



WCB Policy

Date Issued: July 31, 2024

Section: All WCB

Subject: Code of Conduct for Board Members

Approved:

CODE OF CONDUCT FOR WORKERS' COMPENSATION BOARD MEMBERS

Maintaining the Integrity of the Workers' Compensation Board

1-101 (A) A Board member shall observe high standards of conduct so that the integrity, impartiality and independence of the Workers Compensation Board are preserved, and shall act at all times in a manner that promotes public confidence in the Workers' Compensation Board as a part of state government.

(B) A Board member shall not engage in conduct that reflects adversely on the Board member's character, competence, temperament or fitness to serve as a Board member. A Board member shall not engage in conduct that reflects adversely on other Board members.

(C) A Board member shall not, in the performance of official duties, by words or conduct, manifest bias or prejudice based upon sex, race, national origin, religion, sexual orientation, gender identification, marital status, disability, age, or socioeconomic status.

(D) A Board member shall not allow family, social or other relationships to influence official conduct or judgment.

(E) A Board member shall not use the position to advance the private interests of the member or any person, nor shall a Board member convey the impression that anyone has a special influence with the member.

(F) A Board member shall not testify as a character witness except pursuant to subpoena; however, a Board member may provide a character or ability reference for a person about whom the Board member has personal knowledge.

(G) A Board member shall not hold membership in any organization that the member knows is a discriminatory organization. For purposes of this rule, "discriminatory organization" means an organization that, as a policy or practice and contrary to applicable federal or state law, treats persons less favorably in granting membership privileges, allowing participation or

providing services on the basis of sex, race, national origin, religion, sexual orientation, gender identification, marital status, disability, age or socioeconomic status.

Impartial and Diligent Performance of Official Duties

2-101 A Board member shall perform diligently all official duties.

2-102(A) A Board member shall provide to every person who has a legal interest in pending litigation, and to that person's lawyer, the right to be heard according to law.

(B) A Board member shall not communicate, or cause another to communicate, with a lawyer or party about any substantive matters or issues on the merits in an adversary proceeding outside the course of pending litigation, except with the consent of the parties or as expressly authorized by law or permitted by this rule.

(C) A Board member may communicate ex parte when circumstances require for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits, provided that the Board member reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication.

(D) A Board member shall promptly disclose to the parties any communication not otherwise prohibited by this rule that will or reasonably may influence the outcome of any adversary proceeding. The disclosure shall identify the person with whom the communication occurred and the substance of the communication, and the member shall give the parties a reasonable opportunity to respond to the information disclosed.

2-103 A Board member shall not, while litigation is pending in any forum within Workers' Compensation Board's (WCB's) jurisdiction, make any public comment that might reasonably be expected to affect the outcome or impair the fairness of the litigation. This rule shall not prohibit a member from making public statements in the course of official duties, from explaining for public information the procedures of the forum, from establishing a defense to a criminal charge or civil claim against the member, or from otherwise responding to allegations concerning the member's conduct.

2-104(A) A Board member possessing unprivileged knowledge that another Board member, ALJ or a lawyer has committed a violation of the Code of Conduct of the Workers' Compensation Board or of the Oregon State Bar's Code of Professional Responsibility or of a law that raises a substantial question as to that individual's honesty, trustworthiness or fitness as a Board member, ALJ or lawyer shall inform the appropriate authorities including the Governor's Office and/or the Oregon State Bar as appropriate.

(B) A Board member possessing unprivileged knowledge or evidence concerning another Board member, WCB employee, or lawyer shall reveal that knowledge or evidence on request by the authority empowered to investigate or act upon the conduct.

2-105(A) Except as provided in (C) herein, a Board member shall disqualify themselves in litigation in which the member's impartiality reasonably may be questioned, including but not limited to instances when:

(1) the member has a bias or prejudice concerning a party, a representative, or any other participant in the litigation before the Board, or has knowledge, obtained from sources outside the proceeding, of disputed evidentiary facts concerning the litigation;

(2) the member served as a lawyer in the matter in controversy, or a lawyer with whom the member previously was associated served during the period of association as a lawyer in the matter, or the member or the lawyer has been a material witness in the matter;

(3) the member knows that the member, individually or as a fiduciary, or the member's spouse, parent or child, wherever residing, or any other person residing in the member's household has a financial interest in the subject matter in controversy, is a party to the proceeding or has any other interest that could be substantially affected by the outcome of the proceeding;

(4) the member, the member's spouse, parent or child wherever residing, or any other person residing in the member's household:

(a) is a party to the litigation, or an officer, director, partner or trustee of a party;

(b) is acting as a lawyer in the litigation; or

(c) is, to the member's knowledge, likely to be a material witness in the proceeding.

(B) For purposes of this rule

(1) "fiduciary" includes relationships such as personal representative, trustee, conservator and guardian;

(2) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor or other active participant in the affairs of a party, except that

(a) ownership in a mutual or common investment fund that owns securities is not a "financial interest" unless the member participates in the management of the fund;

(b) holding an office in an educational, religious, charitable, fraternal or civic organization is not a "financial interest" in property of the organization;

(c) the proprietary interest of a policyholder in a mutual insurance company, a depositor in mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the litigation could substantially affect the value of the interest; and

(d) ownership of government securities is a "financial interest" in the issuer only if the outcome of the litigation could substantially affect the value of the securities.

(C) A Board member who may be disqualified under this rule may, rather than withdraw from the litigation, disclose to the parties the basis of the disqualification. If, after such disclosure, the parties all agree in writing or on the record that the member's relationship is immaterial or that the member's financial interest is insubstantial, or that the member's impartiality cannot reasonably be questioned because of the basis of the potential disqualification, the member may participate in the litigation. Any writing, signed by or on behalf of all parties, shall be incorporated in the record of the litigation; or in the case of a mediation, any such writing shall be made part of the member's mediation file.

(D) In all other matters, Board members will conduct themselves in a manner consistent with statute and the Oregon State Bar's Code of Professional Responsibility.

2-106 A Board member shall be faithful to the law and shall decide matters on the basis of the facts and applicable law.

2-107 A Board member shall not be swayed by partisan interests, public clamor or fear of criticism.

2-108 A Board member shall maintain order and decorum while acting in their official capacity.

2-109 (A) A Board member shall be patient, respectful, dignified and courteous to litigants, witnesses, lawyers, Board personnel, and members of the public.

(B) A Board member shall not act in a way that the member knows, or reasonably should know, would be perceived by a reasonable person as biased or prejudiced toward any of the litigants, witnesses, lawyers or members of the public.

(C) A Board member shall take all possible measures to ensure that lawyers and Board personnel involved in matters before the Board act in accord with the principles embodied in paragraphs (A) and (B) of this rule.

(D) Paragraphs (B) and (C) of this rule do not preclude consideration or advocacy of any issue relevant to the litigation.

Minimizing the Risk of Conflict with Official Obligations

3-101 A Board member shall not serve as an officer, director, trustee or advisor of a private or public corporation or of an educational, religious, charitable, fraternal, political or civic organization if the corporation or organization recurrently participates in litigation that would ordinarily come before the Board.

3-102 A Board member shall not use their official position to solicit funds for any private or public corporation or for any educational, religious, charitable, fraternal, political or civic organization or permit the use of the prestige of the office for that purpose, but may be an officer, director or trustee of such an organization. This rule does not prohibit a member from assisting an organization or governmental agency devoted to improvement of the law, legal education, the legal system, or the administration of justice in raising, managing or investing funds nor does it prohibit the member from making recommendations to public and private granting agencies on projects and programs concerning the law, legal education, the legal system, and the administration of justice.

3-103 Nonpublic information acquired by a Board member in an official capacity shall not be used or disclosed for any purpose not related to official duties.

Political Activity by a Board Member

4-101(A) A Board member shall not, in their official capacity, (1) make a public statement, (2) contribute or solicit funds, services or property, or (3) lend their name, for the promotion or influence of the adoption, passage or defeat of laws, rules or policies under the Workers' Compensation Law or Oregon Safe Employment Act or other matters under the jurisdiction of the Workers' Compensation Board. This rule does not apply to statements, solicited or unsolicited, made by a member when those statements are made with the advice and consent of the Board.

(B) A Board member shall follow all other laws, rules and policies governing political activities of the employees of the executive branch of government.