



Basics of Oregon Ethics Laws

BY RICHARD P. BURKE

INTRODUCTION:

If you are a public official, may one day be a public official, or are an activist who monitors government boards and commissions, you will want to become familiar with Oregon government ethics law. NOTE: This training document is not a legal document, nor is it intended to provide legal advice. Instead, it is a descriptive, but not exhaustive, document about some basics of Oregon government ethics laws. For more information, read the statutes described in this document or check out the Oregon Govt. Ethics Commission (OGEC) website by pointing your browser to: <http://www.oregon.gov/ogec/Pages/index.aspx>

1 WHO DO ETHICS LAWS APPLY TO

Oregon ethics laws apply to public officials (ORS Chapter 244), lobbyists (ORS 171.725 through 171.992), and the executive session provisions of Oregon Public Meetings law (ORS 192.660). You should consider reading these statutes to learn more. The scope of this document will be limited to dealing with ethics laws as they relate to public officials.

2 WHO IS A PUBLIC OFFICIAL

A public official is any person serving the State of Oregon, any of its political subdivisions, or any public body whether they are an elected official, appointed official, employee or agent. It doesn't matter if they are compensated for their services or not. If people perform such tasks as picking up litter on public lands, taking part in a building cleanup, or other such activities, they are not considered to be public officials.

3 WHAT ARE THE PURPOSES OF ETHICS LAWS

Overall, the main purposes of ethics laws are to prevent and stop government corruption intended to:

- a. Prevent public officials from using their positions to obtain financial benefits that would not be available to them, their household members, or any businesses that they, their relatives, or their household members are associated with if they were not public officials.
- b. Prevent public officials from using confidential information obtained because of their positions or actions taken in the course of carrying out their duties for personal gain.
- c. Prevent public officials from testifying to their own boards or commissions when they own or represent businesses which their boards pay or may pay for specific goods or services. Examples include engineering firms, legal firms, architectural firms, and software companies. Other people may represent such firms, but not the office holders themselves.
- d. Determine which forms of compensation or benefits public officials may properly receive for their work. These include official compensation (established salary, health care benefits, and the like), reimbursement of expenses (reasonable expenses incurred while working in an official capacity), honorarium not exceeding \$50 (a speech, for example, although additional requirements for honorarium exist in statute), awards for professional achievement (there are restrictions to delineate such awards from honorarium or gifts), contributions to legal defense funds, and certain gifts. Statute establishes many conditions with respect to these categories.

4 OTHER ISSUES

a. Nepotism. For the purposes of this training, nepotism is defined as hiring, appointing, or awarding contracts to persons based solely on their familial relationship to a public official. Family members of public officials can be hired, appointed, and awarded contracts, but there are a number of restrictions and caveats outlined in statute.

Officially, "family members" include the current spouse of the public official plus their children, parents, step-parents, stepchildren, siblings, half-siblings, parent and siblings in-law, aunts, uncles, nieces and nephews.

A public official must declare any actual or potential conflict of interest before taking action. No public official can participate in any personnel action that would impact family or household members unless they are serving

4 OTHER ISSUES (CONT)

as volunteers. Unless they are a member of the legislature, no public official can be in a position where they are supervising a family or household member unless they are serving as a volunteer (a public board may determine when such supervision can take place). There are exceptions in statute relating to unusual cases.

b. Owning a Business or Accepting Private Employment. Generally, public officials can work for private employers or even own their own business. It is illegal to solicit or extend a promise of employment based on a person's status as a public official. Public officials cannot use public resources or their position to create opportunities for income. There must be a clear distinction between a public official's private work and their use of the public body's time and resources.

c. Employment of Former Public Officials. For two years after a person ceases being a public official, they may not have a direct financial interest in a public contract where one of the parties is the public body they had served on. They must not have "paved the way" for such contracts while previously serving on the board by playing a significant role in selecting, recommending, or approving the vendor they have an interest with.

There are few restrictions on what employment public officials may accept after they leave their positions, but they cannot use confidential information obtained while serving as an official for personal gain. There are additional restrictions in ORS Chapter 244 relating to people wishing to work with or for particular government entities.

d. Accepting Gifts. A "gift" is something of economic value offered to an official or candidate, or members of their household, without cost which is not made available to the general public. There are circumstances where accepting gifts can be appropriate, but it is generally best for public officials to avoid accepting gifts – doing so makes it easy to accidentally step on a legal landmine and can create perceptions of corruption even if one is technically behaving legally. If you see a public official accepting a lot of gifts, you could be looking at red flags.

In the Oregon Government Ethics Commission's "Guide for Public Officials," pages and pages are dedicated to determining what a "gift" is, what kinds of gifts may be accepted under what circumstances, and more – that's how complicated it is. As an example, vendors will sometimes entertain board members, but their gifts (generally dinners), typically can not come to more than \$50 per year per official.

5 CONFLICTS OF INTEREST

Oregon ethics laws make a distinction between ACTUAL conflicts of interest, where a public official "would" have a conflict, and POTENTIAL conflicts of interest, where the public official "could" have a conflict. An example of an ACTUAL conflict of interest would be if a board member who was also a city employee was asked to vote on a contract between his board and the city he works for. A POTENTIAL conflict of interest might be if a board member owned a construction company that could be engaged by the board he serves on to build something.

Public officials must announce any conflicts before participating in any official action on each item in which they may have conflicts. They must announce whether they have an actual or potential conflict of interest. If they have a POTENTIAL conflict of interest, they may participate in taking official action on the item after announcing the potential conflict. If they have an ACTUAL conflict, they may not participate unless their vote is required to meet the minimum number of votes required to act (like when so many members of the board have conflicts that the board could not otherwise take action). Declared conflicts of interest are recorded in meeting minutes. More specific details exist in statute.

CONCLUSION:

This offers a basic introduction and some rules of thumb relating to Oregon's ethics laws. Speak to an attorney or contact the Oregon Ethics commission if you have questions. Learn more by visiting the website of the Oregon Ethics Commission and reading their document, "A Guide for Public Officials," available on the Oregon Ethics Commission website and made available as a part of this training. Using common sense and acting with integrity covers most of the bases, but there are traps! Know the guidelines and you'll be OK!