

WASHINGTON COUNTY ETHICAL FOUNDATIONS

September 2016



Overview

- We are bound by statute and policy to perform our work in a consistently ethical manner.
- Abidance to public sector ethics is the hallmark for maintaining public trust and is considered an essential job function for all Washington County employees.
- It is imperative that all County employees have a clear understanding of the ethical framework that guides our work.



Isn't Public Service Ethics Just Common Sense?

- Answer – Sometimes, but not always
- The Public Ethics Framework is unique. It has nuances that are specific to public sector employment and differ from the private sector.
- We want you to be successful – so here are the basics.
- If you ever have questions – ask.



Oregon State Ethics Laws

- Are you a “Public Official”?
- There are approximately 200,000 public officials in Oregon, including representatives from the state, counties, cities and special districts. The following persons are public officials:
 - Elected or appointed to an office or position
 - All agency employees
 - All volunteers



Prohibited Use of Office

- **ORS 244.040(1)**
- Prohibits every public official from using or attempting to use the position held as a public official to obtain a financial benefit, if the opportunity for the financial benefit would not otherwise be available but for the position held by the public official.
- Also prohibits use of position to obtain financial benefits for a business with which the public official is associated or for a relative or member of the officials' household.



Prohibited Use of Office

- **ORS 244.040(4) and (5)**
- Prohibits every public official from attempting to use confidential information gained through their position or by carrying out their official duties for personal gain.
- Prohibition continues even after the public official has left public employment if the information was acquired while serving as a public official.



Prohibited Use of Office Examples

A public official:

- Borrows a county extension ladder to paint their house on the weekend.
- Has a private business that supplies fire wood, the public official uses a county vehicle to deliver wood to a customer during the lunch hour.
- Disposes of personal household garbage in a county-owned dumpster – avoiding a financial detriment.
- Has a private business and uses the county computer and printer to correspond and manage activities of the business.
- Uses contractor's confidential pricing information to negotiate a better price on a personal project.



Questions

Ask yourself:

Would I have this opportunity if I was not a public official?

Would I have to pay for these goods or services if I didn't work for the County?



Allowed Financial Gain

Restrictions do not apply to:

- Official compensation package;
- Reimbursement of Expenses;
- Honorarium if less than \$50;
- Awards for Professional Achievement;
- Contributions to Legal Expense Trust Fund; and
- Gifts from parties without a legislative or administrative interest or which are specifically excluded from the definition of a gift.



Gifts

What is a “Gift”?

- Something of economic value;
- Given to the public official, their relative, or member of their household;
- Without cost, at a discount, or as a forgiven debt; and
- The same offer is not made available to the general public. See ORS 244.020(6)(a).



Gifts

- There are restrictions on a public official's ability to accept a gift if the source of the gift has a "legislative or administrative interest" in the decisions or votes of the public official.
- If the source of the gift has a legislative or administrative interest in the votes or decisions of the public official, gifts from that source may not exceed \$50 in aggregate value in a calendar year.



Legislative or Administrative Interest

- **“Legislative or administrative interest”** means an economic interest, distinct from that of the general public in:
- “Any matter subject to the decision or vote of the public official while acting in the public official’s capacity as a public official. See ORS 244.020(9).”



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What is a Decision by a Public Official?

- A public official makes a “**decision**” when the public official exercises the authority given to the public official to commit the public body to a particular course of action.
- Making a recommendation or giving advice in an advisory capacity does not constitute making a decision.
- Means some public officials may accept unlimited gifts from a source while others may not.



Gift Exceptions

- Certain items are specifically excluded from the definition of a “Gift” and may be received even from persons with a legislative or administrative interest in the public official’s votes or decisions. These include:



Gift Exceptions

- Anything of economic value when received by a public official or members of their household when:
 - The receiving is part of the usual and customary practice of the person's business, their employment or their volunteer position with a legal nonprofit entity; and
 - The receiving bears no relationship to the person's holding the official position.



Gift Exceptions

- Unsolicited gifts with a resale value of less than \$25 in the form of items similar to a token, plaque, trophy or other memento.
- Publications, subscriptions or information related to the public official's duties.
- Waivers or discounts of registration fees necessary to satisfy job related continuing education or licensing requirements.



Gift Exceptions

- Entertainment for a public official and their relatives or household members when the entertainment is incidental to the main purpose of the event.
- Entertainment for a public official and their relatives or household members when the public official is acting in an official capacity and representing the agency for ceremonial purposes.



Gift Exceptions

- Cost of admission or food and beverage consumed by the public official, relative or household member when accompanying the public official who is representing the agency at a reception or meal held by an organization.
- **Food or beverage** consumed by a public official at a reception where it is an incidental part of the reception and no admission is charged.



Gift Exceptions

- Payment of reasonable expenses if a public official is scheduled to speak, make a presentation, participate on a panel or represent the agency at a convention, conference, fact finding trip or other meeting.
- Food and beverage when acting in an official capacity in a financial transaction or business agreement between the agency and another public or private agency or entity.



Conflict of Interest

- Oregon Ethics Laws address two types of conflicts of interest.
- **Potential Conflict Of Interest** – Public official participates in an action that could affect the financial interest of the official, the official's relative or a business with which the official or relative is associated.
- **Example:** Public official participates in contractor selection process when the company his relative owns has submitted a bid.



Conflict of Interest

- **Actual Conflict of Interest** – Public Official participates in an action that would affect the financial interest of the official, the official's relative or a business with which the official or official's relative is associated.
- **Example:** Planner reviews and approves their own development application or an application submitted by their spouse's business.



Conflict of Interest

- **What to do when faced with an actual or potential conflict of interest?**
- Any public official who is appointed, employed or volunteers must provide a written notice to the person who appointed or employed them describing the nature of the conflict of interest and requesting that they dispose of the matter.
- That individual must designate an alternate to handle the matter or provide direction to the public official on how to dispose of the matter.



Nepotism

- Public officials who are relatives can be employed by the same public body at the same time subject to certain restrictions.
- Nepotism rules are based on the relative relationship alone.



Nepotism

- “**Relative**” includes the official’s spouse, and their children, parents, stepparents, stepchildren, brothers, sisters, half-brothers, half-sisters, brothers-in-law, sisters-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunts, uncles, nieces, and nephews



Nepotism

- Public officials may not participate in any personnel action taken by a public agency that would impact the employment of a relative or member of the public official's household. ORS 244.177(1)
- **Prohibited actions include:** Appointing, employing, promoting, discharging, firing or demoting, interviewing or discussing, or debating any of the above.



Nepotism

- Public officials are also prohibited from supervising any person who is a relative or member of their household. (ORS 244.179)



Nepotism

- A public official may perform ministerial acts related to a relative's employment such as mailing or filing correspondence, taking and relaying messages, etc.
- May serve as a reference or provide a recommendation.
- May supervise a relative serving as an unpaid volunteer.



Private Employment of a Public Official

- Generally, under the Oregon Ethic's Laws, public officials are permitted to obtain employment with a private employer or engage in private income producing activities.
- However, such private employment is also subject to other laws or employer policies that may limit private employment.



Private Employment of a Public Official

- Washington County Personnel Rule 13.2
- Outside compensated work requires CAO approval
- May be approved when:
 - It is compatible with or unrelated to the employees County position
 - It does not detract from the efficiency of the employee's County work
 - It does not create a conflict of interest or the appearance of a conflict of interest; and
 - It does not bring discredit upon the County



Private Employment of a Public Official

- **ORS 244.040(3)**
- Prohibits public officials from directly or indirectly soliciting or accepting a promise of future employment based on the understanding that the offer is influenced by the public official's vote, official action or judgment.



Private Employment of a Public Official

- Guidelines for Outside Employment of Public Officials
 - Do not engage in private business interests or outside employment on government time.
 - Do not use government supplies, personnel, facilities, equipment, or other resources for private business interests.
 - Do not use your position to take official actions that could have a financial impact on your private business, the business of a relative, or a business with which you are associated.



Private Employment of a Public Official

- Guidelines for Outside Employment of Public Officials (cont.)
 - Do not use confidential information gained from your position to obtain a financial benefit for yourself, your relative, or a business with which you are associated.
 - When faced with an actual or potential conflict of interest, provide written notice of the conflict to your appointing authority.



Questions?

- Contact Human Resources Division
 - Steve Sanford: Human Resources Manager(x4472)
 - Robbie Berg: Assistant Human Resources Manager (x3737)

