



STANDARDS OF CONDUCT FOR PUBLIC OFFICIALS

- Oregon Ethics Law: ORS Chapter 244
- Board of Education Policies:
 - A.100: Ethical Conduct for Lane Community College Employees
 - B.160: Board Members' Code of Conduct
 - D.080: Conflict of interest



WHAT ARE ETHICS?

A. Definition:

1. “having to do with ethics or morality; of or conforming to moral standards;”
2. **“conforming to the standards of conduct of a given profession.”**

Here, we will review ethical standards established by the State, the Government Ethics Commission and by the Board of Education Policies.

B. Disclaimer:

Each of us is responsible for our own conduct. Advice of legal counsel is not a defense! Advice from the Government Ethics Commission may be considered if there is an investigation.

C. Contact the Oregon Government Ethics Commission:

www.oregon.gov/ogec or email: ogec.mail@state.or.us
Telephone: (503) 378-5105/Facsimile: (503) 373-1456



ARE YOU A PUBLIC OFFICIAL?

Yes, if you are:

- Elected or appointed to an office or position with a state, county or city government.
- Elected or appointed to an office or position with a special district.
- An employee of a state, county or city agency or special district.
- An unpaid volunteer for a state, county or city agency or special district.
- Anyone serving the State of Oregon or any of its political subdivisions, such as the State Accident Insurance Fund or the Oregon Health Sciences University.

SERVICE IN A PUBLIC OFFICE IS A PUBLIC TRUST

A Public Official MAY NOT:

- Use or attempt to use official position or office,
- To obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office.

Applies to:

- Your relatives;
- Members of your household;
- Your business or their businesses

(ORS 244.040(1))

See also Board Policy D.080: Conflict of Interest

HOW DO YOU DECIDE?

Ask:

- Does **the source** of a financial benefit have a legislative or administrative interest in your governmental agency?
- Would the opportunity for this financial benefit be available if you did not hold your position as a public official?
- Is the financial benefit defined as a gift?

WHO ARE YOUR RELATIVES?

Relative includes:

- Spouse or domestic partner;
- Children of the public official or the public official's spouse;
- Siblings, parents and their spouses/domestic partners;
- Any person you have a legal obligation to support;
- Any person you provide benefits for or receive benefits from arising from an employment relationship

(ORS 244.020(14))

A “**member of the household**” is any person who resides with you

(ORS 244.020(9))

WHAT IS NOT A FINANCIAL BENEFIT?

- Official Compensation and Benefits.
- Honorarium. Honorarium means a payment or something of economic value given to a public official in exchange for services *upon which custom or propriety prevents the setting of a price*. Services include, but are not limited to, speeches or other services rendered in connection with an event at which the public official appears in an official capacity.”
(ORS 244.020(6))

The public official can neither dictate, negotiate, nor recommend the value of the honorarium. Traditionally, an honorarium has been the granting of a sum of money to a public official in exchange for giving a speech or performing a service in an official capacity.

(ORS 244.020(2))

ACCEPTING GIFTS: TO ACCEPT OR NOT TO ACCEPT?

During a calendar year, you may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of **\$50** from any single source that could reasonably be known to have a legislative or administrative interest in any governmental agency in which you hold any official position or over which you exercise any authority.

Applies equally to:

- Candidates for Official Office
- Relatives
- Members of Household

A person who has a legislative or administrative interest may not *offer* gift greater than \$50 in value.

WHAT IS A GIFT?

A gift is:

- (1) Something of economic value given without valuable consideration of equivalent value; or
- (2) Something of economic value given for valuable consideration less than that required from others.

Gifts include:

- The waiving of a debt;
- Providing a service; and
- Something received by an official that is not available to the general public on the same terms or conditions.

Legislative or administrative interest means an *economic interest*, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a person acting in the capacity of a public official.

(ORS 244.020(5))

(ORS 244.020(8))

WHEN MAY YOU ACCEPT ITEMS OF VALUE?

- Campaign contributions or contributions to a legal expense trust fund
- Gift from relatives or household members.
- Unsolicited gifts with a resale value less than \$25, e.g., a token, plaque, trophy and desk or wall mementos.
- Publications, subscriptions or other informational material related to your duties as a public official.
- Waivers or discounts for registration or material related to your duties.
- **Entertainment that is *incidental* to the main purpose of the event.**
- Entertainment where public official is acting in an official capacity for a ceremonial purpose.

(ORS 244.020(5))

WHEN MAY YOU ACCEPT ITEMS OF VALUE? [Continued]

1. Food and beverage (and admission) when:
 - You are scheduled to speak or answer questions, or
 - Food and beverage consumed at a reception is *incidental* and there is no admission charges, or
 - You are acting in an official capacity in association with a financial or business agreement.
2. Food, lodging or travel expenses when:
 - Paid by an accompanying public official, you are traveling to an event related to your office and you are appearing in an official capacity.
 - Paid by another government agency, and you are scheduled to speak, make a presentation, participate on a panel or represent a government agency.

HOW DO YOU KNOW THE VALUE OF A GIFT?

- Make every effort to determine the value of any gift provided by individuals with an administrative or legislative interest in the area of the official's public responsibility. Both the giver and receiver of gifts are required to keep track of the value of any gifts.
- WHEN IN DOUBT, ASK.

WHAT ABOUT ENTERTAINMENT?

You may not accept the payment of expenses for entertainment, nor can a source offer such paid expenses.

Entertainment (i.e., “amusement or diversion”) includes:

concerts

movies

plays

operas

comedy shows

sporting events

participating in sporting events

(golf, skiing, hunting, fishing, etc.)

Unless: The entertainment is “incidental” to the main purpose of another event.

ORS 244.025(4)

OAR 199-005-0025(4)

ARE THERE OTHER PROHIBITIONS?

Future Employment. You must not solicit or receive, either directly or indirectly, and no person shall offer or give you any pledge or promise of future employment, based on any understanding that your official action or judgment would be influenced thereby. (ORS 244.040(3)).

Use of Confidential Information. You must not attempt to further your personal gain through the use of confidential information gained in the course of or by reason of your official position or activities in any way (ORS 244.040(4)). Applies after you are no longer a public official and to personal gain of any person. (ORS 244.040(5))

Representation Before Jurisdiction. No person shall attempt to represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner, or other associate. (ORS 244.040(6))

NOTE: These prohibitions apply regardless of whether you disclose an actual or potential conflict of interest. (ORS 244.040(7))

WHAT MUST YOU REPORT?

1. Annual Verified Statement of Interest – No.
(President and Chief Financial Officer – Yes)
2. Quarterly Public Official Disclosure – No.
(President and Chief Financial Officer – Yes)

Board may, by Resolution, require Board Members to file a Verified Statement of Economic Interest.

-
-
-

GIFT EXAMPLES:

Hypothetical No. 1:

A salesperson from a software company offers to take the college's Chief Information Officer out to lunch.

GIFT EXAMPLES [Continued]

No. 1 Ethics Commission Answer:

The meal would be a gift and, if accepted, the value would be included in the aggregate value of gifts, which cannot exceed \$50 in one calendar year. (ORS 244.025(1) and (2))

GIFT EXAMPLES [Continued]

Hypothetical No 2:

The college's Chief Financial Officer has overseen the installation and implementation of a new software program to manage the college's financial records. The software distributor asks the Chief Financial Officer to participate as a trainer at an event the distributor has planned for public employees who work for different community colleges. The distributor has offered to compensate the Chief Financial Officer and pay expenses for food, lodging and travel.

GIFT EXAMPLES [Continued]

No 2. Ethics Commission Answer:

If the Chief Financial Officer accepted this offer, it could constitute the use of the official position to gain a financial benefit because the opportunity for the compensation and paid expenses would not be available but for being the college's Chief Financial Officer.

GIFT EXAMPLES [Continued]

Hypothetical No. 3:

A college manager attends a conference on salaried time and is reimbursed for expenses by the course. When the college manager checks out of the hotel, she is offered a coupon for two nights of free lodging at any of the hotel chain's nationwide hotels.

GIFT EXAMPLES [Continued]

No 3. Ethics Commission Answer:

If accepted and used for personal lodging, it could constitute the use of an official position to gain a financial benefit because the opportunity for two nights of free lodging would not be available but for the college sending and paying the travel expenses for the college manager to attend the conference.

GIFT EXAMPLES [Continued]

Hypothetical No. 4:

A college employee is sent by the college to attend a two-day training conference and is reimbursed for his expenses. The salaried employee attends during his regular working hours. A salesperson for a company that sells products to the college is near the registration table for the conference and offers a collection of gifts valued at over \$100 to all registrants.

GIFT EXAMPLES [Continued]

No 4. Ethics Commission Answer:

If accepted, the gifts could constitute the use of an official position to gain a financial benefit because the opportunity to accept the gifts would not be available but for the college paying to send the employees to the conference.

-
-
-

GIFT EXAMPLES [Continued]

Hypothetical No. 5:

During the same conference, the college employee is going out to dinner after the conference adjourns for the day. While passing through the hotel lobby, he stops to speak with the salesperson who offered the gifts during the conference registration. The salesperson asks to join the college employee for dinner and offers to pay for the meal.

GIFT EXAMPLES [Continued]

No. 5 Ethics Commission Answer:

Since the employee is on personal time, if accepted, the value of the meal would be included in the aggregate value of gifts from a source, which cannot exceed \$50 in one calendar year. (ORS 244.025(1) and (2))

GIFT EXAMPLES [Continued]

Hypothetical No. 6:

The Dean for Academic Affairs goes out to lunch in a local city restaurant. During lunch, a well known book publisher approaches the Dean and offers to pay for the Dean's meal.

GIFT EXAMPLES [Continued]

No. 6 Ethics Commission Answer:

The value of the meal, if accepted, would be included in the aggregate value of gifts from a source, which cannot exceed \$50 in one calendar year. (ORS 244.025(1) and (2))

WHAT ARE CONFLICTS OF INTEREST?

1. Potential Conflicts.

- A potential conflict of interest exists when you take action that *reasonably could be expected* to have a financial impact on you, your relative, or a business with which you or they are associated. ORS 244.020(11).

2. Actual Conflicts.

- An actual conflict of interest occurs when you take action that is *reasonably certain* to result in a financial benefit or detriment. It will occur when an action is taken that directly and specifically affects land, a business, or any other financial interest of yours or your relatives. ORS 244.020(1).

WHAT MUST YOU DO IF YOU THINK YOU MAY HAVE A CONFLICT?

You have three choices:

- The first choice is: Do not take the action;
- The second choice is: Ask the Government Ethics Commission; and
- The third choice (likely to present difficulties) is: Go ahead and do it.

You must:

- Announce publicly the nature of any potential conflict at an open meeting prior to participating in the matter of taking any action in your capacity as a public official; and
- When you have an actual conflict, announce publicly the nature of the actual conflict; and
- Refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue. (ORS 244.120)

WHAT IF OTHERS WOULD BE SIMILARLY AFFECTED?

Class Exemption:

If other people are “affected to the same degree” by the action, you may be exempt from ethics violation or conflict of interest. A class can be comprised of inhabitants of the state or a smaller group, such as a community, an industry, or an occupation. If your business or interest is found to be a member of a class, no actual or potential conflict of interest is involved.

WHAT DOES THE OREGON GOVERNMENT ETHICS COMMISSION DO?

Formerly: Government Standard and Practices Commission

- The Government Ethics Commission has jurisdiction over violations of ORS Chapter 244 (Ethics Code) and
- Chapter 171 (Lobbying) and ORS 192.660 (Executive session provisions of Oregon Public Meetings Law).
- The Government Ethics Commission *provides advice* regarding the laws and regulations under the commission's jurisdiction by telephone, email, letter inquiries and written opinions:
 - Staff Advice (may consider)
 - Staff Advisory Opinion (shall consider)
 - Commission Advisory Opinion (may not impose a penalty)

See ORS 244.250-244.345 ("Commission") and ORS 244.350-244.400 ("Enforcement").



WHAT IS THE OREGON ETHICS COMMISSION?

Commissioners:

The Governor appoints all seven members of the Commission. The commission is administered by an executive director, who is selected by the Commission and legal counsel is provided by the Oregon Department of Justice.

Training:

The Commission has designated training as one of its highest priorities. It has one staff position to provide training on the laws and regulations under its jurisdiction to public officials and lobbyists.

WHAT IS THE OREGON ETHICS COMMISSION? [Continued]

Advice:

“Questions regarding the Commission’s laws, regulations and procedures are a welcome daily occurrence. Timely and accurate answers are a primary objective of the staff. Guidance and information is provided either informally or in written formal opinions. The following are available:

- Telephone inquiries are answered immediately or as soon as possible.
- Email inquiries are answered with return e-mail or telephone calls as soon as possible.

WHAT IS THE OREGON ETHICS COMMISSION? [Continued]

- Letter inquiries are answered by letter as soon as possible.
- Written opinions on specific circumstances can also be requested.

Requests for written opinions must describe the specific facts and circumstances that provide the basis for questions about how the Oregon Government Ethics law may apply.”

(Guide for Public Officials,” Oregon Government Ethics Commission, Revised April 2008, pp. 23-24)

WHAT IF I HAVE A QUESTION?

1. Staff Advice.

The Commission *may consider* whether an action by a public official that may be subject to penalty was taken in reliance on staff advice.

2. Staff Advisory Opinion.

The Commission shall consider whether an action by a public official that may be subject to penalty was taken in reliance on this staff advisory opinion.

3. Commission Advisory Opinion.

The Commission may not impose a penalty on a public official for any good faith action taken by relying on a Commission Advisory Opinion (assumes that the facts match).

HOW DO ALLEGATIONS OF ETHIC'S VIOLATIONS ARISE AND GET REPORTED?

- A disgruntled citizen.
- A disgruntled present or former employee.
- An investigation by the College that makes news.
- An investigation by media.
- Self reporting.
- Questions arise after the fact.

WHAT HAPPENS WHEN AN ALLEGATION OF AN ETHIC'S VIOLATION IS REPORTED TO THE GOVERNMENT ETHICS COMMISSION?

- Any person may file a signed written Complaint.
- Commission may proceed on its own motion as if it has received a complaint.
- Respondent receives notice within 3 days (ORS.244.260).
- Staff will conduct a preliminary review (135 days confidentiality).
- A full scale investigation (180 days).
- Respondent may request a contested hearing before the Commission if a preliminary finding of violation is made.

WHAT ARE THE PENALTIES IF A VIOLATION IS FOUND?

- Letter of reprimand
- Up to \$5,000 civil penalty for violation of filing requirements. (ORS 244.350(a))
- Civil penalty of up to \$1,000 for violation of public meetings law unless public body was acting on advice of counsel.
- In addition to civil penalties, the Commission may require any person who financially benefited by violating the law a penalty equal to twice the amount the person realized as a result of the violation. (ORS 244.360)

BOARD POLICY A.100

Ethical Conduct for Lane Community College Employees

The institution strives to adhere to the highest ethical standards in its representation to its constituencies and the public; in its teaching, scholarship and service; in its treatment of students, faculty, and staff; and in its relationships with regulatory and accrediting agencies. All concerned with the good of the college will seek ways to support institutional integrity.

The board is responsible to ensure the integrity of the college. Individuals are responsible for their personal integrity and for acting in a manner consistent with this policy. Integrity is demonstrated by conduct that is honest in words and actions, and promotes respect, fairness and openness. *Responsible stewardship of resources and the public trust are expectations for all employees.*

All college employees are expected to conduct their affairs with integrity and to hold themselves to the highest standards of ethical conduct.

BOARD OF EDUCATION POLICY B.160

Board Members' Code of Conduct

The board commits itself and its members to ethical, professional, and lawful conduct, including proper use of authority and appropriate decorum when acting as board members.

1. Unconflicted loyalty
2. Avoid any conflict of interest
3. May not attempt to exercise individual authority
 - Interactions with president or staff
 - Interactions with public, press, other outside entities
 - No individual judgments regarding president or staff performance
4. Respect the confidentiality of certain issues



-
-
-

BOARD POLICY D.080

Conflict of Interest

Board members and employees shall avoid actions as a public official or public employee that have the effect of being to the private, personal or financial benefit or avoidance of detriment of the person or the person's relatives. Relatives include spouse, children of the person or spouse, or the brothers, sisters or parents of the person or the person's spouse. The Government Standards and Practices Act set forth in ORS Chapter 244 is applicable to board members and employees. If questions arise, board members and employees are urged to contact Oregon Government Standards and Practices Commission, 100 High Street SE, Suite 220, Salem, Oregon 97301-3607; Telephone Number 503-378-5105.



ABUSE OF PUBLIC OFFICE

- ORS 162.405 Official misconduct in the second degree.
- ORS 162.415 Official misconduct in the first degree.
- ORS 162.425 Misuse of confidential information.
- ORS 162.305 Tampering with public records.

CONCLUSION

Contact Government Ethics Commission:

www.oregon.gov/ogec

ogec.mail@state.or.us

Telephone: (503) 378-5105

Facsimile: (503) 373-1456