

# Oregon's Ethics Law: What Board Members Need to Know

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## FINANCIAL GAIN

Public officials are prohibited from using their official position or office to obtain financial gain or avoid financial detriment if the gain or avoidance of detriment would otherwise not be available but for the official's holding of the official position or office. This prohibition applies to relatives and members of your household, and any business with which you or a relative or member of your household are associated.

**EXCEPTIONS** –The prohibition on financial gain does NOT apply to:

- A public official's official compensation package as determined by the public body.
  - "Official compensation package" means "wages or other benefits specifically approved by the public body in a formal manner, such as through a union contract, employment contract, or other adopted personnel policies that apply generally to employees."
- Allowable honorarium. (See below.)
- Reimbursement of expenses.
  - "Reimbursement of expenses" means "payment by a public body to a public official serving that public body of expenses occurred in the conduct of official duties on behalf of the public body".
- Unsolicited awards for professional achievement.
- Gifts that do not exceed the limits of the gift provisions (e.g., \$50 from a single source with a legislative or administrative interest in your college in a calendar year).
- Items that are expressly excluded from the gift limit. (See gift exceptions below.)
- Contributions to a legal expense fund established under ORS 244.209.

## CONFLICTS OF INTEREST

A conflict of interest arises when a public official participates in an official action which could result in a financial benefit or detriment to the public official, their relative or their business. There are two types of conflicts of interest defined in Oregon's law – an **actual** conflict of interest or a **potential** conflict of interest. The law requires different actions depending on the type of conflict. Disclosure of the nature of the conflict must be publicly announced and recorded in the board's public record.

**ACTUAL CONFLICT OF INTEREST** – A public official has an actual conflict of interest when their official action **WOULD** result in a financial benefit or detriment to the public official, their relative or their business. An elected official with an actual conflict of interest must publicly announce the nature of the conflict and may **NOT** take any further official action. There are limited exceptions to this prohibition including cases where it is necessary to vote for purposes of a quorum (but you must refrain from discussion), and when the actual conflict impacts an identifiable group or "class" to the same degree as the public official.

**POTENTIAL CONFLICT OF INTEREST** – A public official has a potential conflict of interest when their official action **COULD** result in a financial benefit or detriment to the public official, their relative or their business. An elected official with a potential conflict of interest must publicly announce the nature of the conflict and may participate in any official action related to the issue.

## GIFTS

The annual limit for gifts given to a public official (includes board members, administrators, employees and some volunteers) is **\$50** from a single source if the gift giver has a legislative or administrative interest in the public official to whom the gift is given. Public officials are responsible for keeping track of the source and value of all gifts received.

A legislative or administrative interest is now defined as an economic interest distinct from the general public in any matter subject to the decision or vote of a public official acting in their official capacity. The source of the gift is the person who “caused or initiated the gift”, in other words, the person who is the payor of the gift. The law no longer requires the recipient of a gift to determine if the person giving the gift has a broader interest in the public official’s government agency.

Meals (food and beverage) are considered gifts and are subject to the above limits.

You may now accept gifts of entertainment subject to the \$50 gift limit (such as tickets to a sporting event, concert, play, movies, a round of golf, skiing, hunting, fishing, etc..).

These limits apply to your relatives and members of your household too. Each individual member of the family or household has a \$50 limit.

**EXCEPTIONS** – There are several exceptions to the gift limits but these exceptions are narrower than under previous law. The following are exceptions from the gift limits:

- Campaign contributions.
- Gifts from relatives or members of your household.
- Unsolicited tokens or awards of appreciation if value is less than \$25.
- Admission and meals provided to you when you are invited to attend a reception, meal or meeting held by organization when you are attending as representative of the college. This exception does not apply to “private meals with small numbers of participants.”
- Informational material, publications or subscriptions related to your position.
- Expenses paid by a government entity, membership organization to which the college pays dues, or a non-profit corporation for attendance at a convention, fact-finding trip, or other meeting if you are delivering a speech, making a presentation, participating in a panel, or representing your college.
  - “Representing” your college means that you are participating in an event on behalf of the college in your capacity as a public official.
- Food, travel or lodging expenses paid to you, a relative, member of your household, or staff when you are representing your college on an “officially sanctioned” trade-promotion or fact-finding mission, or in official negotiations or economic development activities.
  - “Officially sanctioned” means written approval given by a person authorized by the public body to give approval such as a supervisor or the college’s Board of Education.
- Expenses provided by a public official to you for travel in state to and from an event that is related to your official office and in which you participate in your official capacity.

- Food and beverage provided at a reception (e.g. social gathering) where the food and beverage are an incidental part of the reception.
- Entertainment that is an incidental part of another event or in which you have been invited to participate in your official capacity (i.e., throwing out the first ball at a baseball game).
- Gifts offered as part of the usual and customary practice of a person's private business, employment or volunteer position that bears no relationship to the public official's official position.

## HONORARIA

You may **NOT** solicit or receive, directly or indirectly, honoraria for yourself, or any member of your household, in connection with your official duties.

This prohibition does not apply to the receipt of an honorarium, or a certificate, plaque, commemorative token or other item with a value of less than \$50; or honoraria received for services performed in relation to your private profession, occupation, avocation, or expertise.

## NEPOTISM

A public body may hire the relative of a public official who is serving in the public body. The public official is prohibited from hiring, appointing, or promoting relatives unless the public official complies with the conflict of interest requirements. The public official is prohibited from directly supervising a relative or member of the household.

## REPORTING

### **Who must report?**

Community college board members are **NOT** required to file Statements of Economic Interest or otherwise report the receipt of gifts. It is a good idea, however, to keep track of the source and value of all gifts received in case a question is raised by the Oregon Government Ethics Commission.

## PENALTIES FOR VIOLATIONS

The amount of civil penalties that can be assessed by the Oregon Government Ethics Commission for violations of the law has increased to \$5,000 per violation. A new provision of the law allows public officials to rely on advice contained in the OGE public ethics manual without fear of sanction. In addition, it limits the sanction that may be imposed on a public official who relies on faulty advice from OGE staff to a letter of education or explanation.

## IMPORTANT DEFINITIONS

**Gift** – something of economic value given to a public official or relative or a member of their household without valuable consideration.

**Relative** – spouse, domestic partner, children, siblings, parents, spouse’s parents and siblings, individuals for whom you have a legal support obligation, or anyone to whom you provide a benefit due to your employment, or any individual from whom you receive benefits arising from that individual’s employment.

**Legislative or Administrative Interest** – an economic interest distinct from the general public any matter subject to the decision or vote of the public official acting in their official capacity.

## QUESTIONS

For questions about specific situations call the Oregon Government Ethics Commission at (503) 378-5105.

*This document was prepared by OCCA staff for the general information of our members and should not be considered legal advice. The source of the information provided is the 2007 Oregon Revised Statutes Chapter 244, SB 30 (2009), SB 2518 (2009) and OGEC Administrative Rules.*