

**OPINION NO. 80-094****Syllabus:**

R.C. 2921.41 bars an individual who has been convicted of theft in office from being employed by the Lancaster-Fairfield County Hospital.

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**To: James W. Luse, Fairfield County Pros. Atty., Lancaster, Ohio**  
**By: William J. Brown, Attorney General, December 23, 1980**

I have before me your request for an opinion on the following question: "Is employment at the Lancaster-Fairfield County Hospital considered public employment thereby prohibiting employment of an individual who has pleaded guilty to [R.C. 2921.41]?"

R.C. 2921.41 reads as follows:

(A) No public official or party official shall commit any theft offense, when either of the following applies:

(1) The offender uses his office, or permits, or assents to its use, in aid of committing the offense;

(2) The property or service involved is owned by this or any other state or the United States, a municipality, or any political subdivision, department, or agency of any of them, or by a political party, or is part of a political campaign fund.

(B) Whoever violates this section is guilty of theft in office, a felony of the third degree.

(C) A public servant or party official who is convicted of theft in office is forever disqualified from holding any public office, employment, or position of trust in this state. (Emphasis added.)

Clearly, an individual convicted of violating R.C. 2921.41 may not thereafter be a public employee in this state.

It is my understanding that the individual in the question you pose entered a guilty plea and thereafter received a suspended sentence. The legislature clearly intended that anyone who has committed the crime of theft in office be forever barred from holding public employment in the state. Whether a person pleads guilty to the offense or is found guilty by a jury, such person is "convicted" within the meaning of R.C. 2921.41. See 1914 Op. Att'y Gen. No. 684, vol. I, p. 23.

You specifically ask whether employment at the Lancaster-Fairfield County Hospital is public employment. R.C. Chapter 339 provides for the establishment and operation of county hospitals. R.C. 339.12, providing for the acquisition of a hospital by a county from a municipal corporation, reads, in part, as follows:

The board of county commissioners may, upon such terms as are agreed upon between such board and the legislative authority of the municipal corporation, and consistent with sections 3702.51 to 3702.67 of the Revised Code, lease, acquire, operate, and maintain, as and for a county hospital, the lands, buildings, and equipment of a general hospital owned by any such municipal corporation in the county.  
(Emphasis added.)

The ownership and control history of the hospital which you have provided indicates that, in 1915, the hospital was established as a municipal hospital, owned and operated by the City of Lancaster. From 1962 to 1969, the City of Lancaster leased the hospital to Fairfield County to be operated as a general hospital known as the Lancaster-Fairfield County Hospital. In 1969 the City of Lancaster sold the hospital to the Fairfield County Commissioners; the title is subject to the condition that the property be used as a health care facility. Thus, based upon the information you have provided, it is my understanding that the hospital is currently owned by the Fairfield County Commissioners pursuant to R.C. Chapter 339, and that it is operated by a board of trustees created pursuant to that chapter. See R.C. 339.01, .02. A county hospital is clearly a county agency. 1973 Op. Att'y Gen. No. 73-017. The employees of a county hospital are, therefore, county employees. 1951 Op. Att'y Gen. No. 854, p. 635.

The meaning of "public office, employment, or position of trust in this state," as used in R.C. 2921.41(C), is not specifically defined. To determine whether employment at a county hospital is "public" employment for purposes of R.C. 2921.41, I believe it is useful to look at the definition of "public official" contained in R.C. 2921.01. As used in R.C. 2921.01 to 2921.45, "public official" means "any elected or appointed officer, or employee, or agent of the state or any political subdivision thereof, whether in a temporary or permanent capacity, and including without limitation legislators, judges, and law enforcement officers" (emphasis added). R.C. 2921.01(A). As an employee of the county, an employee of the Lancaster-Fairfield County Hospital is clearly an employee of a political subdivision of the state.

It is, therefore, my opinion, and you are advised, that R.C. 2921.41 bars an individual who has been convicted of theft in office from being employed by the Lancaster-Fairfield County Hospital.