

# OREGON GOVERNMENT ETHICS

## **The Oregon Government Ethics Commission**

### **About OGEC- An Overview**

The Oregon Government Ethics Commission (OGEC), established by vote of the people in 1974, is a seven-member citizen commission charged with enforcing government ethic laws. Oregon government ethic laws prohibit public officials from using office for financial gain, and require public disclosure of economic conflict of interest. The OGEC also enforces state laws which require lobbyists and the entities they represent to register and periodically report their expenditures. The third area of OGEC jurisdiction is the executive session provisions of public meetings law.

### **About OGEC- History**

During the Watergate scandal of the early seventies, Americans were confronted with deceit and misuse of power by elected officials. Citizens across the nation began calling for accountability from their governments. In response, Oregon was one of the first states to create laws designed to open government to greater public scrutiny.

In 1974, more than 70 percent of the voters approved a statewide ballot measure to create the Oregon Government Ethics Commission. The ballot measure also established a set of laws (ORS Chapter 244) requiring financial disclosure by certain officials and creating a process to deal with the inevitable question of conflict of interest. The drafters of the original laws recognized that "conflict of interest" is, indeed, inevitable in any government that relies on citizen lawmakers.

### **About OGEC- Staff**

The OGEC is administered by an executive director selected by the commissioners. The commission also employs seven full-time staff member who are appointed by the executive director, including investigators, trainers, executive support, and administrative staff.

The OGEC members and staff consider that they are doing their job most successfully if they can help public officials avoid conduct that violates the relevant statutes. They encourage people to inquire into any point of the statutes prior to taking any action that may violate Oregon Government Ethic law, Lobbying Regulation law or the Executive Session provisions of Public Meetings law.

OGEC staffers are available for informal questions and discussions about statutes, administrative rules and the commission's process. Public officials are encouraged to contact OGEC staff at any time.

**OGEC Contact info**

Oregon Government Ethics Commission

3218 Pringle Rd. SE, Suite 220

Salem, OR 97302-1544

Phone: 503-378-5105

[ogec.mail@state.or.us](mailto:ogec.mail@state.or.us)

*Real people answer the phone.*

*OGEC does not have an automated phone tree.*

**Oregon Government Ethics Law****About Oregon Government Ethics Law**

- Applies to all elected and appointed officials, employees and volunteers at all levels of state and local government in all three branches
- Prohibits use of public office for financial gain
- Requires public disclosure of financial conflicts of interest
- Requires designated elected and appointed officials to file an annual disclosure of sources of economic interest
- Limits gifts that an official may receive per calendar year
- Found in Oregon Revised Statutes, Chapter 244

**About the Executive Session Provisions of Public Meetings Law**

- Authorizes specific, limited reasons for which a public body may meet in a closed session
- Found in Oregon Revised Statutes 192.660 and 192.685

**Summary of the Main Points****Financial Gain**

No public official shall use or attempt to use an official position to obtain financial gain or avoid financial detriment. [ORS 244.040(1)] Oregon's ethics laws prohibit each public official from gaining a financial benefit or avoiding a financial cost as a result of his or her position. However, several specific benefits, such as compensation packages and reimbursed expenses, are allowed.

**Gifts**

No public official shall solicit or receive any gift(s) with a total value of more than \$50 from any single source who could reasonably be known to have a financial interest in the official actions of that public official. A gift is defined as something of value given to a public official, for which the official does not pay an equal value. Gifts of entertainment are included in the \$50 gift limit.

This does not mean that an official cannot receive any gifts. The law only restricts gifts from sources that have an administrative or legislative interest in the public official's actions, and does allow the public official to receive up to \$50 worth of gifts from each source. In addition, unlimited gifts may be accepted from a source that does not have a legislative or administrative interest in the public official, and the public official may accept unlimited gifts from specified relatives.

### **Conflict of Interest**

A conflict exists if a decision or recommendation could affect the finances of the public official or the finances of a relative. A few other situations can present a conflict of interest, as well. If a conflict of interest exists, the public official must always give notice of the conflict, and in some situations the public official is restricted in his ability to participate in the matter that presents the conflict of interest.

### **About Training**

OGEC staffers are available for informal questions and discussions about statutes, administrative rules and the commission's process. You are welcome to contact OGEC staff at any time. If you call, you will speak to a real live person. OGEC does not have an automated phone tree.

OGEC is pleased to offer free on-line training through iLearn Oregon. Training modules are short, focused, and convenient. There are trainings on several topics, including conflicts of interest, gifts, and executive sessions.

Whether you are a public official or a private citizen, anyone with an email address can take training through iLearn Oregon at no cost. iLearn trainings are available from any internet connected computer.

### **Training Topics:**

- *Conflicts of Interest*
- *Complaints*
- *Ethics Statutes Overview for Employees and Other Appointed Officials*
- *Ethics Statutes Overview for Elected Officials and Officials Appointed to Boards, Commissions, or Advisory Groups*
- *Gifts*
- *Introduction to Executive Sessions*
- *Prohibited Use of Office*
- *2010 Legislative Changes*

## **Useful Links:**

Oregon Government Ethics Commission Home Page: <http://www.oregon.gov/OGEC/>

Link to email OGEC: [ogec.mail@state.or.us](mailto:ogec.mail@state.or.us)

Link to the Guide for Public Officials:

[http://www.oregon.gov/OGEC/docs/Public\\_Official\\_Guide/2010-10\\_PO\\_Guide\\_October\\_Final\\_Adopted.pdf](http://www.oregon.gov/OGEC/docs/Public_Official_Guide/2010-10_PO_Guide_October_Final_Adopted.pdf)

Link to the ethics statutes found in ORS 244: <http://landru.leg.state.or.us/ors/244.html>

Link to the Oregon Administrative Rules that clarify and define the ethics statutes in ORS 244: [http://arcweb.sos.state.or.us/rules/OARS\\_100/OAR\\_199/199\\_tofc.html](http://arcweb.sos.state.or.us/rules/OARS_100/OAR_199/199_tofc.html)

Link to the public meeting statutes found in ORS 192:

<http://landru.leg.state.or.us/ors/192.html>

Link to the Attorney General's Public Records and Meetings Manual, prepared by the Oregon Department of Justice:

[http://www.doj.state.or.us/pdf/public\\_records\\_and\\_meetings\\_manual.pdf](http://www.doj.state.or.us/pdf/public_records_and_meetings_manual.pdf)

Link to the lobbying statutes found in ORS 171: <http://landru.leg.state.or.us/ors/171.html>

Link to previous ethics advice, organized by topic:

[http://www.oregon.gov/OGEC/opinion\\_category.shtml](http://www.oregon.gov/OGEC/opinion_category.shtml)

Link to ethics training information: <http://www.oregon.gov/OGEC/training.shtml>

## **A Few Questions and Answers About the Law**

### **Q: Who are public officials?**

A: "Public official" is defined in ORS 244.020(14) as any person who is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

You are a public official 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 & Science University.

**Q: Are volunteers “public officials”?**

A: Some volunteers are public officials. By some estimates, there are up to 50,000 volunteer public officials in the State of Oregon. A volunteer is a “public official” if they meet one of these three criteria:

- 1.) The volunteer is elected or appointed to a governing body of a public body
- 2.) The volunteer is appointed or selected for a position with a governing body or a government agency with responsibilities that include deciding or voting on matters that could have a pecuniary impact on the governing body, agency or other persons
- 3.) The volunteer position includes all of the following:
  - a. Responsible for specific duties
  - b. The duties are performed at a scheduled time and designated place.
  - c. Volunteer is provided with the use of the public agency’s resources and equipment.
  - d. The duties performed would have a pecuniary impact on any person, business or organization served by the public agency.

For purposes of ORS Chapter 244, volunteers are not public officials if they perform such tasks as picking up litter on public lands, participating in a scheduled community cleanup of buildings or grounds, participating in locating and eradicating invasive plants from public lands and other such occasional or seasonal events.

**Q: What are the provisions of law that prohibit a public official from using the position or office held for financial gain?**

A: As defined earlier, public officials become public officials through employment, appointment, election or volunteering. ORS 244.040(1) prohibits every public official from using or attempting to use the position held as a public official to obtain a financial benefit, if the opportunity for the financial benefit would not otherwise be available but for the position held by the public official.

The prohibited financial benefit can be either an opportunity for gain or to avoid an expense.

Each public official is prohibited from using the position as a public official to receive certain financial benefits. In addition, each public official is prohibited from using or attempting to use the official position to obtain financial benefits for a relative or a member of the public official’s household, or for a business with which the public official, a relative, or a member of the public official’s household is associated.

There are a variety of actions that could be a prohibited use or attempted use of an official position. The use of a position could be voting in a public meeting, placing a signature on a government agency's document, making a recommendation, making a purchase with government agency funds, or conducting personal business on a government agency's time or with a government agency's resources such as computers, vehicles, heavy equipment or office machines.

**Q: What are some examples of actions a public official might do, that would be a violation of the prohibited use of office provision in ORS 244.040(1)?**

A:

- The mayor of a city signs a contract obligating the city to pay for janitorial services provided by a business owned by a relative of the mayor.
- A city treasurer signs a city check payable to an office supply business that is owned by a relative.
- A city billing clerk alters water use records so that the amount billed to the clerk's parents will be less than the actual amount due.
- A volunteer firefighter borrows the fire district's power washer to prepare the exterior of the volunteer's personal residence for painting.
- A county public works employee stores a motor home that is owned by the employee's parents in a county building used for storing heavy equipment.
- An employee of a state agency has a private business and uses the agency's computer to advance the business by promoting, corresponding and managing the activities of the private business.
- A school district superintendent approves and signs her own request for reimbursement of personal expenses the superintendent incurred when conducting official business.

**Q: Are there any financial benefits a public official is allowed to receive, even if those benefits are only available because of the official position the person holds?**

A: Yes. ORS 244.040(2) provides a list of financial benefits that may be received. These include:

- Official compensation
- Reimbursement of expenses
- Honorarium
- Unsolicited awards for professional achievement
- Contributions to a legal expense trust fund
- Some gifts

Please note, all of these items have specific definitions, and in order to be lawfully received, the financial benefit must meet the definition of the allowable item.

**Q: Do the Oregon Government Ethics laws prevent two people who are related from being employed by the same public body, or serving the same public body?**

A: No. Public officials who are relatives can be employed by the same public body at the same time, or serve on the same governing body of a public body at the same time. However, there are provisions prohibiting a public official from participating in the appointment, employment, promotion, demotion, firing, or discharge of a relative to/from a paid position as a public official. Another statute prohibits a public official from directly supervising a relative who holds a paid position as a public official.

**Q: Do the Oregon Government Ethics laws prohibit a public official from working for a private employer or owning a private business while being employed by a public body or while holding a position with a public body?**

A: No. In general, public officials may obtain employment with a private employer or engage in private income producing activity of their own. However, they must not use the position they have as a public official to create the opportunity for additional personal income. They must also ensure that when they are engaged in personal income producing activities, there is a clear distinction between the use of personal resources and time and the use of the public body's time and resources.

**Q: What is a “conflict of interest” as defined in Oregon Government Ethics law?**

A: In brief, a conflict of interest when an official action by the public official could or would result in a financial benefit or detriment to the public official, a relative of the public official or a business with which either is associated.

A matter is a statutory conflict of interest when both of these conditions are met:

1. The official act will cause a personal monetary gain or monetary loss
2. The monetary gain or loss will be to the public official, a relative of the public official, or a business with which the public official or the relative is associated.

**Q: What are the two types of conflict of interest?**

A: Oregon Government Ethics law identifies and defines two types of conflicts of interest: actual conflict of interest and potential conflict of interest.

The difference between an actual conflict of interest and a potential conflict of interest is determined by the words “would” and “could.”

A public official is met with an **actual** conflict of interest when the public official participates in action that **would** affect the financial interest of the official, the official's relative or a business with which the official or a relative of the official is associated.

A public official is met with a **potential** conflict of interest when the public official participates in action that **could** affect the financial interest of the official, a relative of that official or a business with which the official or the relative of that official is associated.

**Q: Does Oregon Government Ethics law limit the gifts that public officials may receive?**

A: Yes. ORS 244.025 limits a public official, and relatives and household members of the public official, to each accepting no more than \$50 worth of gifts in a calendar year, from each source that has a legislative or administrative interest in the official position of that public official.

However, if the source of the offered gift does not have a legislative or administrative interest in the official position, then the public official and his relatives and household members may accept unlimited gifts from that source. In addition, there a number of items that ORS 244.020(6)(b) excludes from the definition of a gift, and in the specific circumstances listed, those items can be accepted without limit.

**Q: Do the Oregon Government Ethics laws cover all bad behaviors that a public official might do?**

A: No. There are occasions when a public official engages in conduct that may be viewed as unethical, but that conduct may not be governed by Oregon Government Ethics law. Without an apparent statutory violation, the following are some examples of conduct by public officials that are not within the authority of the Commission to address:

- An elected official making promises or claims that are not acted upon.
- Public officials mismanaging or exercising poor judgment when administering public money.
- Public officials being rude or unmannerly.
- Public officials using deception or misrepresenting information or events.

While the conduct described above may not be addressed in Oregon Government Ethics law, public agency policies and procedures may prohibit or redress the behavior. Please contact the Commission staff if you need further clarification regarding how the Oregon Government Ethics law may apply to circumstances you may encounter.



## **A Few Questions and Answers About OGEC**

### **If I have a question about the Oregon Government Ethic statutes, what can I do?**

The easiest course is to pick up the phone and call the staff of the Oregon Government Ethics Commission (OGEC) at (503) 378-5105. You can also make an appointment to visit in person with a staff member. Some issues that are not clearly described in the statutes may be explained more fully in a brief conversation.

OGEC staff are knowledgeable about the statutes and quite familiar with past and current commission interpretations. Furthermore, they are committed to providing accurate advice and preventing violations of the statutes whenever possible.

### **If I ask for advice, will I trigger an inquiry into my conduct?**

Not if the request relates to official action that has not yet taken place. If the facts presented indicate that a violation of the statutes has occurred, the commission may initiate a preliminary review.