

Public Meetings, Public Records, and
Ethics Training
Tuesday, August 24, 2021 5:00 PM

Dr. Matthew Prophet Education Center -
Mazama Conference Room (floor 2)
501 N. Dixon St.
Portland, OR 97227

Agenda

1. Public Meetings, Public Records, and Ethics

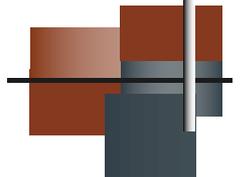


HARRANG LONG
GARY RUDNICK P.C.
ATTORNEYS AT LAW

Annual Training on Public Records, Public Meetings, and Ethics

Randy Geller, Shareholder
Harrang Long Gary Rudnick P.C.
August 24, 2021

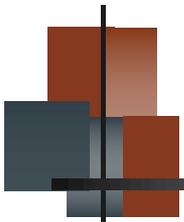
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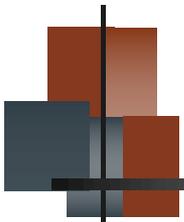
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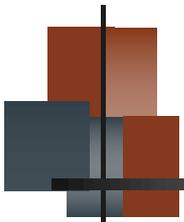
Scope of Presentation

- Public Records Law
 - Definition
 - Application
- Public Meetings Law
 - Serial Meetings
 - Social Gatherings
 - Executive Session Information



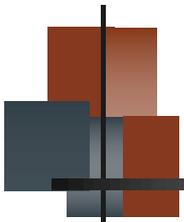
Scope of Presentation cont'd

- Government Ethics Law
 - Conflicts of Interest
 - Gifts
 - Use of Office for Financial Benefit
- Attorney-Client Privilege



Public Records Law

- All state and local government bodies are subject to the Public Records Law, including PPS
- “Public record” includes any writing that contains information relating to the conduct of the public’s business . . . prepared, owned, used or retained by a public body regardless of physical form or characteristics.



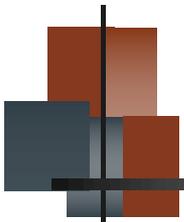
Public Records Law cont'd

Issue: An email on a privately-owned computer or smart phone or in a personal email account may be a public record. The questions are:

- Does the record relate to the conduct of the public's business?
- Is the record prepared, owned, used or retained by a public body?

Public Records Law – Lessons

- Best practice is to separate private and public business
- Avoid using your personal email account for PPS business and your PPS email account for personal business
- Be careful about what you put in emails



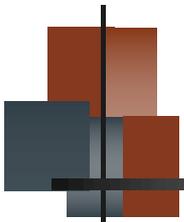
Public Meetings Law

- The PML applies to a quorum of any governing body of a public body.
- The PPS Board is a governing body of a public body
- A Board committee can also be a governing body of a public body
- A quorum of the Board is four; quorum of a committee may be fewer (or more)

Public Meetings Law – “Serial Communications”

- A governing body risks violating the Public Meetings Law through a series of private communications.
- Avoid email discussions with a quorum of the Board
- Discussions before or after meetings and during a recess

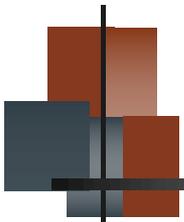
Public Meetings Law – Social Gatherings



- Purely social gatherings of the members of a governing body are not covered by the PML.
- Board members constituting a quorum must avoid any discussion of official business.
- The public may misperceive social gatherings as involving public business.

Public Meetings Law – Executive Sessions

- What is discussed in an executive session is confidential
- You may talk about executive session items with another person who was present in the executive session
- But remember PML issues about discussions with other Board members outside a public meeting



Government Ethics Law

- Applies to elected officials, public employees, and volunteers
- May also touch your family members, your relatives, members of your household, and a business with which you are associated
- Very complicated law that makes fine distinctions
- Reach out and ask if you have a question

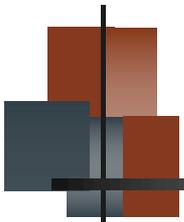
Government Ethics Law – Conflicts of Interest

- Two types of conflicts of interest:
 - Potential
 - Actual
- Remember appearance/perception
- Board members 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.

Government Ethics Law – Conflicts of Interest cont'd

- The announcement must be made in a public meeting.
- Following the public announcement of an actual conflict of interest, the public official must ordinarily refrain from further participation in the relevant official action.

Government Ethics Law – Gifts

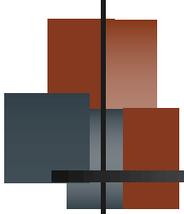


- A gift: something of economic value provided to the public official but not offered to others who aren't public officials on the same terms and conditions

Government Ethics Law – Gifts cont'd

- Gift limit is \$50 per calendar year from any one source
- However, if the source has no economic interest in matters subject to public official's official decision-making, the gift limit does not apply
- But, if the source has an economic interest in matters subject to public official's official decision-making, the gift limit applies

Government Ethics Law – Gift Exceptions Even Where Source has an Economic Interest



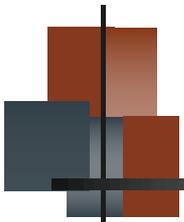
- Certain admission/food/beverage
- Certain food/lodging/travel
- Certain entertainment
- See OGEC Gift Flow Chart

Remember appearance/perception

Government Ethics Law –

Use of position for financial benefit

- Law prohibits a public official from using or attempting to use their position 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.

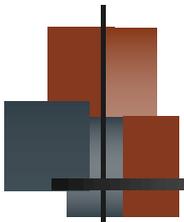


Government Ethics Law – Use of position for financial benefit

- A 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.

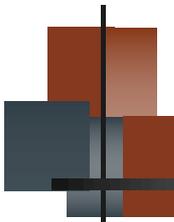
Government Ethics Law – Examples of Violations

- A manager is ordering 10 laptops for the district, which qualifies for a bulk purchase discount. He adds 2 more for his family to take advantage of the discount, & then reimburses the district for the discounted cost of the 2 laptops.
- A volunteer firefighter borrows the fire district's power washer to prepare the exterior of her personal residence for painting.
- An employee of a state agency has a private business and uses the agency's computer to conduct the activities of the private business.



Attorney-Client Privilege

- In General – 3 Parts: A client has a privilege to refuse to disclose and to prevent any other person from disclosing (a) confidential communications (b) made for the purpose of facilitating the rendition of professional legal services to the client (c) between the client and the client’s lawyer.
- Treat verbal and written communications to or from the district’s lawyers as confidential and do not disclose them to third parties.



Some Additional Resources

- [Public Records and Meetings](#)
- [Oregon Government Ethics Law](#)

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

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

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

SOURCE OF GIFT...

Has **NO ECONOMIC INTEREST** in matters subject to public official's official decision-making

\$50 GIFT LIMIT DOES NOT APPLY

HAS ECONOMIC INTEREST in matters subject to public official's official decision-making

\$50 LIMIT IF NO EXCEPTION APPLIES

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

