

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.

A "**public official**" includes: "[A]ny elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity." R.C. 2921.01(A). The restriction in R.C. 2921.42(A)(1) applies to all individuals who are elected or appointed to, or employed by, any public agency, including but not limited to any state agency, county, city, township, school district, public library, and regional authority. The restriction applies regardless of whether the person is: (1) compensated or uncompensated; (2) serving full time or part time; or (3) serving in a temporary or permanent position.

A "**public contract**" is the purchase or acquisition of property or services, by or for the use of any public agency, specifically including the employment of an individual by the state, any of its political subdivisions, or any agency or instrumentality of either. A public contract can be a written or oral agreement. Since 1985, before the General Assembly amended the definition in 1994 to specifically include employment, the Commission had consistently held that the "purchase or acquisition . . . of services" includes employment. Ohio Ethics Commission Advisory Opinions No. 85-011, 90-010, and 92-012. See also *Walsh v. Bollas* (1992), 82 Ohio App. 3d 588. A person has an interest in one's own employment. See, generally, *State v. Urbin* (2002), 148 Ohio App. 3d 293, 100 Ohio St. 3d 1207 (2003).

"**Authorizing**" a contract includes voting on, signing, or taking any other action to award the contract. Adv. Op. No. 2001-02. Employing the "**authority or influence**" of one's position to "**secure authorization of**" a contract includes a much broader range of activities, such as recommending, deliberating or discussing, and formally or informally lobbying any public official or employee about the contract. Id.

Member of the Family

The definition of "member of a public official's family" includes, but is not limited to, these relatives of an official or employee, *regardless of where they live*:

1. Parents and step-parents;
2. Grandparents;
3. Spouse;
4. Children and step-children, whether dependent or not;
5. Grandchildren; and
6. Siblings.

Adv. Op. No. 2008-03. Any other individual related to an official or employee by blood or marriage is a "member of the official's family" if he or she lives in the same household with the official or employee. Id. For example, if a public official's cousin, uncle or aunt, niece or

nephew, or in-law lives in the same household with the official, that person is a member of the official's family.

Conflict of Interest Laws—R.C. 102.03(D) and (E)

In addition to the public contract restrictions, R.C. 102.03(D) and (E) apply to public officials or employees when their family members are seeking employment with, or are employed by, the same public agency they serve. R.C. 102.03(D) and (E) provide that:

- (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.

R.C. 102.03(D) and (E) apply to any person who is elected or appointed to, or employed by, any public agency, except teachers, instructors, and other educators who do not perform or have the authority to perform, supervisory or administrative functions. R.C. 102.01(B) and (C).¹

"Anything of value" includes money and every other thing of value. R.C. 103; 102.03(G). Employment and the compensation and benefits that accompany it are within the definition of anything of value. Adv. Op. No. 92-012.

A thing of value manifests a "substantial and improper influence" on a public official or employee if it could impair the official's or employee's objectivity and independence of judgment with respect to his or her public duties. Adv. Ops. No. 91-010 and 95-001.

The Commission has stated that voting on, recommending, deliberating about, discussing, lobbying, or taking any other formal or informal action within the scope of a public official's or employee's public authority is "use of," or "authorization of the use of" the authority or influence of a public official's or employee's office or employment. Adv. Op. No. 88-005. Therefore, any such conduct related to the hire of a family member would be a violation of this section.

¹ While teachers and other educators are exempted from the conflict of interest law, they are fully subject to the public contract law (R.C. 2921.42), also discussed in this opinion.