

Regular Board Meeting
Wednesday, April 10, 2024 6:00 PM

Triangle Lake Charter School--Pioneer
Building
20264 Blachly Grange Rd.
Blachly, OR 97412

Agenda

1. **CALL TO ORDER**
2. **WELCOME GUESTS AND VISITORS**
3. **CHANGES OR ADDITIONS TO THE AGENDA**
4. **PUBLIC FORUM/COMMUNICATIONS**
5. **CONSENT AGENDA**
 - 5.1. **BOARD MINUTES**
 - 5.2. **FINANCIAL REPORT**
 - 5.3. **NEW HIRE**
 - 5.4. **RESIGNATION**
 - 5.5. **MOTION**
6. **REPORTS**
 - 6.1. **STUDENT BODY REPORT**
 - 6.2. **FACILITIES REPORT**
 - 6.3. **TRANSPORTATION/TECHNOLOGY REPORT**
 - 6.4. **STUDENT SERVICES REPORT**
 - 6.5. **PRINCIPAL'S REPORT**
 - 6.6. **SUPERINTENDENT'S REPORT**
 - 6.7. **DIRECTORS REPORT**
7. **UNFINISHED BUSINESS**
8. **NEW BUSINESS**
 - 8.1. **CHARTER CONTRACT**
9. **THE BOARD MAY RECESS THE REGULAR MEETING AND CONVENE EXECUTIVE SESSION**
10. **RECONVENE REGULAR SESSION**
11. **ANNOUNCEMENTS**
 - 11.1. **UPCOMING BOARD MEETING**
12. **ADJOURN THE REGULAR MEETING**
13. **ADDITIONAL DOCUMENTS/INFORMATION TO VIEW**
 - 13.1. **OREGON ETHICS REPORTING**

Blachly School District #90

Code: BDDH
Adopted: 12/13/93
Revised/Readopted: 1/16/08; 11/19/08; 2/21/18;
1/19/22

Public Comment at Board Meetings

All Board meetings, with the exception of executive sessions, will be open to the public. The Board invites the district's community members to attend Board meetings to become acquainted with the program and operation of the district. The public has a right to attend public meetings held in open session, and may be invited to share comments, ideas and opinions with the Board during designated times on the agenda. The Board may conduct a meeting without public comment.

Individuals with hearing, vision or speech impairments will be given an equal opportunity to participate in Board meetings and submit written comments to the Board. Individuals requesting assistance, aids or accommodations are encouraged to notify the district at least 48 hours prior to the Board meeting with the request, consistent with Board policy BD/BDA – Board Meetings.

Procedures for Oral Public Comment

The Board establishes the following procedures for public comment at Board meetings held in open session. The information will be accessible and available to all patrons accessing or attending such a Board meeting.

1. Public comment is limited to its designated place on the agenda and while time allows.
2. A person wishing to provide public comment, if an opportunity is provided by the Board during a meeting open to the public, will submit their request and name electronically prior to the Board meeting.¹ A request to give public comment in-person or electronically does not guarantee time will be available.
3. A person speaking during the public comment portion of the meeting may comment on a topic not on the published agenda.
4. A person speaking during the public comment portion of the meeting should state their name, whether they are a resident of the district, and, if speaking for an organization, the name of the organization. A spokesperson should be designated to represent a group with a common purpose.
5. A person giving public comment is limited to an established time limit of three minutes. Statements should be brief and concise. The Board chair has discretion to waive time limits or extend the overall time allotted for public comment. Additional time will be allocated in a fair and equitable manner. If a person has more comments than time allows or is unable to comment due to time constraints, the

¹ When in-person attendees are allowed to provide oral comment, virtual attendees will be afforded the same opportunity.

person is encouraged to submit additional written comments to the Board through the district office as directed.

6. Inquiries from the public during the designated portion of the agenda will not generally be responded to immediately by the Board chair, and may be referred to the superintendent for reply at a later date. The Board will not respond to inquiries that are expected to be addressed during another designated portion of the agenda.

The Board will not hear public comment at Board work sessions.

Topics raised during the public comment portion may be considered for inclusion as agenda items at future Board meetings.

Procedures for Written Comment

Members of the public may submit written comments or materials to the Board at any time at the district office, by mail or by email to comments@blachly.k12.or.us . Materials or comments submitted at least 72 hours in advance of a Board meeting will be provided to the Board before the Board meeting. Written materials or comments submitted may not warrant action by the Board.

Comments Regarding Staff Members

A person speaking during the designated portion of the agenda for public comment may offer objective criticism of district operations and programs. The Board will not hear comments regarding any individual district staff member. The Board chair will direct the visitor to the procedures in Board policy KL - Public Complaints for consideration of a legitimate complaint involving a staff member. Any association contract governing the employee's rights will be followed. A commendation involving a staff member should be sent to the superintendent, who will forward it to the employee, a supervisor and the Board.

END OF POLICY

Legal Reference(s):

[ORS 165.535](#)
[ORS 165.540](#)

[ORS 192.610 - 192.690](#)
[ORS 332.057](#)

[ORS 332.107](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2018); 29 C.F.R. Part 1630 (2020); 28 C.F.R. Part 35 (2020).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2018).

Baca v. Moreno Valley Unified Sch. Dist., 936 F. Supp. 719 (C.D. Cal. 1996).

Leventhal v. Vista Unified Sch. Dist., 973 F. Supp. 951 (S.D. Cal. 1997).

Oregon House Bill 2560 (2021).

Cross Reference(s):

BDDC - Board Meeting Agenda

KC - Community Involvement in Decision Making

Blachly School District #90

Code: BDDH-AR
Revised/Reviewed: 2/21/18; 11/17/21

Public Comment at Board Meetings

The Board requests that a public comment add information or a perspective that has not already been mentioned previously, and that the patron refrains from repeating a similar point.

To provide public comment in person, if the opportunity is available on the Board agenda, please submit the Intent to Speak request to the Superintendent, Monday of the week of the Board meeting to comments@blachly.k12.or.us. Those attending virtually and want to provide public comment should submit the Intent to Speak request to the Superintendent, Monday of the week of the Board meeting to comments@blachly.k12.or.us.

A person speaking during the public comment portion of the meeting may comment on a topic not on the published agenda. A person providing public comment will be allowed three minutes. Signing up to provide public comment does not guarantee time will be available.

Any person, who is allowed to speak to the Board during a meeting, should state their name, whether they are a resident of the district and, if speaking for an organization, the name of the organization. A spokesperson should be designated to represent a group with a common purpose.

Comments about a specific employee or group of employees should comply with Board policy BDDH - Public Comment at Board Meetings:

“A person speaking during the designated portion of the agenda for public comment may offer objective criticism of district operations and programs. The Board will not hear comments regarding any individual district staff member. The Board chair will direct the visitor to the procedures in Board policy KL - Public Complaints for consideration of a legitimate complaint involving a staff member. Any association contract governing the employee’s rights will be followed. A commendation involving a staff member should be sent to the superintendent, who will forward it to the employee, a supervisor and the Board.”

SEE FORM ON REVERSE

INTENT TO SPEAK

The Board welcomes input. To provide in-person public comment please complete the request at comments@blachly.k12.or.us that can be found on the District and School websites Monday the week of the Board meeting.

Name: _____ Phone: _____

Name of organization (if applicable): _____

Address: _____

Email (optional): _____

Topic or comment to be presented (brief description): _____

A complaint brought before the Board shall be referred to the proper school authorities. A complaint shall be processed in accordance with Board policy KL - Public Complaints and KL-AR - Public Complaints Procedure. A hearing conducted by the Board regarding personnel may take place in an executive session.

The Board requests that a topic or comment is limited to three minutes or less.

Regular Board Meeting
Wednesday, March 13, 2024 6:30 PM Pacific

Triangle Lake Charter School--Pioneer
Building
20264 Blachly Grange Rd.
Blachly, OR 97412

Ciara Clark: Present
Dwight Coon: Present
Meleah Drago: Present
Jeff Eastburn: Present
Derek Pennel: Present
Bev Schiesser: Present
Lena Sjostrom: Absent

Present: 6, Absent: 1.

Sherrill Harder, Pat Rufo, Katherine Tripp, Brittany Bottensek, Ella Smith, Ella Mather, Aria Richardson, Kelly Goodwin

1. CALL TO ORDER

Board Chair Pennel called the meeting to order at 6:32 pm.

2. WELCOME GUESTS AND VISITORS

3. CHANGES OR ADDITIONS TO THE AGENDA

Superintendent Watkins asks that we add the senior trip presentation, this is added to the agenda under 8.1

4. PUBLIC FORUM/COMMUNICATIONS

There were no public comments.

5. CONSENT AGENDA

5.1. BOARD MINUTES

There were no questions or concerns about the minutes.

5.2. FINANCIAL REPORT

Business manager, Pat Rufo, shared the check register and answered questions from the board.

5.3. POLICY SECOND READ

There were no questions or concerns about this policy.

5.4. SECOND READ OF THE 2024-25 BUDGET CALENDAR

There were no questions or concerns with the presented calendar.

5.5. SECOND READ OF 2024/2025 DISTRICT CALENDAR

There were no questions or concerns about the calendar presented.

5.6. RESIGNATION

Superintendent Watkins announces the retirement of Linda Richardson from the Blachly School District. He thanks her for all she has done for our school and community over the years. And what a great contribution she has been to us during her time here.

5.7. NEW HIRE

Superintendent Watkins shares the hires listed.

5.8. MOTION

Director Eastburn moved to approve the consent agenda as presented. This motion, made by Jeff Eastburn and seconded by Dwight Coon, Carried.

Lenae Sjostrom: Absent, Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea
Yea: 6, Nay: 0, Absent: 1

6. REPORTS

6.1. STUDENT BODY REPORT

Student Body President Ella Smith shared her report with the board.

6.1.1. Senior Trip

Senior President Ella Smith shared the Senior trip plan with the board for approval.

They would like to go the week after school is out, to Vallejo, to go to six flags. They will stay for 6 days with 2 chaperons. They will be renting the school vans and an Airbnb.

The board will review their role on a trip like this, then come back to the senior class with a response. There will be no action taken at this time. We will come back to it in April if action is required.

6.2. FACILITIES REPORT

Maintenance Director Shane Bencoter was unable to attend tonight. Superintendent Watkins answered the board's questions.

6.3. TRANSPORTATION/TECHNOLOGY REPORT

Transportation and Technology Manager, Dennis Boyd, provided a report to the board. He answers questions for the board.

6.4. STUDENT SERVICES REPORT

Assistant Principal Katherine Tripp provided a report for the board. She answered questions for the board.

6.5. PRINCIPAL'S REPORT

Principal Brittany Bottensek shared her report to the board. She talked more about curriculum review options that will be coming up. She answered questions from the board.

6.6. SUPERINTENDENT'S REPORT

Superintendent Watkins asks the board if there is any interest related to a yearly reporting calendar. This would be for our yearly reports that are mandatory to provide to the board. The board discussed this and what it would look like. There are several questions around what this would all contain. The board discusses their ideas and what would be helpful for their roles and responsibilities. The agreement is that the reporting staff at board meeting will include what reporting has been done or is coming up in their area for the month.

Reminder our National School Board Association trip is coming up at the beginning of April, Bri will be getting you details soon.

Quarter 2 reporting is done on SIA, and we have our approval for our Early Literacy grant

plan. Summer Learning was just approved, but we don't have much to share yet. It was 20 million short of what was being requested by educators. With this money we can support both K-8 and HS summer learning programs. Senate bill 819 had some amendments come through. He explains some of these amendments. Senate bill 283 was clarified. It defined the classified title. The economic revenue for the state is up again, and they continue to ask for public education funding.

Superintendent Watkins shares that we are still working on a data dashboard for our board and community. We are trying to link this with our Strategic Plan and Portrait of a Graduate.

6.7. DIRECTORS REPORT

Director Schiesser shares that she visited the science fair, and she was excited to visit and see the projects and the presentation. She enjoyed this community opportunity.

Director Drago also shares that she visited the science fair, and she was able to visit with some students and ask questions about their project.

Director Eastburn shares that they finished up the basketball season. He really enjoyed working with the kids. He also went to the Baker tournament and took a couple of students. It was a good educational opportunity for the students to see how fast-paced the games can be. He also came up to campus for the Student of the Month assembly. He really enjoyed seeing the teachers giving the awards and the personal recognition to the students.

Board Chair Pennel shares he was a judge for the science fair, and it was great to be involved with the students. It was great seeing all their work and how they interacted with the judges. He thought it was a great community event.

Director Clark and Director Coon didn't have anything new to share this year.

7. UNFINISHED BUSINESS

8. NEW BUSINESS

8.1. PUBLIC COMMENT OPPORTUNITY

Board Chair Pennel opens the floor for public comment on the presented Charter Application. Ms. Kelly Goodwin shares her concerns with the lack of involvement and robust conversation on this topic. She would have liked to see a more intentional advertisement and collective work in this process. She also wonders if the new application will address the desire that was expressed during the process of the Strategic Plan with the focus on more natural resources.

Ms. Aariah Richardson shares she was able to talk with Superintendent Watkins earlier and get some of her questions answered. But she does wonder if we are changing our focus or just adding to the application.

Board Chair Pennel shares that this is the way to get the continuation of the charter moving forward. He feels the concerns being brought forward now are more under the umbrella of the contract.

Superintendent Watkins shares that the STEAM piece is that we are agreeing to still provide the categories at our school, not how we will be providing them. Natural Resources is a specific section under Appendix A in the contract, it is not listed in the application.

Director Drago asks about the minimal enrollment. In one place it says 150 and another it says 25. Superintendent Watkins clarifies.

Director Drago asks about the contract services piece and who we have listed. Superintendent Watkins answers these are just groups we could possibly work with.

Director Schiesser asks if this is a very standard application. Superintendent Watkins shares

that yes, this was modeled off a very standard public charter contract.

8.2. CHARTER APPLICATION FOR 2024-2029

Director Schiesser moved to approve the Charter Application for the 2024-2029 school years as presented. This motion, made by Bev Schiesser and seconded by Dwight Coon, Carried.

Lenae Sjostrom: Absent, Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea
Yea: 6, Nay: 0, Absent: 1

8.3. APPROVE RENEWAL OF CONTRACT TEACHERS

Director Eastburn moved to approve the contract extension for all contract teachers for the 2024-25 school year. This motion, made by Jeff Eastburn and seconded by Bev Schiesser, Carried.

Lenae Sjostrom: Absent, Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea

Yea: 6, Nay: 0, Absent: 1

Superintendent Watkins shares that all teachers who are currently under contract are presented for renewal

8.4. PROBATIONARY RENEWAL TEACHER CONTRACTS

Board Chair Pennel moved to approve probationary renewals of the teachers as presented. This motion, made by Derek Pennel and seconded by Jeff Eastburn, Carried.

Lenae Sjostrom: Absent, Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea

Yea: 6, Nay: 0, Absent: 1

Superintendent Watkins shares the list of probationary teacher contracts up for renewal.

8.5. APPOINT CHATT COMMITTEE MEMBERS

Board Chair Pennel moved to appoint Meleah Drago and the named individuals to the Chatt Committee positions. This motion, made by Derek Pennel and seconded by Dwight Coon, Carried.

Lenae Sjostrom: Absent, Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea

Yea: 6, Nay: 0, Absent: 1

Board Chair Pennel asked the board for an appointee for the Chatt scholarship representative. Director Drago agreed to do it again this year.

9. THE BOARD MAY RECESS THE REGULAR MEETING AND CONVENE EXECUTIVE SESSION

Board Chair Pennel convened the regular meeting at 7:56 pm.

10. RECONVENE REGULAR SESSION

Board Chair Pennel reconvened the regular session at 9:29 pm.

11. ANNOUNCEMENTS

11.1. UPCOMING BOARD MEETING

12. ADJOURN THE REGULAR MEETING

Board Chair Pennel adjourned the meeting at 9:32 pm.

13. ADDITIONAL DOCUMENTS/INFORMATION TO VIEW

13.1. CHARTER CONTRACT

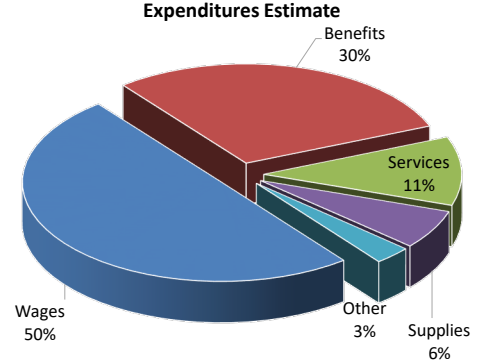
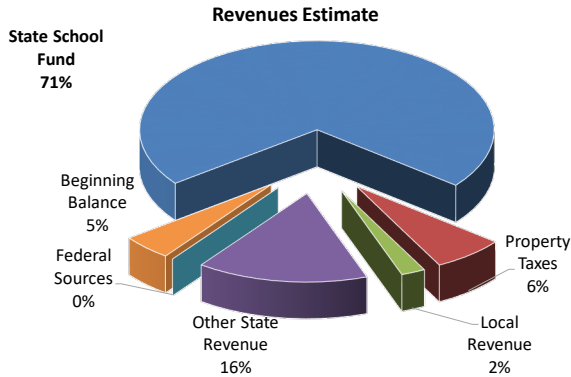
13.2. OREGON ETHICS REPORTING

2023-24
Blachly School District
March 31, 2024

	Original Budget	Jul Actual	Aug Actual	Sep Actual	Oct Actual	Nov Actual	Dec Actual	Jan Actual	Feb Actual	Mar Actual	Apr Estimate	May Estimate	Jun Estimate	Final Total	Over/ (Under)
Revenue															
State School Fund	4,884,537	801,298	400,408	400,408	400,408	400,408	400,408	-	-	1,208,820	128,524	128,524	(274,627)	3,994,579	(889,958) (1)
State Timber Sales	100,000	-	-	-	-	335,174	-	480,203	-	-	-	-	-	815,377	715,377
Property Taxes	374,100	-	751	530	482	235,572	110,208	5,635	-	7,466	1,221	1,649	7,141	370,658	(3,442)
Federal Forest Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest Earnings	64,623	6,072	5,091	5,742	6,157	5,959	7,645	6,341	5,062	7,783	7,500	7,000	5,000	75,351	10,728
Common School Fund	54,580	-	-	-	-	-	-	-	30,226	-	-	-	30,226	60,451	5,871
Other County Revenue	-	-	85	-	-	120	-	-	-	-	-	(120)	-	85	85
Rentals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Small Grants	2,600	-	-	-	-	-	-	-	-	-	2,600	-	-	2,600	-
Lane ESD Flex Dollars	-	-	-	-	-	-	8,752	-	-	-	9,269	9,269	9,289	36,578	36,578
Miscellaneous	9,000	-	632	437	3	558	-	-	405	3,470	1,292	1,292	1,292	9,381	381
County School Fund	2,000	-	-	-	-	-	-	-	-	-	-	-	2,000	2,000	-
Indirect	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interfund Transfers	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Beginning Fund Balance	176,159	258,909	-	-	-	-	-	-	-	-	-	-	-	258,909	82,750
Total Revenue	5,667,599	1,066,279	406,967	407,116	407,050	977,792	527,013	492,179	35,693	1,227,539	150,406	147,614	(219,680)	5,625,969	(41,631)

	Original Budget	Jul Actual	Aug Actual	Sep Actual	Oct Actual	Nov Actual	Dec Actual	Jan Actual	Feb Actual	Mar Actual	Apr Estimate	May Estimate	Jun Estimate	Final Total	Over/ (Under)
Expenditures															
Salaries	2,577,447	80,034	78,151	212,139	233,572	223,239	224,387	230,070	230,033	224,048	226,989	234,910	460,934	2,658,506	81,059
Benefits	1,650,504	40,843	44,292	127,536	133,612	127,823	134,380	130,983	129,790	134,021	134,922	138,067	293,929	1,570,198	(80,306)
Purchased Services	492,103	19,322	22,779	32,929	50,184	121,836	32,154	24,314	90,390	23,307	46,129	71,110	61,153	595,607	103,504
Supplies and Materials	351,583	27,932	14,775	41,423	23,609	38,769	17,819	10,457	58,667	13,846	20,546	20,946	50,846	339,635	(11,948)
Other	125,899	107,868	17,642	3,785	3,892	9,494	3,644	938	6,369	190	1,851	1,851	1,851	159,375	33,476
Transfers	170,087	-	-	-	-	-	-	-	-	-	-	-	170,087	170,087	-
Contingency	299,977	-	-	-	-	-	-	-	-	-	-	-	-	-	(299,977)
Total Expenditures	5,667,599	275,999	177,640	417,812	444,867	521,162	412,384	396,763	515,249	395,411	430,436	466,884	1,038,800	5,493,407	(174,192)
Ending Fund Balance	-													132,561	132,561

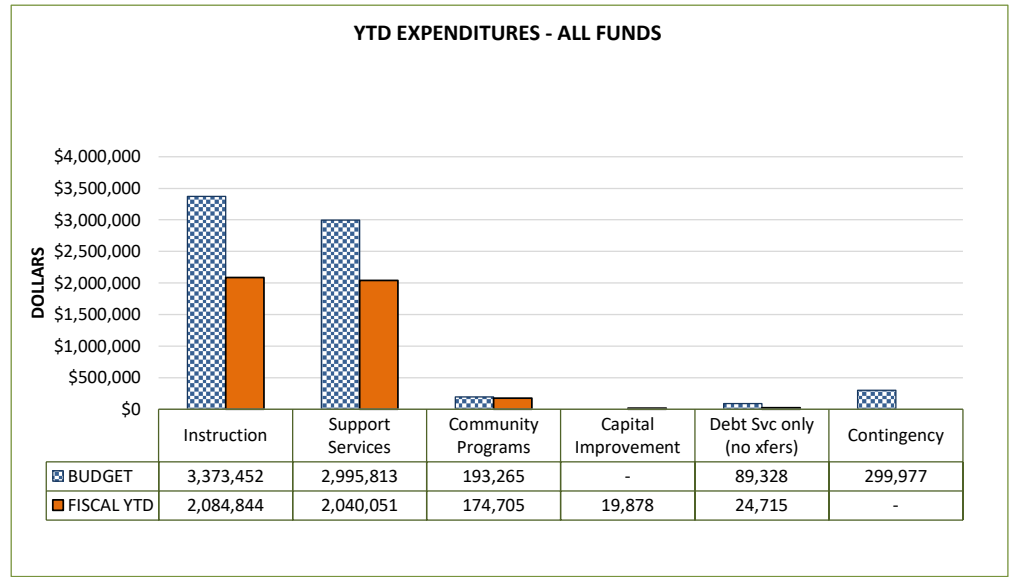
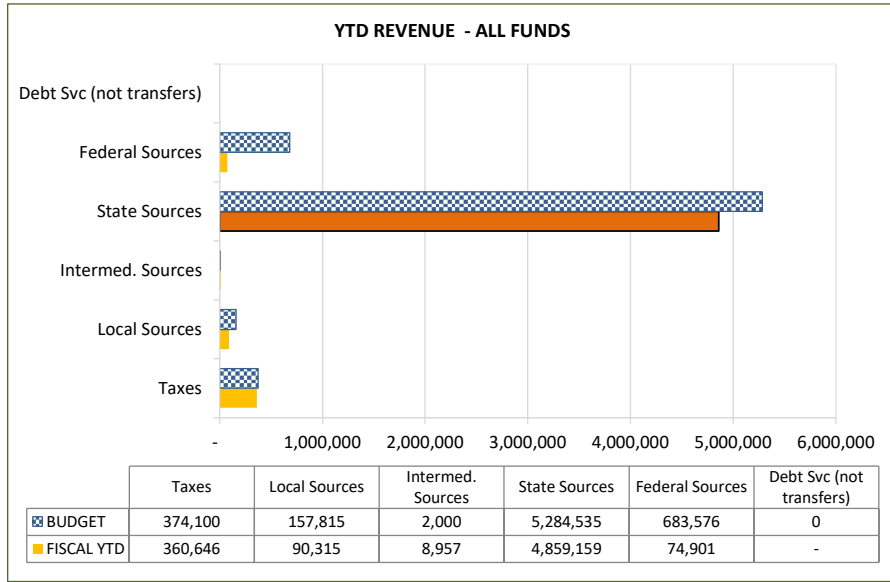
(1) Budgeted SSF is based on 430 ADM.



GENERAL FUND CHANGES FROM PRIOR REPORT

December 31 Ending Fund Balance		<u>\$ 191,592</u>
REVENUE		
State School Fund - recalculation of current year	(221,070)	
State School Fund - estimate of 22-23 due back	(234,974)	
Timber sales increase	430,203	
Interest Earnings	10,728	
Beginning fund balance (audited)	8,442	
Net Property tax, Common School Fund, Flex \$, Misc.	2,770	
TOTAL CHANGE TO REVENUE		<u>\$ (3,901)</u>
EXPENDITURES		
Salaries - new hire, increased substitute use	11,028	
Benefits	22,104	
Services - Online instruction cost increase \$30k	(26,208)	
Supplies - Gasoline increase partially due to added route,	(56,080)	
Other Expenses -	(5,973)	
(In general, TLCS online expenses higher in services, supplies & fees)		
TOTAL CHANGE TO EXPENDITURES		<u>\$ (55,129)</u>
ROUNDING ADJUSTMENT	(1)	
		<u>\$ (1)</u>
CURRENT ENDING FUND BALANCE		<u>\$132,561</u>
	NET CHANGE	\$ (59,031)

ALL FUNDS YEAR-TO-DATE ACTUALS



ALL FUNDS YTD	BUDGET	REVENUES	EXPEND.	NET	EXPEND. % OF BUDGET
General Fund	\$ 5,667,599	\$ 5,547,629	\$ (3,558,288)	\$ 1,989,341	63%
Grants	\$ 790,141	\$ 53,567	\$ (496,007)	\$ (442,440)	63%
Vehicle Replacement	\$ 110,139	\$ 90,207	\$ -	\$ 90,207	0%
PERS Reserve	\$ 100,000	\$ 75,000	\$ -	\$ 75,000	0%
Food Service	\$ 153,720	\$ 80,088	\$ (149,738)	\$ (69,650)	97%
Athletics	\$ 132,127	\$ 7,539	\$ (95,709)	\$ (88,170)	72%
Student Body	\$ 62,925	\$ 58,566	\$ -	\$ 58,566	0%
Capital Projects	\$ 30,000	\$ 39	\$ (28,894)	\$ (28,855)	96%
Unemployment Reserve	\$ 55,500	\$ 55,500	\$ -	\$ 55,500	0%
Scholarship Funds	\$ 810,279	\$ 777,415	\$ (15,558)	\$ 761,857	2%
TOTALS	\$ 7,912,430	\$ 6,745,550	\$ (4,344,194)	\$ 2,401,356	55%

MONTHLY ACTIVITY - ALL FUNDS

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
REVENUES	2,188,019	415,174	414,128	411,821	995,778	553,898	494,461	42,017	1,230,254	-	-	-
EXPENDITURES	(305,518)	(238,247)	(520,865)	(548,522)	(658,837)	(509,460)	(467,221)	(626,365)	(469,158)	-	-	-
MONTHLY NET	1,882,501	176,927	(106,737)	(136,701)	336,941	44,438	27,240	(584,348)	761,096	-	-	-

March 2024 student body report:

Student council:

Winter sports assembly- we had an assembly to celebrate winter sports on Monday. It was a staff vs students basketball game with the staff losing by a basket.

Prom: prom spirit week will be Monday 4/29 laker day, Tuesday 4/30 star wars, Wednesday 5/1 back to the future, Thursday 5/2 aliens vs cowboys

For the assembly on 5/2 we will have prom court okay three legged dodge ball, put makeup on their latter from behind then, a lasso relay

Fundraisers:

Freshman will be selling bulbs

Sophomores are throwing a family dance on the 27th

Juniors held their Easter egg hunt and it was successful

Seniors have not done any fundraisers

BOARD MAINTENANCE REPORT

APRIL 2024

EXIT SIGNS AND EMERGENCY LIGHTING

Over spring break we updated all the exit and emergency lighting signs in the gymnasium and lower hall to LED. This should drastically reduce the battery replacement time and costs and provide emergency lighting during power outages.

SPRING CLEANING

Over the course of spring break the custodial worked on a deep cleaning of campus buildings while they had the opportunity without staff or students on campus.

JACOBSON MOWER

The large Jacobson mower is experiencing some hydraulic problems with one side of the Mower decks and will need to go into the shop for repair.

BUDGETING FOR 2024-2025

Research for potential projects for the upcoming budget is ongoing to prioritize them and their associated costs to make plans for the upcoming summer.

THERMOSTATS AND TESTING

The Measurement and Verification period is set to conclude in May. The data will then be analyzed. With results potentially available in June.

These results will potentially give us information to help make us more competitive while looking for additional funding for future HVAC upgrades.

Transportation/Technology Board Report for April 2024

- 1) New Bus 12 has been delivered. It is a Conventional Bus. The communication system and registration are complete and it is on the Veneta Route.
- 2) All Buses are back in district as all awaiting parts were received and installed by EMS in Eugene.
- 3) No Technology updates to report.

Special Education Board report–April 2024

I wanted to provide you with an update on the special education ODE audit that we are currently going through. We are in the final stages of the audit, which occurs every 3 years. Recently, the ODE came back and met with me to discuss the results they needed. I'm pleased to share that things seem to be going well for our district.

They requested a few additional documents from us, and I'm happy to let you know that those were sent to them earlier this week.

We have started looking forward to next year with the creation of the master schedule as well as looking at our Aid schedule for next year.

District Board Meeting: Triangle Lake Charter School Report

April 2024 Meeting

- **Parent-Teacher Conferences:**
 - **Thursday, April 11th 4pm-8pm & Friday, April 12th 8am-12pm**
 - **Zoom and in-person conferences are available for all grades K-12.**
 - **K-5 scheduled by appointment with teachers**
 - **6-12 drop-in, arena style with teachers**
- **Oregon State Testing:**
 - **State testing in grades 3-8 & 11 is underway.**
 - **April 8th-11th: Science State Testing (Grades: 5th, 8th & 11th)**
 - **April 15th-18th: Language Arts State Testing (Grades: 3rd-8th & 11th)**
 - **April 29th-May 2nd: Math State Testing (Grades: 3rd-8th & 11th)**
- **Outdoor School:**
 - **5th grade campers (in-person & online students) will be attending an overnight camp with TLCS high school counselors is quickly approaching. I will have a full report and recap at the May meeting.**
- **Open House:**
 - **Open House planning is underway. We plan to feed families and have a scavenger list happening around campus to get families to all areas of the campus.**
- **Natural Resources (LOLE) Field Trips:**
 - **Classes have begun taking their LOLE (Landmark Outdoor Learning Experience) trips and more are scheduled in the coming weeks.**
- **Upcoming Events:**
 - **Sunday, 4/21-Thursday, 4/25: 5th Grade Outdoor School Camp**
 - **Friday, 4/26: Jr/Sr Banquet @ 6pm**
 - **Saturday, 4/27: Spring Family Dance 5pm-7pm**
 - **Thursday, 5/2: Open House & Kindergarten Information Night 5:30pm-7pm**
 - **Saturday, 5/4: Prom 7pm-10:30pm**

Charter School Contract
between the
Blachly School District
and Triangle Lake Charter School

CHARTER SCHOOL CONTRACT

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APPENDIX A

CHARTER SCHOOL CONTRACT

THIS CONTRACT is made and entered into by and between the Blachly School District ("District") and Triangle Lake Charter School doing business as Triangle Lake Charter School ("TLCS").

RECITALS

WHEREAS, the Oregon Legislature has enacted ORS Chapter 338 for certain purposes enumerated in that chapter; and

WHEREAS, on March 13, 2024, a request was submitted for the application of the TLCS as a public charter school to continue to operate within the District; and

WHEREAS, the District has determined that the request, complies with the purposes and requirements of ORS Chapter 338; and

WHEREAS, the District Board held a public hearing on the provisions of the request in accordance with ORS 338.065 and evaluated the criteria set forth in ORS 338.065; and

WHEREAS, the District Board has determined that the TLCS has demonstrated sustainable support for TLCS by teachers, parents, students, and other community members, including comments received at the public hearing; has demonstrated the capability of the TLCS in terms of support and planning to provide comprehensive instructional programs to students including those identified by TLCS as academically low achieving; and that the request of TLCS addresses the criteria required in the process in ORS 338.065 and in District Policy; and

WHEREAS, by board action March 13, 2024, the District Board conditionally approved the application of TLCS contingent upon negotiation and execution of a contract acceptable to TLCS and the District; and

WHEREAS, this Contract between the TLCS and the District, including the Appendices, will constitute the full and complete agreement between the parties regarding the governance and operation of the TLCS; and

WHEREAS, the parties desire that the TLCS be authorized to operate and conduct its affairs in accordance with the terms of this Contract and ORS Chapter 338.

WHEREAS, the parties agree that the TLCS board agrees to dissolve and the district school board will take over the governance of the charter school.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual understandings, releases, covenants and payments herein described, the parties agree as follows:

CONTRACT

SECTION 1 - GRANT OF CHARTER

Triangle Lake Charter School ("TLCS") is granted, in accordance with ORS Chapter 338 and the terms and conditions of this Contract, a charter to operate a single public charter school located within the boundaries of and in conjunction with the Blachly School District ("District") as described herein.

SECTION 2 - EFFECTIVE DATE AND CONDITIONS PRECEDENT

This Contract shall commence on July 1, 2024, and shall expire on June 30, 2029, subject to the possibility of renewal pursuant to state law.

SECTION 3 - EDUCATIONAL PROGRAM, STUDENT ASSESSMENT AND CURRICULUM

a. AGE AND GRADE RANGE

- 1) For each school year covered by this Contract, enrollment shall be open to any child eligible to attend grades served subject to state law (ORS 338.125).
- 2) As provided in state law, (ORS 338.115(5)), TLCS shall maintain an active enrollment of at least twenty-five (25) students. The District may terminate this Contract at a semester break if student enrollment in TLCS falls and remains below 25 students for thirty (30) days or longer during any school year.
- 3) Each **on-campus** grade at TLCS shall be capped at 21 students per grade level. No student who is a resident of the district will be denied admittance based on the cap. Students from outside the District may be admitted as space allows. This cap may be adjusted upon written approval by the District board members. This cap will be automatically increased by one to a maximum of 23 if a sibling of a current student who attended in the previous year applies to attend and enrollment in that grade is already at its cap. If there are more applications than spaces available, an equitable lottery system will be used to determine who will be admitted.
- 4) TLCS **online program** shall generally be limited based on grade level as follows: K-12 range 15 to 25 students per grade (with the ability to have multiple grades at each level) with a total school enrollment cap of 300 students. The online enrollment will not exceed the on-campus enrollment at any point.

b. CURRICULUM

The District agrees to waive its curricular requirements, to the extent permitted by state law, but subject to the implementation of TLCS's instructional programs outlined in Section 3. below.

- 1) TLCS shall have the authority and responsibility of designing and implementing its educational program, subject to the conditions of this Contract in a manner which is consistent with state law.
- 2) The educational program, pupil performance standards and curriculum designed and implemented by TLCS shall meet or exceed any content standards adopted by the State of Oregon and shall be designed to enable each pupil to achieve such standards.
- 3) TLCS will comply with all state requirements concerning academic content areas as defined in ORS 329.045.
- 4) TLCS will obtain prior approval from the District before making a fundamental change to the educational program or curriculum outside the three areas of foci: technology, health and wellness, and natural resources. The District may, at its sole discretion, approve or disapprove fundamental changes in the educational program.
- 5) The District will annually budget monies for TLCS use related to curriculum. TLCS will determine how to spend this money and request purchases through the procedures outlined in Sections 5 and 7 of this Contract.

c. EDUCATIONAL PROGRAM

- 1) TLCS will provide an outline of its core curriculum and educational program if requested by the district board.
- 2) ELL program: TLCS's curriculum and educational program shall contain a general plan to address English Language Learners as required under ORS 336.079.

d. RECORDS

TLCS shall comply with all record keeping requirements of state and federal law pertaining to student records and shall cooperate with the District by providing key reports or records to the District, as necessary, to meet the District's reporting obligations to the Oregon Department of Education or the U.S. Department of Education.

e. NONDISCRIMINATION

The education program of TLCS, without limitation, shall conform to all statutory and constitutional provisions prohibiting discrimination on the basis of actual or perceived age, race, color, sex, national or ethnic origin, religion, mental or physical disability, marital status, sexual orientation, veterans' status, pregnancy, familial status or economic status.

f. NONRELIGIOUS

The educational program of TLCS shall be nonsectarian and nonreligious. The educational program shall not be affiliated with any nonpublic sectarian school or religious organization.

g. ADMISSION

- 1) Admission of students to TLCS shall be conducted in accordance with state law (ORS 338.125) and federal law. "Admission" means that the student has (1) applied to TLCS; (2) successfully completed the lottery (if applicable); and (3) been formally accepted as a TLCS student by TLCS.

h. ENROLLMENT PROCESS

- 1) Enrollment at TLCS is and must be voluntary. All students, who are residents of the District, are eligible for enrollment. Students who are not residents of the District, are eligible for enrollment based on ORS 338.125(2) and may be admitted as space allows.
- 2) After a grade has met its student capacity, a waiting list will be established for non-resident students pursuant to applicable state law. A non-resident student waiting list will be established for each grade level with the selection of students for admission achieved through an equitable lottery. Students who apply after the final annual enrollment period has closed will be added to the appropriate waiting list in a manner consistent with state law and this Contract.

i. PREFERENCES AFTER FIRST YEAR

- 1) As provided in ORS 338.125(3), TLCS may give admissions preference to students who were enrolled in TLCS in the prior year and siblings of students enrolled and attending TLCS.
- 2) Once these students are identified, all other students will be selected through an equitable lottery, as described in Section 2.

j. STUDENT ATTENDANCE, CONDUCT AND DISCIPLINE

TLCS shall utilize the District's system of uniform student conduct. TLCS shall notify its students of the students' rights and responsibilities at the beginning of each school year, or as a student meets the admission requirements as stated in this Contract. TLCS shall maintain accurate enrollment data and daily records of student attendance.

k. EDUCATION OF STUDENTS WITH DISABILITIES

- 1)** TLCS shall comply with all District policies and regulations and the requirements of federal and state law concerning the education of children under the IDEA. Compliance by TLCS includes, but is not limited to, the following:
 - i.** TLCS shall comply with all District policies regarding discipline of special education students.
 - ii.** The IEP teams are determined by federal law.
 - iii.** The student's IEP team will determine the appropriate educational program and placement for the student. TLCS shall abide by the IEP team's decision on program and placement.
 - iv.** District staff shall comply with training required by an IEP team for the delivery of services to a TLCS student. Required training shall, to the extent possible, be conducted outside TLCS instructional time.
 - v.** The funds from the Oregon Department of Education representing the Average Daily Membership weighted (ADMw) for special education for TLCS special education students shall be retained by the District.
 - vi.** The District has the discretion to determine which specialized programs will be offered on site at the TLCS site.
 - vii.** The student's IEP team may recommend any appropriate placement for the student based on the student's needs. TLCS shall not change the student's placement or IEP without IEP team action.
 - viii.** If it is required as a related service on a TLCS student's IEP, the District will provide transportation to TLCS.
 - ix.** If, after a student is enrolled and attending TLCS, the staff suspects a student may be eligible for special education and related services under IDEA, TLCS shall comply with the District practices and policies for referral of the student for evaluation.
 - x.** The District retains responsibility for offering and providing a free appropriate public education to all special education students who attend TLCS.
 - xi.** TLCS will ensure that all individuals applying for admission to TLCS receive equal opportunity for admission without regard to whether individuals are considered disabled under any applicable state or federal law.

- xii.** Students with Disabilities, it is: (a) the obligation of TLCS to engage in child find notification and practices, as directed by the District, (b) the obligation of TLCS to engage in general education interventions as part of a referral and/or evaluation process, as directed by the District, and (c) within ten days of the admission of a student with an IEP, TLCS will notify the District so that an IEP and placement meeting can be scheduled as soon as practicable. At this meeting, the IEP team will review the student's IEP, determine whether any revisions need to be made, and determine whether placement at TLCS will constitute LRE and provide the student with a FAPE.

I. TUITION AND FEES

TLCS shall not charge tuition to students attending TLCS. TLCS shall not charge tuition for programs, classes or courses of study which are part of the regular on-campus school program. TLCS may charge reasonable fees for online courses, textbooks (including deposits applied to damages), instructional materials, optional after-school programs and student activities pursuant to state law (ORS 339.141, 339.147 and 339.155).

m. STUDENT WELFARE AND SAFETY

TLCS shall comply with all applicable state and federal laws concerning student welfare, safety and health, including, without limitation, the reporting of child abuse, accident prevention and disaster response, administration of medications to students, and the operation of school facilities.

n. SCHOOL YEAR; SCHOOL DAY; HOURS OF OPERATION

Students will receive at least the minimum number of annual instructional hours pursuant to state laws or administrative rule. TLCS's calendar will not differ from the District's calendar. TLCS will not place any student on an abbreviated school day without working with the District to ensure compliance with SB 819.

o. ALTERNATIVE EDUCATION MODEL

Subject to applicable state law, federal law, and the terms of this Contract, TLCS shall be allowed to promote and implement learning situations that are flexible with regard to environment, time, structure and pedagogy.

p. PARTICIPATION IN DISTRICT OFFERINGS

- 1)** TLCS students may participate in District extracurricular activities. TLCS students will be allowed to participate in District programs.

- 2) TLCS students may use certain District facilities subject to all applicable District policies relating to the use of such facilities. Examples of such facilities include but are not limited to school libraries, outdoor track, large meeting rooms, computers and science laboratories.
- 3) The District will provide services to TLCS, such as extracurricular programs and ancillary services such as food services. These services will be provided to TLCS by the District in lieu of direct funding per Section 5 of this Contract.
- 4) The District shall not be required to provide transportation for a TLCS student to and/or from an extracurricular activity. However, the district may provide transportation services to a TLCS student to and/or from an extracurricular activity. The District is not required to add or extend existing bus routes or provide other transportation services to accommodate a TLCS student beyond existing routes.

q. PROMOTION/RECRUITING

The District and TLCS will take affirmative efforts, including advertising intended to reach as many families with children eligible to apply to TLCS as is practicable. The District and TLCS's advertising and promotion plan shall apprise potential students of transportation options to and from the school.

SECTION 4 - EVALUATION OF STUDENT PERFORMANCE AND PROCEDURES FOR CORRECTIVE ACTION

A. REASONABLE PROGRESS

TLCS will provide student performance standards and will report these findings to the board on a yearly basis.

B. CURRICULUM ALIGNMENT

The learning goals and curriculum for TLCS students will be aligned to the Oregon standards.

C. STUDENT ASSESSMENT

- 1) TLCS will fully participate in District and statewide assessments developed by the Oregon Department of Education under ORS 329.485, as well as any assessment developed by the Oregon Department of Education, the United States Department of Education or the Oregon Legislature to implement the federal assessment requirements. TLCS will administer the Oregon statewide assessments to its students on the same schedule as the District and in conformity with state law.

- 2) If any of the assessments described in Section 4. C of this Contract are discontinued, TLCS shall select a new assessment protocol and provide notice of the change to the District. Upon this occurrence, the TLCS and the District shall determine new methods of evaluating student progress under this Contract through the new assessment.

D. INFORMATION FROM THE DISTRICT

The District will provide TLCS the assessment result information with disaggregated data for comparison and goal-setting purposes.

SECTION 5 - ECONOMIC PLAN, BUDGET AND ANNUAL AUDIT

A. FUNDING

- 1) Pursuant to Section 7 of this Contract, the District and TLCS agree to operate TLCS under the direction of the District for all operational concerns further delineated in that section. Accordingly, the District shall retain financial controls over the operations of TLCS.
- 2) Pursuant to state law, for kindergarten through eighth-grade students the District shall provide funding to TLCS in an amount per weighted average daily membership (ADMw) of TLCS that is equal to a minimum of 100 percent of the amount of the District's charter school rate per ADMw as calculated under ORS 327.013. For students in grades 9 through 12, this amount will be a minimum of 100 percent of the amount of the District's charter school rate per ADMw as calculated under ORS 327.013.
- 3) Any financial commitment on the part of the District contained in this Contract is subject to appropriation by the State of Oregon and the parties agree that the District has no obligation to fund TLCS operations except as expressly provided herein or in ORS Chapter 338.

B. BUDGET

- 1) The fiscal year of TLCS shall begin on July 1st of each year and end on June 30 of the subsequent year to coincide with the District's fiscal year.
- 2) TLCS shall notify the District of any short-term loans secured by TLCS. TLCS shall not carry any loans over the end of the fiscal year, save for loans for facility acquisition or development.

C. FINANCIAL RECORDS, AUDITS AND ACCOUNTING REPORTS

- 1) The District agrees to maintain and retain appropriate financial records in accordance with applicable state and federal laws on behalf of TLCS.

- 2) The District shall have an annual audit of its accounts in accordance with Municipal Financial Audit Law, ORS 297.405 to 297.555 and 297.990. This audit will include any funds maintained by TLCS.
- 3) The District's funding of TLCS shall operate in accordance with generally accepted accounting principles (GAAP) or other generally accepted standards of fiscal management and District policies and procedures.
- 4) The parties acknowledge that under ORS 338.155(9)(b) TLCS may be entitled to other state sources of funds from the Oregon Department of Education that are available to school districts based solely on the weighted average daily membership (ADMw) of the school district which are not included in this Contract. The District will cooperate pursuant to District policy.
- 5) The parties acknowledge that under ORS 338.155(9)(a) TLCS may apply for any grant that is available to school districts or non-chartered public schools from the Oregon Department of Education, federal government or private entity. The District will cooperate pursuant to District policy.
- 6) TLCS may accept gifts, donations or grants pursuant to ORS Chapter 338, provided that no such gifts, grants or donations may be accepted if contrary to applicable law or the terms of this Contract. In the event that TLCS solicits funding from sources other than the District, it shall comply with all applicable state and federal laws regarding reporting of such charitable solicitations. TLCS shall annually report all gifts, donations and grants to the District by recording same in the financial records described above in this Section 5. C. above. This does not require reporting the names of, or individual contribution amounts from individual donors, unless TLCS is required to disclose this information under law.
- 7) The District shall provide TLCS with all copies of letters and the audit report from the District's auditor to the District Board.

D. GRANT FUNDS

The District will receive all grant funds for on in behalf of TLCS.

SECTION 6 - BUILDING AND FACILITIES

- 1)** The District agrees to grant TLCS the use of all existing District facilities for the operation of TLCS. The District agrees to be responsible for all maintenance and upkeep of District facilities. These facilities and upkeep costs will be provided to TLCS by the District in lieu of direct funding per Section 5 of this Contract. TLCS's use of the facilities shall continue until the termination of this Contract. If at any point this Contract is terminated or non-renewed, the facilities will be returned to the District in the same condition as the time of the execution of this agreement, normal wear and tear excepted.
- 2)** TLCS must obtain prior approval from the District before initiating any substantial change in the District's building and facilities.

SECTION 7 - GOVERNANCE AND OPERATION

TLCS shall be governed and operated by the District. They will govern and operate the charter school as set forth in its corporate documents to the extent permissible under federal and state law and subject to all conditions of this Contract. The District retains the authority for staffing, facilities, and finances consistent with the terms of this Contract.

A. PUBLIC MEETING AND PUBLIC RECORDS

TLCS and its Board of Directors are subject to the provisions of Oregon Public Meetings Law, ORS 192.610 to 192.690 and Oregon Public Records Law, ORS 192.410 to 192.505.

B. OPERATIONAL POWERS

- 1) Subject to the conditions and provisions of this Contract, TLCS shall conduct its operations subject to the direction and control of the District. The District will be fiscally responsible for TLCS's operations.
 - i. TLCS shall have the authority to exercise independently, also consistent with federal and state law, all powers granted to charter schools so long as such powers are not inconsistent with the terms of this Contract, including without limitations the following powers (and including such other powers as provided for elsewhere in this Contract): prepare a budget, equipment and supplies; organize and carry out fund-raising efforts; and accept and expend gifts, donations or grants of any kind in accordance with such conditions prescribed by the donors as are consistent with law and not contrary to any of the terms of this Contract.

C. THIRD PARTY CONTRACTS

TLCS shall not enter into any contract for comprehensive school management or educational services without approval from the District.

D. ANNUAL REPORT AND SITE VISIT(S)

- 1) TLCS shall submit and report on all required reports to the District and to the State Board of Education, which will include, without limitation, the following:
 - i. Any statements from TLCS that show the results of all operations and transactions affecting the financial status of TLCS during the preceding annual audit period for the school for funds which TLCS has control over.

2) The District shall provide sixty (60) calendar days' prior written notice of its intent to terminate this Contract. This notification must include the grounds for termination and be sent to TLCS's business address. TLCS may appeal the District's decision to terminate this Contract directly to the District's Board. TLCS must request this appeal in writing to the District, and the District has 30 days in which to provide TLCS a hearing on the proposed termination. TLCS may respond to the allegations in the District's written notification by offering documentary evidence and oral argument. The District bears the burden of proving the allegations in the written notification by a preponderance of the evidence. TLCS has the burden of proof for any affirmative defense to the allegations by a preponderance of the evidence. The District Board's decision may only be appealed to the State Board of Education according to ORS 338.105. The State Board of Education will, where possible, issue its final order within 60 days of the District's notification; if this is not possible TLCS shall remain open pending issuance of the State Board of Education's final order.

- i. Notwithstanding Section 7.G.1, the District may terminate TLCS immediately if TLCS is endangering the health or safety of the students enrolled in TLCS. TLCS may appeal this decision in writing to the District Board. The District Board has 10 days to provide an opportunity for a hearing. Under this subparagraph, TLCS shall remain closed at the discretion of the District.
- ii. TLCS may only terminate this charter at the end of the semester. TLCS shall notify the District in writing at least 180 calendar days prior to the proposed effective date of termination, dissolution or closure of TLCS.
- iii. In the event of termination of TLCS as a public charter school, all assets purchased with public funds paid to TLCS by the District in accordance with this Contract shall be given to the State Board of Education for disbursement in accordance with state law (ORS 338.105(6)).

G. DISSOLUTION

In the event TLCS should cease operations as a public charter school for whatever reasons, including but not limited to, the non-renewal or revocation of its charter, it is agreed that TLCS's legal authority to operate as a private school or other program governed by state and federal nonprofit law shall not be abridged.

H. PROPERTY INVENTORY CONTROL COMPLAINT POLICY

- 1) TLCS shall maintain records of purchase orders and invoice records for all assets over \$ 500.00 purchased with funds they have control over. These records shall indicate whether the assets were purchased with public funds, or non-public funds. TLCS shall provide the District with a list of these records no later than July 15th of each year that the TLCS operates as a public charter school in the District. For purposes of this section, public funds shall include any and all funds distributed to TLCS:
 - i. By the District, pursuant to ORS 338.155, ORS 338.165 and the terms of this Contract;

- ii. By the Oregon Department of Education, including any and all federal grant funds that TLCS may apply for and be awarded by the Oregon Department of Education; or
- iii. By any agency, division or branch of the United States Government, or any entity created by an agency, division or branch of the United States Government.

2) TLCS may retain any asset which was purchased with non-public funds upon termination. If TLCS does not maintain records of purchase orders and invoice records for all assets, or cannot provide records showing that an asset was purchased with non-public funds, then it shall be assumed that the asset was purchased with public funds, and upon termination the asset in question shall be given to the State Board of Education pursuant to ORS 338.105(6).

I. COMPLAINT POLICY

TLCS shall adhere to the District's complaint policies and procedures.

SECTION 8 - EMPLOYMENT MATTERS

The District shall be the employer of all employees at TLCS. The District will follow all applicable laws regarding background checks and teacher licensure and registration.

A. BUILDING ADMINISTRATOR

The Principal will be TLCS's building level administrator, and subject to the direction and control of the District Superintendent.

SECTION 9 - INSURANCE AND LEGAL LIABILITIES

A. INSURANCE

The District shall maintain all necessary insurance and documentation for TLCS.

B. LEGAL LIABILITIES

- 1) The federal and state laws set forth at ORS 338.115(1) apply to TLCS pursuant to state law.

C. WAIVER

TLCS may apply to the State Board of Education for a waiver consistent with ORS 338.025. TLCS shall notify the District in writing thirty (30) calendar days prior to requesting a waiver from the State Board of Education. The written notification shall state the waiver being sought, the reasons for the waiver and how the waiver will meet one or more of the waiver criteria outlined in state law (ORS 338.025(2)).

D. FULL FAITH AND CREDIT

TLCS agrees that it shall not extend the full faith and credit of the District to any third person or entity. TLCS acknowledges and agrees that it has no authority to enter into a contract that would bind the District.

E. INDEMNIFICATION

- 1) To the extent not covered by insurance or otherwise barred by the Oregon Tort Claims Act in ORS 30, TLCS agrees to indemnify and hold the District, its Board, agents and employees harmless from all liability, claims, and demands on account of injury, loss or damage, including, without limitation, claims arising from (1) the possession, occupancy or use by TLCS of property of TLCS or its landlord, its faculty, employees, students, patrons, guests or agents; (2) civil rights violations, bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever which arise out of the acts or omissions of TLCS. This indemnification shall not apply to any liability, claims, or demands resulting from the negligence or wrongful act or omission of any District Board member, officer or employee. This indemnification shall not apply to any liability, claims, or demands resulting from the negligence or wrongful act of any District employee working at TLCS whose negligence or wrongful act or omission is caused in whole or in part, or directed by the District. This indemnification shall not apply to any damages incurred regarding any act or omission of TLCS that is later determined to be required by law or this contract. TLCS agrees to indemnify, hold harmless and defend the District from all contract claims in which TLCS has obligated the District without the District's prior written approval. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided in the Oregon Tort Claims Act.

- 2) To the extent not covered by insurance or otherwise barred by the Oregon Tort Claims Act in ORS 30, the District agrees to indemnify and hold TLCS, , agents and employees harmless from all liability, claims, or demands on account of injury, loss or damage, including, without limitation, claims arising from civil rights violations, bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever which arise out of the acts or omissions of the District. This indemnification shall not apply to any liability, claims, or demands resulting from the negligence or wrongful act or omission of any officer or employee. This indemnification shall not apply to any liability, claims, or demands resulting from the negligence or wrongful act of any TLCS employee working at the District whose negligent or wrongful act or omission is caused in whole or in part, or directed by TLCS. This indemnification shall not apply to any damages incurred regarding any act or omission of the District or the District Board that is later determined to be required by law or this Contract. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided in the Oregon Tort Claims Act.
- 3) This indemnification, defense and hold harmless obligation on behalf of TLCS and the District shall survive the termination of this Contract. Any indemnified party shall have the right, at its own expense, to participate in the defense of any suit, without relieving the indemnifying party of any of its obligations hereunder.

F. DISTRICT DISCLAIMER OF LIABILITY

- 1) The parties to this Contract expressly acknowledge that TLCS is not operating as an agent, and is under the direction and control of the District Board except as required by law or this Contract, and that the District Board assumes no liability for any loss or injury resulting from:
 - i. The acts or omissions of TLCS, trustees, agents or employees not permitted under this Contract;
 - ii. Any debt or contractual obligation incurred by TLCS outside the scope of authority granted by this Contract.

G. ADA/504 OBLIGATIONS

TLCS acknowledges that it is legally responsible to comply with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and ORS Chapter 659 with respect to its students, staff, and patrons. TLCS and the District further agree that the District shall provide educational services at TLCS with curricular input from TLCS, and accordingly assumes the responsibility for compliance with these laws. With this responsibility, TLCS agrees to follow the District's direction on all matters related to this compliance, and the District agrees to accommodate TLCS's curricular options to the extent practical.

H. TRANSPORTATION

TLCS is responsible for providing transportation to students who reside in the District and attend the charter school. Notwithstanding this obligation, the District agrees to provide transportation to TLCS students within the District under existing District transportation policies. These TLCS students may obtain transportation through the student's parent/guardian or existing District bus lines. The District shall not be obligated to add or extend existing bus routes or add bus routes for purposes of providing transportation to TLCS's students that are not residents of the District. The District will provide transportation to TLCS students along existing District bus lines so long as space is available.

SECTION 10 - RENEWAL OF CHARTER

Renewal shall be governed by state law (ORS 338.065).

SECTION 11 - MISCELLANEOUS PROVISIONS

A. ENTIRE AGREEMENT

This Contract, including the Exhibits, contains all terms, conditions and provisions hereof and the entire understanding and all representations of understandings and discussions of the parties relating thereto, and all prior representations, understandings and discussions are merged herein and superseded and canceled by this Contract.

B. GOVERNING LAW

This Contract shall be governed by, subject to and construed under the laws of the State of Oregon. The parties intend that where this Contract references state or federal law, they be bound to any amendment to such law upon the effective date of such amendments to the extent they apply to charter schools. If, at any time during the term of this Contract, a change in state or federal law requires modification of this Contract, TLCS and the District will review this Contract and modify it accordingly.

C. ASSIGNMENT

TLCS shall not, under any circumstances, assign, delegate, or contract with any entity to provide the comprehensive educational program described in this Contract and the attached Appendices. It is expressly understood that the charter granted by this Contract to operate the educational program runs solely and exclusively to TLCS. This does not limit TLCS's right to enter into contracts and agreements relating to matters other than comprehensive operation of the education program to the full extent allowed under state law. Further, TLCS may contract for educational services as a component to the TLCS program pursuant to Section 7. F. of this Contract.

D. CONFLICT BETWEEN APPLICATION AND CONTRACT

The parties agree and acknowledge that should there be a conflict between any provision of this Contract and the Charter Renewal Request, the Contract provision(s) shall supersede any provision contained in the Charter Renewal Request.

In the event of any conflict or inconsistency between the terms of this Contract and any other documents referenced herein or executed contemporaneously herewith, including but not limited to appendices, exhibits, addenda, or ancillary agreements, the parties agree that the terms of this Contract shall prevail and govern the relationship between them.

The parties further agree to make good faith efforts to resolve any conflicts or inconsistencies in such a manner that preserves the intent and spirit of this Contract.

E. DISTRICT LIAISON

The District shall designate, for purposes of this Contract, the District Superintendent, or his/her designee, as the official District Liaison between the District and TLCS.

F. AMENDMENT

This Contract may be modified or amended only by written agreement between TLCS and the District.

G. NOTICE

Any notice required, or permitted, under this Contract, shall be in writing and shall be effective upon personal delivery (subject to verification of service or acknowledgment of receipt) or three (3) business days after mailing when sent by certified mail, postage prepaid, to the office of the District Board Chair.

H. DEFINITION OF BUSINESS DAY

For purpose of this Contract, "business day" means a day in which the District administrative office is open. "Business day" does not include Saturdays, Sundays, official state holidays listed in ORS 336.010, federal holidays, any day(s) in which the administrative office is closed due to inclement weather or any day that the District administrative office is closed due to action taken by, or ordered to be closed by, the District Board or its designee.

I. ADDRESS OF PARTIES FOR PURPOSE OF WRITTEN NOTICE

The following addresses are the addresses to be used when sending a written notice required by law or this Contract:

For the District:

For TLCS:

Blachly School District
Attn: Board Chair
20264 Blachly Grange Rd.
Blachly, OR 97412

Triangle Lake Charter School
Attn: Superintendent
20264 Blachly Grange Rd.
Blachly, OR 97412

Should these addresses change, the parties agree to notify the other party within ten (10) calendar days of the address changing.

J. NO WAIVER

The parties agree that no assent, express or implied, to any breach by either of them of any one or more of the covenants and agreements expressed herein shall be deemed or to be taken to constitute a waiver of any succeeding or other breach.

K. DISPUTE RESOLUTION

In the event any dispute arises between the District and TLCS concerning this Contract, including, without limitation, the implementation of or waiver from any policies, regulations or procedures, such dispute shall first be submitted to the District Superintendent for review. If the District Superintendent and TLCS are unable to resolve the dispute, either party may submit the matter to the District's Board for its consideration. The decision of the District's Board may be appealed by TLCS to the State Board of Education concerning those matters within its jurisdiction under ORS Chapter 338.

L. SEVERABILITY

If any provision of this Contract is determined to be unenforceable or invalid for any reason, the remainder of this Contract shall remain in effect, unless otherwise terminated by one or both of the parties in accordance with the terms of this Contract.

M. DELEGATION

The parties agree and acknowledge that with regard to this Contract between the District and TLCS, the functions and powers of the District Board may be exercised by the District Liaison, provided that any ultimate decision regarding renewal, non-renewal or revocation of this Contract be made only by the District Board.

N. ATTORNEY FEES

If any suit, action or arbitration is commenced or instituted to interpret or enforce the terms of this Contract, to exercise any remedy on account of a default, or otherwise relating to the provisions of this Contract, the prevailing party or non-defaulting party shall be entitled to recover from the losing or defaulting party its reasonable attorney fees and costs, in addition to all other sums provided by law, at trials or arbitration or any court proceedings. Such sums shall be determined by the court or arbitrator.

O. INCORPORATION OF APPLICATION AND OTHER EXHIBITS

The following appendices are attached and incorporated by reference:

- ii. Appendix A: TLCS renewal request
- iii. Appendix B: TLCS's Charter School Mission and Philosophy Statements and Curriculum Outline
- iv. Appendix C: District and TLCS meeting minutes within the term of this Contract that include motions approving this Contract.

Q. AUTHORITY TO ENTER INTO CONTRACT

TLCS expressly affirms that the signatories on its behalf who sign below have the authority to enter into this Contract on behalf of TLCS and that the Board of Directors of TLCS has duly approved this Contract. TLCS shall provide a copy of its written resolution authorizing TLCS to enter into this Contract to the District.

The District expressly affirms that the signatories on its behalf who sign below have the authority to enter into this Contract on behalf of the District and that the District Board has duly approved this Contract. The minutes authorizing the execution of this Contract are attached as Appendix C.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first above written.

Blachly School District:

Triangle Lake Charter School:

By: _____

By: _____

Derek Pennel

Adam Watkins

School Board Chair

Superintendent

Blachly School District

Triangle Lake Charter School

Date: _____

Date: _____

Approved as to form: District Legal Counsel

APPENDICIES

Appendix A

Mission

Along with a vision to offer increased academic choice and a learning environment tailored to the interests and needs of each student. TLCS will strive to provide a unique learning environment that uses small classroom sizes, the surrounding environment, and community involvement to advance educational excellence with foci on technology, natural resources, and health and wellness.

Objectives, Goals, and Expected Results

The central purpose of TLCS will be to build on the strong foundation of the existing Triangle Lake Elementary and High Schools. Triangle Lake Charter School will look to pursue educational excellence and enhance individual learning through three focus areas:

1. Technology
 - a. Students and instructors will be offered access to new, leading edge technology,
 - b. seamlessly integrated into the learning environment.
 - c. TLCS will create and provide all-campus wireless capability, with the appropriate bandwidth to support expanded on-line learning. Students will be offered online course options, including dual credit coursework starting at grade 9.
 - d. Dedicated technical support for TLCS' IT infrastructure will be employed, and expanded.
2. Natural Resources
 - a. An integrated natural resources curriculum will be provided for Kindergarten through 12th grade.
3. Health and Wellness
 - a. TLCS will employ a 100% participation / “no-cut” athletics policy.
 - b. Annual health screenings and related instruction will be provided for all students.
 - c. A free breakfast program will be maintained for all on-site students, in combination with a nutrition-conscious lunch program and a healthy daily snack.

These focus areas will be facilitated by the following actions:

- **Small Class Sizes (On-Campus ONLY)**

To maintain small and intimate class sizes, grade levels will be capped at 21 students for on-campus, except in two situations. The cap will be increased to add resident students as needed with no maximum. The cap will be automatically increased for on-campus grades by two (to a maximum of 23) if a sibling of a current student who attended in the previous year applies to attend and enrollment in that on-campus grade is already at its cap.

- **TLCS On-Line Class Sizes (On-Line ONLY)**

The district recognizes the opportunity to provide students with an online education opportunity. It will maintain an online program to provide additional instructional options for students and families. TLCS online program shall generally be limited based on grade level as follows: K-12 range 15 to 21 per grade (with the ability to have multiple grades at each level). The online enrollment will not exceed the on-campus enrollment at any point.

- **Community Partnerships**

- Develop educational partnerships with state, federal, and private organizations to assist in implementation of natural resource curriculum.
- Maintain and seek programs that promote college & career opportunities for students.

- **Expanded Classroom Boundaries**

- Increase the number of remote-learning options available to TLCS students.
- Increase the number of off-site learning activities (examples: field trips, service learning, internships, etc.) available to TLCS students.

- **Distinctive Teaching and Learning Techniques**

- Personal education plan for each 9th - 12th grade student (at minimum).
- Involvement of parents, experts from within the community, and/or partnership organizations.
- TLCS-integrated curriculum strands related to natural resources.
- Distance learning opportunities for coursework not available on-site at TLCS.
- Maintaining small grade sizes for **on-campus** students.
- Expanded classroom boundaries including the use of experiential off-site learning.

- Pervasive use of technology throughout the grades by teachers and students.

Curriculum Overview

Building on the existing curriculum of Triangle Lake Elementary and High Schools, TLCS will achieve its mission and goals through the use of an articulated K-12 curriculum that focuses TLCS resources, optimizes student learning, increases efficiency, and eliminates curricular gaps by aligning to the state standards. It is the intent of TLCS to have core classes taught by TSPC licensed staff whenever practicable. Secondary (6-12) school core classes are identified as Language Arts, Science, Math, and Social Studies. Kindergarten through 5th coursework will be taught by licensed elementary staff.

OREGON GOVERNMENT ETHICS LAW

A GUIDE FOR PUBLIC OFFICIALS



Oregon Government Ethics Commission
3218 Pringle Rd. SE, Suite 220
Salem, OR 97302-1544
Telephone: 503-378-5105
Fax: 503-373-1456
Web address: www.oregon.gov/ogec



DISCLAIMER

This guide has been approved by the Oregon Government Ethics Commission pursuant to ORS 244.320. ORS 244.320 requires this publication to explain in understandable terms the requirements of Oregon Government Ethics law and the Oregon Government Ethics Commission's interpretation of those requirements. Toward that end, statutes and rules have been summarized and paraphrased in this guide. The discussion in this guide should not be used as a substitute for a review of the specific statutes and rules.

There may be other laws or regulations not within the jurisdiction of the Commission that apply to actions or transactions described in this guide.

A penalty may not be imposed under ORS Chapter 244 for any good faith action taken in reliance on the advice in this guide. "In reliance on" the advice in this guide means that the fact circumstances of the action taken are the same fact circumstances that serve as the basis for advice in this guide.

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INTRODUCTION

In 1974, voters approved a statewide ballot measure to create the Oregon Government Ethics Commission (Commission). The measure established laws that are contained in Chapter 244 of the Oregon Revised Statutes (ORS).

When the Commission was established, it was given jurisdiction to implement and enforce the provisions in ORS Chapter 244 related to the conduct of public officials. In addition, the Commission has jurisdiction for ORS 171.725 to 171.785 and 171.992, related to lobbying regulations, and ORS 192.660 and 192.685, the executive session provisions of Oregon Public Meetings law.

This Guide for Public Officials includes a discussion of some provisions that may also apply to lobbying activities. This is especially true when a lobbying activity involves paying the expenses for meals, lodging, travel, entertainment or other financial benefits of a legislative or executive official. Under specific circumstances, ORS Chapter 244 allows the payment of such expenses, but the public official may have a reporting requirement under ORS Chapter 244 and the source of the payment may be required to register as a lobbyist or report the expenditure. The Commission publishes a guide for lobbyists and clients or employers of lobbyists regulated under provisions in ORS Chapter 171. If you have questions regarding registering as a lobbyist, lobbying activity or reports for lobbying expenditures, please refer to our Guide to Lobbying in Oregon, which is available on our website.

ORS 192.660 lists the specific criteria a governing body must use when convening an executive session. Under this statutory authority, executive sessions are limited to discussion of specific matters. This guide does not discuss that portion of the Oregon Public Meetings law, but there is a detailed discussion of executive sessions, as set out in ORS 192.660, in the Attorney General's Public Records and Meetings Manual, available on-line at <https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/>

This guide will discuss how the provisions in ORS Chapter 244 apply to public officials and will summarize Commission procedures. It should be used in conjunction with applicable statutes and rules, but should not be used as a substitute for a review of the statutes and rules. It is intended to be a useful discussion, in understandable terms, of topics and issues that are often the focus of inquiries the Commission receives from public officials and citizens.

You will find links to ORS Chapter 244, ORS Chapter 171.725 to 171.785 and 171.992, ORS 192.660 and ORS 192.685, relevant Oregon Administrative Rules (OAR), and other publications referenced in this guide on the Commission's website at <https://www.oregon.gov/ogec/Pages/default.aspx>. Questions or comments may be submitted to the Commission by email at ogec.mail@oregon.gov, by telephone to 503-378-5105, or by fax to 503-373-1456.

JURISDICTION

The jurisdiction of the Oregon Government Ethics Commission is limited to provisions in ORS Chapter 244, ORS 171.725 to 171.785 and 171.992, and ORS 192.660 and 192.685. Other Oregon statutes may also regulate the activities of elected officials and public employees. Some examples are:



- The Elections Division of the Secretary of State's Office regulates campaign finance and campaign activities.
- Federal, state, or local law enforcement has jurisdiction over alleged criminal activity.
- The Oregon Bureau of Labor and Industries investigates cases involving employment-related sexual harassment or discrimination on the basis of race, religion, disability or gender.
- The initial enforcement of the Public Records law lies with County District Attorneys and the Department of Justice.
- Enforcement of the Oregon Public Meetings law lies with the Oregon Circuit Courts, except that the Commission also has jurisdiction over the execution session provisions in ORS 192.660 and 192.685.

There are occasions when a public official engages in conduct that may be viewed as "unethical," but that conduct may not be governed by Oregon Government Ethics law. The following are some examples of conduct by public officials that may not be within the authority of the Commission to address:

An elected official making promises or claims that are not acted upon.

Public officials mismanaging or exercising poor judgment when administering public money.

Public officials being rude or unmannerly.

A person's private behavior unrelated to their actions as a public official.

While the conduct described above may not be addressed in Oregon Government Ethics law, other statutes and public agency policies may prohibit or redress the behavior. Please contact the Commission staff if you need further clarification regarding how the Oregon Government Ethics law may apply to circumstances you may encounter.

PUBLIC OFFICIAL: AN OVERVIEW

The provisions in Oregon Government Ethics law 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 Chapter 244 were enacted to provide one safeguard for that trust.

Public officials must know that they are held personally responsible for complying with the provisions in Oregon Government Ethics law. This means that each public official must make a personal judgment in deciding such matters as the use of official position for financial gain, what gifts are appropriate to accept, when to disclose the nature of conflicts of interest, and the employment of relatives or household members. If a public official fails to comply with the operative statutes, a violation cannot be dismissed by placing the blame on the public official's government employer or the governing body represented by the public official.

One provision, which is the cornerstone of Oregon Government Ethics law, prohibits public officials from using or attempting to use their official positions or offices to obtain a financial benefit for themselves, relatives or businesses with which they are associated if that financial benefit or opportunity for financial gain would not otherwise be available but for the position or office held.

Oregon Government Ethics law limits and restricts public officials and their relatives as to gifts they may solicit or accept. Under specific circumstances, public officials may accept certain gifts. This guide will discuss those provisions. Public officials are allowed to receive salary and reimbursed expenses from their own government agencies.

Another provision that frequently applies to public officials when engaged in official actions is the requirement to disclose the nature of conflicts of interest. This guide will discuss the definition of a conflict of interest, the distinction between actual and potential conflicts of interest, and describe how a public official must disclose and dispose of a conflict of interest.

For some public officials who are elected to offices or hold other select positions, there is a requirement to file an Annual Verified Statement of Economic Interest. This guide will discuss that filing requirement.

It is important for both public officials and members of the general public served by public officials to know that the provisions in Oregon Government Ethics law apply to the actions and conduct of individual public officials and not to the actions of state and local governing bodies or government agencies. Each individual public official is personally responsible for complying with provisions in ORS Chapter 244. Before taking official action, making a decision, participating in an event, or accepting a gift that may raise potential ethics law violations, each public official must make a personal judgment. The Commission staff is available to discuss the issues and offer guidance in making such judgments.

The statutes and rules discussed or illustrated in this guide do not and cannot address every set of circumstances a public official may encounter. Since compliance is the personal responsibility of each public official, public officials need to familiarize themselves with the wide variety of resources that offer information or training on the provisions in Oregon Government Ethics law.

In addition to the statutes in ORS Chapter 244 and the Oregon Administrative Rules (OAR) in Chapter 199, see <https://www.oregon.gov/ogec/Pages/default.aspx>, the Commission's website, which offers information, training and links to this guide, ORS Chapter 244 and OAR Chapter 199. The Commission offers a variety of free training resources and many government agencies also offer internal training to their employees or the agencies may request training from the Commission's trainers. There are a number of membership organizations, such as The League of Oregon Cities, Association of Oregon Counties, Oregon School Boards Association and the Special Districts Association of Oregon, that provide training to public officials. It is imperative for government agencies or organizations that employ or represent public officials to ensure their public officials receive training in Oregon Government Ethics law. Those that fail to provide this training do a disservice to the public officials who they employ or who represent them.



A PUBLIC OFFICIAL

Are you a public official?

“Public official” is defined in ORS 244.020 as the First Partner and any person who, when an alleged violation of ORS Chapter 244 occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

There are approximately 200,000 public officials in Oregon. You are a public official if you are:

- The First Partner, defined as the spouse, domestic partner or an individual who primarily has a personal relationship with the Governor.
- Elected or appointed to an office or position with a state, county, regional, or city government.
- Elected or appointed to an office or position with a special district.
- An employee of a state, county, city, intergovernmental agency or special district.
- An unpaid volunteer for a state, county, regional, city, intergovernmental agency, or special district.
- An agent of the State of Oregon or any of its political subdivisions.

The Commission has adopted, by rule, additional language used to clarify the use of “agent” in the definition of “public official.” The following clarification is in OAR 199-005-0035(7):

As defined in ORS 244.020(15), a public official includes the First Person and anyone serving the State of Oregon or any of its political subdivisions or any other public body in any of the listed capacities, including as an “agent.” An “agent” means any individual performing governmental functions. Governmental functions are services provided on behalf of the government as distinguished from services provided to the government. This may include private contractors and volunteers, depending on the circumstances. This term shall be interpreted to be consistent with Attorney General Opinion No. 8214 (1990).

If I am a volunteer, does that make me a public official?

The Commission recognizes that there are those who volunteer to work without compensation for many state and local government agencies, boards, commissions and special districts. Volunteers may be elected, appointed or selected by the government agency or public body to hold a position or office or to provide services. Among the public officials who volunteer, there are elected or appointed members of state boards or commissions, city councils, planning commissions, fire district boards, school district boards, and many others. There are also many who apply and are selected to perform duties for a government agency, board or commission without compensation, such as firefighters, reserve law enforcement officers, and parks or recreation staff members.

If the position for which you have volunteered serves the State of Oregon or any of its political subdivisions or any other public body, irrespective of whether you are compensated, you are a public official.

How are relatives and household members of public officials affected by Oregon Government Ethics law?

Public officials must always comply with state law when participating in official actions that could result in personal financial benefits and also when participating in official actions that could result in financial benefits for a relative or household member. Public officials should also know there may be limits and restrictions on gifts their relatives or household members may accept when offered.

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using or attempting to use official actions of the position held to benefit a relative or household member, limit the value of financial benefits accepted by a relative or household member of the public official, or require the public official to disclose the nature of a conflict of interest when a relative may receive a financial benefit. There are provisions that place restrictions on a public official regarding the employment or supervision of a relative or household member. These provisions are discussed more comprehensively in the use of position or office section starting on page 17, the gifts section starting on page 26, the conflicts of interest section starting on page 11, and the nepotism section starting on page 35.

Who is a relative?

Public officials need to know how Oregon Government Ethics law defines a “relative.” In everyday conversation the term “relative” is applied to a spectrum of individuals with “family ties” broader than those defined as relatives in ORS 244.020(16). When a provision in ORS Chapter 244 refers to “relative,” it means one of the following:

- The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;
- The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of

- the spouse of the public official or candidate;
- Any Individual for whom the public official or candidate has a legal support obligation
- Any Individual for whom the public official provides benefits arising from the public official's public employment
- Any Individual from whom the public official or candidate receives benefits arising from the individual's employment.

For purposes of the last two bulleted items, examples of benefits may include, but is not limited to, elements of an official compensation package such as insurance, tuition or retirement benefits.

Who is a “member of the household”?

Public officials need to know how Oregon Government Ethics law defines “member of the household” because there are provisions in ORS Chapter 244 that prohibit a public official from using or attempting to use their official position to financially benefit a member of their household.

A “member of the household” is any person who resides with the public official or candidate. [ORS 244.020] This definition includes any individual who resides in the same dwelling as the public official, regardless of whether that individual pays rent or not, and regardless of whether that individual is a relative or not.

What is a business with which a person is associated?

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using their position to benefit a business with which the public official or the public official's relative or household member is associated. Other provisions also require the public official to disclose the nature of a conflict of interest when their official actions would or could financially impact a business with which the official or their relative is associated.

As with the definition of relative, public officials need to know how Oregon Government Ethics law defines what a “business” is and how it defines a “business with which the person is associated.” The same sound judgment a public official exercises when participating in actions that could result in a financial benefit to the public official or a relative of the public official should be used when participating in actions that could result in a financial impact to a business with which the public official or the official's relative is associated.

ORS 244.020(2) provides the definition of a “**business**” for the purposes of the application of Oregon Government Ethics law. A “business” is a self-employed individual and any legal entity that has been formed for the purpose of producing economic gain.

- Excluded from this definition are income-producing corporations that are not-for-profit and tax exempt under section 501(c) of the Internal Revenue Code, if a public

official or a relative is associated only as a member, as a member of the board of directors, or in another unpaid position.

Example: An elected County Commissioner is a member of a credit union that operates without profit and is tax exempt under section 501(c) of the Internal Revenue Code. Because the public official is associated with the credit union only as a member, the credit union is not considered a “business” under the definition in Oregon Government Ethics law.

Example: The son of an elected city councilor is a teller employed by a credit union that operates without profit and is tax exempt under section 501(c) of the Internal Revenue Code. Because the public official’s relative is a paid employee of the credit union, the city councilor’s association with the credit union does not meet the exclusion above, and the credit union would be considered a “business” under the definition in Oregon Government Ethics law.

- Also excluded from the definition of business are entities, such as state and local governments or special districts, which are not formed for the purpose of producing income.

Example: An advisory board for the Department of Education awards grants to county, city or other local government entities. The advisory board’s members include public officials who are employed by a city police department and by a local fire district. These public officials would not have conflicts of interest when awarding grants to the city or to the fire district, because these government entities do not meet the statutory definition of a “business.”

Once a public official determines that an entity qualifies as a “business,” the public official must also determine if it is a “business with which the person is associated.” In accordance with ORS 244.020(3), a business is a “**business with which the person is associated**” for a public official or the relative or household member of the public official in any of the following circumstances:

- When a person, or their relative is a director, officer, owner, employee or agent of a private business or a closely held corporation.

Example: The Eugene City Recorder is a public official and her daughter is the president and owner of a private landscaping business. That business would be “a business with which the City Recorder’s relative is associated.”

- When a person or their relative currently holds, or held during the preceding calendar year, stock, stock options, an equity interest or debt instrument worth \$1,000 or more in a **private business or closely held corporation**.

Example: The Mayor of Seaside’s brother currently holds an equity interest of more than \$1,000 in a private business owned by a college friend. This would be a “business with which the Mayor’s relative is associated.”

- When a person or their relative currently owns, or has owned during the preceding calendar year, stock, stock options, an equity interest, or debt instruments of \$100,000 or more in a **publicly held corporation**.

Example: The procurement officer for the City of Portland recently inherited stock worth \$110,000 in Nike, which is a publicly held corporation. Nike is a “business with which the procurement officer is associated.”

- When a person or their relative is a director or officer of a **publicly held corporation**.

Example: A Planning Commissioner for Washington County is the son of a member of the Board of Directors for Intel, a publicly held corporation. Intel is a “business with which the Planning Commissioner’s relative is associated.”

- When a public official is required by ORS 244.050 to file an Annual Verified Statement of Economic Interest and the business is required to be listed as a source of household income, per ORS 244.060.

Example: A Bend city councilor is required to file an Annual Verified Statement of Economic Interest (SEI). A member of the city councilor’s household, not a relative, is a paid employee of a private business. The private business which employs the household member would be a “business with which the city councilor is associated” if it provides 10% or more of the councilor’s annual household income.



CONFLICTS OF INTEREST

How does a public official know when they are met with a conflict of interest and, if met with one, what must they do?

Oregon Government Ethics law identifies and defines two types of conflicts of interest. An **actual conflict of interest** is defined in ORS 244.020(1) and a **potential conflict of interest** is defined in ORS 244.020(13). In brief, a public official is met with a conflict of interest when participating in official action which would or could 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.



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 an official action, decision, or recommendation that **would** affect the financial interest of the official, their relative, or a business with which they or their relative is associated. A public official is met with a **potential** conflict of interest when the public official participates in an official action, decision, or recommendation that **could** affect the financial interest of the official, their relative, or a business with which they or their relative is associated. The following hypothetical circumstances are offered to illustrate the difference between actual and potential conflicts of interest and what is not a conflict of interest:

- **POTENTIAL CONFLICT OF INTEREST:** A school district has decided to construct a new elementary school and the school board is at the stage of developing criteria for the construction bid process. A recently elected school board member’s son owns a construction company in town. The school board member would be met with a potential conflict of interest when participating in official actions to develop the bid criteria, because the official actions she takes **could** financially impact her son’s construction company, a business with which her relative is associated.
- **ACTUAL CONFLICT OF INTEREST:** A school district is soliciting bids for the construction of a new elementary school. The bid deadline was last week and the district Superintendent has notified the school board that there are four qualified bids and the school board will be awarding the bid to one of the four bidders at their upcoming meeting. One of the qualified bids was submitted by the construction company owned by a school board member’s son. The school board member would be met with an actual conflict of interest when awarding this bid because the effect of her decision **would** have a financial impact (either positive or negative) on her son’s construction company, a business with which her relative is associated.

- **NO CONFLICT OF INTEREST:** A school district is soliciting bids for the construction of a new elementary school. One of the qualified bids was submitted by a construction company owned by a board member's best friend but neither the board member nor any relative are associated with the construction company. The school board member would **not** be met with a conflict of interest when awarding this bid because the effect of her official decision **would not or could not** have a financial impact on herself, a relative, or a business with which she or her relative is associated.

What if I am met with a conflict of interest?

A public official must announce or disclose the nature of a conflict of interest. The way the disclosure is made depends on the position held. The following public officials must use the methods described below:

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 in ORS 244.120. [49 Op. Atty. Gen. 167 (1999) issued on February 24, 1999]

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. [ORS 244.120(1)(b)]

Public Employees:

Public officials who are hired as public employees, agents, or who volunteer with their public bodies must provide **written notice** to the person who appointed or employed them (their "appointing authority"). The notice must describe the nature of the conflict of interest with which they are met and request that their appointing authority dispose of the conflict. This written disclosure to the appointing authority satisfies the requirements of ORS 244.120 for the employee. The appointing authority must then designate an alternate person to handle the matter or direct the public official in how to dispose of the matter. [ORS 244.120(1)(c)]

Example of Disclosure and Disposal: A County employee's job includes issuing building permits. An application concerns property owned by the employee's stepfather. The employee would be met with a conflict of interest and would need to make a written disclosure of his conflict to his appointing authority, in this case his department supervisor, and ask that the supervisor dispose of the conflict. Once the employee makes the written disclosure, he has complied with the conflict of interest statute. Upon receipt of a written disclosure from an employee, the supervisor must respond by either delegating an alternative person to handle the matter or directing the public official in how to dispose of the matter. **Note:** If the supervisor directs the public official to dispose of the conflict by handling his

relative's permit the same as any other permit, the supervisor could be asking an employee to take official actions that may violate the prohibited use of position statute, ORS 244.040(1). See page 17.

Elected Officials or Appointed Members of Boards and Commissions:

Elected officials (other than legislators) and those appointed to Boards and Commissions must publicly announce the nature of the conflict of interest before participating in any allowable official action on the issue giving rise to the conflict of interest. [ORS 244.120(2)(a) and ORS 244.120(2)(b)] The announcement must be made in a public meeting, or if no public meeting is available, by other means reasonably determined to notify members of the public of the public official's disclosure. For elected officials who do not hold regular public meetings, such as a Sheriff, District Attorney, or the Secretary of State, other means of compliance could be through a press release or by posting the disclosure on the public body's website.

- **Potential Conflict of Interest:** Following the public announcement of the nature of a potential conflict of interest, elected officials (other than legislators) and those appointed to Boards and Commissions, may participate in official action on the issue that gave rise to the conflict of interest.

Example: A city has decided to solicit bids to develop a new computer system and the city councilors are developing criteria for the bid process. A city councilor's brother works for an IT firm in town. The councilor would be met with a **potential** conflict of interest when participating in official actions to develop the bid criteria, because the official actions she takes **could** financially impact her brother's employer, a business with which her relative is associated. The councilor should publicly disclose the nature of her conflict of interest at the council meeting when the development of bid criteria comes up for consideration. Following the public disclosure, she may continue to participate in discussions and votes on the issue.

- **Actual Conflict of Interest:** Following the public announcement of the nature of an actual conflict of interest, the public official must ordinarily refrain from further participation in official action on the issue that gives rise to the conflict of interest. [ORS 244.120(2)(b)(A)]

Example: The city council is meeting to award a bid for a new IT project. Qualified bidders include a company that employs a city councilor's brother. The city councilor has an **actual** conflict of interest because the effect of her decision **would** have a financial affect, whether positive or negative, on a business with which her brother is associated. The city councilor must publicly announce the nature of her conflict of interest at the meeting and then refrain from any discussion or vote on the matter.

Exception: If a public official is met with an actual conflict of interest and the public official's vote is necessary to meet the minimum number of votes required for official action, the public official may vote. The public official must make the required announcement of their conflict of interest and refrain from any discussion or debate, but may participate in the vote required for official action by the governing body. [ORS 244.120(2)(b)(B)]

Example: In the scenario above, the city councilor would be met with an actual conflict of interest. The city council has 5 members and it takes 3 votes for board action. At the time of this meeting, one seat is vacant, another member is absent, and the member with the actual conflict is present, but conflicted, leaving the city council without the requisite 3 votes to take action. In this instance, following her public disclosure, the conflicted city councilor must refrain from any discussion or debate on the issue, but she may vote in order for the council to take action. Alternatively, the council may choose to delay the vote until a later meeting when more city councilors are present.

The following circumstances may exempt a public official from the requirement to make a public announcement or give a written notice describing the nature of a conflict of interest:

- If the conflict of interest arises from a membership or interest held in a particular business, industry, occupation or other class **and** that membership is a prerequisite for holding the public official position. [ORS 244.020(13)(a)]

Example: The Oregon Medical Board requires that one Board member must be a practicing physician, any official action taken by the physician board member that affects all physicians to the same degree would be exempt from the conflict of interest requirements. The physician Board member need not disclose a conflict of interest and may participate in taking official action on the issue.

- If the financial impact of the official action would impact the public official, their relative, or a business with which they or their relative is associated, to the same degree as other members of an identifiable group or "class." The Commission has the authority to identify a group or class and determine the minimum size of that "class." [ORS 244.020(13)(b) and ORS 244.290(3)(a)] The number of persons affected **to the same degree** as the public official will help to determine whether this exception applies.

Only the Commission may determine whether a "class" exemption exists. A written request must be made to the Commission to make that determination in advance. If a public official determines that a "class" exception applies in their situation, without benefit of Commission advice, the Commission may later determine that a "class" exception does not apply to the situation, and could find a violation.

Example: A city council is considering a change to the local transient lodging tax collected and remitted to the city by hotels and motels. One of the city councilors owns a motel. The effect of official actions taken by the city councilor concerning this tax would impact all motel owners within the city. The Commission may determine that the city councilor is part of an identifiable group or “class” of 200 city motel/hotel owners, who would be affected to the same degree and thus exempt from the conflict of interest disclosure and participation restrictions.

Example: A city council is considering a change to the local transient lodging tax collected and remitted to the city by motels. One of the city councilors is a motel owner. The effect of official actions taken by the city councilor concerning this tax would impact all motel owners within the city. The Commission declined to find that the class exemption applies due to the size of the “class” because there are only 3 motels in the city, 2 of which are owned by the councilor. The class exemption would not apply in these circumstances and the councilor must comply with the conflict of interest disclosure and participation restrictions.

Example: A city council is considering a proposal to construct a by-pass route around the city’s business district. The city’s business district includes many businesses and restaurants, including a coffee shop owned by one of the city councilors and a drive-thru espresso stand owned by another resident. The effect of the by-pass would not affect all business owners in the city to the same degree. The class exemption would not apply in these circumstances and the councilor who owns the coffee shop must comply with the conflict of interest disclosure and participation restrictions.

- If the conflict of interest arises from a directorship on the board of, or membership in, a nonprofit corporation that is tax-exempt under 501(c) of the Internal Revenue Code. [ORS 244.020(13)(c)]

Example: A city councilor is also a board member of the local YMCA, a tax-exempt 501(c) organization. The decision, as a city councilor, to award a grant to that YMCA would be exempt from the conflict of interest disclosure and participation restrictions. [ORS 244.020(13)(c)]

How is the public announcement or written disclosure of the nature of a conflict of interest recorded?

- The public body served by the public official is required to record the disclosure of the nature of the conflict of interest in the public body’s official records (e.g. personnel file, meeting minutes, audio/video recording). It is to the public official’s benefit to ensure their conflict disclosure is recorded in their public body’s records. [ORS 244.130(1)]

Is a public official required to make an announcement of the nature of a conflict of interest each time the issue giving rise to the conflict of interest is discussed or acted upon?

Each time a public official is met with a conflict of interest, the nature of the conflict must be disclosed.

- For example, an elected member of the city council when met with a conflict of interest would have to make the public announcement one time, but only one time, ***in each meeting*** of the city council when the matter was raised. If the matter giving rise to the conflict of interest is raised at another meeting, the disclosure must be made again at that meeting.
- Public officials who are employees would need to submit separate written notices on each occasion when a conflict of interest arises. As an example, an employee in a city planning department would have to give a separate written notice before each occasion when they needed to take an official action involving property owned by a relative. [ORS 244.120(3)]

If a public official failed to announce the nature of a conflict of interest and participated in official action, is the official action voided?

- **No.** Any official action that is taken may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest. [ORS 244.130(2)] Even though the action may not be voided, the public official could face potential personal liability for the violation.



USE OF POSITION OR OFFICE

What are the provisions of law that prohibit a public official from using the position or office held for financial gain or avoidance of financial detriment?

ORS 244.040(1) prohibits every public official from using or attempting to use the position held as a public official to obtain a financial benefit, if the opportunity for the financial benefit would not otherwise be available but for the position held by the public official. The prohibited financial benefit can be either an opportunity for personal financial gain or an opportunity to avoid incurring a personal expense.



Not only is a public official prohibited from using the position as a public official to receive personal financial benefits, but the public official is prohibited from using or attempting to use their position as a public official to obtain financial benefits for a relative or a member of the public official's household. Also prohibited is using or attempting to use the public official's 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.

There are a variety of actions that a public official may take or participate in that could constitute the prohibited use or attempted use of the public official's position. The use of a position could be voting in a public meeting, placing a signature on a government agency's document, making a recommendation, making a purchase with government agency funds, or using a government agency's time or resources (computers, vehicles, machinery) to obtain a personal financial benefit or avoid a personal cost.

The following examples are offered to illustrate what may constitute prohibited use or attempted use of office or position. Please note that this is not an exhaustive list:

- The mayor of a city signs a contract obligating the city to pay for janitorial services provided by a business owned by the mayor's relative.
- An executive director of an agency is ordering 10 new laptops for the agency, which qualifies for a bulk purchase discount of \$150 per laptop. He adds 2 laptops for his family to the agency's order to personally take advantage of the discount, and then reimburses the agency for the discounted cost of his personal laptops.
- A city billing clerk alters water use records so that the amount billed to the clerk's parents will be less than the actual amount due.
- A volunteer firefighter borrows the fire district's power washer to prepare the exterior of the volunteer's personal residence for painting.
- A county public works employee stores a motor home that is owned by the employee's parents in a county building used for storing heavy equipment.
- An employee of a state agency has a private business and uses the agency's computer to conduct the activities of the private business.

- A county commissioner uses the county's pickup truck to haul his own personal boat to and from his vacation home.
- A school district superintendent hires her sister's consulting business to provide an in-service training to teachers in her district.
- A teacher solicits her students' parents to hire her for paid tutoring services.

NOTE: While these examples are offered to illustrate the use of a public official's position prohibited by ORS 244.040(1), the examples illustrate occasions where a public official may also be met with a conflict of interest as defined in ORS 244.020(1) and (13). The provisions in ORS 244.040 apply regardless of whether a public official has properly disclosed a conflict of interest. [ORS 244.040(7)]. For further information, refer to the detailed discussion of conflicts of interest starting on page 11.

There are some additional prohibitions on how current and even former public officials use their offices or positions.

- ORS 244.040(3) prohibits a public official from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the public official's vote, official action or judgment.
- Public officials often have access to or manage information that is confidential and not available to members of the general public. ORS 244.040(4) specifically prohibits public officials from using or attempting to use confidential information gained because of the position held to further their own personal gain.
- ORS 244.040(5) prohibits a **former** public official from attempting to use confidential information for **any** person's financial gain if that confidential information was obtained while holding the position as a public official, from which access to the confidential information was obtained.
- ORS 244.040(6) also has a single provision to address circumstances created when public officials, who are members of the governing body of a public body, own or are associated with a specific type of business. The type of business is one that may occasionally send a representative of the business to appear before the governing body on behalf of a client for a fee. Public officials who are members of governing bodies and who own or are employed by businesses, such as a law, engineering, or architectural firm, may encounter circumstances in which this provision may apply.

Example: A member of a city council is an architect. A client developer of the architect's firm has a proposed subdivision to be approved by the city council. The architect/councilor may not appear before the city council on behalf of the client developer. Another person from the architect's firm may represent the client developer before the city council, but not the architect/councilor.

Aside from ORS 244.040, are there other prohibitions on public officials using their positions to avoid a personal financial detriment?

Yes. ORS 244.049 prohibits a holder of public office or candidates for public office from using public moneys or moneys received from a third party to make payments in connection with a non-disclosure agreement relating to workplace harassment if the alleged harassment occurred when the holder of public office or candidate was acting in that capacity. This prohibition applies to a person holding, or a candidate for, any elected state, county, district, city office or position.

Are there any circumstances in which a public official may use their position to accept financial benefits that would not otherwise be available but for holding the position as a public official?

Yes. ORS 244.040(2) provides a list of financial benefits that would not otherwise be available to public officials but for holding the position as a public official. The following financial benefits are not prohibited and may be accepted by a public official, and some may also be accepted by a public official's relative or member of the public official's household:

Not Prohibited:

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



OAR 199-005-0035(3) provides a definition of “official compensation package”:
An “official compensation package” means the wages and other benefits provided to the public official. To be part of the public official's “official compensation package”, the wages and benefits must have been specifically approved by the public body in a formal manner, such as through a union contract, an employment contract, or other adopted personnel policies that apply generally to employees or other public officials. “Official compensation package” also includes the direct payment of a public official's expenses by the public body, in accordance with the public body's policies.

- **Reimbursement of Expenses:** A public official may accept payments from the public official's public body as reimbursement for expenses the public official has personally paid while conducting the public body's business. [ORS 244.040(2)(c)]



The “reimbursement of expenses” means the payment by a public body to a public official serving that public body, of expenses incurred in the conduct of official duties on behalf of the public body. Any such repayment must comply with any applicable laws and policies governing the eligibility of such repayment. [OAR 199-005-0035(4)]

If the payment of a public official’s personal expenses does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244. There are occasions when someone will refer to the payment of a public official’s expenses by a person or entity other than the public official’s public body as a reimbursement of expenses. That is not the reimbursement of expenses as used in ORS 244.040(2)(c) and defined in OAR 199-005-0035(4).

- **Honoraria:** Most public officials are allowed to accept honoraria by ORS 244.040(2)(b) as defined in ORS 244.020(8). A public official must know how an honorarium is defined because there are many occasions when someone will offer them a financial benefit and call it an honorarium, but it does not meet the definition of honorarium in ORS 244.020(8).



For a payment to be defined as an honorarium, it must be made for a service, like a speech or other service rendered in connection with an event, for which no price is set and for which the public official required no fixed amount to be paid in return for providing the service. A payment or something of economic value given to a public official in exchange for services provided by the public official is an honorarium when the setting of the price has been prevented by custom or propriety.

A public official may not receive an honorarium when performing a service in the course of their duties as a public official. A public official may not accept honoraria if the value exceeds \$50, unless the honoraria is received for services performed in relation to the private profession, occupation, avocation, or expertise of the public official or candidate. [ORS 244.042(3)(a) and (b)].

Public officials must be sure, when they are offered a payment or something of economic value and it is referred to as an honorarium, that it does meet the definition in ORS 244.020(8). If it does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244.

NOTE: The Governor, First Partner, Secretary of State, State Treasurer, Attorney General, and Commissioner of the Bureau of Labor and Industries are explicitly prohibited by ORS 244.042(4) from soliciting or receiving an honorarium, money or any other consideration for **any** speaking engagement or presentation.

- Awards for Professional Achievement: Public officials may accept an award, if the public official has not solicited the award, and the award is offered to recognize a professional achievement of the public official. [ORS 244.040(2)(d)]



Awards for professional achievement should not be confused with awards of appreciation, allowed by ORS 244.020(7)(b)(C), an honorarium allowed by ORS 244.040(2)(b), or gifts that are allowed or restricted by other provisions in ORS Chapter 244.

Awards for professional achievement are best illustrated by awards that denote national or international recognition of a public official's achievement, such as receipt of the Nobel Prize. These awards may also be offered by public or private organizations in the state that are meant to recognize a public official for a distinguished career, such as Oregon's Teacher of the Year award made by the Oregon Department of Education which includes a monetary prize and travel funds. Professional achievements recognized may be identified as a single accomplishment or an accomplishment achieved during a period of time, such as a calendar year or a public official's career upon retirement.

- Contributions to Legal Expense Trust Fund: There are provisions in ORS 244.209 that allow public officials to establish legal expense trust funds that are approved by the Commission. ORS 244.040(2)(h) allows a public official who has established this trust fund to solicit, accept and be the trustee for contributions to the established fund. This is discussed in a separate section of the Guide p.41.



- Certain Gifts: Public officials may accept some gifts without limitation on the quantity or aggregate value of gifts. Acceptance of these gifts does not constitute a prohibited use of office. See allowable gifts, page 33. [ORS 244.040(2)(e) to (g)]



PRIVATE EMPLOYMENT OF PUBLIC OFFICIAL

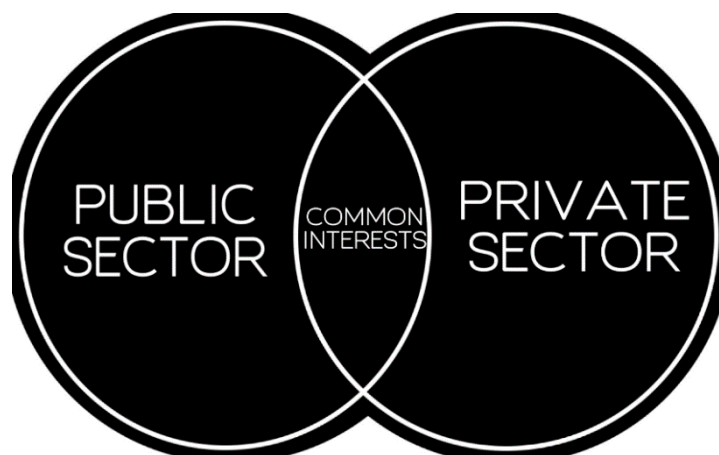
Does Oregon Government Ethics law prohibit a public official from owning a private business or working for a private employer while continuing employment with or holding a position with a public body?

No. As mentioned earlier, many public officials are volunteers, meaning there is little or no compensation for the public position. Other public officials may receive compensation from their public bodies, but still choose to seek additional sources of income. Some work for a private business and others establish a private business of their own. **NOTE: This guide does not address other statutes or agency policies that may limit private employment for public officials.**

In general, public officials may obtain employment with a private employer or engage in private income producing activity of their own, but they must keep a separation between their public positions and their outside employment or private business interests. The Commission has created the following guidelines for public officials to follow in order to avoid violating Oregon Government Ethics law when engaged in private employment or a personally owned business.

GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS

1. Public officials must not use their public position to create the opportunity for additional personal income.
2. Public officials may not use a government agency's supplies, facilities, equipment, employees, records or any other public resources to engage in their private employment or business interests.
3. Public officials are not to engage in private business interests or other employment activities on their government agency's time.
4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.



EMPLOYMENT OF FORMER PUBLIC OFFICIALS

What are the restrictions on employment after I resign, retire or leave my public official position?

- ORS 244.040(1) prohibits public officials from using their official positions or offices to create a new employment opportunity; otherwise, most former public officials may enter the private work force with few restrictions.
- ORS 244.040(5) prohibits a former public official from using or attempting to use confidential information for the personal gain of any person if the confidential information was obtained while holding the position as a public official.
- Oregon Government Ethics law restricts the subsequent employment of certain public officials. The restrictions apply to positions listed below:

ORS 244.045(1) State Agencies:

Director of the Department of Consumer and Business Services
Administrator of the Division of Financial Regulation
Administrator of the Oregon Liquor Control Commission
Director of the Oregon State Lottery
Public Utility Commissioner

1. One year restriction on accepting employment from or gaining financial benefits from a private employer in the activity, occupation or industry that was regulated by the agency for which the public official was the Director, Administrator or Commissioner.
2. Two year restriction on lobbying, appearing as a representative before the agency, or otherwise attempting to influence the agency for which the public official was the Director, Administrator or Commissioner.
3. Two year restriction on disclosing confidential information gained as the Director, Administrator or Commissioner for the agency.

ORS 244.045(2) Department of Justice:

Deputy Attorney Generals
Assistant Attorney Generals

Two year restriction from lobbying or appearing before an agency that they represented while employed by the Department of Justice.

ORS 244.045(3) Office of the Treasurer:

State Treasurer
Deputy State Treasurer

1. One year restriction from accepting employment from or being retained by a private entity with which there was negotiation or contract awarding \$25,000 in a single year by the office of the State Treasurer or Oregon Investment Council.
2. One year restriction from accepting employment from or being retained by a private entity with which there was investment of \$50,000 in one year by the office of the State Treasurer or Oregon Investment Council.
3. One year restriction from being a lobbyist for an investment institution, manager or consultant, or from representing an investment institution, manager, or consultant, before the office of State Treasurer or Oregon Investment Council.

ORS 244.045(4) Public Officials who invested public funds:

1. Two year restriction from being a lobbyist or appearing before the agency, board or commission for which public funds were invested.
2. Two year restriction from influencing or trying to influence the agency, board or commission.
3. Two year restriction from disclosing confidential information gained through employment.

ORS 244.045(5) Department of State Police:

Member of State Police who has been designated by law and was responsible for supervising, directing or administering programs related to Native American tribal gaming or the Oregon State Lottery

1. One year restriction from accepting employment from or gaining financial benefit related to gaming from the Lottery or a Native American Tribe.
2. One year restriction from gaining financial benefit from a private employer who sells gaming equipment or services.
3. One year restriction from trying to influence the Department of State Police or from disclosing confidential information.

Exceptions include subsequent employment with the state police, appointment as an Oregon State Lottery Commissioner, Tribal Gaming Commissioner or lottery game retailer, or personal gaming activities.

ORS 244.045(6) Legislative Assembly
Representative
Senator

A person who has been a member of the Legislative Assembly, may not, within one year after ceasing to be a member of the Legislative Assembly, receive money or other consideration for lobbying as defined in ORS 171.725.

How would Oregon Government Ethics law apply when a former public official is employed by a business that has a contract with the public body previously represented by the former public official?



In addition to the restrictions on specific positions identified above, the restriction in ORS 244.047 applies to all former public officials. After a public official ceases serving a public body or being employed in a position as a public official, that public official may not have a direct beneficial financial interest in a public contract for two years after the date the contract was authorized by the person acting in their capacity as a public official.

Whether a public official authorizes a contract individually as an employee of a public body, or participated in the authorization of a contract in their official capacity as a member of a board, commission, council, bureau, committee or other governing body, the person is restricted from financially benefiting from that public contract for two years after the date of authorization. [ORS 244.047]

“Authorized by” is defined in OAR 199-005-0035(6) as follows:

As used in ORS 244.047, a public contract is “authorized by” a public official if the public official performed a significant role in the selection of a contractor or the execution of the contract. A significant role can include recommending approval or signing of the contract, including serving on a selection committee or team, or having the final authorizing authority for the contract.

GIFTS

Oregon Government Ethics law establishes restrictions on the value of gifts that can be accepted by a public official. If the source of a gift to a public official has a legislative or administrative interest in the decisions or votes of the public official, the public official can only accept gifts from that source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year. [ORS 244.025].



The following framework of conditions applies when public officials, their relatives, or members of their households are offered gifts. To decide if a gift, or “something of value,” can be accepted with or without restrictions, the public official must analyze the offer and the source of the offer. As will be apparent in the following discussion, the burden of any decision on accepting a gift rests solely with the individual public official.

What counts as a “gift”?

When Oregon Government Ethics law uses the word “gift” it has the meaning in ORS 244.020(7)(a):

“Gift” means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

In other words, a “gift” is something of economic value that is offered to:

- A public official or candidate or to relatives or members of the household of a public official or candidate,
- Without cost or at a discount or as a forgiven debt, and,
- The offer is not made or available to members of the general public who are not public officials, candidates, or their relatives or household members on the same terms and conditions.

Example: At a conference exclusively for city and county officials, a public official buys a raffle ticket and wins a big screen television. The television is a gift because the value of the television exceeds the cost of the raffle ticket and the opportunity to enter the raffle and win the television was not available to members of the general public on the same terms and conditions.

Example: Outside of a grocery store, a public official buys a raffle ticket from a local scout troop and wins a big screen television. The television is not a gift because, although the value of the television exceeds the cost of the raffle ticket, the opportunity to enter the raffle and win the television was available to members of the general public on the same terms and conditions.

Once a public official or candidate has determined that an offer is a gift, because it is something of economic value that is not offered to members of the general public who are not public officials or candidates on the same terms and conditions, the public official or candidate must then determine if the value of the gift, combined with any other gifts from the same source during the calendar year, exceeds \$50. If so, the public official must then determine if the source of the gift has a legislative or administrative interest.

Any discussion of gifts must begin with the reminder that if the source of a gift to a public official or candidate **does not** have a legislative or administrative interest in the decisions or votes of the public official or candidate if elected, the public official or candidate can accept unlimited gifts from that source. [ORS 244.040(2)(f)]

What is a “Legislative or Administrative Interest”?



Whether there is a legislative or administrative interest is pivotal to any decision a public official or a candidate, if elected, makes on accepting gifts. It will mean the difference between being allowed to accept gifts without limits, accepting gifts with an annual limit of \$50 on the aggregate value, or accepting gifts which are specified exceptions under ORS 244.020(7).

The definition of a legislative or administrative interest is set forth in ORS 244.020(10):

“‘Legislative or administrative interest’ means an economic interest, distinct from that of the general public, in:

(a) Any matter subject to the decision or vote of the public official acting in the public official’s capacity as a public official; or

(b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.”

When analyzing a set of circumstances and applying “legislative or administrative interest,” there are several factors to consider:

Source: The Commission adopted a rule that identifies the source of a gift as the person or entity that makes the ultimate and final payment of the gift’s expense. OAR 199-005-0030 places two burdens on a public official who accepts gifts. The public official must know the identity of the source and, if applicable, avoid exceeding the limit on the aggregate value of gifts accepted from that source. [OAR 199-005-0030(2)]

Distinct from that of the general public:

With regard to gifts, this phrase 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 would realize a financial gain or detriment from matters subject to the vote or decision of a public official, that source has an economic interest in that public official. That economic interest is “distinct from that of the general public” if the potential financial gain or detriment is distinct from the financial impact that would be realized by members of the general public from the matters subject to votes or decisions of that same public official.



There are decisions or votes that have an economic impact on single individuals or individuals from specific businesses or groups that are distinct from the economic impact on members of the general public. On the other hand, there are many votes or decisions made by public officials that have the same general economic impact on individuals, businesses, organizations and members of the general public. Some examples of decisions or votes that would likely have an economic impact on members of the general public would be those that change water usage rates for residential users, fees for pet licenses, or fines for parking violations.

To illustrate, private contractors have an economic interest in any public official who has the authority to decide or vote to award them contracts. The economic interest of these contractors is distinct from the economic interest held by members of the general public in those decisions or votes.

To further illustrate, real estate developers have an economic interest in any public official who has the authority to decide or vote to approve their land use applications or building permits. The economic interest of these developers is distinct from the economic interest held by members of the general public in those decisions or votes.

Vote: This has the common meaning of to vote as an elected member of a

governing body of a public body or as an appointed member of a committee, commission or board appointed by a governing body, Oregon Legislative Assembly, or the Office of the Governor.

Decision: A public official makes a decision when the public official exercises the authority given to the public official to commit the public body to a particular course of action. [OAR 199-005-0003(2)].



Whether to accept or reject the offer of a gift must be made individually by each public official. There will be some public officials who may accept unlimited gifts from a source and other public officials within the same public body that would have restrictions on gifts have the same authority, responsibilities or duties. Some may vote and make decisions, others may do one but not the other, and many will not vote or make decisions. This means that when gifts are offered to two or more public officials, one public official may be allowed to accept the gift without limits, and another public official may not be able to accept the gift at all, or may only be able to accept it with limits as to value or with other restrictions.

Example: A cellular service provider offers a discounted cell-phone plan for first responders. The discounted plan is available only to first responders who work for state or local governments. Because the discounted cell-phone plan is not available to members of the general public on the same terms and conditions, it is a gift subject to the restrictions and limitations in ORS 244.025. First responders who are in positions to make official decisions for their agencies that could financially affect the cellular service provider, such as Fire Chiefs or board members, could not accept the discounted cell-phone plan since the discount totals more than \$50 in a calendar year; however, first responders who are not in positions to make official decisions for their agencies that could financially affect the cellular service provider could accept the discounted cell-phone plan.

What obligations are placed on the giver of a gift?

Sources who offer gifts or other financial benefits to public officials must also be aware of the provisions in ORS Chapter 244. While the specific gift of paid expenses may be allowed by ORS 244.020(7)(b)(F), ORS 244.100(1) requires the source of this gift, if over \$50, to notify the public official in writing of the aggregate value of the paid expenses. There is also a notice requirement in ORS 244.100(2) for the source of an honorarium when the value exceeds \$15. Lobbyists, clients or employers of lobbyists, and others who provide gifts or financial benefits to public officials should also familiarize themselves with the provisions in ORS 171.725 through ORS 171.992 and Divisions 5 and 10 of Chapter 199 in the Oregon Administrative Rules. The Commission has published a “Guide to Lobbying in Oregon” that provides a summary of these regulations and rules.

What gifts may a public official accept regardless of value?

While gifts from a source with a legislative or administrative interest in the decisions or

votes of a public official may only be accepted up to the \$50 limit, there are some gifts that are excluded from the definition of a “gift,” when offered under specific conditions or when prerequisites are met. If the offer of a gift is excluded from the definition of a “gift,” the offer may be accepted by a public official, regardless of value.

The value of gifts that are allowed as exclusions does not have to be included when calculating the aggregate value of gifts received from that source in one calendar year. [ORS 244.020(7)(b)] Although some gifts are allowed by these exclusions, it should be remembered that a source may have a notice requirement or there may be reporting requirements for the public official or the source. If you are a public official accepting gifts or a source offering gifts, it is important that you become familiar with the requirements that may apply to you.

ORS 244.020(7)(b) provides a description of the **GIFTS THAT ARE ALLOWED** as exclusions to the definition of a “gift.” **NOTE:** Not all of these exclusions apply to gifts offered to candidates. These exclusions include:

- Campaign contributions as defined in ORS 260.005. [ORS 244.020(7)(b)(A)]
- Contributions to a legal expense trust fund established under ORS 244.209. [ORS 244.020(7)(b)(G)]
- Gifts from relatives or members of the household of public officials or candidates. [ORS 244.020(7)(b)(B)]
- Anything of economic value received by a public official or candidate, their relatives or members of their household when:

The receiving is part of the usual and customary practice of the person’s business, employment, or volunteer position with any non-profit or for-profit entity; [ORS 244.020(7)(b)(O)(i)] **and**

The receiving bears no relationship to the person’s holding the official position or public office. [ORS 244.020(7)(b)(O)(ii)]

- Unsolicited gifts with a resale value of less than \$25 and in the form of items similar to a token, plaque, trophy and desk or wall mementos. [ORS 244.020(7)(b)(C); OAR199-005-0010]
- Publications, subscriptions or other informational material related to the public official’s duties. [ORS 244.020(7)(b)(D)]
- Waivers or discounts for registration fees or materials related to continuing education or to satisfy a professional licensing requirement for a public official or candidate. [ORS 244.020(7)(b)(J)]

- Entertainment for a public official or candidate and their relatives or members of their households when the entertainment is incidental to the main purpose of the event. [ORS 244.020(7)(b)(M); OAR 199-005-0001; OAR 199-005-0025]
- Entertainment for a public official, a relative of the public official or a member of the public official's household when the public official is acting in an official capacity and representing a government agency for a ceremonial purpose. [ORS 244.020(7)(b)(N); OAR 199-005-0025(2)]
- Cost of admission or food and beverage consumed by the public official, a relative of the public official, a member of the public official's household or staff when they are accompanying the public official, who is representing a government agency, at a reception, meal or meeting held by an organization. [ORS 244.020(7)(b)(E); OAR 199-005-0015; OAR 199-005-0001]
- Food or beverage consumed by a public official or candidate at a reception where the food and beverage is an incidental part of the reception and there was no admission charged. [ORS 244.020(7)(b)(L); OAR 199-005-0001(3)]
- When public officials travel together inside the state to an event bearing a relationship to the office held and the public official appears in an official capacity, a public official may accept the travel related expenses paid by the accompanying public official. [ORS 244.020(7)(b)(K)]
- Payment of reasonable expenses if a public official is scheduled to speak, make a presentation, participate on a panel or represent a government agency at a convention, conference, fact-finding trip or other meeting. The paid expenses for this exception can only be accepted from another government agency, Native American Tribe, an organization to which a public body pays membership dues, or not-for-profit organizations that are tax exempt under 501(c)(3). [ORS 244.020(7)(b)(F); OAR 199-005-0020; OAR 199-005-0001]
- Payment of reasonable food, lodging or travel expenses for a public official, an accompanying relative, member of household, or staff, may be accepted when the public official is representing their government agency at one of the following: [ORS 244.020(7)(b)(H); OAR 199-005-0020; OAR 199-005-0001]
 - Officially sanctioned trade promotion or fact-finding mission; [ORS 244.020(7)(b)(H)(i)] **or**
 - Officially designated negotiation or economic development activity when receipt has been approved in advance. [ORS 244.020(7)(b)(H)(ii)]

[NOTE: Who may officially sanction and officially designate these events, and how to do so, is addressed in OAR 199-005-0020(3)(b).]

- Payment to a public school employee of reasonable expenses for accompanying students on an educational trip. [ORS 244.020(7)(b)(P)]
- Food and beverage when acting in an official capacity in the following circumstances: [ORS 244.020(7)(b)(I)]
 - In association with a financial transaction or business agreement between a government agency and another public body or a private entity, including such actions as a review, approval or execution of documents or closing a borrowing or investment transaction; [ORS 244.020(7)(b)(I)(i)]
 - When the office of the Treasurer is engaged in business related to proposed investment or borrowing; [ORS 244.020(7)(b)(I)(ii)]
 - When the office of the Treasurer is meeting with a governance, advisory or policy making body of an entity in which the Treasurer's office has invested money. [ORS 244.020(7)(b)(I)(iii)]

GIFTS AS AN EXCEPTION TO THE USE OF OFFICE PROHIBITION IN ORS 244.040

As covered in more detail in the discussion beginning on page 17, public officials are prohibited from using or attempting to use the position they hold to obtain a prohibited financial benefit. [ORS 244.040(1)] As covered in more detail in the discussion beginning on page 26, Oregon Government Ethics law does not prohibit public officials from accepting gifts, but it does place on each individual public official the personal responsibility to understand there are circumstances when the aggregate value of gifts may be restricted. [ORS 244.025] These provisions of Oregon Government Ethics law often converge and require analysis by public officials to determine whether the opportunity to obtain financial benefits represents the use of an official position prohibited by ORS 244.040(1) or a gift addressed with other provisions in ORS Chapter 244 [ORS 244.020(7), ORS 244.025 or ORS 244.040(2)(e),(f) and (g)].



ORS 244.040 was amended in 2007 to make the acceptance of gifts that comply with ORS 244.020(7) and ORS 244.025 exceptions to the prohibition on public officials' use or attempted use of an official position to gain financial benefits. [ORS 244.040(2)(e), (f) and (g)] If a public official, relative, or household member accepts a permissible gift or a financial benefit that qualifies as an exception to the definition of a gift, ORS 244.040(1) does **not** prohibit its acceptance. If a public official, relative, or household member accepts a gift that exceeds the restrictions or limitations set forth in ORS 244.025, then that gift would not qualify under the exceptions set forth in ORS 244.040(e), (f) and (g). Acceptance of that gift could constitute a violation of both ORS 244.025 and ORS 244.040(1).

When the Commission applies Oregon Government Ethics law to "something of economic value" offered to a public official that meets the definition of "gift," it will first be analyzed to determine whether it is a violation of ORS 244.025. If the Commission determines that acceptance of the gift constitutes a violation of ORS 244.025 (unlawful acceptance of a gift), it will then determine if it also constitutes a violation of ORS 244.040(1) (prohibited use of office).

The following are examples to illustrate the Commission's approach:

- The mayor of a town on the Oregon coast was a college roommate with Bob Smith, who now manages a company that owns many golf courses in Oregon and other states. One of the company's golf courses is in the mayor's town. The mayor and

Bob have remained friends ever since college. Recently, Bob invited the mayor to join him at the Masters' Tournament in Augusta, offering to fly him there on Bob's private jet, stay in Bob's condo, and host him at a private booth at the Tournament. The value of this trip exceeds \$50, and Bob has a legislative or administrative interest in the mayor's decisions as a public official, as one of Bob's golf courses is in the mayor's town. Since the value of the trip exceeds \$50, is not extended to others who are not public officials on the same terms and conditions, and is from a source with a legislative or administrative interest, it is a gift that the mayor cannot accept without violating ORS 244.025(1). It also does not qualify as an exception to ORS 244.040(1). [ORS 244.040(2)(e)]. Bob has been inviting his old college friend on this trip for at least 10 years, long before the friend was elected mayor recently. This and other evidence indicates that the mayor received this offer because he and Bob are friends, not because he is the town's mayor; therefore, the offer of this trip does not represent a financial gain that would not be available to the mayor but for his holding his public office. Thus, if the mayor accepted the gift of this trip, the mayor would violate ORS 244.025(1) (acceptance of an unlawful gift), but would not violate ORS 244.040(1) (prohibited use of office).

- A public works director for B City holds weekly breakfast meetings at a local diner. The public works director invites five main contractors in B City, all of whom do business with the city, to attend these meetings. The contractors take turns picking up the tab for the public works director's breakfast. Because the public works director has the authority to recommend the contractors for projects with the city, the contractors have economic interests distinct from that of the general public in the public works directors' decisions or recommendations. Over the course of a calendar year, each contractor pays for at least ten meals for the public works director, at a total aggregate cost exceeding \$50. These meals constitute unlawful gifts to the public works director, as their value exceeds \$50, they are not extended to others who are not public officials on the same terms and conditions, and they are from sources with distinct economic interests in the public works director's decisions or recommendations. The contractors would not pay for these meals if he were not the public works director. Thus, in addition to violating ORS 244.025(1), by accepting these meals the public works director also violates ORS 244.040(1).

The responsibility for judgments and decisions made in order to comply with the various provisions in Oregon Government Ethics law rests with the individual public official who faces the circumstances that require a judgment or decision. That is true of questions regarding gifts, use of an official position, announcing the nature of conflicts of interest and the many situations addressed in ORS Chapter 244.

NEPOTISM



Does Oregon Government Ethics law prevent two or more relatives from being employees of the same public body?

No. Public officials who are relatives can be employed by the same public body employer at the same time, or serve at the same time on the same governing body of a public body.

ORS Chapter 244 does, however, does address the issue of “nepotism.” The definitions of “member of household” and “relative” found in ORS Chapters 244.020(11) and 244.020(16) apply here: See page 7.

What are the provisions that address nepotism?

Public officials are restricted from participating in personnel actions taken by the public agency that would impact the *paid employment* of a relative or member of the public official’s household. If a public official has a relative or household member who has applied to be or serves as an *unpaid volunteer*, the public official may participate in any personnel action that involves the relative or member of the household.

Personnel actions addressed by this statute include:

- Appointing, employing or promoting a relative or member of the public official’s household; or
- Discharging, firing or demoting a relative or member of the public official’s household.

ORS 244.177(1)(a) provides that a public official may not appoint, employ or promote (or discharge, fire or demote) a relative or member of their household from a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of ORS Chapter 244. Even if the public official discloses a conflict of interest, a public official who takes such a personnel action for a relative or member of their household could still be found in violation of the use of office provisions of ORS 244.040(1).

Separately, ORS 244.177(1)(b) directs that a public official may not participate in any interview, discussion or debate regarding such personnel actions involving a relative or member of the public official’s household.

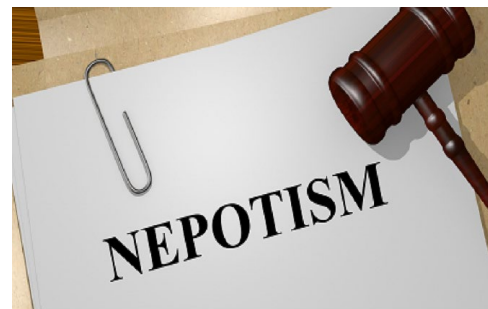
A public official who is assigned duties that include performing “ministerial acts” related

to any stage of a relative's employment is 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. A public official may serve as a reference or provide a recommendation for a relative who has applied for a position of employment, promotion, or is subject to any personnel action.

Exception: Public officials may not, however, participate in appointing a relative or member of the household to an unpaid position on the governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control. [ORS 244.177(3)(a) and (b)]

Can public officials supervise their relatives or members of their households?

Nepotism also applies to supervision of relatives or members of the public official's household. ORS 244.179(1) prohibits public officials from directly supervising relatives or members of their household in paid positions. The public official may supervise an unpaid volunteer serving the public body, unless the volunteer position is as a member of a governing body of the public body. [ORS 244.179(3)]



Policy Exception: ORS 244.179(4) permits a public body to adopt policies that specify when a public official, acting in an official capacity for the public body, may directly supervise a relative or member of the public official's household in a paid position. OAR 199-005-0080 provides guidance to public bodies in developing such policies. Absent such a policy, a public official may not directly supervise a remunerated person who is a relative or member of the public official's household. [ORS 244.179(1)]

Direct supervision of a paid relative or household member includes official actions that would financially impact their relative or household member, such as:

- Conducting performance reviews
- Approving leave or vacation time
- Recommending or approving pay changes
- Assigning shifts
- Approving overtime
- Authorizing or approving reimbursements or travel expenses
- Authorizing worksite assignments or teleworking

Exception: Public officials who are elected members of the Oregon Legislative Assembly are not prohibited from participating in employment actions, including supervision of their relatives or household members on their personal staff [ORS 244.177(2)].

ANNUAL VERIFIED STATEMENT OF ECONOMIC INTEREST



There are approximately 5,500 Oregon public officials who must file an **Annual Verified Statement of Economic Interest (SEI)** with the Oregon Government Ethics Commission **by April 15** of each calendar year. The SEIs are now filed electronically through the Commission's Electronic Filing System (EFS).

ORS 244.050 identifies the public officials who are required to file SEIs. Please refer to that statute to see if your specific office or position requires you to file an SEI. In general, public officials who hold the following positions are required to file:

- State public officials who hold elected or appointed executive, legislative or judicial positions. This includes those who have been appointed to positions on certain boards or commissions.
- In counties, all elected officials, such as commissioners, assessors, surveyors, treasurers and sheriffs must file. Planning commission members and the county's principal administrator must also file.
- In cities, all elected officials, the city manager or principal administrator, municipal judges and planning commission members must file.
- Administrative and financial officers in school districts, education service districts and community college districts must file.
- Some members of the board of directors for certain special districts must file.
- Candidates for some elected public offices are also required to file.

The Commission staff has identified by jurisdiction the public officials whose position requires them to file the SEI. Each jurisdiction (city, county, executive department, board or commission, etc.) has a person (jurisdictional contact) who acts as the Commission's point of contact for that jurisdiction. [OAR 199-020-0005(1)]

The **jurisdictional contact (JC)** for each jurisdiction has an important role as a liaison between the Commission and the SEI filers in their jurisdiction. It is through the JC that the Commission obtains the current name, address and email address of each public official who is required to file. When there is a change in who holds a position through resignation, appointment or election, the JC periodically updates their jurisdictional records and beginning in January of each year the JC is asked to update and verify the required filers in the EFS system. Any necessary changes or updates in EFS are due by February 15. [OAR 199-020-0005(2)]

As with other provisions in Oregon Government Ethics law, it is each public official's personal responsibility to ensure they comply with the requirement to complete and submit the SEI by April 15. Those public officials who must file an SEI are well served if the JC for their jurisdiction ensures that the Commission has the correct name and email address of the public official. The JC should ensure that each SEI filer has been advised of the reporting requirements. Each filer should also receive information as to the procedures the jurisdiction follows to assist the filer in meeting the SEI filing requirement.

Again, the requirement to file the SEI is the personal responsibility of each public official. Each public official should comply and file timely, as the civil penalties for late filing are \$10 for each of the first 14 days after the filing deadline and \$50 for each day thereafter until the aggregate penalty reaches the maximum of \$5,000. [ORS 244.350(4)(c)]

SEI Filing

NOTE: Only public officials who hold a position that is required to file, and who hold that position on April 15 of the year the SEI is due, must file an SEI.

SEIs are filed online through the Commission's Electronic Filing System (EFS). Notifications and instructions for e-filing will be sent to SEI filers electronically via email addresses initially supplied in EFS by the JC and updated when necessary.

The following is a brief description of the information requested in the SEI electronic filing. The information needed to complete the filing pertains to the previous calendar year.

- Name, address and a brief description of each business in which a position as officer or director was held by the filer or household member. [ORS 244.060(1)]

Name, address and a brief description of each business through which the filer or household member did business. [ORS 244.060(2)]

Name, address, and brief **description** of the **sources** (*not amounts*) of income for the filer and household members that represent 10 percent or more of the annual household income. [ORS 244.060(3)]

Example: An SEI filer resides only with a spouse and their annual household income from the prior year is derived from the spouse's job at Walmart, the spouse's retirement, and the public official's salary as an employee at a public university. The respective "sources" would be: "Walmart", "Social Security" and "XX University"; respective "descriptions" would be "spouse's wages", "spouse's retirement" and "filer's salary".

- Ownership interests held by the filer or household members in real property, **except for their principal residence**, located within the geographic boundaries of the jurisdiction in which the filer holds the position or seeks to hold. [ORS 244.060(4)(a) and (b)] **NOTE: SEI filers who serve statewide and members of the Legislative**

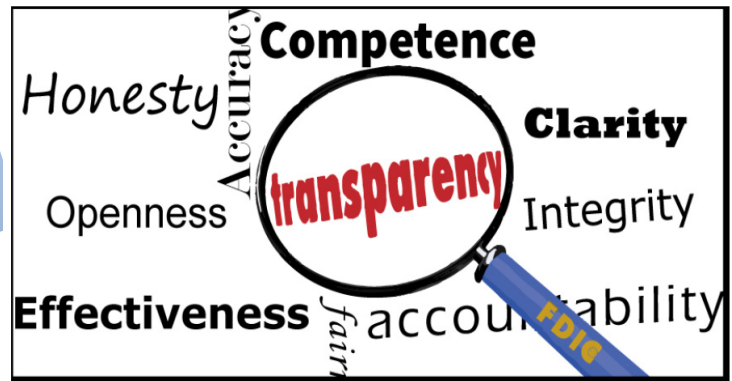
Assembly must report real property held within the entire state of Oregon. This applies to candidates for statewide office and the Legislative Assembly.

- Honoraria or other items allowed by ORS 244.042 that exceed \$15 in value given to the filer or household members. Include a description of the honoraria or item and the date and time of the event when the item was received. [ORS 244.060(7)] Remember that honorarium cannot exceed \$50. [ORS 244.042(3)(a)]
- Name of each lobbyist associated with any business with which the filer or household member is associated, unless the association is through stock held in publicly traded corporations. [ORS 244.090]
- If the public official received over \$50 from an entity when participating in a convention, fact-finding mission, trip, or other meeting as allowed by ORS 244.020(7)(b)(F), list the name and address of the entity that paid the expenses. Include the event date, aggregate expenses paid and the purpose for participation. [ORS 244.060(5) and ORS 244.100(1)] [Not required for candidates]
- If the public official received over \$50 from an entity when participating in a trade promotion, fact-finding mission, negotiations or economic development activities as allowed by ORS 244.020(7)(b)(H), list the name and address of the person that paid the expenses. Include the event date, aggregate expenses paid and nature of the event. [ORS 244.060(6)] [Not required for candidates]
 - **EXCEPTION:** Expenses paid by the public body to their own public officials need not be reported by the public official under ORS 244.060 [OAR 199-005-0035(4)].

The following is required if the information requested relates to an individual or business that has been doing, is doing or could reasonably be expected to do business with the filer's governmental jurisdiction, has a legislative or administrative interest in the filer's governmental jurisdiction, or over which the filer exercises any authority:

- Name, address and description of each source of income (taxable or not) that exceeds \$1,000 for the filer or a household member. [ORS 244.060(8)]
- Name of each person the filer or a household member owes or has owed \$1,000 or more in the previous calendar year. Include the date of the loan and the interest rate. Debts on retail contracts or with regulated financial institutions are excluded. [ORS 244.070(1)]
- Name, address and description of nature of each business in which filer or household member has beneficial interest over \$1,000 or investment held in stocks or securities over \$1,000. Exemptions include mutual funds, blind trusts, deposits in financial institutions, credit union shares and the cash value of life insurance policies. [ORS 244.070(2)]

- Name of each person from whom the filer received a fee of over \$1,000 for services, unless disclosure is prohibited by law or a professional code of ethics. [ORS 244.070(3)]



LEGAL EXPENSE TRUST FUND

The Oregon Government Ethics Commission can authorize a public official to establish a legal expense trust fund to be used to defray expenses incurred for a legal defense 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]

The provisions regarding the establishment of this fund are detailed in ORS 244.205 through ORS 244.221. If a public official is considering the need to establish a legal expense trust fund, these provisions should be reviewed. The Commission staff is available to provide guidance on the procedures. The following are some of the significant elements of a legal expense trust fund:

- A public official may only have one trust fund at any one time. [ORS 244.205(4)]
- The application to establish the fund must be submitted to the Commission for review and authorization. ORS 244.209 details what information and documents must accompany the application.
- The public official may act as the public official's fund trustee. [ORS 244.211(2)]
- Once authorized and established, any person may contribute to the fund. [ORS 244.213(1)]
- Contributions from a principal campaign committee are not allowed. [ORS 244.213(3)]
- Funds must be maintained in a single exclusive account [ORS 244.215].
- Quarterly reports of contributions and expenditures from the fund are required. [ORS 244.217]
- The fund may be terminated within six months after the legal proceeding for which the fund was established has been concluded. [ORS 244.219]
- When terminated, remaining funds must be returned to contributors on a pro rata basis. [ORS 244.221(1)]
- If the legal proceeding for which the fund was initiated resulted in any financial award or money judgment in favor of the public official, such moneys shall be distributed in the following order: outstanding legal expenses, to trust fund contributors on a pro rata basis, and to the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the IRS Code. [ORS 244.221(2)]

Once established, can the public official solicit funds in order to pay for the cost of a legal defense?

Yes. An exception to the prohibited use of office provision explicitly allows a public official to solicit and accept funds for the official's legal expense trust fund. [ORS 244.040(2)(h)] Also, contributions to a legal expense trust fund are excluded from the definition of a "gift." [ORS 244.020(7)(b)(G)]

OREGON GOVERNMENT ETHICS COMMISSION

The Governor appoints all nine members of the Commission and each appointee is confirmed by the Senate. The commissioners are recommended as follows: [ORS 244.250]

- 2 Recommended by the Senate Democratic leadership
- 2 Recommended by the Senate Republican leadership
- 2 Recommended by the House Democratic leadership
- 2 Recommended by the House Republican leadership
- 1 Recommended by the Governor

The Commission members select a chairperson and vice chairperson annually. No more than three commissioners with the same political party affiliation may be appointed to the Commission to serve at the same time. The commissioners are limited to one four-year term, but if an appointee fills an unfinished term they can be reappointed to a subsequent four year term.

The Commission is administered by an executive director, who is selected by the Commission. Legal counsel is provided by the Oregon Department of Justice. Commission staff provide administration, training, guidance, issue written opinions and advice, and conduct investigations when complaints are filed with the Commission.

Training:

The Commission has designated training as one of its highest priorities. It has two staff positions to provide free training to public officials and lobbyists on the laws and regulations under its jurisdiction. Training is provided through presentations at training events, web-based training, informational links on the website, topical handouts and guidance offered when inquiries are received. Contact the Commission to obtain free training through our website at <https://www.oregon.gov/ogec/training/Pages/default.aspx>



Advice:



Questions regarding the Commission’s laws, regulations and procedures are a welcome daily occurrence. Timely and accurate answers are a primary objective of the staff. All members of the Commission staff are cross-trained in the laws and regulations under the Commission’s jurisdictions. Guidance and information is

provided either informally, over the telephone at 503-378-5105, by e-mail at ogec.mail@oregon.gov, or in the following written formal advice and opinions:

- **Staff Advice:** ORS 244.284 provides for informal staff advice, which may be offered in several forms, such as in person, by telephone, e-mail or letter. In a letter of advice, the proposed, hypothetical or actual facts are restated as presented in

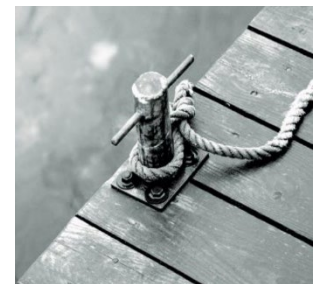
the request, along with the relevant statutes and administrative rules. The advice will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request.

- **Staff Advisory Opinion:** ORS 244.282 authorizes the executive director to issue a staff advisory opinion upon receipt of a written request. The Commission must respond to any request for a staff advisory opinion within 30 days, unless the executive director extends the deadline by an additional 30 days. The staff advisory opinion is issued in a letter that restates the proposed, hypothetical or actual facts presented in the written request and identifies the relevant statutes and administrative rules. The opinion will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request.
- **Commission Advisory Opinion:** ORS 244.280 authorizes the Commission to prepare and adopt by vote a Commission Advisory Opinion. Commission advisory opinions are reviewed by legal counsel before being adopted by the Commissioners. The opinion will identify the relevant statutes and administrative rules and will discuss how the law applies to the questions asked or raised by the fact circumstances provided in the request. The Commission must respond to any request for a Commission Advisory Opinion within 60 days, unless the Commission extends the deadline by an additional 60 days.

Public officials who request advice or formal opinions must describe the specific facts and circumstances that provide the basis for questions about how the Oregon Government Ethics law may apply. The facts and circumstances may be hypothetical or actual, but must be prospective, describing a proposed transaction or action, not one that has already occurred. If actual circumstances indicate that a violation may have already occurred, the staff cannot provide advice or an opinion because to do so could compromise the Commission’s objectivity if a complaint were to be filed. As described below, whether a public official relied on Commission advice or opinions is relevant to sanctions, in the event a complaint is filed against the public official.

If a person requests, receives or relies on any of the advice or opinions authorized by ORS 244.280 through ORS 244.284, does that person have what is referred to as “safe harbor”?

There is no “safe harbor,” if the term is understood to mean that any person who relies on any advice or opinions offered by the Commission or the staff is protected from being a respondent to a complaint or from being found in violation of laws within the jurisdiction of the Commission.



There is, however, specific and conditional protection for any person who has requested and relied in good faith upon advice or an opinion from the Commission or its staff. The conditions and protection is as follows:

- The fact circumstances described in the request must not misrepresent, misstate or omit material facts.
- Reliance on the advice or opinion means that the action or transactions of the person were those described or suggested in the advice or opinion.
- The protection applies only during the penalty phase, after the Commission has determined that a violation has occurred. If there was reliance on staff advice or a Staff Advisory Opinion, the Commission may consider the reliance during the penalty phase. If reliance was on a Commission Advisory Opinion, the Commission may not impose a penalty.

The specific protections for the different forms of advice are as follows:

Staff Advice: If the Commission makes a finding that a public official violated provisions of law within its jurisdiction, and that public official acted in accordance with staff advice offered under the authority of ORS 244.284, the Commission may consider that information when sanctioning the violation. [ORS 244.284(2)] The Commission is not prevented from finding a violation, but the sanction imposed could be affected.

Staff Advisory Opinion: If the Commission determines that a public official violated provisions of law within its jurisdiction, and the public official acted in accordance with a staff advisory opinion under the authority of ORS 244.282, in sanctioning the violation, the Commission may consider whether the public official committed the violation when acting in reliance on the staff advisory opinion. [ORS 244.282(3)] The Commission is not prevented from finding a violation in these circumstances, but any sanction is limited to issuing a written letter of reprimand, explanation, or education, unless it finds that the person omitted or misstated material facts in the request for a staff advisory opinion.

Commission Advisory Opinion: The Commission may not impose a penalty on a person for any good faith action taken by the person while relying on a Commission Advisory Opinion, unless it is determined that the person who requested the opinion omitted or misstated material facts in the opinion request. [ORS 244.280(3)] For the Commission Advisory Opinion to be a factor in preventing the imposition of a penalty, it is important to understand that the circumstances described in the request must have been an accurate description of what occurred when the respondent committed the violation, and the actions of the respondent must have been those recommended or described in the Commission Advisory Opinion. The Commission is not prevented from finding a violation in these circumstances, but could be prevented from imposing a sanction.

Any person who has not requested advice or an opinion must be cautious when trying to apply advice or opinions offered to others. The advice and opinions given are based on and tailored to the specific fact circumstances presented in a request. Fact circumstances

vary from one situation to another and they vary from one public official to another. If a person reviews an opinion or advice issued to another for circumstances the person believes similar to those now met and relies on that advice, the person must ensure the similarity is sufficient for the application of law to be the same.

It is important to remember that the provisions of law apply to the individual actions of the person or public official. There are events or occasions when more than one public official may be present and participating in their official capacities. Depending on the circumstances and conditions for an event or transaction, the law may have a different application for one public official than for other public officials.

Published advice that the Commission has issued may be found at <https://www.oregon.gov/oqec/public-records/Pages/Advice-and-Opinions.aspx>



Compliance:

The Commission has a program manager who oversees the management and administration of the various reports that are filed with the Commission. There are approximately 1,000 lobbyists who must file or renew their lobbying registrations every two years. These lobbyists, and their clients or employers, must also file lobbying activity expense reports every quarter. Additionally, there are approximately 5,500 public officials who must file the Annual Verified Statement of Economic Interest each April 15. The program manager and Commission staff are available by telephone or e-mail to provide assistance and answer questions about registration and filing requirements and procedures.

Complaint Review Procedures:

Investigations are initiated through a complaint procedure. [ORS 244.260 and ORS 171.778] Any person may file a signed, written complaint alleging that there may have been a violation of Oregon Government Ethics law, Lobbying Regulation or the executive session provisions of Oregon Public Meetings law. The complaint must identify the public official believed to have violated the law, and must state the person's reason for believing that a violation may have occurred and include any evidence that supports that belief. The complaint must identify and be signed by the person filing it. Anonymous complaints are not accepted. The executive director reviews the complaint for jurisdiction and sufficiency. If additional information is needed, the complainant is asked to provide that information.

Complaints are filed online via the “Complaint Form” found on the Commission’s website homepage at <https://www.oregon.gov/ogec/public-records/Pages/Complaints.aspx>. All complaints must be signed, either through an e-signature if submitted through the online complaint system, or an inked signature if filed by paper. NOTE: The name of the complainant is furnished to the subject of a complaint.

If there is reason to believe that a violation of laws within the jurisdiction of the Commission may have been committed, a case will be initiated upon receipt of a complaint. The Commission may also initiate a case on its own complaint by motion and vote. Before approving such a motion, the public official against whom the action may be taken is notified and given an opportunity to appear before the Commission at the meeting when the matter is discussed or acted upon.

When a case is initiated, the public official against whom the allegations are made is referred to as the respondent. The respondent is notified of the complaint and provided with the information received in the complaint and the identity of the complainant. Whether based on a complaint or a motion by the Commission, the initial stage of the case is called the preliminary review phase. The time allowed for this phase is limited to 30 days (135 days for lobby cases) and ends when the executive director finalizes the preliminary review report.

A court may enjoin the Commission from continuing its inquiry during the preliminary review phase. Also, if a complaint is made against a candidate within 61 days of an election, the candidate may make a written request for a delay. [ORS 244.260(4)(a)]

During the preliminary review phase, the Commissioners and staff can make no public comment on the matter other than to acknowledge receipt of the complaint. It is maintained as a confidential matter until the Commission meets in executive session to consider whether to dismiss the complaint or find cause to conduct an investigation. Following the Commission’s consideration of the preliminary review report in executive session, the case file is subject to public disclosure.

If the Commission votes to dismiss the complaint, the matter is concluded and both the respondent and complainant are notified. If cause is found to investigate, then an investigatory phase begins. The investigatory phase is limited to 180 days. The investigatory phase may be suspended during a pending criminal investigation if the Commission determines that its own investigation cannot be adequately completed until the criminal investigation is complete, or if a court enjoins the Commission from investigation.

During the investigatory phase, Commission investigators will solicit information and documents from the complainant, respondent, and other witnesses and sources that are identified. Before the end of the 180 day investigatory period, an investigation report will be prepared. The investigation report is reviewed by the Commission’s legal counsel before being finalized by the executive director. The investigation report is presented to the Commission in the public session portion of its meeting. The Commission will then

consider the results of the investigation and generally will vote to either dismiss the complaint or make a preliminary finding that a violation of law was committed by the respondent. The preliminary finding of a violation is based on what the Commission considers to be a preponderance of evidence sufficient to support such a finding.

If a preliminary finding of violation is made, the respondent will be offered the opportunity to request a contested case hearing. At any time, either during the investigative phase or after a preliminary finding of violation is made, the respondent is encouraged to negotiate a settlement with the executive director, who represents the Commission in such negotiations. Most cases before the Commission are resolved through a negotiated settlement, with the terms of the agreement set forth in a Stipulated Final Order.

The Commission has a variety of sanctions available after making a finding that a violation occurred. Sanctions range from letters of education, reprimand, or explanation, to civil penalties and forfeitures. The maximum civil penalty that can be imposed for each violation of Oregon Government Ethics law is \$5,000, except for violations of ORS 244.045 (regulation of subsequent employment) where the maximum penalty is \$25,000 and for “willful” violations of ORS 244.040 (the “prohibited use of position or office” provision) where the maximum penalty is \$10,000. An additional civil penalty may be assessed equal to twice the financial gain that a respondent realized from a violation. Each violation of the executive session provisions in ORS 192.660 is subject to a maximum fine of \$1,000. Any monetary sanctions paid are deposited into the State of Oregon General Fund.

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