

# New Director Orientation

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2023



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# Training Overview

Who are you? ORS 568

Board of Director Powers And Protections

ODA/SWCD Program Organization – Who's Who and What We Do

Public Meeting Law

Public Records Law

Ethics



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# Who Are You?

- Special District
- Municipal Corporation
- Subdivision of state government

## Who Are You Not?

- Non-Profit – 501(C)(3) or any other 501
- NGO (Non-Governmental Organization)
- “Not-for-Profit”
- Private Corporation

# Dillon's Rule

“A local government may exercise powers that are expressly provided for by law or are necessarily implied.”



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# ORS 568

Primary Statute relating to formation and governance of Oregon's Soil and Water Conservation Districts

## Definitions

- Oregon Revised Statute (ORS): Law enacted by legislative assembly of the state.
- Oregon Administrative Rule (OAR): A directive, standard, regulation or statement of general applicability that implements, interprets, or prescribes law or policy or describes an agency's procedure or practice requirements.



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# Who are you?

## ORS 568.225 Policy

- (1) In recognition of the ever-increasing demands on renewable natural resources of the state and of the need to conserve, protect and develop such resources, it is hereby declared to be the policy of the Legislative Assembly to provide for the conservation of the renewable natural resources of the state...
- (2) It is further the policy of the Legislative Assembly to authorize soil and water conservation districts...to participate in effectuating the policy...



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# ORS 568

ORS 568.550 General Powers of board of directors...



**By being elected to public office,  
what does the law allow you to do?**

*Not much at all.*



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# Powers of the Board

## No individual power or authority

- Unless granted by the district board

## May be given power or authority

- Act on behalf of the board
- Specific and limited tasks

## Granted through board action

- Resolution, motion or policy
- Recorded in minutes



# Director Board of Directors

## Oregon Tort Claims Act.

“Subject to the limitations of ORS 30.260 to 30.300, every public body is subject to action or suit for its torts and those of its officers, employees and agents acting within the scope of their employment or duties.... The sole cause of action for any tort of officers, employees or agents of a public body acting within the scope of their employment or duties ... shall be an action against the public body only... No other form of civil action or suit shall be permitted.”



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# District Board of Directors

Liability (generally...but I'm not a lawyer)

- Board as a whole is covered by your liability insurance (check with carrier for details).
- In lawsuits, individually named board members are folded into lawsuit against the district (Corporate Shield).
- “Acting outside of the scope of duties”, “Willful neglect” or “dereliction of duty” removes individual protections and possibly liability insurance coverage.



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# Examples of powers granted through board actions:

Staff supervision

Obligation of district funds

Serving as a district spokesperson for public presentations, media, etc.

Managing projects

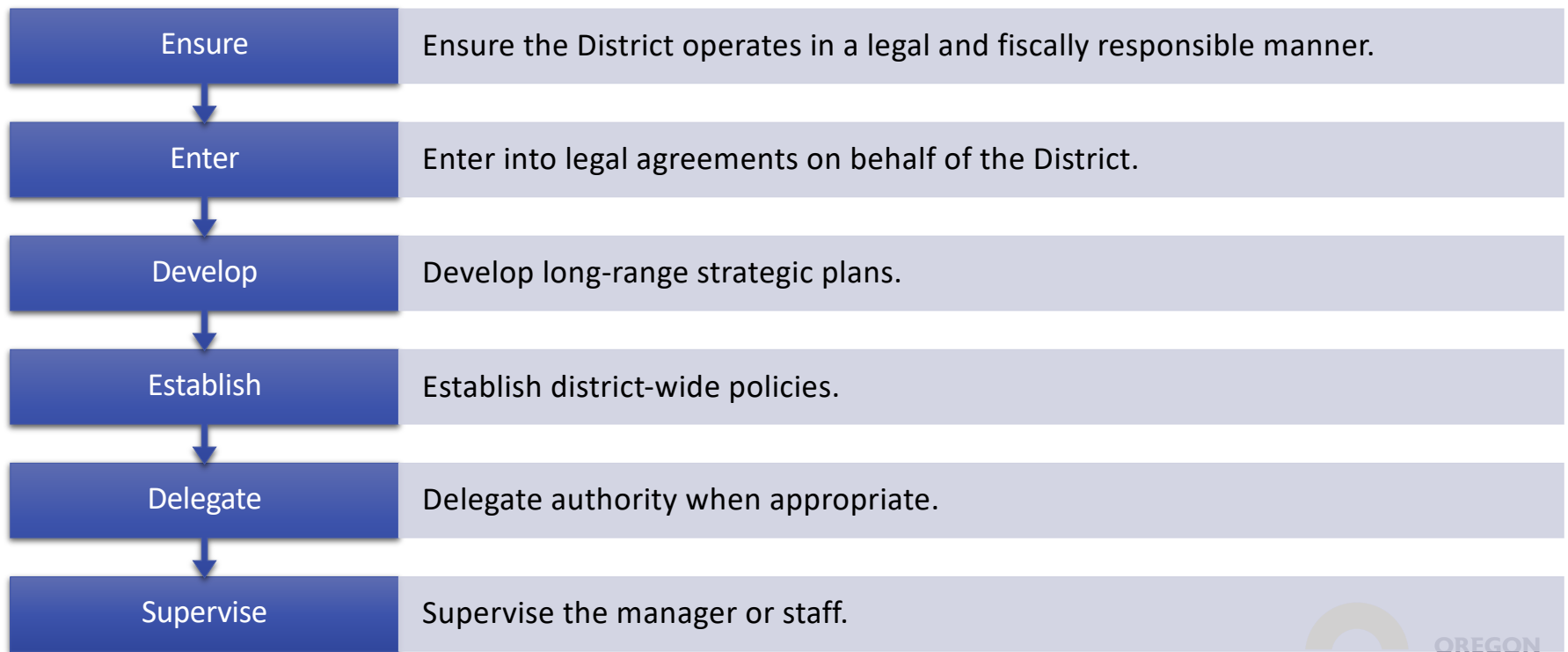
Obligating or committing district staff time or other district resources

Signing documents



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# Board Responsibilities



# 5 Basic Legal Requirements



ANNUAL WORK  
PLAN



LONG-RANGE  
PLAN



ANNUAL MEETING  
AND NOTICE



ANNUAL REPORT

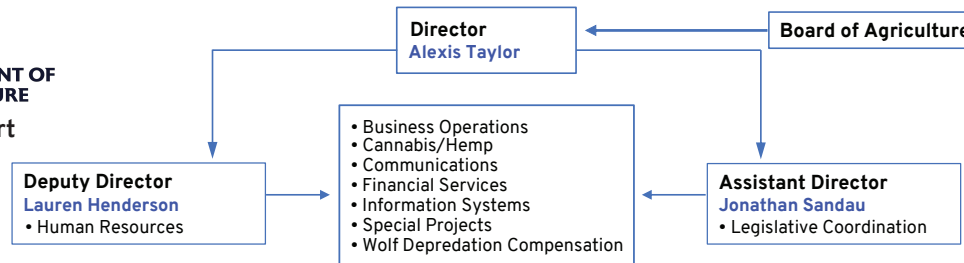


ANNUAL  
FINANCIAL REPORT



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# Oregon Dept. of Agriculture

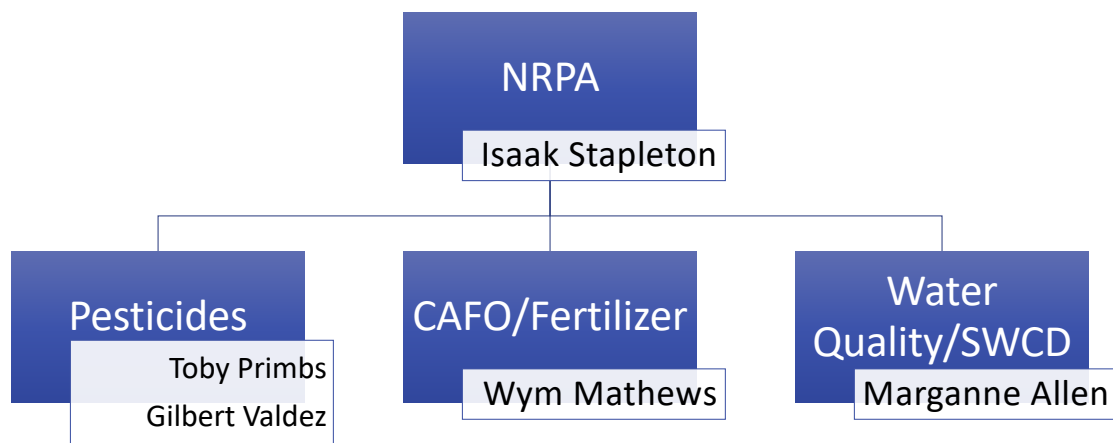


Market Access & Certification Programs Jess Paulson	Food Safety & Animal Health Programs Rusty Rock	Natural Resources Programs Isaak Stapleton	Plant Protection & Conservation Programs Chris Benemann, interim
<ul style="list-style-type: none"> <li>• Ag. Dev. &amp; Marketing</li> <li>• Commodity Commissions</li> <li>• Farm to School</li> <li>• Farm Direct Nutrition</li> <li>• Mach. &amp; Equip. Certification</li> <li><b>Casey Prentiss</b></li> <li>• Commodity Inspection</li> <li>• Grain Warehouse</li> <li>• Hops/Hay/Grain Insp.</li> <li>• Specialty Crop Grants</li> <li>• Weed-free forage</li> <li><b>Susanna Pearlstein</b></li> <li>• Certification Services</li> <li>• Produce Safety</li> <li>• Smoke Management</li> <li><b>Elizabeth Savory</b></li> <li>• Plant Health &amp; Lab</li> <li>• Seed Regulatory</li> <li>• Smoke Management</li> <li><b>Steven Harrington</b></li> <li>• Metrology Lab</li> <li>• Motor Fuel Quality</li> <li>• Weights &amp; Measures</li> <li>• Egg Laying Hens</li> </ul>	<ul style="list-style-type: none"> <li><b>Rusty Rock</b></li> <li>• Animal Identification</li> <li>• Predator Control</li> <li><b>John Burr</b></li> <li>• Food Processing</li> <li>• FDA Contracts</li> <li>• HACCP</li> <li><b>Karel Smit</b></li> <li>• Dairy</li> <li>• Shellfish Biototoxin Testing</li> <li>• Shellfish Plat Leasing</li> <li>• State Meat Inspection</li> <li><b>Erin Lockett</b></li> <li>• Cannabis</li> <li>• Retail Food</li> <li><b>Ryan Scholz</b></li> <li>• Animal Health &amp; Lab</li> <li>• Animal Rescue</li> <li>• Commercial Animal Feeds</li> <li>• Nat. Poultry Improvement Program.</li> <li>• Feeds</li> <li><b>Kathleen Wickman</b></li> <li>• Laboratory Services</li> </ul>	<ul style="list-style-type: none"> <li>• Land Use</li> <li><b>Marganne Allen</b></li> <li>• Ag Channel Maintenance</li> <li>• Agricultural Water Quality</li> <li>• Soil &amp; Water Conservation Districts</li> <li>• GIS Mapping</li> <li><b>Rose Kachadoorian</b></li> <li>• Pesticides Certification, Training &amp; Registration</li> <li>• Pesticide Analytical &amp; Response Center</li> <li>• Pesticide Stewardship</li> <li><b>Toby Primbs</b></li> <li>• Pesticide Enforcement</li> <li><b>Wym Matthews</b></li> <li>• Confined Animal Feeding Operations</li> <li>• Fertilizers</li> <li>• Soil Health</li> </ul>	<ul style="list-style-type: none"> <li>• Native Plant Conservation</li> <li>• Oregon Invasive Species Council</li> <li>• State Plant Regulatory Official</li> <li><b>Chris Benemann</b></li> <li>• Nursery &amp; Christmas Tree</li> <li><b>Cody Holthouse</b></li> <li>• Insect Pest Prevention &amp; Management</li> <li>• Apiary</li> <li><b>Tim Butler</b></li> <li>• Noxious Weed Control</li> <li>• Weed Grants</li> <li><b>Alan Hanson</b></li> <li>• Hemp</li> </ul>





# Natural Resource Program Area



# SWCD Program



# SWCD Program

## Services

- SWCD Support Grant Management
- Coordinate Director Elections
- Operational Technical Assistance
  - Phone, on-site
- Trainings
- Facilitation Services

## Oversight

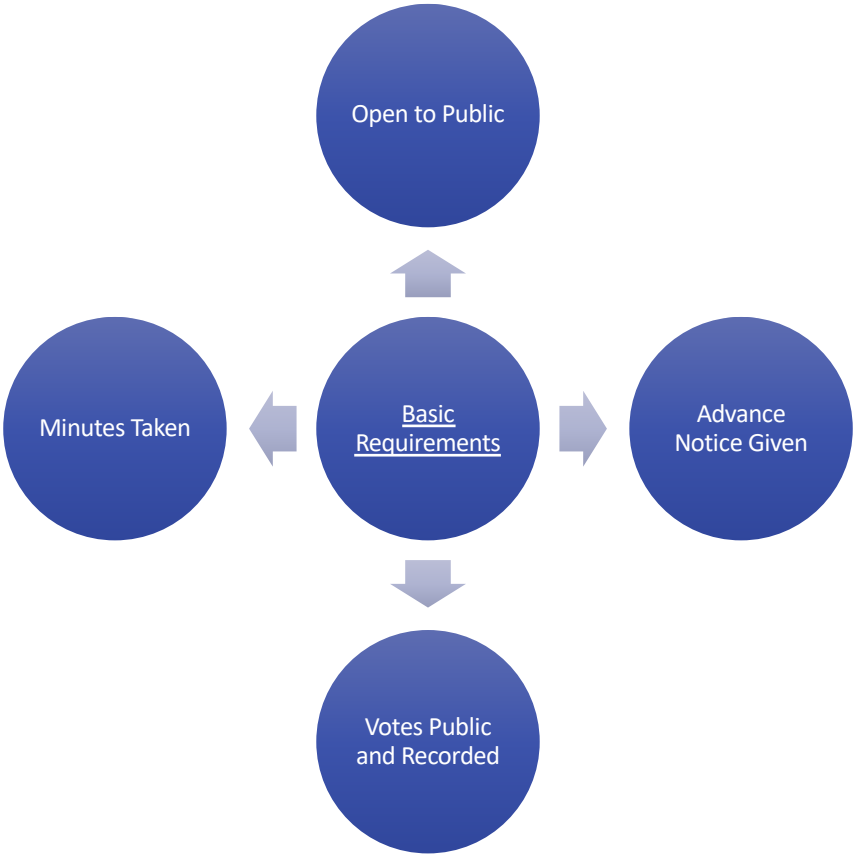
- Review Annual Work Plans and Long Range Business Plans
- Receive Annual Reports and Financial Reports
- Manage District Capacity Grant (Operational and Scope of Work)
- Public Hearings and Approval of Boundary Changes/Mergers

# Agricultural Water Quality Program

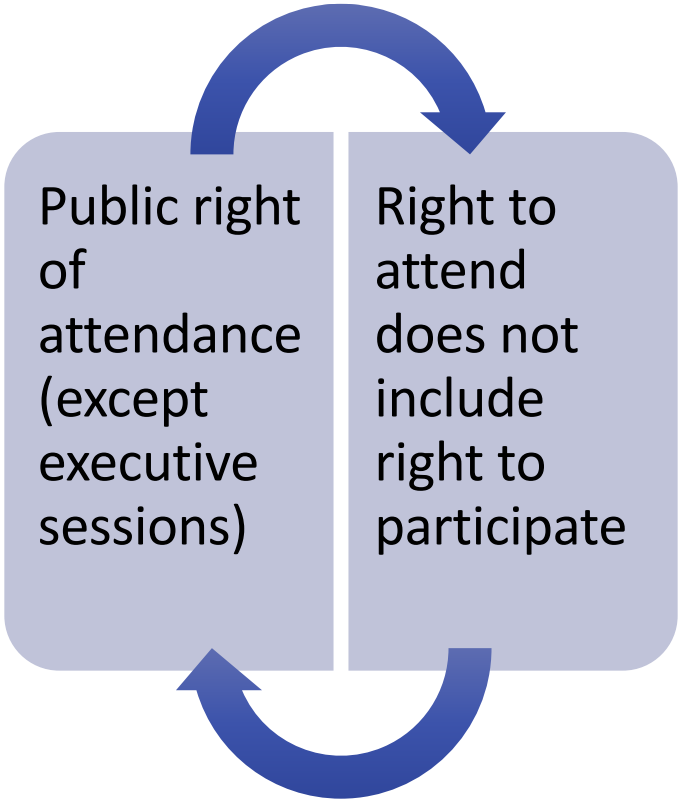


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# Public Meeting Law



# Public Meeting Law



# Public Meeting Law

Do advisory boards, committees, subcommittees, task forces, etc. have to comply with Public Meeting Laws?

Does not matter who is on the committee if it is appointed by the board.

YES: If group has been given authority by the board to make recommendations to the board, make decisions on behalf of the board, or provide the board with information leading to a decision of the board.

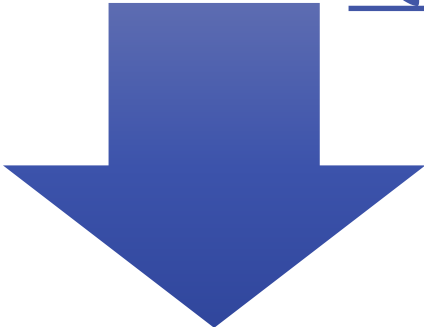
NO: If group only provides information not leading to any decision of the board.



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# Public Meeting Law

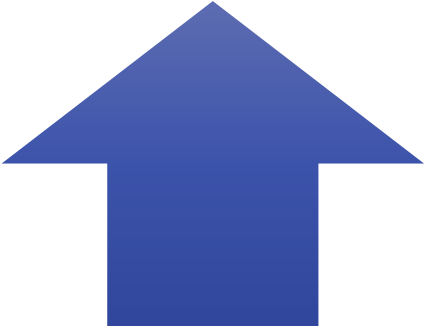
## Quorum



Majority of board positions must be present



Majority vote of all members of the board to make a decision



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# Public Meeting Law

## Meeting Notices

- A meeting without a proper notice is a violation of Public Meeting Law
- Requirements:
  - Time and place of meeting.
  - List of principle subjects anticipated to be discussed (agenda). Does not have to be detailed.
  - No set time to notice, but needs to be far enough in advance to give interested persons an opportunity to attend. *Special and Emergency meetings have own noticing requirements (refer to District Guide Book or AG Manual)*
  - Must give notice to those who have stated in writing they wish to be notified of every meeting.



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# Public Meeting Law

## Meeting Notices

- Requirements (continued)
  - The notice of any meeting that will include an executive session must state that the executive session is not open to the public and include the statutory reason why it is not.
- Examples of posting notices
  - Local media representative
  - Press release (not responsible if not published)
  - Mailing and/or interested parties list
  - Notice boards (not sufficient on its own)
  - Website



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# Public Meeting Law

## Executive Sessions

- A meeting that is closed to certain persons or organizations for the purpose of discussing sensitive matters.
  - Some examples:
    - To discuss employment of public officers, employees or agents.
    - Discuss discipline public officers or employees
    - Discuss performance evaluations
    - Discuss exempt public records
    - Consulting with legal counsel



# Public Meeting Law

Announce statutory  
authority

News media must be  
allowed to attend

Executive  
Session

Minutes required

No final decisions



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If an employee requests a public session for performance evaluation or discipline matters, the meeting must be held in public.

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# Executive Session

Violation of Executive Session laws are investigated by Oregon Government Ethics Commission.

Civil penalties for violations given to individual board members.



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# Public Meeting Law

## Minutes

- *Written* minutes must be provided of all meetings
- Contents
  - All members present
  - All motions, proposals, resolutions, orders, ordinances, and measures and their disposition.
  - The result of all votes and the vote of each member by name.
  - The substance of any discussion on any matter (need not be detailed).
  - A reference to any document discussed at the meeting (subject to public records law).



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# Public Meeting Law



- Minutes of executive session should be kept separate from minutes of public meetings.
- District minutes must be retained permanently.
- Those requesting in writing the minutes



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# Common Public Meeting Law Violations

Improper notice  
given

Accidental  
meetings by email  
or telephone

Executive session  
violations



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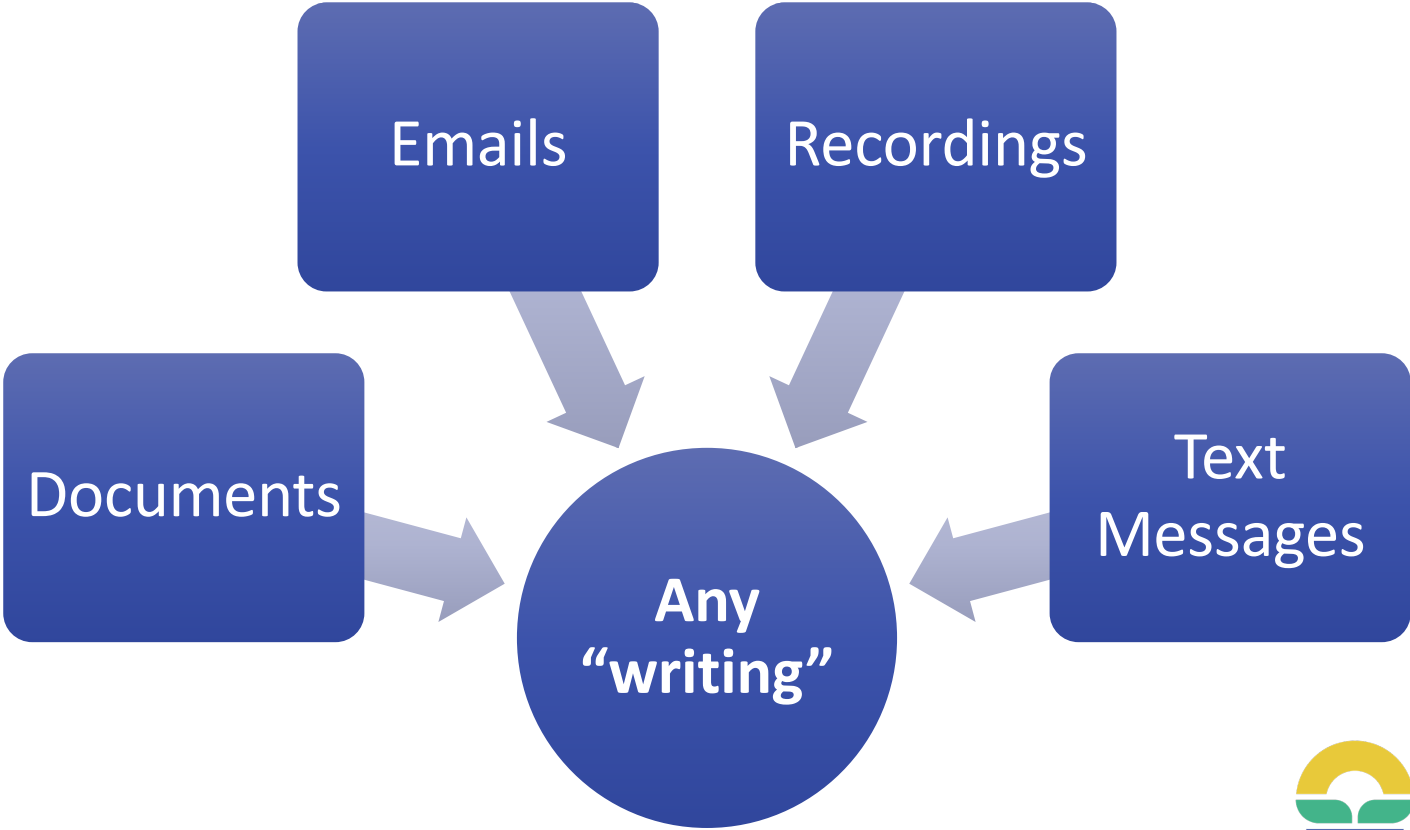
# Public Records Law

- ORS 192.410: *Every person* has the right to inspect *any public record* of a public body of this state, *except as otherwise expressly provided* by ORS 192.501 to 192.505.
- “Any public record of a public body”
  - “Public record” includes any “writing” containing information relating to conduct of public business.
  - That is prepared, owned, used or retained by a public body.
  - Regardless of physical form or characteristic (electronic and email included).

# Public Records Law

- Email between directors (relating to district business), between office and directors, from office is included and should be retained.
- Text Messages and Voice Mail
- Use of personal devices and email makes them discoverable.
- Records Retention Policy

# Public Records Law



# Public Records Law

## Need to have Public Record Request policy

- Include fee structure and custodial information

## Need to know exemptions

- If in doubt, get legal counsel
- Most exemptions are conditional
- Addresses, telephone numbers, and dates of birth of elected officials are not exempt unless the individual demonstrates that personal safety is in danger.



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# Ethics

Who is covered?

Public Officials

Volunteers with Regular Duties

Relatives

Members of the household

Businesses you are associated  
with



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Financial gain or avoidance of financial detriment 'but for' holding of office

Confidential information for personal gain

Prohibited Uses

Solicitation or promise of future employment based on decisions or actions

"Actual" or "Potential" conflict of interest



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# Ethics

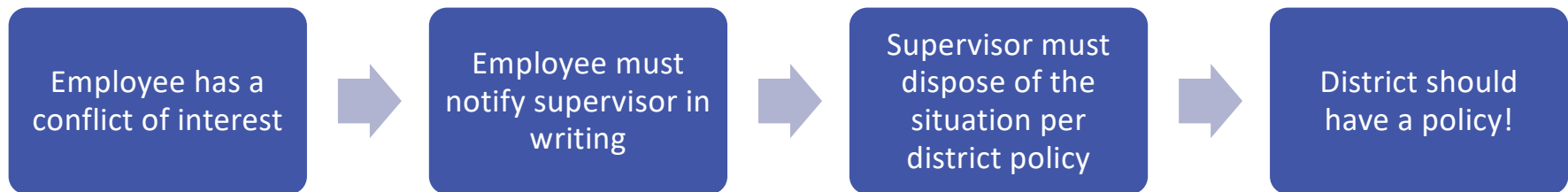
## (Some) Exceptions to Prohibited Uses

- Reimbursement of Expenses
- Honorarium up to \$50
- “Gifts” from sources with an “administrative or legislative interest” up to \$50/year



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# Ethics



# Board Member Conflict of Interest

## Actual Conflict of Interest

- **Would** result in private monetary benefit or detriment
- Announce nature of conflict
- Refrain from discussion, debate, or voting

## Potential Conflict of Interest

- **Could** result in private monetary benefit or detriment
- Announce nature of conflict
- May discuss, debate, and vote



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# Conflict of Interest Exceptions

Any action or issue that would affect to the same degree others in the same class

Membership in/member of board of directors of a 501(c) nonprofit

“If any public official’s vote is necessary to meet a requirement of a minimum number of votes to take official action, [they are] eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which an actual conflict arises.”



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# Who is?

## Special Districts Association of Oregon - SDAO

- Provide services to special districts in Oregon
- Insurance, Training, Financial Services

## Oregon Association of Conservation Districts – OACD

- Membership organization that represents and supports Oregon's SWCDs.

## Oregon Conservation Education and Assistance Network – OCEAN

- Provides SWCD employees with capacity building, education, and professional development.

## Network of Oregon Watershed Councils – NOWC

- Supports the work of Oregon watershed councils.

## Oregon Watershed Enhancement Board – OWEB

- Oregon government agency that provides grants for watershed health.



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# Thank you!

- Questions?

Eric Nusbaum

Operations Specialist

[enusbaum@oda.state.or.us](mailto:enusbaum@oda.state.or.us)

503-510-8930

[oregon.gov/oda](http://oregon.gov/oda)

