No member of a board having a conflict of interest shall represent himself or any other person before that board in connection with that matter, nor in connection with any matter in which a member of his or her immediate family or a business with which he or she, or a member of his or her immediate family, is associated has a prohibited interest, except in cases where a legal right to self-representation exists.
- (10) No member of a board who is prohibited by this provision from representing himself before that board shall represent himself in the appeal of any decision of that board to any decision maker.

Board of Ethics

Sec. 3-150. Creation; membership; terms; compensation.

- (1) *Created; membership.* There is created a Board of Ethics consisting of five members and one alternate from each of the representative political parties or political declarations of the members of the County Council. Each board member and alternate shall have been a resident of the County for at least

one year immediately preceding the date of taking office and shall remain a resident of the County while serving as a Board member or alternate.

(2) *Member partisanship.* Members of The Board shall be representative of the ratio of political parties or political declarations of the County Council. In determining the political party or political declaration of The Board composition, a formula of dividing the number of members of each political subdivision by the total number of County Council members shall be utilized. Each represented party or political declaration shall have a minimum of one member on The Board. The result of the prescribed formula results will be rounded to the nearest whole number in determining the actual number of board members by party affiliation or party declaration.

(3) *Member restrictions.* Members of The Board and alternates shall not be elected officials, persons appointed to elective office, full-time appointed officials (whether exempt or nonexempt), or County employees, and shall hold no elected public office nor any other County office or employment.

(4) *Appointment.* Members of The Board and alternates shall be recommended by the consensus of the County Councilmember's from each political party or political declaration and appointed by the County Executive and approved by the County Council. An appointment to fill a vacancy on The Board shall be made by the County Council and approved by the County Council. If the Councilmember's from each political party or political declaration fail to reach a consensus within 30 days of the establishment of The Board or the date of the vacancy, the County Executive shall make the appointment on behalf of the respective political party or political declaration. Such appointment shall maintain the ratio as per paragraph 2-150(2) from above.

(5) *Chairperson.* The Board shall elect one of its members to serve as chairperson of The Board and one of its members to serve as vice chairperson of The Board. Alternates may not hold any office on The Board.

(6) *Term of office.* Members of The Board and alternates shall serve a single term of no more than one year. A Board member shall hold office until that member's successor is appointed.

(7) *Limit of terms.* No Board member may serve more than two consecutive terms as a Board member. No alternate may serve more than two consecutive terms as an alternate.

(8) *Deliberations, actions open to public.* The Board's deliberations and actions upon requests shall be open to the public.

(9) *Compensation.* Members of The Board are volunteers and shall serve without compensation. The County Council shall provide meeting space for The Board of Ethics. Subject to budgetary procedures and requirements of the County, the County shall provide The Board of Ethics with such supplies and equipment as may be reasonably necessary to perform its duties and responsibilities.

(10) *Staff support.* The County Council shall provide such staff support for The Board as the County Council determines to be necessary for The Board to fulfill its duties and responsibilities. The County's Director of Law is designated to be the legal advisor for The Board, except that the County's Director of Law is not authorized to represent The Board in any legal action if doing so would create a conflict which would prevent the County's Director of Law from also representing the County Executive or County Council. The County Clerk shall serve as recording secretary to The Board.

Sec. 3-151. Duties and powers.

- (1) The Board shall, in addition to its other duties:
- (a) Develop and adopt written procedural rules, which rules shall be subject to the approval of the County Executive and County Council, and filed with the County Clerk;
 - (b) Be authorized to administer oaths;
 - (c) Conduct hearings as needed to hear and decide specific cases in which a violation of this ordinance is alleged, whether such cases arise from a complaint or are brought on The Board's own motion;
 - (d) No later than December 1 of each year, submit an annual report to the County Executive and County Council concerning its action, if any, in the preceding year, which shall contain a summary of its decisions and opinions; The Board shall make any alterations in the summaries necessary to prevent disclosure of any confidential information pertaining to any individual or organization;
 - (e) Establish a process for evaluating all significant aspects of the administration and implementation of this ordinance;
 - (f) Prescribe and make available necessary forms for use under this ordinance;
 - (g) When necessary, request assistance from the County's Director of Law in compelling the production of documents and witnesses to assist in an investigation; and
 - (h) When necessary, retain outside legal counsel and other experts as needed after solicitation of recommendations from the County's Director of Law (unless the need to retain outside counsel is caused by a conflict involving the County's Director of Law's office), and upon approval by the County Council of a contract for services approved as to term by the County's Director of Law
- (2) The Board may:
- (a) Conduct meetings and hearings as The Board determines necessary or appropriate:
 - (i) To ascertain public opinions and to gather information from the general public, public servants, or others regarding any aspect of the County's ethics policies or practices; and
 - (ii) For any other purpose for which The Board is authorized to conduct hearings;
 - (b) Respond, as it deems appropriate, to requests for confidential advisory opinions; The Board may decline to render an opinion in response to any request for an advisory opinion;
 - (c) Render and publish written formal opinions on any matter within the scope of The Board's authority; The Board may initiate opinions on its own motion or upon request;
 - (d) At the request of a person, the County's Director of Law may render an informal opinion with respect to the prospective conduct of such person. Nothing in this ordinance shall be construed to prohibit a request for an informal opinion by any public servant from the county's Director of Law regarding a potential conflict of interest. If the County's Director of Law elects to render an informal

opinion, the County's Director of Law shall, within a reasonable time – not to exceed 90 days from the formal written request for such an opinion, submit a written summary of the opinion to The Board for The Board's information; if the County's Director of Law declines to render an informal opinion, nothing shall preclude the person requesting the opinion from requesting The Board for an opinion;

(e) Prepare and publish special reports, technical studies, and recommendations to further the purposes of this ordinance; and

(f) Make recommendations to the County Executive and County Council of legislative or administrative actions regarding the County's policies and practices which The Board believes could enhance the ethical environment in which public servants work.

(3) The duties and limitations of an alternate are as follows:

(a) An alternate shall receive notice of and agenda for all meetings and hearings of The Board;

(b) An alternate may be appointed by the chairperson of The Board to serve on any committees of The Board;

(c) An alternate may participate in discussions at all meetings and hearings of The Board;

(d) An alternate may not vote at any board meeting or hearing, except as authorized in (3)(e) of this section; and

(e) In the absence of a Board member at a board meeting or hearing, the chairperson (or vice chairperson in the chairperson's absence) may appoint an alternate to take the place of the absent Board member at said Board meeting or hearing, and said appointed alternate shall have all rights, duties, and responsibilities attendant to Board members, including without limitation, the right to motion The Board for action and the right to vote on any item before The Board. The alternate's service as a Board member shall terminate at the close of The Board meeting or hearing at which the alternate was appointed to serve.

Sec. 3-152. Custodian of records.

The County Clerk shall serve as legal custodian of The Board's records, and accept, file, maintain and administer, in accordance with all applicable laws, any information related to the purposes of this ordinance.

Sec. 3-153. Requests for actions.

(1) Any person may file a request for Board action with the County Clerk, either personally or on behalf of an organization or governmental body, and may request of The Board an ethics opinion, whether a formal opinion or a confidential advisory opinion, regarding the propriety of any matter or matters to which the person is or may become a party; and any decision maker, with the consent of a prospective appointee, may request of The Board an ethics opinion regarding the propriety of any matter to which the public servant, prospective public servant or former public servant is or may become a party.

(2) Any request for Board action shall be in writing, and shall be signed by the person making the request.

Sec. 3-154: Limitations of power.

The Board does not have the authority to reverse or otherwise modify a prior action of a public servant of the County. If The Board finds a prior action of a public servant to have been ethically improper, The Board may advise the appropriate party or parties that the action should be reconsidered. Upon such advice by The Board, the action may be reconsidered by the appropriate person or public body. If The Board determines an existing County contract to be ethically improper, after such determination and advice from The Board, the County may void or seek termination of the contract if legally permissible. The Board may refer a matter to the County's Director of Law for review and consideration for appropriate action. Upon completion of review and consideration, the office of the County Director of Law shall report its findings to The Board.

Sec. 3-155. Procedures for hearing complaints.

- (1) Any person may file a complaint with the County Clerk where the person believes that a public servant may have violated this ordinance.
- (2) A complaint shall be made in writing on a form that is created and prescribed by The Board of Ethics, shall be signed and sworn to by the Complainant in the presence of a notary public, shall specify the provision(s) of this ordinance alleged to have been violated and the facts alleged to constitute the violation, and shall identify all persons with knowledge of the facts alleged to constitute the violation, and shall attach all documentation or other evidence supporting the alleged violation.
- (3) Upon receipt of such a complaint, but in any event not later than five working days after receipt, the County Clerk shall acknowledge receipt to the Complainant, and forward the complaint simultaneously to The Board, the Respondent, and the County's Director of Law.
- (4) The County's Director of Law shall provide The Board with a preliminary written analysis of the complaint no later than thirty calendar days from the date the complaint is filed with the County Clerk.
- (5) During any investigation and during any hearing which is conducted to determine whether a violation of this ordinance has occurred:
 - (a) The Respondent may be represented by legal counsel, licensed in the State of Ohio of his or her own choosing; and
 - (b) The Respondent or his or her counsel, if any, shall have an opportunity to:
 - (i) Challenge the sufficiency of any complaint which has been filed against him or her;
 - (ii) Examine all documents and records obtained or prepared by The Board in connection with the matter heard;
 - (iii) Bring witnesses and/or request witnesses to be subpoenaed by The Board;
 - (iv) Establish all pertinent facts and circumstances;
 - (v) Question or refute testimony or evidence, including the opportunity to confront and cross examine adverse witnesses; and

(vi) Exercise, to the extent The Board, in its discretion, determines to be just and reasonable, any pretrial discovery procedure usually available in civil actions.

(6) The following principles shall apply regarding evidence in connection with hearings conducted by The Board:

(a) The Board shall not be bound to adhere to statutory rules of evidence, but shall be fundamentally fair and reasonable in its administration of evidence;

(b) All evidence including certified copies of records which The Board considers shall be fully offered and made a part of the record in the proceedings;

(c) The Respondent shall be afforded adequate opportunity to rebut or offer counterbalancing evidence;

(d) The Board shall inform the Respondent or his or her counsel of exculpatory evidence in its possession; and

(e) The standard of evidence sufficient to prove a violation in hearings conducted under this ordinance shall be by a preponderance of the evidence admitted at the hearing.

(7) The Board, in addition to its other duties and powers, may:

(a) Appoint a hearing officer in the place of the chairperson to conduct hearings under this ordinance;

(b) With the approval of the County Council, retain outside legal counsel and other experts as needed with respect to hearings in accordance with its policies. The selection of outside counsel or other experts and any contract for such persons shall be made after solicitation of recommendations from the County's Director of Law and upon approval by the County Council of a contract for services approved as to form by the County's Director of Law;

(c) Order testimony to be taken by deposition before any individual who is designated by The Board and, in such instances, to compel testimony and the production of evidence to the extent it is otherwise lawfully authorized to do so;

(d) Require any person to submit in writing such reports and answers to questions relevant to the proceedings as The Board may prescribe, such submission to be made within such period and under oath or otherwise as The Board may determine; and

(e) Request and obtain copies of state income tax returns and access to other appropriate information as permitted under state law regarding all persons who are the subject of such investigation.

(8) The Respondent shall have thirty calendar days from the date of receipt of the complaint from the County Clerk to submit a written response prior to The Board deciding whether to hold a hearing.

(9) Any person whose name is mentioned or who is otherwise identified and who, in the opinion of The Board, may be adversely affected thereby may, upon request of the person or a representative of the person, or upon the request of any member of The Board, appear at the hearing to testify on his own

behalf or have a representative appear to so testify, and The Board may permit any other person to appear and to testify at a hearing.

(10) Upon request of the Respondent, on its own motion, or upon request of the county's Director of Law, The Board shall be authorized to issue subpoenas to compel the attendance of necessary witnesses.

(11) Within thirty calendar days following receipt of the county's Director of law's analysis, The Board shall review and consider the complaint and the county Director of Law's analysis, and, if a hearing is to be held, shall set a date certain for the hearing to take place within sixty calendar days of said review by The Board, unless the Respondent petitions for and The Board consents to a later date.

(12) As soon as practicable after giving due consideration to a complaint, or, if a hearing was held, after the hearing, The Board shall take any action or combination of actions which it deems appropriate and which it is lawfully empowered to take, including, but not limited to, the following:

(a) Dismiss the complaint based on any of the following grounds;

(i) The complaint is deemed frivolous, or was filed with knowledge of its falsity or with reckless disregard for its truth or falsity;

(ii) The complaint does not allege facts sufficient to constitute a violation of this ordinance;

(iii) The Board has no jurisdiction over the matter;

(iv) The Complainant fails to cooperate in The Board's review and consideration of the complaint;

(v) The complaint, on its face, does not demonstrate that a violation of this ordinance has occurred;

(vi) The Board exercises its discretion to forego hearing an alleged violation of the ethics ordinance upon a determination that the Respondent is already subject to appropriate proceedings that will adequately address the alleged violation; or

(vii) The complaint is defective in a manner which results in The Board being unable to make any sound determination;

(b) Determine that the complaint alleges facts sufficient to constitute a violation of this ordinance and that The Board will conduct a hearing, in which case The Board shall promptly send written notice of such determination to the Respondent and Complainant; or

(c) Determine that further information is required to determine whether the complaint alleges facts sufficient to constitute a violation of this ordinance; and

(i) Conduct its own investigation of any alleged violation;

(ii) Request the County's Director of Law to investigate the complaint and report all findings back to The Board;

(iii) Schedule the complaint for further review and consideration at a future time certain, in which case The Board shall promptly send written notice of such determination to the Respondent and to the Complainant;

(iv) Refer the complaint for criminal investigation or prosecution; or

(v) Refer the complaint, along with The Board's findings and conclusions, to any appropriate administrative authority for disciplinary action or other suitable remedial action; The Board, although it has no independent administrative authority, may make any recommendation to any County administrator at any level of supervision, if The Board finds that the recommendation will advance the objectives of this ordinance.

(13) After it has made its final determination, The Board shall issue its written findings of fact and conclusions, and may issue any additional reports, opinions and recommendations as it deems necessary. All such reports shall be in compliance with all state and County laws governing confidentiality, open government, and torts. All such reports shall be reviewed by the County's Director of Law prior to issuance.

Sec. 3-156. Elected officials.

If The Board makes a finding that the conduct of an elected official constitutes a breach of the oath of office of that elected official, the matter shall be referred to the appropriate administrative authority for disciplinary action, prosecution or other suitable remedial action in accordance with applicable state or local laws.

Sec. 3-157. Ex parte communications.

After a complaint has been filed and during the pendency of a complaint before The Board, no member of The Board or alternate may communicate directly or indirectly with any party or other person about any issue of fact or law regarding the complaint, except that:

(1) The members of The Board may obtain legal advice from the County Director of Law and may discuss the complaint with their staff; and

(2) The members of The Board and alternates may discuss the complaint at a lawfully conducted meeting.

If any person attempts to communicate with a Board member or alternate regarding the pending complaint, The Board member or alternate shall report the substance of the communication to The Board on the public record at the next meeting or hearing of The Board.

Sec. 3-158. Confidentiality of Board information.

No member of The Board, alternate, or any public servant who has access to any confidential information related to the functions or activities of The Board shall divulge that information to any person not authorized to have it. The identity of a person who requests a confidential advisory ethics opinion is confidential, as is information describing or pertaining to any organization mentioned if the disclosure of the information could lead to the disclosure of the identity of the person requesting the confidential advisory opinion.

Sec. 3-159. Waiver of confidentiality.

A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of that person is deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by The Board in connection with the request.

Sec. 3-160. Statute of limitations.

A complaint shall be filed within six months from the date that the Complainant knew or should have known of the action that is alleged to be a violation of this ordinance, and in no event shall The Board of Ethics consider a complaint which has been filed more than one year after a violation of this ordinance is alleged to have occurred."

SO ORDAINED, this _____ day of _____, 20_____.

Approved:

County Executive

Attest:

County Clerk

(Seal)