

Oregon Public Meetings Law and Ethics Laws and Key Issues for Public Officials

Mike Porter

Miller Nash Graham & Dunn LLP

January 19, 2021

Oregon Public Meetings Law

Policy expressed through ORS 192.620: “The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which decisions were made. It is the intent of the [public meetings law] that decisions of governing bodies be arrived at openly.”

Oregon Public Meetings Law

[Oregon Attorney General's Public Records and Meetings Manual](#)

**Meetings and to Meet
Enforcement For Executive Session Violations
Executive Session Challenges**

Meetings and to Meet

- *Handy v. Lane County*
 - *Serial communications*
 - *Purpose of deliberation/decision-making*
- Practical Implications
 - Avoid “reply to all”
 - Beware the accidental quorum
 - Thoughtful assessment of what might become a Board decision

Bodies Subject to the Law

- “Public Body”
 - Authority to Make Decisions for a Public Body
 - Authority to Make Recommendations to a Public Body
 - Evaluate Advisory Committee Structure and Purpose

Oregon Public Meetings Law

Common Executive Session Challenges

- Permitted Executive Sessions
 - Twelve “plus” executive session purposes
- Scope
 - Must stay within constraints of purpose

Enforcement For Executive Session Violations

- Oregon Government Ethics Commission Enforcement
- Civil Penalty Up to \$1,000

Oregon Ethics Law

Oregon Ethics Law

Policy of Oregon Ethics laws: “The Legislative Assembly declares that service as a public official is a public trust and that, as one safeguard for that trust, the people require all public officials to comply with the applicable provisions of this chapter.” ORS 244.010(1). “The Legislative Assembly recognizes that public officials should uphold the principles described in [the Oregon ethics laws], ever conscious of the public's trust.” ORS 244.010(8).

Overview

[Oregon Government Ethics Commission](#)

[Oregon.gov/OGEC](https://www.oregon.gov/OGEC)

[Oregon Ethics Commission Guide for Public Officials](#)

Use of Office Gifts Conflicts of Interest

Use of Office

- General rule: a public official may not use or attempt to use official position or office to obtain financial gain or avoid financial detriment
- This rule applies to:
 - Any person serving a public body as an officer, employee, or agent, irrespective of whether the person is compensated
 - Relative: spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of official
 - Business with which the official or relative is associated
 - Director, officer, employee, or agent
 - Publicly held corporation, officer or director, or stock (\$1,000 for private/closely held, \$100,000 publicly held)

Use of Office

Common exceptions to general rule

- Official compensation
- Some “honorariums”
 - Certificate, plaque, commemorative token or other item with a value of \$50 or less
 - In relation to private business, profession, avocation, or expertise
- Reimbursement of expenses
- Exception to gift prohibition

Use of Office Examples

- Frequent flier/credit card benefits
- Volume discounts
- Compensation/“official salary”
- Benefits same terms and conditions as private sector

Gift Prohibition

General rule: Public official may not accept, directly or indirectly, gift or gifts worth over \$50 in calendar year from a single source which could have an “administrative or legislative interest”

Gifts: Common Exceptions

- Campaign contributions
- Relatives or member of household
- Unsolicited token/award <\$25
- Subscription related to performance of official duties
- Admission/food for official or member of household when representing public body
- Continuing education discounts
- Entertainment incidental to main purpose
- Expenses for public school employee accompanying students on educational trip

Conflicts of Interest

- Potential action decision or “could be” to the private pecuniary benefit, to person, relative, associated business
 - Limited exceptions
- Actual conflict : would result in private pecuniary benefit

Conflicts of Interest

- Declaration required
- Participation
 - May participate if potential
 - May not participate if actual (unless necessity)

Procedures and Penalties

- Official opinions
- Staff opinion
- \$5,000/2x financial benefit

Oregon Ethics and Public Meetings Law Key Issues for Public Officials

Mike Porter

Miller Nash Graham & Dunn LLP

January 19, 2021