PUBLIC OFFICIAL ETHICS

The Oregon Government Ethics Commission enforces Oregon's Ethics Laws. The OGEC produces a very useful publication called "A Guide for Public Officials," available on OGEC's web site at: *http://www.oregon.gov/OGEC/Index.shtml*. The Commission staff is also available to answer questions by phone or email at (503) 378-5105 or ogec.mail@state.or.us.

A. All public employees are subject to the code of ethics set forth in ORS chapter 244 State agency board and commission members and employees are "public officials" as that term is defined in ORS 244.020(14).

B. Code of Ethics:

1. No public official shall use or attempt to use the public official's position or office to obtain financial gain, or avoid financial detriment, for the public official, their relatives or any business with which they are associated. ORS 244.040(1).

There are several exceptions to this general rule. Public officials may lawfully accept:

1. Any part of their "official compensation package"
2. Honorarium within the limits established by law (up to $50 value for services provided in a public official capacity)
3. Reimbursement of expenses by a public employer
4. An unsolicited award for professional achievement
5. Gifts from a source that has an administrative or legislative interest, up to a $50 limit from the source within a calendar year
6. Gifts from sources with no legislative or administrative interest, in unlimited amounts
7. Gifts, regardless of value, that come within the gift exceptions in ORS 244.020(6)
8. Contributions to a legal expense trust fund

A "gift" is something of economic value given to a public official, a relative or member of household without valuable consideration, which is not extended to others who are not public officials on the same terms and conditions, or something offered for less than is required of others who are not public officials.

A "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.

There are numerous specific exemptions to the $50 gift limits from sources with legislative or administrative interests. These include acceptance of some meals offered by organizations, reasonable expenses for travel paid by other units of government (federal, state or local, tribes or membership organizations the public official's agency pays dues to), travel for officially sanctioned trade promotion or fact finding purposes; attendance at receptions, and certain gifts offered as part of the customary practice of the public official's private occupation or position as a volunteer. OGEC rules provide guidance on these exceptions. OAR 199, Division 005.

2. No public official shall solicit or receive, either directly or indirectly, a pledge or promise of future employment based on any understanding that the public official's judgment would be influenced by that pledge or promise. ORS 244.040(3).

3. No public official shall attempt to further, or further, the personal gain of the public official through the use of confidential information gained as a public official. ORS 244.040(4).

4. If a public official has an actual conflict of interest or a potential conflict of interest in a particular situation (meaning that there is or could be possible pecuniary benefit or detriment arising from the situation), a public official who is not an elected public official or member of a board or commission must notify *in writing* the person who appointed the public official of the nature of the conflict and request that the appointing authority dispose of the matter. *See* ORS 244.020(1); 244.020(14); 244.120(1)(c).

5. For public officials who are appointed members of a board or commission, the law requires a public announcement of an actual or potential conflict of interest prior to participating in a discussion or taking any action on the matter giving rise to the conflict. The announcement must describe the nature of the conflict.

If the conflict of interest is actual, the member must refrain from participating in the discussion or vote. If the conflict of interest is potential, the member may participate.

If the member's vote is necessary to meet a quorum requirement, the member may, after declaring the conflict of interest, vote but may not participate in the discussion.

6. The nepotism statutes limit a public official's role in the hiring, firing, supervision or employment of a relative. ORS 244.177, ORS 244.179. “Relative” is defined more broadly for these statutes than for other ethics laws in ORS chapter 244. ORS 244.175.

C. Examples of violations.

1. Using public property or funds for personal or private business purposes. For example, public officials cannot ask public employee staff to do personal tasks for the official on public time. A public official could not use his or her office computer to store his or her private business records even if the official used the computer only after normal office hours.

2. Public officials cannot make a decision that would financially benefit a relative or business with which the official or a relative is associated, such as awarding a contract to the public official's sister or spouse. In this sort of case, the public official would be required to notify his or her appointing authority (perhaps the department head) and ask the appointing authority to resolve the conflict.

3. A state employee learns through confidential agency documents that a local bar may be shut down. The employee arranges financing and, by using the confidential information, buys the bar below market value before the original owner loses the liquor license. The employee violated the law because he got a better deal on the sale by using confidential information. Using confidential information obtained because of official position for personal financial gain violates the law.