

# Public Official Training for Independent District Commission

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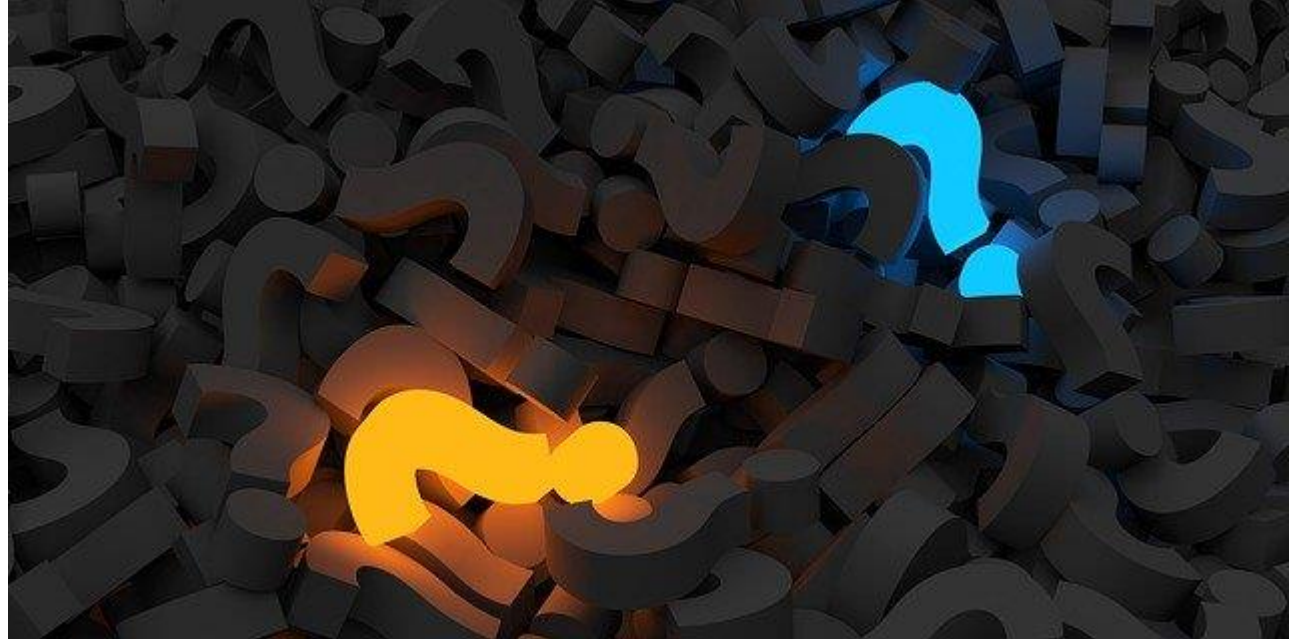


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# Agenda

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- Public Official
- Public Meetings
- Public Records
- Legal Ethics



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# Safeguard the Public Trust

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Service as a public official is a public trust. Compliance with all applicable laws is required to safeguard that trust.



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# Public Official

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- Elected officials
- Appointed officials
- Employees
- Agents



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# Public Meetings

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Policy: The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions are made.

What is a meeting?

1. Quorum required
2. To deliberate
3. On any matter



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# Public Meeting?

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Yes:

- Regularly scheduled meeting
- Emergency meeting
- Full Commission meeting with sole purpose to gather information to serve as a basis for a subsequent decision or recommendation
  - *If exclusive purpose of a subcommittee is to gather and report information to full committee, subcommittee meetings may not be public*
- Subcommittee meeting, if the subcommittee has authority to make recommendations or decisions
- Serial communications
  - **BEWARE EMAIL and REPLY ALL**



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# Public Meeting?

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No:

- Training session, IF no substantive issues discussed
- Social event, IF no substantive issues discussed



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# Public Meeting Requirements

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- Notice, with Agenda
- Held within City of Portland
- Nondiscriminatory site
- Accessible to persons with disabilities
- Public attendance
- Official actions taken by public vote
- Minutes



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# Questions on Public Meetings?



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# Public Records

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Policy: Every person has the right to inspect any nonexempt public record of a public body in Oregon.

What is a public record?

- Any writing that contains information relating to the conduct of the public's business . . . prepared, owned, used or retained by a public body regardless of physical form or characteristics.



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# Public Record?

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Yes:

- Paper documents
- Photographs
- Maps
- Emails, even from personal account IF content is public business
- Text messages
- Chats in Zoom/Teams meetings
- Voicemails, until deleted



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# Public Record?

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No:

- Transitory records
  - Typically emails, texts like “donuts in break room,” “large print job going through,” “yes, meeting starts at 9”
- Emails IF only content is personal
- Examples of material exempt from disclosure under law:
  - Business records required to be submitted
  - Trade secrets
  - Personal privacy exemption



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# Questions on Public Records?

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# Legal Ethics

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Policy: Legal restrictions placed on public officials are different than those placed on private Oregonians because service in public office is a public trust.

- Compliance is the personal responsibility of each public official
- State legal requirements
- Portland City Code 1.03 (Code of Ethics)



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# Legal Ethics

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## Oregon Government Ethics Commission:

- Jurisdiction goes back 4 years
- Possible sanctions:
  - \$5,000 civil penalty
  - Forfeit 2x amount of financial benefit
  - Letter of reprimand, explanation or education



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# Legal Ethics

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Who must public official consider when complying with legal ethics?

1. Public official
  - Volunteers on advisory board
2. Relatives of public official
  - Thanksgiving Rule
3. Business with whom public official or relative of public official is associated



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# Legal Ethics

Relative of public official (Thanksgiving Rule):

- Spouse
- Children
  - (or spouse's children)
- Siblings or parents
  - (or spouse's equivalent)
- Any individual for whom public official has legal support obligation
- Any individual from whom public official receives benefits arising from that individual's employment



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# Legal Ethics

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## Business Associated with Public Official or Relative of Public Official:

- Privately-held business:
  - Director, officer, owner or employee
  - Own \$1,000 in stock or interest
- Publicly-held business:
  - Own \$100,000 in stock or interest
- NOT public bodies
- NOT tax-exempt 501-C non-profit IF associated only as board member or holds an unpaid position



# Legal Ethics

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- Use of Position
- Gifts
- Conflict of Interest



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# Legal Ethics – Use of Position

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Rule: May not use, or attempt to use, official position to obtain a financial gain or avoid a financial detriment if the financial opportunity is not otherwise available to the public.

- Violation: Car wash example
- No Violation: Columbia store pass example



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# Legal Ethics – Use of Position

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- Private employment example
  - May not use confidential information obtained through position
  - Take no official action that could financially impact your private employment
  - Disclose all conflicts of interest
  - Ensure clear distinction between use of resources and time for private employment and action as public official
  - May not, directly or indirectly, solicit or accept promise of future employment based on understanding that employment offer is influenced by public official's vote or official act



# Legal Ethics – Gifts

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Rule: During a calendar year, a public official may not solicit or receive, directly or indirectly, any gifts with an aggregate value in excess of \$50 from a single source that could reasonably be known to have a legislative or administrative interest in a decision or vote made by public official.

- Gift = Anything of economic value given for less value than is required from others who are not public officials.
- Legislative or Administrative Interest = Economic interest distinct from general public.
- Decision or vote = Act that commits public body to a particular course of action; NOT recommendation in advisory capacity.



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# Legal Ethics – Gifts

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- Gifts exclusions:
  - Food and beverage exclusion
  - Does not allow private meals
- Expensive bike example



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# Legal Ethics – Conflicts of Interest

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Rule: A public official is met with a conflict of interest when participating in an official action could result in a financial benefit or detriment to the public official.

1. Action, decision or recommendation made in official capacity, which causes or may cause
2. A private financial benefit or detriment for
3. The public official (or relative or associated business).





# Legal Ethics – Conflicts of Interest

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## Potential Conflict of Interest

- Financial effect of an action is unknown because it might happen and it might not.
- Must publicly announce **potential** conflicts of interest on each occasion **before taking action**.

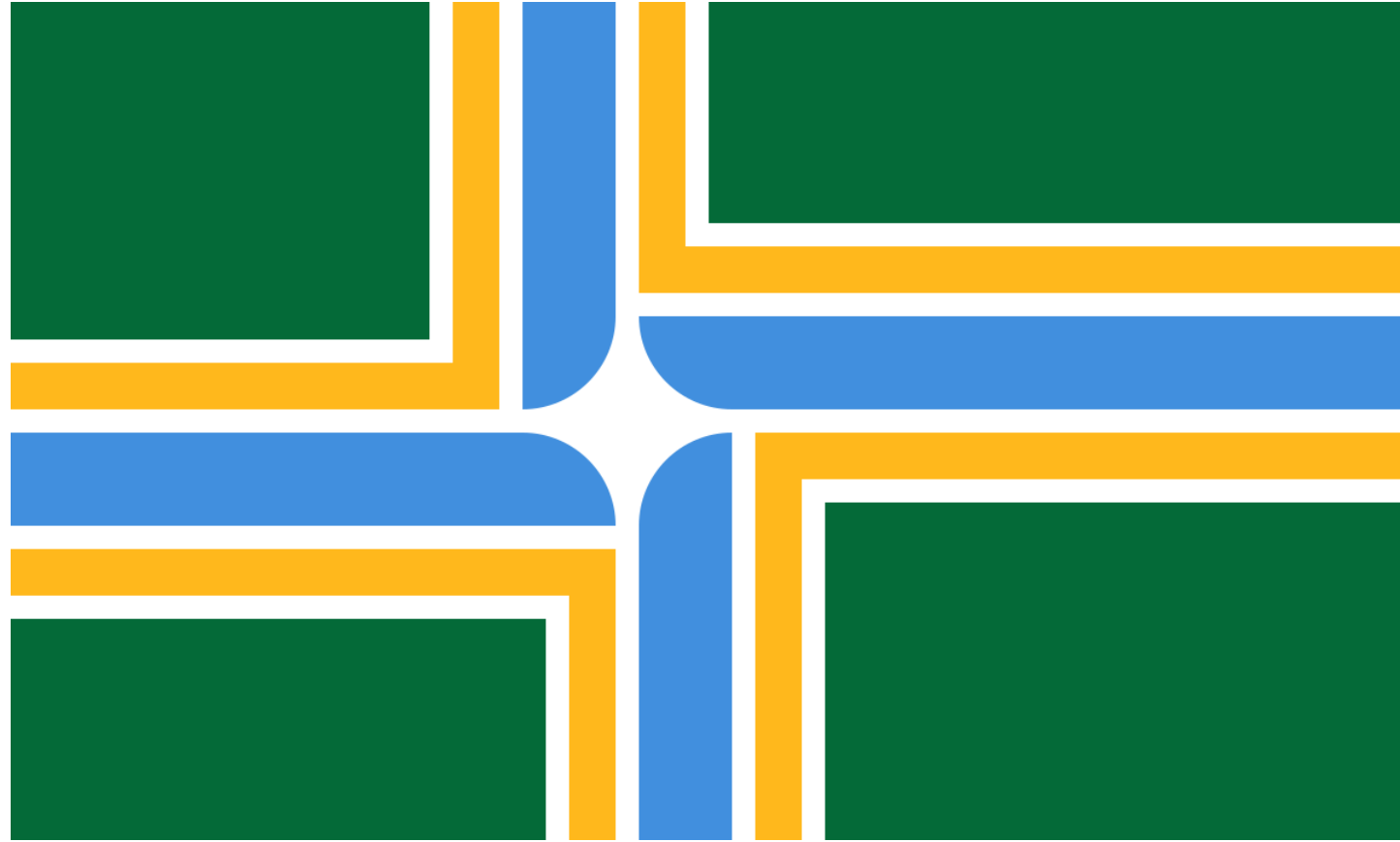
## Actual Conflict of Interest

- Financial effect of an action is both specific and certain.
- Must publicly announce **actual** conflicts of interest, on each occasion, and **refrain** from participating in **discussion, debate** or **voting** on the issue out of which the actual conflict arises.



# Questions on Legal Ethics?

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# Resources and Information

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## Oregon Attorney General's Public Records and Meetings Manual

- [https://www.doj.state.or.us/wp-content/uploads/2019/07/public\\_records\\_and\\_meetings\\_manual.pdf](https://www.doj.state.or.us/wp-content/uploads/2019/07/public_records_and_meetings_manual.pdf)

## Oregon Government Ethics Commission

- [www.Oregon.gov/OGEC](http://www.Oregon.gov/OGEC)
- 503-378-5105
- Training webinars on focused topics, staff advice



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# Thanks for listening.

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Remember, Commission staff is here to help!



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