

# Ethics in Government

## A Guide for Hamilton County Government Employees



*Ethical Conduct is Essential for Good Government.*



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# Importance of Ethical Behavior

Ethical conduct is essential for good government. Why?

## **Complying with the Law**

First of all, it's the law. Hamilton County government must comply with Federal laws about fair employment practices and with state laws about ethics, as described in the Ohio Revised Code (RC) and further detailed in the Ohio Administrative Code. Compliance with these laws is not optional.

## **Maintaining Public Trust**

Ethical behavior is essential because the public needs to have confidence in the integrity of the government they pay for with their taxpayer dollars, and count on to deliver critical public services. And when we earn and enjoy the public's trust, we can serve most effectively.

## **Maximizing Performance**

An institution is only as strong and effective as its people, and their collective performance. Which means every institution, including the County, must have in place policies assuring that qualifications, merit, and top performance are the basis by which employees are hired, promoted and otherwise rewarded. When other factors unrelated to performance play a role in key personnel decisions, performance quickly erodes.

## **Providing Fair, Just Treatment**

Finally, ethical conduct is essential for Hamilton County government because behaving ethically is the right thing to do. Ethical behavior ensures fair, just treatment for everyone, which enables us to serve Hamilton County most effectively.

# Importance of Ethical Behavior

## The Importance of Ethical Behavior for Every Employee

The Hamilton County Board of County Commissioners' (BOCC) "Ethics of Public Employment" policy states that our mission is:

1. To . . . protect and preserve the public trust;
2. To ensure impartiality of services and to avoid disparate treatment of any citizen;
3. To avoid real or apparent conflicts between public duties and private concerns;
4. To promote government integrity.

Individual employees may feel like they have minimal impact on the County's ability to earn the public's trust. But actually, whatever the position, each and every employee has a significant impact on public perception and trust in our County government. It's the decisions that we as employees make and the actions that we take, day in and day out, that build confidence in Hamilton County government. Alternatively, it only takes the bad actions of a few employees to tarnish the reputation and perception of the many others who work hard every day.

## Actions Each Employee Can Take

It's up to each employee to:

- Understand what constitutes ethical behavior and what does not;
- Choose behaviors that comply with ethical standards;
- Ask questions when unsure about the ethics of a situation;
- Report concerns about ethics using appropriate channels.

When each Hamilton County employee strives to ensure good ethics for Hamilton County government, together we will successfully comply with law, earn and maintain our community's trust, and serve most effectively.

This booklet is designed to inform you of both the Ohio Revised Code requirements for ethics compliance (which apply to ALL County employees, in all departments) and to inform you of additional ethics policies for all employees of the Board of County Commissioners. This booklet does not restate every aspect of Ethics Law. You are encouraged to speak with your manager when you have specific questions about Ethics Law and policy.

# Use of Influence: The Law

Ohio Ethics Law restricts all public employees from using their influence or public employment for personal gain. It's essential that decisions are based on objective, legal, business-related reasons, rather than based on the possibility of employees or their family members benefitting from those decisions.

## **Personal Gain**

Specifically, the Ohio Revised Code (RC) mandates:

- Public officials or employees may not authorize or otherwise attempt to influence the award of a county contract in which they personally, or their family members, or any business associates have an interest. *RC 2921.42 (A 1)*. "A public contract includes any purchase or acquisition of good or services, including employment, by or for the use of a public agency." *Ohio Ethics Commission publication: Ethics is Everybody's Business, p. 7*.
- A county official or employee is prohibited from having a financial or fiduciary interest in a county contract. A fiduciary interest can arise if there is a contract between the county and another agency and the official/employee serves as a board member or executive officer of that agency. Exceptions to this rule may exist in very limited circumstances. *RC2921.42 (A 4)*
- Public servants may not knowingly solicit or accept any compensation for performing their duties as a supplement to their public compensation. *RC 2921.43 (A 1)*
- Public servants may not solicit or accept anything of value in consideration for activities such as appointing any person to public office, employment or agency or to influence an employee's compensation, duties, placement, location, or promotion. *RC 2921.43 (B 1,2)*

# Use of Influence: Board of County Commissioners

The Hamilton County BOCC Policy Section 6.0 addresses the Ethics of Public Employment. In many situations, the BOCC's requirements go above and beyond what Ethics Law dictates.

## Personal Gain

State ethics Law requires that employees not use their position to influence a contract in which we personally, our family members, or business associates have an interest. The BOCC policy takes that one step further, including friends, neighbors, and acquaintances in the list of people whose interests employees may not use their positions to influence. Also, policy requires any employees who experience such influence to inform their supervisors.

- “Employees shall not use their position to unduly influence the County business concerns of a relative, friend, neighbor, or acquaintance; or to unduly influence a coworker who has responsibility for these concerns. Employees who experience such influence shall notify their supervisor immediately.” *BOCC Policy Section 6.0: Ethics of Public Employment, E.*

# Use of Influence: The Law

## Influence of Duties and Decisions

Ethics Law also prohibits public officials and employees from accepting anything of value that could improperly influence their duties. The law also prohibits people from promising or giving anything of value to a public employee that might influence the employee's decisions. RC 102.03 (D-F).

The Ohio Ethics Commission Information Sheet #7 explains how these mandates apply regarding accepting gifts, meals, entertainment, or other things of value. It states:

- “An official cannot solicit, accept, or use the authority of his public position to secure anything of value, including a gift, meal, or entertainment, that could have a ‘substantial’ and ‘improper’ influence upon him in the performance of his duties . . . Small gifts, such as a book, a meal at a family restaurant, a promotional item, an inexpensive entertainment activity, and other things of nominal value, even if they are provided by an improper source, will not have a substantial influence on an official. An official is not prohibited from accepting these kinds of items. However, an official could be influenced in the performance of his duties by accepting multiple items of minimal value from the same source if the value of these items, added together, is substantial. In some circumstances, accepting items of minimal value may create an appearance of impropriety, even if it is not illegal.”

## Influence of Duties and Decisions and Personal Gain

State ethics law prohibits a public official/employee, while employed or for one year following employment, from representing a 3rd party before any government agency, including the county, on any matter in which the official/employee participated in any significant matter as a county official/employee. This is known under state law as the ‘Revolving Door Restriction.’

- “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.” RC 102.03 (A)(1)

If a former employee or official is considering a business relationship, particularly employment, with an entity that has business dealings with the county and if the employee/official participated in those dealings while employed by the county, it is important to get help to understand any applicable ethics restrictions. Under no circumstances may a county employee or official, while employed by the county, use the influence of their county position to obtain future employment with an entity doing business with the county. Page 20 of this book provides information about where to go for help with ethics issues.

# Use of Influence: Board of County Commissioners

## Influence of Duties and Decisions

Ethics Law requires that employees may not accept anything of value that could improperly influence their decisions. BOCC policy requires that if employees are offered anything of value, they must inform their supervisor.

- “Employees shall not accept any gratuity (other than occasional plaques or other symbols of appreciation and honor), whether in the form of service, loan, gift, favor, honorarium, or item, directly or indirectly, in business dealings with the County; nor shall they accept 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 said employees in the discharge of their duties. Employees who are offered such gratuity by any individual, firm, association, group, partnership, or corporation seeking County employment or contract(s) must inform their supervisor of the gratuitous offer. *BOCC Policy Section 6.0: Ethics of Public Employment, E.*

State Ethics Law requires that employees not accept anything of value that might influence their decision making. BOCC policy is more stringent, stating that employees shall not even represent that they can influence certain decisions and actions.

- “Employees shall not have an unlawful interest in a public contract. Nor shall employees directly or indirectly represent that they have any ability to influence the outcome of any County bid, proposal, contract or the administration or application of any policy by any County employee.” *BOCC Policy Section 6.0: Ethics of Public Employment, E.*

## Influence of Duties and Decisions and Personal Gain

BOCC policy allows the Hamilton County Ethics Commission (HCEC) to review situations in which former county employees’ new employment might pose a conflict of interest.

- “Situations involving former County employees, who, within one year after leaving County employment, accept other employment directly related in any way to their former employment with the County, are subject to review by the Hamilton County Ethics Commission for a determination of a possible conflict of interest.” *BOCC Policy Section 6.0: Ethics of Public Employment, (E)(18)*

If the HCEC determines that there is a potential conflict of interest and potential violation of Ohio Ethics Law, the HCEC may forward the issue to the Ohio Ethics Commission.

County employees are encouraged to consult with their manager and the HCEC, if they are considering outside employment that is directly related to their employment with the County.

# Transparency: The Law

## Financial Disclosure Statements

One way that Ethics Law ensures that public officials and employees do not stand to gain financially from decisions made in office is to require that elected officials and certain other public officials share information annually about their finances. *RC 102.02*.

“Under the Ethics Law, many public officials and employees file annual reports, called Financial Disclosure Statements (FDS), that disclose certain required financial information. The purposes of the financial disclosure requirement are to remind public officials of financial interests that may conflict with their duties and to assist citizens and the three ethics agencies in monitoring the areas of potential conflict of interest of public officials. . . . Like a tax return, the FDS reflects personal financial information for the entire preceding calendar year.” *Ohio Ethics Commission Publication: Ethics is Everybody’s Business, p. 8.*

# Transparency: Board of County Commissioners

## **Financial Disclosure Statements**

Ethics Law requires that Top Management staff under the Board of County Commissioners file a Financial Disclosure Statement annually. The BOCC goes further, requiring that “all other employees must submit an Ethics Statement when hired by the Board and annually thereafter.” *BOCC Policy Section 6.0: Ethics of Public Employment, F.*

The Ethics Statement requires that employees disclose any employment in addition to their county jobs, disclose any consultant services the employees are providing, and disclose ownership or beneficial interest in any business or entity that does certain types of business with Hamilton County. Finally, the Ethics Statement asks employees, “During the previous calendar year and up to the present date, did your outside employment or consultation or connection with any business pose any conflict with your public duties as an employee of Hamilton County?”

Although Ethics Law does not require this type of disclosure from all employees, the BOCC uses the Ethics Statement to remind employees to be aware of potential conflicts of interest and to provide an opportunity for the BOCC to ensure that there are no conflicts with employees’ public duties.

## **Annual Review of Ethics Policy**

The BOCC policy 1.1 requires every employee and supervisor to annually review the contents of the BOCC Ethics policy, which is considered one of the Key BOCC policies. The employees and supervisors must sign an acknowledgement that the Ethics policy was reviewed, and the signed forms are placed in the employees’ personnel files. This annual review helps employees remember and apply the Ethics Policy.

# Ethical Hiring Practices: The Law

It is important that County employees understand fundamentals of hiring practices under Ohio law and County policy. Sometimes there is a public perception that government employees are hired based on nepotism, political activity, or who they know. In fact, in many cases, this would be a clear violation of the Ohio Revised Code (RC).

## Employment of Family Members

“Ohio Ethics Law prohibits any public official (including any public employee) from:

- Hiring a family member for a public job;
- Using his or her public position to get a public job (or other contract) for a family member (for example, a public official can’t ask another official to hire his or her family member);
- Using his or her position to get promotions, selective raises, or other job-related benefits for a family member. . . .

A public official’s family member can work for the same agency as the public official, provided that the official has not hired, recommended the hire, or otherwise been involved in the hire of the family member; and the family member is not the official’s minor child.”  
*Ohio Ethics Commission Bulletin: “Reminder about . . . Restrictions on Nepotism.”*

This is serious business! “Hiring a family member can be a felony offense. Having an interest in a family member’s employment can be a misdemeanor offense. If a family member is hired in violation of the Ethics Law, his or her employment contract is void and unenforceable, and he or she can be removed at any time.” *Ohio Ethics Commission Bulletin—Reminder about . . . Restrictions on Nepotism.*

It’s important for all County employees to understand that even asking someone else in the County to hire a family member is possibly a violation of Ethics Law.

# Ethical Hiring Practices: Board of County Commissioners

## Employment of Family Members

The Ohio Ethics Commission has written, “While the Ethics Law does not absolutely prohibit relatives from working for the same public agency, questions of fairness and impartiality may arise in such situations. Further, such hires may present the appearance of impropriety to the public, even where the public official fully and completely removes herself from participating in the hiring process, as described above. A public agency may be able to minimize these concerns if the agency conducts all hiring activity in a fair, open, and impartial manner.” Ohio *Ethics Commission Information Sheet #1: “Restrictions on Nepotism or Hiring Family Members.”*

The BOCC therefore conducts all hiring for classified positions in a fair, open, and impartial manner, following Ohio civil service rules and policies that mandate fair recruitment, evaluation of applicants, pre-employment screening and selection practices. The BOCC’s compliance with these policies ensures that we hire the most qualified applicants to serve Hamilton County as employees.

Details of the BOCC’s recruitment and hiring process include:

- Hamilton County aggressively recruits the best-qualified candidates to fill vacancies within the County.
- All classified positions under the BOCC are posted for a minimum of ten days, to ensure that interested parties have an opportunity to learn about open positions.
- Human Resources (HR) screens all applications for classified positions, to ensure that everyone that the hiring department considers for the positions meets or exceeds the minimum qualifications.
- Candidates for classified positions are evaluated upon job-related criteria only. This may include employment history, education, coursework, task performance, training and experience. Structured interviews and panel interviews are tools commonly used.
- The Department Head or designee selects the best-qualified candidate for the job, based solely upon merit and fitness. No selection decision shall be unlawfully based on race, color, religion, creed, gender, national origin, age or disabling condition.

The BOCC complies with these policies to ensure fairness and that the most qualified applicants are hired for classified positions. Hiring is done on the basis of job-related criteria only.

# Ethical Hiring Practices: The Law

## Employment of Retirees

The Ohio Revised Code (RC) permits county governments to hire retirees from the county with certain restrictions. This is a practice sometimes referred to as “double dipping,” since retirees who are hired receive a benefit from the Ohio Public Employees Retirement System (OPERS) as well as compensation for the duties the retiree is performing as an employee or public official.

However, if a retiree is considered for hire into the same position held prior to retiring, or if the retiree would be allowed to continue serving in the same position upon retirement, RC requirements must be met. Specifically, RC requires that public notice be given not less than sixty days before the reemployment would begin and that a public meeting be held on the issue of the retiree’s employment.

RC 145.381 states:

“(B) A board, commission, or legislative authority that proposes to continue the employment as a reemployed retirant or rehire as a reemployed retirant to the same position an individual described in division (A) of this section shall do both of the following in accordance with rules adopted under division (C) of this section:

- (1) Not less than sixty days before the employment as a reemployed retirant is to begin, give public notice that the person is or will be retired and is seeking employment with the public employer;
- (2) Between fifteen and thirty days before the employment as a reemployed retirant is to begin and after complying with division (B)(1) of this section, hold a public meeting on the issue of the person being employed by the public employer.

The notice regarding division (B)(1) of this section shall include the time, date, and location at which the public meeting is to take place.”

# Ethical Hiring Practices: Board of County Commissioners

## Employment of Retirees

Although Ethics Law allows for rehiring of employees who retire from County employment, the BOCC *discourages* this practice and has placed limits on how it can occur under the BOCC and the departments that report to it.

BOCC policy states that, “Employees who retire from County employment under any retirement system shall not be rehired by the County in any employment status unless specifically authorized by the BOCC.” *BOCC Policy Section 6.0: Ethics of Public Employment, E.*

Such authorization has been very limited in the past and is used only in cases where it is a cost benefit to the County. For example, authorization might occur for a rehire into a temporary position to minimize training expense, or when an individual possesses a highly technical skill that would be more expensive to recruit for in the labor market.

The BOCC recognizes that not only does the public frown upon the practice of “double dipping,” but that development and promotion opportunities for other employees are diminished when retirees fill positions that they just vacated. Thus, any attempt to rehire a retired County employee will be made public, and scrutinized by the BOCC first.

# Political Activity and Public Employees: The Law

Many citizens, and even some employees, assume that political activity is an important part of being a public employee, and succeeding as a public employee. They picture employees distributing campaign flyers and spending hours supporting County elected officials' campaign efforts, then being rewarded with promotions or raises. Actually, the Ohio Revised Code (RC) prohibits political activity to be the basis for employment decisions—including hiring and promotions—made about classified employees. This is true for ALL County departments and agencies.

RC 124.60 states:

- “No officer or employee of the state or the several counties, cities, and city school districts thereof, or civil service townships, shall appoint, promote, reduce, suspend, lay off, discharge, or in any manner change the official rank or compensation of any officer or employee in the classified service, or promise or threaten to do so, or harass, discipline, or coerce any such officer or employee, for giving, withholding, or refusing to support any party.”

RC 124.61 states:

- “No person who holds public office, or who has been nominated for, or who seeks a nomination or appointment to any public office, shall corruptly use or promise to use, either directly or indirectly, any official authority or influence in order to secure or aid any person in securing for himself or another any office or employment in the classified service, or any promotion or increase of salary therein, as a reward for political influence or service. Nor shall any person, by means of threats or coercion, induce or seek to induce anyone in the classified service to resign his position or waive his right to certification, appointment, or promotion.”

RC 2921.43(C)(2) states:

- “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 . . . preferring, or maintaining the status of any public employee with respect to compensation, duties, placement, location, promotion, or other material aspects of employment.”

(Note: RC 2921.43(C)(2) applies to ALL employees, both classified and unclassified).

# Political Activity and Public Employees: The Law

In sum, the law clearly states that decisions about hiring, promotions, compensation, and firing of classified employees can not be based on contributions to or support of a political party, nor can they be based on political influence or service. Employment decisions and employment actions for classified employees are to be based on objective, work-related issues. Managers and elected officials who seek to change a classified employee's rank or compensation due to support of a political party, or as a reward for political service, are violating Ohio law.

And for both classified and unclassified employees, the law forbids requiring an employee to make contributions to political parties or campaigns in order to maintain their position, salary, or other aspects of their employment.

To further ensure that classified employees can perform their jobs without pressure to participate in political activity, the Ohio Administrative Code (OAC) regulates what types of political activity is permissible and not permissible for classified employees. For examples from the OAC, please see p. 18.

# Political Activity and Public Employees: The Law

To ensure that political activity does not influence the treatment of employees in classified positions, Ohio Revised Code (RC) section 124.57 prohibits classified employees from actively participating in partisan political activities. The Ohio Administrative Code (OAC) Section 123:1-46-02 provides examples of the types of activities that are prohibited and permissible for Classified employees. Some of the examples are listed here:

## **Prohibited Political Activities for Classified Employees Include:**

- Candidacy for public office in a partisan election.
- Circulation of official nominating petitions for any candidate participating in a partisan election.
- Service in an elected or appointed office in any partisan political organization.
- Campaigning by writing for publications, by distributing political material or by making speeches on behalf of a candidate for partisan elective office.
- Solicitation, either directly or indirectly, of any assessment, contribution or subscription for any party or candidate.
- Solicitation of the sale of political party tickets or selling political party tickets.
- Participation in partisan activities at the political polls such as soliciting votes.

## **Permissible Political Activities for Classified Employees Include:**

- Register to vote and vote.
- Express opinions, either oral or written.
- Voluntarily make financial contributions to political candidates or organizations.
- Attend political rallies that are open to the general public.
- Sign nominating petitions in support of individuals.
- Display political materials in their home or on their property.
- Serve as a precinct election official under Section 3501.22 of the ORC.

It is each employee's responsibility to understand which rules apply. If employees are not sure if they are classified or unclassified, they should check with management or HR to find out.

# Political Activity and Public Employees: The Board of County Commissioners

An additional layer of Hamilton County BOCC policy ensures that political activity does not influence any aspect of employment for senior management of County Administration, *even though* they are unclassified positions. These additional policies restrict political activity for top Administration officials, including the County Administrator, Deputy Administrators and department heads and managers (all unclassified employees), above and beyond what Ethics Law requires.

- “Top management employees (as defined at section 3.6 of the BOCC Policy and Procedure Manual) are restricted from engaging in partisan political activities concerning the office of the Board of County Commissioners. Specifically, Top Management may not participate in the campaign or election of any candidate for, or incumbent on the Hamilton County Board of Commissioners. Top Management must refrain from financial participation, donation of time or services to campaigns, attendance at fund raising functions, wearing campaign buttons, distributing campaign literature, affixing signs or stickers to personal, private, or public property, or making public endorsements for any candidate for election to the Hamilton County Board of Commissioners.” *BOCC Policy Section 6.0: Ethics of Public Employment, D.*

The clear purpose and effect of this restriction is to eliminate any perception or reality of senior Administration officials being involved in any way in the campaign or political activity of County Commissioners. Such a clear wall between County management and elected officials’ campaigns assures the integrity and independence of County Administration, and its management and policy recommendations. This “bright line” rule also protects managers from any attempts by elected officials, to whom they directly report, to have them take part in campaign activity.

Hamilton County BOCC encourages other County elected officials to adopt similar policies for top managers in their respective departments.

## County Employees: Where to Ask Questions about Ethics or Report Concerns about Ethical Behavior

If you have concerns about ethics, including any of the issues addressed in this booklet, you are encouraged to speak up to any of the people listed here:

- **Employee's Supervisor**
- **Supervisor's Manager (or further up the chain of command)**
- **County Human Resources**
  - Call 946-4704 and ask for the HR Manager or the HR Director.
- **Hamilton County Ethics Commission (HCEC)**
  - Call 946-4704 and ask the HR Director to provide contact information for the current HCEC Chair.

If you have questions about any aspect of ethical behavior, please talk with your supervisor. If you're not sure if an action complies with the Ethics of Public Employment policy, check with your supervisor before taking that action, so you can ensure that your actions are ethical and in compliance with policy. If you believe your supervisor or someone up the chain of command is trying to influence you to participate in unethical behavior, please contact HR or the HCEC.

Employees are encouraged to speak up when they encounter behavior that they believe may be unethical. By doing so, you help uphold the County's standards for ethical behavior. You are protected from retaliation if you ask questions about or report unethical behavior.

Employees and their professionalism and performance are the key to good ethics in government. Together, we can ensure that the Hamilton County government maintains the highest level of ethical standards. Please use the options listed above to do your part to ensure good ethics and good government.

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