



GOVERNMENT ETHICS LAW

BACKGROUND BRIEF

LPRO: Legislative Policy and Research Office

In 1974, voters approved Measure 14 establishing statutes relating to Public Officials' Financial Ethics and Reporting. The ballot measure 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 legislature updated the ethics laws in 2007; this was known as the Oregon Ethics Reform Act (OERA). The measures, Senate Bill 10 and House Bill 2595 (2007), significantly revised Oregon's government ethics laws.

The ethics law provisions in ORS Chapter 244, and related statutes, generally prohibit the use of public office for financial gain, require disclosure of economic interests and conflicts of interest, and provide sanctions and procedures for enforcement of violations.

OREGON GOVERNMENT ETHICS COMMISSION

The Oregon Government Ethics Commission (OGE) was established as part of the 1974 ballot measure. At time of creation, OGE was a seven-member citizen commission charged with enforcing government ethics laws. Of OGE's seven volunteer members: four were appointed by the Governor upon recommendation by the Democratic and

Republican leaders of the Oregon House and Senate; and three members were appointed directly by the Governor. A member of OGE is not eligible to be appointed to more than one full term but may serve out an unexpired term.

The OGE is responsible for enforcing Oregon government ethics laws that prohibit public officials from using office for financial gain, and requires public disclosure of an

economic conflict of interest. In addition, it enforces state laws which require lobbyists, and the entities they represent, to register and periodically report their expenditures. The third area of OGE jurisdiction is the executive session provisions of public meetings law.

The OGE provides advisory opinions, staff opinions and

staff advice to provide greater immunity or mitigation from sanctions.

In 2015, the legislature changed the composition of OGE, changed the timeline for conducting Preliminary Reviews of ethics complaints and removed the requirement for OGE to suspend an investigation if a criminal investigation commences related to the same issues or conduct.

Effective July 1, 2016, the membership of OGE will consist of nine members. The Governor will appoint eight members from

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among persons recommended, two each by the leadership of the Democratic and Republican parties in the Oregon House and Senate and the Governor appoints one member without leadership recommendation.

OREGON GOVERNMENT ETHICS LAWS

The provisions of Oregon government ethics laws restrict some choices, decisions or actions of a public official. The restrictions placed on public officials are different than those placed on private citizens because service in a public office is a public trust and the provisions in ORS Chapter 244 were enacted to safeguard that trust.

There are approximately 200,000 public officials in Oregon who are subject to the oversight of OGEAC and the provisions of Oregon ethics law. A public official is any person:

- 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; or
- An unpaid volunteer for a state, county or city agency or special district.

CONFLICT OF INTEREST

When voters first approved ethics legislation, it was guided by the recognition that “conflict of interest” is, indeed, inevitable in any government that relies on citizen lawmakers. A public official is met with conflict of interest when participating in official action which

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 public official may be met with an actual or potential conflict when making decisions. An actual conflict of interest is if any action, decision or recommendation by the person results in a private pecuniary benefit or detriment to the person, the person’s relative or any business with which the person or a relative of the person is associated. It is a potential conflict of interest when any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person, the person’s relative or a business with which the person or the person’s relative is associated.

When a public official has an actual or potential conflict of interest, they must announce or disclose the nature of the conflict of interest. The method of disclosure that is required to be made depends on the position held by the public official. When a member of the legislature is presented with a potential or actual conflict of interest, they must announce prior to voting on the chamber floor or in the committee meeting, the nature of the actual or potential conflict giving rise to the conflict of interest. The member’s announcement of an actual or potential conflict of interest is recorded in the chambers’ journal or in the committee log.

In addition, members of the House of Representatives, pursuant to chamber Rule 3.21, are required to file a written statement addressing the nature of the actual or potential conflict with the Chief Clerk or the committee assistant by 5:00 p.m. the next



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business day following the vote on the measure.

USE OF OFFICE FOR FINANCIAL GAIN

Public officials are generally prohibited from using their public office for personal or financial gain. OERA expanded the application of this requirement to include relatives and members of a public official's household. The OERA clarified that gifts otherwise allowed by law, gifts from persons without a legislative or administrative interest, items that are expressly excluded from the definition of "gift" ([see ORS 244.020](#)) and contributions to a legal expense trust fund are not considered financial gain.

REPORTING

PUBLIC OFFICIALS AND CERTAIN CANDIDATES

There are approximately 5,500 Oregon public officials who must file an Annual Verified Statement of Economic Interest (SEI) with OGEC. The information that public officials are required to include on the SEI is: expenses that exceed \$50 for conventions, missions, trips or other meetings paid for by tribes, governments, or certain non-profit organizations; expenses that exceed \$50 for officially sanctioned fact finding missions or economic development activities paid for by third parties; honoraria that exceed \$15; name, address and description of each source of income (taxable or not) that exceeds \$1,000 for the filer or a member of the filer's household; name and address of each business through which the filer or member of the household did business; ownership interests held by the filer or members of the household in real property, and sources of income that produce 10 percent or more of household income.

LOBBYISTS

Lobbyists are people who engage in efforts to influence legislative action, either by direct communication with legislative officials or by solicitation of executive officials or other persons. The legislature requires lobbyists to regularly report their efforts to OGEC and be transparent to the public.

A lobbyist and the individual or organization employing the lobbyist are required to file a quarterly report with OGEC. They are required to report all moneys expended for food, refreshment and entertainment and an itemized list of expenditures made on behalf of a legislative or executive official of greater than \$50 on a single occasion. If the total amount expended on the occasion exceeds \$50, the reporting entity must report the name of the legislative or executive official to whom or for whose benefit the expenditure was made for the purposes of lobbying, including reporting the date, name of payee, purpose and amount of that expenditure.

Penalties for late filing by lobbyists and public officials are \$10 per day for the first 14 days and \$50 per day thereafter up to a maximum of \$5,000.

In December 2015, OGEC launched an [electronic filing system \(EFS\)](#) that permits lobbyists, lobbyist clients/employer and all SEI to file all required statements electronically. In addition, the system enables the public to view the SEIs of required filers, lobbyists and lobbyist clients/employer quarterly expenditure reports and registered lobbyists and who they are registered to represent.



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GIFTS

The term “gift” is defined broadly as anything of economic value that is given to a public official, a relative, or member of the public official’s household that is not equally extended to non-public officials. Although there are a number of exemptions to this definition, public officials are limited to receiving a total amount of \$50 per year from a single source with a legislative or administrative interest.

In 2009, the legislature amended the definition of what a legislative or administrative interest is. This was a significant change because knowing if the source of a gift has a legislative or administrative interest will help determine whether the gift offered can be accepted without limits or with restrictions. The definition of a legislative or administrative interest means:

“an economic interest, distinct from that of the general public, in:

- (a) Any matter subject to the decision or vote of the public official acting in the public official’s capacity as a public official; or
- (b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.”

The gift limits do not apply to gifts from private employment or volunteer work of the public official or relative, when given as part of the usual and customary practice, and bearing no relationship to the official’s holding of public office.

Public officials may not accept unlimited food, travel or lodging expenses unless the expenses fit into a specific exemption to the definition of “gift.” A public official or a relative, member of the public official’s household or staff member accompanying the public official, may accept reasonable food, travel or lodging expenses when the public official is representing state government, a local government or a special government body.

Gifts of entertainment from persons with a legislative or administrative interest in a public official, a relative or member of the official’s household are subject to the \$50 gift limit per year, unless the entertainment is “incidental” to an event or is “ceremonial.”

HONORARIA

A public official or a member of the public official’s household is limited to receiving a maximum of \$50 in honoraria in connection with the official duties of the public official.

NEPOTISM

A public body can hire the relative of a public official, but a public official may not be involved in the hiring process unless the official follows conflict of interest rules. A public official may not directly supervise a relative unless the public body authorizes the supervision. There are exceptions for personal legislative staff and unpaid volunteers. Public officials who are elected members of the legislature are not prohibited from participating in employment actions taken on positions held by relatives of the member’s personal staff.



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CONTRACTS AND SUBSEQUENT EMPLOYMENT

Public officials may not have a direct beneficial financial interest in a contract that the person “authorized” as a public official for two years after the date the contract was authorized. Additionally, former legislators are prohibited from becoming a paid lobbyist until the end of the next regular session after their departure from the legislature.

PENALTIES AND LETTERS OF REPRIMAND

OERA increases the civil penalty to not more than \$5,000 for violation. In addition to the Commission finding a violation, it may issue a letter of reprimand, explanation or require participation in a training session or workshop.

LEGAL EXPENSE TRUST FUND

The OGECE is authorized to establish a legal expense trust fund for public officials, upon application. The fund may be used to defray legal expenses incurred by a public official in any civil, criminal or other legal proceeding or investigation that relates to the course and scope of duties of public office, for issuance of a protective stalking order, or to defend the public official in a proceeding or investigation by a public body.

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