

Chapter 199

Oregon Government Ethics Commission

199-008-0015

Oregon Government Ethics Commission Guidelines on Sanctions

(1) The Commission will identify alleged violations of statutes or rules within the Commission's jurisdiction during the preliminary review phase or by preliminary finding of violations at the end of an investigative phase. This rule will standardize the method for setting sanctions to be imposed when a matter before the Commission is to be concluded by a stipulated final order, final order or a final order by default.

(2) TABLE A lists the factors that the staff and Commission may consider as mitigating or aggravating any violation of Oregon Government Ethics law in ORS Chapter 244, Oregon Lobbying Regulation in ORS Chapter 171 or Oregon Public Meetings Law in ORS Chapter 192.

(a) Points will be assigned from the factors listed in TABLE A. A total of the points assigned will be calculated.

(b) The total of the points assigned from TABLE A will be applied to TABLE B to determine the type and severity of any sanction imposed.

(A) If the point total indicates a civil penalty, TABLE B will be used to determine the percentage of the maximum civil penalty that may be imposed.

(B) If forfeiture is available as a sanction, TABLE B will be used to determine the percentage of the maximum forfeiture that may be imposed.

(3) If there are aggravating or mitigating factors that are not listed in TABLE A, the director will prepare a summary of those factors for the Commission to consider. The Commission may exercise its discretion to deviate from the calculated sanctions from TABLE B and modify the civil penalty or the forfeiture. Any deviation from the calculated sanctions from TABLE B must be made part of the record of a case, either through an oral or written statement.

(4) Possible aggravating or mitigating factors that may be considered in an upward or downward deviation from the calculated sanctions are: the responsibilities of the position held by the person at the time of the violation, a demonstrated acknowledgment of the violation and willingness to be educated, or an attempt to deny responsibility or cover up the conduct.

(5) This rule does not apply in cases where the sanction is limited under ORS 244.280, 244.282, 244.284, 244.320 or 244.350. This rule also does not apply to sanctions imposed by the Commission for the late filing of reports required by ORS 244.050(2) to (4) or 171.752.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 244.290, ORS 244.390, ORS 244.370, ORS 244.350, ORS 244.280, ORS 244.282, ORS 244.320, ORS 244.360

TABLE A

| FACTORS | | POINTS | Chapter 244 | Chapter 171.725-171.785 | Chapter 192.610-192.705 |
|--|----------------|--------|-------------|-------------------------|-------------------------|
| Number of Violations | 1 to 3 | = 1 | Apply | Apply | Apply |
| | 4 to 6 | = 2 | | | |
| | 6 > | = 3 | | | |
| Number of Equivalent Actions ¹ | 5 to 10 | = 1 | Apply | Apply | Apply |
| | 11 to 15 | = 2 | | | |
| | 16 to 20 | = 3 | | | |
| | 21 to 25 | = 4 | | | |
| | 26 to 30 | = 5 | | | |
| | 30 to 50 | = 6 | | | |
| | 50 > | = 7 | | | |
| Prior Violations | each violation | = 1 | Apply | Apply | Apply |
| Aggregate Financial Benefit | \$0 | = 0 | Apply | N/A | N/A |
| | \$1K < | = 1 | | | |
| | \$1K to 5K | = 2 | | | |
| | \$5K to 10K | = 3 | | | |
| | \$10K to 50K | = 4 | | | |
| | \$50K to 100K | = 5 | | | |
| | \$100K to 200K | = 6 | | | |
| | \$200K > | = 7 | | | |
| Length of Time Actions Occurred | 6 mo < | = 1 | Apply | Apply | Apply |
| | 6 mo to 1 yr | = 2 | | | |
| | 1 yr > | = 3 | | | |
| Criminal Conviction | | = 1 | Apply | N/A | N/A |
| Confinement or Probation | | = -1 | Apply | N/A | N/A |
| Restitution or Reimbursement | | = -1 | Apply | N/A | N/A |
| Cooperation to Resolve Matter | | = -2 | Apply | Apply | Apply |
| Advice Sought and Followed Prior to Violation | Agency | = -1 | Apply | Apply | Apply |
| | Agency Counsel | = -1 | | | |
| Complied with Agency Policy ² | | = -1 | Apply | N/A | Apply |
| Self-Report or Action to Rectify Before Complaint | | = -1 | Apply | Apply | Apply |
| Action taken to prevent future violations; obtained training | | = -1 | Apply | Apply | Apply |

1 Equivalent action means an action that would constitute a distinct violation, but it has occurred repeatedly under the same circumstances. See OAR 199-008-0014.

2 If a public official commits a violation and that violation occurred while the public official was complying with the government agency's policy, the compliance with the policy may be considered a mitigating factor.

TABLE B

| Total Points | | Sanction |
|--------------|--|---|
| 2 or Less | | Letter of Education, Explanation, or Reprimand |
| 3 to 5 | | 1 to 20% of Maximum Civil Penalty for Each Violation and 1 to 20% of Maximum Forfeiture |
| 6 to 10 | | 20 to 40% of Maximum Civil Penalty for Each Violation and 20 to 40% of Maximum Forfeiture |
| 11 to 15 | | 40 to 60% of Maximum Civil Penalty for Each Violation and 40 to 60% of Maximum Forfeiture |
| 16 to 20 | | 60 to 80% of Maximum Civil Penalty for Each Violation and 60 to 80% of Maximum Forfeiture |
| 21 plus | | 80 to 100% of Maximum Civil Penalty for Each Violation and 80 to 100% of Maximum Forfeiture |