

OREGON GOVERNMENT ETHICS COMMISSION



Oregon Freight Advisory Committee

Objectives

- Identify when you are acting as a public official and recognize that the law restricts some choices, decisions or actions that you may make.
- Be able to identify statutory conflicts of interest.
- Know how the law requires you to respond when you are met with a statutory conflict of interest.

Safeguard of the Public Trust

“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)



Conflicts of Interest





In brief, a public official is met with a conflict of interest when participating in an official action could result in a financial effect to the public official, a relative of the public official or a business with which either are associated.

Conflicts of Interest

Statutory conflicts of interest have three components:

1. An action, decision, or recommendation made in the official capacity

which causes

2. A private pecuniary benefit or detriment

for

3. The public official, the public official's relatives, or a business associated with the public official or the public official's relative.

Conflicts of Interest

Many of these words have a specific meaning in statute.

Reviewing the definitions of some of these words will help us understand the statute more clearly.

Definitions

Public Official ORS 244.020(14)

“Public Official” means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.



Pecuniary Benefit

Pecuniary benefit

Benefit measurable
in terms of money.



Pecuniary detriment

Loss measurable
in terms of money.



Relative ORS 244.020(15)

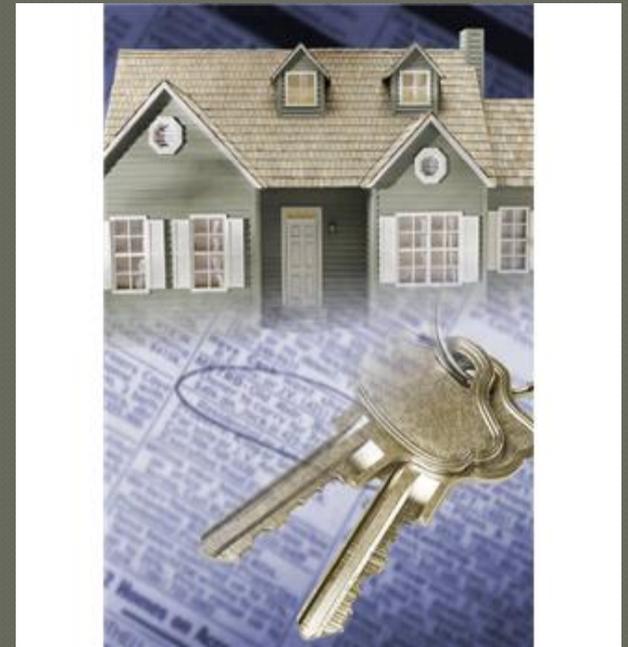
- Spouse
- Children/ Stepchildren
- Siblings/ in Law
- Spouse of Siblings/ in law
- Parents/ in law
- Person for whom the public official have a legal support obligation
- Person who receives benefits from a public official's public employment
- Person who provides benefits to public official or candidate from that person's employment



Member of Household

Although not mentioned in statute, be aware of actions that may result in a financial effect to a member of your household, or the household of any of your relatives.

If those household members are economically impacted, it could create either an economic benefit or loss to you or one of your relatives, so that action might present you with a conflict of interest.



“Business” ORS 244.020(2)

A “business” is: any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain.

A “business” is not: any tax-exempt 501-C non-profit organization, if the public official or a relative of the public official is associated only as a member or board director or holds an unpaid position.

Note: *Public bodies are not included.*

“Business with which the person is Associated” ORS 244.020(3)

A person is “associated with” a private business if: the person is a director, officer, owner or employee, or agent of the business; or if a person owns or has owned more than \$1000 worth of stock, equity interest, stock options, or debt interest of a private business in the preceding calendar year.

A person is “associated with” a publicly held corporation if: the person is an officer or director of the publically traded company, or if the person owns or has owned more than \$100,000 worth of stock in the preceding calendar year.

Actual Conflict of Interest

Any action, decision, or recommendation by a public official in their official capacity, the effect of which **WOULD** be to the private pecuniary gain or detriment of the public official, a relative or household member of the public official, or a business with which any of the above are associated.

ORS 244.020(1)

If the financial effect of an action is both **specific** and **certain**, then that action presents an actual conflict of interest.

Potential Conflict of Interest

Any action, decision, or recommendation by a public official in official capacity, the effect of which **COULD** be to the private pecuniary gain or detriment of the official, relative, or business of official or relative. ORS 244.020(12)

If the financial effect of an action is unknown, or if the financial effect might happen but might not, so the effect of that action is not certain, then that situation would present only a potential conflict of interest to a public official.

What if I am met with a conflict of interest?



Appointed, Employed or Volunteer

- ✓ Must provide written notice to the person who appointed or employed them.
- ✓ The notice must describe the nature of the conflict of interest with which they are met.
- ✓ When a public official gives notice of a conflict, the conflict ***must*** be recorded in the official records of the public body.
- ✓ An announcement needs to be made on each occasion the conflict of interest is met.

The Public Body's Response

When a public official gives notice of a conflict, the notice *must* be recorded in the official records of the public body.

ORS 244.130

The supervisor must respond to the written conflict of interest notice by either assigning someone else to that task or by instructing the employee how to take care of the matter. This response should be in writing.

ORS 244.120(1)(c)

Officials on Boards or Commissions & Elected Officials ORS 244.120(2)

Must publicly announce the nature of the conflict of interest on each occasion the conflict arises.

- Must publicly announce potential conflicts of interest, on each occasion **before taking action**.
- Must publicly announce actual conflicts of interest, on each occasion, and **refrain** from participating in **discussion, debate, or voting** on the issue out of which the actual conflict arises.

Announcement Exception: ORS 244.020(12)(a)

An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.



Announcement Exception: ORS 244.020(12)(b)

Any action which would affect to the same degree a class consisting of an industry, occupation or other group with which the public official, their relative, or business with which the person or the person's relative is associated, is a member, or is engaged.

Note: the Oregon Government Ethics Commission is the only body granted the authority in statute to indentify a "group" or "class".

Announcement Exception ORS 244.020(12)(c)

Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.



Violations/Sanctions

Complaints

Written, signed complaint/Own motion



Preliminary Review



Investigation



Settlement/Contested Case Hearing

Sanctions

Civil Penalty = Up to \$5,000 per violation.

[ORS 244.350]

Forfeiture = twice the amount of any financial benefit or avoidance realized.

[ORS 244.360]

Letters of reprimand, explanation or education.

[ORS 244.350(5)]

Resources

Contact us!

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The End!