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TO: ALL ODOT EMPLOYEES

SUBJECT: WORK RULES AND DISCIPLINE

A. PURPOSE

The purpose of this Directive is to make all employees aware of ODOT’S general code of conduct and to standardize the procedures used when it becomes necessary to impose disciplinary actions against an employee.

B. REFERENCES

Ohio Revised Code 124.34
Administrative Rule 123.31
Contract between the State of Ohio and OCSEA
Ohio Administrative Code rule Number 5501-2-02
Ohio Revised Code 5501.20

C. GENERAL

Disciplining an employee who violates work rules or the Ohio Revised Code is necessary if order and efficiency are to prevail in the work place. All employees are expected to perform their work efficiently and effectively and to conduct themselves in a professional manner. The objective of imposing discipline is to correct undesired behavior that adversely affects the mission and integrity of ODOT and/or the health, safety, morale and productivity of other employees. It is of equal importance that disciplinary actions be administered fairly and consistently throughout each District. This Directive will give supervisory staff the necessary guidelines that should be followed when disciplinary action is contemplated.

ODOT is dedicated to the policy of progressive constructive discipline. Disciplinary actions should be imposed at the lowest level possible with the intent of giving the employee the opportunity to correct his/her behavior so long as the discipline is commensurate with the infraction. If this does not occur, discipline should become more severe up to and including removal; certain offenses warrant severe disciplinary action on the first offense.

D. TYPE OF DISCIPLINARY ACTION

The following are the types of disciplinary actions that will be utilized in this department. Variations of these actions are not authorized.

1. **Oral Reprimand** - The lowest level of discipline comprised of a written document stating the time, place, and nature of the offense.

2. **Written Reprimand** - A written document stating the time, place, and nature of the offense.

3. **Suspension** - An employee does not report to work for a specified period of time with loss of pay and applicable benefits.

4. **Working Suspension** - Working suspension is noted as a suspension on the employee’s disciplinary record, but the employee does report to work and receives pay for the time worked, i.e. “Paper Suspension”. A working suspension has the same force and effect as a suspension without pay.
5. **Reduction/Demotion** - Non-bargaining unit employees may be reduced in pay and/or position for violations of O.R.C. 124.34 or 5501.20.

6. *Fine* - A fine in the amount of one (1) to five (5) days pay may be imposed in place of a suspension. The first fine for a bargaining unit employee shall not exceed three (3) days.


8. **Leave Reduction** - If an employee receives discipline which includes lost wages or fines, the Agency may offer the following option. Have the employee deplete his/her personal leave, vacation, or compensatory leave banks of hours, or a combination of any of these banks under such terms as may be mutually agreed to between the Agency, Employee, and the Union (if applicable).

**E. APPEALS**

Bargaining Unit Employees - refer to appropriate Collective Bargaining Agreement.

Classified Exempt Employees - refer to Ohio Revised Code 124.34 and Ohio Administrative Code Chapter 124.

Career Professional Exempt Employees - refer to Ohio Administrative Code Rule # 5501-2-02 or Ohio Revised Code 5501.20.

**F. ADMINISTRATION OF DISCIPLINARY ACTIONS**

All supervisors have the responsibility of enforcing the work rules and initiating the appropriate disciplinary action. Supervisors are expected to provide documentation and initiate disciplinary measures through the supervisory chain of command. No disciplinary action shall be imposed upon any employee without first consulting with the appropriate Labor Relations Officer.

It is important when disciplinary action is taken or proposed that the correct administrative actions are implemented. The following administrative actions will be taken whenever the specific discipline is proposed.

1. **Reprimands (oral or written)** The reprimand should reference the specific violation(s) of this Directive for which the reprimand is being given. Non-bargaining unit employees being reprimanded shall be also charged under O.R.C. 124.34.

   The reprimand will be signed by the issuing supervisor and by the employee acknowledging that he/she received a copy. If the employee refuses to sign, this should be witnessed by another non-bargaining unit employee (if possible) or a notation should be made of the employees refusal to sign. A copy of the reprimand will be placed in the employee's personnel file. A copy shall also be sent to the appropriate Labor Relations Officer.

2. **Suspensions, Fines, Working Suspensions, Leave Reductions, Reductions, Removals** - Supervisors will thoroughly document the incident in question and forward the documentation to the next higher authority and/or the Labor Relations Officer. A recommendation will be made by the appropriate Deputy Director to Central Office Labor Relations for final review by the Director/designee.
G. FAMILY MEDICAL LEAVE

Employees may receive leave from ODOT under FMLA due to their own inability to work or to provide care and assistance to family members as identified in ODOT’s policy, therefore, all employees who request to utilize FMLA are strictly prohibited from engaging in secondary employment situations whether self-employed or employed by another entity during those hours that they would otherwise be employed with ODOT.

H. PROGRESSIVE CONSTRUCTIVE DISCIPLINE

Uniform guidelines have been developed to assist in complying with this policy. These guidelines will serve to notify employees of the type of discipline that will be given for specific violations of the rules and regulations of the State of Ohio and of the Department of Transportation.

The degree of seriousness of the offense(s) will determine which appropriate disciplinary action will be imposed. Discipline does not have to be for the same/similar offense to be progressive.

NOTE: THIS SECTION SHOULD BE VIEWED AS A GUIDELINE. THIS LIST OF OFFENSES IS MERELY ILLUSTRATIVE, AND IS NOT MEANT TO BE ALL-INCLUSIVE. THE FORMS OF DISCIPLINE LISTED WITH THESE OFFENSES ONLY PROVIDE A SUGGESTED RANGE OF APPROPRIATE ACTION. THE DIRECTOR MAY IMPOSE LESSER OR GREATER DISCIPLINE AS THE SITUATION DICTATES.

I. OHIO DEPARTMENT OF TRANSPORTATION DISCIPLINARY GUIDELINES

<table>
<thead>
<tr>
<th>VIOLATIONS</th>
<th>PROGRESSION</th>
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<tbody>
<tr>
<td>1. A. Poor, careless, or incomplete work</td>
<td>Reprimand/ Suspension</td>
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<tr>
<td>B. Failing to meet work standards, deadlines, or failing to comply with performance improvement plans</td>
<td>Reprimand/ Suspension</td>
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<tr>
<td>C. Any other general neglect of duty</td>
<td>Reprimand/ Suspension</td>
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2. A. Failure to carry out assignment | Reprimand/ Suspension |
**DIRECTIVE NO. WR-101**  
January 15, 2005

*Supersedes Directive WR-101 Dated September 1, 2000*

<table>
<thead>
<tr>
<th></th>
<th>Disobedience/Refusal of an order or assignment by a superior</th>
<th>Suspension/Removal</th>
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<td>B</td>
<td>Disobedience/Refusal of an order or assignment by a superior</td>
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<td>Suspension/Removal</td>
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<td>C</td>
<td>Failure to follow policies of the Director, Districts, or offices</td>
<td>Reprimand/Suspension</td>
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<td>Reprimand/Suspension</td>
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<td>Suspension/Removal</td>
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<td>Removal</td>
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<td>3.</td>
<td>A. Posting or displaying obscene or insulting material and/or using obscene, abusing, or insulting language or gestures toward another employee; a supervisor, or the general public.</td>
<td>Reprimand/Suspension</td>
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<td>Reprimand/Suspension</td>
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<td>Suspension/Removal</td>
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<td>Removal</td>
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<td></td>
<td>B. Insolence - rude or disrespectful conduct</td>
<td>Reprimand/Suspension</td>
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<td>Reprimand/Suspension</td>
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<td>Suspension/Removal</td>
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<td>Removal</td>
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<td></td>
<td>C. Making defamatory or false statements</td>
<td>Reprimand/Suspension</td>
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<td>Reprimand/Suspension</td>
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<td>Suspension/Removal</td>
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<td>Removal</td>
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<td>D. Failure to maintain appropriate personal hygiene</td>
<td>Reprimand/Suspension</td>
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<td>Reprimand/Suspension</td>
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<td>Suspension/Removal</td>
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<td>Removal</td>
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<td>4.</td>
<td>Interfering with and/or failing to cooperate in an official investigation or inquiry</td>
<td>Reprimand/Suspension</td>
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<td>Reprimand/Suspension</td>
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<td>Suspension/Removal</td>
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<td>Removal</td>
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<td>5.</td>
<td>Misuse of leave (including but not limited to misuse of sick leave, FMLA, workers compensation or disability)</td>
<td>Suspension/Removal</td>
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<td>Suspension/Removal</td>
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<td>Removal</td>
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<td>6.</td>
<td>Fighting/striking with a fellow employee or non-employee on State time or State property. Threatening a superior, fellow employee, or non-employee.</td>
<td>Suspension/Removal</td>
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<td>Suspension/Removal</td>
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<td>Removal</td>
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<td>7.</td>
<td>Unauthorized/misuse of State equipment or vehicle</td>
<td>Reprimand/ Suspension</td>
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<td>8.</td>
<td>Carelessness with tools, keys and equipment or vehicle resulting in loss, damage, or an unsafe act</td>
<td>Reprimand/ Suspension</td>
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<td>9.</td>
<td>Involvement in &quot;horse-play&quot; on ODOT time or property.</td>
<td>Reprimand/ Suspension</td>
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<td>10.</td>
<td>A. Sale, consumption, or possession of alcoholic beverages while on duty or on state property, including state vehicles.</td>
<td>Suspension/ Removal</td>
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<td>B. Sale, consumption, or possession of illegal drugs while on duty or on state property including state vehicles.</td>
<td>Removal</td>
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<td>11.</td>
<td>Reporting to work under the influence of any intoxicant (alcohol or drugs) other than required for medical reasons, or a positive drug or alcohol test.</td>
<td>Removal</td>
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<td>12.</td>
<td>Sleeping on duty.</td>
<td>Reprimand/ Suspension</td>
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<td>13.</td>
<td>Leaving the work area without the permission of the supervisor.</td>
<td>Reprimand/ Suspension</td>
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<td>14.</td>
<td>Excessive Absenteeism</td>
<td>Reprimand</td>
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<td>15.</td>
<td>Unexcused tardiness/unauthorized absence of thirty minutes or less, leaving early and/or extended lunch or break period.</td>
<td>Reprimand</td>
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<td>16.</td>
<td>Unauthorized absence in excess of 30 minutes</td>
<td>Reprimand</td>
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<td><strong>17.</strong> A. Unauthorized absence of 3 or more consecutive days.</td>
<td><strong>Suspension/Removal</strong></td>
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<td><strong>B. Job Abandonment</strong></td>
<td><strong>Removal</strong></td>
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<td><strong>18. Falsifying any document related to employment including electronic documents</strong></td>
<td><strong>Suspension/Removal</strong></td>
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<td><strong>19. Intentional misuse of Federal or State funds and/or resources</strong></td>
<td><strong>Suspension/Removal</strong></td>
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<td><strong>20. Violation of Ohio Ethics Laws and related statutes, O.R.C. Chapter 102, and Sections 2921.42, 2921.43</strong></td>
<td><strong>Removal</strong></td>
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<td><strong>21. Engaging in political activity as prohibited in Ohio Revised Code 124.57</strong></td>
<td><strong>Reprimand/Removal</strong></td>
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<td><strong>22. Theft, in or out of employment. (Nexus established)</strong></td>
<td><strong>Removal</strong></td>
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<td><strong>23. Felony convictions</strong></td>
<td><strong>Removal</strong></td>
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<td><strong>24. Possession of weapons shall not be permitted on ODOT property, on the person of an ODOT employee while on duty, or in a state vehicle. This rule applies even if an employee has a license to carry a concealed weapon. Weapons are not permitted in personal vehicles while on ODOT property or projects. Weapons include guns, knives (except folding knives with a blade of 3&quot; or less), clubs, tasers, bombs or any other dangerous ordinance. This rule does not apply to small canisters of personal protective sprays.</strong></td>
<td><strong>Suspension/Removal</strong></td>
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<td><strong>25. Violations of Section 124.34 (See Appendix A) of the Ohio Revised Code.</strong></td>
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26. Other actions that could harm or potentially harm the employee, a fellow employee or a member or members of the general public. **

27. Other actions that could compromise or impair the ability of the employee to effectively carry out his/her duties as a public employee. **

28. Engaging in activities for personal profit during paid work hours, including break times. Reprimand/ Removal

29. Vandalism- intentional defacement or destruction of state property or equipment **

30. Work stoppage -

   A. Participation in a work stoppage or other cessation or disruption of services, either in full or in part (e.g. sick out, slowdown, en masse refusal to work overtime, etc.) Suspension/ Removal

   B. Organizing, leading, coordinating, promoting, or planning a work stoppage or other cessation or services as outlined in 30A. Removal

**The appropriate discipline depends on the severity of the incident.

//--s// Gordon Proctor
Gordon Proctor, Director of Transportation

Date
Section 124.34 (In pertinent part)

The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts of the state, holding a position under this chapter, shall be during good behavior and efficient service. No such officer or employee shall be reduced in pay or position, fined in excess of five days’ pay, suspended, or removed, except as provided in Section 124.32 of the Revised Code, and for incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or the rules of the director of administrative services or the commission, or any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An appointing authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee’s regular rate of pay for hours worked. Such disciplinary actions shall be recorded in the employee’s personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under Section 102.06 of the Revised Code may constitute a violation of Chapter 102., Section 2921.42, or Section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by Section 102.02 of the Revised Code may also constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of transportation is subject to Section 5501.20 of the Revised Code.

Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct this is the basis of a felony. An officer or employee may not appeal to the state personnel board of review or the commission any disciplinary action taken by an appointing authority as a result of the officer’s or employee’s conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer’s or employee’s reinstatement.

A person convicted of a felony immediately forfeits the persons’ status as a classified employee in any public employment on and after the date of conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.

Any person removed for convictions of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, such person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.
TO: ASSISTANT DIRECTORS, DIRECTOR=’S OFFICE STAFF, DEPUTY DIRECTORS, ASSISTANT DEPUTY DIRECTORS, BUREAU CHIEFS, AND DISTRICT DEPUTY DIRECTORS

SUBJECT: PRE-SUSPENSION AND REMOVAL HEARINGS

A. **PURPOSE**

To provide due process for classified ODOT employees faced with possible discipline.

B. **REFERENCE**

OSCEA/AFSCME Contract Section 24.04

C. **PROCEDURE**

Any ODOT employee charged with an offense for which that employee may be disciplined, and the recommended discipline is a suspension or greater, shall have a right to a meeting before a meeting officer. The meeting officer shall schedule a meeting within five (5) working days of the time he/she receives notice the employee has been charged. An employee may waive his/her right to the pre-disciplinary meeting and accept the proposed discipline by signing a waiver. The employee shall be notified no less than three (3) days prior to the meeting. The meeting notice shall contain the reason(s) for the discipline, the possible form of discipline, a list of witnesses and all known documents supporting the alleged violation(s). Absent any extenuating circumstances, failure to appear at the meeting will result in a waiver of the right to a meeting. An employee who is charged, or his/her union representative, may make a written request for a continuance of up to 48 hours if mutually agreed on by the parties. When the severity of the incident warrants, the Director or a Deputy Director may place the employee on Authorized Absence with pay pending a meeting before the meeting officer.

1. The meeting officer shall be assigned by the Deputy Director or Designee for district meetings. The Deputy Director of Administration or Designee shall assign the meeting officer for Central Office meetings.

2. An accused bargaining unit employee may have a union representative present in accordance with the Collective Bargaining Agreement.
3. The accused employee shall have the right to be confronted with the specific charges and the proposed discipline and shall have the opportunity to rebut the charges, to present evidence, and present statements, either personally or through his or her union representative.

4. The meeting officer will call the meeting to order, make introductions and distribute a sign-in sheet.

5. The meeting officer will review the intent of the meeting, read the charges contained in the pre-disciplinary hearing notice and review documentation used to support the recommendation for discipline.

6. The management representative recommending discipline shall be present at the meeting unless inappropriate, or if he/she is legitimately unable to attend. The meeting officer conducts the meeting and may ask questions or utilize witnesses at his or her discretion to make a determination.

7. The Union and/or employees shall be given the opportunity to ask questions, comment, refute, or rebut.

8. In that the process is an informal one, the pre-disciplinary meeting shall not be recorded nor a transcription taken during the meeting.

9. The meeting officer has five (5) calendar days to issue a report to the appropriate Deputy Director indicating whether or not the allegations were substantiated.

REVISED BY: LABOR DIRECTIVES COMMITTEE
STATE OF OHIO
DRUG-FREE WORKPLACE POLICY

1. State of Ohio employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing, or using alcohol or a controlled substance in the workplace. A controlled substance means those substances defined in Sections 3719.41 of the Ohio Revised Code.

2. Ohio currently has an Employee Assistance Program which refers employees to their families to appropriate substance abuse rehabilitation programs. These programs are often subsidized by the employee=s health insurance plan. Employees with substance abuse problems are encouraged to voluntarily contact the Employee Assistance Program and enroll in a rehabilitation program certified by the Ohio Department of Alcohol and Drug Addiction Services. Voluntary contact of the EAP or enrollment in a substance abuse program will not adversely affect employment. However, continued unacceptable job performance, attendance, and/or behavioral problems will result in disciplinary action, up to and including termination.

3. Managers and supervisors shall be provided training about the Drug-Free Workplace Policy and the drug testing program and shall be responsible for implementation, enforcement and monitoring of the Policy and program to ensure that they are administered consistently, fairly and within appropriate Constitutional parameters.

4. State of Ohio employees are required to report to work in a fit condition to perform their duties. If an employee reports to work under the influence of alcohol or other drugs, it will be considered a violation of the State=s Drug-Free Workplace Policy. The employee will be subject to disciplinary actions pursuant to ORC Section 124.34, the disciplinary provisions of any applicable collective bargaining agreements, and employing agency work rules, policies and procedures.

5. The State of Ohio will not hire anyone who is known to currently abuse alcohol and/or other drugs. However, this policy shall not preclude the State from hiring persons who are in recovery from alcohol and/or other drug addition.

6. The State of Ohio prohibits all employees on official business, on or off the workplace, from purchasing, transferring, using or possessing illegal drugs, or abusing alcohol, or abusing prescription drugs in any way that is illegal.

7. The State recognizes that some prescription medications may cause impairment in judgment, coordination, and physical ability. Reasonable accommodations will be made for any employees who use a prescribed medication.
8. The State of Ohio will enforce the Policy through management supervision and alcohol and/or other drug testing. The drug testing program will include the following components:

a. **Applicant Testing:** final applicants for testing-designated position with the State of Ohio will undergo drug testing prior to hiring.

b. **Reasonable Suspicion Testing:** Any employee may undergo alcohol and/or other drug testing based on a for-cause determination by Management. Any employee involved in a significant incident in which the health or safety of himself, herself, or other individuals in involved, or in which extensive property damage has occurred, will undergo alcohol and/or other drug testing according to requirements of any governing collective bargaining agreement(s) or the Director of the Department of Administrative Services.

c. **Follow-up Testing:** Any employee referred through administrative channels to a counseling or rehabilitation program as a result of that employee=s on-the-job substance abuse may be subject to follow-up testing according to specifications and provisions of any governing collective bargaining agreement(s) or the Director of the Department of Administrative Services.

9. Confidentiality about alcohol and/or other drug test results will be maintained to the extent provided by law and employees shall have the opportunity to refute the results of any alcohol and/or other drug test.

10. Employees who are found to be under the influence of alcohol and/or other drugs while on official business, on or off the workplace, are subject to discipline provisions of the various state collective bargaining agreements, employing agency work rules, policies, and procedures and ORC Section 124.34, as applicable.

11. Employees who have a confirmed positive alcohol or other drug test may be required to enroll in and successfully complete a substance abuse rehabilitation program certified by the Ohio Department of Alcohol and Drug Addiction Services. If an employee has a confirmed positive drug test while enrolled in or subsequent to completion of the rehabilitation program, the employee will be subject to discipline, up to and including dismissal. Notwithstanding this provision, employees may still be subject to disciplinary action for workplace or job-related incidents which may be directly or indirectly associated with the drug test results.

12. The sale or possession of alcohol and/or illicit drugs in the workplace or any location where employees conduct official business shall be reported to the Ohio State Highway Patrol or other appropriate law enforcement authorities. Any criminal drug conviction
occurring in the workplace will be reported to Federal Granting Authorities. Employees who possess or sell alcohol or illicit drugs in the workplace or any location where employees conduct official business will be appropriately disciplined pursuant to ORC Section 124.34, the discipline provisions of the various state collective bargaining agreements, and employing agency work rules, policies and procedures. Sale of illicit drugs in particular will result in the strongest form of discipline possible, up to and including termination.

13. Each employee is required to notify the Appointing Authority of his/her agency within five (5) days after he or she is convicted of a violation of any federal or state criminal drug statute where such violation occurred at the workplace or any location where official business is conducted. A conviction means a finding of guilty, no contest (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any federal or state court. The employing state agency has an obligation to notify the U.S. government agency with which it has a contract or grant within ten (10) days after receiving notice from the employee or otherwise actual notice of such conviction. Any employee who fails to report such a conviction will be subject to immediate termination.

Within thirty (30) days of such notification, the Appointing Authority will be required to take appropriate disciplinary action against such an employee, up to and including termination. The Appointing Authority may also refer the employee to the Employee Assistance Program for referral and treatment.

14. All State of Ohio employees will be provided with periodic Drug-Free Workplace training, the training will include information regarding:

   a. the dangers of alcohol and other drug abuse in the workplace;
   b. The State of Ohio Drug-Free Workplace Policy;
   c. The Employee Assistance Program and other available treatment programs; and
   d. Penalties that may be imposed upon employees for alcohol and/or other drug abuse violations occurring at the workplace or any location where official business is conducted.

15. Outside contractors or vendors who are working on state property shall sign a Certificate of Drug-Free Workplace Compliance as a condition of such contract.
OHIO DEPARTMENT OF TRANSPORTATION
DRUG AND ALCOHOL TESTING POLICY

I. POLICY

It is the policy of the Ohio Department of Transportation that its employees be free of substance and alcohol abuse. Consequently, the use of illegal drugs (including legal drugs in an illegal manner) by employees is prohibited. Further, employees who test positive for drugs or alcohol shall be deemed to have engaged in prohibited conduct.

To ensure a drug free workplace, drug testing is required for all final applicants for unclassified positions and for final applicants for safety sensitive positions. Any applicant who tests positive for illegal drugs will not be hired and will not be reconsidered for employment with the State for one year.

Current employees also may be tested when there is reasonable suspicion that they are using or have used alcohol or illegal drugs. The aim of such testing is to identify employees with substance abuse problems and assist them in seeking treatment.

Employees whose jobs require them to possess a commercial drivers license and who drive vehicles for which testing is required under federal regulations also are subject to alcohol and drug testing as required by the Federal Omnibus Transportation Employee Testing Act of 1991.

Employees of ODOT Aviation and Bridge and Lock Tenders also are subject to drug and alcohol testing as required by the Labor Agreement between the State of Ohio and Ohio Civil Service Employees Association AFSCME Local 11, AFLCIO, Appendix M.

An employee or applicant may not refuse to submit to a required drug or alcohol test. An employee=s or applicant=s refusal to test will be considered a positive test.

The overall goal of this policy is to ensure a drug and alcohol free transportation environment and to reduce accidents, injuries, and fatalities.

II. AUTHORITY

III. REFERENCES


IV. SCOPE

All Ohio Department of Transportation Employees are subject to drug and alcohol testing as described above.

V. TRAINING

Training shall be provided as required by State or Federal regulations, Collective Bargaining Agreement or State Policy. In addition, training shall be provided periodically through Management Briefing Update Meetings, Snow and Ice Meetings and as otherwise required by the Ohio Department of Transportation.

VI. FISCAL IMPACT

State annually $70,000 for drug testing. This money comes out of the Division of Human Resources, Office of Labor Relations budget.
I. PURPOSE

It is the policy of the Ohio Department of Transportation that its employees be free of substance and alcohol abuse. Consequently, the use of illegal drugs by employees is prohibited. Further, employees who use alcohol shall be deemed to have engaged in prohibited conduct. The overall goal of this policy is to ensure a drug and alcohol free transportation environment and to reduce accidents, injuries, and fatalities.

II. COVERED EMPLOYEES

A. Two conditions must be met before an employee is subject to the testing requirements of the Omnibus Employee Testing Act of 1991 (hereafter referred to as the Act). The employee must have a commercial driver's license (CDL) and perform safety-sensitive functions as defined by the Act. Under the Act, a commercial motor vehicle includes any motor vehicle used to transport passengers or property if the vehicle has:

1. a gross combination weight rating of 26,001 or more pounds, including a towed unit with a gross vehicle weight rating of 10,000 pounds; or
2. a gross vehicle weight rating of 26,001 or more pounds; or
3. is designed to transport 16 or more passengers including the driver; or
4. is of any size and is used to transport hazardous materials as defined by the Hazardous Materials Transport Act.

B. The Federal Highway Administration, through 49 CFR Part 382 et. al. (Issued March 8, 1996) has clarified and expanded the definition of safety-sensitive functions from that found in the Act. Under the new regulations, safety sensitive function means all time a driver is at work or is required to be in readiness to work.

Safety sensitive functions now include the following six (6) situations:

1. all time spent driving a commercial motor vehicle;
2. all time spent on employer or public property waiting to be dispatched, unless the driver has been relieved from duty by the employer;
3. all time spent inspecting, servicing or conditioning any commercial motor vehicle at any time;
4. all time (other than driving time) in or on any commercial vehicle, except time spent resting in a sleeper berth;

5. all time spent loading or unloading a vehicle, supervising or assisting in loading or unloading a vehicle, remaining in readiness to operate a commercial motor vehicle or giving receipts for shipments loaded or unloaded; and

6. all time spent repairing, obtaining assistance for or standing by a disabled vehicle.

Instead of limiting alcohol tests to the time just before, during or after an employee drives a commercial vehicle, the Employer may order a test any time the employee is on site waiting to be dispatched, loading or unloading a commercial motor vehicle, riding in a commercial motor vehicle or repairing a commercial vehicle, etc.

III. TESTING REQUIRED

The Act requires pre-employment drug tests; and reasonable suspicion, post-accident, random, return-to-duty, and follow-up tests for both alcohol and drugs.

IV. GENERAL PROHIBITIONS

The Act prohibits: 1.) the use of alcohol or any controlled substance while the employee is performing safety-sensitive functions; 2.) the performance of any safety-sensitive duty within four (4) hours after the consumption of alcohol; 3.) the refusal to take an alcohol or drug test when ordered; 4.) remaining on duty after a positive alcohol (0.04 BAC or greater) or drug test; 5.) the performance of safety-sensitive functions by any person with a BAC of 0.02 to 0.0399; and 6.) the consumption of any alcohol within eight (8) hours of an accident by any employee subject to a post-accident test. Note: Employees who test between 0.02 and 0.0399 BAC must be removed from safety-sensitive duties and cannot return to such duties until 24 hours have elapsed, or until a re-test for alcohol is less than 0.02.

V. TESTING OVERVIEW

A. Pre-Employment Testing - Drug tests are required for all final applicants for positions covered by federal DOT testing requirements. Persons entering these positions from outside state government, and current state employees who do not perform the safety-sensitive functions (as defined in 49 CFR, Part 382 et. al.) transferring into these positions must be tested. However, current state employees who already perform a safety-sensitive function do not require testing when they are transferred or promoted into other safety-sensitive positions.

An employer may opt not to administer a pre-employment drug test if documentation can be provided that the prospective employee participated in a DOT drug testing program within the past 30 days, and while in that program: a.) had a negative drug test within the past six (6) months; or b.) participated in a random testing program for the previous 12 months (beginning January 1, 1995); and c.) the employer ensures that no prior employer
of whom the employer has knowledge has records of a positive test for the prospective employee within the past six (6) months (beginning January 1, 1995). An employer is not required to obtain this previous test information as a condition of employment, but only as an option to conducting the pre-employment test.

The Act does require prospective employees to authorize release of information about previous test conducted under the Act. The authorization is a condition for employment, and must include:

1. positive drug tests for the previous 2 years
2. alcohol test results of 0.04 or greater for the previous 2 years
3. refusals to be tested for the previous 2 years, and proof of completion of rehabilitation and return-to-duty test requirements after any positive test.

As a condition of employment, drivers must prove that they have been certified by a medical professional as qualified to perform safety-sensitive duties.

B. Reasonable Suspicion Testing - If there is reasonable suspicion for an employer to believe that a covered employee is under the influence of alcohol or drugs, the agency must test that employee. No prior documentation is required as a condition for ordering a reasonable suspicion test. For a reasonable suspicion drug test, written documentation is required of a manager/supervisor within 24 hours of the test order, or before the test results are received, whichever is sooner. Once a supervisor suspects an employee is under the influence of drugs or alcohol, every effort made must be towards having the collection performed. Only one supervisor’s observation is required to order a reasonable suspicion test.

No documentation is required for reasonable suspicion alcohol tests. An agency manager/supervisor may document reasonable suspicion alcohol tests after the test order, but there is no requirement for documentation prior to ordering the reasonable suspicion alcohol test.

If the alcohol test is not administered within two (2) hours of the reasonable suspicion determination, documentation must be prepared as to why it was not done. If the test has not been administered within eight (8) hours, testing efforts must cease and documentation prepared listing the reasons for not administering test.

C. Post-Accident Testing - Three situations trigger post-accident testing:

1. any accident involving a fatality;
2. any accident in which the driver is cited and there is disabling damage to the vehicle(s) requiring tow-away; or
3. any accident in which the driver is cited and off-site medical treatment is required.
Employees must notify the agency about an accident immediately (if medically able to do so), remain available for testing, and not consume any alcohol for eight (8) hours after the accident, or until an alcohol test has been administered, whichever occurs first. Post-accident tests for alcohol should be done within two (2) hours of the accident. Attempts to test for alcohol should cease if eight (8) hours have elapsed after the accident and no test has been done. The agency must document for file why the test was not done within two (2) hours or within the eight (8) hours maximum time.

Drug tests must be done as soon as possible after the accident, but never beyond 32 hours after the accident. If the drug test was not performed within the 32 hour time limit, documentation must be made for file as to why it was not performed.

Post-accident breath or blood tests for alcohol, or urine tests for drugs conducted by Federal, State or local authorities having independent authorization to conduct such tests can be used by employers if they conform to applicable Federal, State or local requirements, and the test results can be obtained by the employer.

D. Random Testing - Of the average number of all covered employees, 25% must be randomly tested for alcohol per year; 50% must be randomly tested for drugs per year. Random testing must be scheduled as soon as possible after notification, and cannot be delayed because of work demands, etc.

Covered employees will be selected from the random selection pool by a computer-based random number process, using the position control numbers of all positions for which testing is required.

1. Timing of Drug Tests
   a. Tests can be ordered any time during the employee’s work shift.
   b. If the employee is unavailable (attending a conference, sick, vacation, etc.) when the random drug testing roster is received, the employee must be ordered to test the first time he/she returns to duty.
   c. If the employee selected for random testing is off for more than 30 days (illness, vacation, etc.), a re-employment drug test will be required before the employee can return to work.

2. Timing of Alcohol Tests
   a. Tests can be ordered any time during the employee’s work shift.

Employees who test positive for alcohol or controlled substances for the first time, with no other disciplinable offense, will be referred to a Substance Abuse Professional (SAP) for evaluation as to what treatment is needed for the employee to be able to resume safety-sensitive duties. Employees will be required to successfully complete such treatment as one condition of future employment.
The Act defines the Substance Abuse Professional (SAP) as a licensed physician (M.D. or D.O.), licensed or certified psychologist, social worker or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of substance abuse disorders. Alcohol and drug abuse counselors with NAADAC certification are also acceptable SAPs.

E. Return-to-Duty Testing - Any employee who has violated any of the Act=s alcohol/drug misuse rules must be evaluated, treated (when indicated) and given a return-to-duty test with passing results as a condition for resuming employment. The alcohol test result must be less than 0.02 BAC, and the controlled substance test must be negative. The employee is responsible for payment for the cost of a return to duty test.

F. Follow-Up Testing - Every employee who has returned to duty after receiving treatment/assistance for substance abuse as a result of testing positive will be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the substance abuse professional in charge of the employee=s treatment/assistance. There will be a minimum of six (6)

unannounced follow-up tests during the first 12 months after the employee returns to duty. Testing may continue for up to sixty (60) months after the employee returns to duty if ordered by the substance abuse professional or by the Office of Drug Free Workplace. The employee is responsible for payment for the cost of all follow-up tests.

VI. REFUSAL TO TEST

A covered employee may not refuse to submit to a required post-accident, random, reasonable suspicion, or follow-up alcohol or drug test. An employee=s refusal to test will be considered a positive test. A refusal to test for alcohol will occur when the employee: 1.) refuses to sign the breath alcohol test form; 2.) refuses to provide breath for an alcohol test; 3.) refuses to provide an adequate amount of breath to complete an alcohol test; or 4.) fails to cooperate with the testing process in any way that would prevent completion of the test. A refusal to test for drugs occurs when the employee: 1.) refuses to provide a urine specimen; 2.) refuses to provide an adequate amount of urine; or 3.) fails to cooperate with the testing process in any way that prevents completion of the test.

Any person refusing to take a pre-employment test will not be hired. An employee refusing to take a return-to-duty test cannot be returned duty.

VII. RE-TEST OF POSITIVE SPECIMENS

Request of a re-test of positive drug specimens must be made within 72 hours of an employee being advised of the positive result. The 72 hour clock begins when the employee is first notified of the positive result. All retests must be performed by a laboratory certified by the Federal Department of Health and Human Services. All costs associated with the re-test of a positive drug test result will be borne by the employee. There can be no re-test of a positive alcohol test.
VIII. AUTHORIZATION FOR PREVIOUS TEST RECORDS

Federal Regulations require that the Employer obtain certain drug testing records from employee’s employers within the previous two years. As a condition of employment, the driver shall provide the employer with a written authorization form for all previous employers within the past two years to release the following drug and alcohol testing records as are required under federal regulations:

1. Alcohol tests over .04 within previous 2 years
2. Positive drug tests within previous 2 years
3. Refusals to be tested within previous 2 years
4. If a prior positive drug or alcohol test is contained in such records, we must also receive substance abuse professional evaluations and evidence of treatment.

IX. DRUG URINALYSIS

Drug testing will be performed through urinalysis. Urinalysis will test for the presence of metabolites of the following controlled substances: (1) marijuana, (2) cocaine, (3) opiates, (4) amphetamines, (5) phencyclidine (PCP).

An employee must present picture identification to the collection facility. The urinalysis procedure starts with the collection of a urine specimen. Urine specimens will be submitted to a Department of Health and Human Services (DHHS) - certified (formally National Institute of Drug Addiction, NIDA) - approved laboratory for testing. As part of the collection process, the specimen provided will be split into two vials; a primary vial and a secondary vial. The DHHS - certified laboratory will perform initial screening on all primary vials. In the event that the primary specimen tests positive, a confirmation test of that specimen will be performed before being reported by the laboratory to the MRO as a positive test.

All laboratory results will be reported by the laboratory to a Medical Review Officer (MRO) designated by the employer. Negative test results shall be reported by the MRO to the employer. Before reporting a positive test result to the employer, the MRO will attempt to contact the employee to discuss the test result. If the MRO is unable to contact the employee directly, the MRO will contact the Employer Management Official designated in advance by the employer, who shall in turn contact the employee and direct the employee to contact the MRO immediately or, if after the MRO’s business hours and the MRO is unavailable, at the start of the MRO’s next business day. In the MRO’s sole discretion, a determination will be made as to whether a result is positive or negative.

Pursuant to USDOT regulations, individual test results for applicants and employees will be released to the employer and will be kept strictly confidential unless consent for the release of the test results has been obtained. Any applicant who has submitted to drug testing in compliance with this policy is entitled to receive the results of such testing upon timely written request.
An employee testing positive may make a request of the MRO to have the secondary vial tested. The employee may request that the secondary vial be tested by a different DHHS-certified lab than tested the primary specimen.

The employee making the request for a test of the second specimen must pre-pay all cost associated with the test. The request for a testing of a second specimen is timely if it is made to the MRO within 72 hours of the individual being notified by the MRO of a positive test result. A positive drug test of an employee shall be cause to remove the employee from duty. The employee may be subject to disciplinary action as specified below.

X. ALCOHOL TESTS

An employee must present picture identification to the collection facility. Alcohol tests will be performed using an evidential breath testing device. The employee shall report to the site of an evidential breath testing device as notified by the employer. The evidential breath testing device will be operated by a breath alcohol technician. The employee shall follow all instructions given by the breath alcohol technician. In the event that an employee, on the basis of the evidential breath test, has a blood-alcohol content of .02 to .0399, the employee shall be removed from duty for 24 hours or until their next scheduled on-duty time, after completion of the 24 hour out of service period, whichever is longer. The employee may be subject to disciplinary action for failure to perform job duties, as specified below. Test indicating a blood-alcohol concentration of .04 or over is considered prohibited conduct which will result in the employee being removed from his/her position of operating or being near a CDL vehicle or performing safety-sensitive functions. A test result of .04 or over may result in disciplinary action up to and including termination. An employee testing .02 or above must immediately contact the employer and inform them of the test result. An employee testing .02 or above shall not operate a state vehicle.

The following discipline shall apply for a violation of this policy:

**An Alcohol Test of .02 to .03999:**
- 1st Offense - Written Reprimand
- 2nd Offense - Minor Suspension
- 3rd Offense - Major Suspension
- 4th Offense - Termination

**An Alcohol Test of .04 or Greater:**
- 1st Offense - Termination/EAP
- 2nd Offense - Termination

**A Positive Drug Test:**
- 1st Offense - Termination/EAP
- 2nd Offense – Termination
Refusal to Take a Drug or Alcohol Test:

1st Offense - Termination/EAP
2nd Offense - Termination

XI. TESTING ASSISTANCE

Information and assistance regarding the federal DOT drug testing requirements and the process for their implementation are available from the Drug-Free Workplace Services Program in the Department of Administrative Services – Division of Human Resources. The telephone number is (614)466-6346.
SAFETY SENSITIVE DRUG AND ALCOHOL TESTING POLICY AND PROCEDURES

I  COVERED EMPLOYEES

A. Employees in the Office of Aviation responsible for the operation and/or maintenance of aircraft. Classifications affected include but are not limited to:

- Aircraft Maintenance Technician
- Aviation Specialist 1
- Aircraft Pilot 1
- Aviation Specialist 2
- Aircraft Pilot 2

Exempt employees of the Office of Aviation who operate aircraft, or who have input on aircraft maintenance or operations. Classifications affected include but are not limited to:

- Aviation Manager
- Aircraft Maintenance Superintendent
- College Intern

Non-Aviation employees covered by this procedure shall include but not limited to:

- Bridge & Lock Tenders

Construction employees not currently subject to random drug and alcohol testing under the Federal regulations. These employees shall be notified prior to being included under these testing procedures.

II. TESTING REQUIRED

All affected employees shall be subject to random drug and alcohol testing. Also, for positive tests, a return to duty and follow-up tests are required.

III. GENERAL PROHIBITIONS

The Act prohibits: 1.) the use of alcohol or any controlled substance while the employee is performing safety-sensitive functions; 2.) the performance of any safety-sensitive duty within eight (8) hours, for aviation personnel, four (4) hours for non-aviation employees, after the consumption of alcohol; 3.) the refusal to take an alcohol or drug test when ordered; 4.) remaining on duty after a positive alcohol (0.04 BAC or greater) or drug test; 5.) the performance of safety-sensitive functions by any person with a BAC of 0.04 or above.
IV. PROCEDURE

A. Random Testing -

**Covered Employees**: non-construction employees shall be placed in a consortium pool with all other covered from all State of Ohio agencies. Construction employees shall be placed in a separate drug and alcohol testing pool. Of the average number of all covered employees, a percentage described under the Collective Bargaining Agreement, must be randomly tested for alcohol and drugs per year. Random testing must be scheduled as soon as possible after notification, and cannot be delayed because of work demands.

Covered employees will be selected from the random selection pool by a computer-based random number process, using the position control numbers of all positions for which testing is required.

1. Timing of Drug Tests
   
   a. Tests can be ordered any time during the employee=s work shift.

   b. If the employee is unavailable (operating an aircraft, attending a conference, sick, vacation, etc.) when the random drug testing order is received, the employee must be ordered to test the first time he/she returns to duty.

   c. If the employee selected for random testing is off for more than 30 days (illness, vacation, etc.), and during that period the employee is selected for a random drug test, a re-employment drug test will be required before the employee can return to work.

2. Timing of Alcohol Tests
   
   a. Tests can be ordered any time during the employee=s work shift.

Employees who test positive for alcohol or controlled substances for the first time, with no other disciplinable offense, will be referred to a Substance Abuse Professional (SAP) for evaluation as to what treatment is needed for the employee to be able to resume safety-sensitive duties. Employees will be required to successfully complete such treatment as one condition of future employment.

A substance Abuse Professional (SAP) is defined as a licensed physician (M.D. or D.O.), licensed or certified psychologist, social worker or employee assistance professional with knowledge of and clinical experience in the diagnosis and treatment of substance abuse disorders. Alcohol and drug abuse counselors with NAADAC certification are also acceptable SAPs.
B. **Return-to-Duty Testing –**

Any employee who has violated any of the Act’s alcohol/drug misuse rules must be evaluated, treated (when indicated) and given a return-to-duty test with passing results as a condition for resuming employment. The alcohol test result must be less than 0.02 BAC, and the controlled substance test must be negative. The employee is responsible for payment for the cost of a return to duty test.

C. **Follow-Up Testing -**

Every employee who has returned to duty after receiving treatment/assistance for substance abuse as a result of testing positive will be subject to unannounced follow-up alcohol and/or controlled substance testing as directed by the substance abuse professional in charge of the employee’s treatment/assistance. There will be a minimum of six (6) unannounced follow-up tests during the first 12 months after the employee returns to duty. Testing may continue for up to sixty (60) months after the employee returns to duty if ordered by the substance abuse professional or by the Office of Drug Free Workplace. The employee is responsible for payment for the cost of all follow-up tests.

D. **Refusal to Test -**

A covered employee may not refuse to submit to a required post-accident, random, reasonable suspicion, or follow-up alcohol or drug test. An employee’s refusal to test will be considered a positive test. A refusal to test for alcohol will occur when the employee: 1.) refuses to sign the breath alcohol test form; 2.) refuses to provide breath for an alcohol test; 3.) refuses to provide an adequate amount of breath to complete an alcohol test; or 4.) fails to cooperate with the testing process in any way that would prevent completion of the test. A refusal to test for drugs occurs when the employee: 1.) refuses to provide a urine specimen; 2.) refuses to provide an adequate amount of urine; or 3.) fails to cooperate with the testing process in any way that prevents completion of the test.

An employee refusing to take a return-to-duty test cannot be returned to duty.

E. **Re-test of Positive Specimens -**

Request for a re-test of positive drug specimens must be made within 72 hours of an employee being advised of the positive result. The 72 hour clock begins when the employee is first notified of the positive result. All retests must be performed by a laboratory certified by the Federal Department of Health and Human Services. All costs associated with the re-test of a positive drug test result will be borne by the employee. There can be no re-test of a positive alcohol test.
IV. PROCESS

A. Drug Urinalysis -

Drug testing will be performed through urinalysis. Urinalysis will test for the presence of metabolites of the following controlled substances: (1) marijuana, (2) cocaine, (3) opiates, (4) amphetamines, (5) phencyclidine (PCP) or other drugs as required by the Omnibus Transportation Employee Testing Act or its amendments. An employee must present picture identification to the collection facility. The urinalysis procedure starts with the collection of a urine specimen. Urine specimens will be submitted to a Department of Health and Human Services (DHHS) - certified (formally National Institute of Drug Addiction, NIDA) - approved laboratory for testing. As part of the collection process, the specimen provided will be split into two vials; a primary vial and a secondary vial. The DHHS - certified laboratory will perform initial screening on all primary vials. In the event that the primary specimen tests positive, a confirmation test of that specimen will be performed before being reported by the laboratory to the MRO as a positive test.

All laboratory results will be reported by the laboratory to a Medical Review Officer (MRO) designated by the employer. Negative test results shall be reported by the MRO to the employer. Before reporting a positive test result to the employer, the MRO will attempt to contact the employee to discuss the test result. If the MRO is unable to contact the employee directly, the MRO will contact the Employer Management Official designated in advance by the employer, who shall in turn contact the employee and direct the employee to contact the MRO immediately or, if after the MRO’s business hours and the MRO is unavailable, at the start of the MRO’s next business day. In the MRO’s sole discretion, a determination will be made as to whether a result is positive or negative.

Individual test results for employees will be released to the employer and will be kept confidential to the extent possible pursuant to the Ohio Revised Code unless consent for the release of the test results has been obtained.

An employee testing positive may make a request of the MRO to have the secondary vial tested. The employee may request that the secondary vial be tested by a different DHHS - certified lab than tested the primary specimen.

The employee making the request for a test of the second specimen must pre-pay all cost associated with the test. The request for a testing of a second specimen is timely if it is made to the MRO within 72 hours of the individual being notified by the MRO of a positive test result. A positive drug test of an employee shall be cause to remove the employee from duty. The employee may be subject to disciplinary action as specified below.
B. Alcohol Tests -

An employee must present picture identification to the collection facility. Alcohol tests will be performed using an evidential breath testing device. The employee shall report to the site of an evidential breath testing device as notified by the employer. The evidential breath testing device will be operated by a breath alcohol technician. The employee shall follow all instructions given by the breath alcohol technician. Test indicating a blood-alcohol concentration of .04 or over is considered prohibited conduct which will result in the employee being removed from his/her position. A test result of .04 or over may result in disciplinary action up to and including termination. An employee testing .04 or above must immediately contact the employer and inform them of the test result. An employee testing .04 or above shall not operate a state vehicle.

V. DISCIPLINE

The following discipline shall apply for a violation of this policy:

An Alcohol Test of .04 or Greater:

1st Offense - Termination/EAP
2nd Offense - Termination

A Positive Drug Test:

1st Offense - Termination/EAP
2nd Offense - Termination

Refusal to Take a Drug or Alcohol Test:

1st Offense - Termination/EAP
2nd Offense - Termination
ADDENDUM TO DRUG TESTING POLICIES

Recently, HB 223 was enacted by the 125th General Assembly. This act is referred to as the “rebuttal presumption” law. This Act requires that an employee may be subjected to drug and alcohol testing when involved in an accident or suffers an injury that may be compensable for workers compensation benefits. The employee’s refusal to test may affect the employee’s eligibility for workers compensation and benefits pursuant with sections 4121 and 4123 of the Revised Code. In addition, an employee’s compensation may be affected by a positive test as determined by laboratories certified by the United States Department of Health and Human Services. For purposes of this Act, a test is considered qualifying if it is administered to an employee after an injury under at least one of the following conditions:

1. When ODOT has reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee’s physician;

2. At the request of a police officer pursuant to Section 4511.191 of the Revised Code and not at the request of ODOT;

3. At the request of a licensed physician who is not employed by ODOT and not at the request of ODOT.

Based on the above and in accordance with current policy, the following shall apply for ODOT employees:

1. When an employee is involved in an accident that would require a drug and alcohol test pursuant to ODOT’s Federal Drug and Alcohol Testing Policy, that test will be performed. That test may also be used to satisfy the conditions set forth above for HB 223.

2. If there is reasonable cause that an ODOT employee is under the influence of drugs and or alcohol, when involved in an accident, a reasonable suspicion test shall be administered pursuant to current policy (federal, state, or Collective Bargaining Agreement Section M). That test may also be used to satisfy the conditions set forth for HB 223.

3. If a test is ordered by a physician or a police officer pursuant with HB 223 that test must be conducted separately from 1 and 2 above. A federal or state ordered test may take the place of a HB 223 test but a HB 223 test may not take the place of a federal or state ordered test. A HB 223 test done under these conditions may include screening for barbiturates, benzodiazepines, methadone and propoxyphene.
Disciplinary consequences for a positive drug or alcohol test shall be pursuant to current policy for non HB 223 tests. For positive drug or alcohol tests ordered by a police officer or physician pursuant with HB 223 the following shall apply:

**An Alcohol Test of .04 or Greater:**
- 1<sup>st</sup> Offense – Termination/EAP
- 2<sup>nd</sup> Offense – Termination

**A Positive Drug Test:**
- 1<sup>st</sup> Offense – Termination/EAP
- 2<sup>nd</sup> Offense – Termination

**Refusal to Take a Drug or Alcohol Test:**
- 1<sup>st</sup> Offense – Termination/EAP
- 2<sup>nd</sup> Offense – Termination
State of Ohio IT Policy
Use of State Telephones

1.0 Purpose

This state policy provides requirements regarding the use of wired and wireless state telephone service.

2.0 Scope

Pursuant to Ohio IT Policy ITP-A.1, "Authority of the State Chief Information Officer to Establish Policy Regarding the Acquisition and Use of Computer and Telecommunications Products and Services," this state policy applies to every organized body, office, or agency established by the laws of the state for the exercise of any function of state government except for those specifically exempted.

The scope of this information technology policy includes state computer and telecommunications systems and the employees, contractors, temporary personnel and other agents of the state who use and administer such systems.

3.0 Background

The State of Ohio offers telephone services to employees, contractors, temporary personnel and other agents of the state to facilitate communication in the course of performing state business. As with any other resource provided by the State of Ohio, the expectation is that it will be used for state business. This policy does outline for users limited circumstances under which some personal use of state telecommunications devices may be acceptable. In general, employees, contractors, temporary personnel and other agents of the state shall refrain from using state provided resources for personal use unless it is absolutely necessary. These resources are provided through the use of taxpayer dollars and this fact should guide and inform behavior when it comes to personal use.
4.0 References

4.1 Ohio IT Policy ITP-A.1, "Authority of the State Chief Information Officer to Establish Policy Regarding the Acquisition and Use of Computer and Telecommunications Products and Services," defines the authority of the state chief information officer to establish State of Ohio IT policies as they relate to state agencies' acquisition and use of information technology, including, but not limited to, hardware, software, technology services and security.

4.2 Ohio IT Policy ITP H.6, "Telecommunications Utility Services," provides additional details on the procedures for the submission and review of requests for telecommunications utility services.

4.3 A glossary of terms found in this policy is located in section 9.0 Definitions. The first occurrence of a defined term is in bold italics.

5.0 Policy

Each agency is responsible for the effective, efficient and responsible use of state-acquired telephone services. At a minimum, agencies shall implement the following requirements regarding state telephone services:

5.1 Limitations on Personal Calls. Personal calls made using state wired or wireless telephone services shall comply with the following minimum requirements:

5.1.1 When using a state wireless telephone service, personal calls made or received are only acceptable in emergency situations when wired telephone service is not available.

5.1.2 When using a state wired telephone service, the number, frequency and duration of personal calls shall be kept to a minimum and, whenever possible, made during lunch hours or authorized breaks.

5.1.3 Personal long distance calls made using the state’s wired telephone service are only acceptable if charged to a personal credit card or personal telephone card, or if billed to a non-state third party number.

5.1.3.1 In the case of an emergency, personal long distance calls may be made using the state’s wired telephone service and charged to the state.

5.1.4 Personal business, which involves an activity undertaken for profit or gain of any kind, shall not be conducted using a state telephone service.

5.1.4.1 Employees are prohibited from circulating their state telephone number as a telephone number at which they can be reached for personal business. Personal business cards and other such materials shall not have a state telephone number listed as a contact number.
5.1.5 Agencies may, at their discretion, prohibit the use of any state telephone services to receive or originate personal calls.

5.2 **Prohibited Calls.** The following types of calls are prohibited if not related to official state business:

- Pay per call numbers
- Collect calls to state telephone services
- Calls billed to state telephone services

5.3 **Penalties.** Violation of this policy may result in disciplinary action and may be a cause for termination.

5.4 **Evaluation and Acquisition of Wireless Telephone Service.** State agencies shall determine the wireless telephone service required for each individual or group of individuals identified to be issued a wireless telephone.

5.4.1 Agencies shall consider at a minimum the following criteria for each group or individual for whom a state wireless telephone service is purchased:

5.4.1.1 How the wireless telephone will be used.

5.4.1.2 Number of minutes required per month.

5.4.1.3 Desired coverage area.

5.4.1.4 When the wireless telephone will be used (e.g. weekdays, evenings, weekends, etc.).

5.4.1.5 If there is a need for data transmission.

5.4.1.6 Agencies shall acquire state wireless telephone service in accordance with Ohio IT Policy ITP-H.6, “Telecommunications Utility Services,” and select the most cost-effective plan that meets the criteria identified.

5.5 **Authorization of State Wireless Telephone Services and Issuing Wireless Telephones.** Each agency shall develop guidelines for the authorization and allocation of state wireless telephone services and a process for tracking the custody of wireless telephones issued to its employees. At a minimum, agency guidelines shall include the following:

5.5.1 The job responsibilities for which the use of a state wireless telephone service is required.

5.5.2 The factors that determine whether a wireless telephone is to be shared by a group of employees.

5.5.3 The factors that determine whether a wireless telephone is to be issued to an individual employee.
5.5.4 The methodology for how group and individual wireless telephones are issued.

5.5.5 The use of shared wireless telephones, when practical, is preferable to issuing individual wireless telephones. If a wireless telephone is shared, a log shall be maintained to track the responsible user and the dates and times the wireless telephone was checked out and checked in.

5.5.6 Each state employee assigned a wireless telephone shall be given a copy of Ohio IT Policy ITP-H.2, "Use of State Telephones," along with any associated agency guidelines developed to provide additional details or restrictions.

5.6 Education & Awareness. Agencies shall establish an education and awareness program regarding the appropriate use of telecommunications services provided by the state whether wired or wireless.

5.6.1 Managers and supervisors shall also receive training on how to detect and respond to instances of abuse of privilege.

6.0 Procedures

None.

7.0 Implementation

A general implementation framework for the requirements of this policy includes:

7.1 The telecommunication service use requirements outlined in this policy have not changed significantly. Therefore, they should already be in place and communicated to agency employees, contractors, temporary personnel and other agents of the state as of the effective date of the policy.

7.2 Agency management review and reimbursement programs may be phased out as the agency deems appropriate.

7.3 Agencies shall have 90 days from the effective date of the policy to develop education and awareness programs for employees, contractors, temporary personnel and other agents of the state regarding appropriate use of state issued telecommunications devices.

7.4 Agencies shall have 90 days from the effective date of the policy to develop education and awareness programs for managers and supervisors regarding how to detect and respond to instances of abuse of privilege.
8.0 Revision History

<table>
<thead>
<tr>
<th>Date</th>
<th>Description of Change</th>
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<tbody>
<tr>
<td>12/07/1992</td>
<td>Original policy.</td>
</tr>
<tr>
<td>12/01/2009</td>
<td>Scheduled policy review.</td>
</tr>
<tr>
<td>05/25/2011</td>
<td>Requirements for personal phone call reimbursement were removed from the policy. In addition, the requirement to establish and document a management review process for employee usage of telephone services was removed. Education and awareness requirements were added to the policy.</td>
</tr>
<tr>
<td>05/25/2015</td>
<td>Scheduled policy review.</td>
</tr>
</tbody>
</table>

9.0 Definitions

9.1 **Telephone Service.** Unless otherwise stated, telephone service includes both wired telephones and wireless telephones.

9.2 **Wired.** Traditional landline local and long distance telephone service.

9.3 **Wireless.** Use of various electromagnetic spectrum frequencies, such as radio and infrared, to communicate services, such as data and voice, without relying on a hardwired connection, such as twisted pair, coaxial or fiber optic cable.

10.0 Related Resources

| Document Name | None. |

11.0 Inquiries

Direct inquiries about this policy to:

**Enterprise IT Architecture & Policy**  
Investment and Governance Division  
Ohio Office of Information Technology  
30 E. Broad Street, 39th Floor  
Columbus, Ohio 43215  

Telephone: 614-644-9352  
Facsimile: 614-644-9152  
E-mail: State.ITPolicy.Manager@oit.ohio.gov

Ohio IT Policy can be found on the Internet at: www.ohio.gov/itp.
12.0 Attachments

None.
State of Ohio IT Policy
Use of Internet, E-mail and Other IT Resources

1.0 Purpose

This state policy establishes controls on the use of state-provided information technology (IT) resources to ensure that they are appropriately used for the purposes for which they were acquired.

2.0 Scope

Pursuant to Ohio IT Policy ITP-A.1, "Authority of the State Chief Information Officer to Establish Policy Regarding the Acquisition and Use of Computer and Telecommunications Products and Services," this state policy applies to every organized body, office, or agency established by the laws of the state for the exercise of any function of state government except for those specifically exempted.

The scope of this information technology policy includes state computer and telecommunications systems and the employees, contractors, temporary personnel and other agents of the state who use and administer such systems.

3.0 Background

The State of Ohio furnishes a variety of IT resources to employees, contractors, temporary personnel and other agents of the state to conduct the business of the state. These resources include equipment such as desktop and notebook computers, tablet PCs, printers, digital copiers, facsimile machines, personal digital assistants, digital audio and video recorders; applications and services such as software, subscription services, e-mail, instant messaging, and internet access; and supplies such as paper, toner, and ink. With such a proliferation of devices, services and software, greater care is required to prevent misappropriation of publicly owned IT resources.

Just as important, the people of Ohio expect their public servants to devote their time to conduct the state's business and compensate them for that time. In the use of their time and IT resources, public servants must be mindful of the public trust that they
discharge, of the necessity for conducting themselves according to the highest ethical principles, and of avoiding any action that may be viewed as a violation of the public trust. As custodians of resources entrusted to them by the public, public servants must be mindful of how these resources are used.

4.0 References

4.1 Ohio IT Policy ITP-A.1, “Authority of the State Chief Information Officer to Establish Policy Regarding the Acquisition and Use of Computer and Telecommunications Products and Services,” defines the authority of the state chief information officer to establish State of Ohio IT policies as they relate to state agencies’ acquisition and use of information technology, including, but not limited to, hardware, software, technology services and security.

4.2 Chapter 2909 of the Ohio Revised Code includes companion provisions to this policy with regard to criminal offenses. Section 2909.04 of the Ohio Revised Code specifically addresses knowingly using a computer system, network or the Internet to disrupt or impair a government operation. Section 2909.05 of the Ohio Revised Code specifically addresses causing serious physical harm to property that is owned, leased, or controlled by a government entity.

4.3 Chapter 2913 of the Ohio Revised Code includes companion provisions to this policy with regard to theft and fraud. Section 2913.04 of the Ohio Revised Code specifically addresses accessing without authorization any computer, computer system, or computer network without consent of the owner.

4.4 Chapter 2921 of the Ohio Revised Code includes companion provisions to this policy with regard to offenses against justice and public administration. Section 2921.41 of the Ohio Revised Code specifically addresses using a public office to commit theft which includes fraud and unauthorized use of government computer systems.

4.5 Ohio IT Policy ITP-H.2, “Use of State Telephones,” provides requirements regarding the use of both wired and wireless state telephone service.

4.6 A glossary of terms found in this policy is located in section 9.0 - Definitions. The first occurrence of a defined term is in bold italics.

5.0 Policy

Agencies shall establish an Internet, e-mail and IT resources use policy in compliance with this state policy and ensure that public servants adhere to that policy. Agencies shall define and implement such a policy based on the business requirements of the agency. Agency policy shall describe the extent to which personal use is allowed. Agencies may adopt or endorse this state policy as agency policy or may further restrict the duration, frequency and nature of personal use.

5.1 Use of State-Provided IT Resources. The State of Ohio provides computers, services, software, supplies and other IT resources to employees, contractors,
temporal personnel and other agents of the state for supporting the work and conducting the affairs of Ohio government. Personal use, if permitted by an agency, shall be strictly limited and can be restricted or revoked at an agency's discretion at any time.

5.1.1 Use of State-Provided Telephones and Services. Restrictions on the use of IT resources outlined in this policy apply to wired and wireless telephone devices and services, including facsimile machines connected to the state's telephone service. Additional restrictions on the use of state telephones and services are covered by Ohio IT Policy ITP-H.2, "Use of State Telephones."

5.1.2 Use for Collective Bargaining Purposes. In addition to this state policy, collective bargaining contract provisions control the use of state-provided IT resources for contract enforcement, interpretation and grievance processing.

5.2 Unacceptable Personal Use. Any personal use of IT resources that disrupts or interferes with government business, incurs an undue cost to the state, could potentially embarrass or harm the state, or has the appearance of impropriety is strictly prohibited. Personal use that is strictly prohibited includes, but is not limited to, the following:

5.2.1 Violation of Law. Violating or supporting and encouraging the violation of local, state or federal law is strictly prohibited.

5.2.2 Illegal Copying. Downloading, duplicating, disseminating, printing or otherwise using copyrighted materials, such as software, texts, music and graphics, in violation of copyright laws is strictly prohibited.

5.2.3 Operating a Business. Operating a business, directly or indirectly, for personal gain is strictly prohibited.

5.2.4 Accessing Personals Services. Accessing or participating in any type of personals ads or services, such as or similar to dating services, matchmaking services, companion finding services, pen pal services, escort services, or personals ads is strictly prohibited.

5.2.5 Accessing Sexually Explicit Material. Downloading, displaying, transmitting, duplicating, storing or printing sexually explicit material is strictly prohibited.

5.2.6 Harassment. Downloading, displaying, transmitting, duplicating, storing or printing material that is offensive, obscene, threatening or harassing is strictly prohibited.

5.2.7 Gambling or Wagering. Organizing, wagering on, participating in or observing any type of gambling event or activity is strictly prohibited.

5.2.8 Mass E-mailing. Sending unsolicited e-mails or facsimiles in bulk or forwarding electronic chain letters in bulk to recipients inside or outside of the state environment is strictly prohibited.
5.2.9 Solicitation. Except for agency-approved efforts, soliciting for money or support on behalf of charities, religious entities or political causes is strictly prohibited.

5.3 Participation in Online Communities. Any use of state-provided IT resources to operate, participate in, or contribute to an online community including, but not limited to, online forums, chat rooms, instant messaging, listservs, blogs, wikis, peer-to-peer file sharing, and social networks, is strictly prohibited unless organized or approved by the agency. If an individual is approved to participate in any of these forms of communication as part of state business, that person shall fulfill agency-defined security education and awareness requirements for proper use before participating. The content of the education and awareness requirements shall include methods to avoid inadvertent disclosure of sensitive information and practices to avoid that could harm the security of state computer systems and networks.

5.4 Unauthorized Installation or Use of Software. Installing or using software including, but not limited to, instant messaging clients and peer-to-peer file sharing software, or personally owned software, without proper agency approval is strictly prohibited. Installation and use of unlicensed software is strictly prohibited.

5.5 Unauthorized Installation or Use of Hardware. Installing, attaching, or physically or wirelessly connecting any kind of hardware device to any state-provided IT resource, including computers and network services, without prior authorization is strictly prohibited. Connecting or attempting to connect a wireless device to the state’s wireless service without proper agency approval is strictly prohibited.

5.6 No Expectation of Privacy. This policy serves as notice to public servants that they shall have no reasonable expectation of privacy in conjunction with their use of state-provided IT resources. Contents of state computers may be subject to review, investigation and public disclosure. Access and use of the Internet, including communication by e-mail and instant messaging and the content thereof, are not confidential, except in certain limited cases recognized by state or federal law. The state reserves the right to view any files and electronic communications on state computers, monitor and log all electronic activities, and report findings to appropriate supervisors and authorities.

5.6.1 Impeding Access. Impeding the state’s ability to access, inspect and monitor IT resources is strictly prohibited. A public servant shall not encrypt or conceal the contents of any file or electronic communication on state computers without proper authorization. A public servant shall not set or manipulate a password on any state computer, program, file or electronic communication without proper authorization.

5.7 Misrepresentation. Concealing or misrepresenting one’s name or affiliation to mask unauthorized, fraudulent, irresponsible or offensive behavior in electronic communications is strictly prohibited.
5.8 Restrictions on the Use of State E-mail Addresses. Public servants shall avoid the appearance of impropriety and avoid the appearance of leveraging the stature of the state in the use of their assigned state e-mail address. State e-mail addresses, such as "firstname.lastname@ohio.gov" or "firstname.lastname@agency.state.oh.us," shall not be used for personal communication in public forums such as, or similar to, listservs, discussion boards, discussion threads, comment forums, or blogs.

5.9 Violations of Systems Security Measures. Any use of state-provided IT resources that interferes with or compromises the security or operations of any computer system, or compromises public trust, is strictly prohibited.

5.9.1 Confidentiality Procedures. Using IT resources to violate or attempt to circumvent confidentiality procedures is strictly prohibited.

5.9.2 Accessing or Disseminating Confidential Information. Accessing or disseminating confidential information or information about another person without authorization is strictly prohibited.

5.9.3 Accessing Systems without Authorization. Accessing networks, files or systems or an account of another person without proper authorization is strictly prohibited. Public servants are individually responsible for safeguarding their passwords.

5.9.4 Distributing Malicious Code. Distributing malicious code or circumventing malicious code security is strictly prohibited.

5.10 Penalties. Violation of this policy may result in disciplinary action or contractual penalties, and may be cause for termination. In addition, public servants may be subject to a civil action or criminal prosecution as a result of inappropriate use or misuse of IT resources. The Ohio Revised Code (ORC) makes certain misuses of IT resources criminal offenses:

- ORC Section 2909.04 – knowingly using a computer system, network or the Internet to disrupt or impair a government operation.
- ORC Section 2909.05 – causing serious physical harm to property that is owned, leased, or controlled by a government entity.
- ORC Section 2913.04 – accessing without authorization any computer, computer system, or computer network without consent of the owner.
- ORC Section 2921.41 – using a public office to commit theft which includes fraud and unauthorized use of government computer systems.

5.11 Compliance. Agencies shall undertake measures to ensure that public servants adhere to agency policy.

5.11.1 Education and Awareness. Agencies shall ensure that restrictions and controls on personal use of IT resources are addressed by education and awareness programs. Public servants shall be made aware of their respective agency's use policy, this state policy, applicable local, state and federal laws, and any applicable collective bargaining agreement provisions. Agencies shall provide employees, contractors, temporary
personnel and other agents of the state under their employ a copy of the agency’s Internet, e-mail and IT resources use policy.

5.12 State Registry. The Ohio Office of Information Technology Investment and Governance Division Statewide IT Policy Program Area (“Statewide IT Policy”) shall maintain a registry of the Internet, e-mail and IT resources use policies of state agencies.

5.12.1 Statewide IT Policy shall establish a procedure for the submission of agency Internet, e-mail and IT resources use policies and shall instruct agencies as to the requirements of the procedure. Agencies shall be notified of any relevant changes in the procedure.

5.12.2 Upon request, Statewide IT Policy shall make the registry available for inspection in a timely manner to any interested party.

6.0 Procedures

6.1 Agencies shall submit a copy of their Internet, e-mail and IT resources use policy to the Office of Information Technology, Statewide IT Policy.

6.1.1 If at any time an agency should make a change of substance in their Internet, e-mail and IT resource use policy, a copy of the revised policy shall be submitted to Statewide IT Policy.

6.1.2 Copies of policies shall be submitted using one of the following forms and methods.
- For hardcopy documents or for documents in .pdf or .doc formats on optical media, submit via interagency mail to OIT, Statewide IT Policy, 30 East Broad Street, 39th Floor
- For facsimile transmission, submit to OIT, Statewide IT Policy at (614) 644-9152
- For documents in .pdf or .doc formats, submit as e-mail attachments to State.ITPolicy.Manager@oit.ohio.gov
- For documents posted to an externally available Web site not requiring authentication, submit the applicable URL via e-mail to State.ITPolicy.Manager@oit.ohio.gov

7.0 Implementation

The requirements of this policy are anticipated to already be established and in practice. The policy has not been substantively revised since March of 2008.

8.0 Revision History

<table>
<thead>
<tr>
<th>Date</th>
<th>Description of Change</th>
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</thead>
<tbody>
<tr>
<td>01/01/1996</td>
<td>Ohio IT Policy OPP-008 replaces PB-002 and all previously released memoranda regarding this topic.</td>
</tr>
<tr>
<td>Date</td>
<td>Description of Change</td>
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<tr>
<td>03/20/2006</td>
<td>Revise policy requirements on acceptable and unacceptable personal use of IT resources by public servants.</td>
</tr>
<tr>
<td>03/19/2008</td>
<td>Policy requirements concerning participation in online communities were moved from ITP-B.6, &quot;Internet Security,&quot; into section 5.3 of this policy.</td>
</tr>
<tr>
<td>04/18/2011</td>
<td>References to Ohio IT Policies ITP-B.3, &quot;Password and PIN Security,&quot; and ITP-B.4, &quot;Malicious Code Security,&quot; were removed from the policy. These policies were rescinded due to the publication of Ohio IT Standard ITS-SEC-02, &quot;Enterprise Security Controls Framework.&quot;</td>
</tr>
<tr>
<td>03/19/2012</td>
<td>Scheduled policy review.</td>
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9.0 Definitions

9.1 **Blog.** Web-based content consisting primarily of periodic articles or essays listed with the latest entry and visitor comments at the top. Blog topics can range from personal diaries to political issues, media programs and industry analysis. Blogs are also known as "Weblogs" or "Web logs."

9.2 **Chat Room.** An online forum where people can broadcast messages to people connected to the same forum in real time. Sometimes, these forums support audio and video communications, allowing people to converse and to see each other.

9.3 **Confidentiality.** The assurance that information is disclosed only to those systems or persons who are intended to receive the information. Areas in which confidentiality may be important include nonpublic customer information, patient records, information about a pending criminal case, or infrastructure specifications. Information systems that must ensure confidentiality will likely deploy techniques such as passwords, and could include encryption.

9.4 **Instant Messaging.** A software tool that allows real-time electronic messaging or chatting. Instant messaging services use "presence awareness," indicating whether people on one’s list of contacts are currently online and available to chat. Examples of instant messaging services are AOL Instant Messenger, Yahoo! Messenger and MSN Messenger.

9.5 **Internet.** A worldwide system of computer networks — a network of networks — in which computer users can get information and access services from other computers. The Internet is generally considered to be public, untrusted and outside the boundary of the state of Ohio enterprise network.

9.6 **IT Resources.** Any information technology resource, such as computer hardware and software, IT services, telecommunications equipment and services, digital devices such as digital copiers and facsimile machines, supplies and the Internet, made available to public servants in the course of conducting state government business in support of agency mission and goals.

9.7 **Listserv.** An electronic mailing list software application that was originally developed in the 1980s and is also known as "discussion lists." A listserv
subscriber uses the listserv to send messages to all the other subscribers, who may answer in similar fashion.

9.8 Malicious Code. Collective term for program code or data that is intentionally included in or inserted into an information system for unauthorized purposes without the knowledge of the user. Examples include viruses, logic bombs, Trojan horses and worms.

9.9 Online Forum. A Web application where people post messages on specific topics. Forums are also known as Web forums, message boards, discussion boards and discussion groups. They were predated by newsgroups and bulletin boards in the 1980s and 1990s.

9.10 Peer-to-Peer (P2P) File-Sharing. Directly sharing content like audio, video, data, software or anything in digital format between any two computers connected to the network without the need for a central server. Examples of P2P networks are Kazaa, OpenNap, Grokster, Gnutella, eDonkey and Freenet.

9.11 Public Servant. Any employee of the state, whether in a temporary or permanent capacity, and any other person performing a government function, including, but not limited to, a consultant, contractor, advisor or a member of a temporary commission.

9.12 Social Networks. Web sites promoting a “circle of friends” or “virtual communities” where participants are connected based on various social commonalities such as familial bonds, hobbies or dating interests. Examples include eHarmony, Facebook, Friendster, LinkedIn, Match.com, MySpace, Plaxo and Yahoo!Groups.

9.13 Telephone Service. Unless otherwise stated, telephone service includes both wired telephones and wireless telephones.

9.14 Wiki. A Web application that allows one user to add content and any other user to edit the content. The popular software used to implement this type of Web collaboration is known as “Wiki.” A well-known implementation is Wikipedia, an online encyclopedia.

9.15 Wireless. Use of various electromagnetic spectrum frequencies, such as radio and infrared, to communicate services, such as data and voice, without relying on a hardwired connection, such as twisted pair, coaxial or fiber optic cable.

10.0 Related Resources

None.
11.0 Inquiries

Direct inquiries about this policy to:

Enterprise IT Architecture & Policy
Investment and Governance Division
Ohio Office of Information Technology
30 East Broad Street, 39th Floor
Columbus, Ohio 43215

Telephone: 614-644-9352
Facsimile: 614-644-9152
E-mail: State.ITPolicy.Manager@oit.ohio.gov

Ohio IT Policy can be found on the Internet at: www.ohio.gov/itp.

12.0 Attachments

None.
NETWORK CONNECTION AND ACCEPTABLE USE POLICY

POLICY STATEMENT:

It will be the policy of the Ohio Department of Transportation to utilize connection standards set forth for all devices connected to the Ohio Department of Transportation Communications Network, and address acceptable use of that network.

ODOT’s network shall only be used for lawful purposes. Transmission, distribution or storage of any material in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws.

Violations of system or network security are prohibited, and will result in disciplinary actions as stated in WR-101. ODOT will investigate incidents involving such violations. ODOT may involve, and will cooperate with law enforcement officials should a criminal violation be suspected.

All hardware, appliances and devices that are attached to ODOT’s network infrastructure must be approved by the Division of Information Technology with configuration to standards set forth for that specific device.

The Deputy Director of the Division of Information Technology must approve any expansion and/or increase of bandwidth to the existing network infrastructure and for the expansion of the existing ODOT LAN/WAN topology to new sites.

AUTHORITY:

ORC 125.02, ORC 125.021, ORC 121.07, ORC 2913.02, ORC 2901.01 (A)(13)(J)(I), ORC 2921.01 (A), ORC 2909.01, ORC 2909.05 (B)(2), ORC 2909.04 (A), ORC 2913.04 (B), ORC 2913.42
REFERENCES:

Ohio DAS Directive 01-25 - Internet, Electronic Mail and Online Services Use and Abuse.

ODOT Work Rule 101

SCOPE:

All Districts, Counties, Outposts, Divisions and Offices of the Ohio Department of Transportation.

BACKGROUND AND PURPOSE:

The purpose of this policy is to ensure that the Ohio Department of Transportation Communications Network is properly used for business related purposes in order to maximize and maintain the availability and integrity of ODOT’s systems and networks. This policy will also ensure that only devices approved by the Division of Information Technology will be connected to the communications network.

TRAINING:

Once this policy and associated standard procedures have been approved, the Division of Information Technology will provide a one-hour training session with all District IT personnel to review the policy.

FISCAL ANALYSIS:

The distribution of this policy will have no cost associated for implementation.
SOFTWARE COPYRIGHT COMPLIANCE POLICY

PURPOSE:

This policy is to provide Department of Transportation employees awareness to facilitate compliance for all software copyright laws, regulations and policies to assure compliance with applicable manufacturers’ license agreements. Any persons involved in illegal reproduction of software can be subject to civil damages and criminal penalties including fines and imprisonment according to the Federal Copyright Act. The only exception is the user’s right to make a backup copy for archival purposes as described in the United States Code Title 17 section 117.

The use of state owned software and Internet, electronic mail and online services, is a privilege that may be wholly or partially restricted, or revoked, by the Department of Transportation without prior notice and without consent of the user when required by and consistent with the law, when there is reason to believe that violations of policy or laws have taken place.

The Department of Transportation will use various mechanisms, including monitoring of its online services, including Internet and electronic mail usage to achieve software compliance.

Violation of this policy may subject the user to not only departmental disciplinary measures according to the directive WR-101, but also possible civil and/or criminal penalties.

AUTHORITY:

ORC 125.02 ORC 125.021, ORC 121.07, ORC 2913.02, ORC 2901.01 (J)(I) ORC 2921.01 A, ORC 29009.01, ORC 2909.05 (B)(2), ORC 2909.04 (A), ORC 2913.04 (B), 2913.42,

Department of Administration Services Policies ITP A.5, ITP, A.26, ITP E.8

DAS Directive 01-25, Internet, Electronic Mail and Online Services Use and Abuse.

ODOT Policy 28-004(P), Standard Build
REFERENCES:

ODOT Policy 28-004 (SP), Standardized Software Standard Build procedures

This Policy replaces all previously released memoranda regarding this topic.

SCOPE:

Applicable to all computer hardware and systems of the Ohio Department of Transportation including but not limited to: Divisions, Offices, Sections, all technical and end user personnel, and all consultants, vendors, and contractors who use ODOT computer equipment, software, systems or technology infrastructure.

DEFINITIONS:

**Concurrent license**: Grants a number of users to access and use a finite number of software licenses at the same time, provided that the number of simultaneous users does not exceed the total number of licenses owned.

**Site license**: A type of volume purchase that usually has rules or restrictions applied. The actual “site” of the licensed software varies by location or specified area.

**Software**: A various term for various programs used to operate computers and related devices.

**Softlifting**: Multiple uses of a single license of software.

**Original Equipment Manufacturer (OEM)**: A company that uses various components from one or more companies to create a product for sale and is assigned to the specific equipment on which it was loaded on.

**Unbundling**: Using or installing software that has been provided by an original equipment manufacturer (OEM) that has been separated from the original distribution. The separation of individual software components from a software suite.

**Volume Purchase**: Volume licensing requires the purchase of 1 license for each computer upon which the software is installed.
COMPLIANCE:

I. All ODOT employees, consultants, and contractors must use all software in accordance with license agreements, the State of Ohio laws and regulations, the United States Copyright Laws and DAS & ODOT’s software policies.
   A. Pursuant to Title 17 of the United States Code “it is illegal to make or distribute copies of copyrighted material without authorization” (Section 106). The only exception is the user’s right to make a backup copy for archival purposes (Section 117). According to the Federal Copyright Act, persons involved in illegal reproduction of software can be subject to civil damages of as much as $50,000, and criminal penalties, including fines and imprisonment, of up to five years.

II. All software used by ODOT employees, consultants, and contractors on ODOT owned computers will be purchased by the appropriate procedures to ensure license compliance.

III. No installing, copying, sharing, downloading, or uploading of software will be permitted unless specifically permitted by the license agreement or otherwise written permission from the Deputy Director of the Division of Information Technology or designee.
   A. Although software is a new form of intellectual property, its protection is grounded in the long established rules that govern other more familiar media such as records, books, and movies. Respect for intellectual property rights requires a certain degree of diligence on the part of end users. This is particularly true with respect to software, because it is so easy to duplicate, and the copy is usually as good as the original. This fact does not legitimize “software piracy” or “softlifting.” (DAS policy ITP A.5)

IV. ODOT computer users may not bring software from home and load it on ODOT equipment.
   A. Business licensing is different than personal or home licensing and is not to be installed onto a computer that the software was not initially purchased for.

V. Computer users may not take software from ODOT and load it to non ODOT computers unless specifically permitted by the licence agreement or the Deputy Director of the Division of Information Technology or designee.
   A. To run a copyrighted software program on two or more computers simultaneously unless the license agreement specifically allows this (ie a multi-user or site license) is illegal.
VI. Any duplicating, selling or otherwise copying for purposes of distributing software products other than under the terms of the software license agreement is a violation of the law and is firmly forbidden by the State of Ohio.

A. It is not the policy of the State to violate, or permit the violation of federal copyright laws and violation is firmly forbidden by the State (DAS ITP A.5).

VII. All installed software will abide by the terms and conditions set forth by the license agreement.

A. All installed software on ODOT computer systems will follow ODOT’s Standard Build Policy, 28-004(P).

VIII. Commercial, shareware, freeware and public domain software

A. Commercial software is purchased from software publishers, commercial computer stores, etc. When you buy software, you are actually acquiring a license to use it, not own it. You acquire the license from the company that owns the copyright.
   1. Licenses are usually purchased by:
      a. “One copy/one computer” rule.
      b. Site license.
      c. Volume purchase agreement.
      d. Concurrent license agreement.

B. Shareware software is covered by copyright. When you acquire software under a shareware arrangement, you are actually acquiring a license to use it, not own it. You acquire the license from the individual or company that owns the copyright. The conditions and restrictions of the license agreement vary from program to program and should be read carefully. The copyright holders for shareware allow purchasers to make or distribute copies of the software but demand that if, after testing the software, you adopt it for use, you must pay for it.

C. Freeware software is covered by copyright and subject to the conditions defined by the holder of the copyright. The conditions for freeware are in direct opposition to normal copyright restrictions. Freeware software license agreement vary from program to program and should be read carefully. Freeware software are copyrighted and distribution cannot be for profit.

D. Public Domain software comes into being when the original copyright holder explicitly relinquishes all rights to the software. Since, under current copyright law, all copyrighted works (including software) are protected as soon as they are committed to a medium, for something to be public domain it must be clearly marked as such. All works assume copyright protection unless the public domain notification is stated (Title 17, Appendix II, Berne Convention).
TRAINING:

A Code of Ethics script will be supplied on all base standard builds as set forth in the Standardized Software Standard Build Standard Procedures. This script along with the distribution of this policy will inform all end users of DAS and ODOT policies. For new hires, this policy should be distributed at orientation.

FISCAL ANALYSIS:

There is no cost associated with the implementation of this policy.
PASSWORD AND PERSONAL IDENTIFICATION NUMBER (PIN) SECURITY SUBPOLICY

POLICY STATEMENT:

It will be the policy of the Ohio Department of Transportation to establish minimum requirements regarding proper selection, use and management of passwords and personal identification numbers (PINs).

The Division of Information Technology shall establish password/PIN security procedures in compliance with DAS Policy ITP-B.3, Password/PIN Security Subpolicy and ensure that all users adhere to this policy. In addition, all Districts, Divisions, and offices shall ensure adherence to Rule 123:3-1-01 of the Ohio Administrative Code, which addresses password length and composition for e-government applications that ODOT will use for legally binding records or signatures. For individual users, the protection of passwords is the responsibility of the user.

The Division of Information Technology password/PIN security policy shall meet the minimum requirements as set forth in the DAS Policy ITB-B.3, Password/PIN Security Subpolicy.

Violations of this policy or supporting procedures will be subject to action under WR-101.

AUTHORITY:

Ohio Revised Code 1347.05(f) and 1347.05(g)

Ohio Revised Code and Rule 123:3-1-01 Chapter 1306

REFERENCES:

DAS Policy ITP-B.1, Information Security Framework Policy

DAS Policy ITB-B.3, Password/PIN Security Subpolicy

DAS Policy ITP-A.1, Authority to Publish Policy and Communications Regarding the Acquisition and Use of Computer and Telecommunications Products and Services
DAS Policy ITP-E.8, Limitations on the Use of Publicly Owned Computer Hardware and Software

DAS Directive 00-25, Internet, Electronic Mail and Online Services Use and Abuse

This policy does not supersede other policies.

SCOPE:

All Districts, Divisions and Offices of the Ohio Department of Transportation.

Employees, contractors, and temporary personnel (referred to as “users”) who access any ODOT-owned information systems.

BACKGROUND AND PURPOSE:

The first line of defense in computer system security is the end user or anyone having authorized access to computer systems and/or network components. Breach of user passwords is one of the easiest methods used to gain unauthorized access to sensitive information, data, and systems. Proper password management is one of the most effective, inexpensive, and necessary measures to thwart unauthorized access.

DEFINITIONS:

Definitions are not included in this policy.

TRAINING:

Upon approval of this policy and associated standard procedures, DoIT shall provide training sessions with all District IT Personnel as well other impacted organizations to ensure policy understanding and compliance.

FISCAL ANALYSIS:

With the exception of district training, there will be no cost associated with the distribution of this policy.
SMOKEFREE WORKPLACE POLICY

POLICY STATEMENT:

It is the policy of the Ohio Department of Transportation (ODOT) to ensure that all employees and visitors to the agency are provided with a smoke free working environment.

Further, it is the policy of ODOT to ensure full compliance with Ohio Revised Code Chapter 3794, also known as the Smokefree Workplace Act (Act). Consistent with this policy, allegations of violations of the Act may be reported internally by filing a complaint as specified in the Standard Operating Procedure (SOP) implementing this policy. In lieu of filing an internal complaint, anyone may file a complaint with the Ohio Department of Health by calling 1-866-559-6446 or sending a written complaint. Written complaints shall be addressed to:

Attn: Smoking Complaints
Bureau of Environmental Health
Ohio Department of Health
246 N. High Street
Columbus, Ohio 43215

AUTHORITY:

Ohio Revised Code: Chapter 3794, Smokefree Workplace Act
Ohio Administrative Code: 3701-52-01

REFERENCES:


SCOPE:

ODOT’s Smokefree Workplace policy applies to all employees of, and visitors to, any facility of the Ohio Department of Transportation.

FISCAL IMPACT: The fiscal impact will vary from division to division and district to district.
STANDARD OPERATING PROCEDURE
SMOKEFREE WORKPLACE

PURPOSE:

The Ohio Department of Transportation is committed to providing a smokefree working environment for its employees and the public. All ODOT employees and visitors doing business with ODOT shall comply with this Standard Operating Procedure (SOP).

This SOP shall be implemented by the following rules and regulations which may be changed from time to time.

REGULATIONS:

In accordance with Ohio Revised Code (ORC) Chapter 3794 “Smokefree Workplace Act,” the Ohio Department of Transportation shall ensure that tobacco smoke does not enter any area in which smoking is prohibited under this chapter through entrances, air intakes, operable windows, or other means. This prohibition also applies to all state owned buildings and state owned vehicles.

The Ohio Department of Health or its designee will enforce this law. The Ohio Department of Transportation, as well as employees and visitors who violate this SOP, may be fined by the Department of Health. These fines may range up to $100.00 per violation. ODOT employees who violate this SOP may be subject to progressive disciplinary action in accordance with Directive No.WR-101.

Employees and external visitors who violate the Smokefree Workplace Act shall be personally liable to pay the enforcement agency the amount of the fine.

AUTHORITY:

Ohio Administrative Code: Rules 3701-52-01 through 3701-52-09
Ohio Revised Code: Chapter 3794 Smokefree Workplace Act
ODOT’s Policy No: 19-012 (P) Employee’s Use of ODOT Provided Vehicles
ODOT’s Directive No. WR-101
REFERENCES:


SCOPE:

This Standard Operating Procedure is applicable to all employees and visitors of the Ohio Department of Transportation and must be posted in all facilities.

BACKGROUND:

On December 7, 2006, Ohio’s statewide smoking ban became effective. This ban prohibits smoking in public places and places of employment. The Ohio Department of Transportation is obligated to comply with ORC Chapter 3794 “Ohio’s Smokefree Workplace Act.”

Smoking of any tobacco product is prohibited within 10 ft. of any entrance, air intake, and operable window of an enclosed building owned and operated by the Ohio Department of Transportation.

DEFINITIONS:

Employee – A person who is employed by ODOT, or who contracts with ODOT or third party entity, or who otherwise performs services for ODOT for compensation or for no compensation.

Employer – Means the State of Ohio, Department of Transportation

Enforcement Agency – Means the Ohio Department of Health or its designee.

Enclosed Area – An area with a roof or other overhead covering of any kind, and walls or side coverings of any kind on all sides or on all sides but one, regardless of the presence of openings for ingress and egress.

Entrance – Any doorway through which pedestrians, including the public or employees, enter a public place of employment.

ORC – Ohio Revised Code

Public Place – Means an enclosed area to which the public is invited or in which the public is permitted.

Smoking – Means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other plant.
Vehicle – Means an enclosed motor vehicle registered to the Ohio Department of Transportation.

RESPONSIBILITY:

All ODOT employees are responsible for understanding and complying with this SOP. Supervisors are responsible for enforcement and insuring their staff, visitors and contractors are made aware of this SOP and that they comply with its requirements.

Violation of this SOP may lead to progressive disciplinary action against ODOT employees according to ODOT’s Directive No.WR-101 and the imposition of fines to ODOT employees and visitors by the Ohio Department of Health or its designee.

All official letters reporting a violation that are received from the Ohio Department of Health or its designee concerning violations of ORC Chapter 3794 shall be sent to the Central Office Facility Manager or the District Facility Managers. The Facility Manager shall submit a response (a standard response letter is available on Chief Legal Counsel’s “O” drive) to the Ohio Department of Health or its designee. The response shall be postmarked and sent to the Ohio Department of Health and a copy to the Office of Chief Legal Counsel within 30 days of receipt of notice of the report of a violation.

For all Central Office locations, smoking areas will be designated by the Office of Facilities Management and the Central Office Health & Safety Section and “No Smoking Signs” shall be posted by the Central Office Facility Manager. For each district complex, rest areas, and all ODOT Training Sites, smoking areas will be designated by the District Facility Manager and the District Safety Representative. “No Smoking Signs” shall be posted by the District Facility Managers for their given district, rest areas, and outlying buildings.

Each Facility Manager shall develop a system to track and monitor all related complaints received. Subject information is to include complaint disposition and resolution.

COMPLAINTS:

An employee wishing to register a complaint with ODOT regarding an incident of non compliance of this SOP shall fill out the attached complaint form and submit it to his/her supervisor. When the person committing the violation is identified, the supervisor shall forward the complaint to the supervisor of the employee indicated. The supervisor will discuss with their employee the alleged violation. Once notification is made, the supervisor will complete the disposition section of the Complaint Form and forward a copy to the Division of Human Resources, Health & Safety Office. If no person is identified in the Complaint Form, the document should be forwarded to the respective Facility Manager for evaluation and disposition. If the complaint is not dealt with by the supervisor to the satisfaction of the complainant, the employee should contact their
ODOT Safety Representative. The Safety Representative will investigate the complaint through the appropriate levels.

An employee wishing to register a complaint to the Ohio Department of Health can report violations by calling 1-866-559-OHIO (6446) or send a written complaint to:

Attn: Smoking Complaints
Bureau of Environmental Health
Ohio Department of Health
246 N. High Street
Columbus, Ohio 43215

PROCEDURES FOR DESIGNATING A SMOKING AREA:

Smoking areas shall be located at a distance of 10 ft. or greater from any entrance, operable window, or air intake ventilation system of each facility operated by ODOT.

A site survey will be conducted at every ODOT location to determine appropriate smoking areas. Smoking areas must be identified by signage indicating that SMOKING is allowed in this area and in accordance with ORC Chapter 3794, ashtrays will be placed at locations as deemed necessary by the Office of Facilities Management or District Facility Manager.

All signs for areas identified as “Smoking” shall meet all the criteria as prescribed in ORC Chapter 3794, and posted for ease of identification.

Central Office Facility Manager will post all signage at Central Office locations and District Facility Managers will post all signage in their districts.

TRAINING:
Training will be limited to the time needed for employees to familiarize themselves with this SOP. ODOT is committed to update employees as this procedure changes and/or will provide “Official” notification.

FISCAL ANALYSIS:

The Office of Facilities and each district are responsible for funding the purchase of signs. Budgeting will vary depending on each district’s needs.
OHIO DEPARTMENT OF TRANSPORTATION
VEHICLE USE STANDARD PROCEDURE

POLICY STATEMENT:

The Ohio Department of Transportation (ODOT) is committed to financial responsibility, efficiency, and accountability. We must maintain the highest ethical standards in our dealings with each other, our business partners, and the public we serve. This standard procedure supplements the ODOT policy with respect to the use of ODOT vehicles by its employees.

DEFINITIONS:

CARTX – Payroll Time Reporting Code (TRC) used on the timesheet to designate the IRS commute charge.

Construction Vehicle – Vehicles of all types owned by ODOT that are assigned to construction projects.

Driver License - Official Ohio driver license issued by the Ohio Department of Public Safety.

Employee – Any person employed, full or part time, by the Ohio Department of Transportation.

EMS – The Equipment Management System (EMS) is the database application that stores all of ODOT’s vehicle information.

Long Term Vehicle Assignment– ODOT vehicle assignment to a specific ODOT employee in EMS (Equipment Management System) for longer than one week with proper forms filed with DAS. This rare usage requires prior written pre-approval from the Deputy Director and approval in writing from the Director. This is NOT a vehicle take home assignment.

Maintenance Call-Outs – The dispatch of workers with specialized equipment and knowledge that occurs during other than their normal working hours.

Operator – All ODOT employees operating an ODOT vehicle.

Personal Vehicle – Non ODOT vehicle used by an ODOT employee for official business approved in advance by their supervisor.
Place of Dispatch – The normal report location or authorized physical location where the vehicle is picked up for use by an ODOT employee.

Secured Location – Location approved in advance by the Deputy Director for overnight parking.

Short Term Assignment – The assignment of an ODOT vehicle to an ODOT employee for less than one weeks use.

Vehicle – All ODOT equipment requiring a driver’s license issued by the Ohio Department of Public Safety. This includes, but is not limited to, Pony vehicles, snow plow trucks, passenger vehicles, trucks, etc.

Vehicle Take Home Assignment – The assignment of an ODOT vehicle to an employee to be driven from place of official state business to an employee’s home with proper recommendation from the Deputy Director and pre-approval in writing by the Director.

The following items outline authorized use, unauthorized use, operator’s responsibilities, vehicle assignments, personal vehicles, and cell phone use:

I. AUTHORIZED USE OF ODOT VEHICLES:

1. Travel between the place where the ODOT vehicle is dispatched and the place where official state business is performed.

2. When on official travel status and not within reasonable walking distance, between the place of state business or the place of temporary lodging and places to obtain meals or medical assistance (including drugstore), exclusive of places of entertainment.

3. Transport of other officers, employees or guests of the state when they are on official state business. This includes students who shadow an engineer during scheduled event programs.

4. Transport of consultants, contractors, or commercial firm representatives when such transport is in the direct interest of the state.

5. Travel between the place of dispatch or the place of performance of state business to your personal residence when a vehicle take home assignment has been authorized in writing by the Director of ODOT.

6. Out-of-State travel shall be authorized in advance by the proper authority and granted upon completion and signatures of Form AU-111, State of Ohio, and Department of Transportation Travel Request.
II. UNAUTHORIZED USE OF ODOT VEHICLES:

1. Any use for personal purposes, other than commuting as specified in Authorized Use.

2. The parking of an ODOT vehicle to the closest ODOT location to your home to reduce your daily commute in your personal vehicle is prohibited unless specifically required by the Collective Bargaining Agreement or an active MOU.

3. Travel or tasks which are beyond the vehicles rated capacity.

4. Transport of family, friends, associates or other persons who are not employees of the state or serving in the interest of the state.

5. Transport of alcoholic beverages.

6. Transport of any drugs not required to treat a medical condition.

7. Transport of hitchhikers.

8. Transport of items which have no relation to the performance of official state business. Reasonable exceptions are permitted, such as purses, briefcases, laptops and other customary and ordinary personal items associated with travel.

9. Transport of acids, explosives, weapons, ammunition or highly flammable material, except by specific authorization.

10. Transport of any item or equipment projecting from the side, front or rear of the vehicle in a way which constitutes an obstruction to safe driving, or a hazard to pedestrians or to other vehicles.

11. Attending any events which are not in the service of state business.

12. Extending the length of time the vehicle is in your possession beyond that which is required to complete the official purpose of the trip.

13. Operating a state vehicle under the influence of alcohol or drugs is prohibited.

14. Operating a state vehicle with an expired, suspended, or otherwise invalid driver’s license, or without the proper type of valid license.
III. OPERATOR’S RESPONSIBILITIES:

1. Operators must have a valid driver license and shall report any change in driver license status to their supervisor. The operator must obey all traffic laws.

2. Operators shall report any damage from accidents, abuse, vandalism or unknown sources.

3. Operators shall report any vehicle problems or maintenance issues to the proper authority.

4. Operators shall promptly report and pay all citations including parking citations.

5. Operators and all occupants shall always wear seat belts.

6. Fleet Managers shall secure preventive maintenance parameters described on EMS screen 1-36 and notify the operator to ensure repairs are made promptly. Operators are to cooperate with the scheduling of repairs and preventative maintenance.

7. Operators shall make their vehicle available to other operators for ODOT business when not in use.

8. Operators shall be responsible for keeping assigned vehicles free of trash, debris, etc.

9. Operators shall remove valuables and equipment from plain sight and secure in an area not visible from the outside when leaving vehicle unattended.

10. Operators, employees and others shall not smoke in any state vehicle.

11. Operators shall remove keys, roll up windows and lock vehicles, including cargo areas, when not in use.

12. Operators shall make every effort to locate a secure and well lit area for overnight parking.

13. Operator shall remain with the vehicle during the fueling process.

14. Operators shall use alternative fuels when available if the vehicle is designed for their use. Whenever possible, use State of Ohio fueling facilities or a DAS fuel credit card at commercial gasoline stations.

15. Operators shall report to the supervisor or appropriate managers the parking location for the vehicle assigned to the project. If the parking location changes, the operator shall inform the appropriate manager about the change in parking location.
IV. VEHICLE ASSIGNMENT

1. For Long Term Vehicle assignments, the employee’s name will appear on the Long Term Vehicle Assignment List maintained by the Office of Equipment Management. By April 1st and October 1st each year, all Deputy Directors will submit a list of long term vehicle assignment forms to the Office of Equipment Management. The completed form will contain the employee’s name, vehicle number, length of assignment, location where each vehicle is parked after regular working hours, and justification for the assignment. However, CARTX must still be designated on the timesheet when the vehicle is used to commute to or from the employee’s residence.

2. If vehicle take home assignment is approved by the Director, said approval must be forwarded to the Office of Equipment Management and the daily CARTX shall be designated on the employee’s timesheet.

3. An ODOT vehicle is NOT to be used for commuting to and from your report-in location. Examples of prohibited uses:
   a. The parking of an ODOT vehicle to the closest ODOT location to your home to reduce your daily commute in your personal vehicle is prohibited.
   b. Signing out various pool vehicles to commute from your home and/or the closest outpost/garage then into your report-in location is prohibited. A repeated vehicle assignment on a week-by-week or day-by-day basis to circumvent the definition of take home vehicle assignment is considered “gaming” and is prohibited.

4. If vehicles for after hour call outs are approved by the Director, there will be a rotation of the assignment among maintenance supervisors or maintenance workers with specialized equipment (traffic signal electrician) so that only one vehicle per county is parked nearest their residence at a given time. The vehicle must reside in a secured area such as a construction project site or ODOT facility. Approval for after hours call-out vehicles must receive prior written approval from the Director. Such approvals will be granted on a case-by-case basis, with the expectation that numerous call-outs typically warrant the creation of work shifts in lieu of either call out vehicles or the payment of standby time.

5. All construction vehicles will be parked at a secured location within the county or district closest to the project. All construction vehicles are to be assigned to the project, not to an individual, except for a short term assignment.

6. Employees while not on overnight stay will park their vehicle at their report-in location or maintenance facility nearest to their work assignment.
7. Short Term Vehicle Assignments to attend training or a short-term special project are exempt from the long term vehicle assignment requirements. These are monitored by your supervisor and based on operational need and for the need of efficiency and/or economy of the area. EXAMPLES:
   a. You are scheduled for training at Central Office and you are approved through your supervisor to take the vehicle for the evening and to park the vehicle overnight at a secure project or ODOT facility near your home due to the hours of the training class. This is an approved short term assignment.
   b. You are working on a special project assigned by your area that requires you to travel early or late to a location that is not your normal report-in location. With approval from your supervisor, you are approved to park the vehicle overnight at a secure project or ODOT facility near your home, since this is a short term assignment.

8. All revisions, additions, and removals of Long Term Assignments will be reported immediately to the Office of Equipment Management to submit for approval by the Director and DAS.

9. Where the Long Term assignment is also an authorized take home assignment, the Long Term Assignment forms must be calculated to reflect the actual commute miles of the ODOT employee minus holidays. The total business miles calculation is the difference of the total annual miles minus the total commute miles.

10. Additional coding on the payroll timesheet is required for each work day that the employee uses the car to commute from their home to work, or from work to their home, the employee is to record on their timesheet an entry of $1.50 each way using the time reporting code (TRC) of CARTX. This applies to all take home assignments, including Long Term, Short Term, and daily.

V. PERSONAL VEHICLE USE (IN LIEU OF STATE VEHICLE):

1. State vehicles shall be used in place of private vehicles whenever practical. Personal vehicles may be used only when a state vehicle is unavailable or is impractical, and when authorized by the Deputy Director or designee.

2. While on assignment away from their normal report-in location, employees shall be reimbursed in accordance with the applicable policies established by the Department of Administrative Services (DAS) and the Office of Budget and Management (OBM).

3. The annual reimbursement shall not exceed the amount as established by the Department of Administrative Services (DAS) and the Office of Budget and Management (OBM).
4. Employees are required to have their private vehicle insured under a liability policy that complies with Ohio Revised Code Section 4509.01.

5. Gasoline, vehicle service, damages and repairs to the employee’s private vehicle will be solely the responsibility of the employee.

VI. CELL PHONE USE:

The use of cell phones while driving a state vehicle is discouraged. Employees are required to observe any safety precautions issued by their cell phone provider, and to obey any ordinance regulating cell phone use while operating a moving vehicle. Employees are required to report any citations received in the same manner they are required to report other traffic citations received when operating a state vehicle.
To: All Departments, Offices, Agencies, Commissions, Boards, Bureaus and Institutions
From: Hugh Quill, Director of Administrative Services
Re: Employee's Use of Employer Provided Vehicles

PURPOSE

The purpose of this directive is to establish a statewide, uniform policy on the use of state vehicles.

GENERAL

Section 125.832 of the Ohio Revised Code provides that the Director of the Department of Administrative Services may promulgate rules and procedures for implementing a comprehensive state fleet management program. The following are parameters in which state employees may use a state vehicle.

Authorized Use

1. Travel between the place where the state vehicle is dispatched and the place where official state business is performed.

2. When on official travel status, between the place of state business and the place of temporary lodging.

3. When on official travel status and not within reasonable walking distance, between either of the above places and places to obtain meals; places to obtain medical assistance (including drugstore); places of worship; barber shops or hair salons; cleaning establishments and similar places required to sustain the health, welfare or continued efficient performance of the driver, exclusive of places of entertainment.

4. Transport of other officers, employees or guests of the state when they are on official state business.

5. Transport of consultants, contractors or commercial firm representatives when such transport is in the direct interest of the state.

6. Travel between the place of dispatch or place of performance of state business to your personal residence when specifically authorized by the proper authority in your agency.
Unauthorized Use

1. Any use for personal purpose, other than commuting which has been authorized as specified in Authorized Use.

2. Travel or tasks which are beyond the vehicles rated capability.

3. Transport of family, friends, associates or other persons who are not employees of the state or serving the interest of the state.

4. Transport of hitchhikers.

5. Transport of cargo which has no relation to the performance of official state business.

6. Transport of acids, explosives, weapons, ammunition or highly flammable material, except by specific authorization, or in an emergency situation.

7. Transport of any item or equipment projecting from the side, front or rear of the vehicle in a way which constitutes an obstruction to safe driving, or a hazard to pedestrians or to other vehicles.

8. When on official state business yourself, transport of other employees from headquarters to restaurants, cafes, drugstores or to other places which are not in the service of state business.

9. Attending sporting events, including hunting and fishing, which are not in the service of state business is prohibited.

10. Extending the length of time the vehicle is in your possession beyond that which is required to complete the official purpose of the trip.

11. Operating a state vehicle while under the influence of alcohol or drugs is prohibited.

Responsibilities

Heads of all departments, offices, agencies, commissions, boards, bureaus and institutions are responsible for implementation of this directive.

Unauthorized use of state vehicles may result in immediate disciplinary action from the operator's agency.
All drivers and passengers of a state vehicle must comply with all applicable state and local traffic laws, including but not limited to:

1. The driver and all passengers shall wear seat belts as required by section 4513.264 of the Revised Code.

2. The driver shall possess a valid driver's license from the state or Canadian province in which he/she lives or in the case of a suspended or revoked license, special work privileges must be awarded by a court and copies of the order provided to the Office of Risk Management.

3. The driver and all passengers shall comply with all applicable state and local traffic laws. The driver shall be personally liable for any criminal or civil penalty incurred.

4. The driver shall comply with all applicable state and local parking laws. In the event of a violation of such state and local parking laws, the driver shall be personally liable for any criminal or civil penalty incurred. All drivers shall be required to notify his or her supervisor of any parking tickets as soon after receipt as possible. Such driver shall also provide his or her supervisor proof that such parking ticket has been paid, within 10 working days of receipt of such parking ticket.

5. The driver shall be responsible for checking the state vehicle before operating to ensure that the vehicle lights, turn signals, brake lights and other safety equipment is functional on the state vehicle. If the driver finds any of this equipment is not functioning properly, the driver shall report malfunctions to his or her supervisor as soon as possible in order to arrange for repairs.

This directive supersedes any previously issued directive or policy and will remain effective until canceled or superseded.

AUTHORITY & REFERENCE

ORC 121.07
ORC 125.832
ORC 4513.264
EMPLOYEE SAFETY & HEALTH POLICY

POLICY STATEMENT:

The Ohio Department of Transportation is committed to operate all aspects of the agency in a manner that protects the safety and health of its employees, contractors, customers, and the general public. We will foster a safety culture in which everyone believes and demonstrates that accidents, injuries, and illnesses are preventable and all employees understand their responsibility for maintaining a safe and healthful workplace. Each employee will recognize and accept his/her right and obligation to question and correct any unsafe condition or behavior.

The Office of Safety & Health and the District Safety Consultants shall prepare a Statewide Safety Business Plan for all of the Districts to utilize in order to minimize work-related injuries, property loss, and equipment damage.

ODOT Shall:

- Comply with all applicable health and safety laws and regulations, industry, and internal agency standard operating procedures, at a minimum.
- Integrate safety risk analysis into planning, engineering design, construction, and operating decisions to develop and implement effective hazard control measures and safety performance improvement.
- Promote the value of employee involvement in the prevention of injuries and illnesses, and maintain an open and honest dialogue with employees on health and safety issues and performance.

ODOT’s Office of Safety & Health Shall Establish & Maintain:

- Joint Labor-Management Health & Safety committees to encourage management sponsorship and employee development in injury, illness prevention, and best practices (OCSEA Contract Article 11.12)
- A review process to insure accountability for safety.
Safety and health hazard evaluation programs including documented methods for controlling known safety and health hazards.

Communication programs that facilitate the identification and resolution of safety related concerns.

Training programs for employees and safety representatives on safety regulations, expectations, and responsibilities.

Employee personal accountability for following health and safety fundamentals and procedures.

AUTHORITY:

In 1970, the United States Congress established the right of workers to “safe and healthful working conditions” through the Occupational Safety & Health Act. This act created the Occupational Safety & Health Administration (OSHA). In July, 1994, the State of Ohio adopted and incorporated, by reference, many of the Federal OSHA standards through the Public Employee Risk Reduction act, Ohio Revised Code 4167.07. This act and its subsequent rules (Ohio Administrative Code 4167-3-01) require The Ohio Department of Transportation and other state agencies to comply with all applicable OSHA standards. Although 29CFR 1926 applies specifically to the construction industry, it will be incorporated into the department’s safety program.

Federal Occupational Safety & Health Standards 29CFR1910, et seq.
Federal Occupational Safety & Health Standards 29CFR1926, et seq.
Ohio Revised Code Chapter 4167, et seq.
Ohio Administrative Code Chapter 4123 1-3, et seq.
Division of Quality and Human Resources

REFERENCES:

State of Ohio/OCSEA Collective Bargaining Agreement
Manual of Uniform Traffic Control Devices
Safety Standard Procedures, 220-002 (SP)

SCOPE:

This Policy is applicable to all Districts, Regions, Divisions and Offices within the Ohio Department of Transportation.
PURPOSE:

Safety is job number one. It must be incorporated into all work operations from planning to completion. The Department is responsible for creating a safe work environment. A safe environment cannot exist without involving employees in decisions affecting safety. Unsafe acts and unsafe conditions can be prevented. When an accident occurs, we must learn from it. The focus of the investigation must be fact finding, not fault finding. Additionally, active safety committees supported by management are the key to a successful safety program.

TRAINING:

Education and training is essential in developing and maintaining a safe working environment. Training opportunities will be made available for employees based on their classification and duties. Classes will be developed and coordinated by the Office of Safety & Health in conjunction with the Office of Training.

FISCAL ANALYSIS:

Districts and divisions are responsible for funding the purchase of safety equipment and supplies, personal protective equipment, and safety training.
PROCEDURAL STATEMENT:

Influence, control, and responsibility are the key ingredients to an effective safety program. If one of these items is missing or lacking, the program will fail.

First level supervisors have the most influence on safety. They work directly with employees and are in the best position to observe safety behavior. They can provide positive or negative influence. Positive influence will motivate employees to be aware of safety and work within a safe environment. Negative influence will have a detrimental effect. If first level supervisors do not take an active role in promoting safety, the program will fail.

Management has the most control of safety. The ability to change work methods, enforce safety procedures, or redirect resources lies within their grasp.

Responsibility for safety lies with all employees. The importance of safety must be communicated to all levels on an ongoing basis. Safety is everyone’s business.

AUTHORITY:

Federal Occupational Safety & Health Standards 29CFR1910, et seq.
Federal Occupational Safety & Health Standards 29CFR1926, et seq.
Ohio Revised Code Chapter 4167, et seq.
Ohio Administrative Code Chapter 4123 1-3, et seq.
Division of Quality and Human Resources

REFERENCES:

State of Ohio/OCSEA Collective Bargaining Agreement – Article 11 Health & Safety
Ohio Manual of Uniform Traffic Control Devices
SCOPE:

This standard operating procedure is applicable to all Districts, Regions, Divisions, and Offices within the Ohio Department of Transportation.

BACKGROUND AND PURPOSE:

The purpose of this Employee Safety & Health Standard Operating Procedure (SOP) is to establish statewide minimum safety guidelines which are meant to be followed by all employees. The basic content of this SOP has been previously agreed to in Article 11 of the OCSEA contract. Furthermore, these guidelines are intended to establish a minimum level of risk management and techniques for accident/injury avoidance. District management, including safety staff and the District Health & Safety Committee, may impose a higher level of compliance in any area of this SOP based on the degree of hazard.

DEFINITIONS:

BHR or BHRA
Business and Human Resource Administrator

DDD
District Deputy Director

OCSEA
Ohio Civil Service Employees Association

PPE
Personal Protective Equipment

PROCEDURE:

I. Accountability for Safety in the Workplace

All managers and supervisors are responsible for establishing and maintaining a safe working environment for employees under their supervision or control.

All ODOT managers and safety staff are authorized to immediately stop work where employees are exposed to imminent danger of death or physical harm until all necessary safety controls are established.

II. Personal Protective Equipment (PPE) & Life Saving Equipment

The purpose of personal protective equipment is to provide a barrier or shield between employees and chemicals or physical hazards present in the workplace, or to isolate
employees from such hazards. PPE shall be used when hazards cannot be removed or abated by engineering controls. Employees are required to wear personal protective equipment appropriate for tasks they will perform.

A. Hazard Assessment and Personal Protective Equipment Selection

1. Supervision and/or a safety representative shall ensure that:

   a. Proper personal protective equipment is selected and used that will protect the affected employee(s) from hazards which cannot be controlled by engineering measures.

   b. Approved equipment is purchased by ODOT and used, tested, inspected and properly maintained by the employee.

   c. Employees are trained on:

      (1) When PPE is necessary.
      (2) How to properly adjust and wear PPE.
      (3) The limitations of PPE.
      (4) The proper care, maintenance, useful life and disposal of the PPE.

   d. Retraining is required when:

      (1) There is reason to believe that the employee lacks the understanding and/or skill to demonstrate the proper use and care of personal protective equipment.
      (2) If there are changes in workplace conditions, regulations, or types of PPE used.

B. General PPE Requirements

1. Jewelry is not to be worn by employees working on highway maintenance projects, electrical work, in shops, or with or near moving equipment or rotating parts where the item will constitute a hazard.

2. An employee’s hair shall not obstruct the wearing of personal protective equipment.

3. All employees assigned to a contractor controlled job site shall adhere to the personal protective equipment requirements and job site safety plan of either the contractor or ODOT, whichever is more stringent.
III. Head Protection (Hard Hats)

Supervisors shall ensure that all employees wear appropriate head protection when working at or visiting maintenance and construction work site where there is a possible danger of head injuries. All hard hats must meet or exceed ANSI Z89.1-2003 Type 1 Class E - G requirements. Hard hats are not to be painted or altered in any way and shall be worn as intended by the manufacturer. Hard hats must be worn:

A. When there is a clear and present danger of falling or moving objects.
B. When exposed to falling or flying material.
C. When exposed to overhead electrical conductors.
D. Required hard hat areas include, but are not limited to:
   1. Under a Bridge
   2. Working near High Voltage Wires
   3. Tree/Brush Cutting, Trimming and Chipping
   4. In the Proximity of Heavy Equipment
   5. Post Installation and Removal
   6. Sign Installation and Removal
   7. Pile Driving
   8. Culvert Jobs
   9. Confined Space
   10. Trenching
   11. Flagging – A high-visibility ball cap meeting ANSI Standard 107-2004 may be substituted and must be purchased by the employee.

Employees shall inspect hard hats for cracks and other signs of damage or deterioration. Supervisors shall ensure defective or faded hard hats are taken out of service and replaced.

IV. Eye and Face Protection

Supervisors shall ensure that all employees wear appropriate eye and face protection where their eyes and face are exposed to hazards. These hazards include flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical fumes, gases/vapors, or potentially injurious radiation.

Safety glasses conforming with ANSI Standard Z87.1 with side shields to provide basic impact protection must be worn when operating or working near tools or machines that may throw particles such as woodworking tools, power tools, chippers, weedeaters, grinders, etc.

Safety goggles provide impact protection from flying particles, dust and mist/splash and must be worn whenever there is a need to protect the eyes from particles, dust, or mist/splash which cannot be stopped by wearing safety glasses.
Face shields provide impact protection from flying particles, dust and mist/splash and must be worn whenever danger exists from flying particles, dust or mist/splash from chemicals or other substances when glasses/goggles do not provide adequate protection.

Employees whose vision requires the use of corrective lens/spectacles while engaged in operations that involve eye hazards shall wear eye protection that can be worn over the prescription glasses without interference.

V. Hand Protection

Supervisors shall ensure all employees wear appropriate hand protection when their hands and fingers are exposed to hazards. These hazards can cause cuts, lacerations, abrasions, punctures, chemical burns, thermal burns, exposure to harmful temperatures, and bloodborne pathogens. In cases where hazardous products are involved, refer to the Material Safety Data sheet.

VI. Hearing Protection

Employees shall be required to wear hearing protection in designated work areas or operations where it has been determined that the noise levels exceed allowable limits (85dB TWA). Hearing protection is required when employees are temporarily exposed to loud percussion or concussion noises from operations such as, but not limited to pavement breaking, compacting, power impact tools, blasting, and post pounding.

VII. Chainsaw Personal Protective Equipment

A. A mesh visor and safety goggles/glasses to prevent injury from flying chips or a chain that may break off and fly toward the face.
B. Hard hat with ear muffs/ear plugs.
C. Chainsaw Chaps to protect legs from severe cuts in the event the chain saw slips.
D. Gloves to improve grip and protect hands from abrasions, cuts, and splinters.
E. Fitted clothing.
F. Proper footwear

VIII. Respiratory Protection

In some cases, airborne contaminants such as dusts, fumes, gases, or vapors may not be eliminated in the workplace by accepted control measures such as enclosures, local or general ventilation. When such measures are not feasible, respirators may be required to be worn by affected employees after an assessment has been conducted on those airborne contaminants by an industrial hygienist. Refer to the Material Safety Data Sheet for the products in use for further guidance.
Supervisors shall ensure that when respirators are required to be worn by employees, the department’s respiratory protection program is followed. Employees are responsible for using respirators in accordance with the training and instructions received.

IX. Fall Protection Equipment

Safety harnesses, lanyards, lifelines, or guardrails are required when employees are working six feet or more above any work surface.

Lifelines shall be secured above the point of operation to an anchorage or structural member capable of supporting a dead weight of 5,400 pounds.

If a safety harness/lanyard or lifeline is subject to in-service loading, it shall be replaced and not used.

Body harnesses shall be inspected prior to each use by the user. Annually the harness must be inspected by a competent person, other than the user.

Inspect buckles, D-rings, back pad, loop keepers for damage. If damaged the unit must be taken out of service.

Only locking-type snap hooks shall be used for harnesses, lifelines, and lanyards.

Supervisors shall ensure that employees are properly equipped and trained to wear and utilize ODOT supplied fall protection equipment.

X. High Visibility Safety Apparel

All persons within the right-of-way of any highway or any other type of roadway or construction site who are exposed to either traffic (vehicles using the highway for purposes of travel) or construction equipment within the work area, regardless of job type, shall wear high-visibility safety apparel.

High-visibility safety apparel means personal protective safety apparel that is intended to provide conspicuity during both daytime and nighttime usage and that meets the Performance Class 2 or Class 3 requirements of the ANSI/ISEA 107-2004 publication entitled “American National Standard for High-Visibility Safety Apparel and Headwear.”

Safety vests meeting Performance Class 2 and Class 3 requirements will be provided to employees by ODOT. T-shirts and jackets meeting ANSI Standard 107-2004 Class 2 and 3 are acceptable but must be purchased by the employee and shall maintain the appropriate ANSI 107-2004 Label. All safety apparel must be properly fitted and properly worn.
Supervisors shall decide if high visibility apparel is faded or soiled beyond reasonable usefulness in terms of conspicuity. When there is any doubt whether the apparel offers employees the high-visibility characteristics intended by this SOP, it shall be replaced with new apparel which unquestionably meets Department intent to maintain very high levels of conspicuity. If there is any dispute, a safety representative will make the final decision.

All ODOT issued rain gear shall be safety green in color and meet the Performance Class 2 or Class 3 requirements.

For daytime activity, flaggers shall wear safety apparel meeting the requirements of ANSI 107-2004 standard performance for Class 2 or Class 3 risk exposure. For nighttime activity, flaggers shall wear safety apparel meeting the requirements of ANSI 107-2004 standard performance for Class 3 risk exposure.

XI. First-Aid Kits

First-aid supplies must be easily accessible and properly stocked.

XII. Work Clothing

All employees assigned to perform outdoor work activities or work in a shop or repair facility are required to wear, as a minimum, a shirt with sleeves that covers the torso and full length pants. Shirts and pants shall not be altered or cut off in any way.

XIII. Footwear

Employees shall wear suitable footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, puncture hazards, or electrical hazards. Light footwear such as, but not limited to tennis shoes and sandals, will not be worn. Safety or heavy work shoes that cover the ankle are recommended and must be worn properly.

XIV. Vehicles and Heavy Equipment

A. Pre-Trip Inspections & Use of Accident Prevention (Red) Tags

No employee shall be required to operate equipment that any reasonable operator in the exercise of ordinary care would know might cause injury to the employee or anyone else, according to Article 11.03 of the OCSEA contract. Accordingly, an EM-78 “Pre-Trip Inspection” form (See Appendix A) shall be completed at the beginning of the work shift.
for dump trucks and heavy equipment. At the end of the shift, operators shall make note of any problems which require repairs.

Accident prevention (red) tags or Lock/Out - Tag/Out devise shall be used as a temporary means of warning employees of an existing hazard such as defective tools, equipment grounded for repairs, etc. (OSHA1926.200). If a disagreement arises concerning the safety of equipment, refer to Article 11.03 of the OCSEA contract. Tags will be removed only when a safety representative has determined that the unsafe item or equipment has been repaired, replaced, or taken out of service permanently.

B. Seat Belts

All drivers and passengers are required to wear seat belts when operating or riding in a vehicle or operating equipment with a rollover protective structure (ROPS). Seat belts and shoulder straps for vehicles so equipped must be worn properly with the seat belt secured over the lap and the shoulder harness secured over the arm and shoulder.

C. Lighting, Marking & Conspicuity

It is ODOT’s policy to maximize safety when vehicles and the work force are in highway and construction maintenance operations. All safety lighting will be flashing lights, amber in color, composed of photo strobes or LED’s or a combination of both. The specific number of safety lighting devices per piece of equipment and the location of such devices shall meet the minimum standard of 360 degrees of visibility.

Refer to Division of Facilities and Equipment Management Policy Number 19-002(P), Equipment Lighting, Marking and Conspicuity Policy, and to EMS Procedure EIP-2022, Dump Truck Lighting.

D. Backing Vehicles and Equipment

Backings vehicles and equipment is the number one cause of serious accidents, costly damage, injuries and fatalities among employees on construction sites. As the vehicle size increases and visibility to the rear of the vehicle decreases, there is a higher level of responsibility on the operator.

On any type of vehicle or equipment with an obstructed view to the rear:

1. There shall be a reverse signal alarm audible above the surrounding noise, or
2. An observer shall signal the assured clear distance.
E. Traffic Control Deployment

All employees shall ride in the enclosed passenger area of a vehicle when traveling to or from a job site. No riding is permitted in the back of trucks or in a loader bucket. When deploying or picking up traffic control devices such as cones and barrels, employees may ride on the various types of vehicles appropriate for this activity.

F. Operation of Equipment

No employee shall operate any type of equipment or participate on active roadway projects while wearing earphones. As used in this section, “earphones” means any headset radio, tape player, Bluetooth, or other similar device that provides the listener with radio programs or music through any device that covers or is inserted into all or a portion of the ear(s). The only exclusion would be a hands-free headset used for traffic control purposes.

G. Seasonal Employees

Transportation Seasonal Help (TSH) shall be trained on safe and proper work methods before assignment. TSH who possess a valid operator’s license are permitted to operate pickup trucks, vans, station wagons, passenger vehicles, push mowers and lawn tractors only. TSH may operate one-ton dump trucks and one-ton stake-body trucks (non CDL-required) and pull trailers providing supervision conducts a check ride prior to operation. No seasonal employee shall flag unless they have been adequately trained and demonstrated proficiency.

H. Work Zone traffic creates serious hazards for motorists and workers. Supervisors, Transportation Managers, and Lead Workers shall conduct periodic Work Zone inspections using the “ODOT Job Site Safety Survey” (See Appendix B) to ensure overall traffic control compliance.

XV. Working Alone

The issue of working alone is best addressed on a case-by-case basis. The assignment of one or more employees to a project/work location shall be made with regard to the type of work to be performed and the risk involved. A periodic check on the safety of employees who work alone will be made or a means of communication to the worksite based location will be provided to employees who work alone. If there is a serious working alone issue, or the issue cannot be resolved, then the district safety representative shall be the final authority.

When an employee is called out after normal working hours for an emergency, the immediate supervisor shall make a follow-up call or check on the employee.
XVI. Duty to Report

All employees who are injured or are involved in an accident/incident during the course of their employment shall immediately file an injury or vehicle accident report with the District or Central Safety Office. Refer to the Standard Operating Procedures for work-related injuries and vehicle accidents for guidance on filing claims.

XVII. Electrical Safety Procedures

A. Requirements when working on energized electrical equipment:

1. Only Qualified/Authorized Employees (these are employees who have been trained, are experienced, and clearly demonstrate a proficiency to work safely) are authorized to work on energized electrical equipment.

2. Follow ODOT’s Lock/Out - Tag/Out Program

3. Use a Lock/Out - Tag/Out kit to de-energize equipment.


XVIII. Health & Safety Committees

Health & Safety Committees shall be established in each district and central office. Their general responsibilities will be to evaluate safety and health issues raised by employees, conduct periodic inspections, identify and recommend training needs and make appropriate recommendations to management. Article 11.12 of the OCSEA contract provides specific guidance.

Additionally a Statewide Health & Safety Committee shall be established. The mission of this committee will be to set the direction for statewide health and safety initiatives and resolve issues from the districts committees which have statewide implications.
XIX. Cell Phones & Other Electronic Communication Devices

Employees are required to maintain absolute attention to the operation of vehicles and equipment – and other tasks requiring their undivided attention. Cellular phones and text messaging devices are distractions.

The use of cell phones and text messaging while driving a state vehicle or personal vehicle for state business is discouraged. Employees are required to observe any safety precautions issued by their cell phone provider, and to obey any ordinance regulating cell phone use while operating a moving vehicle. Employees are required to report any citations received in the same manner they are required to report other traffic citations received when operating a state vehicle.

Working along a right-of-way that is not closed to traffic also demands full and undivided attention to surroundings. Cell phone use is strictly prohibited when flagging traffic.

Cell phone use is strictly prohibited when operating heavy equipment. Examples of heavy equipment are, but not limited to: backhoes; front end loaders; dozers, and graders.

XX. Tailgate Safety Talks

A tailgate safety talk is a short, informational safety meeting which shall be conducted at the crew level on a regular or as-needed basis by first-line supervisors or crew leaders regarding job-related hazards and safe work practices. A tailgate safety talk should take place when a particular job hasn’t been performed for some time, when a new employee joins the crew, or when a job or location poses specific hazards such as high volume, high speed traffic or limited sight distance approaches to the work area.

It is best to schedule a talk before the work day begins. Discussions can include planning the work zone setup, identifying work environment hazards, conducting pre-trip inspections of vehicles and equipment, selecting the right personal protective equipment, and awareness of emergency procedures. On the other hand, a short meeting during or at the end of the work day to discuss a “near miss” incident or lack of attention to safety also works well. All tailgate talk activity shall be documented on the MR-502 form, using specific activity code.
TRAINING

Education and training is essential in developing and maintaining a safe working environment. Training opportunities will be made available for employees based on their classification and duties. Classes will be developed and coordinated by the Office of Safety & Health in conjunction with the Office of Training.

FISCAL IMPACT

Districts and divisions are responsible for funding the purchase of safety equipment and supplies, personal protective equipment, and safety training.
<table>
<thead>
<tr>
<th>Equipment #</th>
<th>End Miles</th>
<th>End Hours</th>
<th>License #</th>
<th>Start Miles</th>
<th>Start Hours</th>
<th>Inspection Date</th>
<th>Total Miles</th>
<th>Total Hours</th>
<th>Operator Name</th>
<th>Service Due (Miles)</th>
<th>Trailer #</th>
<th>Optional Equipment: Truck Axles: 2 3 4</th>
<th>Trailer Axles: 1 2 3</th>
<th>Air Brakes: Yes / No</th>
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**Instructions: Operators should mark (X) items which are NOT satisfactory.**

[ ] Reviewed previous day’s EM-78

### Engine Compartment

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<td>Coolant Level</td>
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<td>Brake Fluid</td>
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<td>W/S/W Fluid</td>
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<td>Trans. Fluid</td>
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<td>Alternator</td>
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<td>Air Compressor</td>
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<td>Any Leaks?</td>
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<td>Slack Adjusters/Cams/Chambers</td>
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<td>Hoses</td>
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<td>Drums / Linings</td>
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<td>Spring Leaves</td>
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<td>Hub Oil Seals</td>
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<tr>
<td>Tires/Valve Cap/Stem</td>
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<tr>
<td>Steering ( All Components)</td>
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### Walk Around

- High/Low Beams/Plow Lights
- Tail Lights
- Turn Signals
- Emergency Flashers
- Strobe Lights/Brackets
- Horn(s)
- Heater/Defroster
- Safety/Emergency Equip
- State 2-Way Radio

### Driver / Fuel Area

- Fuel Tanks(s)
- Exhaust System

### Rear Wheels

- Rims/Wheel Fasteners/Spacers
- Tires/Valve Cap/Stem
- Axle Seals

### Rear Suspension

- Springs/Spring Mounts
- Torsion/Shocks
- Air Bags

### Air Pressure Gauge

- Ammeter/Voltmeter
- Brake Check (Air/Hyd.)
- Steering Play
- Parking Brake
- Mirrors/Windshield/Glass
- Windshield Wipers/Washer
- Horn(s)
- Heater/Defroster
- Safety/Emergency Equip
- State 2-Way Radio

### Under Vehicle- Rear of Truck/Tractor

- Drive Shaft
- Frame
- Batteries
- Air Dryer
- Rear End
- Tailgate/Hinge Pin
- Tailgate Latch (air/mech.)
- Bed & Subframe
- Mud Flaps
- Hydraulic Fluid added

### Plow

- Hydraulic Lines
- Frame/Cracked Welds
- Blade/Shoes/Pins/Springs
- Reflector(s)
- Snow Deflector/Flap

### Salt Spreader Gate/Hopper

- Auger/Flange Bearings
- Spinner Plate/Chute
- Hydraulic Motors/Hoses
- Pins Securely Installed

### On The Move

- Seat Belts
- Steering
- Service Brake Check
- Clutch/Transmission
- Back-Up Alarm/Lights

[ ] Inspected during active snow & ice operations.

### Comments:

__________________________
__________________________
__________________________
__________________________

I, ________________________________

Operator Signature

certify I have inspected these items and have marked every deficient item.

__________________________
Signature of Supervisor

White copy- Supervisor/File
Yellow copy- Retained in Vehicle
## Appendix B

**Ohio Department of Transportation**

<table>
<thead>
<tr>
<th>Work Location</th>
<th>Inspection Date</th>
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<td>Leave Time</td>
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<td>Safety Representative</td>
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<td>Condition of Signs</td>
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| Intersections Signed |      |            |          |

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<tr>
<td>Proper Sign &amp; Tape</td>
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<td>Condition &amp; Spacing</td>
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<td>TIM/Shadow Vehicle</td>
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<td>Buffer Zone</td>
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<td>Arrowboard(s)</td>
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<td>Traffic Congestion</td>
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<td>Hand Protection</td>
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<td>Eye/Face Protection</td>
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<tr>
<td>Hearing Protection</td>
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<td>Head Protection</td>
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<td>Other (Specify)</td>
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<tr>
<td>Vehicles (e.g., SUV, etc.)</td>
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<tr>
<td>Hand Tools (wrenches, etc)</td>
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<tr>
<td>Power Tool (impact, etc)</td>
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<tr>
<td>Folding/Shortening (extension)</td>
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<tr>
<td>OUPS Ticket with Operator</td>
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**Inspector Recommendations:**

---

*White copy: Referee Office  Yellow copy: County/Prime Mgr.  Pink copy: Crew Leader  Job: 815  Date: 9-20-95*
A. PERSONAL INFORMATION

Name
First Name ___________________ M.I. ___________________ Last Name ___________________

S.S. # ___________________ Date of Birth ___________________ Age ______ OAKS Employee ID#

Address ______________________________ Gender __________________ Marital Status ______ # Of Dependents ______

City ___________________________ State ______ Zip ______ Residential County ______

B. WORK INFORMATION

Regular Work Hours: From ______ To ______

How many hours, per day, are you scheduled? Sun Mon Tues Wed Thurs Fri Sat

Job Title: ______________________________

Date of Injury __________________

Hire Date __________________

Time of Injury __________________

Work Phone #: ____________________

Date Reported __________________

Were you working overtime when this injury occurred? ______

Hourly Wage: $ ______

C. INJURY / ILLNESS INFORMATION

Where did the injury happen?

Street Address __________________________ City __________________

State ______ County ______ Mile Marker ______

Describe in detail how your injury/illness occurred:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

TYPE OF INJURY (S)
(i.e., Strain, bruise, cut, fracture, etc.)

1

2

3

4

INJURED BODY PART (S)
(i.e., Left arm, lower back, right index finger, etc.)

1

2

3

4

If eyeglasses, dentures, hearing aids, or prosthetic devices were damaged in the course of the injury, list the items damaged:

________________________________________________________________________

________________________________________________________________________

D. WITNESS / PASSENGER INFORMATION

Name ___________________________ Job Title ___________________________ Work Number ______

Name ___________________________ Job Title ___________________________ Work Number ______

E. PHYSICIAN/HOSPITAL INFORMATION

Clinic/Hospital Name & Address __________________________

City & Zip Code __________________________

Attending Physician Name __________________________ Admitted to Hospital? ______

Mark any of the following that you received for treatment with a "x": __ Prescription

____ Splint (not elastic wraps) __ Physical Therapy or Chiropractic Adjustment

____ Stiches or Staples __ Work Restrictions

F. EMPLOYEE’S SIGNATURE

I hereby acknowledge that the above information is true and complete. I also understand that my signature also grants permission for release of medical information to authorized ODOT Claim Representatives.

________________________________________

BOTH SIDES OF THE FORM MUST BE COMPLETED

ODOT PS 1&2 (rev. 1-11-12)
G. SUPERVISOR'S EVALUATION

Name of Supervisor: ________________

When were you first notified of this injury? Date notified ________________

Time notified ________________ am pm

Date of investigation ________________ Time: ________________ am pm

Who was the Lead Worker? Name ________________ Title ________________

Type of equipment ________________ Equipment # ________________

Was the equipment considered safe and working properly? Yes No

If no, what corrective measures were taken? ________________

Date of correction ________________

If the injury was the result of a vehicle accident: Type of vehicle ________________ License Plate # ________________

CONTRIBUTING FACTOR Please "x" all that apply.

Improper body position Failure to use PPE Weather conditions

Slippery/uneven surface Number of hours worked before injury Horseplay

Lack of training Lack of training/experience on equipment Inattention

Violation of Safety Regulation Other

ASSESSMENT Based on the above contributing factors, what has been done to abate the cause of injury or reduce the risk of recurrence?

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

H. SAFETY INVESTIGATION

Date of Investigation ________________ Method of contact: ________________

LDW Date ________________ Time: ________________ am pm

RTW Date ________________ Time: ________________ am pm

Have they submitted a medical release to return to work? Yes No If Yes, Full Duty With Restrictions

Can you accommodate the restrictions? Yes No If Yes, please submit a TWP form with restrictions to Central Office.

Was the injury due to the improper use or lack of PPE? Yes No If Yes, please explain

ACTION PLAN How can we prevent this from happening again? e.g. specific trainings, safety talks, etc.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Are you in agreement with this claim? Yes No If no, why?

________________________________________________________________________

________________________________________________________________________

I. DISTRICT DEPUTY DIRECTOR

Comments ______________________________________________________________________

________________________________________________________________________

Signature ______________________________________________________________________ Date ________________

Safety Representative's Signature ______________________________________________________________________ Date ________________

BOTH SIDES OF THE FORM MUST BE COMPLETED

ODOT PS-1&2 (rev. 1-11-12)
**First Report of an Injury**

**Occupational Disease or Death**

<table>
<thead>
<tr>
<th>Assigned County:</th>
<th>Building Number</th>
<th>County Injury Occurred:</th>
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<tbody>
<tr>
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<table>
<thead>
<tr>
<th>Injured Worker Section</th>
<th>Last - First - Middle Initial</th>
<th>Telephone #</th>
<th>SS#</th>
<th>Date of Birth</th>
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<thead>
<tr>
<th>Street Address</th>
<th>Sex</th>
<th>Marital Status</th>
<th>Dependents</th>
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<table>
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<tr>
<th>City</th>
<th>State</th>
<th>Zip</th>
<th>County</th>
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<thead>
<tr>
<th>Wage Rate</th>
<th>How many hours, per day, are you scheduled to work?</th>
<th>Work Hours</th>
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<th>Job Title</th>
<th>Hire Date</th>
<th>Work Phone</th>
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<thead>
<tr>
<th>Date of Injury</th>
<th>Time of Injury</th>
<th>If fatal, date of death</th>
<th>Date Last Worked</th>
<th>Date Returned to Work</th>
<th>Type of Release</th>
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<thead>
<tr>
<th>Was place of accident or exposure on employer's premises?</th>
<th>State where hired</th>
<th>Date Employer Notified</th>
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<tr>
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<thead>
<tr>
<th>Accident Location - St. Address</th>
<th>City</th>
<th>State</th>
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<tr>
<th>Description of accident. (Describe the sequence of events that directly injured the employee, or caused the disease or death).</th>
<th>Type of Injury</th>
<th>Part(s) of Body</th>
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<thead>
<tr>
<th>Medical Treatment</th>
<th>Health Provider &amp; Address</th>
<th>City &amp; Zip Code</th>
<th>Telephone #</th>
<th>Treatment Date</th>
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**Medical Release** - I acknowledge the above information is true and complete. My signature also grants permission for release of medical information to authorized ODOT Claim Representative.

**EMPLOYEE SIGNATURE**

**DATE**

**Employer Section**

Name: Ohio Department of Transportation

Risk #: 10003200 - Manual #: 3200

Address: 1980 W. Broad Street - Office of Employee Health and Safety Columbus, OH 43223 County Franklin

( ) Certification - The employer certifies that the facts in the application are correct and valid.

( ) Rejection - The employer rejects the validity of this claim for the following reason(s):

Signature

Date

Phone: (614) 728-6161

8/15/2012
VIOLENCE IN THE WORKPLACE POLICY

POLICY:

It is the Ohio Department of Transportation’s (ODOT) policy to provide a safe, secure, and healthy environment for its employees. ODOT is committed to working with its employees to maintain a work environment free from acts of violence, threats of violence, harassment, intimidation, coercion, and other disruptive behavior. While this kind of conduct is not pervasive at ODOT, no agency is immune. Disruptive behavior at one time or another will affect every agency.

Acts of violence, threats, harassment, intimidation, coercion, and other disruptive behavior in the ODOT workplace, whether to one’s self or to others, will not be tolerated. All reports of incidents will be taken seriously and will be dealt with appropriately. Acts of violence can include oral or written statements, gestures or expressions that communicate a direct or indirect threat of physical harm. Individuals who commit such acts may be removed from the premises and be subject to disciplinary action, criminal penalties, or both.

Questions regarding rights and obligations under this policy should be referred to the Office of Chief Legal Counsel, Investigative Services, at 614-752-5029 or 1-800-952-5029.

PURPOSE OF THE POLICY:

To establish ODOT’s zero tolerance policy against acts of violence in the workplace; to stress that threats or acts of physical violence, intimidation, harassment, and/or coercion will not be tolerated.

AUTHORITY:

Ohio Revised Code §5501.04
DAS Directive 04-26, dated July 1, 2003
OCSEA/AFSCME Collective Bargaining Agreement, Article 11.04
SCOPE:

ODOT’s prohibition against threats and acts of violence applies to all employees, independent contractors, and all persons conducting business with ODOT. Individuals who commit such acts may be removed from the premises and be subject to disciplinary action up to and including termination in accordance with applicable laws, rules, or the collective bargaining agreement and may also be subject to criminal penalties. Non-employees engaged in violent acts will be reported to the proper authorities and prosecuted.

FISCAL IMPACT:

Not applicable.

PROCEDURE:

A. Prohibited Behavior

Specific examples of behaviors that may be considered “threats or acts of violence” that are prohibited under this policy include, but are not limited to the following:

- Hitting or shoving an individual; any type of unwanted physical contact.
- Threatening to harm an individual or his/her family, friends, associates, their properties, or one’s self.
- The intentional destruction or threat of destruction of property owned, operated, or controlled by the state or the property of those employed by or doing business with the state.
- Harassment; including making harassing or threatening statements, telephone calls, or sending harassing or threatening letters or other forms of written or electronic communications.
- Intimidating or attempting to coerce an employee to do wrongful acts, as defined by applicable law, administrative rules, policies, or work rules that would affect the business interests of the state.
- The willful, malicious and repeated following of another person, also known as “stalking,” or making a credible threat with intent to place the other person in reasonable fear for his or her safety.
- Making a suggestion or committing an injurious act is “appropriate.”
- Possession or use of firearms, weapons, or any other dangerous devices on state property, on any state project site, or in any state vehicle.
B. Warning Signs, Symptoms, and Risk Factors

The following are examples of warning signs, symptoms, and risk factors which may indicate an employee’s potential for workplace violence:

- Dropping hints about a knowledge of firearms.
- Making intimidating statements like: “You know what happened at the Post Office,” “I’ll get even” or “You haven’t heard the last from me.”
- Possessing or reading material with themes of violence, revenge, and harassment.
- Keeping records of other employees the individual believes to have violated departmental policy.
- Physical signs of hard breathing, reddening of complexion, menacing stare, loudness, fast profane speech.
- Making threats or comments about violence.
- Disgruntled employee or ex-employee who is excessively bitter.
- Being a loner.
- Having a romantic obsession with a co-worker who does not share that interest.
- History of interpersonal conflict.
- Intense anger, lack of empathy.
- Domestic problems, unstable/dysfunctional family.
- Brooding, depressed, erratic behavior.

Supervisors should be alerted to and made aware of these indicators. The presence of a single risk factor may not indicate a propensity to violence; however, should an employee’s behavior significantly change, managers should monitor and document the situation. If an employee exhibits such behavior, the employee should be monitored by his/her immediate supervisor and such behavior should be documented.

C. Reporting

In all situations, if violence appears to be imminent, management should refer to ODOT’s Workplace Violence Crisis Management Plan, Policy No. 150-002(SP). Employees should take the precautions necessary to ensure their own safety as well as the safety of others.
Any potentially dangerous situation at any ODOT facility or project must be reported immediately by telephone to a supervisor OR a Labor Relations Officer (LRO) OR the Office of Chief Legal Counsel and followed up with an Incident Report Form, DO-3, which is available at O:\Chief Legal\Converted Forms\WPV_Report_Form.pdf. A copy of which is attached hereto as Attachment A.

Upon notification, the supervisor or LRO (hereinafter Responsible Reporting Party) will contact the Office of Chief Legal Counsel by telephone at (614) 752-5029 and, without delay, fax a copy of the DO-3 to the Office of Chief Legal Counsel at (614) 644-7400. After the initial report is made to the Office of Chief Legal Counsel, the Responsible Reporting Party must then notify the appropriate Deputy Director.

Reports can be made anonymously and all reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation will be counseled and the results of the investigation will be discussed with them. ODOT will actively intervene at any indication of a possibly hostile or violent situation.

While we do not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and inform a Responsible Reporting Party or the Office of Chief Legal Counsel if any employee exhibits behavior(s) which could be a sign of a potentially dangerous situation.

1. **Supervisory Reporting Requirement**

   Where an employee, contractor and/or their employees, a private citizen, or a member of the traveling public reports a complaint to a responsible reporting party, the responsible reporting party must report the complaint without delay to the Office of Chief Legal Counsel. Reporting under this requirement is mandatory, not discretionary.

D. **Fitness-for-Duty Evaluation**

At the discretion of the Deputy Director for the applicable division, an employee exhibiting warning signs, symptoms, and risk factors similar to those previously described in section B of this policy, may be ordered to submit to a psychological evaluation to determine the employee’s fitness-for-duty. The Deputy Director shall contact the Administrator of the Office of Personnel and identify the nature of the concern. The Office of Personnel will provide a list of health care providers as appropriate for the situation. The health care provider will report the results of the evaluation to the Office of Personnel which shall then consult with the Deputy Director to determine the employee’s fitness-for-duty based on the evaluation. All evaluation records will be maintained in a confidential manner.
E. Training

All ODOT employees are trained to identify the risk factors associated with workplace violence and proper handling of emergency situations during the first day of new employee orientation.

F. Ohio Employee Assistance Program (EAP)

EAP can be contacted at (614) 644-8545 or 1-800-221-6327.

ODOT’s EAP Coordinator is the Office of Labor Relations and should be consulted immediately in the event of a critical incident to assist in defusing the situation. EAP should also be consulted within 24 hours of the incident for the purpose of conducting a critical incident stress debriefing. Examples of critical incidents include:

- Hostage situations
- Serious injury or death of a coworker
- Incidents involving use of force
- Suicide

ENFORCEMENT:

ODOT’s prohibition against threats and acts of violence applies to all employees, independent contractors and anyone doing business with ODOT.
Attachment A

Workplace Violence Incident Report Form

This incident report form must be completed by employees (bargaining unit or exempt) who witnessed or were involved in a workplace violence incident. The form should be completed immediately and given to a supervisor OR a Labor Relations Officer (LRO) OR the Office of Chief Legal Counsel, Investigative Services Unit.

The supervisor or LRO must follow the reporting requirements outlined in ODOT’s Violence in the Workplace Policy #150-004(P).

PERSONAL INFORMATION:

Name ________________________________________________________________

Job Title ______________________________________________________________

Facility/Address _________________________________________________________

_______________________________________________________________________

_______________________________________________________________________

DESCRIPTION OF INCIDENT:

Date Incident Occurred: _________________________________________________

Time Incident Occurred: _________________________________________________

Location Where Incident Occurred: ______________________________________

_______________________________________________________________________

_______________________________________________________________________

Describe the Incident: _________________________________________________

_______________________________________________________________________

_______________________________________________________________________
Type of Incident (check all that apply):

- Grabbed
- Pushed
- Slapped
- Kicked
- Scratched
- Bitten
- Knifed
- Shot
- Robbery
- Arson
- Vandalism
- Bomb Threat
- Sexual Assault
- Hit with Object
- Hit with Fist
- Verbally Harassed
- Verbally Threatened
- Assaulted with Weapon
- Threatened with Weapon
- Other

Was a weapon used? If yes, what type of weapon? ____________________________________
______________________________________________________________________________
______________________________________________________________________________

Were you working alone? If no, who was with you who may have witnessed the incident?
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

Who threatened or assaulted you?

- Customer
- Family or Friend
- Coworker
- Stranger
- Passenger
- Supervisor/Manager
- Employee
- Spouse/Partner
- Former Spouse/Partner
- Robber/Burglar
- Other

If known, list the name of the individual:____________________________________________

Were any threats made before the incident occurred? If yes, did you ever report them to your supervisor or manager? When? ____________________________________
______________________________________________________________________________

INCIDENT ANALYSIS:

Has this type of incident occurred before in the workplace? If yes, when? ______________
______________________________________________________________________________
______________________________________________________________________________

What do you think were the main factors that contributed to the incident? ______________
______________________________________________________________________________
______________________________________________________________________________
What could have prevented or at least minimized this incident? ______________________________________
________________________________________________________________________________________
________________________________________________________________________________________

**POST-INCIDENT RESPONSE:**

Did you require medical attention as a result of the incident? If yes, where were you treated?
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

Did you apply for Workers’ Compensation? If yes, when? __________________________
________________________________________________________________________________________

Was the incident reported to management? If yes, to whom? When? ___________________
________________________________________________________________________________________

Was the incident reported to a law enforcement agency? If yes, which agency? When?
________________________________________________________________________________________

Was a critical incident debriefing provided to all affected employees who desired it?
________________________________________________________________________________________

Form filed by: _______________________________ Job Title: _____________________
Signature:  __________________________________________
Date:  ______________ Time:  ____________

Form received by: _______________________________ Job Title: _____________________
Signature:  __________________________________________
Date:  ______________ Time:  ____________

Form faxed to the Office of Chief Legal Counsel, Investigative Services Unit, at (614) 644-7400:

By: _______________________________ Job Title: _____________________
Signature:  __________________________________________
Date:  ______________ Time:  ____________
WORKPLACE VIOLENCE CRISIS MANAGEMENT PLAN

STANDARD PROCEDURE STATEMENT:

It is the intent of the Ohio Department of Transportation (ODOT), through its established policies and department training, to minimize the impact of a crisis situation in the workplace. In the event of a crisis situation in the workplace, managers will make every attempt to provide for the security, safety, and psychological well-being of the employees, their families, and coworkers by following the procedures outlined in this plan. ODOT will provide communication about the crisis situation to family members, other employees, and the media. ODOT will make intervention services available to all those impacted by the crisis situation including the employee’s family members.

PURPOSE OF THE PLAN:

The purpose of this Workplace Violence Crisis Management Plan is to outline the responsibilities of individuals involved in a crisis situation in the workplace and to recognize that there are three lines of authority in a crisis: 1) law enforcement; 2) emergency medical professionals; and 3) department management. Consistent with this policy, threats or acts of physical violence will not be tolerated. Any ODOT employee committing such acts will be subject to disciplinary action, up to and including termination.

AUTHORITY:

Ohio Revised Code §5501.04
DAS Directive 04-26, dated July 1, 2003
OCSEA/AFSCME Collective Bargaining Agreement, Article 11.04

SCOPE:

ODOT’s prohibition against threats and acts of violence applies to all employees, independent contractors and all persons conducting business with ODOT. Individuals who commit such acts may be removed from the premises and be subject to disciplinary action up to and including termination in accordance with applicable laws, rules, or the collective bargaining agreement and may also be subject to criminal penalties. Non-employees engaged in violent acts will be reported to the proper authorities and prosecuted.
FISCAL IMPACT:

Not applicable.

DEFINITIONS:

Crisis: Refers to threats of or actual violence in the workplace.

Threat: Any word or actions involving intent to harm an individual, one’s self or property.

Violence: Any act of physical, verbal, or psychological threat or abuse, assault, or trauma on an individual that results in physical and/or psychological damage.

PROCEDURE:

1. The Deputy Director of the division and/or district will be the contact person. If a crisis situation involves more than one division and/or district, one contact person will be chosen to represent all the affected divisions and/or districts. An alternate contact person will be appointed in the absence of the designated contact person. The division and/or district contact person has the authority to assume or delegate the duties required by this plan.

2. If a crisis situation involves an injury that requires immediate medical attention, the appropriate medical professional will be alerted by the employee discovering the crisis (or his or her designee) by calling emergency number 9-1-1 or other local emergency number(s) if 9-1-1 is not available. That employee must then notify his or her supervisor.

3. Any employee discovering a crisis situation at ODOT’s Central Office during normal business hours (7:30 AM to 4:30 PM) will immediately notify his or her supervisor. If the supervisor is not the division contact person, the supervisor will advise the division contact person of the crisis. Failure to make the required notifications after learning of a crisis situation may be cause for discipline.

4. At ODOT’s Central Office outside of normal business hours (4:30 PM to 7:30 AM), weekends, and scheduled holidays, Building Security Personnel will follow their Post Orders concerning a crisis situation and notify the designated ODOT personnel.

5. At all other ODOT facilities, outside of normal business hours (4:30 PM to 7:30 AM), weekends, and scheduled holidays, any ODOT employee discovering a crisis situation will notify his or her supervisor. If the supervisor is not the division or district contact person, the supervisor will promptly notify the division or district contact person of the crisis. Failure to make the required notifications after learning of a crisis situation may be cause for discipline.
6. Immediate action will be taken by the division or district contact person, or his or her designee, to make the best effort to ensure the safety of those involved in the crisis situation or affected by the crisis.

7. The division or district contact person, or his or her designee, will notify the Director, or his or her designee, with the facts of the crisis situation as soon as possible. The division or district contact person, or his or her designee, will assume or assign the responsibilities of:
   a. Acting as ODOT’s liaison with law enforcement, fire, medical, and other community resources offering assistance, if necessary.
   b. Contacting the immediate relative(s) of the employee, and providing communications about the crisis situation to other employees and the media in a factual and timely manner.
   c. Acting as ODOT’s spokesperson to monitor incoming calls, and document, in detail, everything that was done in response to the crisis situation.

8. If a crime has been committed, the division or district contact person or his or her designee will immediately notify the nearest office of the Ohio State Highway Patrol (OSHP) and the Office of Chief Legal Counsel at 1-800-952-5029.

9. Threats of Violence:
   a. Do treat the threat seriously; assess risk and level of response.
   b. Do develop an initial action plan; respond in a timely manner.
   c. Do assign responsibilities, respect confidentiality, and maintain flexibility.
   d. Do conduct a preliminary investigation and maintain documentation of the situation.
   e. Do continuously reassess the situation.
   f. Don’t overreact, over commit to safety, anonymity, or protection.
   g. Don’t use an external consultant resource without the approval of the Director or his or her designee. Use resources at the site area.

10. In the event of threats of violence to a person(s) or property by means of firearms, fire, explosions, bombs, etc., the personnel of the affected facility will be evacuated from the threatened area. The division or district deputy director or designee will determine if an evacuation to an off premises site is necessary and determine that site.
11. If a building evacuation is necessary, it will be conducted in a safe and orderly manner. The division or district contact person will notify the OSHP, will ensure that staff from each evacuated facility accounts for their personnel, and that all persons are evacuated from the building. Responding emergency service personnel will be notified of persons not accounted for to aid in determining complete evacuation.

12. Re-entry into the facility will be restricted to emergency service and/or authorized personnel until the person in charge determines the crisis is resolved and a safe re-entry can be made.

13. In the event a person causing a crisis situation leaves the building, the contact person will work with emergency personnel and the Office of Chief Legal Counsel to prevent that person from re-entry.

**Post Crisis Procedures:**

ODOT will offer debriefing sessions to personnel impacted by the crisis experience in order to:

a. Inform appropriate involved personnel about the incident.

b. Provide information about the Employee Assistance Program (EAP) concerning normal reaction to trauma and coping.

The contact person will brief ODOT’s management about the crisis. The contact person will evaluate and assess the Workplace Violence Crisis Management Plan and recommend changes based on facts from the crisis just experienced in preparation and prevention of a future crisis.

**Employee Management:**

Potentially violent employee:

a. Monitor the behavior of the employee. Be cognizant of indicators of dangerous behavior (warning signs) and document abnormal or dangerous behaviors by the employee.

Threatening employee:

a. Assess risk and appropriate response.

b. Form initial action plan.

c. Inform the threatened employee.

d. Immediately contact a supervisor or LRO who will then contact the Office of Chief Legal Counsel at (614)752-5029.
e. Reassess the situation and take additional steps to prevent escalation if warranted.

f. Document actions in writing.

Violent employee: (Safety for yourself and others is most important.)

a. Immediately contact appropriate law enforcement, medical professionals, or fire officials and follow the procedures outlined in this plan.

b. Contact the Office of Chief Legal Counsel to determine if administrative leave or a restraining order is appropriate.

c. Advise the person(s) that he/she will be prosecuted for trespassing if he/she returns to ODOT property or project site without ODOT’s permission.

d. Document in writing.

Other Materials:

Attachment 1: Management Techniques
Attachment 2: Security Issues
Attachment 3: Media Management
Attachment 4: Threat Assessment
Attachment 5: Warning Signs, Symptoms, and Risk Factors
Attachment 6: Emergency Notification List*

*Specific for each departmental facility
ATTACHMENT 1
Management Techniques

1. Assess the crisis situation.
   a. How many individuals are involved?
   b. Does the person(s) causing the crisis situation have a history of violence?
   c. Is there a weapon involved?
   d. Is the individual displaying anger or loss of temper?
   e. What is the distance between the individual and yourself?
   f. What messages are you sending to the individual?

2. Reduce tension, be calm, be alert, be non-threatening, avoid overreaction, and stay respectful.

3. Clarify messages, listen to what is being said, ask questions, use silence, and restate what was said.

4. Respect personal space. Stand at least 3 to 7 feet away from the individual.

5. Be aware of your body position and the individual’s body position involved in the crisis situation. Have eye contact, make your movements slow and deliberate. Have a low, but firm, tone of voice.

6. Permit verbal venting. It allows a channel for anger instead of physical violence.

7. Set and enforce reasonable limits. Be clear and concise, set consequences, and suggest alternatives.

8. Patience is usually the best strategy. If the individual has not attacked you immediately, he or she hasn’t decided what to do. Take nothing for granted. Never let your guard down.

9. Ignore challenge questions, use redirection. Don’t patronize; go along before you attempt to reason with the individual.

10. Avoid physical contact with the individual.
ATTACHMENT 2
Security Issues

1. Notification of the Ohio State Highway Patrol and local police.
2. Notification of emergency medical services, if necessary.
4. Notification of impacted employees.
5. Notification of ODOT’s Office of Chief Legal Counsel.

Secondary Measures to Consider

6. Official notification to offender regarding potential trespass.
7. Potential work schedule adjustments.
9. Possible temporary relocation of affected employees.
10. Possible permanent transfer of affected employees.
ATTACHMENT 3
Media Management

1. Designate the appropriate district or Central Office Public Information Officer (PIO) to serve as the incident liaison to the media. If a PIO is not available, designate a senior manager to serve as the incident spokesperson.

2. Designate an area for media personnel.

3. Anticipate questions.

4. Report only facts. Be honest, timely, and open.

5. No “off the record” statements.

6. Be aware of appearance before media; remain calm.

7. Explain the situation. Avoid “no comment” answers.

8. Don’t attack the media. Establish the ground rules before the interview and allow time for questions and answers.

9. Statements to the media should be thought out and rehearsed. Be prepared!
ATTACHMENT 4
Threat Assessment Checklist

NOTE: If violence appears to be imminent, take necessary precautions. Safety to yourself and others is of utmost importance.

1. Take the threat seriously, but don’t overreact.
2. Who made the threat?
3. What threat was made? (Use quotes if possible)
4. What led to the threat?
5. How was the threat made? (Physical, verbal, etc.)
6. Did you witness the threat?
7. Who told you about the threat?
8. Did anyone witness the threat?
9. Get names, locations at the time, and what they actually heard or saw.
10. How did those persons present respond to the threat?
11. What is the relationship between the individual(s) who witnessed the threat, those threatened and the offending individual?
12. Have witnesses been interviewed? Statements taken?
13. Has the individual made threats in the past? Have those threats been carried out?
14. Has the individual exhibited any warning signs? (Bizarre behavior, obsession, physical intimidation, paranoid behavior, moral righteousness, depression, etc.)
15. Has the individual been warned?
16. Has the individual been interviewed? What is the potential for violence? What degree of control is needed?
17. Have all appropriate notifications been made? Has ODOT responded? What actions have been taken so far?
18. Document your actions in dealing with the crisis situation.

Many more questions may be applicable. Structure this checklist to fit your specific situation.
ATTACHMENT 5
Warning Signs, Symptoms, and Risk Factors

Below are examples of warning signs, symptoms, and risk factors which may indicate an employee’s potential for workplace violence. **NONE OF THESE SIGNS SHOULD BE IGNORED.**

1. Discussing weapons or bringing them to the workplace.
2. Making intimidating statements like: “You know what happened at the Post Office”; “I’ll get even”; or “You haven’t heard the last from me”.
3. Possessing reading material with themes of violence, revenge, and/or harassment.
4. Keeping records of other employees the individual believes to have violated departmental policy.
5. Physical signs of hard breathing, reddening of the complexion, menacing stare, loudness, or fast profane speech.
6. Acting out, either verbally or physically.
7. Disgruntled employee or ex-employee who is excessively bitter.
8. Being a loner.
9. Having a romantic obsession with a coworker who does not share that interest.
11. Intense anger and/or lack of empathy.
13. Brooding, depressed, strange behavior, “time bomb ready to go off.”
14. Drug and/or alcohol abuse.

Supervisors should be alerted to and aware of these indicators. If an employee exhibits such behavior(s), the employee should be monitored and such behavior should be documented and reported to the Office of Chief Legal Counsel, Investigative Services.
# ATTACHMENT 6
## Emergency Notification List

### CENTRAL OFFICE

<table>
<thead>
<tr>
<th>Service</th>
<th>Phone Number</th>
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</thead>
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<tr>
<td>Ohio State Highway Patrol – General Headquarters</td>
<td>614-466-2660</td>
</tr>
<tr>
<td>Ohio State Highway Patrol – Investigative Services</td>
<td>614-752-0235</td>
</tr>
<tr>
<td>ODOT Central Office Building OSHP Security</td>
<td>614-752-6007</td>
</tr>
<tr>
<td>Columbus Police</td>
<td>9-1-1</td>
</tr>
<tr>
<td>Columbus Police (non-emergency)</td>
<td>614-645-4545</td>
</tr>
<tr>
<td>Columbus Fire Department</td>
<td>9-1-1</td>
</tr>
<tr>
<td>Emergency Medical</td>
<td>9-1-1</td>
</tr>
<tr>
<td>ODOT Chief Legal Counsel</td>
<td>614-752-5029</td>
</tr>
<tr>
<td></td>
<td>1-800-952-5029</td>
</tr>
<tr>
<td>Ameritech Telephone Company Customer Service</td>
<td>1-800-327-9346</td>
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<tr>
<td>Ameritech Telephone Company Annoyance Calls</td>
<td>1-800-631-8789</td>
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<tr>
<td>American Electric Power</td>
<td>614-836-2570</td>
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<tr>
<td></td>
<td>1-800-277-2177</td>
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<tr>
<td>Columbus Water Company</td>
<td>614-645-8270</td>
</tr>
<tr>
<td>Columbus Water Main Break</td>
<td>614-645-7788</td>
</tr>
<tr>
<td>Columbia Gas Company Emergency Service</td>
<td>614-461-1576</td>
</tr>
<tr>
<td></td>
<td>1-800-282-0157</td>
</tr>
</tbody>
</table>
To: All Appointing Authorities and Personnel Officers
From: Hugh Quill, Director of Administrative Services
Re: Unauthorized Weapon Policy

PURPOSE
To establish a uniform policy regarding unauthorized weapons and encourage appointing authorities to establish work rules.

GENERAL
The State of Ohio is committed to providing its employees a work environment that is safe and secure. This commitment includes prohibiting employees from possessing or having under their control a weapon or other dangerous ordnance while conducting state business or on state time unless specifically authorized by the employee’s appointing authority.

1. A weapon or other dangerous ordnance includes, but is not limited to: a firearm, a club, brass knuckles, any martial arts weapon, a stun gun, explosives, or a knife (other than a small folding pocket knife).

2. Employees shall not carry or store a weapon or other dangerous ordnance in a building or portion of a building owned or leased by the state. This prohibition includes parking garages.

3. Employees shall not carry or store a weapon or other dangerous ordnance in a motor vehicle owned or leased by the state.

4. Employees conducting state business or on state time, when they are off of state owned or leased property, shall not carry or store a weapon or other dangerous ordnance.

5. Employees who have been issued a Permit to carry a concealed weapon in the State of Ohio are not exempt from the above provisions. Employees who carry or possess a weapon MUST store said weapon, in accordance with the law, prior to entering an area in which a weapon is prohibited.

The state’s prohibition against unauthorized weapons applies to all contractors and all employees, including but not limited to, permanent state employees, contract and temporary workers, consultants, college interns, student help, and anyone else conducting business on state property. Violations will be subject to legal action as appropriate. Violation of this policy by a state employee may lead to disciplinary action.
up to and including termination in accordance with the applicable law, rule, or collective bargaining agreement.

Appointing authorities are encouraged to develop workplace-specific rules in furtherance of this policy. To assist appointing authorities in developing unauthorized weapons work rules, the work rules of the Department of Administrative Services are attached as a model.

This directive supersedes any previously issued directive or policy and will remain effective until canceled or superseded.

AUTHORITY & REFERENCE

ORC 124.09
ORC 125.831
ORC 2923.126
OAC 123:1-45-01
ATTACHMENT

DAS Work Rule on Unauthorized Weapons

1. No employee while conducting state business, during working hours, on state time, or while on or in state-owned or leased property shall possess, or have under his or her control any offensive or defensive weapons, including but not limited to, a firearm (including unloaded, inoperable or sawed off firearms, starter pistols, zip guns, etc.), knife, club, brass knuckles, martial arts weapon, or stun gun. For purposes of this work rule, state-owned or leased property includes, but is not limited to, state-owned and/or leased vehicles, state-owned and/or controlled parking facilities or surface lots. Specifically, prohibited items shall not be stored in personal vehicles parked on state-owned and/or leased property. Additionally, weapons shall not be stored in or on state-owned and/or leased property. Refer to Weapons Policy and Workplace Violence Prevention Policy for additional information.

   Exception - This work rule does not apply to employees who are required as a condition of their work assignment to possess firearms, weapons, or other dangerous devices and are specifically authorized in writing by the Director to do so, to the extent the employee is possessing such firearm, weapon, or dangerous device consistent with the employee's work assignment and written authorization.

2. Dangerous ordnance, incendiary or explosive devises or chemicals, fireworks, or similar items are considered weapons and/or dangerous devises for purposes of this work rule and are prohibited.

3. An employee who violates this work rule or uses or threatens to use any object as a weapon against any person shall be subject to disciplinary action, up to and including removal on the first offense.

4. A small folding penknife is permitted.
ANTI-DISCRIMINATION, ANTI-HARASSMENT (including Sexual Harassment),
ANTI RETALIATION POLICY

POLICY:

It is the Ohio Department of Transportation’s (Department) policy to take affirmative action in accordance with all applicable federal and state laws, rules, regulations, and guidelines regarding discrimination, harassment (including sexual harassment), and retaliation. Discrimination or harassment against employees and applicants due to race, color, religion, sex (including sexual harassment), sexual orientation, national origin (ancestry), disability, age (40 years or older), military status (past, present, or future), or genetic information is illegal.

It is unlawful for any person to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice. It is also unlawful to retaliate against any person who has made a charge of discrimination, testified, assisted or participated in any manner in any investigation, proceeding, or hearing.

The Department encourages all employees to assist in the effort to achieve equal opportunity. Violations of this policy may be cause for disciplinary action.

PURPOSE OF THE POLICY:

To establish procedures for the reporting of discriminatory incidents; to stress that discrimination, harassment (including sexual harassment) and retaliation will not be tolerated in the workplace.

AUTHORITY:

Age Discrimination in Employment Act (ADEA)
Americans with Disabilities Act (ADA)
Code of Federal Regulations Title 29, Part 1605.1
Executive Order 2011-05K
Ohio Revised Code Chapter 4112
Ohio Administrative Code § 123:1-49-02
Pregnancy Discrimination Act (PDA)
Title II of the Genetic Information Nondiscrimination Act (GINA)
Title VII of the Civil Rights Act of 1964
Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 USCS 4311
SCOPE:

The Anti-Discrimination, Anti-Harassment (including Sexual Harassment), and Anti-Retaliation policy is applicable to all districts, regions, divisions, offices, and work units within the Department.

FISCAL IMPACT:

Not applicable.

DEFINITIONS:

Age: Discrimination/harassment based on years of age (40 years or over).

Color: Discrimination/harassment based on skin-tone. Equal opportunity cannot be denied any person because of his/her racial group or perceived racial group, his/her race-linked characteristics (e.g., hair texture, color, facial features), or because of his/her marriage to, or association with, someone of a particular race or color.

Disability: Discrimination/harassment based on a physical or mental impairment that substantially limits one or more major life activities of the individual including having a record of such impairment or being regarded as having such impairment. (42 U.S.C. § 12102(2))


Genetic Information: Genetic information includes information about an individual’s genetic tests and the genetic tests of an individual’s family members, as well as information about any disease, disorder, or condition of an individual’s family members (i.e. an individual’s family medical history). Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future. (Title II of the Genetic Information Nondiscrimination Act of 2008)
National Origin & Ancestry: Discrimination/harassment based on birthplace, ancestral, cultural, family descent or lineage; linguistic characteristics common to a specific nationality; marriage or association with persons of a national origin group; membership or association with organizations identified with or promoting the interests of a national origin group’s attendance or participation in schools, churches, temples, or mosques generally associated with a national origin group; or a surname associated with a national origin group.

OCRC: Ohio Civil Rights Commission.

Racc: Discrimination/harassment based on physical, tribal, ancestral, cultural, geographic or linguistic characteristics common to a specific ethnic group or stock including but not limited to persons having origins in any of the original people of the Americas, Europe, Africa, Australia, Antarctica, or Asia.

Religion: Discrimination/harassment based on the religious nature of a practice or belief (CFR Title 29, Part 1605.1). Religious practices include moral or ethical beliefs as to what is right or wrong, which are sincerely held with the strength of traditional religious views.

Sex: Discrimination/harassment against any employee or applicant for employment because of his/her sex in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals on the basis of sex is also considered discrimination. Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under the Pregnancy Discrimination Act, which is an amendment to Title VII of the Civil Rights Act of 1964.

Sexual Harassment: Occurs when unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual Orientation: A person’s actual or perceived homosexuality; bisexuality; or heterosexuality, by orientation or practice, by and between adults who have the ability to give consent.
Military Status: Discrimination/harassment based on service in the uniformed services, which is defined under Ohio Revised Code § 5903.01(G) as performance of a duty, on a voluntary or involuntary basis, in a uniformed service under competent authority. This includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time national guard duty, the commissioned corps of the public health service, and any other category of persons designated by the president of the United States in time of war or emergency, performance of duty or training by a member of the Ohio organized militia, and the period of time for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any duty in a uniformed service. Ohio law prohibits discrimination on the basis of an individual’s past, current or future military status in hiring, promotion, tenure, discharge, pay, fringe benefits, job training, classification, referral, terms, conditions and privileges of employment, or any other matter directly or indirectly related to employment.

PROCEDURE:

Reporting Discrimination, Harassment (including Sexual Harassment), or Retaliation: Any employee, client, customer, member of the public, or applicant who believes that he or she is a victim of discrimination, harassment, or retaliation should report such incident(s) to:

- The Department’s Office of Equal Opportunity
- State of Ohio, Department of Administrative Services, Equal Opportunity Division (DAS/EOD)
- EEOC
- OCRC

A formal complaint may be filed with any or all of the following entities:

- Office of Equal Opportunity within 6 months ([http://www.dot.state.oh.us/Divisions/EqualOpportunity/Pages/default.aspx](http://www.dot.state.oh.us/Divisions/EqualOpportunity/Pages/default.aspx))
- DAS/EOD within 30 days ([http://www.das.ohio.gov/eod/](http://www.das.ohio.gov/eod/))
- EEOC within 300 days ([http://www.eeoc.gov/](http://www.eeoc.gov/))
- OCRC within 6 months ([http://crc.ohio.gov/](http://crc.ohio.gov/))

Complaints regarding sexual orientation may be reported to the Office of Equal Opportunity and/or DAS/EOD.
Investigatory Process for Complaints filed with the Office of Equal Opportunity:

A complaint can be filed with the Office of Equal Opportunity within 6 months of the alleged discriminatory act. The individual will need to complete an EEO Discrimination Complaint Form (ADM 4400). A copy of the complaint form is attached to this policy. The Office of Equal Opportunity will conduct a formal investigation of the complaint. In most circumstances, the Office of Equal Opportunity will render a decision within 60 days of the filing of the complaint whether probable cause exists to prove an act of discrimination, harassment (including sexual harassment), or retaliation occurred.

The complainant may request a hearing within 15 calendar days of receipt of the findings through DAS/EOD if he/she is not satisfied with the Office of Equal Opportunity’s decision. Written request must be sent to:

Equal Opportunity Division  
Department of Administrative Services  
30 E. Broad Street, 18th Floor  
Columbus, OH 43215

If a hearing request is granted, DAS/EOD will select a hearing officer to preside over the proceedings and to render a decision on the case. The Department will have 30 days to act on the decision of the hearing officer, if any action is required. The complainant may request a final review of the decision by DAS/EOD if he/she is not satisfied with the hearing officer’s decision.

Investigatory Process for Complaints filed with DAS/EOD:

A complaint can be filed with DAS/EOD within 30 days of the most recent incident of discrimination, harassment, or retaliation. The individual will need to complete the ADM 4400, which is available online. Within 60 days from the filing of the complaint, the Department will render a decision of whether probable cause exists to prove an act of discrimination, harassment (including sexual harassment), or retaliation occurred.

The complainant may request a hearing within 15 calendar days of receipt of the findings through DAS/EOD if he/she is not satisfied with the Department’s decision. Written request must be sent to:

Equal Opportunity Division  
Department of Administrative Services  
30 E. Broad Street, 18th Floor  
Columbus, OH 43215

If a hearing request is granted, DAS/EOD will select a hearing officer to preside over the proceedings and to render a decision on the case. The Department will have 30 days to act on
the decision of the hearing officer, if any action is required. The complainant may request a final review of the decision by DAS/EOD if he/she is not satisfied with the hearing officer’s decision.

**Investigatory Process for Complaints filed with EEOC and/or OCRC:**

A complaint can be filed with OCRC within 6 months and/or with EEOC within 300 days of the most recent incident of discrimination, harassment, or retaliation. Complaints filed with EEOC and/or OCRC will be investigated by the applicable enforcement agency.

**SUPERVISORY AND MANAGEMENT REPORTING REQUIREMENT:**

When a supervisory or management employee witnesses, is notified of, or otherwise becomes aware of offensive conduct that is based on membership in a protected class as defined herein, that supervisor or manager must report the conduct to his or her higher-level supervisor or to the Office of Equal Opportunity. Ultimately, the Office of Equal Opportunity must be made aware of the conduct. Reporting under this requirement is mandatory, not discretionary, and full disclosure of all information about the incident is required.

**ENFORCEMENT:**

Acts of discrimination, harassment (including sexual harassment), and retaliation in the workplace are inappropriate and will not be tolerated. Acts of discrimination, harassment, and retaliation may be cause for disciplinary action, up to and including termination.
# EEO DISCRIMINATION COMPLAINT FORM

**1. Name:**
- **(Last)**
- **(First)**
- **(Middle Initial)**

**2. Office Phone No.**
- ( ) -

**3. Home Address:**
- **(Number & Street)**
- **(City)**
- **(ZIP Code)**

**4. Home Phone No.**
- ( ) -

**5. May we correspond with you by email?**
- Yes
- No

**6. Are you presently working for the State of Ohio?**
- Yes
- No

**7. Check the appropriate area(s) of discrimination:**
- Race
- Color
- National Origin
- Gender
- Religion
- Ancestry
- Disability
- Sexual Orientation
- Military or Veteran Status
- Sex
- Age (40+ years)
- Genetic Information

**8. Discriminatory harassment:**
- Race
- Color
- National Origin
- Gender
- Religion
- Ancestry
- Disability
- Sexual Orientation
- Military or Veteran Status
- Sex
- Age (40+ years)
- Genetic Information

**9. Retaliation (based on involvement with a discrimination complaint)**
- Yes
- No

**10. Race of the complainant:**
- Black
- White
- Hispanic/Latino
- Native American
- Asian/Pacific Islander

**11. Sex of the complainant:**
- Male
- Female

**12. Name the agency you believe discriminated against you:**
- (Location)

**13. Name(s) and title(s) of person(s) who you believe discriminated against you:**
- (Name)
- (Title)

**14. Have you filed a complaint with the federal Equal Employment Opportunity Commission?**
- Yes
- No

**15. Have you filed a complaint with the Ohio Civil Rights Commission?**
- Yes
- No

**16. Have you filed a Union grievance regarding the incident(s)?**
- Yes
- No

**17. Most recent date of alleged discrimination:**
- (Date)

**18. State agency where you were employed at the time:**
- (Your Classification)

**19. Explain when and how you believe you were discriminated against (treated differently from other employees or applicants) BECAUSE of your race, color, religion, sex, gender, national origin, ancestry, disability, age (40 years or more), sexual orientation, military status, veteran status or genetic information. Please provide additional sheets and attachments, if needed.**

**20. Complainant's signature:**

**21. Date complaint filed:**

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The State of Ohio is an equal opportunity employer and provider of ADA services.

2/14/11
Ohio Ethics Law
and Related Statutes

The Ohio Ethics Commission

Merom Brachman, Chairman
Maryann Gall, Vice Chair
Bruce E. Bailey
Betty Davis
Michael A. Flack

Paul M. Nick, Executive Director

January 2012
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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 capital square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; all members of the Ohio casino control commission, the executive director of the commission, all professional employees of the commission, and all technical employees of the commission who perform an internal audit function; 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 member of the board of workers’ compensation board of directors; the chief investment officer of the bureau of workers’ compensation; the director appointed by the workers’ compensation council; 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 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) 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 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 ........................................... $95
- For office of member of general assembly ................................................................. $40
- For county office ........................................................................................................ $60
- For city office .............................................................................................................. $35
- For office of member of the state board of education ................................................. $25
- For office of member of the Ohio livestock care standards board ............................... $...
- For office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board ........................................ $30
- 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 ................................................. $30

(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 monies 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 monies 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), (3), 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, nieces, nephews, aunts, uncles, 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.

(8) No present or former Ohio casino control commission official shall, during public service or for two years thereafter, represent a client, be employed or compensated by a person regulated by the commission, or act in a representative capacity for any person on any matter before or concerning the commission.

No present or former commission employee shall, during public employment or for two years thereafter, represent a client or act in a representative capacity on any matter in which the employee personally participated as a commission employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.

(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.

(L) No present public official or employee with a casino gaming regulatory function shall indirectly invest, by way of an entity the public official or employee has an ownership interest or control in, or directly invest in a casino operator, management company, holding company, casino facility, or gaming-related vendor. No present public official or employee with a casino gaming regulatory function shall directly or indirectly have a financial interest in, have an ownership interest in, be the creditor or hold a debt instrument issued by, or have an interest in a contractual or service relationship with a casino operator, management company, holding company, casino facility, or gaming-related vendor. This section does not prohibit or limit permitted passive investing by the public official or employee.

As used in this division, "passive investing" means investment by the public official or employee by means of a mutual fund in which the public official or employee has no control of the investments or investment decisions. "Casino operator," "holding company," "management company," "casino facility," and "gaming-related vendor" have the same meanings as in section 3772.01 of the Revised Code.

(M) A member of the Ohio casino control commission, the executive director of the commission, or an employee of the commission shall not:

(1) Accept anything of value, including but not limited to a gift, gratuity, emolument, or employment from a casino operator, management company, or other person subject to the jurisdiction of the commission, or from an officer, attorney, agent, or employee of a casino operator, management company, or other person subject to the jurisdiction of the commission;

(2) Solicit, suggest, request, or recommend, directly or indirectly, to a casino operator, management company, or other person subject to the jurisdiction of the commission, or to an officer, attorney, agent, or employee of a casino operator, management company; or other person subject to the jurisdiction of the commission, the appointment of a person to an office, place, position, or employment;

(3) Participate in casino gaming or any other amusement or activity at a casino facility in this state or at an affiliate gaming facility of a licensed casino operator, wherever located.

In addition to the penalty provided in section 102.99 of the Revised Code, whoever violates division (M)(1), (2), or (3) of this section forfeits the individual's office or employment.

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 of 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 of 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 member of the bureau of workers' compensation board of directors, 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 also shall 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 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 reinstate 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 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. 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 into 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:

OHIO ETHICS COMMISSION
William Green Building
30 West Spring St., L3
Columbus, Ohio 43215-2256
Phone: (614) 466-7090
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www.ethics.ohio.gov

[Rev. 10/10]
DAS Directive

Directive No. HR-D-02
Effective Date: 09-01-2009

To: All Appointing Authorities and Personnel Officers
From: Hugh Quill, Director of Administrative Services
Re: Nepotism Policy

PURPOSE

To establish a statewide policy to ensure that hiring and supervision in state government is conducted in a manner, which enhances public confidence in government and prevents situations which give the appearance of partiality, preferential treatment, improper influence or a conflict of interest. In accordance with this objective, the following sets forth the state of Ohio’s policy on hiring and supervision.

GENERAL

A. Definitions. For purposes of this directive, the following definitions apply:

1. “Public official or employee” means any person who is elected or appointed to an office, or is an employee of any public agency under the jurisdiction and control of the Governor or his appointees. Public employee includes part-time interns, paid student help, temporary, intermittent and seasonal employees.

2. “Closely related by blood or marriage” is defined to include, but is not limited to spouse, children (whether dependent or independent), parents, grandparents, siblings, aunts, uncles, in-laws, step-children, step-parents, step-grandparents, step-siblings, step-aunts, step-uncles, and other persons related by blood or marriage who reside in the same household.

3. “Significant relationship” means people’ living together as a spousal or family unit when not legally married or related where the nature of the relationship may impair the objectivity or independence of judgment of one individual working with the other.

4. “Business associates” are defined as parties who are joined together in a relationship for business purposes or acting together to pursue a common business purpose or enterprise.

5. “Supervision” means the direct ability or power to effectively recommend the hire, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, discipline or settlement of disciplinary grievances or appeals of other
public employee, including the authority of a board or committee to order personnel actions affecting the job.

All public officials and state employees are prohibited from authorizing or using the authority or influence of his or her position to secure the authorization of employment or benefit (including a promotion or preferential treatment) for a person closely related by blood, marriage or other significant relationship including business association. This includes, but is not limited to the following circumstances:

B. Hiring

1. Neither the Governor nor Lieutenant Governor shall authorize or use the authority or influence of their positions to secure authorization of the employment of a person closely related by blood, marriage or other significant relationship, including business association, to serve in any position within state government.

2. Except as provided in Section D, no public official or employee serving as a department director, assistant director, deputy director or any person of equivalent rank shall have in the employ of that person’s department any person closely related by blood, marriage or other significant relationship including business association.

3. Except as provided in Section D, no human resource administrator, chief of human resources or person of equivalent rank shall have in the employ of that person’s department any person closely related by blood, marriage or other significant relationship including business association.

4. No employee in the personnel area shall process any personnel actions or use the authority or influence of that employee’s position to secure the employment of a person closely related by blood, marriage or other significant relationship, including business association.

C. Supervision

1. Except as provided in Section D, no public official or employee shall supervise any person closely related by blood, marriage or other significant relationship including business association.

2. Should a supervisory conflict arise, the department shall work expeditiously to relocate or transfer one of the individuals to eliminate the conflict to the extent permitted by law and/or collective bargaining agreement. This relocation or
transfer should be to a comparable position with minimal inconvenience for the transferring employee.

3. No employee in the personnel area shall review or be involved in the disciplinary actions of a person closely related by blood, marriage or other significant relationship, including business association.

D. Exceptions

1. Sections B and C shall not apply to those circumstances in which:

   a. A marital or other significant relationship develops subsequent to both the public official's and/or employee's employment with the department. (In this instance, the department should make reasonable attempts to avoid a supervisory conflict.);

   b. The public official or employee is employed by the department prior to the appointment of a person closely related by blood, marriage or significant relationship to the position of director, assistant director, deputy director or personnel employee (e.g., a husband is employed at the agency and his wife is offered the appointment of deputy director. Neither the husband nor the wife must leave the agency. Although the department should make reasonable attempts to assure that the wife does not directly supervise her husband).

   c. A person closely related by blood, marriage or significant relationship obtains employment with the same department as the result of bumping, displacement, recall or some other non-discretionary personnel action.

   d. The public official or employee served in a capacity other than director, assistant director, deputy director or personnel employee at the time the person closely related by blood, marriage or significant relationship was hired by the department (e.g., a sister and brother are both employed by a department and the sister achieves a promotion to the personnel area of the department. A conflict does not exist provided the sister does not process any personnel actions for her brother).

   e. The public official or employee is employed in the personnel division of a department that has more than one personnel office by virtue of the institutional nature of the department, and a person closely related by blood or marriage is hired by the personnel office of another location to
work for that location (e.g., a public employee is a personnel officer at a Department of Youth Services Institution in Cleveland and his brother is hired by the personnel division of a Department of Youth Services Institution in Cincinnati).

f. A person closely related by blood or marriage or has other significant relationship including business association with the assistant director, deputy director or any person of equivalent rank other than the human resource administrator is not prohibited from working in the same department as long as the assistant director, deputy director or any person of equivalent rank does not participate in the hiring of the employee and has no direct line of supervision.

PROCEDURES

Each department should designate a human resources officer or other person to be personally responsible for requesting nepotism information and accurately documenting any information received by the applicant/transferring employee. A model checklist includes nepotism information, as well as other information, which must be verified with every new hire or transfer. Agencies should adopt this model checklist and add any other pertinent information they deem necessary.

Every personnel action form for a new hire, promotion or transfer posted must include a representation that all items contained in the pre-hire review form were verified. This representation can be made by either checking the box immediately above the appointing authority's signature on the forms or typing in a statement in the Remarks section. Administrative Services will not process any personnel action for a new hire, promotion or transfer which does not include this representation.

ENFORCEMENT

All agencies are responsible for adhering to the hiring and supervisory policies and procedures listed above. Administrative Services will not accept a personnel action for a new hire or transfer which does not contain the requisite representation. Any violations of the criminal or ethics laws should be reported to the Office of Chief Legal Counsel in the Governor's office, as required by the Governor's Procedures for Responding to Illegal Activity. Any violations of the Ethics laws may also be reported to the Ohio Ethics Commission.

This directive supersedes any previously issued directive or policy and will remain effective until canceled or superseded.
DAS Directive

Directive No. HR-D-02
Effective Date: 09-01-2009

AUTHORITY & REFERENCE

OAC 123:1-45-01
ORC 124.09
In 2003, then Auditor of State Betty Montgomery created the Auditor of State’s fraud hotline. The hotline was established as a way for all Ohioans to report potential fraud throughout government. Since its inception, not a week passes without the Auditor of State’s office receiving tips or complaints.

Recently passed legislation, House Bill 66 (HB 66) makes several changes to the Auditor of State’s fraud hotline. The bill requires the Auditor of State to maintain a system for the reporting of fraud, including misuse of public money by any public official or office. The system allows all Ohio citizens the opportunity to make anonymous complaints through a toll-free telephone number, the Auditor of State’s website, or through the United States mail.

The Auditor of State is required to keep a log of all complaints filed. The log is a public record under Section 149.43 of the Revised Code and must contain the following: the date the complaint was received, a general description of the nature of the complaint, the name of the public office or agency with regard to which the complaint is directed, and a general description of the status of the review by the Auditor’s office. Information in the log may be redacted if Section 149.43 of the Revised Code or another statute provides an applicable exemption. During the course of Auditor of State investigations, information will be redacted pursuant to Section 149.43(A)(2) in order to conduct thorough investigations.

The new legislation also has a direct impact on all public employers. On the bill’s effective date, May 4, 2012, public offices, including community schools, must make their employees aware of the fraud-reporting system. Public offices also must provide information about the fraud-reporting system to all new hires. All new employees must confirm that they received this information within thirty days after beginning employment.
Section 117.103 requires the Auditor of State to confirm that public offices have so notified new employees. The statute provides two ways to verify compliance. First, public offices may require new employees to sign forms acknowledging the employees were notified of the fraud-reporting system. The Auditor of State has created a model form, which is appended to this Bulletin and may be found on the Auditor of State website. Alternatively, public offices may consider providing the fraud-reporting system information in the employee manual for the public office. The employee should sign and verify receipt of such a manual. This option satisfies the bill's requirements of public employers.

Finally, the legislation also extends the current whistle-blower protections contained in Section 124.341 of the Revised Code to employees who file a complaint with the new fraud-reporting system. If a classified or unclassified employee becomes aware of a situation and reports it to the Auditor of State's fraud-reporting system, the employee is protected against certain retaliatory or disciplinary actions. If retaliatory or disciplinary action is taken against the employee, the employee has the right to appeal with the State Personnel Board of Review.

Dave Yost
Ohio Auditor of State
AN ACT

To amend section 124.341 and to enact section 117.103 of the Revised Code to require the Auditor of State to establish a fraud-reporting system for residents and public employees to file anonymous complaints of fraud and misuse of public funds by public offices or officials.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 124.341 be amended and section 117.103 of the Revised Code be enacted to read as follows:

Sec. 117.103. (A) The auditor of state shall establish and maintain a system for the reporting of fraud, including misuse and misappropriation of public money by any public office or public official. The system shall allow Ohio residents and the employees of any public office to make anonymous complaints through a toll-free telephone number, the auditor of state's website, or the United States mail to the auditor of state's office. The auditor of state shall review all complaints in a timely manner.

The auditor of state shall keep a log of all complaints filed under this section, which is a public record under section 149.43 of the Revised Code. The log shall include the date the complaint was received, a general description of the nature of the complaint, the name of the public office or agency with regard to which the complaint is directed, and a general description of the status of the review by the auditor of state. If section 149.43 of the Revised Code or another statute provides for an applicable exemption from the definition of public record for the information recorded on the log, that information may be redacted.

(B)(1) A public office shall provide information about the Ohio fraud-reporting system and the means of reporting fraud to each new employee upon employment with the public office. Each new employee shall confirm receipt of this information within thirty days after beginning employment. The auditor of state shall provide a model form on the auditor of state's website to be printed and used by new public employees to sign and verify their receipt of information as required by this section. The auditor of state shall confirm, when conducting an audit under section
117.11 of the Revised Code, that new employees have been provided information as required by this division.

(2) On the effective date of this section, each public office shall make all its employees aware of the fraud-reporting system required by this section.

(3) Divisions (B)(1) and (2) of this section are satisfied if a public office provides information about the fraud-reporting system and the means of reporting fraud in the employee handbook or manual for the public office. An employee shall sign and verify the employee's receipt of such a handbook or manual.

Sec. 124.341. (A) If an employee in the classified or unclassified civil service becomes aware in the course of employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation or misuse, the employee may file a written report identifying the violation or misuse with the supervisor or appointing authority. In addition to or instead of filing a written report with the supervisor or appointing authority, the employee may file a written report with the office of internal auditing created under section 126.45 of the Revised Code or file a complaint with the auditor of state's fraud-reporting system under section 117.103 of the Revised Code.

If the employee reasonably believes that a violation or misuse of public resources is a criminal offense, the employee, in addition to or instead of filing a written report or complaint with the supervisor, appointing authority, or the office of internal auditing, or the auditor of state's fraud-reporting system, may report it to a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, to a peace officer, as defined in section 2935.01 of the Revised Code, or, if the violation or misuse of public resources is within the jurisdiction of the inspector general, to the inspector general in accordance with section 121.46 of the Revised Code. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code, the employee may report it to the appropriate ethics commission.

(B) Except as otherwise provided in division (C) of this section, no officer or employee in the classified or unclassified civil service shall take any disciplinary action against an employee in the classified or unclassified civil service for making any report or filing a complaint as authorized by division (A) of this section, including, without limitation, doing any of the following:
(1) Removing or suspending the employee from employment;
(2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;
(3) Transferring or reassigning the employee;
(4) Denying the employee promotion that otherwise would have been received;
(5) Reducing the employee in pay or position.

(C) An employee in the classified or unclassified civil service shall make a reasonable effort to determine the accuracy of any information reported under division (A) of this section. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under division (A) of this section.

(D) If an appointing authority takes any disciplinary or retaliatory action against a classified or unclassified employee as a result of the employee's having filed a report or complaint under division (A) of this section, the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the state personnel board of review within thirty days after receiving actual notice of the appointing authority's action. If the employee files such an appeal, the board shall immediately notify the employee's appointing authority and shall hear the appeal. The board may affirm or disaffirm the action of the appointing authority or may issue any other order as is appropriate. The order of the board is appealable in accordance with Chapter 119. of the Revised Code.

(E) As used in this section:
(1) "Purposely," "knowingly," and "recklessly" have the same meanings as in section 2901.22 of the Revised Code.
(2) "Appropriate ethics commission" has the same meaning as in section 102.01 of the Revised Code.
(3) "Inspector general" means the inspector general appointed under section 121.48 of the Revised Code.

SECTION 2. That existing section 124.341 of the Revised Code is hereby repealed.
PROCEDURE FOR THE HANDLING OF PUBLIC RECORD REQUESTS

PROCEDURAL STATEMENT:

This policy is designed to assist those individuals responsible for handling public record requests. The purpose of this policy is to ensure that those individuals are complying with the law regarding public records.

AUTHORITY:

Ohio Revised Code § 149.43

SCOPE:

All districts, divisions and offices of the Ohio Department of Transportation (ODOT).

BACKGROUND AND PURPOSE:

The purpose of this policy is to ensure that all public record requests are handled in a timely and uniform manner at ODOT. This policy supersedes all previous policies concerning public record requests.

DEFINITIONS:

Public Record: Any document, device, or item, regardless of physical form or characteristic that is also created by a public office, received by a public office, or coming under the jurisdiction of any public office and which serves to document the organization, functions, policies, decisions, procedures, operations, and other activities of the office.

Exception: Certain documents, or portions of documents, in the possession of ODOT are exempt from disclosure under state or federal law.

Requestor: Person who makes a public records request.
TRAINING:

R.C. 149.43(E)(I) requires that all elected officials or their appropriate designees shall attend training approved by the attorney general.

FISCAL ANALYSIS:

Implementation of this policy will have no fiscal impact upon the Department.

IDENTIFICATION OF A PUBLIC RECORD:

A. A public record is any record stored on a fixed medium such as paper, computer, or film. In order to constitute a "public record" the record must serve to document the organization, functions, policies, decisions, procedures, operations, or other activities of ODOT. The following are examples of records exempt from disclosure under the public records act:

1. Cost estimates of projects until all bids received, R.C. 5525.15.

2. Information relative to bidder qualifications, R. C. 5525.04.


4. Trade secrets, R.C. 1333.61(D).

5. Employee medical records, R.C. 149.43 (A).


7. Certain selection devices used in making hiring and promotional decisions, R.C. 124.09(B).

8. Certain communications between ODOT employees and an attorney within the staff of ODOT’s Office of Chief Legal Counsel, the Attorney General, or special counsel appointed by the Attorney General, R.C. 149.43(A).

9. Files on current administrative investigations, R.C. 149.43 (A)(2).

11. Any records created or maintained by the ODOT for security purposes and infrastructure records that disclose the configuration of the Department's critical systems, including but not limited to, communication, computer, electrical, mechanical, ventilation, water, plumbing systems or security codes. This does not mean a simple floor plan that discloses the physical location of the components of the office, R.C. 149.433.

**PROCEDURES:**

A. Public records requests may be written or oral. If the public record request is a routine request and you have received similar requests in the past, you may respond to the request without contacting the Office of Chief Legal Counsel. If the request is unusual or you suspect the records request may be related to litigation involving ODOT, contact the Office of Chief Legal Counsel for direction.

1. ODOT must designate a records custodian or records manager for each district and central office. The records custodian must acknowledge receipt of a copy of the public records policy.

2. ODOT must have a copy of its current retention schedule available to the public at a location readily available to the public. The Office of Chief Legal Counsel recommends keeping a copy of the retention schedule at the front desk of each district as well as central office.

B. Acknowledge receipt of the request verbally or in writing. You can ask the requestor to put the request in writing, however, if they decline, you must honor the verbal request.

1. If you believe it would help ensure the accuracy of your response, you may ask for the requestor's identification and intended use but only after you inform the requestor that they are not obligated to give you this information.

2. If a request is ambiguous or overly broad, you must give the requestor an opportunity to revise the request and explain how the records are maintained and accessed at ODOT. The Office of Chief Legal Counsel recommends asking what type of information is being sought if you need clarification on a request.
3. If the requested record contains information that is exempt (as listed above), the Department must make available to the requestor the portion of the record that is not exempt and clearly redact the exempt portion of the record.

4. A redaction of any portion of the record is considered a denial of the request.

5. If a request is denied in whole or in part (by redaction), the Department must provide the requestor with an explanation of the denial, which includes the legal authority for the denial. If the original request was in writing, the explanation of the denial must also be in writing.

C. Documents must be promptly prepared and made available for inspection. If the requestor wants copies of the documents, you may respond by electronic mail or other means if the requestor has no objection. If the requestor wants hard copies, the standard charge is 5 cents per page. You may charge 50 cents per page if the copies are larger than 8½ x 11. Postage may be included in the charges. The copying fee may be waived for requests under 10 pages.

1. You may require prepayment of the cost involved in providing the copy of the public record.

2. The requestor is permitted to choose to have the public record copied on paper or upon any other medium in which it can reasonably be duplicated.

D. Public records requests must be responded to within a reasonable amount of time. What is a reasonable amount of time depends upon such factors as the extent of the request and physical location of the documents.

E. Each district, department, or division within ODOT should keep a record of when the request was received and when the requested documents were provided to the requestor.