



GOVERNMENT ETHICS AND LAW

LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

BACKGROUND BRIEF

Oregon's government ethics laws dictate how public officials and lobbyists are expected to behave. Government ethics laws act as a guide for public officials when taking certain actions and making certain decisions. They also act as a guide for lobbyists, who seek to motivate the behavior of public officials. Further, serving in public office is a public trust, and Oregon's government ethics laws serve as a safeguard for that trust.

Oregon's government ethics laws were established in 1974, as approved by the voters with Ballot Measure 14, which relate to Public Officials' Financial Ethics and Reporting ([Oregon Revised Statutes \(ORS\) Chapter 244 \(2019\)](#)). Oregon's government ethics laws were established in reaction to the Watergate scandal in Washington, D.C. in the early 1970s, and were among the first in the country.

These statutes require financial disclosure by certain officials and create a process for addressing conflicts of interest. In 2007, [Senate Bill 10](#) and [House Bill 2595](#), known as the Oregon Ethics Reform Act (OERA), were signed into law, which significantly revised and updated the statutes.

In general, [ORS Chapter 244](#), and related statutes, 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, which are overseen by the Oregon Government Ethics Commission (OGEC). This background brief provides an overview of the OGEC and government ethics laws it is charged with enforcing.

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OREGON GOVERNMENT ETHICS COMMISSION

Background

The [Oregon Government Ethics Commission](#) (OGEC) was established by the adoption of Ballot Measure 14 in 1974. Originally, it was comprised of seven citizen volunteer members: four members appointed by the Governor upon recommendation by party

leadership of the Legislative Assembly and three members directly appointed by the Governor. In 1993, the Legislative Assembly changed the OGEC's name to the Government Standards and Practices Commission; it was changed back to the OGEC in 2007. Signed into law in 2015, and effective July 1, 2016, its membership changed to nine members: eight appointed by the Governor based on recommendations given by party leadership of the Legislative Assembly and one member directly appointed by the Governor. A member of the OGEC may serve only one full four-year term. The OGEC meets about every six weeks.

Jurisdiction

The OGEC's mission is to "impartially and effectively administer and enforce Oregon's government ethics laws for the benefit of Oregon's citizens."¹ The OGEC does this through three jurisdictions: enforcing the laws prohibiting public officials from using their office for financial gain and those requiring public disclosure of economic conflicts of interest ([ORS Chapter 244](#)); enforcing laws requiring lobbyists and the entities they represent to register and report their expenditures ([ORS 171.725 – 171.785 and 171.992 \(2019\)](#)); and, overseeing the executive session provisions of public meetings law ([ORS 192.660 and 192.685 \(2019\)](#)).

Other Duties

The OGEC provides advisory opinions, staff opinions, and staff advice to provide greater immunity or mitigation from sanctions. It provides [trainings](#) for both public officials and lobbyists and, pursuant to ORS 244.320 (2019), it publishes a [Guide for Public Officials](#). The OGEC also offers a [platform](#) in which ethics complaints can be filed.

Legal Expense Trust Fund. The OGEC may authorize a public official to establish a legal expense trust fund if the public official incurs or reasonably expects to incur certain legal expenses. The fund may be used to defray legal expenses incurred 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.²

Penalties and Letters of Reprimand. The OGEC may impose civil penalties for violations of the government ethics laws that it enforces. The OGEC may also issue a letter of reprimand, explanation, or require participation in a training session or workshop, in lieu of, or in conjunction with, issuing a civil violation.

¹ OGEC: <https://www.oregon.gov/ogec/about-us/Pages/default.aspx>

² [ORS 244.205 \(2019\)](#)

OREGON GOVERNMENT ETHICS LAWS

Public Officials

Serving in public office is a public trust, and Oregon's government ethics laws serve as a safeguard for that trust. Oregon statute sets forth these safeguards by placing restrictions on certain actions and decisions of public officials. A public official is:

- the First Spouse;
- a person who is elected or appointed to an office or position with a state or local government;
- an employee or agent of a state or local government; or
- an unpaid volunteer for a state or local government.³

Conflict of Interest. Ethics legislation was originally guided by the recognition that a conflict of interest is inevitable in any government that relies on citizen lawmakers. A public official is met with a conflict of interest when participating in official action that 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.

Further, a public official may be met with an actual or potential conflict of interest when making decisions. An actual conflict of interest arises when any action, decision, or recommendation by the person results in a private pecuniary benefit or detriment to the person or the person's relative or any business with which the person or a relative of the person is associated. A potential conflict of interest occurs when any action, decision, or recommendation by a person acting in a capacity as a public official could result in a private pecuniary benefit or detriment of the person or the person's relative or a business with which the person or the person's relative is associated.⁴

When an actual or potential conflict of interest arises for a public official, that official must announce or disclose its nature. The method of disclosure required depends on the position held by the public official. For example, when a member of the Legislative Assembly is presented with a potential or actual conflict of interest, they must announce the nature of the conflict prior to voting on the issue giving rise to the conflict – whether on a chamber floor or in a committee meeting. The member's announcement is recorded in the chamber's journal or in the committee logs.

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 pm the next business day following the vote on the measure.

³ [ORS 244.020 \(2019\)](#)

⁴ [ORS 244.020 \(2019\)](#)

Financial Reporting. Certain public officials are required to file an Annual Verified Statement of Economic Interest (SEI) with the OGEC by April 15 of each calendar year.⁵ The required information includes, but is not limited to, the following:

- expenses that exceed \$50 for conventions, missions, trips or other meetings paid for by tribes, governments, or certain nonprofit organizations, and 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.⁶

In December 2015, the OGEC launched an [electronic filing system \(EFS\)](#) that permits the electronic submission of all required statements. It also allows the public to view the SEIs of all required filers.

Penalties for failing to file SEIs are \$10 per day for the first 14 days and \$50 per day thereafter up to a maximum of \$5,000.

Gifts. [ORS 244.020 \(2019\)](#) defines the term “gift” 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 nonpublic officials. While many exemptions to this definition exist, [ORS 244.025](#) states that public officials cannot receive more than \$50 per year from a single source with a legislative or administrative interest.

In 2009, the Legislative Assembly amended the definition for a “legislative or administrative interest” to allow public officials to more easily identify whether the source of a gift has a legislative or administrative interest. This is significant because a public official can more clearly determine whether the gift offered can be accepted or whether it has limits or restrictions. A legislative or administrative interest is 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.⁷

⁵ [ORS 244.055 and ORS 244.160 \(2019\)](#)

⁶ [ORS 244.060 \(2019\)](#)

⁷ [ORS 244.020\(10\) \(2019\)](#)

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."⁸

Honoraria. [ORS 244.042](#) (2019) limits a public official or a member of the public official's household from soliciting or receiving honoraria that exceeds \$50 in connection with the official duties of the public official.

Nepotism. A public body can hire the relative of a public official, but the 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 Legislative Assembly are not prohibited from participating in employment actions taken on personal legislative staff positions held by relatives or household members.⁹

Contracts and 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.¹⁰ Current public officials are not prohibited from seeking private employment; however, they are prohibited from soliciting or accepting the promise of future employment based on the understanding that the offer is contingent on the public official's vote, action, or judgement.¹¹ Former public officials are prohibited from attempting to use confidential information obtained while in office for personal gain outside of office.¹² Additionally, former legislators are prohibited from becoming a paid lobbyist for one year after their departure from the Legislative Assembly.¹³

Lobbyists

Lobbyists are individuals who engage in efforts to influence legislative action, either by direct communication with legislative officials or by solicitation of executive officials or

⁸ [ORS 244.020 \(2019\)](#)

⁹ [ORS 244.177 \(2019\)](#)

¹⁰ [ORS 244.047\(2\) and \(3\) \(2019\)](#)

¹¹ [ORS 244.040\(3\) \(2019\)](#)

¹² [ORS 244.040\(5\) \(2019\)](#)

¹³ [ORS 244.045 \(2019\)](#)

other persons.¹⁴ Because of this, they must also meet legal requirements that are primarily focused on financial reporting of their official activities.

Financial Reporting. [ORS 171.725 through ORS 171.785 \(2019\)](#) require individuals who meet certain lobbying thresholds, or the individual or organization employing the lobbyist, to file quarterly expenditure reports with the OGEC, which can be filed through the EFS. These reports include 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 failing to file SEIs are \$10 per day for the first 14 days and \$50 per day thereafter up to a maximum of \$5,000.

RECENT LEGISLATION

2019

[House Bill 2595 \(2019\)](#) established a fixed period of one year as the time during which a former legislator must wait after leaving office before becoming a paid lobbyist. This clarified the intent of the previous ambiguous deadline, since Oregon has two types of alternating regular sessions – short and long.

2017

[House Bill 2298 \(2017\)](#) clarified SEI filing requirements for candidates of a statewide office, a judicial position, district attorney, or a member of the Legislative Assembly, who become candidates after April 15, by requiring them to file their SEIs by no later than the 40th day before the statewide general election. This resolved potential different interpretations of filing laws for candidates who do not participate in Primary Elections, such as those from a minor party or who are write-in candidates.

¹⁴ [ORS 171.725 \(2019\)](#)

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