

OHIO AUDITOR OF STATE KEITH FABER



Auditor of State
Bulletin 2025-012

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TO: All Public Offices
Community Schools
Independent Public Accountants

FROM: Keith Faber
Ohio Auditor of State

SUBJECT: Ohio Ethics Commission Advisory Opinion 2025-02
Frequent Flyer Miles, Other Rewards or Discount Programs

Summary

In [Advisory Opinion No. 2025-02](#), effective immediately, the Ohio Ethics Commission (OEC):

- Revised restrictions from public officials and employees personally using rewards earned during official business, provided: rewards are earned in the same manner as the general public; they do not impose additional costs on the public office; and the airline, hotel, vendor, etc. are not selected just to earn the reward points for themselves.
- Determined personal use of these rewards does not constitute additional compensation.
- Recommended that public offices adopt a policy regarding personal use of these rewards, which can be more restrictive than Ohio Ethics law.
- *Overruled OEC Advisory Op. 91-010 and Informal Advisory Op. 2003-INF-0224-1.*

Background¹

Frequent flyer miles, hotel, gas, credit card, and other reward or discount programs have become widespread since the OEC first addressed these issues, as early as 1991. Further, the different

¹ OEC Op. 2025-02 notes that while it “primarily references frequent flyer miles, the analysis also applies to other reward points programs,” and references to frequent flyer miles and other reward programs “are intended to incorporate all similar reward points programs including credit card rewards, hotel rewards, and gas rewards.” This Bulletin should be read in the same manner.

standards applicable to the various reward programs have caused confusion for public offices on how to account for and manage these rewards. As a result, the OEC has revisited the issue to bring Ohio to better align with the federal government and other states' guidance and increase administrative efficiency by eliminating the need to separate out and track how reward points were accrued, consistent with its treatment of comparable vendor discounts and incidental benefits.

OEC Standard for Personal Use of Rewards Earned During Official Business

“Public officials or employees can use frequent flyer miles, credit card rewards, hotel points, or other rewards earned during official business in their personal life, provided that (1) these rewards are earned the same way as members of the public would earn them; and (2) they do not impose additional costs to the public agency. However, a public official or employee is prohibited from choosing an airline, vendor, or service based on whether it provides frequent flyer miles or other rewards points. Additionally, a conference, event, or group travel planner is prohibited from personally using frequent flyer miles, credit card rewards, hotel points, or other rewards earned in connection to booking a conference, event, or group travel.”

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

Although frequent flyer miles and other reward programs points are a “thing of value” as defined in R.C. 102.03(D) & (E), the OEC reasoned that accepting them for personal use “is not of such a character as to create or manifest a substantial and improper influence upon the public official’s or employee’s independent judgment in the performance of his or her official duties.” The OEC concluded this does not create a conflict of interest because reward programs are available broadly to both private citizens and public officials/employees alike, rewards such as frequent flyer miles are accrued uniformly by eligible public officials/employees on official travel solely because they are flying, not for performing their official duties.

R.C. 2921.42(A)(4) - Public Contracts

A public contract exists when a public agency purchases, or reimburses for, a flight for a public official/employee, who would then have an interest in that contract by earning frequent flyer miles. However, the OEC overruled its prior Opinion 91-010 and has now concluded that personal use of these rewards is not an unlawful interest in a public contract prohibited by R.C. 2921.42(A)(4), based upon the same rationale that this does not create a conflict of interest. Given that the miles earned are a small portion of the contract with the airline and a uniform industry benefit available to anyone buying a ticket, the public official/employee’s interest in the contract is minimal.

R.C. 2921.43(A) - Supplemental Compensation

While “compensation” includes fringe benefits, such as various types of insurance, and typically included in a public official/employee’s compensation package, reward programs differ from traditional fringe benefits, in part because the I.R.S. does not tax personal usage of rewards earned from official travel. The OEC concluded that personal use of these rewards is not supplemental compensation prohibited by R.C. 2921.43(A), reasoning reward programs are marketing tools and

customer loyalty incentives, independent of an employer's compensation package. For example, because frequent flyer miles are automatically awarded based on the flyer's status not at the discretion of the employer, they remain distinct from fringe benefits.

Public Office Reward Program Policy

The Ohio Auditor of State (AOS) joins the OEC's recommendation that public offices adopt policies/rules for the personal use of reward program points accrued while conducting public business. While public offices cannot create policies that are *less restrictive* than the Ethics laws, they can adopt policies that are *more restrictive*. The AOS recommends public offices adopt policies tailored to their unique circumstances including, but not limited to the following:

- Whether an agency allows its officials or employees to personally use frequent flyer miles or other rewards points accrued during official business.
- Minimum standards that public officials or employees must follow to avoid violating criminal laws.
- A prohibition from selecting an airline, hotel, car rental company, etc., other vendors or services solely to earn reward points for their personal use.
- A requirement to select the lowest reasonable rate.
- Robust internal controls to ensure compliance, including supervisory monitoring mechanisms designed to proactively identify and mitigate the risk of noncompliance.

Questions

If you have any questions regarding the information presented in the Bulletin, please contact the Auditor of State's Office at 800-282-0370 or ContactUs@ohioauditor.gov.

A handwritten signature in black ink that reads "Keith Faber". The signature is written in a cursive, flowing style.

Keith Faber
Ohio Auditor of State