



OREGON DISABILITIES COMMISSION (ODC)

Commissioner Handbook



A handbook for members of the Oregon Disabilities Commission

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MEMBERSHIP HANDBOOK
for
BOARDS & COMMISSIONS



Kate Brown

Governor

State of Oregon

Boards & Commissions Office

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Dear Board Member:

As Oregon state board and commission members, you are participating in a long tradition of citizen involvement in state governance. Your generous contribution of time and talent assures the continuation of diverse and innovative approaches in governance in the state of Oregon.

I am working hard to strengthen Oregon's economy, create jobs, and improve the quality of life for all citizens of our great state. In order to achieve these goals, we must work together as a community. That is why I consider you and your fellow board members an invaluable part of my network throughout the state. I am committed to creating a broad-based and inclusive group of dedicated people who will invest in local communities, listen to the needs of constituents and find equitable solutions to problems. Your participation enables Oregon to preserve the values and benefits that makes Oregon such a wonderful place to live, do business and raise our families.

My staff and I want to ensure that you are aware of the purpose and function of your respective board, so we created this handbook to help you in your role as a board member. This role bestows upon you a responsibility to actively participate in your board's work by being prepared and by regularly attending meetings. In addition, it is extremely important that you maintain the highest ethics and use taxpayer monies wisely. I have pledged to maintain a system that is both transparent and held accountable to the citizens of Oregon, and you are on the frontlines of that commitment.

Every board and commission is an integral part of our work in communities across the state and I appreciate your time and commitment to our success. On behalf of all Oregonians, I thank you for your service.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate Brown', with a long horizontal flourish extending to the right.

Kate Brown
Governor

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THE BOARD SYSTEM

At all levels of state government, contributions by members of boards increase efficiency, innovation and responsiveness of governmental decision-making. Most major state agencies and departments are headed by policy-making boards or commissions appointed by the Governor. Many additional committees, councils, boards and commissions establish policy in given areas or serve in advisory roles. (The term “boards” shall be used to refer to all of the above groups.)

With boards functioning at all levels, dedicated citizens have the opportunity to participate in developing a wide variety of governmental policies on major issues ranging from consumer protection to economic development, education, conservation, personal rehabilitation and criminal justice.

The board system contributes to the success of Oregon state government. It is key to bringing local citizens’ talent and interest to the state level, keeping government innovative and responsive and improving state performance.

TYPES OF BOARDS & COMMISSIONS

The purpose and scope of each board are determined by the state law or executive order that created it. There are five main types of boards. Each is created to meet a specific need in the management of state government, so it is important to understand the distinctions between each type.

Policy Making Boards are given statutory power by the legislature to make policy decisions and enforce regulations. Policy is developed by interpreting legislative intent as outlined in the board’s governing statutes or in officially adopted administrative rules, and by implementing procedures to carry out those laws or rules. Members of policy making boards are generally final decision makers, accountable directly through the Governor to the public.

Some policy making boards are also **Governing Boards**, responsible for directing a state agency and/or appointing the agency director.

Advisory Boards may be created by the Governor, the legislature, state agencies or existing boards. They serve as advisors on policy matters to their appointing authority who is responsible for the management and administration of the policy. These boards study existing policy and make recommendations for change or implementation. Although they do not have final authority to make or enforce rules, their research and advice to decision makers contribute to effective changes in state government.

Licensing Boards fall into either of the above types, depending on the statute or order that established them. These boards examine and license members of a profession or occupation to practice in Oregon. Some also have the power to discipline members of the regulated profession or occupation, and to suspend or revoke licenses.

Judgment Boards are created by the legislature as review and appeals boards which hear and rule on individual cases. The decisions made by most of these and all other boards may be appealed to a higher court.

Some boards share responsibility for policy making with their appointing authority or another state agency, even though they are called advisory boards.

YOUR ROLE AS A BOARD MEMBER

THE APPOINTMENT PROCESS

You have been appointed to serve on one of Oregon's boards because of your ability, experience and interest in serving. Many boards have specific statutory requirements for membership relating to years of licensed experience, occupation or position, residence, number of public members and other criteria. In selecting members, the Governor strives to balance the membership among geographic, gender, age and ethnic diversity.

The Governor receives recommendations on appointments from many sources. Primary consideration is always given to the ability of the prospective appointee to contribute to the productivity and effectiveness of the board.

Some of the Governor's appointees are required by statute to be approved by the State Senate before they are sworn in as board members. The Governor's appointee appears before the Senate committee which conducts an interview and then forwards the appointment to the full Senate for a vote. The appointment is not official until Senate confirmation has been obtained.

An appointee becomes an official member of the board *only* after the Oath of Office has been signed, notarized and filed with the Governor's office. The board member may not take any official actions until then, but is encouraged to attend board meetings and become acquainted with board issues.

Terms of membership are generally established by statute and vary from one to four years. In some cases, members serve "at the pleasure" of the appointing authority and do not have specific terms of office. Under the Oregon Constitution, a single term of office cannot be more than four years.

Statutes governing some boards prohibit serving more than two or three consecutive terms of office. To include as many citizens in the process as possible, a member will not generally be appointed to serve more than eight years on the same board. However, a board member might serve beyond eight years under certain circumstances, such as when the board is in the middle of a special project or decision.

If a member is interested in being reappointed to the board, it is appropriate for the member to inform the Governor of their interest.

If it is necessary to resign, the board member should send a letter to the Governor's Office of Executive Appointments with the effective date of the resignation. A copy of this letter should also be sent to the administrator of the board from which the member is resigning.

A member may be removed from office at any time for continued neglect of duties required by law, for failure to attend two consecutive meetings of the board without just cause, for incompetence, or for unprofessional or dishonorable conduct.

REPRESENTATION

It is important to keep in mind that all members have been appointed to the board to serve the public at large. The concerns and points of view of all interested parties must be represented and considered, but ultimately, the primary responsibility of every board member is to protect the health, safety and welfare of the general public.

If you were recommended by a professional association or special interest group, you will be expected to provide the board with your technical expertise, and to bring the point of view of the group to the board. However, you were not appointed to serve only as the representative

of a specific group. When the group's interest conflicts with that of the general public, your primary responsibility is to the public. All board members must work for the benefit of the public first, with the good of any particular profession, industry or special interest group taking a secondary position.

If you were appointed to fill a designated "public member" position, you may feel intimidated on occasion by other members' experience in the field or expertise with the subject matter. You are, however, a vital part of the board, representing the Oregon consumer's point of view. Each of you is encouraged to ask questions and seek information until you have a clear answer and good understanding of the items under discussion.

Public and special interest members working together form a productive, effective complement to one another in conducting the work of the board. Listening to all viewpoints and working as a cohesive group provides an excellent forum for developing good policies and procedures and finding fair solutions to problems.

BEING AN EFFECTIVE BOARD MEMBER

Oregon boards are generally small in size (three to 10 members) and are composed of a carefully balanced membership. Each board member has the potential to influence board decisions.

The most important factor to ensure the decisions your board makes are fair and meaningful is **regular attendance** by all members. In addition, it is important that you **prepare for meetings** by reading reports, proposals and other documents prepared or distributed by staff. If you are unsure about something, seek advice and information before and during each meeting that enables you to make a knowledgeable recommendation or decision.

State law also places an important emphasis on regular attendance. In ORS 182.010, it says that a member who has two successive, unexcused absences "shall forfeit his or her office unless prevented from attending" for reasonable cause.

To summarize, effective board members:

- Attend all board meetings.
- Prepare for meetings.
- Recognize that serving the public interest is the top priority.
- Recognize the board must operate in a public and open manner.
- Learn about issues affecting the board.
- Examine all available evidence before making judgment.
- Are aware that authority to act is granted to the board as a whole, not to individual members.

PUBLIC RECORDS/PUBLIC MEETINGS

Oregon is known for an open form of government that allows for citizen participation and involvement. Two illustrations of this are the public records and open meetings laws that have been on the books for many years.

These laws are designed to protect public interest, and to make sure the public's business is conducted in an open forum. As a board member, you should become familiar with these laws and how they apply to the board on which you serve.

AMERICANS WITH DISABILITIES ACT

The ADA sets criteria for accessibility and accommodation. Under the ADA, people who have disabilities have a right to an equal opportunity for effective participation in the activities of boards, whether as appointed members or as members of the public.

Meetings and other board sponsored activities should be held in wheelchair accessible locations. Qualified sign language interpreters, materials in accessible format such as Braille, large print and tape, and other forms of auxiliary aids for effective communications should be provided upon request. Reasonable modifications should be made to policies or procedures whenever they create a barrier to the full and equal participation of a person who has a disability.

COMMON SENSE

- Board members must be familiar with and operate within their board's governing statutes and bylaws, and state and federal laws at all times.
- To ensure accountability, all applicable policies and procedures adopted by the board should be in written form.
- No board member should make decisions or take unilateral action without the consent of the board as a whole.
- Questions about board issues should be directed to the board's administrative or executive officer, who will see that all board members receive full information by the next regular meeting.
- No details of board investigations or matters dealt with in executive session should be disclosed by a board member unless they are part of the public record.
- Board members should use caution about participating in private discussions on behalf of one party in the absence of other parties to a dispute.
- Board members should remember they are seen as representatives of the board when they appear at industry or professional gatherings. They must take care not to appear to be speaking for the board unless specifically authorized by the board to do so.
- Board members must keep in mind that their mission is to serve the public, and it is inappropriate to use board membership to create a personal platform.

GENERAL BOARD ACTIVITIES

BYLAWS

It is recommended that boards have a set of bylaws to direct and clarify its actions, procedures and organization. Bylaws are the guidelines by which a board functions and should include expectations of members. Issues such as attendance, responsibilities and discipline should be addressed in the bylaws. Board members are expected to adhere to bylaws and all relevant statutes.

An organization's bylaws generally include a number of articles, such as the following:

- Name of board
- Mission statement
- Membership

- Officers
- Meetings
- Executive board (if needed)
- Committees, subcommittees
- Parliamentary procedure, often including the name of the manual the board will follow
- Amendment procedures for changing the bylaws

BUDGETING

Every state board whose costs are paid wholly or in part from funds held in the State Treasury must submit to the Department of Administrative Services, before September 1 of each even-numbered year, a proposed budget for the biennium beginning July 1 of the following year.

The proposed budget identifies expected revenues, the expenditures necessary to maintain the existing service level, and expenditure requests—in priority order—to add or delete programs or activities. It also includes any requests for fee increases. Preparing and monitoring the budget is a process that involves many participants. As a board member, you may assist in creating your board’s budget, or you may participate in studying the budgets of other agencies.

The budget process includes several steps. The board or its staff prepares an agency budget request and submits it to the Department of Administrative Services for review. A budget analyst in the Department reviews the board’s request and submits recommendations to the Governor. The Governor may approve, reject or amend all or part of the budget analyst’s recommendations. The approved budget becomes part of the “Governor’s Recommended Budget,” which is presented to the legislature by the agency and the budget analyst.

Approval of the budget is one of the principal issues in every session of the legislature. Because the Oregon Constitution provides that the state may not spend money in excess of its revenues, legislators go through a delicate budget balancing act each session.

Appropriation bills follow a procedure similar to other bills. The Joint Committee on Ways and Means conducts hearings and receives testimony on the Governor’s Recommended Budget. The budget is then reviewed and approved by both houses of the legislature and signed by the Governor. Upon signature or effective date, the appropriation bill becomes law.

The legislatively approved biennial budget is administered by state agencies beginning on July 1 of every odd-numbered year. The budget specifies the maximum amount an agency can spend, subject to quarterly allotment approval by Administrative Services.

State board budget money comes primarily from three sources:

General Funds: This fund is primarily from personal income taxes, corporate excise and income taxes, cigarette taxes, liquor apportionment and insurance taxes. Other large resources of General Fund money include interest earnings, state court fees and fines and other fees. Budget approval for a General Fund board means the board is authorized to spend up to a certain amount of tax money for its operation. This authorization is called an appropriation.

General Fund money is generally used for programs that deal with health (public and mental health), education (higher education, community colleges, basic school support), public welfare, correctional institutions, legislative and judicial functions, general governmental administrative functions and public transportation.

Federal Funds: Some state boards are funded in whole or in part by federal funds. Such boards must get permission from the legislature to apply for this money (federal grants or en-

titlement programs). A federal grant may be a gift to the state or may require that the state provide matching funds.

Other Funds: Most boards get their operating money from sources such as business and non-business license and permit fees, trust fund contributions and earnings (unemployment funds), selective sales and user taxes (gasoline tax, cigarette tax), sales of services (college tuition) or sales of commodities (timber from State lands). Generally, these sources are established by the legislature specifically to support the board or program.

Budget approval for a board financed with Federal or Other Funds establishes the maximum amount of money it can spend from its income source. This is called an expenditure limitation.

Other Funds money is used for most transportation oriented programs (highways, motor vehicles, marine); most employee protection programs (employment, retirement, workers' compensation); many regulatory activities (public utilities, banking, building codes); and some natural resource functions (forestry, wildlife).

Regardless of revenue source, authority for all state agency expenditures rest with the legislature. During a biennium, if your board finds it needs authority to spend more than the available funds due to an emergency situation, it may ask for a limitation increase from the Emergency Board or for an allocation of General Funds from the Emergency Board's fund known as the Emergency Fund. Such requests go to the Emergency Board only if they are approved in advance by the Governor.

The Emergency Board is a statutory committee made up of state legislators who usually serve on the Joint Committee on Ways and Means. The Emergency Board meets regularly throughout the legislative interim and considers only state agency requests (including boards). A board submits its request to the Department of Administrative Services, which reviews the request with the Governor, and if he approves, makes a recommendation to the Emergency Board. If items are sent to the Emergency Board, a budget analyst from the Legislative Fiscal Office also evaluates the request and sends a recommendation to the Emergency Board. The request is then considered by a subcommittee of the board which makes a recommendation to the full board, and a final decision is made.

Whether you are directly or indirectly involved in the budget process, you will find there are budget experts in Administrative Services and in your agency who can help you understand and deal with the process.

RECOMMENDING LEGISLATION

Many state boards work with the legislature in changing and developing state law. Your board may propose legislation and/or track bills relating to the work and concerns of your board. Legislation proposed by your board should be submitted to your agency staff liaison, to the Governor's assistant who works with your board, or to the Governor's legislative coordinator.

As a board member, you may also testify before legislative committees and advise legislators on issues that concern your board. The knowledge and expertise provided by state boards can be very helpful to the legislature. Be careful, however, that you do not represent yourself as a spokesperson for your board without the board's prior consent and approval.

RULEMAKING

To carry out prescribed duties and responsibilities, your board may need to prepare and/or adopt administrative directives. Generally speaking, there are four types of directives: Rules, policies, procedural statements and administrative memoranda. It is important to understand

the differences between these types of directives and the extent of your board's authority to adopt one or more of the types.

A **rule** is a general administrative directive, standard, regulation or statement that implements, interprets or prescribes law. It may set forth standards and expectations in general terms or may specifically deal with day to day objectives. A rule, rather than a policy or procedural statement, is adopted when the subject matter affects the public or another agency of government, or when a statute directs that a rule be adopted. Once established, a rule has the force of law and all persons or entities to whom the rule applies must adhere to it.

Boards may engage in rulemaking *only* if the legislature has specifically delegated that authority in the board's enabling statute. Most boards have the authority to pass rules and regulations necessary to implement their own statutory powers. The board cannot pass rules which go beyond the scope of its statute, because rules are generally intended to provide interpretive support for the statutes.

Because rules affect the public, they must be adopted in compliance with the requirements of the Administrative Procedures Act (ORS Chapter 183) unless specifically exempted by statute. The Administrative Procedures Act (APA) is a comprehensive code that imposes requirements for several types of board procedures: Rulemaking, issuing declaratory rulings, holding contested case hearings, ensuring readability of public writings, and legislative review of state agency rules.

According to the APA, any individual or group can petition a board to adopt, amend or repeal a rule. Or the board itself may initiate a rule or rule change in response to a pattern of problems. Following is a common procedure for writing administrative rules:

1. Board staff, working with the board, develop the proposed rules, keeping these guidelines in mind:
 - the board must have legal authority to adopt the rule and may adopt only rules supported by statute;
 - the board must take into account the economic impact of the proposed rule on consumers and affected businesses, industries and occupations;
 - the board may not adopt a rule which violates the law or the constitution; and
 - the board must comply with statutory requirements for rulemaking procedures.
2. The board reviews and approves the proposed rules.
3. The board's legal counsel from the Attorney General's office may be asked to review the proposed rules.
4. Public notice is given of the intent to adopt the proposed rules.
5. A public hearing may be held to hear testimony on the proposed rules.
6. The board formally adopts the rules.
7. A copy of the rules is sent to the Secretary of State for filing, and public notice is given that the rules have been adopted by the board.
8. Legislative Counsel reviews the proposed rules.

A **policy** sets forth, in general terms, minimum standards and directives concerning internal management which do not substantially affect the interests of the public. They are generally issued by the board's administrative officer or appointing authority. They have the same status within the board as a rule, and all persons to whom a policy applies must adhere to it.

Policy development and adoption are not subject to statutory mandate or the requirements of the APA. However, to protect the interests of the board members, staff and other parties affected by the proposed policies, it is wise to develop a systematic procedure for policy making.

Staff and other affected persons should always be given an opportunity to make suggestions or ask questions before final adoption.

Procedural statements give the specific details of the day to day processes that carry out policies and rules. They are issued by the board administrative officer, govern all persons affected, and have the same status within the board or agency as rules.

Administrative memoranda are simply the notes used internally to communicate temporary data, one-time announcements or requests, and page revisions of existing policies and procedure statements. There is no specific format prescribed for administrative memoranda.

ADDITIONAL REGULATORY BOARD ACTIVITIES

Many boards engage in regulatory activities. The philosophy of government regulation assumes the public would suffer physical, emotional or financial injury if the state did not exercise some oversight or control. Occupational and professional regulation is intended to ensure that people engaged in those activities having an impact on the public's health, safety or welfare, provide Oregon citizens with honest and competent service. In addition, the regulation system provides a means for the public to seek amends through a fair, objective process.

Members of regulatory boards help to set policy and give guidance to the regulated industry or profession under governing statutes. In addition, your responsibilities may include preparing and conducting examinations, evaluating applications, issuing or denying licenses, regulating by inspection, conducting investigations of alleged violations of the law, taking normal disciplinary action, issuing citations, holding hearings and imposing penalties. These responsibilities must be prudently exercised on behalf of both the public and the occupations and professions being regulated.

Following are key activities of regulatory boards:

TESTING

Effectively constructed and administered tests provide an important contribution to licensure. Licensing tests should be designed to ensure an applicant's education and experience have adequately prepared them to assume an occupational or professional role that impacts the public's health, safety and welfare.

DISCIPLINE

A principal responsibility of licensing boards is to determine whether a person should obtain or retain a license. Those licensing boards with regulatory authority not only establish the standards and prescribe the qualifications required for a license to practice, they are able to regulate the services provided by the licensee by enforcing compliance with those standards.

Most licensing boards may revoke, suspend or refuse to renew any license, registration or certificate they issue, and some are authorized to stay a suspension on probationary conditions. They may issue a letter of warning, reprimand or censure. Most boards may assess a fine for noncompliance with certain statutes or rules.

COMPLAINTS

Most boards receive complaints about licensees. Complaints are usually received from consumers of licensee services, other licensees or professionals, other regulatory agencies, or as

a result of routine inspections or investigations. Each complaint must be reviewed, and every effort must be made to mediate and satisfactorily resolve all complaints.

If there is a question as to whether a complaint falls within the board's jurisdiction, the administrative officer should consult with the board's assigned Attorney General. If a complaint is not within the board's jurisdiction, the board should transmit the complaint, together with any evidence or information, to the proper agency. The complainant should be notified of this transmittal.

HEARINGS

In some cases, an administrative hearing will need to be held to resolve a complaint. The Administrative Procedures Act establishes specific procedures that must be followed to take disciplinary actions against individuals or firms (e.g., suspending or revoking a license or assessing a fine). If the board conducts a hearing required by the APA, board members should not participate in the investigative or pre-hearing complaint handling functions. They must be impartial parties to the hearing.

Individual board members should disqualify themselves if bias or significant interest prevents fair and impartial participation in the hearing. Bias, or prejudice, includes issues of fact in a case as well as bias for or against a party in the case. Interest means the board member personally stands to gain or lose from the outcome of the hearing.

If members have any conflicts of interest or have received any communication on a fact or issue made outside the hearing during review of a case, they must place on the record a statement on the nature of the conflict or substance of the communication.

Hearing decisions made by boards may be appealed to the Court of Appeals.

Administrative details of hearings are generally handled by staff. The administrative officer of your board can give you more information about procedures for hearings the board conducts.

BOARD RELATIONS

In Oregon, most state agencies are relatively independent within their areas of responsibility. Overall policy guidance and direction are provided by the Governor, as the state's chief executive officer, and by the legislature, which writes laws and appropriates operating funds. To provide an overall management structure, the Governor uses the Department of Administrative Services.

The executive and legislative branches reflect the separation of powers principle that provides a system of checks and balances. The legislature creates state agencies, defines their functions and appropriates funds. The Senate confirms the Governor's appointments to certain offices. To ensure legislative intent is followed, the Legislative Counsel Committee reviews state agencies' administrative rules.

The Governor coordinates the activities of state agencies; actively participates in the design, development and approval of state agency budgets; appoints many agency directors, board members and other officials; and approves or disapproves all legislation affecting state agencies.

Board activities are subject to both legislative and executive oversight. Actions by the Governor and the legislature may result in revision of a board's authority or changes in appropriations.

OREGON STATE LEGISLATURE

Many board members have some involvement with the legislature during their period of service. Oregon's legislature consists of the House of Representatives, which has 60 members elected for two-year terms, and the Senate, whose 30 members are elected to serve four-year terms.

The Oregon Constitution requires that the legislature meets annually. It convenes on the second Monday in January and stays in session approximately six months. The members of the legislature or the Governor may call a Special Session if there is a need to meet during the interim.

The Speaker of the House and President of the Senate, the two most significant leadership positions in the legislature, are elected by the majority of their respective houses to preside over daily sessions and perform other duties prescribed by rule, custom and law.

Both houses operate under an open committee system that allows public testimony on any issue. The committees are appointed by the presiding officers. Typically, some 2,000 bills are introduced each session, and about one-third of them become law. Most of the work in considering and revising bills during the session is done in legislative committees. Committees also conduct interim studies.

General information regarding the current organization of the legislature, including committee assignments, office locations and telephone numbers, may be obtained from the following offices:

SENATE
Secretary of the Senate
S-223 State Capitol
Salem, OR 97310
503-986-1851

HOUSE
Chief Clerk of the House
H-271 State Capitol
Salem, OR 97310
503-986-1870

LOCAL & FEDERAL GOVERNMENT

As a board member, you may represent state government in its relations with other governmental bodies. State government has a significant responsibility in the federal system of planning, funding and operating programs. About 70 percent of all federal grant dollars are funneled to state government or through state government to local governments. The other 30 percent goes directly to local programs.

State-Local Relations: Many state boards make policy decisions or recommendations, and conduct studies that directly affect the budget, programs and daily operations of cities, counties and other local government districts in Oregon.

Boards can work directly with local citizens and officials or through established associations. As in prior administrations, the goal is to strengthen local government to establish healthy communities. Boards help accomplish this goal by serving as the communications link between local communities and state government.

State-Federal Relations: Under the direction and leadership of the Governor, state government can affect the development and operation of federal regulations, funding and programs to ensure the state's priorities are considered. Each federal agency must publish significant regulations scheduled for review in the Federal Register. Comments from state governments

are included in the review process. The review and comment procedures determine if existing regulations should be rewritten or eliminated.

WHERE TO GET INFORMATION & HELP

BOARD STAFF

Most state boards work within a state agency or have access to assistance and advice from the agencies. Typically, if a board works within an agency, certain central support services are provided to manage internal business. Some boards have their own staff to perform their day to day administrative functions.

Most often, the primary role of board staff is to carry out the rules, policies and programs developed by the board. Administrative officers or staff also bring to the attention of the board issues of importance, prepare meeting agendas in consultation with the board chair and compile background information for board study.

Additional responsibilities often delegated to board staff include:

- all meeting arrangements
- preparation of minutes
- processing of complaints
- staff supervision
- administering board programs
- designing forms to conduct board business
- preparing budget requests and Emergency Board requests
- monitoring income and expenditures to comply with legislatively approved budgets
- working with the board to develop proposed rules
- providing information to the board about proposed legislation
- tracking bills during a legislative session
- coordinating testimony before legislative committees
- representing the board before legislative committees and other groups

GOVERNOR'S OFFICE (503-378-3111)

The Governor manages and coordinates the operations of state government through a staff of professionals in her Salem office.

Most state agencies report to the Governor through the Department of Administrative Services. Staff in the Governor's Office are responsible for human resources, health care, natural resources, education, legislative relations, legal affairs, executive appointments, citizen representation, affirmative action, special projects and communications.

In addition to the Governor's Office, your immediate staff and affiliated state agency, there are resources available to you throughout state government. You may have occasion to request advice from legal experts, a fiscal manager or others with special expertise. Following are descriptions of the specific functions of state agencies that may affect board members and whose support services are available to all state boards.

DEPT. OF ADMINISTRATIVE SERVICES (503-378-3104)

The director of Administrative Services is appointed by the Governor. The Department was established to administer the Governor's programs, and to provide policy direction and support services to state agencies. As mentioned above, most state agencies report to the Governor through the Administrative Services Director.

The Budget & Management Division (503-378-3106) reviews all state agency proposed budgets to assure resources are allocated effectively, and prepares the Governor's biennial budget package for approval by the Governor and presentation to the legislature. All state agencies, including state boards, submit their proposed budgets to this Division for review and assistance. Additionally, the Division oversees expenditures to assure consistency with the Governor's policy and legislative intent. Board members participate in preparing, reviewing and presenting the budget to the Governor and legislature.

The Human Resource Services Division (503-378-8344) administers state personnel management programs; provides services to state agencies in recruiting, compensation, records and training; and negotiates collective bargaining contracts for the state with state employee labor unions. This Division is responsible for ensuring all state employees are hired according to the state merit system and affirmative action goals. The Division also approves the selection process and salaries for all staff. The contracts it negotiates with unions typically cover two-year periods.

ATTORNEY GENERAL (503-378-4400)

The Department of Justice is the state's law firm, headed by the Attorney General. The Department provides most of the same services as do private law firms, but with a few important differences.

By statute, the Attorney General and lawyers within the Department are the sole providers of legal advice and representation to state agencies and officials. Any legal question must be asked of the Department of Justice. By the same token, the Department is required to answer any question asked of it.

The Department provides oral and written legal advice to all state agencies and state officials, acts as a legal adviser at meetings, and is an advocate for the state in hearings, trials and appeals.

Each state agency, and its governing board, is assigned at least one assistant attorney general who specializes in the area of law affecting the agency. These lawyers are assigned to identify any legal problems that may be posed by existing or proposed agency policies or actions. Your attorney is there to facilitate your policy choices by pointing out potential problems and evaluating the legal effect of other policy options that may accomplish the desired goal more easily.

If you act on the advice of counsel, the Department will defend you in court and any liability will be assumed by the state. Acting without consulting your lawyer, or acting contrary to his or her advice, may result in personal liability.

Getting legal advice from the Department can be as simple as a phone call. However, some issues require a more formal and comprehensive review through the opinion process. Each agency and board usually has an internal procedure for requesting legal assistance. You may wish to discuss that procedure with your board staff.

The Department also uses conferences, such as the biennial Administrative Law Conference; and publications, such as the Public Records and Meetings Manual, the Agency Administra-

tor's Guide and the Administrative Law Manual, to help inform agency staff and citizen board members of their legal rights and responsibilities.

The Attorney General encourages board members to work through their agency staff to arrange personal meetings with their contact attorney and acquaint themselves with the statutes or rules providing their source of authority. Reviewing the Public Records and Meetings Manual and the Administrative Procedures Act is also a worthwhile task for board members.

SECRETARY OF STATE (503-986-1500)

The Secretary of State is an elected official who serves as the state's chief elections and public records officer, the auditor of public accounts and the administrator of the State Archives.

The Audits Division (503-986-2255) performs fiscal and compliance audits of all state agencies and boards as well as establishing and monitoring standards for municipal audits. Be certain you are provided reports on regular or special audits or any examination of your board.

The Archives Division (503-373-0701) preserves permanent government records and establishes retention schedules for public records of state agencies and boards. State boards must follow the guidelines established by the division on the care, accessibility, storage and destruction of its papers and records. No official records may be destroyed without the approval of the division. **Administrative Rules** receives and processes administrative rules adopted by all state agencies. This section edits, codifies and publishes Oregon Administrative Rules.

OREGON GOVERNMENT ETHICS COMMISSION (503-378-5105)

The Ethics Commission enforces Oregon's government ethics and lobby registration laws. These laws require public officials to disclose potential conflicts of interest, prohibit use of office for personal gain and require certain officials to file statements of economic interest.

Lobby regulation laws require lobbyists to register and to file expenditure reports. Certain lobbying is prohibited. One example is making a monetary contribution to a legislative official's campaign fund during a legislative session.

The Commission has authority to conduct investigations and hearings, to issue advisory opinions on these matters, and to levy fines for infractions. An ethics guide is available upon request from the Commission.

SELF-ASSESSMENT

The following checklist may be useful in carrying out a regular review of your board's functions:

1. Is there a need for regulation?
 - When did regulation of the profession or occupation begin, and for what reasons? Does the need still exist?
 - Are the rules promulgated by the board consistent with the statutes and legislative intent?
 - Is the implementation (guidelines, procedures, etc.) consistent with the rules?
2. Does the board promote and protect the public interest?
 - Are there contacts with consumer groups?
 - What mechanisms encourage consumer participation in decision making?

- Are due process protections provided to applicants, licensees and the public?
 - Is the board making itself known to, and open to, the public? Do any members of the general public attend meetings?
 - How are board meetings, activities and decisions publicized?
 - Does the board or its administrator produce an annual report summarizing its activities? Would the average citizen understand the report and be able to judge how well the board is doing its job? Where does the report place its emphasis?
3. Is the board involved in consumer education?
 - Are consumers informed of their rights? Are they informed of ways to get help when their rights have been violated?
 - Is information made available to help consumers avoid problems by knowing what to expect when they deal with members of your profession or occupation?
 4. Does the board provide protection against deceptive practices, negligence and incompetence?
 - Are records of complaints kept to indicate patterns of abuse?
 - What actions does the board take to discipline licensees? Are they fair to licensees and to consumers?
 5. Does the board avoid engaging in practices that limit competition?
 - Does the licensing process unduly restrict entry into the profession or occupation?
 - Are minimum or suggested fee schedules avoided?
 6. Is the board operating efficiently?
 - Do meetings start on time? Do members arrive on time consistently?
 - Do members attend regularly? Do they notify the chair or staff when they are not coming or will be late? Are they aware of quorum requirements?
 - Are minutes of previous meetings mailed promptly?
 - Does the board spend much time in routine administrative items that could be taken care of by staff?
 - Do board members study written background material prepared by staff before coming to meetings?
 - Is the board meeting at a time most convenient for the members? Does it meet too often? Not often enough?
 7. Does the board allow others to take up too much of its meeting time?
 - Do licensees or those connected with the occupation sit with the board and participate in its discussions and decisions?
 - Are people from the audience making comments when they are not part of the scheduled presentation at meetings?
 8. Does each board member understand his or her responsibilities?
 - Do board members have a current copy of the agency budget to review, discuss and monitor?
 - Do board members view, discuss and monitor the agency's monthly or quarterly expenditure report?

- Does the board review the Secretary of State's agency/board audit and take appropriate action?
- Does each board member have a packet or compendium of policies and/or administrative rules followed by the agency, as well as copies of all statutes for which the board has responsibility?
- Are board members informed of procedure followed by the administrative staff for processing licenses or other certificates for which your board is responsible; complaints from consumers; license revocation, hearings, etc.?
- Does your board or agency have a statement of goals and objectives? (Note: these goals and objectives should be reviewed on an annual basis for currency.)
- Does your board have a statement of the affirmative action policy of your administrative agency and statistics regarding its implementation?

SUMMARY OF PERTINENT LAWS

It is important that members be familiar with these laws—please review them!

ACTIVITY	REFERENCE
Senate Confirmation	Oregon Constitution, Article III Section 4
Holding Office, Tenure, Oaths	Oregon Constitution, Article XV Sections 1-3
Personal Liability	ORS 30.260, et seq.
Lobby Disclosure Act	ORS 171.725
Non-Attendance of Board Members	ORS 182.010
Administrative Procedures Act	ORS Chapter 183
Alternative Dispute Resolution	ORS 183.502
Public Records & Meetings Laws	ORS 192.610-192.710
Vacancies & Eligibility	ORS 236.010-030
Diversity in Appointment Criteria	ORS 236.115
Term Length, Removal, Prohibition from Accepting Certain Positions	ORS 236.140-147
Government Ethics Law	ORS Chapter 244
Expenses, Compensation & Parking	ORS 292.495
Oregon Documents Depository Program	ORS 357.003-004 & 357.090
Unlawful Trade Practices Act	ORS 646.608, et seq.
Licensing Boards Administration	ORS Chapter 670

1b - Restrictions on Political Campaigning Quick Reference



ORS 260.432 Quick Reference— Restrictions on Political Campaigning for Public Employees rev 12/13

Generally, ORS 260.432 states that a public employee* may not, while on the job during working hours, promote or oppose election petitions, candidates, political committee or ballot measures. Additionally, no person (including elected officials) may require a public employee (at any time) to do so.

*A “public employee” includes public officials who are not elected, whether they are paid or unpaid (including appointed boards and commissions).

As used in this Quick Reference

We use the phrase “advocate(s) a political position” to mean—

promote or oppose an initiative, referendum or recall petition, candidate, political committee or ballot measure.

The term “impartial” means equitable, fair, unbiased and dispassionate.

See the Secretary of State’s detailed manual on ORS 260.432 for specific factors to assist in ensuring impartiality in communications about ballot measures. It is posted on the website under Election Laws, Rules and Publications, Manuals and Tutorials.

For more detailed information about ORS 260.432 and information about other election laws, contact:

Elections Division	phone	503-986-1518
Secretary of State	fax	503-373-7414
255 Capitol St NE, Suite	tty	1-800-735-2900
Salem, OR 97310	web	www.oregonvotes.gov

Prohibited Activities

A public employee, while on the job during work hours may not:

- prepare or distribute written material, post website information, transmit emails or make a presentation that advocates a political position
- collect funds, prepare filing forms or correspondence on behalf of candidates or political committees
- produce or distribute a news release or letter announcing an elected official’s candidacy for re-election (except for an elections official doing so as an official duty) or presenting an elected official’s political position
- make outgoing calls to schedule or organize campaign events or other political activity on behalf of an elected official or political committee (however, a scheduler may, as part of official duties, take incoming calls about the official’s availability and add an event to the schedule)
- grant unequal access to public facilities to candidates or political committees
- direct other public employees to participate in political activities, when in the role of a supervisor
- draft, type, format or edit a governing body’s resolution that advocates a political position (except to conform the resolution to a standard format)
- prepare or give recommendations to the governing body urging which way to vote on such a resolution
- sign such a resolution, except if the signature is only ministerial and clearly included to attest the board took the vote
- announce the governing body’s position on such a resolution to the media
- include the governing body’s position or vote on such a resolution in a jurisdiction’s newsletter or other publication

A public employee who provides voter registration assistance under the federal National Voter Registration Act (NVRA) must not, when performing voter registration services, influence a client’s political choices. This means no display of political preferences, including a restriction that no political buttons may be worn. ORS 247.208(3)

Allowable Activities

A public employee, while on the job during working hours may:

- prepare and distribute impartial written material or make an impartial presentation that discusses election subjects (using the guidelines provided in the Secretary of State's detailed manual on ORS 260.432.)

The Secretary of State's Elections Division is also available for an advisory review of draft material about ballot measures produced by government agencies.

- perform standard job duties, such as taking minutes at a public meeting, maintaining public records, opening mail, inserting a proposed resolution into a board agenda packet, etc.
- impartially advise employees about possible effects of a measure, but not threaten them with financial loss to vote a particular way
- address election-related issues while on the job, in a factual and impartial manner, if such activity is legitimately within scope of employee's normal duties
- as staff of an elected official, handle incoming calls about the official's availability for political events
- prepare neutral, factual information for a governing body to use in determining what position to take on an issue (planning stage of a governing body's proposed issue before certified as a measure to a ballot is not subject to ORS 260.432)
- in a clerical manner, incorporate amendments into a finalized version of a governing body's resolution on an issue respond to public records request for information, even if the material advocates a political position
- wear political buttons subject to applicable employer policies unless the public employee is providing voter registration services under NVRA, where additional restrictions apply - see note on previous page about ORS 247.208(3)

A public employee, on their own, off duty time, may send letters to the editor that advocate a political position and may participate in any other lawful political activity.

It is advised that a salaried public employee keep records when appropriate in order to verify any such political activity that occurs while off duty.

Prohibited and Allowable Activities for Elected Officials*

*includes a person appointed to fill a vacancy in an elective public office

Elected officials may:

- advocate a political position at any time. Elected officials are not considered a "public employee" for purposes of ORS 260.432. ORS 260.432(4)(a).
- vote with the other elected officials of a governing body (such as a school board, city council or county commission) to support or oppose a measure, and publicly discuss such a vote—but must not use the public employee staff time to assist in this, except for ministerial functions
- perform campaign activity at any time, however must take caution not to involve any public employee's work time to do so

Elected officials may not:

- in the role of a supervisor, request a public employee—whether the public employee is on or off duty—to perform any political activity
A request made by a person in a position of supervisor or superior is viewed as a command for purposes of this election law.
- have an opinion piece or letter advocating a political position published in a jurisdiction's newsletter or other publication produced or distributed by public employees



Overview of Boards, Commissions, & Small Entities

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Introduction

Welcome to the online training for new board and commission members and executive directors.

This training does not and cannot override state law, rules, policies, or procedures. While the intent is to periodically update the material to comply with applicable laws it is incumbent upon the user to use the current and effective laws, rules, policies, and procedures. Where in conflict, the applicable law, rule, policy, or procedure takes precedence over information contained in this training.

For purposes of this training we will be using the term public entity to refer to any city, county, state agency, special district, government body, public body, public agency etc. We will be using the term board to include boards, commissions, or small entities. Board member will be used to include board and commission members, and director to include administrator and executive directors.

Most major state agencies are headed by policy-making boards or commissions appointed by the Governor. Many additional boards establish policy in a given area or serve in advisory roles.

The board system contributes to the success of Oregon state government. It is key to bringing local citizens' talent and interest to the state level, keeping government innovative and responsive and improving state performance.

A public official is defined as any person who is serving the state of Oregon or any of its political subdivisions or any other public body as an elected official, appointed official, employee, or agent.

Board members are not employees unless they are in an actual salaried position. Board members are public officials and in their official capacity act on behalf of Oregon state government.

If you are a director of a board, commission, or small entity you are an employee of Oregon state government and you are also considered a public official.

As a steward of public resources, you are held to a higher standard of conduct than a private citizen. Any actions of public officials are open to critical examination. As public officials, board members and directors are required to abide by the laws and policies of the state.

This training will cover the following topics:

- Overview of Oregon State Government
- Overview of Boards, Commissions, and Small Entities
- General Activities of Boards, Commissions, and Small Entities
- Operations and Management of Boards, Commissions, and Small Entities
- Introduction to Diversity and Inclusion
- Oregon State Government Ethics

Module 1

This module provides a high-level overview of Oregon state government.



Branches of Government

Governmental authority and functions in Oregon state government rest in the 3 branches of government. Separate functions and powers are assigned to each of the three branches.

1. The legislative branch makes the laws.
2. The executive branch carries out the laws.
3. And the judicial branch interprets the laws the legislative branch makes.

The Senate and the House of Representatives are responsible for making or changing laws. The legislature consists of 30 Senators and 60 Representatives. Representatives are elected for 2 year terms. Senators are elected for 4 year terms. Elections are held in even-numbered years. The Legislature convenes annually in February. Sessions may not exceed 35 days in even-numbered years and 160 days in odd-numbered years. The Legislature convenes on the second Monday in January.

Five statewide officials are elected to manage the executive branch of government. The officials are the Governor, the Secretary of State, the Treasurer, the Attorney General, and the Commissioner of Labor and Industries. The Governor is the leader and is responsible for planning and coordinating the executive branch. The executive branch is commonly grouped into 8 program areas including Economic & Community Development; Education; Human Services; Natural Resources; Public Safety; Transportation; Administration; and Consumer & Business Services. All executive branch agencies fall within one of these program areas.

Oregon's judicial branch is responsible for interpreting and enforcing the laws the legislative branch makes. The judicial branch consists of the following courts:

- The Supreme Court has the most authority and they regulate the lower courts in Oregon and makes sure all laws follow Oregon's Constitution.
- The Court of Appeals has jurisdiction to review appeals of most civil and criminal cases and most state administrative agency actions.
- The Tax Court is the only court able to make decisions in cases involving tax issues.
- The Circuit Courts are the state trial courts.

Legislative Process

Now that we've covered the 3 branches of government let's take a look at the different types of measures and how they go through the legislative process.

A bill is a proposed law. All statutes, except those initiated by the people, must be enacted through a bill.

Bills from state agencies must have the Governor's approval before they are introduced.

The legislative process is governed by rules, laws and procedures, making it somewhat mechanical in nature. Although the legislative process is long and complex, all laws begin as ideas.

An idea for a law can come from anyone; an individual or group of citizens, a legislator or legislative committee, the executive or judicial branch, or a lobbyist.

A bill, the most common type of measure, is a proposal for a law.

In order for a bill to become law, it must be passed by both houses in the identical form. A bill may be introduced in either the Senate or the House with the exception of revenue bills which must originate in the House.



Module 2

Now that we've had an overview of Oregon state government, let's do an overview of boards, commissions, and small entities.

It is important to keep in mind all members have been appointed to the board to serve the public at large. The concerns and points of view of all interested parties must be represented and considered, but ultimately, the primary responsibility of every board member is to protect the health, safety and welfare of the general public.

If you were recommended by a professional association or special interest group, you are expected to provide the board with your technical expertise, and to bring the point of view of the group to the board. However, you are not appointed to serve only as the representative of a specific group. When the group's interest conflicts with the general public, your primary responsibility is to the public. All board members must work for the benefit of the public first.

Authority

Some of the basic operating rules in state government are different from those in the private sector. One of these rules relates to authority.

A private citizen may do anything the law does not prohibit.

However, a board may only do what the law authorizes. Thus, a board has no inherent authority to act. A board may take an action only if the law provides authority for the intended action. A single board member acting alone has no authority unless specifically granted, as in the case of a chair, and an individual cannot take action to bind the state.

Make sure to have an understanding of what your board has authority for. Understanding and interpreting the laws granting your board authority is vital to your decision-making. You should carefully review your enabling laws. Litigation frequently results when a board takes action based on authority that is unclear or implied. It is important to remember if a board acts without authority, the action does not bind the state. Actions taken without authority may be overturned and, in some circumstances, the person taking the unauthorized action may be personally liable for the consequences of the action. For these reasons, we recommend you consult with DOJ legal counsel when you have any questions about you or your board's authority to act.

Law Structure

Public officials and boards get their authority from statutes, administrative rules, policies, and procedures.

- Oregon Revised Statutes are laws passed by the legislature. They must be followed by the people and institutions under their jurisdiction. Statutes are the umbrella laws for all rules, policies, and procedures. Statutes are state laws which define what public agencies must do, can do, and cannot do.
- Oregon Administrative Rules further articulate the statutes and provide additional guidance to boards. OARs are written or adopted by state agencies to provide guidelines or process requirements for actions impacting the public. Rules may be more restrictive than statutes, but not more lenient.
- Policies and procedures are guidelines to assist internal operations of the individual board.

Types of Boards

The purpose and scope of each board is determined by the state law or executive order creating it. There are four main types of boards. Each is created to meet a specific need in the management of state government, so it is important to

Overview of Boards, Commissions, & Small Entities

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understand the distinctions between each type.

Policy making boards are given statutory power by the legislature to make policy decisions and enforce regulations. Policy is developed by interpreting legislative intent as outlined in the board's governing statutes or in officially adopted administrative rules, and by implementing procedures to carry out those laws or rules. Members of policy making boards are generally final decision makers, accountable directly through the Governor to the public.

Some policy making boards are also Governing Boards, responsible for directing a state agency or appointing the agency director.

Advisory boards may be created by the Governor, the legislature, state agencies, or existing boards. They serve as advisors on policy matters to their appointing authority who is responsible for the management and administration of the policy. These boards study existing policy and make recommendations for change or implementation. Although they do not have final authority to make or enforce rules, their research and advice to decision makers contribute to effective changes in state government.

Licensing boards examine and license members of a profession or occupation to practice in Oregon. Some also have the power to discipline members of the regulated profession or occupation, and to suspend or revoke licenses.

Judgment boards are created by the legislature as review and appeals boards which hear and rule on individual cases. The decisions made by most of these and all other boards may be appealed to a higher court.

Bylaws

A board should have a set of bylaws to direct and clarify its actions, procedures, and organization. Bylaws are the guidelines by which a board functions. They should include expectations of members and cover issues such as attendance, responsibilities, and discipline.

Administrative Help

Most boards work within an agency or have access to assistance and advice from the agency. Typically, if a board works within an agency, certain central support services are provided to manage internal business. Some boards have their own staff to perform their day to day administrative functions.

Most often, the primary role of board staff is to carry out the rules, policies and programs developed by the board. Board staff also bring to the attention of the board issues of importance, prepare meeting agendas, and compile background information for board study.

Key Agencies

These agencies may affect your board and they also provide some support services.

Department of Administrative Services

The Director of DAS, who also serves as the State Chief Operating Officer, is appointed by the Governor. DAS was established to administer the Governor's programs and to provide policy direction and support services to boards. Most state agencies report to the Governor through the DAS Director.

Department of Justice

DOJ is the state's law firm, headed by the attorney general. DOJ provides most of the same services as do private law firms, but with a few important differences. By statute, the attorney general and lawyers within DOJ are the sole providers of

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legal advice and representation to agencies and officials. DOJ acts as a legal adviser at meetings, and is an advocate for the state in hearings, trials and appeals. Each board is assigned at least one assistant attorney general who specializes in the area of law affecting the agency. DOJ helps identify any legal problems posed by existing or proposed agency policies or actions. Your attorney is there to facilitate your policy choices by pointing out potential problems and evaluating the legal effect of other policy options to accomplish the desired goal more easily. If you act on the advice of counsel, DOJ will defend you in court and any liability will be assumed by the state. Acting without consulting your lawyer, or acting contrary to their advice, may result in personal liability.

Secretary of State

The Secretary of State is an elected official who serves as the state's chief elections and public records officer, the auditor of public accounts and the administrator of the state archives. There are two divisions within the Secretary of State's office which boards will work with regularly. The Audits Division performs fiscal, performance, and compliance audits of all boards. The Archives Division preserves permanent government records and establishes retention schedules for public records of all boards. Boards must follow the guidelines established by the division on the care, accessibility, storage and destruction of its public records. No official records may be destroyed without the approval of the division.

Governor's Office

Most agencies are relatively independent within their areas of responsibility. Overall policy guidance and direction are provided by the governor, as the state's chief executive officer, and by the legislature, which writes laws and appropriates operating funds. To provide an overall management structure, the governor uses DAS. The governor coordinates the activities of agencies; actively participates in the design, development and approval of state agency budgets; appoints many agency directors, board members and other officials; and approves or disapproves all legislation affecting agencies. Board activities are subject to both legislative and executive oversight. Actions by the governor and the legislature may result in revision of a board's authority or changes in appropriations.

Legislature

Many boards work with the legislature in changing and developing state law. Your board may propose legislation and track bills relating to the work and concerns of your board. As a board member, you may also testify before legislative committees and advise legislators on issues concerning your board. The knowledge and expertise provided by boards can be very helpful to the legislature. Be careful to not represent yourself as a spokesperson for your board without the board's and the governor's prior consent and approval.

Module 3

Now let's take a look at general activities boards may participate in.

Budget Process

Oregon's budget is a tool to carry out the state's law and policy decisions. It allocates the state's general fund, federal funds, and other funds.

The budget also sets limits on other types of revenues and state positions.

Oregon's budget must be balanced.

Each board's budget is called an appropriations bill which authorizes the budget, specifies the maximum amount a board can spend, and allows the board to spend money.

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The budget covers two fiscal years, which is called a biennium.

The budget runs from July 1 of an odd-numbered year to June 30 of the next odd-numbered year.

Approval of the budget is one of the principal issues of the legislature. The Oregon Constitution does not allow the state to spend money in excess of its revenues.

The Joint Committee on Ways and Means conducts hearings and receives testimony on the Governor's Recommended Budget.

The budget is then reviewed, debated and eventually approved by both houses of the legislature and approved by the Governor. Upon signature or effective date, the budget bill becomes law.

Funding Types

A budget specifies the maximum amount a board can spend. A board's revenue comes primarily from three sources:

- The general fund is primarily from taxes and fees. General fund money is typically used for programs dealing with health, education, public welfare, correctional institutions, legislative and judicial functions, general governmental administrative functions, or for programs without a dedicated revenue source.
- Some boards are funded in whole or in part by federal funds. Boards must get permission to apply for this money. Budget approval for a board financed with federal funds establishes the maximum amount of money it can spend from its income source. This is called an expenditure limitation.
- Most boards get their funds from other funds which come from fees, tuition, or sales of services or commodities. Generally, these sources are established by the legislature specifically to support the program or board.

Regardless of revenue source, authority for all board expenditures rests with the legislature.

Budgeting Process

The budget process starts early in even-numbered years to develop the agency request budget. This lays out finances and policies for consideration. Boards send their budget request to the Chief Financial Office by September 1.

The governor and the CFO review the budget request. They use the governor's priorities, budget policies and current law to make budget decisions. The governor's recommended budget document summarizes those decisions. It gives data on all the state's revenues, expenditures, and information on each agency's budget.

The governor presents the recommended budget to the legislature when it meets at the start of the next calendar year. Legislative committees review the proposed budget. They hold public hearings to hear from each agency and the public. Each budget bill has a budget report presenting the committee recommendations. The legislature votes on each budget bill. The budget bills enacted into law make up the legislatively adopted budget. Agencies carry out, or execute, the budget over the two year budget period.

Rulemaking

The Administrative Procedures Act defines a rule as any agency directive, standard, or statement of general applicability that implements, interprets or prescribes law or policy.

Rulemaking is required:

- When a board must interpret its governing statutes, prescribe board procedures, or articulate board policy decisions.

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- When a board's enabling legislation does not tell the board and the persons subject to the law what to do, or when and how to do it.
- And when a statute specifically requires rulemaking.

There are times when the need to have a rule in effect within a particular timeline makes it impossible for a board to comply with all of the public notice and comment requirements. A board may adopt, amend or suspend a rule without prior or limited notice or a hearing if it meets the requirements outlined in ORS 183.335. The temporary rule is only valid for 180 days and cannot be re-adopted.

Typically, a board should set all policy affecting the public through rulemaking.

Rulemaking Process

When a board is adopting, amending, or repealing a rule the following process must be followed.

Step 1 - Notice

Before adopting, amending, or repealing any rule the board must give notice of its intended action. The notice of proposed rulemaking must be given in four ways:

- In a manner established by your agencies notice rule;
- By publication in the Secretary of State's bulletin;
- By mail to individuals who request notice; and
- To certain legislators.

The notice must state the subject matter and purpose of the new or amended rule in sufficient detail to inform a person that the person's interests may be affected. The notice must state the time, place and manner in which an interested person may comment on the rule to the board.

Step 2 - Opportunity for Public Comment or Hearing

A board must give interested persons reasonable opportunity to submit comments on the proposed rule. A public hearing is usually optional unless it is required by an enabling statute or when the board receives a request for a hearing from 10 persons or from an association having at least 10 members. Otherwise, the board can accept comments in writing.

When setting a deadline for public comment the board has broad discretion. The deadline set in the notice applies to everyone outside the board who wants to make comments. The board can extend the deadline and may reopen the rule for public comment after the deadline to receive all comments or comments on limited issues. The deadline must be extended if someone asks for more time or the board determines the fiscal impact statement is inadequate after review by a fiscal impact advisory committee.

When the board receives all the comments they need to be put in the official rulemaking record. All the comments need to be seriously considered and then make the appropriate changes to the draft rule. The board does not need to respond to any comments, unless required to do so by law.

Step 3 - Adoption and Filing

The board may adopt the rule only after fully considering all data and views presented. The final rule does not need to be identical to the proposed rule. There is no set timeline for when the rule must be adopted after the end of the comment period.

Rules must be adopted by resolution and vote in a public meeting for a board.

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The board must file a Certificate of Filing signed by someone with rulemaking authority and then file it electronically with the Secretary of State. Within 10 days after filing the adopted or amended rule with the Secretary of State, the board must file a copy with the Legislative Counsel.

The legislative counsel may review a proposed or adopted rule of a board either on its own initiative, or upon request of any person affected by the rule, or when requested by any member of the legislature.

When reviewing the rule, the legislative counsel must determine whether the rule:

1. Appears to be within the intent and scope of the enabling legislation; and
2. Raises any other constitutional issue.

The legislative counsel may make a negative determination and post it on their website, but they may not invalidate the rule.

Every board must review all of its new rules within five years of adoption. The review must include an analysis of whether the rule had its intended effect, whether the fiscal impact was under or overestimated; whether the rule remains consistent with the law; and whether the rule is still needed.

Rules are subject to review by Oregon's courts. A court may declare a rule invalid if the rule is unconstitutional, exceeds the board's authority, or was adopted without compliance with the applicable rulemaking procedures.

Regulatory Boards

Many boards engage in regulatory activities. The philosophy of government regulation assumes the public would suffer physical, emotional or financial injury if the state did not exercise some oversight or control. Occupational and professional regulation is intended to ensure people engaged in those activities having an impact on the public's health, safety or welfare, provide Oregon citizens with honest and competent service. In addition, the regulation system provides a means for the public to provide input through a fair and objective process.

Members of regulatory boards help to set policy and give guidance to the regulated industry or profession under governing statutes.

Effectively constructed and administered tests provide an important contribution to licensure. Licensing tests should be designed to ensure an applicant's education and experience have adequately prepared them to assume an occupational or professional role impacting the public's health, safety, and welfare.

A principal responsibility of licensing boards is to determine whether a person should obtain or retain a license. Licensing boards with regulatory authority establish the standards and prescribe the qualifications required for a license to practice and regulate the services provided by the licensee by enforcing compliance with those standards.

Most licensing boards may revoke, suspend or refuse to renew any license, registration or certificate they issue, and some are authorized to stay a suspension on probationary conditions.

Most boards receive complaints about licensees. Complaints are usually received from consumers of licensee services, other licensees or professionals, other regulatory agencies, or as a result of routine inspections or investigations. Each complaint must be reviewed, and every effort must be made to mediate and satisfactorily resolve all complaints.

In some cases, an administrative hearing will be held to resolve a complaint. The Administrative Procedures Act establishes



specific procedures to be followed to take disciplinary actions against individuals or firms. If the board conducts a hearing required by the Administrative Procedures Act, board members should not participate in the investigative or pre-hearing complaint handling functions. They must be impartial parties to the hearing.

Individual board members should disqualify themselves if bias or significant interest prevents fair and impartial participation in the hearing. If members have any conflicts of interest or have received any communication on a fact or issue made outside the hearing during review of a case, they must place on the record a statement on the nature of the conflict or substance of the communication.

Public Records & Meetings

Oregon enacted the public records and public meetings laws in 1973. These laws reflect the legislature's policy choice that the public is entitled to know how the government's business is conducted. The public records law advances this policy by requiring public bodies to retain records and by granting the public a broad right to examine records created, maintained, cared for or controlled by public bodies. The public meetings law does so by opening to the public many public bodies' information gathering and decision-making processes.

ORS 192.410(4) states public records include any writing containing information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.

The term "writing" is broadly defined in ORS 192.410(6) as including every type of documentation. For instance, hand written documents, photographs, computer discs, emails, instant messages, text messages, etc. Even after electronic records are deleted, they continue to exist on computer back-ups which are still public records.

Emails are public records even if sent or received on a personal email account. As a board member you may receive a state issued email account. If so, do all your board communications using the state email account. If you don't receive a state email account, it is highly encouraged you create a separate email account to use for conducting your board communications.

Every board is required to have a written policy on how the public requests a public record. Click on the question icon to learn more.

The policy must contain at a minimum:

- How the board accepts requests and identify the name and address of a person who the requests are sent to.
- In what form the records request will be received.
- The fees and how fees are calculated.
- Notification to the requestor if the estimated fee might exceed \$25.
- If advance payment is required of estimated fees.
- If a fee waiver or reduction may be available.

Work with your board administration to familiarize yourself with the policy.

The public records custodian is the public body mandated, directly or indirectly, to create, maintain, care for or control a public record. In general, any public body possessing a record for purposes related to one of its functions is a "custodian" of the record.

The custodian is responsible for:



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- Providing proper and reasonable opportunity for inspection of the public records.
- Segregating exempt material from nonexempt material and disclosing the nonexempt material.
- If a public record contains exempt information, the custodian has a duty to delete it and to disclose the remainder, if it is possible to do so.
- Give the requestor a copy of the record (if the record can be copied).
- Provide the public record in an alternative format if requested by a person with a disability. A public body may not charge a person with a disability to cover the costs of providing the record in an alternative form, although a charge for all actual costs may be made.

The custodian has the right to:

- Make reasonable rules to protect the records and prevent interference with work in the office.
- Consult with counsel before responding to a request.
- Establish fees to reimburse for the actual cost of making the record available.
- Waive or reduce the fee if the custodian determines it is in the public's best interest.

Most public records are subject to disclosure, but there are exemptions. For instance, records related to an active criminal investigation or confidential communications between public officials and lawyers. If a public body claims an exemption, it must show the need for confidentiality outweighs the public interest.

The public records law contains a list of exemptions from disclosure. Most exemptions are conditional, and the public body is required to consider whether the public interest requires disclosure of the record even if the terms of the exemption are satisfied. Other exemptions are unconditional, and permit nondisclosure if the terms of the exemption are met. Few exemptions in the public records law, prohibit disclosure, although other statutes outside of the public records law may prohibit disclosure.

The exemptions are found in ORS chapter 192. Your board may have confidentiality statutes or other exemptions outside the public records law that apply to the records your board collects.

Your board should consult with legal counsel if there is uncertainty about whether a specific record is exempt from disclosure. Because the public records law is primarily a disclosure law, a public body that denies a records request has the burden of proving the record is exempt from disclosure. The Oregon courts have interpreted the law in favor of disclosure and have applied a narrow or restrictive interpretation of the exemptions from disclosure.

Public Meetings

Oregon's public meetings law serves two purposes:

- To provide a means by which the public can be informed about the deliberations and decisions of state government;
and
- To ensure governing bodies in Oregon have an open decision-making process.

Except for executive sessions, any member of the public may attend any public meeting.

The public meetings law applies to state and local government "governing bodies" of "public bodies."

"Governing body" means the members of any public body consisting of two or more members (for instance, a board, commission, committee, subcommittee or council) with authority:

To make decisions for a public body on policy or administration, or

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To make recommendations to a public body on policy or administration.

"Public body" includes the state, cities, counties, districts, boards, commissions, committees, subcommittees, advisory groups and similar bodies. It does not include individual agency heads.

Advisory body or subcommittee of a public body is covered by this law if it has authority to make decisions for or recommendations to a public body on policy or administration.

A meeting is a convening of a governing body for which a *quorum is required* to make a decision or deliberate toward a decision. A public meeting can include:

- Information-gathering sessions, except for on-site inspections, and attendance at association meetings.
- Working lunches, but not purely private social gatherings at which no official business is discussed.
- Electronic meetings.

In a recent opinion, the Court of Appeals held that serial communications among a quorum of a governing body, even if conducted through an intermediary, can constitute a "meeting" for purposes of the public meetings law.

There are four basic requirements for conducting a public meeting:

1. Advance notice must be provided to interested parties of meetings, location, and the main subjects.
2. Meetings must be open to public attendance, unless it's an executive session.
3. The meeting must be recorded or written minutes must be made.
4. Votes must be cast publicly and recorded.

Advance noticed must be given for all public meetings. The notice should include the time, place, and main subjects.

- For executive session, notice must include reference to the law authorizing executive session.
- For regular meetings, the timing of the notice must be reasonably calculated to give actual notice to interested persons.
- For special meetings, at least 24 hours' notice is required.
- For emergency meetings, there must be notice "appropriate to the circumstances." An actual emergency must exist, and the minutes must describe the emergency justifying less than 24 hours' notice.

In accordance with ORS 184.483(4), the notice must be posted on the Oregon transparency website. The board is not required to place notices in paid advertising publications.

Minutes and recordings must include the following information at a minimum:

- The members who are present at the meeting.
- All motions, proposals, resolutions, orders, ordinances and measures proposed, and their nature.
- Results of all votes and vote of each member by name. Secret ballots are prohibited.
- Matter of all discussions.
- Reference to all documents discussed.
- For emergency meetings, a description of the emergency justifying the meeting.

Minutes or recordings must be made available to the public within a reasonable time.

Executive Sessions

A meeting can be closed to the public if a governing body goes into executive session. The law governing executive



sessions is designed to allow a public body to have confidential discussions, but does not allow any decisions to be made in secret. All decisions by a governing body must be made in public. Journalists may attend most executive sessions, but cannot report or broadcast what was said.

Executive sessions should not be confused with meetings exempt from the public meetings law altogether. An executive session is a type of public meeting and must conform to all related provisions of the public meetings law.

The public meetings law provides very specific provisions allowing the governing body of a public body to convene and participate in executive sessions to discuss specific topics when certain conditions and prerequisites are met. The presiding officer must publicly announce the statutory authority or lawful basis for holding the executive session prior to convening the executive session. Topics not covered by one of the stated reasons for the executive session cannot be discussed.

Examples of topics that may be discussed in an executive session include labor negotiations, legal counsel, hiring, disciplining, or firing a public employee. For a complete listing of lawful topics refer to DOJs Public Records and Meetings Manual in the resources section of this training.

If you have any questions regarding appropriate topics, certain discussions or the prerequisites for executive sessions you should seek counsel from your board's DOJ attorney.

Parliamentary Procedure

Parliamentary Procedure is a set of rules for conduct at meetings allowing everyone to be heard and to make decisions. Part of any meeting should be a systematic plan for the orderly conduct of business. The sequence in which business is taken up during a meeting is known as the "Order of Business." The Order of Business is a blueprint for the meeting and typically has the following components.

- The presiding officer should never call the meeting to order until a quorum is present. A quorum is the number of members entitled to vote who must be present in order for business to be legally transacted. Quorum is typically defined in the governing documents. Once a quorum is present, the presiding officer calls the meeting to order by stating, "The meeting will come to order."
- A roll call of members present is completed.
- In meetings when minutes are to be approved, the minutes are typically distributed to all members. Corrections and approval are normally done by unanimous consent. The presiding officer can ask, "Is there any objection to approving the minutes as read [or distributed]." If there is no objection, the minutes are approved.
- The first substantive item of business in meetings is typically hearing from the officers and established committees.
- The logic in this order of arrangement is to give priority to the items of business from the leadership. Typically, the presiding officer learns in advance who needs to report and only calls on those committees.
- Reports are generally for information only. In such instances, no motion is necessary following the reports unless there are recommendations to be implemented. A motion "to adopt" or "to accept" a report is seldom wise except when the report is to be issued or published in the name of the organization. On the other hand, it is common the reporting member end by making a motion if there is a specific recommendation for action.
- Unlike standing committees established in the governing documents, special committees do not have continual existence. Instead, special committees exist solely for the purpose of a specific project. For example, a special committee might be created to plan a specific function or event. Special committees typically go out of existence upon their final report.
- Unfinished business refers to matters carried over from a previous meeting. This category of business is sometimes incorrectly referred to as "old business."



- Instead, unfinished business items typically fall into one of several specific categories. For organizations meeting at least four times a year, unfinished business may include: (1) any matter pending when the previous meeting adjourned; (2) any matters on the previous meeting's agenda not reached; or (3) matters that were postponed to the present meeting.
- The presiding officer should know if there are any items to be considered under unfinished business. As a result, the presiding officer should not ask, "Is there any unfinished business?" Instead, the presiding officer should simply state the question on the first item of business. If there is no unfinished business, the presiding officer should skip this category of business.
- Much of the work in a meeting is accomplished during new business. In this category of business, members can introduce any new item for consideration (unless there are notice requirements). In some instances, the presiding officer may be unaware of what items of business will arise under new business. The presiding officer introduces the heading of new business by asking, "Is there any new business?" Any member can then introduce new items of business by making a motion and obtaining a second. Following the consideration of each item, the chair repeatedly asks, "Is there any further new business?" This process continues until there are no additional business items.
- In most assemblies the presiding officer can adjourn the meeting without waiting for a motion to adjourn. If all items of business have been considered, the presiding officer can ask, "Is there any further business?" If there is no response, the presiding officer simply states, "Since there is no further business, the meeting is adjourned."
- If custom or tradition requires a motion to adjourn be made, the presiding officer can ask, "Is there a motion to adjourn?" Once the motion is made and seconded, the presiding officer can ask, "Is there any objection to adjourning the meeting? Hearing no objection, the meeting is adjourned."

Motions

There are 4 basic types of motions:

- Main Motions: The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.
 - Subsidiary Motions: The purpose is to change or affect how a main motion is handled, and is voted on before a main motion.
 - Privileged Motions: The purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
 - Incidental Motions: The purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.
1. Obtaining the Floor: Wait until the last speaker has finished. Rise and address the Chair. Wait until the Chair recognizes you.
 2. Make Your Motion: Speak in a clear and concise manner. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...". Avoid personalities and stay on your subject.
 3. Wait for Someone to Second Your Motion: Another member will second your motion or the Chair will call for a second. If there is no second to your motion it is lost.
 4. The Chair States Your Motion: The Chair will say, "it has been moved and seconded that we ..." Thus placing your motion before the membership for consideration and action. The membership then either debates your motion, or may move directly to a vote. Once your motion is presented to the membership by the chair it becomes "assembly property", and cannot be changed by you without the consent of the members.
 5. Expanding on Your Motion: The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it. The mover is always allowed to speak first. All comments and debate must be directed to the Chair. Keep to the established time limit for speaking. The mover may speak again only after other speakers are finished, unless called upon by the Chair.



6. Putting the Question to the Membership: The Chair asks, "Are you ready to vote on the question?" If there is no more discussion, a vote is taken.
7. Voting on a Motion: The method of vote on any motion depends on the situation and the bylaws or policy of your board. There are five methods used to vote by most boards, they are:
 - By Voice: The Chair asks those in favor to say, "aye", those opposed to say "no". Any member may move for an exact count.
 - By Roll Call: Each member answers "yes" or "no" as their name is called. This method is used when a record of each person's vote is required.
 - By General Consent: When a motion is not likely to be opposed, the Chair says, "if there is no objection ..." The membership shows agreement by their silence, however if one member says, "I object," the objection will be recorded as long as the required majority does not object.
 - By Division: This is a slight variation of a voice vote. It does not require a count unless the Chair so desires. Members raise their hands or stand.
 - By Ballot: Members write their vote on a slip of paper, this method is used when secrecy is desired.

Module 4

Now let's take a look at common operations and management of a board.

Procurement

A board's procurement authority comes from its own statutory authority, from a written delegation of authority from DAS Procurement Services, or by DAS Administrative Rule. DAS Procurement Services can delegate procurement authority at certain dollar thresholds to agency heads and Designated Procurement Officers. A written document specifying an entity's authority must be on file before purchasing goods or services with taxpayer money. Agencies may be permitted to sub-delegate procurement authority granted by DAS, but the responsibility for operating within the rules remains with the employee to whom authority was initially granted. The delegation of authority to procure goods and services is usually tied to thresholds outlined in the procurement statutes or in a tiered delegation agreement with an agency.

Boards must follow:

- Oregon Revised Statutes 279A, B and C;
- Oregon Administrative Rules Chapter 125 and 137; and
- The Oregon Accounting Manual.

The choice of procurement method is a critical decision in purchasing goods and services. The Buy Decision priority provides a sequence of priority that an agency must follow in determining an appropriate source for a procurement need.

A board is allowed to enter into intergovernmental or interagency agreements without competitive bidding when it is with another board, state agency, public entity (for instance a city, county, community college, etc.), or the federal government. However, legal sufficiency will apply to an intergovernmental agreement exceeding \$150,000 in value.

Surplus provides a central repository for the collection, reutilization and, public sale of excess and surplus property and vehicles for all state agencies and public entities.

A QRF is a non-profit rehabilitation organization employing individuals with disabilities. QRFs provide services such as janitorial services, recycling services, food and beverage services, temporary staffing services, etc. Boards are required to purchase goods or services from a QRF before going out to the open market.

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Oregon Corrections Enterprises (OCE) provides inmates full-time work or on-the-job training through the state's correctional institutions. OCE provides goods and services such as furniture, office seating, signs, park equipment, printing services, call centers, laundry services, etc. Boards are required to purchase goods or services from OCE before going out to the open market.

All state agencies, boards, and commissions are required to purchase needed goods and services from the DAS statewide price agreements when other steps in the "Buy Decision" do not meet needed results. A board may purchase services or supplies from a price agreement without further competition, because they have already been competitively solicited. Most commonly used products and services are found on the price agreements.

This is the fifth and final source selection method. This means going out for bid or a request for proposal from private firms. Certification Office for Business Inclusion and Diversity are included in the open market procurement process and must be included when getting quotes for a project, but they are not given preference in award of contracts.

If a board goes out to the open market you must consider:

First, do you have the authority to purchase the needed service or commodity? And;

Second, what is the value of the projected contract which will affect the procurement process that can be used?

Contracts valued between \$10,000 and \$150,000 are considered intermediate procurements and must be competitively solicited by law. Agencies, boards and commissions have the authority to conduct intermediate procurements, but must advertise them using the Oregon Procurement Information Network.

Contracts with a value exceeding \$150,000 must receive legal sufficiency approval from the Department of Justice. This review is intended to ensure contracts contain all the elements needed to make the agreement legally binding. Legal sufficiency review does not ensure the board is making a good business decision.

Notice of all contracts with a value exceeding \$10,000 must be provided to the Certification Office for Business Inclusion and Diversity which is done through posting the solicitation on the Oregon Procurement Information Network.

Boards must submit a procurement request to DAS for a purchase exceeding their authority which usually is \$150,000 for personal services, trade services and commodities and \$100,000 for construction contracts.

When you need to go to the open market here are the methods used to purchase goods and services.

If you need to purchase something that will not exceed \$10,000 you can use the small procurement method. You can purchase these products and services by using a direct purchase or other non-competitive process. Small procurements do not require the use of the competitive process. A board may award a contract for a small procurement in any manner deemed practical or convenient. Your board should not use this method for regular or repeated purchases of the same items. If there is a reasonable chance that you may amend the contract to more than \$12,500 over the life of the contract, then other procurement methods should be considered.

An Intermediate procurement is a competitive solicitation for products or services with a contract value exceeding \$10,000 but not more than \$150,000. For this type of procurement, a board must seek at least 3 price quotes or proposals from prospective contractors and must post a notice of competitive solicitation through ORPIN. A board can select among the following methods to solicit 3 quotes or proposals:

1. Request for Quote: This is an informal method to request and document quotes.
2. Invitation to Bid: This is a method to request responses to a more detailed specification.

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3. Request for Proposals: A board can request informal proposals using this method to provide a detailed scope of work.

Competitive sealed proposals is a method of procurement for acquiring products or services that exceed \$150,000. For this procurement method, DAS Procurement Services on behalf of a board or a board with delegated procurement authority issues a Request for Proposals (RFP) to initiate the competitive sealed proposal process.

Competitive Sealed Bidding is a method of procurement used to acquire products or services that exceed \$150,000. Unless a board is delegated the authority to conduct the procurement, DAS Procurement Services facilitates the competitive sealed bidding process and coordinates with the board throughout the process.

A sole source procurement is used on very rare occasions when there is only one source or provider for the needed item or service. A sole source procurement is defined as any contract entered into without a competitive process, based on a justification that only one known source exists or that only one single supplier can fulfill the requirements. Examples include proprietary items, such as copyrights, patents, trademarks, and trade secrets; or products or services that support existing software or data exchange between public or private agencies or are required for compatibility to existing equipment.

An emergency is defined as circumstances that could not have been reasonably foreseen creating a substantial risk of loss, damage, interruption of services, or threat to public health or safety. An emergency procurement is used to promptly execute a contract in response to the circumstances in an effort to remedy the condition. When an emergency takes place, the chief executive or another duly authorized person must prepare a written declaration. The board must keep a written record of the competition process used to award contracts. Boards must get quotes when possible for all procurements.

Special procurements are an exempted process used when it is determined competition will not be harmed and the state will realize substantial savings. The DAS Chief Procurement Officer must approve all special procurements in advance. A Special Procurement is an informal or formal procedure defined and followed by a board to conduct a procurement of products or services in a manner that affords more flexibility than standard procurement procedures.

There are five contract types commonly used to acquire goods and services.

Trade services contracts are usually industry standard, easily definable skills associated with a trade. For example, an electrician, a plumber, etc.

Goods contracts are for consumable products, equipment, and materials; these are often found on price agreements established by DAS. For example, office supplies, computers, cars, etc.

Personal services contracts require specialized skills, knowledge and professional judgment. For example, a lawyer, an interpreter, etc.

Public improvement contracts are projects for construction, reconstruction, or major renovation on state-owned real property. Public works contracts fall under public improvements, but have separate rules and usually are used to repair or update existing structures. A public works contract does not always qualify as a public improvement project.

Information technology contracts are projects requiring hardware, software and associated services. Many IT projects must be reviewed by the State Chief Information Office prior to being implemented.

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Authority for work is defined by statute. Each agency has an enabling statute identifying the authority and responsibility of the entity. New or significantly augmented positions or work are requested through policy option packages which are analyzed by both DAS and the Legislative Fiscal Office before they can go forward for legislative action. This analysis includes review of a written business case for the need, position descriptions, and fiscal analysis. Positions are authorized by the legislature.

OAR 105-040-0040(1) provides each agency head the authority to recruit and fill positions. According to ORS 240.015, an officer who has the power to make appointments is called an Appointing Authority. The authority to make appointments to positions comes after a position has been established.

ORS 240.400 allows an Appointing Authority to assign delegates with written notice to DAS - Chief Human Resources Office. The signature of an Appointing Authority on the position description form gives permission for the work to be done.

DAS - CHRO is governed by ORS 240 and is tasked with overseeing state agencies' human resources functions. CHRO provides enterprise-wide policy leadership. CHRO develops and maintains statewide HR policies, administrative rules, and assists state agencies with HR management. These policies apply to most executive branch agencies subject to ORS 240, the State Personnel Relations statute. There are several semi-independent agencies excluded from the statute (ORS 182.454). CHRO provides interpretation and recommendations on application of the rules and policies.

If an agency doesn't have an internal human resources office, they can contract with DAS to provide human resource services for the agency.

Agency human resource offices are responsible for interpreting and administering state and federal human resource laws, rules, and policies for the employees of their agency. The role of HR includes strategic planning, facilitating change, encouraging learning, and integrating HR functions into the management of the agency and its programs.

Board seats are volunteer positions and have an average expectation of approximately 10-15 hours of work per month. However, members may be eligible to receive reimbursements and per diem for the time serving on the board.

Board members, who are appointed by the Governor, are prohibited from being a paid employee by the board while serving. In addition, they are not able to be employed by that board for one year after their term expires. (ORS 236.145)

Paychecks, leave balances, and benefits depend on accurate time and attendance records. Payroll transactions are no different than any other board expenditure, requiring the same application of internal controls. Therefore, review and approval of the time records is critical.

Time records not being reviewed and authorized may introduce incorrect data into the state payroll and accounting systems and cause unauthorized expenditures of state funds. If you are responsible for reviewing and authorizing time records and fail to do so it is considered an inappropriate action and board management can apply penalties according to the Oregon Accounting Manual.

If you are expected to report your time and attendance make sure it is accurate. If any changes occur make note of it immediately so you won't forget to update your records before submitting them.

Managers are expected to review all time reported for accuracy and appropriateness. A manager's signature or time locking verifies approval of time. If there is a revision made to an employee's time by someone else, for instance payroll or their manager, the employee must be informed of the changes made.



For more information refer to the Oregon Accounting Manual 45.07.00 located in the resources section of this training.

FLSA

The Fair Labor Standards Act (FLSA) is a federal statute. FLSA establishes the federal minimum wage and the 40-hour work week; sets overtime to be paid at time and one-half; and regulates the exemptions to the 40-hour work week and over time rule.

The 40-hour work week is defined by state policy and the Department of Labor as a fixed, regular recurring period of 168 hours during seven consecutive 24-hour periods or days.

Certain workers are not covered by FLSA. These non-covered workers include elected officials and their staffs, political appointees and legal advisors, volunteers, independent contractors, and prison inmates. Other employees, while covered by some provisions of the FLSA, are not covered by the overtime and minimum wage requirements. They are "exempted" from such coverage.

Non-exempt employees are paid overtime compensation when they have worked in excess of the established 40-hour work week. There are exceptions to this for jobs such as firefighters, police officers, certain hospital employees, and articles in collective bargaining agreements may be more generous. All time worked by an employee under FLSA must be paid for even if the time was not authorized by the employer.

Managers must ensure the FLSA, state wage and hour, and collective bargaining obligations are all met. If violated, FLSA penalties may include back wages, liquidated damages, civil penalties, injunctive relief, and even criminal penalties.

OAM

The Oregon Accounting Manual (OAM) provides a comprehensive set of policies and procedures to assist with financial transactions in accordance with generally accepted accounting principles, federal regulation, and the Internal Revenue Service requirements.

When boards develop internal procedures to implement standards or guidelines contained in the OAM, those procedures should be consistent with OAM provisions. Boards may, at their discretion, adopt procedures more restrictive than the requirements of the OAM.

Internal Controls

Proper segregation of responsibilities is a necessary condition to make control procedures effective. Management should ensure adequate separation of authorization for the execution of transactions, recording of transactions, custody of assets, and periodic reconciliation of existing assets to recorded amounts.

All transactions are supported by copies of source documents such as vendor invoices, detailed receipts, or time sheets. This documentation must be detailed to provide clear evidence of the transaction.

Receipts or invoices must be itemized to show specific transaction.

- A restaurant receipt must indicate the itemized purchases and not the total bill.
- A vendor invoice must have the details of the purchases.

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Specific individuals with expenditure authority may have limits placed on their expenditure approvals, which vary depending on agency needs. For example, an agency director and board chair may have spending authority for all fiscal transactions, mid-level management at \$50,000 and an office staff up to \$5,000.

OAM policy 10.90.00.PO sets control standards for the authorization of agency head transactions such as time reporting, travel reimbursements, and state credit card purchasing.

Mid to large sized agencies who have a deputy director or CFO position are authorized to approve agency head transactions.

Many smaller agencies do not have a deputy director or CFO position required to approve agency head transactions. In these cases, board members will be required to approve agency head transactions.

An agency head is authorized to make expenditure decisions by statute and legislative appropriation. An agency head may delegate **expenditure decision authority** to subordinates, in writing. Any person who exercises expenditure decision authority will be legally responsible and accountable for the expenditure.

Many agencies will have certain board members with expenditure authority, in cases where the agency head is unavailable or to sign for agency head transactions.

Stipends & Travel

Board members may be eligible to receive a stipend for attending regular board meetings and other official board activities. In addition, board members may be eligible for travel and meal reimbursements.

Stipends are outlined in state law and can vary for each board. For travel, the General Services Administration (GSA) publishes annual per diem rates for meals, lodging, and mileage.

Board members who travel on business for the state, must follow the policies set forth by the GSA, the Oregon Accounting Manual, the state travel policy, and any internal travel policies. Contact your board administration for more information.

Module 5

This module will explore communication skills for promoting diversity and inclusion.

There are many dimensions to diversity including organizational, external, and internal. These dimensions include a broad spectrum of characteristics.

The term “inclusion” has been used to describe the active, intentional, and ongoing engagement with diversity. Inclusion describes the ways in which individuals might connect increasing one’s awareness, content knowledge, intellectual complexity, and emphatic understanding of the intricate ways individuals interact.

Bias is NOT a bad word. Bias is a predisposition to see events, people or items in a positive or negative way.

Bias is an attitude or belief. It’s not until we act it out in behavior that our bias affects someone else - it may advantage or disadvantage an individual or a group.



When it comes to communication, bias shows up in many different ways, such as in statements, jokes or stereotypes.

A stereotype is an oversimplified image or statement applied to a whole group of people, without regard for the individual.

Stereotypes imply all people in the group are identical, based on some dimensions of diversity they share.

Stereotypes often contain a judgment. For example, good or bad, honest or dishonest, hard working or lazy.

Stereotypes typically have 3 characteristics:

They imply all people in the group are the same.

They contain judgment. Notice that the judgment often reveals more about the person's beliefs or expectations than it does about the stereotyped individual.

Stereotypes are fairly inflexible. When we encounter someone who does not fit our stereotype, it's easier to consider that person the "exception to the rule," rather than question the validity of the stereotype.

In order to deal with stereotypes you must be able to recognize them when they occur.

Stereotypes and bias exist and are prevalent in our society. No one person or group owns bias or stereotyping. The same person can be both recipient and sender of biased statements. Stereotypes touch every person - we may send stereotypes, be the recipient or target of stereotypical statements, or we may be a bystander witnessing stereotypes. We either speak up or stay silent in the face of stereotypes and other biased statements.

As board members and executive directors you are typically trying to get your message across to a broad audience. Using language that includes and demonstrates respect for everyone will help people receive the message you are trying to send.

Module 6

This module covers the following topics:

- Key definitions of the ethics law
- Who is considered a public official
- Use of position or office
- Private employment of public officials
- Conflicts of interest
- Gifts
- Nepotism

The provisions in the ethics laws restrict some choices, decisions or actions of a public official. The restrictions placed on public officials are different than those placed on private citizens because service in a public office is a public trust and the provisions in ORS 244 were enacted to provide one safeguard for that trust.

You might not have known, but there are approximately 200,000 public officials in Oregon. You are a public official if you are:

- Elected or appointed to an office or position with a state, county, city government, or special district.

Overview of Boards, Commissions, & Small Entities

Printable Version of the Online Training



- An employee of a state, county or city agency or special district.
- An unpaid volunteer for a state, county or city agency or special district.
- Anyone serving the State of Oregon or any of its political subdivisions, such as the State Accident Insurance Fund or the Oregon Health & Science University.

Responsibility

As a public official you are held personally responsible for complying with the provisions in the ethics laws. This means you must make a personal judgment in deciding such matters as the use of official position for personal financial gain; if offered a gift, be able to analyze the offer and decide if "something of value" can be accepted with or without restrictions; or when and how to disclose conflicts of interest. If you fail to comply with the ethics laws, a violation cannot be dismissed by placing the blame on the public entity that you represent. In addition to the ethics laws your public entity may have policies and procedures that are more restrictive.

Use of Position

The ethics law prohibits you from using or attempting to use the position you hold as a public official to obtain a personal financial benefit or detriment for yourself, a relative, member of the household of the public official, or any business with which you, a relative or member of the household is associated, if the opportunity for the financial benefit or detriment would not otherwise be available but for the position held by you. The financial benefit prohibited can be either an opportunity for gain or to avoid an expense.

Volunteer

If any one of the following elements apply to a volunteer position, the person holding that volunteer position is a public official:

- Responsible for specific duties.
- The duties are performed at a scheduled time and designated place.
- The volunteer is provided with the use of the public entity's resources and equipment.
- The duties performed would have a financial impact on any person, business or organization served by the public entity.

This list is not exhaustive, contact the Ethics Commission if you have any questions.

Relatives

There are provisions in the ethics law that may restrict or prohibit:

- A public official from using or attempting to use official actions of the position held to benefit a relative or member of the public official's household;
- The value of financial benefits accepted by a relative or member of the public official's household.

And the law requires the public official to disclose the nature of a conflict of interest when a relative may receive a financial benefit or detriment.

Business

The same sound judgment you exercise when participating in actions that could result in a financial benefit for you or your relative should be used when participating in actions that could result in a financial benefit to a business with which you or your relative is associated.

There are provisions in ORS 244 that restrict or prohibit you from using actions of the position held to benefit a business with which you or your relative is associated. The provisions may also require you to disclose the nature of a conflict of



interest when a business may receive a financial benefit.

Confidential Information

As a public official you often have access to or manage information that is confidential and not available to the general public. The ethics law specifically prohibits you from attempting to use confidential information gained because of the position you hold or by carrying out assigned duties to further your own personal gain.

The ethics law also prohibits a former public official from attempting to use confidential information for their own personal gain or others if that information was obtained while holding the position as a public official, from which access to the confidential information was obtained. OAR 199-005-0035(5) "Confidential Information"

Financial Benefits Prohibited

There are a variety of actions a public official may take or participate in that could be prohibited. The use of a position could be voting in a public meeting, placing a signature on a public entity's document, making a recommendation, making a personal purchase with a public entity's funds, conducting personal business on a public entity's time or resources in which you, a relative, member of your household, or business with which either are associated could receive a financial benefit that would not otherwise be available but for you holding your position as a public official.

Prohibited gains can be obtaining a financial gain or a benefit with a monetary value or avoiding an expense and they do not have to result in any cost for the public entity.

Financial Benefits

The following financial benefits are not prohibited and may be accepted some may also be accepted by your relative or a member of your household. [ORS 244.040(2)]

Official Compensation: You may accept any financial benefit that is identified by the public entity you serve as part of your official compensation package. If the public entity identifies such benefits as salary, health insurance or various paid allowances in the employment agreement or contract, those financial benefits are part of the your official compensation package. [ORS 244.040(2)(a)]

Reimbursement of Expenses: You may accept payments from your public entity for reimbursement of expenses that you personally paid for while conducting the public entity's business. [ORS 244.040(2)]

Honorarium: A payment or something of economic value given to you in exchange for services that you provide is an honorarium when the setting of the economic value has been prevented by custom or propriety. You are allowed to accept an honorarium as long as the value does not exceed \$50. Make sure you know how an honorarium is defined because there are many occasions when someone will offer you a financial benefit and call it an honorarium, but it does not meet the definition of honorarium. The services you provide may include but not be limited to speeches or other services provided in connection with an event. [ORS 244.040(2)(b)]

Awards for Professional Achievement: You may accept an award, if you did not solicit the award, and the award is offered to recognize a professional achievement you made. [ORS 244.040(2)(d)]

Legal Expense Trust Fund: A public official may establish a legal expense trust fund if the public official incurs or reasonably expects to incur legal expenses. Proceeds from the trust fund may be used by the public official to defray legal expenses incurred by the public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the



course and scope of duties of the person as a public official. [ORS 244.205]

Gifts: You may accept gifts that do not exceed the limits specified in ORS 244.025. There are circumstances in which there are no limits on the quantity or aggregate value of gifts that you can accept. On the other hand, there are circumstances when the aggregate value of gifts you accept is restricted. There may also be reporting requirements that apply when you accept gifts.

Employment

The ethics law does not prohibit a public official from owning a private business or working for a private employer while continuing employment with or holding a position with a governing body.

Many public officials are volunteers, meaning there is little or no compensation for the public position. Other public officials may receive compensation, but choose to seek additional sources of income. Some work for a private business and others establish a private business of their own.

You are prohibited from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by your vote, official action, or judgment. Any employer who may directly or indirectly offer employment under these conditions may also violate this provision.

In general, you may obtain employment with a private employer or engage in private income producing activity of your own. You must not use the position you hold as a public official to create the opportunity for additional personal income. You must also ensure that there is a clear distinction between the use of personal resources and time for personal income producing activity and the use of the governing body's time and resources.

The ethics law restricts the subsequent employment of certain public officials. For instance the Director of the Oregon State Lottery, Deputy Attorney General, State Treasurer. For a detailed listing and what the restrictions are, visit the Guide for Public Officials on the Resources tab in this training.

A person who no longer holds a position as a public official may not have a direct beneficial financial interest in a public contract, for two years after authorization of the contract if the contract:

- Was authorized by the public official, in their former capacity as a public official.
- Was authorized by a governing body that the former public official was a member of when the contract was authorized.

Here are guidelines to follow in order to avoid violating the ethics law when engaged in private employment or a personally owned business.

- Use no governing body time
- Use no governing body resources
- Take no official action that could financially impact your private enterprise
- Use no confidential information obtained through your position as a public official
- Disclose all conflicts of interest

Conflict of Interest

The difference between an actual conflict of interest and a potential conflict of interest is determined by the words "would" and "could." You are met with an actual conflict of interest when you participate in an action, decision, or recommendation that **would** affect the financial interest of yourself, your relatives, or a business with which you or your relative is associated.



You are met with a potential conflict of interest when you participate in an action, decision, or recommendation that **could** affect the financial interest of yourself, your relatives, or a business with which you or your relative is associated.

Conflicts of interest have three components:

An action, decision, or recommendation made in the individual's official capacity which causes

A private financial benefit or detriment for the public official, the public official's relatives, or a business associated with the public official or the public official's relative.

If you or your relative has an economic interest in a business, you must be constantly aware of whether that business entity is involved in or affected by your official actions, decisions or recommendations. If such a business is directly or indirectly involved, a conflict of interest is possible.

Questions to ask when faced with a conflict of interest.

- Will the action, decision or recommendation have a financial effect on you, your relative, or a business with which either are associated?
- Is the impact of the action, decision or recommendation on your economic interest certain? Is it direct or indirect?

Disclosing Conflicts of Interest

If you encounter an actual or potential conflict of interest you will need to disclose it. Click on public official to see how a conflict of interest must be disclosed.

Legislative Assembly: Members must announce the nature of the conflict of interest in a manner pursuant to the rules of the house in which they serve. The Oregon Attorney General has determined that only the Legislative Assembly may investigate and sanction its members for violations of conflict of interest disclosure rules.

Judges: Judges must remove themselves from cases giving rise to the conflict of interest or advise the parties of the nature of the conflict of interest.

Public Employees: Public employees must not take any action when met with an "actual or potential" conflict of interest and must do the following:

- Provide a written notice to the person who appointed or employed them.
- In the notice describe the nature of the conflict of interest.
- The written notice needs to be made on each occasion the conflict of interest is met.
- Maintain a copy of the notice in your own records. [ORS 244.120(1)(c)]

•

Elected Official or Appointed Board or Commission Member:

- When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action in the capacity of a public official; or
- When met with an actual conflict of interest, announce publicly the nature of the actual conflict and refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.
- If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.



Gifts

In some circumstances there are restrictions on the monetary value of gifts you are allowed to receive. The ethics law establishes a framework of conditions for you to apply when you, your relatives, or members of your household are offered gifts. If offered a gift, you must analyze the offer and decide if “something of value” can be accepted with or without restrictions. In addition to the ethics laws your public entity may have policies and procedures that are more restrictive on whether or not gifts may be accepted.

You are directly and personally responsible for understanding the circumstances when the aggregate value of gifts may be restricted.

In order to determine if the ethics law places restrictions on a particular gift, you must know:

- Whether the gift meets the definition of a gift as defined in ORS 244.020(7)(a);
- Whether the gift meets any of the exceptions defined in ORS 244.020(7)(b);
- Who the source of the gift is; and
- If that source has any legislative or administrative interest in the public official.

If the source of a gift has a legislative or administrative interest, any gift offered to you, your relative, or a member of your household, may only be offered and accepted under certain conditions. If however the source of a gift does not have a legislative or administrative interest, gifts are not restricted or prohibited. ORS 244.020 identifies 16 exceptions for certain kinds of gifts that are allowed without limit under specific conditions. Make sure to look at the statute before accepting any gifts.

With regard to gifts, the phrase “distinct from that of the general public” refers to a distinct economic interest held by the source of a gift. That economic interest is in the financial gain or loss that could result from any votes cast or decisions made by a public official. If the source of a gift could reasonably be expected to realize a financial gain or detriment from a vote or decision of a public official, that source has an economic interest in that public official.

First, determine if your public entity has any internal policy addressing gifts.

Second, make sure you know the identity of the source of the gift. Remember, the source of a gift is the person or entity that made the ultimate payment for the gift’s expense.

And lastly, determine if the source of the gift has an economic interest in decisions or votes you make in your official capacity as a public official. If that economic interest is distinct from the interest held by members of the general public it is a legislative or administrative interest.

If the source does not have a legislative or administrative interest, gifts from that source are not prohibited or limited as to value or quantity.

If the source has a legislative or administrative interest, you must answer the following questions:

Is the gift offered under the conditions that would allow you to accept the gift because it is excluded from what is defined as a “gift”?

What is the value of the gift? Remember, you can accept gifts from a single source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year.

Economic Interest

There are approximately 5,500 Oregon public officials who must file an Annual Verified Statement of Economic Interest with the Ethics Commission by April 15 of each calendar year. Refer to ORS 244.050 to determine if your specific position requires you to file.



Nepotism

Public officials cannot participate in any personnel action taken by the governing body that would impact the employment of a relative or member of the public official's household. This includes appointing, employing, promoting, discharging, firing, demoting, or interviewing.

If you are assigned duties that include performing "ministerial acts" related to any stage of a relative's or member of your household's employment you are not prohibited from performing such acts. "Ministerial acts" would include mailing or filing forms or correspondence, taking and relaying messages, scheduling appointments or preparing documents and minutes for public meetings.

If you have a relative or a member of your household who has applied to be or serves as an unpaid volunteer, you may participate in any personnel action that involves the relative or member of the household.

PRESENTATION

Advisory Council Presentation

Budget and Legislative Concept Development



Advocacy – Rules to Live By

- It is easier to get something funded if it is in the Governor's Recommended Budget
- Agencies start the process
- Each step of the way has different people with whom to advocate

Legislative and Budget Making Timeline

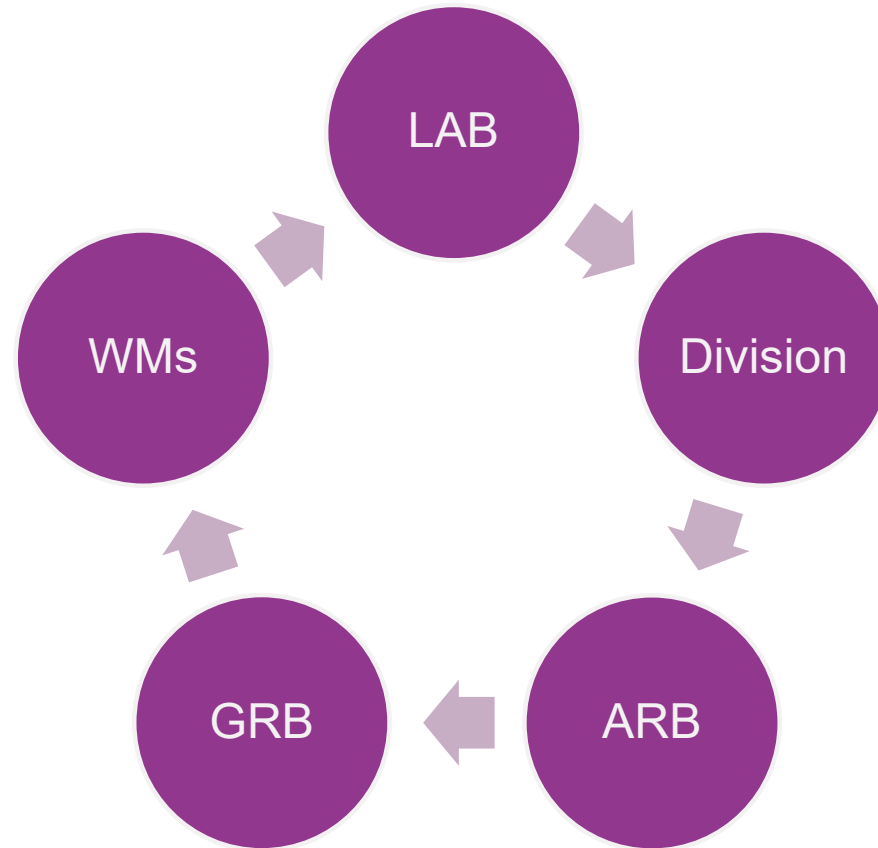


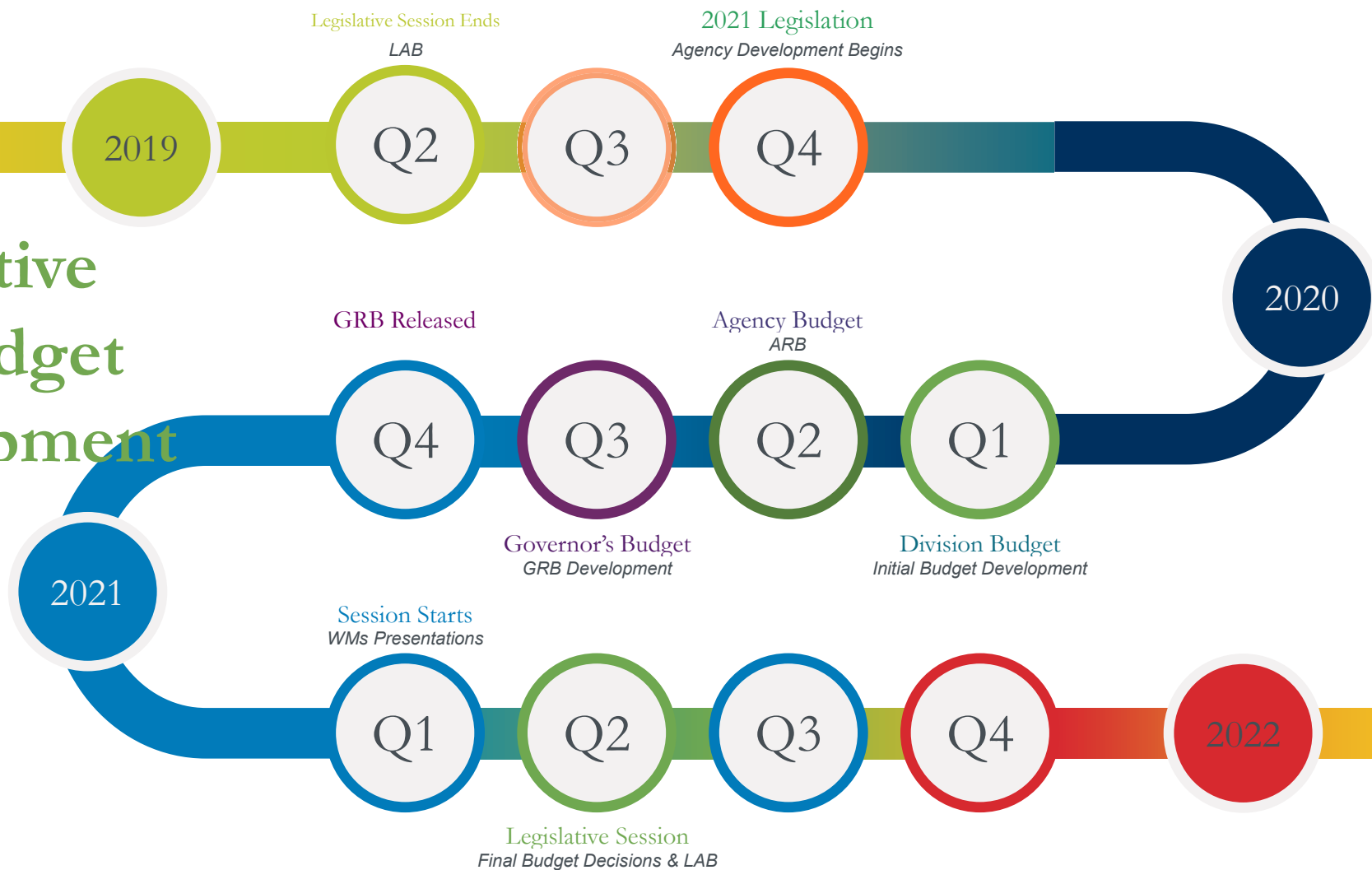
Chart Details

- LAB-Legislatively Adopted Budget
- Division's develop budget request
 - Current Service Level (CSL) + Policy Option Packages (POPs)
- ARB – Agency Request Budgets
 - Agency wide priorities
- GRB – Governor's Recommended Budget
 - All state agencies
- WMs – Ways and Means
 - Co-Chairs develop recommended budget
 - Subcommittees set budgets for the agencies
 - GRB, Co-Chairs
 - Lowest priority (usually) is new legislation

With Whom To Advocate

- Division's develop budget request
 - Work with Division Leadership
- ARB – Agency Request Budgets
 - Work with Department Director and Leadership
- GRB – Governor's Recommended Budget
 - Work with Governor's Office
- WMs – Ways and Means
 - Work with Co-chairs
 - Work with Sub-committee members and leaders

Legislative and Budget Development 2019-2021



Budget Components

- Current Service Level
 - What will it cost to do exactly what the agency is doing now
- Add in amount for Caseload Growth
 - For mandated caseloads only (i.e., Medicaid)
- Add in amount for Inflation
 - Set by DAS
- Policy Option Packages
 - New services
 - New programs
 - Major changes to existing programs
- Statutorily Required Budget Reductions
 - 10% reduction options
 - Gives Agency, Governor and Legislature ideas on how to cut or transfer funding

POP and Legislation Pricing

- Need to include all costs:
 - Staffing
 - Wages
 - Benefits
 - Space
 - Training
 - IT costs
 - Benefits/services
 - Payment to providers etc
- POPs are very specific and priced by the agency
- Legislation is analyzed to see if there is a Fiscal Impact Statement. If yes,
 - Must price based on the legislation.
 - The more specific, the better



National Network

Information, Guidance and Training on the
Americans with Disabilities Act

Call us toll-free
1-800-949-4232 V/TTY

Find your regional center at
www.adata.org

For the most current and accessible version, please visit
<http://adainfo.us/adaoverview>

An Overview of the Americans with Disabilities Act

The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else. The ADA is divided into five titles (or sections) that relate to different areas of public life.

Title I - Employment

- Helps people with disabilities access the same employment opportunities and benefits available to people without disabilities.
- Applies to employers with 15 or more employees.
- Requires employers to provide reasonable accommodations to qualified applicants or employees. A “reasonable accommodation” is a change that accommodates employees with disabilities so they can do the job without causing the employer “undue hardship” (too much difficulty or expense).
- Defines disability, establishes guidelines for the reasonable accommodation process, and addresses medical examinations and inquiries.
- Regulated and enforced by the U.S. Equal Employment Opportunity Commission.
<http://www.eeoc.gov/laws/types/disability.cfm>

Title II - Public Services: State and Local Government

- Prohibits discrimination on the basis of disability by “public entities” such as state and local government agencies. .
- Requires public entities to make their programs, services and activities accessible to individuals with disabilities.
- Outlines requirements for self-evaluation and planning; making reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination; identifying architectural barriers; and communicating effectively with people with hearing, vision and speech disabilities.
- Regulated and enforced by the U.S. Department of Justice. <http://www.ada.gov>

Title III - Public Accommodations and Services Operated by Private Entities

- Prohibits places of public accommodation from discriminating against individuals with disabilities. Public accommodations include privately owned, leased or operated facilities like hotels, restaurants, retail merchants, doctor's offices, golf courses, private schools, day care centers, health clubs, sports stadiums, movie theaters, and so on.
- Sets the minimum standards for accessibility for alterations and new construction of commercial facilities and privately owned public accommodations. It also requires public accommodations to remove barriers in existing buildings where it is easy to do so without much difficulty or expense.
- Directs businesses to make "reasonable modifications" to their usual ways of doing things when serving people with disabilities.
- Requires that businesses take steps necessary to communicate effectively with customers with vision, hearing, and speech disabilities.
- Regulated and enforced by the U.S. Department of Justice. <http://www.ada.gov>

Title IV - Telecommunications

- Requires telephone and Internet companies to provide a nationwide system of interstate and intrastate telecommunications relay services that allows individuals with hearing or speech disabilities to communicate over the telephone.
- Requires closed captioning of federally funded public service announcements.
- Regulated by the Federal Communication Commission. <http://www.fcc.gov>

Title V - Miscellaneous Provisions

- Contains a variety of provisions relating to the ADA as a whole, including its relationship to other laws, state immunity, its impact on insurance providers and benefits, prohibition against retaliation and coercion, illegal use of drugs, and attorney's fees.
- Provides a list of certain conditions that are not considered disabilities.

Transportation

- Public Transportation offered by a state or local government is covered by Title II of the ADA. Publicly funded transportation includes, but is not limited to, bus and passenger train (rail) service. Rail service includes subways (rapid rail), light rail, commuter rail, and Amtrak.
- If transportation is offered by a private company, it is covered by Title III. Privately funded transportation includes, but is not limited to, taxicabs, airport shuttles, intercity bus companies, such as Greyhound, and hotel-provided transportation.
- The U.S. Department of Transportation, Federal Transit Administration releases information, guidance and regulations on transportation and the ADA. <http://www.fta.dot.gov/ada>

More information about the ADA

ADA National Network: <http://www.adata.org>

The ADA National Network provides information, guidance and training on the Americans with Disabilities Act (ADA), tailored to meet the needs of business, government and individuals at local, regional and national levels.

National Network Publications

- **ADA Questions and Answers:** <http://adata.org/publication/americans-disabilities-act-faq>
- **Disability Law Handbook:** <http://adata.org/publication/disability-law-handbook>

Web based self-study courses

- **ADA Building Blocks:** <http://www.adabasics.org>
A free introductory webcourse that explores the legal requirements and spirit of the Americans with Disabilities Act of 1990 (ADA). The course takes 2-3 hours and includes quizzes and a Post Test. Presented by the Southeast ADA Center.
- **ADA Employment Course:** <http://www.adaemploymentcourse.org>
A free, self-paced webcourse available 24/7 on the employment requirements in the Americans with Disabilities Act (ADA), including the important changes made to the ADA by the ADA Amendments Act of 2008. The course takes approximately 2.5 hours and includes real life scenarios, quizzes and a final exam. Presented by the New England ADA Center.
- **Disability Rights Course:** <http://www.disabilityrightscourse.org>
A free, self-paced webcourse available 24/7 that provides an overview of federal disability rights laws. The course takes approximately 1.5 - 2 hours and includes real life scenarios, quizzes and a final exam. Presented by the New England ADA Center.

Content was developed by the Mid-Atlantic ADA Center, and is based on professional consensus of ADA experts and the ADA National Network.



<http://www.adainfo.org/>

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Oregon Administrative Rule Chapter 411

Web link to Oregon Secretary of State Archive

[Aging and People with Disabilities and Developmental Disabilities – Chapter 411](#)

Oregon Administrative Rule (OAR) Chapter 411 pertains specifically to the Oregon Department of Human Services, Divisions of Aging and People with Disabilities and Development Disabilities.

About the OARs

Administrative Rules are created by most agencies and some boards and commissions to implement and interpret their statutory authority (ORS 183.310(9)). Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (for up to 180 days).

Every OAR uses the same numbering sequence of a three-digit chapter number followed by a three-digit division number and a four-digit rule number. For example, Oregon Administrative Rules, chapter 166, division 500, rule 0020 is cited as OAR 166-500-0020.

Changes to existing Rules are listed chronologically in abbreviated form, with the most recent change last. For example, "OSA 4-1993, f. & cert. ef. 11-10-93," means this was the 4th administrative rule filing by the Oregon State Archives in 1993; and "f. & cert. ef. 11-10-93" means the rule was filed and certified effective on Nov. 10, 1993.

The official copy of an Oregon Administrative Rule is the Administrative Order filed at the Archives Division. Any discrepancies with the published version are satisfied in favor of the Administrative Order.

OREGON GOVERNMENT ETHICS COMMISSION



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GOVERNMENT ETHICS LAWS OVERVIEW

<p>Prohibited Use of Position or Office (ORS 244.040)</p>	<p>Public officials are prohibited from using or attempting to use their public positions to obtain financial benefits for themselves, relatives, household members, or businesses with which any is associated, if the benefit would not be available but for the public official holding the position.</p>
<p>Financial Interest in Public Contract (ORS 244.047)</p>	<p>A person who ceases to be a public official may not have a direct beneficial financial interest in a public contract (defined at ORS 279A.010) for two years after the date of its authorization, if the person played a significant role in authorizing (<i>i.e.</i>, selecting, executing, recommending, or approving) that public contract as a public official.</p>
<p>Limits to Accepting Gifts (ORS 244.025; see ORS 244.020(10))</p>	<p>Public officials and their relatives are limited to accepting gifts (defined at ORS 244.020(7)) worth no more than an aggregate of \$50 in a given calendar year from any individual source reasonably known to have an economic interest in the public official's decision-making.</p>
<p>Conflicts of Interest (ORS 244.020(1); ORS 244.020(13); ORS 244.120)</p>	<p>When a public official, in an official capacity, is faced with making a decision, recommendation, or other action that “<i>would</i>” or “<i>could</i>” financially affect the official, a relative, or business with which either is associated, the public official is faced with an “<i>actual</i>” or “<i>potential</i>” conflict. A conflicted <i>member of a governing body</i> must provide notice of the conflict by making a public announcement, and if the conflict is “<i>actual</i>” (<i>i.e.</i>, “<i>would</i>” financially affect...) must refrain from participation in the matter. <i>Most other public officials</i> must provide written notice to a supervisor/employer. Either type of notice must state the nature of the conflict. A written notice must additionally request that the supervisor/employer dispose of the matter.</p>
<p>Nepotism Prohibitions (ORS 244.177 – 179)</p>	<p>Public officials may not directly – or participate in any interview, discussion, or debate to – appoint, employ, promote, discharge, fire, or demote a relative or household member of the public official. Public officials are also prohibited from supervising relatives and household members.</p>

NOTE: The terms “business”, “business with which the person is associated”, “member of the household”, “public official”, and “relative” are defined at ORS 244.020(2), (3), (11), (15), and (16), respectively.

DISCLAIMER: This document presents a brief overview of the most generally applicable Oregon Government Ethics duties and may not account for all relevant laws, exceptions or circumstances. It is ***intended for use as a training tool only*** and should not substitute for review of ORS Chapter 244 or consultation with an attorney or the Oregon Government Ethics Commission regarding application of the law in a specific situation.

Revised 6/7/17

BOARDS & COMMISSIONS ETHICS LAW SUMMARY

DISCLAIMER: THIS IS ONLY A GENERALIZED SUMMARY AND IS NOT INTENDED TO BE LEGAL ADVICE. PLEASE REVIEW OREGON REVISED STATUTES (ORS) CHAPTER 244 AND CONSULT AN ATTORNEY OR THE OREGON GOVERNMENT ETHICS COMMISSION (www.oregon.gov/ogec; 503-378-5105) FOR ADVICE ABOUT YOUR SPECIFIC SITUATION.

PROHIBITED USE OF OFFICE

You may not use or attempt to use the position you hold as a public official to obtain a financial benefit, if the opportunity for the financial benefit would not otherwise be available but for you holding the position or office. The financial benefit prohibited can be either an opportunity for gain or to avoid an expense.

Not only is a public official prohibited from using the position as a public official to receive certain financial benefits, but the public official is prohibited from using or attempting to use the position as a public official to obtain financial benefits for a relative or a member of the public official's household. Also prohibited is the use or attempted use of the public official position to obtain financial benefits for a business with which the public official, a relative, or a member of the public official's household is associated.

You may have access to or manage information that is confidential and not available to members of the general public. Oregon Government Ethics law specifically prohibits public officials from attempting to use confidential information gained because of the position held or by carrying out assigned duties to further the public official's personal gain.

The following examples are offered to illustrate what may constitute prohibited use or attempted use:

- A board member votes on a contract obligating his agency to pay for janitorial services provided by a business owned by a relative of the board member.
- A commissioner approves her own request for reimbursement of personal expenses she incurred when conducting official business.

CONFLICTS OF INTEREST

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

Oregon Government Ethics law identifies two types of conflicts of interest. The difference between an actual conflict of interest and a potential conflict of interest is determined by the words "would" and "could." A public official is met with an **actual** conflict of interest when the public official participates in action that **would** affect the financial interest of the official, the official's relative or a business with which the official or a relative of the official is associated. A public official is met with a **potential** conflict of interest when the public official participates in action that **could** affect the financial interest of the official, a relative of that official or a business with which the official or the relative of that official is associated.

You must publicly disclose the nature of a conflict of interest on each occasion that you are met with that conflict. Elected or appointed members of boards and commissions must use the following methods of handling conflicts:

- **Potential Conflict of Interest:** Following the public announcement, you may participate in official action on the issue that gave rise to the conflict of interest.
- **Actual Conflict of Interest:** Following the public announcement, you must refrain from further participation in official action (i.e. debate, discussion or voting) on the issue that gave rise to the conflict of interest.

GIFTS

Receiving Gifts: As a public official, you may not solicit or receive any gift or gifts with an aggregate value in excess of \$50 per calendar year from a single source that could reasonably be known to have a legislative or administrative interest in any matter subject to the decisions or votes you make in your official capacity.

- Your relatives and members of your household are also bound by this law and cannot solicit or receive gifts worth more than \$50 per calendar year from a source that could reasonably be known to have a legislative or administrative interest in the decisions or votes you make in your official capacity.
- “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 acting in the public official’s capacity as a public official.

Gift Exceptions: ORS 244.020(6)(b) details a list of exceptions to the definition of gifts, the application of which can be highly dependent on the specific fact circumstances of your situation. For more information about these exceptions, please review statute and consult the Oregon Government Ethics Commission. Some of these exceptions include:

- **Gifts From Relatives:** Gift limits do not apply to gifts you receive from people you live with or certain relatives (including your spouse, domestic partner, children, siblings and parents).
- **Political Contributions:** Gift limits do not apply to political contributions.
- **Food & Beverage Exceptions:** Generally, the gift limits apply to food and drink, but there are some exceptions:
 - You may accept food and beverage, as well as the cost of admission, when representing your public body at a reception, meal or meeting held by an organization.
 - You may accept incidental food and beverage that is free to everyone at a reception (does not include plated, sit-down meals).
- **Food, Lodging & Travel Exceptions:** Generally, the gift limits apply to gifts of food, lodging and travel, but there are some exceptions (sanctioning or approval by your public body may be required in advance):
 - You may accept the cost of food, lodging & travel when attending a convention, fact-finding mission or trip, conference or other meeting if you are scheduled to deliver a speech, make a presentation, participate on a panel or otherwise represent your public body, if the expenses are paid for by:
 - Federal, state or local government;
 - Tribal government;
 - Membership organization to which a public body in Oregon pays dues; or
 - 501(c)(3) nonprofit organization.
 - You may accept the cost of food, lodging & travel when representing your public body:
 - On an officially sanctioned trade-promotion or fact-finding mission; or
 - In officially designated negotiations, or economic development activities.
 - You may receive expenses provided by another public official for travel inside this state to or from an event that bears a relationship to the receiving public official’s office and at which you participate in an official capacity.
- **Entertainment Exceptions:** Generally, the gift limits apply to gifts of entertainment, but there are some exceptions:
 - Entertainment that is incidental to the main purpose of another event (e.g. the guitarist in the corner).
 - Entertainment provided to you when you are acting in your official capacity for a ceremonial purpose (e.g. first pitch at a baseball game, ribbon-cutting ceremony).

Oregon Government Ethics Commission (OGE) Resource Chart

TRAINING <i>Please Note: All training provided by the OGE is FREE of charge.</i>	On-Line, In-Person & On-Site	Trainers are available to present training sessions or workshops on government ethics law, lobbying regulations and executive session provisions. These sessions are 1.5 to 2 hours in length. You can request this training by calling our office at: 503-378-5105 or by completing a 'request for training' on-line at: Oregon Government Ethics Commission: In-Person / On-Site Training
	Webinars	OGE offers monthly Webinars. These 60 to 90 minute trainings are presented live by an OGE trainer using the internet, i.e. virtual training. We offer several different classes each month or we can also provide customized webinar trainings: <ul style="list-style-type: none"> • Monthly Webinar Calendar (mid page): Oregon Government Ethics Commission: Webinars • To register or arrange for customized webinar training please e-mail us at: training@ogec.oregon.gov
	Workday Learning (WDL)	These training modules are short, focused and convenient. This training focuses on government ethics law, lobbying regulations and executive session provisions. Anyone with an e-mail address can register to take classes through WDL, whether you are a public official or a private citizen. WDL can be accessed via the following links: <ul style="list-style-type: none"> • State employee – Workday Oregon - Sign In to Workday (myworkday.com) • Non-State employee – Register - Workday Learning External Portal (oregon.gov)
	Tutorials, Instructional Guides & Virtual Training	The OGE provides instructional guides & video tutorials for Statement of Economic Interest (SEI) filers, Jurisdictional Contacts (JCs) & Lobbyists. These guides/tutorials can be accessed via the following links: SEI Filer: Oregon Government Ethics Commission: SEI Filer Training JC: Oregon Government Ethics Commission: Jurisdictional Contact Training Lobbyist: Oregon Government Ethics Commission: Lobby Training In addition, the OGE can provide live virtual training sessions. To register or arrange for a virtual training session, please e-mail us at: training@ogec.oregon.gov
GUIDANCE	Request Guidance on Ethics Related Issues/Situations	<ul style="list-style-type: none"> • Written – Send requests via e-mail to: mail@ogec.oregon.gov ; by fax to: 503-373-1456 or by U.S. mail to: 3218 Pringle Road SE, Suite 220, Salem, Oregon 97302-1544 • Telephone – 503-378-5105 • In-person – By visiting our office at the mailing address listed under “Written” above.* <i>*Due to COVID-19 – The OGE office is currently closed to the public unless by appointment.</i>
	Review Guidance Issued	<ul style="list-style-type: none"> • Advice & Opinions – Oregon Government Ethics Commission: Advice & Opinions
FORMS, PUBLICATIONS & GENERAL INFORMATION	Guide for Public Officials	Guide for Public Officials
	Guide to Lobbying	Guide to lobbying in Oregon
	Public Records	Public Records Look-up: Electronic Filing System Oregon Government Ethics Commission - Public Records
		To request copies of public records in the custody of the OGE: Oregon Government Ethics Commission: Public Records
	File a Complaint	Complaint form can be accessed via: Oregon Government Ethics Commission: How to File a Complaint
	Commission Newsletters	Oregon Government Ethics Commission: Commission Newsletters
Commission Calendar	Oregon Government Ethics Commission: Commission Calendar	



Operational Policy

Policy title:	Conflict of Interest		
Policy number:	DHS OHA 060-002		
Original date:	03/27/2002 (DHS only)	Last update:	10/01/2018 (Joint DHS OHA)
Approved:	Kris Kautz, Deputy Director OHA Don Erickson, Chief Administrative Officer DHS		

Purpose

The Department of Human Services (DHS) and Oregon Health Authority (OHA) are committed to ensuring that the activities of agency staff reflect service to the missions of the agencies and the highest ethical standards. The DHS|OHA human resources (HR) department engages with staff to ensure that agency business, the use of agency resources, and staff roles outside the agency do not present a conflict of interest. DHS|OHA HR ensures that any conflict is resolved in a way that will not impact the business or services DHS|OHA provides, or the perception or reputation of the agencies.

Description

This policy describes the circumstances under which agency staff are responsible for evaluating their activities or relationships outside DHS|OHA for the possibility of personal gain or influence using DHS|OHA resources or information.

Applicability

This policy applies to all DHS and OHA staff including employees, volunteers, trainees and interns.

As keepers of the public trust, all agency employees have a responsibility to comply with state and agency policies, administrative rule, and state and federal law. The agency takes this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Employees who fail to comply with state or agency policy, administrative rule, or state and federal law may face progressive discipline, up to and including dismissal from state service.

Policy

1. It is a conflict of interest for DHS|OHA staff to:
 - a. Use information or resources accessed through their employment for personal gain, whether their own or others.
 - b. Engage in personal activities or roles that could reflect negatively on DHS|OHA.
2. DHS|OHA staff shall report any potential conflict of interest to the Human Resources Office (HR) for HR's designation of the appropriate appointing authority.
3. Conflicts of interest may occur through relationships with any individual, including:
 - a. DHS|OHA service recipients or their family members.
 - b. Vendors, providers, or contractors.

- c. Co-workers or other professional associates.
 - d. Participation or membership in community groups, boards or professional associations.
 - e. Family or other personal relationships.
4. The appropriate DHS|OHA appointing authority, as determined by HR, shall review and make a determination about potential conflicts of interest that result from any outside relationships or opportunities that involve DHS|OHA staff or business, including:
 - a. Personal or professional relationships.
 - b. DHS|OHA service recipients or their families.
 - c. Non-DHS|OHA employment.
 - d. Board or commission memberships.
 - e. Expert witness activities.
 - f. Commercial gain.
 - g. Staff who are or wish to be foster parents, respite providers, legal guardians, relative caregivers or adoptive parents for children in DHS custody.
 5. DHS|OHA staff shall not use their positions to:
 - a. Obtain favors or other personal or financial benefit.
 - b. Grant favors or unwarranted benefits.
 6. DHS|OHA staff shall not establish personal relationships with individual service recipients to whom the staff member has case responsibility or provides services.
 7. DHS|OHA staff shall receive approval from their appropriate appointing authority before providing services that could create a conflict of interest with their employment responsibilities, including:
 - a. Working with service recipients, or the service recipient's families, authorized representatives, or payees with whom the staff member has or has had personal or family relationships.
 - b. Developing personal relationships outside of DHS|OHA with service recipients, their families, authorized representatives, or payees with whom they have or have had personal or family relationships.
 - c. Becoming employed by an agency that contracts with DHS or OHA.
 - d. Working for agency service recipients as:
 - A. Foster parents, relative caregivers, respite providers, adoptive parents, or guardians, especially for children in DHS custody.
 - B. Child care providers.
 - C. Home care providers
 8. DHS|OHA staff shall receive approval from their appropriate appointing authority before receiving compensation (financial or other) from public or private agencies, businesses, individuals, or organizations. Staff shall not:
 - a. Be compensated for work that is considered part of their agency job.
 - b. Use state equipment or copyrighted material obtained with public funds for activities related to outside employment.
 9. DHS|OHA staff working for compensation outside their agency employment (moonlighting) shall not accept employment that:
 - a. Interferes with performance of their agency job duties.
 - b. Reflects negatively on the agencies.
 - c. Involve unethical practices that could impact their ability to perform their agency job duties.

10. DHS|OHA staff shall receive approval from the appropriate appointing authority before participating as a member of any public or private board or commission not required by employment. The appointing authority shall ensure that:
 - a. Membership does not conflict with DHS|OHA job duties.
 - b. Staff provide a statement to the board or commission that the membership position does not represent DHS|OHA.
11. DHS|OHA staff shall receive approval from their appointing authority before providing any expert-witness testimony outside their assigned job duties if the testimony is related to their assigned job duties.
12. Staff may accept compensation for expert testimony, speaking engagements, or activities outside their job duties if:
 - a. Their preparation for and presentation of the testimony are entirely on their own time.
 - b. They use no state resources in their preparation and participation
 - c. They make clear that their preparation and participation are not part of their job duties or as agents of the State of Oregon.
13. DHS|OHA staff shall not solicit money or other gifts related to the performance of their duties.
14. DHS|OHA staff shall consult with their appointing authority when gifts or honoraria are being offered.
 - a. Staff may retain honoraria only if their preparation for and participation in the activities for which the honoraria are offered are entirely on their own time, no state resources are used in preparation and presentation, and staff make clear that their preparation and participation are not as agents of the State of Oregon.
 - b. Staff shall not accept gifts related to the performance of their job duties and shall report to their appointing authority offers of gifts, gratuities, or favors related to the performance of their job duties.
 - c. Staff shall not accept gifts unless the gifts are unrelated to their DHS|OHA duties.
15. DHS|OHA staff shall not use information obtained through their employment for personal gain. Staff shall not:
 - a. Sell, buy, trade, negotiate, or accept any services or items from service recipients except when doing so is in accordance with the individual's treatment or service plans.
 - b. Further the staff member's personal gain using information about a service recipient that was gained during agency job duties.
 - c. Knowingly conduct or negotiate business matters with former or discharged patients for six months from the date of discharge (12 months if a therapeutic relationship existed).
16. DHS|OHA staff shall request a review and determination from their appointing authority before using information about service recipients that was gained during employment with a privately-owned living facility, treatment resource, or a private practice with an employee or family member, or affiliated facility.
17. DHS employees shall use special care to ensure that there is no conflict or appearance of conflict of interest in a child support program (CSP) case.
 - a. Staff shall not access their own CSP case file using CSP computer screens or other records available to them as employees.
 - b. Staff who have their own CSP case and access to CSP screens shall notify their supervisor of their case.

- c. Staff shall report to their manager if the staff member is assigned to or working a CSP case or a case with links to a CSP case that involves a colleague, friend, relative, acquaintance or connection.
 - d. Staff shall not knowingly access the CSP case file of a colleague, friend, relative, acquaintance or connection using CSP computer screens or other records available to them as employees.
18. DHS|OHA staff who are uncertain about whether alternative employment, relationships, opportunities or gifts may impact their ability to perform their job performance or responsibilities and create a conflict of interest shall contact their supervisor and request a determination from their appointing authority.

References

[ORS 25.260](#)

[ORS 244](#)

[OAR 137-055-1140 and 137-055-1145](#)

[The Public Officials Guide](#)

Forms referenced

MSC 0104 Conflict of Interest Determination

Related policies

Exception request process

Contact

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LAURI.K.STEWART@dhsoha.state.or.us

Policy history

Version 1 (DHS only) 03/27/2002

Version 2 (DHS only) 11/01/2006

Version 1 DHS|OHA 06/04/2018 (merged CAF addendum and Child Support Program requirements)

Keywords

Adoption, associates, boards, caregivers, child, childcare, clients, commissions, compensation conflict of interest, contractors, expert, expert witness, family, favors, foster parent, friends, gain, gifts, guardian, home care, legal guardian, moonlighting, personal, personal relationship, relationship, respite, service recipients, vendors

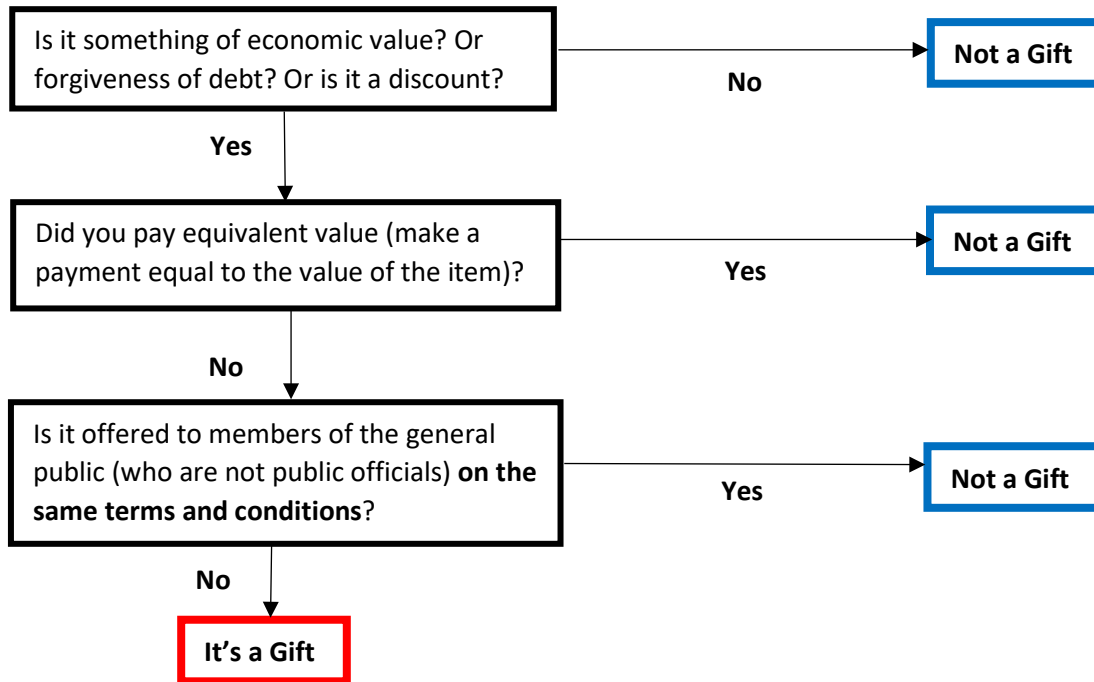
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GIFT ANALYSIS

STEP ONE: Is it (the offer of something) a Gift?

The restrictions in ORS 244.025 limit gifts that can be accepted by a public official, candidate, or a relative or member of the household of a public official or candidate. In this flowchart, we will only refer to Public Official, but the flowchart also applies to candidates, relatives and household members.

The first step is to determine if an offer of something is a gift.



STEP TWO: Determine the SOURCE, VALUE, and LEGISLATIVE or ADMINISTRATIVE INTEREST.

Before you can determine if a gift is one that you, as a public official, can accept, you must determine: (a) the source of the gift; (b) the value of the gift; and (c) whether the source has a legislative or administrative interest.

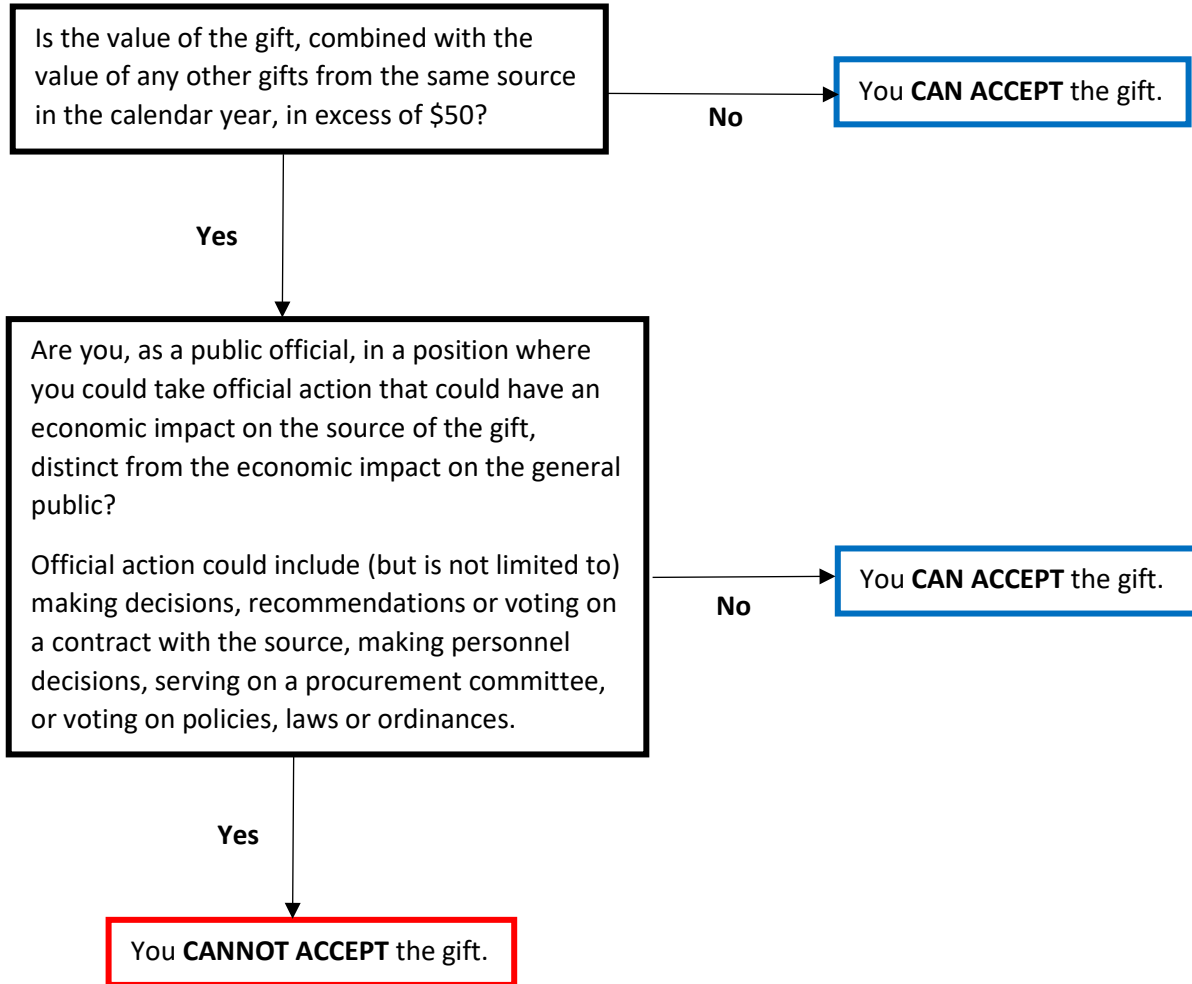
Determine the **Source** of the gift:
The source of a gift is the ultimate payer of the expense. [OAR 199-005-0030]

Determine the **value** of the gift:
Value is the fair market value of the item. [OAR 199-005-0005]
Note that one must keep track of the value of all gifts from the same source during the calendar year, as the gift clause limit is cumulative.

Determine if the Source has a **Legislative or Administrative Interest**:
A Legislative or Administrative Interest is an economic interest, distinct from that of the general public, in any matter subject to the decision or vote of the public official acting in their official capacity. [ORS 244.020(10)]

STEP THREE: Can you accept the Gift?

Whether a public official can accept a gift depends not only on the value and the source of the gift, but also on the public official’s position – specifically, on whether the public official is in a position where they could take official action or make decisions that could economically affect the source of the gift. This distinction means that certain gifts, regardless of value, can be accepted by some public officials but not by others.



STEP FOUR: Determine whether the gift falls within one of the specified gift exceptions in ORS 244.020(7)(b).

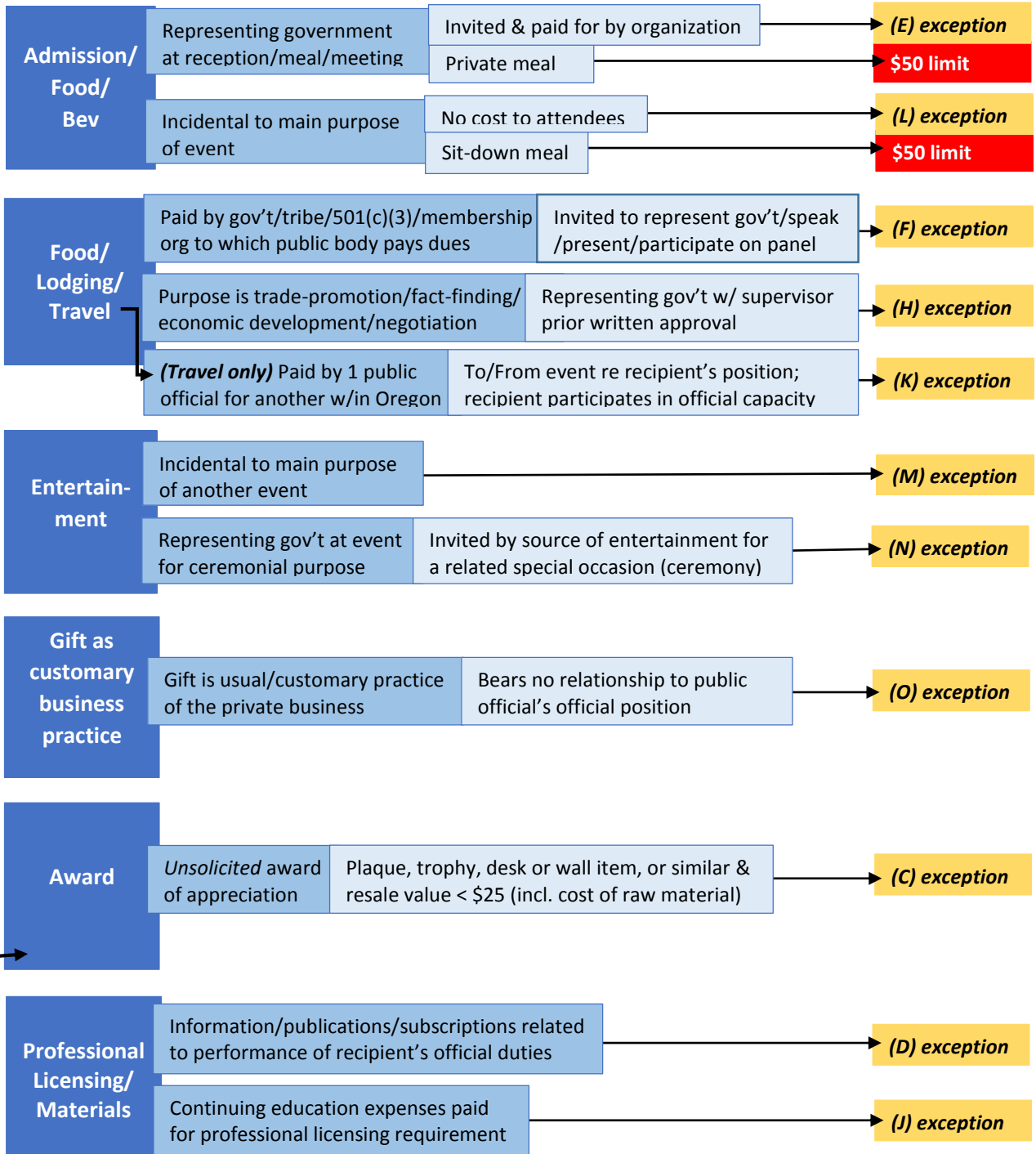
There are also a number of gift exceptions – sixteen specific categories of items that the legislature has statutorily excepted from the definition of gift. [ORS 244.020(7)(b)]. If an item falls within one of the gift exceptions, then it is not a gift, even if it is valued at more than \$50 and is from a source with a legislative or administrative interest. These gift exceptions are addressed in a separate flowchart.

A GIFT IS: something of economic value not offered to others who aren't public officials (relatives or household members) on the same terms and conditions (ORS 244.020(7)(a))

But an offer is **NOT A GIFT** if it fails to meet the above definition OR if it is offered by the public entity the public official represents.

* However, Prohibited Use of Office (ORS 244.040) may apply

EXCEPTIONS TO THE GIFT LIMIT (ORS 244.020(7)(b)(A)-(O))*



SOURCE OF GIFT...



**DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 63**

RATES FOR COMMISSIONER PER DIEM AND REIMBURSEMENT

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(09/24/2021)

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**DEPARTMENT OF HUMAN SERVICES
AGING AND PEOPLE WITH DISABILITIES
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411
DIVISION 63**

RATES FOR COMMISSIONER PER DIEM AND REIMBURSEMENT

411-063-0010 Definitions

(Temporary effective 09/24/2021 through 03/22/2022)

(1) "Commission or Council" means those official bodies identified in [ORS 410.070](#), [410.595](#) and [410.602](#).

(2) "Qualified member" means a member who is not in full-time public service and who had an adjusted gross income in the previous tax year:

(a) Of less than \$50,000, as reported on an income tax return other than a joint income tax return; or

(b) Of less than \$100,000, as reported on a joint income tax return.

Statutory/Other Authority: [ORS 292.495](#), [410.070](#)

Statutes/Other Implemented: [ORS 292.495](#), [410.070](#)

411-063-0020 Per Diem Compensation

(Temporary effective 09/24/2021 through 03/22/2022)

(1) Subject to the availability of funds in the budget of the Commission or Council, and except as otherwise provided by law, the Oregon Department of Human Services shall pay any member of a Commission or Council, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official Commission or Council duties.

(2) The rate of compensation per day pursuant to [ORS 292.495\(5\)](#) is equal to the per diem paid to members of the Legislative Assembly under [ORS 171.072](#).

(3) A member of a Commission or Council may decline to accept compensation or reimbursement of expenses related to the member's service on the Commission or Council.

(4) In order to receive compensation, a member must submit to the Oregon Department of Human Services a signed written request for compensation within 30 days of the meeting or work performed. The member must specify the date, name, type of meeting(s) or work, and the number of full or partial days the member spent performing official Commission or Council business.

Statutory/Other Authority: [ORS 292.495](#), [410.070](#)

Statutes/Other Implemented: [ORS 171.072](#), [185.200](#), [292.495](#), [410.070](#), [410.320](#), [410.550](#), [410.602](#)

411-063-0030 Reimbursement of Travel and Other Expenses

(Temporary effective 09/24/2021 through 03/22/2022)

(1) Except as otherwise provided by law, the Oregon Department of Human Services may reimburse all members of Commissions and Councils, including those employed in full-time public service, for actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under [ORS 292.210 to 292.250](#).

(2) Except as provided in subsection (5) of this section, and notwithstanding any other provision of law, the Oregon Department of Human Services shall provide reimbursement to a qualified member of the Commission or Council for actual and necessary travel or other expenses actually incurred in the performance of a member's official duties within the limits provided by law or by the Oregon Department of Administrative Services under [ORS 292.210 to 292.250](#).

(3) For the purposes of this rule, in order to be considered a qualified member, a member may attest by signature that they meet the conditions and income limits specified in [411-063-0010\(2\)](#).

(4) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Department of Human Services a travel expense claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses within 30 days following the day the member incurred the expense.

(5) A member of a Commission or Council may decline to accept compensation or reimbursement of expenses related to the member's service on the Commission or Council.

Statutory/Other Authority: [ORS 292.495](#), [410.070](#)

Statutes/Other Implemented: [ORS 185.200](#), [292.210 - 292.250](#), [292.495](#), [410.070](#), [410.320](#), [410.550](#), [410.602](#)

411-063-0040 Reimbursement for Hiring a Substitute

(Temporary effective 09/24/2021 through 03/22/2022)

(1) As used in [OAR 411-063-0030](#), "other expenses" includes expenses incurred by a member of the Commission or Council in employing a substitute to carry out duties, including personal duties, normally performed by the member, which the member is unable to carry out because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed \$25 per day, pursuant to [ORS 292.495\(3\)](#).

Statutory/Other Authority: [ORS 292.495](#), [410.070](#)

Statutes/Other Implemented: [ORS 185.200](#), [292.210 - 292.250](#), [292.495](#), [410.070](#), [410.320](#), [410.550](#)

Board and Commission Member Compensation

HB 2992 (Chapter 627, 2021 Oregon Law)

The Governor makes appointments to over 250 boards and commissions connected to various policy and subject matter areas, including to policy-making boards that head major state agencies and departments. Oregon law allows state board and commission members to receive statutory per diem compensation and reimbursement of certain expenses for each day or portion thereof which they spend time performing board or commission duties.

House Bill 2992, which was passed during the 2021 Legislative Session, is intended to reduce systemic barriers to participation in state boards and commissions by increasing the daily compensation rate (“per diem compensation”) from \$30 to an amount equal to the per diem compensation paid to members of the Legislative Assembly for each day or portion thereof which members spend time performing board or commission duties. This rate will be available to members of state boards and commissions for time spent in performance of official duties, unless otherwise limited or prohibited.

Agencies are **required** to pay per diem compensation and expenses for “qualified members,” defined as members who are (1) not in full-time public service, and (2) have an adjusted gross income for the previous tax year of less than \$50,000, or less than \$100,000 reported on a joint income tax return. The only exception to the requirement is if the qualified member declines compensation.

For members who exceed the adjusted gross income threshold, agencies **may** continue their usual practice of making independent decisions about whether to pay per diem compensation to members, through rules or otherwise. For these members, per diem compensation or expense reimbursement can be prohibited and may be contingent on available funding.

Members employed full-time in public service are not eligible to receive per diem compensation, but may receive expense reimbursement.

Frequently Asked Questions

- ❖ [When will HB 2992 take into effect?](#)
The bill took effect on September 25, 2021, the 91st day following adjournment sine die.
- ❖ [How will income be verified?](#)
A self-verification form will be made part of the board/commission member welcome package.
- ❖ [How do we capture information on income qualification for existing board/commission members, i.e., those not in an appointment or reappointment process?](#)
A self-attestation form will be provided in Workday. All current board/commission members will need to complete the self-attestation form.

- ❖ Does a board member’s eligibility to be a “qualified member” need to be determined once, or every year they are serving?
Members will need to complete the attestation form included with their board/commission welcome package upon original appointment and reappointment to a board or commission.
- ❖ What are the minimum qualifications to be a “qualified member” who must be paid the statutory per diem compensation?
A member who is not in full-time public service and who had an adjusted gross income in the previous tax year: (A) Of less than \$50,000, as reported on an income tax return other than a joint income tax return; or (B) Of less than \$100,000, as reported on a joint income tax return.
- ❖ Does HB 2992 eliminate the \$30 per diem compensation for board members who do not qualify for the new per diem outlined in Section 5 of HB 2992?
No, the bill changes the “default” amount of per diem compensation paid to board members from \$30 to an amount equal to the per diem compensation paid to members of the Legislative Assembly.
- ❖ Can an agency pay less than the maximum per diem compensation if the agency wants to use their budget for other things?
Under this bill, the board may not pay less than the statutory per diem compensation amount for qualified members (those who are below certain income thresholds, as described above). For members who are not qualified members, boards retain their preexisting authority to make independent determinations about whether or not to pay the statutory compensation, consistent with applicable statutes and rules.
- ❖ For Semi Independent Agencies (SIBA) HB 2992 changed portions of ORS Chapter 292. However, per ORS 182.460, most SIBAs are not subject to the provisions of ORS Chapter 292. Are SIBAs subject to the new per diem compensation requirements outline in HB 2992?
The Department of Justice (DOJ) has interpreted ORS 292.495 to apply to semi-independent boards and commissions’ qualified members even though those boards and commission are not otherwise subject to ORS 292.495.
- ❖ What constitutes “actual performance of duties”?
Attending a meeting of the board or commission or performance of tasks necessary to fulfill the responsibilities of the board member to their appointed board or commission.
- ❖ If there are meetings of varying lengths, should the same per diem compensation be paid regardless of meeting length?
ORS Chapter 292 provides that the flat statutory per diem compensation amount is to be paid for each day or portion thereof during which the member is actually engaged in the performance of official duties.
- ❖ Is this compensation in addition to or in conjunction with travel reimbursement?
Compensation is in addition to travel reimbursement.

- ❖ Will there be notification if the “default” per diem compensation rate changes, or should each agency check every year? If the latter, which website has this information? Currently the legislature does not post the “default” per diem compensation rate amount. The [Federal General Services Administration \(GSA\)](#) per diem and meals & incidentals standard rates (at the time of this document \$96 + \$59) is used.

If you have additional questions, please contact Executive Appointments at Executive.Appointments@oregon.gov. Boards and commissions are also encouraged to reach out to their DOJ contact counsel with questions specific to their own statutes or rules.

Enrolled House Bill 2992

Sponsored by Representative SMITH WARNER; Representatives BYNUM, DEXTER, PHAM,
SCHOUTEN, VALDERRAMA, WILDE, WILLIAMS (at the request of Reimagine Oregon)

CHAPTER

AN ACT

Relating to payments to members of certain public entities; amending ORS 292.495; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 292.495 is amended to read:

292.495. (1) Subject to the availability of funds therefor in the budget of the state board or commission, and except as otherwise provided by law, any member of a state board or commission, other than a member who is employed in full-time public service, who is authorized by law to receive compensation for time spent in performance of official duties, shall receive a payment [of \$30], **in the amount specified in subsection (5) of this section**, for each day or portion thereof during which the member is actually engaged in the performance of official duties.

(2) Except as otherwise provided by law, all members of state boards and commissions, including those employed in full-time public service, may receive actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(3) As used in [subsection] **subsections (2) and (4)** of this section, "other expenses" includes expenses incurred by a member of a state board or commission in employing a substitute to perform duties, including personal, normally performed by the member which the member is unable to perform because of the performance of official duties and which by the nature of such duties cannot be delayed without risk to health or safety. No member shall be reimbursed for expenses incurred in employing a substitute in excess of \$25 per day.

(4)(a) As used in this subsection, "qualified member" means a member who is not in full-time public service and who had an adjusted gross income in the previous tax year:

(A) Of less than \$50,000, as reported on an income tax return other than a joint income tax return; or

(B) Of less than \$100,000, as reported on a joint income tax return.

(b) Except as provided in subsection (6) of this section, and notwithstanding any other provision of law, a state board or commission shall provide to a qualified member of the state board or commission, at a minimum:

(A) Compensation, in the amount specified in subsection (5) of this section, for each day or portion thereof during which the member is actually engaged in the performance of official duties; and

(B) Reimbursement of actual and necessary travel or other expenses actually incurred in the performance of a member's official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(5) The compensation to be provided under subsections (1) and (4)(b)(A) of this section is equal to the per diem paid to members of the Legislative Assembly under ORS 171.072.

(6) A member of a state board or commission may decline to accept compensation or reimbursement of expenses related to the member's service on the state board or commission.

SECTION 2. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 21, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 24, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

.....
Shemia Fagan, Secretary of State

Chapter 185
Oregon Disabilities Commission; Commissions on Hispanic Affairs,
Black Affairs and Asian and Pacific Islander Affairs;
Commission for Women

2017 EDITION

OREGON DISABILITIES COMMISSION
(Generally)

185.110 Definitions for ORS 185.110 to 185.230. As used in ORS 185.110 to 185.230, unless the context requires otherwise:

(1) “Advocate self-help group” means any organized group of individuals with disabilities who have joined together for purposes of informing the public of their needs and obtaining resources, services and benefits for their membership.

(2) “Consumer” means an individual with a disability, or a parent or legal guardian, other than the State of Oregon, of an individual with a disability, who utilizes the services made available by public and private organizations which serve individuals with disabilities.

(3) “Individual with a disability” means anyone who:

(a) Has a physical or mental impairment which substantially limits one or more of the individual’s major life activities;

(b) Has a record of such impairment; or

(c) Is regarded as having such an impairment.

(4) “Sign language interpreter” means a person who is readily able to communicate with a person who is hard of hearing, translate proceedings or conversations and accurately repeat and translate the statements of a person who is hard of hearing. [1983 c.726 §1; 1989 c.224 §15; 1991 c.365 §1; 2005 c.663 §13; 2007 c.70 §49]

185.120 [1983 c.726 §2; 1989 c.224 §16; 1989 c.657 §1; repealed by 2005 c.663 §14]

185.130 Oregon Disabilities Commission; qualifications.

(1) The Oregon Disabilities Commission is created within the Department of Human Services. The commission consists of 15 members appointed by the Governor for not more than two consecutive three-year terms.

(2) Prior to making appointments, the Governor shall request and consider recommendations from advocate self-help groups and other interested public and private agencies.

(3) The membership of the commission shall be composed of members broadly representative of major public and private agencies who are experienced in or have demonstrated particular interest in the special needs of individuals with disabilities and consumers. Appointments shall be made with considerations given to geographic representation and a majority shall be individuals with disabilities as defined in ORS 185.110 (3). [1983 c.726 §3; 1987 c.80 §1; 1989 c.224 §17; 2005 c.663 §7]

185.140 Advisory function.

(1) The Oregon Disabilities Commission shall:

(a) Advise the Department of Human Services, the Oregon Health Authority, the Governor, the Legislative Assembly and appropriate state agency administrators on services and resources needed to serve individuals with disabilities and recommend action by the Governor, the Legislative Assembly, state agencies, other governmental entities and the private sector appropriate to meet such needs.

(b) Advise the Governor, state and local elected officials and managers of public and private firms and agencies on issues related to achieving full economic, social, legal and political equity for individuals with disabilities.

(2) The commission in no way shall impinge upon the authority or responsibilities of any other existing or duly appointed commissions, boards, councils or committees. The commission shall act as a coordinating link between and among public and private organizations serving individuals with disabilities. [1983 c.726 §§4, 8(2); 1989 c.224 §18; 1989 c.470 §3; 1989 c.657 §2; 2007 c.70 §50; 2011 c.720 §68a]

185.150 Duties.

The duties of the Oregon Disabilities Commission may include:

- (1) Identifying and hearing the concerns of individuals with disabilities;
- (2) Publicizing the needs and concerns of individuals with disabilities as they relate to the full achievement of economic, social, legal and political equity;
- (3) Advising the Department of Human Services, the Governor, the Legislative Assembly and appropriate state agency administrators on how state services for individuals with disabilities might be improved or better coordinated to meet the needs of the individuals with disabilities;
- (4) Advising local government agencies on matters which affect individuals with disabilities;
- (5) Submitting a report of commission activities and recommendations to the Governor at least annually, and to the Legislative Assembly at least biennially and nominating qualified individuals with disabilities for appointment to boards, commissions and policy level management and professional positions;
- (6) Studying and reporting on state agency programs and budgets that affect individuals with disabilities;
- (7) Informing individuals with disabilities where they may obtain assistance in rehabilitation and employment and about laws prohibiting discrimination in employment as a result of disability;
- (8) Cooperating with and assisting other interest groups in rehabilitation and employment of individuals with disabilities and encouraging public and private employers to undertake affirmative action to assure equitable employment of individuals with disabilities;

(9) Giving impetus and assistance to local community committees and fostering a more equitable climate for rehabilitation and equitable employment of individuals with disabilities;

(10) Promoting a continuous program of information and education to employers and the general public so they are aware of and sensitive to the needs and desires of individuals with disabilities for equitable education and training that will assure individuals with disabilities of their full vocational potentials;

(11) Promoting a continuous information program for placement of individuals with disabilities in suitable employment; and

(12) Coordinating and executing programs of the President's Committee on Employment of the Handicapped, if any, and participating with other groups in sponsoring suitable public recognition programs for individuals with disabilities. [1983 c.726 §5; 1989 c.47 §1; 1989 c.224 §19; 1989 c.470 §4; 1989 c.657 §3; 2005 c.663 §8]

185.155 Monitoring of progress of institutions of higher education and colleges in eliminating barriers to access. The Oregon Disabilities Commission shall monitor the progress of each institution or college in accomplishing the elimination of barriers to access and shall be consulted if access needs and priorities determined by the physical access committee are significantly revised. The commission may recommend revision if the commission believes the needs or priorities, or both, should be changed. [1991 c.935 §4]

Note: 185.155 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 185 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

185.160 [1983 c.726 §6; 1989 c.224 §20; 2001 c.716 §21; repealed by 2005 c.663 §14]

185.165 [1991 c.748 §3; repealed by 2001 c.716 §30]

185.170 Retaliation for legislative testimony prohibited. No employer shall retaliate against any employee member of the Oregon Disabilities Commission for any testimony given by the member of the commission before the Legislative Assembly or a legislative committee. [1983 c.726 §7; 1989 c.224 §21]

185.180 [1983 c.726 §§8(1), 9; 1989 c.47 §2; 1989 c.224 §22; repealed by 2005 c.663 §14]

185.190 Meetings; quorum; duties of chairperson. The Oregon Disabilities Commission shall meet at a place, date and hour determined by the commission. The commission shall meet at other times and places specified by the call of the chairperson or a majority of the members of the commission. A majority of the members of the commission constitutes a quorum for the transaction of business. The chairperson shall exercise powers necessary for the performance of the functions of the office of the chairperson as determined by the commission. [1983 c.726 §10; 1985 c.184 §3; 1987 c.80 §2; 1989 c.224 §23; 1999 c.26 §1]

185.200 Compensation and expenses. Members of the Oregon Disabilities Commission shall receive compensation and expenses as provided in ORS 292.495. Travel and per diem for state employees shall be compensated by the commission. [1983 c.726 §11; 1989 c.224 §24]

185.220 [1991 c.365 §3; repealed by 2005 c.663 §14]

4b - ODC Roster - April 2023

Disabilities Commission, Oregon

Agency: **Department of Human Services**

Policy Area: **Human Services**

Authorization: **ORS 185.130**

Board Admin:

Min Members: **15** Max Members: **15**

OregonDisabilities.Commission@odhsoha.oregon.gov

Term Length: **4** Term Limit: **2**

Address:

Senate Confirmation Required?: **No**

Human Resources Bldg

500 Summer Street NE, E-02

Salem, OR 97301

800-282-8096

Current Appointments

Blakely, Fatoumata	Term(s):	6/30/2022 - 6/29/2026
Position Number: 1		
Schoonbee, Jenny	Term(s):	6/30/2022 - 6/29/2026
Position Number: 2		
Mr Wilkus, Patrick J II	Term(s):	8/22/2021 - 8/21/2025
Position Number: 3		8/22/2018 - 8/21/2021
Gunnells, Kier	Term(s):	3/29/2023 - 3/28/2027
Position Number: 4		
Ms Wilson, Joanna R	Term(s):	6/17/2019 - 6/16/2022
Position Number: 5		
Ms Wentzell, Marsha C	Term(s):	1/28/2020 - 1/27/2024
Position Number: 6		
Lara Midkiff, Joaquín	Term(s):	3/29/2023 - 3/28/2027
Position Number: 7		
Duke, Shayla	Term(s):	3/29/2023 - 3/28/2027
Position Number: 8		
Ms Harris, Donna S	Term(s):	3/29/2023 - 3/28/2027
Position Number: 9		
Peterson, Nancy	Term(s):	6/30/2022 - 6/29/2026
Position Number: 10		
Kottkey, Kristy	Term(s):	3/29/2023 - 3/28/2027
Position Number: 11		
Mr King, Mark V	Term(s):	6/17/2019 - 6/16/2022
Position Number: 14		

Roessel, Timothy

Term(s):

6/30/2022 - 6/29/2026

Position Number: 15

Vacant Positions

Pos	Former Member	Appointed By	Term Begin	Term End
12	Mr Stone, Brian C	Governor	6/17/2019	6/16/2022
12	Mrs Schwartz-VanZandt, Laurie M	Governor	5/17/2013	5/16/2016
12	Ms Helvington, Cindy L	Governor	10/1/2007	9/30/2010
Pos	Former Member	Appointed By	Term Begin	Term End
13	Eldrige, Deborah "Brooke"	Governor	7/27/2022	7/26/2026
13	Mr Samuelson, Randy J	Governor	12/1/2018	11/30/2021
13	Mr Samuelson, Randy J	Governor	12/1/2014	11/30/2017
13	Ms Balzell, Ann I	Governor	8/11/2011	8/10/2014
13	Ms Balzell, Ann I	Governor	8/11/2008	8/10/2011

Oregon Disabilities Commission Bylaws

Article I

Section 1: Mission

To secure and maintain economic, social, legal, and political justice for individuals with disabilities through systems change.

Section 2: Purpose

To accomplish this mission the Commission will undertake the following activities:

- A. Identify and hear the concerns of people with disabilities, their representatives, and organizations/agencies and then use this information to prioritize public policy issues which should be addressed;
- B. Publicize the needs and concerns of individuals with disabilities as they relate to the full achievement of economic, social, legal, and political equity;
- C. Educate and advise the Department of Human Services, the Oregon Health Authority, the Governor, the Legislative Assembly, and appropriate state agency administrators on how public policy can be improved to meet the needs of individuals with disabilities.

Section 3: Values

The Commission will carry out its duties in a manner that is consistent with the following values:

- A. All Commission Members have equal power and authority except as required to fulfill specified duties as officers.
- B. The Commission will represent the interests and rights of all Oregonians with disabilities.
- C. The Commission, in its actions and its language, will contribute to the dignity, well-being, choice, and independence of individuals with disabilities.
- D. The Commission will conduct its business in a manner that is accessible to all individuals with disabilities.

Article II

Section 1: Commission Membership

- A. The Commission will consist of not more than fifteen (15) members and will include as voting members only those persons appointed by the Governor. The Commission will offer appointment recommendations for the Governor's consideration.
- B. All Commissioners shall be experienced in or knowledgeable about the needs and interests of individuals with disabilities. At least two-thirds of the fifteen (15) Commissioners shall be individuals with disabilities as defined in ORS 185.110. The membership of the Commission shall be composed of members broadly representative of major public advisory groups and private agencies who are experienced in, or have demonstrated particular interest in, the special needs of people with disabilities and represent a broad range of people with disabilities, including individuals representing differing geographic and ethnic backgrounds.

Section 2: Terms of Membership

- A. Members may be appointed by the Governor for not more than two (2) consecutive four-year terms, as mandated by Oregon Revised Statute 185.130.

Section 3: Recruitment/Application/Appointment Procedure

- A. The Executive Committee will review Statements of Interest and Resume and make recommendations to the Governor's Office based on the information that was reviewed in those documents.
- B. Applicants will be invited to a Commission meeting for introduction and observation of the meeting.
- C. The Commission's recommendation(s), along with the application, will be sent to the Governor's Office following the Commission's decision.
- D. Recommended appointees are NOT official until the Governor's appointment process is completed – with a background check, reference checks, and a signed oath of office in place.

Section 4: Vacancies and Attendance

- A. Members wishing to resign from the Commission will notify, in writing, the Governor and the Commission Chairperson.

- B. When a vacancy occurs, the Commission will seek to fill the vacancy by following the recruitment and appointment process.
- C. Attendance is required. The Commission may request that the Governor terminate the membership of any Commission member who fails to attend three (3) unexcused consecutive meetings and/or four (4) excused consecutive meetings in a twelve (12) month period. The Commission may waive this requirement for members who have submitted a written absence request to the Commission Staff or Chair and received approval of the absence request. As a precaution, after two (2) unexcused and/or three (3) excused absences, a letter and/or phone call will be sent to members advising them of their right to request an extended excused leave of absence.

Section 5: New Member Orientation Procedure

- A. Following appointment to the Commission, the Chair will assign a mentor for the new member.
- B. Newly appointed Commissioners will be given an orientation packet and will attend a new member orientation session.
- C. New members will be required to attend the Department of Administration Services Board Trainings.

Article III

Section 1: Meetings

- A. The Full Commission will meet a minimum of six (6) times per year and more frequently as needed.
- B. A majority vote of the members will determine the meeting dates and places.
- C. Meetings will conform to the requirements of ORS 192.630 public meeting laws.
- D. The Commission year begins on July 1 of each year. An annual planning meeting will be held, at which time the Commission will review its prior year's achievements and develop a work plan for the following year.
- E. Written meeting minutes will reflect all members present, all motions, proposals, resolutions, and measures proposed and the result of all individual votes and the substance of any discussion matter.
- F. Adoption of the agenda will take place at the start of each meeting.

- G. Robert's Rules of Order may be used to govern procedures in the conduct of the meetings of the Commission.

Article IV

Section 1: Voting

- A. All Governor-appointed members of the Commission have voting privileges.
- B. Voting on issues may be conducted at any regularly scheduled meeting or emergency meeting and a written record of each vote will be kept.
- C. Voting can occur via telephone conference, roll call, and/or written ballot, if it complies with all requirements of the public meeting law and the public is aware of the issues to be voted on.
- D. A simple majority of the Commission voting membership filled positions shall constitute a quorum.

Article V

Section 1: Conflict of Interest

- A. All Commissioners will follow the ODC Conflict of Interest policy.
- B. No Commission member shall receive funds directly from the ODC except as allowed under statute.
- C. A conflict of interest arises when a Commission member has a financial relationship to, or is an employee, or on the Board of Directors, of an organization which intends to apply for or has applied for a Commission grant or contract.
- D. Any Commission member who has a conflict of interest or a perceived conflict of interest must refrain from participating in the following: screening or selection of committees involving funding decisions; discussion and voting at Commission or committee meetings regarding potential areas of conflict; and any other Commission processes that relate to the potential areas of conflict.
- E. Commission members are obligated to inform the Chair of the Commission or committee as soon as they know of any potential or actual conflicts of interest. Such notice shall be recorded in the minutes of the meeting. When it is unclear if a conflict of interest exists, the Executive Committee or Chair shall make the determination. Until a determination is made, a conflict of interest will be considered to exist.

Article VI

Section 1: Officers

- A. **Qualifications for Office.** The Commission shall have two officers: Chair and Vice Chair. Officers shall serve two (2) year terms and cannot serve more than two (2) consecutive terms in office. Qualifications for office shall include but are not limited to:
1. Leadership skills or potential, including ability to conduct meetings and include all members in discussions and decision-making.
 2. History of regular, active participation in Commission meetings and/or committees.
 3. Availability to regularly attend Commission and Executive Committee meetings.
- B. **Duties of the Chair and Vice Chair.** The Chair and Vice Chair shall:
1. Work with Commission Staff prepare an agenda for Commission and Executive Committee meetings.
 2. Preside at all meetings of the Commission and Executive Committee. If the Chair is unable to preside, the Vice Chair shall preside. If the Vice Chair is unable to preside, the Chair shall designate another Commission member to preside.
 3. Call special meetings of the Commission as needed.
 4. Appoint all standing and ad hoc committee Chairs and members, except for the Nominating Committee.
 5. Perform other duties as may be prescribed by law or by Commission actions.

Article VII

Section 1: Committees

- A. There shall be an Executive Committee, consisting of the Chair, Vice Chair, and three (3) at-large members to be determined by a vote of the Commission. The primary role of the Executive Committee will be to assist the Chair and Vice Chair in planning and organizing meetings of the Commission and to make decisions, in keeping with the mission and values of the Commission, that require critical resolution between regular meetings of the Commission.

- B. There shall be a Nominating Committee, selected by the Commission.
- C. The Chair may establish ad hoc committees for particular purposes with stated objectives and limited duration. Members will be appointed by the Chair.

Article VIII

Section 1: Conduct at Meetings

- A. All Commission and Committee meetings will adhere to Public Meeting Laws, which requires a quorum to be present, and further governed by Robert's Rules of Order, as revised.
- B. The Commission Staff, in consultation with the appropriate chairperson, will prepare agendas for Commission and committee meetings, and send in advance to the members, and to other interested parties upon their request. Agenda items may be added to a meeting by a majority vote of the members present.
- C. All members present agree not to share information discussed during an executive session, once the session concludes, in keeping with confidentiality.

Article IX

Section 1: Public Comment/Testimony

- A. Public comment/testimony will be taken at all regular Commission meetings. Public comment/testimony will be at the discretion of the Chair. The presiding Chair will regulate the order and length of public comment/testimony. Committee Chairs may also limit testimony to matters under consideration by the committee.
- B. Individuals wishing to make longer, more formal presentations may be granted permission by the Chair if a request is made at least ten (10) business days prior to the meeting. Requests may be made through the coordinators or the presiding Chair and must include the name of the presenter(s); the organization being represented, if any; and the address and telephone number(s) of the presenter(s).

Article X

Section 1: Travel Reimbursement and Per Diem

- A. The Commission may use resources to reimburse Commissioners for reasonable and necessary expenses of attending Commission meetings and performing Commission duties.

Article XI

Section 1: Accessible Materials

- A. Any materials distributed at a public meeting of the Commission or any materials distributed by the Commission shall be in an accessible format upon request.
- B. For materials distributed at any public meeting of the Commission, specific procedures include:
 - 1. Commission Staff will request materials from guest speakers and distribute them in electronic format to Commissioners as soon as it's available. Commission Staff will ensure that these materials will be in the most accessible format for each Commissioner, such as preferable font size or software. If a Commissioner does not have access to email, then Commission Staff will send hard copies in accessible format to this Commissioner.
 - 2. In rare times when alternative formats are not available in advance of a meeting, such materials will be provided as quickly after the meeting as possible. However, these materials will not be distributed at the meeting. Any materials not distributed prior to the meeting may be read aloud and explained in manner understood by all Commissioners. The Commission may choose not to act or make decisions based on information that is not provided in accessible formats in advance.
 - 3. Commission Staff shall make guest speakers aware of this policy and will send all guest speakers a request for their materials in advance.
 - 4. For all Commission materials distributed to the public (including members of the public at meetings), the Commission will follow the Department of Human Services policy for accessible materials.

5. If a request for an alternative format is made, primary consideration must be given to the individual's requested format/auxiliary aid or service unless another effective means of communication is available and appropriate.
 - i. For materials available in Braille and audio transcription, the Commission will work with the Commission Staff.
 - ii. For materials in electronic format, Commission Staff will ask individuals which software works best if the individual uses a reader. The Commission will provide materials in the preferred software to its best ability.

Article XII

Section 1: Adoption and Amendment of Commission Bylaws

- A. Bylaws will be reviewed every two (2) years, on even-numbered years, to determine if amendments are necessary. Proposed amendments to the bylaws will be submitted in writing to the Chair. The proposed amendment(s) and the rationale for changes will be distributed to each member with the agenda at least one month prior to the meeting. A two-thirds majority vote of those Commission members present is required for adoption.

Adopted date: July 3, 2008

Revision date: March 12, 2020

10 Ground Rules for Meetings

1 Show up on time and come prepared

Be prompt in arriving to the meeting and in returning from breaks.
Be prepared to contribute to achieving the meeting goals.
Come to the meeting with a positive attitude.



2 Stay mentally and physically present

Be present, and don't attend to non-meeting business.
Listen attentively to others and don't interrupt or have side conversations.
Treat all meeting participants with the same respect you would want from them.

3 Contribute to meeting goals

Participate 100% by sharing ideas, asking questions, and contributing to discussions.
Share your unique perspectives and experience, and speak honestly.
If you state a problem or disagree with a proposal, try to offer a solution.

4 Let everyone participate

Share time so that all can participate.
Be patient when listening to others speak and do not interrupt them.
Respect each other's' thinking and value everyone's contributions.



5 Listen with an open mind

Value the learning from different inputs, and listen to get smarter.
Stay open to new ways of doing things, and listen for the future to emerge.
You can respect another person's point of view without agreeing with them.

6 Think before speaking

Seek first to understand, then to be understood.
Avoid using idioms, three letter acronyms, and phrases that can be misunderstood.
It's OK to disagree, respectfully and openly, and without being disagreeable.

7 Stay on point and on time

Respect the groups' time and keep comments brief and to the point.
When a topic has been discussed fully, do not bring it back up.
Do not waste everyone's time by repeating what others have said.



8 Attack the problem, not the person

Respectfully challenge the idea, not the person.
Blame or judgment will get you further from a solution, not closer.
Honest and constructive discussions are necessary to get the best results.

9 Close decisions and identify action items

Make sure decisions are supported by the group, otherwise they won't be acted on.
Note pending issues and schedule follow up meetings as needed.
Identify actions based on decisions made, and follow up actions assigned to you.

10 Record outcomes and follow up

Record issues discussed, decisions made, and tasks assigned.
Share meeting reports with meeting participants.
Share meeting outcomes with other stakeholders that should be kept in the loop.



ODC Notes

Date:



Meetings

The commission meets six times a year. Meetings are open to the public and are held in places accessible to individuals with disabilities.

For more information about meetings, to access agendas or meeting minutes, please visit the ODC website or contact commission staff.

Accommodations

Reasonable accommodations will be provided at meetings. Individuals needing an accommodation should contact commission staff at least 48 hours in advance of the meetings.



500 Summer St. NE E-02
Salem, OR 97301

Phone Toll Free V/TTY:
800-282-8096
We accept all relay calls.

Email:
OregonDisabilities.
Commission@state.or.us

Facebook:
@OregonDisabilitiesCommission

Scan to visit the ODC website:



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Oregon Disabilities Commission





Overview

The Oregon Disabilities Commission (ODC) is a Governor appointed commission housed in the Department of Human Services (DHS).

The commission is charged by state statute to advise the Governor, the Legislative Assembly, and appropriate state agency administrators on issues related to achieving full economic, social, legal and political equity for individuals with disabilities.

ODC also acts as a coordinating link between and among public and private organizations serving individuals with disabilities.

Mission

To secure economic, social, legal and political justice for Oregonians with disabilities through systems change.

Purpose

To carry out its mission, the commission:

- Identifies and hears the concerns of individuals with disabilities and uses the information to prioritize public policy issues which should be addressed.
- Educates and advises DHS, OHA, the Governor, the Legislative Assembly and appropriate state agency Administrators on how public policy can be improved to meet the needs of individuals with disabilities.



Membership

ODC is a legislatively mandated 15-member commission composed of people who are broadly representative of major public and private agencies. Members are experienced in or have demonstrated particular interest in the needs of individuals with disabilities. A majority of commission members is to be representative of individuals with disabilities.

For more information about an appointment to the commission, please contact the Governor's Executive Appointments office or ODC Commission staff.

2023 Required Training

The required training sessions for 2023 are now available in Workday. You can take them anytime.

1. *New Commissioners Only:* [DAS – CHRO – Overview of Boards, Commissions, & Small Entities](#)
2. [DAS – CHRO – 2023 Preventing Discrimination and Harassment in the Workplace](#)
3. [DAS – EIS – 2023 Information Security Training: Foundations](#)

Workday Resources

- Workday Login:
<https://wd5.myworkday.com/wday/authgwy/oregon/login.html>
- Workday Learning for ODHS Employees and Board & Commission Members: <https://dhsoha.sharepoint.com/teams/Hub-ODHS-HR/SitePages/WDL-Employee.aspx>
- For questions about training requirements, email OregonDisabilities.Commission@odhsoha.oregon.gov

Member Name (First and Last): _____
(Print)

Address, City, State, ZIP: _____
(Print)

Compensation:

A board or commission member who is not employed full-time in public service may receive a stipend under ORS 292.495 (1) for each day or portion of a day during which the member is actually engaged in the performance of official duties. The amount may exceed, but not be less than, the amount of payment that would otherwise be provided under ORS 292.495 (5).

If you are currently serving on a state board or commission other than this one and receiving compensation, under the Constitution of Oregon, Article II Suffrage and Elections, Section 10, you are not allowed to receive compensation from more than one board or commission.

Are you currently serving on a state board or commission(s) other than this one: ___yes* ___no

*If yes, please list name(s): _____

*If yes and you are accepting the per diem stipend from another state board or commission, list name of that entity: _____

Please indicate your compensation status and selection:

- Qualified member:** A member who is not in full-time public service and has an adjusted gross income in the previous tax year: (A) of less than \$50,000, as reported on an income tax return other than a joint income tax return; (B) of less than \$100,000, as reported on a joint income tax return, or (C) have other existing statutory authority for compensation by the board or commission.
- Non-Qualified member:** A member who is not in full-time public service and has an adjusted gross income in the previous tax year: (A) of more than \$50,000, as reported on an income tax return other than a joint income tax return; or (B) of more than \$100,000, as reported on a joint income tax return.
- Decline Compensation:** I decline the compensation offered regardless of my status as a qualified or non-qualified member as allowed under ORS 292.495 (6).

I understand this compensation is taxable income and will be reported to me annually on a W-2 or 1099 statement.

By signing this form, I hereby affirm that all information provided by me on this form is true to the best of my knowledge.

Signature: _____ Date: _____

Please see side 2 for references to the Constitution of Oregon and Oregon Revised Statutes.

Oregon Constitution:

As stated in the 2019 edition of the Constitution of Oregon, Article II Suffrage and Elections, Section 10 Lucrative offices; holding other offices forbidden

Section 10. Lucrative offices; holding other offices forbidden. No person holding a lucrative office, or appointment under the United States, or under this State, shall be eligible to a seat in the Legislative Assembly; nor shall any person hold more than one lucrative office at the same time, except as in this Constitution [sic] expressly permitted; Provided, that Officers in the Militia, to which there is attached no annual salary, and the Office of Post Master, where the compensation does not exceed One Hundred Dollars per annum, shall not be deemed lucrative.

Oregon Revised Statutes:

292.495 Compensation and expenses of members of state boards and commissions. *(Changes made by HB2992 (2021) underscored.)*

(1) Subject to the availability of funds therefor in the budget of the state board or commission, and except as otherwise provided by law, any member of a state board or commission, other than a member who is employed in full-time public service, who is authorized by law to receive compensation for time spent in performance of official duties, shall receive a payment, in the amount specified in subsection (5) of this section, for each day or portion thereof during which the member is actually engaged in the performance of official duties.

(2) Except as otherwise provided by law, all members of state boards and commissions, including those employed in full-time public service, may receive actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(3) As used in subsections (2) and (4) of this section, "other expenses" includes expenses incurred by a member of a state board or commission in employing a substitute to perform duties, including personal, normally performed by the member which the member is unable to perform because of the performance of official duties and which by the nature of such duties cannot be delayed without risk to health or safety. No member shall be reimbursed for expenses incurred in employing a substitute in excess of \$25 per day.

(4)(a) As used in this subsection, "qualified member" means a member who is not in full-time public service and who had an adjusted gross income in the previous tax year:

(A) Of less than \$50,000, as reported on an income tax return other than a joint income tax return; or

(B) Of less than \$100,000, as reported on a joint income tax return.

(b) Except as provided in subsection (6) or this section, and notwithstanding any other provision of law, a state board or commission shall provide to a qualified member of the state board or commission, at a minimum:

(A) Compensation, in the amount specified in subsection (5) of this section, for each day or portion thereof during which the member is engaged in the performance of official duties; and

(B) Reimbursement of actual and necessary travel or other expenses actually incurred on the performance of a member's official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(5) The compensation to be provided under subsections (1) and (4)(b)(A) of this section is equal to the per diem paid to members of the Legislative Assembly under ORS 171.072.

(6) A member of a state board or commission may decline to accept compensation or reimbursement of expenses related to the member's service on the state board or commission.

ATTENTION: APD Payroll
2023-2025

Department of Human Services
Aging and People with Disabilities
Oregon Disabilities Commission (ODC)

REQUEST FOR PER DIEM

In accordance with ORS 292.495, and as an appointed member of the Oregon Disabilities Commission, I request per diem of **\$157.00** while performing in an official capacity at the following meetings:

<u>Date</u>	<u>Meeting</u>	<u>Location</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Name: (Please print)	
	SS NO LONGER NEEDED
Signature	
OFFICE USE ONLY	
Approved # of Days	
Approved By	Rodney Schroeder, Program Manager
Signature	

PCA: 30069
Index: 31180
AOBJ: 4954

Questions: [Joseph Lowe 971-239-6666 Joseph.Lowe@odhs.oregon.gov](mailto:Joseph.Lowe@odhs.oregon.gov) or [Ryan Kibby 503-510-3988 Ryan.E.Kibby@odhs.oregon.gov](mailto:Ryan.E.Kibby@odhs.oregon.gov)

Travel Reimbursement Worksheet

SS NO LONGER NEEDED

Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____

A. Travel

Departure Date/Time	Returned Home Date/Time	From What City	Destination City	Mileage	Parking	Purpose of Travel

B. Meals and Lodging – (Meals will be calculated at Per Diem Rate)

Date	Breakfast	Lunch	Dinner	Lodging Costs	Room Tax	Lodging Location

C. Miscellaneous Expenses (provide receipt)

Date	Amount	Expense description

did not/will not accept **travel awards** as a result of or associated with this state business trip.

_____ (Initial Here)

Completion of this section is mandatory. Travel expense reimbursement claims will not be processed if this block is left blank. Travel awards include, but may not be limited to, airline frequent flyer miles and hotel or car rental frequent customer awards or miles.

I certify that all reimbursement claimed reflect actual duly required expenses or allowances entitled and that no part thereof has been heretofore claimed from any other source.

Signature: _____ Date: _____