

CANDIDATE ELECTION MATERIAL



THE CITY OF
TROUTDALE
—OREGON—

EST. 1907

**NOVEMBER 8, 2022 –
GENERAL ELECTION**

TROUTDALE CITY COUNCIL CANDIDATES

INSTRUCTIONS, MANUALS & PUBLICATIONS

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May 16, 2022



To: Prospective Candidates for Troutdale City Council

The following information is intended to give you an overview of the local elections process. For more detailed information, I am including in this binder the following supporting documents: City of Troutdale Charter, State of Oregon Candidates Manual, Campaign Finance Manual, and some additional reference materials.

As your City Elections Official, I am here as a resource. If you have any questions, please don't hesitate to call me at 503-674-7258 or email me at sarah.skroch@troutdaleoregon.gov. You may also contact the Secretary of State's Office at 503-986-1518 or the Multnomah County Elections Office at 503-988-8683.

When you are ready to submit your filing paperwork, please contact me by phone or e-mail to schedule an appointment. This will ensure that I am in the office and available when you arrive.

Sincerely,

Sarah Skroch

City Recorder

sarah.skroch@troutdaleoregon.gov

**Filing Packets are available for pick-up from the City Recorder located at City Hall –
219 E. Historic Columbia River Highway.**

Please contact Sarah Skroch, City Recorder, with questions or to schedule an appointment to pick-up a packet by phone 503-674-5258 or email sarah.skroch@troutdaleoregon.gov



November 8, 2022 General Election



City Council Candidate Filing Information

3 City Council Positions on the November 8, 2022 General Election Ballot

Troutdale Voters will be selecting 3 City Councilors in the November 8, 2022 General Election. They will be serving 4-year terms beginning January 1, 2023 and ending on December 31, 2026.

Qualifications for Candidacy

To qualify to run for Troutdale City Council, you must be a registered voter who has resided in the City of Troutdale during the six months immediately preceding the election.

Important Dates

The following dates are critical for those that are running for office:

- | | |
|---------------------------|--|
| May 8, 2022 | Any person running for City office must have been a registered voter and resident of the City of Troutdale by this date. |
| June 1, 2022 | First day to file nomination papers with the City Elections Official. |
| August 30, 2022 | Last day to file nomination papers with the City Elections Official. |
| September 2, 2022 | Last day to withdraw candidacy |
| September 12, 2022 | Last day to file candidate statements for City positions with the County Elections Office for the Voters' Pamphlet. |
| November 8, 2022 | Election Day. |

About the City Council

- The City Council is comprised of a Mayor and six (6) Councilors.
- Each Councilor position is numbered one (1) through six (6).
- ***NEW*** - Candidates for City Council shall not run for a specific position, but all candidates shall run against all others. The candidates receiving the most votes will be appointed to the vacant positions.
- A candidate may run for only one city office during a single election.
- All Council members are elected at-large.
- Terms are four (4) years.
- Council members must take an Oath of Office before commencing duties.
- Council members must file an annual "Statement of Economic Interest" with the Oregon Government Ethics Commission (OGE). These forms are submitted electronically but I have included the sample form from 2014 so you can see the types of questions that are asked (see Tab #8).
- City Council positions are non-paid, voluntary positions. The Mayor may elect to receive a stipend in the amount of \$500 per month and Councilors may elect to receive a stipend in the amount of \$50 per month.
- City Council positions are eligible for reimbursement of childcare expenses incurred while attending approved meetings. Please refer to [Ordinance #871](#) for eligibility criteria and limitations.

How to File for Candidacy

Filing for candidacy may be accomplished by **declaration (paying fee)* or by *petition (collecting signatures)*. The filing deadline is no sooner than June 1, 2022, and no later than August 30, 2022, for the November 8, 2022 General Election. Detailed instruction on both filing methods are outlined in the following pages.

The most commonly used candidate filing forms for City Council are included in the front cover of this binder. You may also download them directly from the State Elections Division website at <http://sos.oregon.gov/elections/Pages/electionforms.aspx>.

The option to file by declaration was approved by City Council on May 10th and **does not go into effect until June 9th.*

Candidates Filing by *Declaration (Fee)

**This filing option is not available until June 9th.*

Step #1 - Register Your Campaign Committee

Perspective candidates file the following documents within three (3) business days of receiving a campaign contribution or making an expenditure unless you meet the exemption criteria outlined below. These forms are filed online through the **Secretary of State, Elections Division**, see “Campaign Finance Reporting Requirements” section below for more details:

1. Form SEL 220 – Statement of Organization for Candidate Committee

EXEMPTION CRITERIA: These forms are not necessary for candidates that meet **ALL** three (3) of the following criteria:

1. The candidate serves as their own treasurer;
2. The candidate does not have an existing candidate committee; and
3. The candidate does not expect to receive or spend more than \$750 during a calendar year.

Step #2 - Filing with City Elections Official

File the following form and pay the \$50 filing fee with the City Elections Official (City Recorder) **no sooner than June 9, 2022 nor later than 5:00pm on August 30, 2022:**

1. **Form SEL 101 – Candidate Filing – Major Political Party or Nonpartisan**, fill out the form completely, making sure that the Filing Method selected is “Fee”. File the form along with the required \$50 filing fee with the City Elections Official.

After this has been submitted, your filing is complete. You will need to ensure that you follow any of the required campaign finance reporting, if applicable (see Step #1). Skip ahead to the last page for next steps.

Candidates Filing by Petition (Signatures)

Step #1 - Register Your Campaign Committee

Perspective candidates file the following documents within three (3) business days of receiving a campaign contribution or making an expenditure unless you meet the exemption criteria outlined below. These forms are filed online through the **Secretary of State, Elections Division**, see “Campaign Finance Reporting Requirements” section below for more details:

1. Form SEL 220 – Statement of Organization for Candidate Committee

EXEMPTION CRITERIA: These forms are not necessary for candidates that meet **ALL** three (3) of the following criteria:

1. The candidate serves as their own treasurer;
2. The candidate does not have an existing candidate committee; and
3. The candidate does not expect to receive or spend more than \$750 during a calendar year.

Step #2 - Filing with City Elections Official

File the following two (2) forms with the City Elections Official (City Recorder):

1. Form SEL 101 – Candidate Filing – Major Political Party or Nonpartisan, with a check mark in the box “Prospective Petition, in lieu of filing fee” and designate the circulator pay status.
2. Form SEL 121 – Candidate Signature Sheet / Nonpartisan, only complete the top portion of this form. *This form needs to be approved before you can begin collecting signatures.*

Step #3 – Approval to Circulate

The City’s Elections Official will review the prospective petition forms for required information. If the prospective petition forms are sufficient, the Elections Official will give written approval to circulate the signature sheets. ***Failure to obtain written approval prior to collecting signatures will result in the rejection of the signature sheets.***

Step #4 – The Candidate Circulates the Signature Sheets

The candidate (or circulator) circulates the approved signature sheets (SEL 121) for signatures following the guidelines in the Candidates Manual (see Tab #4). The City of Troutdale Charter requires each candidate to obtain at least twenty-five (25) signatures of registered voters in the City of Troutdale. I ***strongly*** recommend that you obtain more than 25 signatures, as some of the signatures may be invalid.

Step #5 – Signature Verification

Once you have completed circulating your signature sheets (**SEL 121**), you will need to make sure that the circulator has completed the Circulator Certification section on each petition page and that each of signature sheets have been numbered. When you have verified that all of the signature sheets are completed, you are ready to submit them to the City Elections Official for signature verification by the Multnomah County Elections Office.

To ensure that the County has sufficient time to verify the signatures, we encourage you to complete the signature gathering process and ***submit your signature sheets by August 16, 2022 or earlier*** to allow enough time to complete the filing process before the deadline of August 30, 2022.

Petitions with an insufficient number of signatures will be returned to the candidate to acquire more signatures provided that the filing deadline has not passed. This is another reason to submit your signature sheets early.

Step #6 – Completing a Petition

To finish filing your Completed Petition you will need to file the following with the City Elections Official **no sooner than June 1, 2022 nor later than 5:00pm on August 30, 2022:**

1. Form SEL 338 – Petition Submission – Candidate.
2. Signature sheets certified by Multnomah County Elections Office with a minimum of 25 valid signatures.

After these have been submitted, your filing is complete. You will need to ensure that you follow any of the required campaign finance reporting, if applicable (see Step #1). Skip ahead to the last page for next steps.

Campaign Finance Reporting Requirements

All campaign finance reports are filed with the Secretary of State, Elections Division

All campaign finance transactions, include those outlined in Step #1 above, are filed electronically using the Secretary of State's online filing system, ORESTAR (www.oregonvotes.gov).

The Campaign Finance Manual and the ORESTAR User Manuals will provide you with all the information and instructions you need to comply with the contribution and expenditure reporting requirements. These manuals can be found online at <http://sos.oregon.gov/elections/Pages/manuals-tutorials.aspx>. A copy of the Candidate "Quick Guide" is included in this packet (see Tab #10). Please review the *Schedule of Transaction Filing Deadlines* for Candidates and Political Action Committees located on page 20 of the Campaign Finance Manual. *(The statute provides for civil penalties for filing any late or insufficient transactions – see page 62 of the Campaign Finance Manual.)*

Withdrawal of Candidacy

If a candidate would like to withdraw from the election, the candidate must file **Form SEL 150 – Candidate Filing – Withdrawal** with the City Elections Official **no later than September 2, 2022** for the November 8, 2022 General Election.

Voters' Pamphlet

Candidates can file a statement in the Voters' Pamphlet with Multnomah County Elections Division using the form titled – Candidate's Statement for County Voters' Pamphlet (copy included in the front pocket of your binder).

City Candidates' deadline to file a Voters' Pamphlet statement **is September 12, 2022 at 5:00pm**. City candidates must wait to file their Voters' Pamphlet statement until the City of Troutdale certifies the list of candidates to Multnomah County, which must occur **no later than September 8, 2022**. This provides a very small window. The City will make every attempt to submit the list of candidates to the County immediately following the deadline for candidates to withdraw (September 2nd at 5pm). You should be able to submit your Voters' Pamphlet statement beginning on September 6th.

Please feel free to call the City Recorder before you head down to the Multnomah County Election's office to verify that the list of candidates that will appear on the November 8, 2022 General Election Ballot has been submitted to the County.

Elections Offices

City of Troutdale
Sarah Skroch, City Recorder
219 E. Historic Columbia River Hwy.
Troutdale, OR 97060
503-674-7258
Email: sarah.skroch@troutdaleoregon.gov
Web: www.troutdaleoregon.gov

Multnomah County Elections
1040 SE Morrison Street
Portland, OR 97214
Phone - 503-988-8683
Fax - 503-988-3719
Email: elections@multco.us
Web: www.multco.us/elections

State of Oregon, Elections Division
255 Capitol St. NE, Suite 501
Salem, OR 97310-0722
503-986-1518
1-866-673-8683 (toll free)
Email: elections.sos@oregon.gov
Web: www.oregonvotes.gov

Filing Packets are available for pick-up from the City Recorder located at City Hall – 219 E. Historic Columbia River Highway.

Please contact Sarah Skroch, City Recorder, with questions or to schedule an appointment to pick-up a packet by phone 503-674-5258 or email sarah.skroch@troutdaleoregon.gov



MEMORANDUM

DATE: May 16, 2022
FROM: Sarah Skroch, City Recorder
TO: All Candidates and Political Action Committees
SUBJECT: Regulations for Temporary (Political) Signs

Political signs in Troutdale—no matter the size or the positioning—are considered **temporary signs**. Temporary signs are defined as followed in the Troutdale Development Code (TDC):

Temporary Sign. A sign that is not permanently attached to a building, structure, or the ground, and that is not intended or designed to be placed permanently. [TDC 10.015.39]

Most political signs used in campaigns are considered to be **lawn signs**. A typical size for lawn signs is 18 inches by 24 inches, or three (3) square feet. Listed below is the precise definition in in the TDC:

Lawn Sign. A temporary pole or wall mounted sign with a sign face area less than three (3) square feet and a maximum height less than three (3) feet from the ground. Lawn signs may not encroach into the right of way or obstruct the visibility for the travelling public and may not be illuminated. [TDC 10.015.18]

Political signs that do not fit the lawn sign definition—hereafter called “**larger signs**”—are treated as generic temporary signs.

Listed below are common standards. Full details of the sign standards can be found in Chapter 10 of the Troutdale Development Code, with inquiries directed to the Community Development Director.

Permits

No permit is required if...

- The sign is considered a lawn sign
- The sign is displayed within the window of a storefront or residence, regardless of size

A permit is required if...

- The sign is considered a larger sign (exceeds lawn sign dimensions)
- The permit fee for a larger sign is \$50 per sign and is applied for [online](#).
- The larger sign dimensions cannot exceed 12 square feet on residential property or 32 square feet on non-residential property
- Written approval from the property owner is required

Duration (Put-Up & Take-Down)

- Lawn signs can be on display for a consecutive period of up to 90 days
- Larger signs can be on display once a permit is issued
- Both lawn signs and larger signs should be taken down within two weeks after the election

Placement

- Signs may not be placed in the public right-of-way – this is the most common violation
- No more than three (3) lawn signs can be placed on a single property
- No more than one (1) larger sign can be placed per street frontage on a property.

Reporting a Potential Sign Violation

- Troutdale's code compliance program is "complaint-driven". Unless a sign presents a danger (visually obstructs traffic, blocks sidewalks, etc.) the City will not actively look for violations.
- ***Complaints must be reported online*** at: <https://tinyurl.com/TroutdaleCodeIssue>. This website link can also be accessed via the City's home page.
- A person may not submit more than three (3) complaints within a one week period.
- Those reporting complaints may withhold their name, but their email and IP addresses will be part of the public record.
- The City will acknowledge receipt of the complaint via email, but is not obliged to provide updates those who reported.
- The City will not act on complaints that are reported through another method.

Procedures for Sign Violations (TDC 10.065)

- The Code Compliance Officer (Officer) or Community Development Director (Director) will determine if a sign is in violation of the TDC.
- For signs located in rights-of-way or public property, the Officer, Director, or Staff designee may immediately remove signs without notice to the candidate or campaign.
- For signs located on private property, the Officer shall follow the nuisance abatement procedures found in Chapter 8.28 of the Troutdale Municipal Code (TMC).
- The Officer shall keep a record of signs removed on a given day.
- The Officer will retain all removed signs for a 30 day period from date of confiscation.

Candidates or their designees will have the ability to retrieve signs that were removed within 30 days from the date of violation in accordance with TDC 10.065.A.2. The fee to retrieve signs shall be \$20 per sign. After 30 days, all non-retrieved signs will be destroyed, even if that date falls prior to the election.

Questions or Concerns

For specific questions or concerns, please contact Troutdale's Code Compliance Officer:

Joe Storagee

503-491-4009

joe.storagee@troutdaleoregon.gov

CHARTER

for the
City of Troutdale
Multnomah County, Oregon

PREAMBLE

The voters of the City of Troutdale adopt the following charter which shall be called the 1994 Troutdale Charter.

CHAPTER I. NAMES, BOUNDARIES, AND GENERAL PROVISIONS

SECTION 1NAME. The City of Troutdale, originally chartered October 2, 1907, continues as a municipal corporation with the name "City of Troutdale."

SECTION 2BOUNDARIES. The City includes all territory within its boundaries as they now exist or hereafter are modified pursuant to state and local law. The custodian of the city's records shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection in the city during regular office hours.

SECTION 3EXISTING ORDINANCES CONTINUED. All ordinances and other regulations of the City of Troutdale not inconsistent with this charter and in force when it takes effect shall remain in effect until amended or repealed.

SECTION 4EXISTING RIGHTS AND LIABILITIES CONTINUED. Except as the charter provides otherwise, its adoption shall impair or destroy no right, power, privilege, immunity or liability of the city existing at the time of the adoption of this charter.

CHAPTER II. POWERS

SECTION 5POWERS OF THE CITY. The city has all powers that the constitutions, statutes, and common law of the United States and of this state now or hereafter expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

SECTION 6CONSTRUCTION OF SPECIFIED POWERS. The powers of the city specified in this charter are not exclusive. Any specification of power in this charter is not intended to limit authority.

SECTION 7DISTRIBUTION OF POWERS. Except as otherwise prescribed by this charter or the state constitution, all powers of the city are vested in the council.

CHAPTER III. FORM OF GOVERNMENT

SECTION 8FORM OF GOVERNMENT. The City of Troutdale shall be governed by council.

SECTION 9COUNCIL. The council consists of a mayor and six councilors nominated and elected from the city at large. The council may consist of fewer members when there are vacancies in office.

- CHARTER
CHAPTER III. FORM OF GOVERNMENT

SECTION 10COUNCILORS. The term of office for a councilor is four years. Councilors in office at the time this charter is adopted shall complete their terms of office. Councilors elected at the time of adoption of this charter begin new terms of office. At each general election after adoption of this charter, three councilors shall be elected, each for a four-year term.

SECTION 11MAYOR. At the first general election after the adoption of this charter, and every four years thereafter, a mayor shall be elected for a four-year term.

SECTION 12APPOINTIVE OFFICERS. A majority of the council must appoint and may remove the Municipal Judge and the City Attorney.

(Res. No. 2060, 6-22-2010; Ref. date, 11-2-2010; Res. No. 2084, 11-23-2010)

SECTION 13QUALIFICATIONS FOR ELECTIVE OFFICE. No persons may be eligible to fill an elective office unless at the time of their election or appointment they are qualified voters under the meaning of the Constitution of Oregon and have resided in the city at least six months immediately preceding the election or appointment. No officer elected or appointed may continue to serve if he or she ceases to be a resident of the city. An elected or appointed officer may not hold another elective office. City employees may not hold an elective office within the City of Troutdale.

CHAPTER IV. THE COUNCIL

SECTION 14COUNCIL RULES AND MEETINGS. The council shall, by ordinance, prescribe rules to govern its meetings and proceedings and meet in the city regularly at least once a month at a time and place designated by council's rules, and may meet at other times in accordance with the rules.

SECTION 15QUORUM. A quorum consists of a majority of council. Fewer council members may compel absent members to attend to obtain a quorum. As used in this charter, "majority of the council" means a majority of the members of the council (mayor and councilors) in office. Except as this charter provides otherwise, the agreement of a majority of council members present and constituting a quorum is necessary to decide affirmatively a question before the council.

SECTION 16RECORD OF PROCEEDINGS. A record of council proceedings shall be kept and authenticated in a manner prescribed by the council.

SECTION 17MEETINGS TO BE PUBLIC. Except as permitted by state law the deliberations and proceedings of the council and other bodies empowered by the council to make decisions or recommendations shall be open to the public.

SECTION 18. MAYOR'S FUNCTIONS

- A. The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and determines the order of council business.
- B. The mayor is a member of the council and has a vote on all council decisions.
- C. The mayor nominates and the council approves appointment of members for commissions, boards and committees established by ordinance or resolution. The mayor appoints councilors and others to represent the city before and on community and intergovernmental organizations.
- D. The mayor must sign all records of council decisions.
- E. The mayor serves as the political head of the city government.

(Res. No. 2060, 6-22-2010; Ref. date, 11-2-2010; Res. No. 2084, 11-23-2010)

SECTION 19. PRESIDENT OF THE COUNCIL. At its first meeting in January after the adoption of this charter, and there after at its first meeting of each succeeding year, the council, shall elect a president of the council from its councilors. In the mayor's absence from a council meeting the president of the council shall preside as mayor. Whenever the mayor is unable, due to illness, absence from the city, or other cause, to perform the functions of the mayor's office, the president of the council shall act as mayor. While functioning as mayor the president shall have but one vote.

CHAPTER V. POWERS AND DUTIES OF CITY OFFICERS

SECTION 20. MAYOR. This section is repealed.

(Res. No. 2060, 6-22-2010; Ref. date, 11-2-2010; Res. No. 2084, 11-23-2010)

SECTION 21. CITY MANAGER

- A. The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies set by ordinances and resolutions.
- B. A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.
- C. The manager need not reside in the city.
- D. The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.
- E. The manager must:
 - (1) Attend all council meetings unless excused by the mayor or council;
 - (2) Make reports and recommendations to the mayor and council about the needs of the city;
 - (3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other council decisions;
 - (4) Appoint, supervise and remove city employees;
 - (5) Organize city departments and administrative structure;
 - (6) Prepare and administer the annual city budget;
 - (7) Administer city utilities and property;
 - (8) Encourage and support regional and intergovernmental cooperation;
 - (9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
 - (10) Perform other duties as directed by the council;
 - (11) Delegate duties, but remain responsible for acts of subordinates.
- F. The manager has no authority over the council or over the judicial functions of the municipal judge.

- CHARTER
CHAPTER V. POWERS AND DUTIES OF CITY OFFICERS

- G. The manager and other employees designated by the council may sit at council meetings, but have no vote. The manager may take part in all council discussions.
- H. When the manager is temporarily disabled from acting as manager or when the office of manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.
- I. No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business. Nothing in this Charter restricts the authority of the mayor or any council member to discuss the strengths, weaknesses, or need for city staff, nor to discuss any city contract or property that either exists or is contemplated, with the city manager. Such discussions may be held privately, at the discretion of the participants, but shall conform to the requirements of law.

(Res. No. 2060, 6-22-2010; Ref. date, 11-2-2010; Res. No. 2084, 11-23-2010; Res. No. 2322, 2-9-2016)

SECTION 22. MUNICIPAL COURT AND JUDGE.

- A. If the council creates the office of municipal judge and fills it by appointment, the appointee shall hold, within the city at a place and times that the council specifies, a court known as the municipal court for the City of Troutdale, Multnomah County, Oregon.
- B. Except as this charter or city ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this state governing justices of the peace and justice courts.
- C. All area within the city, and, to the extent provided by state law, area outside the city is within the territorial jurisdiction of the court.
- D. The municipal court has original jurisdiction over every offense that an ordinance of the city makes punishable. The court may enforce forfeitures and other penalties that such ordinances prescribe.
- E. The municipal judge may:
 - 1. Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;
 - 2. Order the arrest of anyone accused of an offense against the city;
 - 3. Commit to jail or admit to bail anyone accused of such an offense;
 - 4. Issue and compel obedience to subpoenas;
 - 5. Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;
 - 6. Penalize contempt of court;
 - 7. Issue process necessary to effectuate judgments and orders of the court;
 - 8. Issue search warrants; and,
 - 9. Perform other judicial and quasi-judicial functions prescribed by ordinance.
- F. The council may authorize the municipal judge to appoint municipal judges pro-tem for terms of office set by the judge or the council.

- G. Notwithstanding this section, the council may transfer some or all of the functions of the municipal court to an appropriate state court.
- H. Nothing in this section prevents the council from establishing administrative adjudication processes to impose fines and provide other remedies for violations of municipal ordinances.

CHAPTER VI. ELECTIONS

SECTION 23. ELECTIONS. Both state and local law govern the conduct of city elections. Candidates for City Councilor positions shall not run for specific positions, but all candidates shall run against all others. Electors may cast the number of votes that is equal to the number of positions to be filled, but only one per candidate. The three candidates receiving the greatest numbers of votes shall be elected to fill the three open, full-term positions in each general election. Then, any positions for two year terms shall be filled with the candidates receiving the next greatest numbers of votes, in decreasing order, until all positions are filled.

(Res. No. 2511, § 1, 7-14-2020; Ref. date, 11-3-2020)

SECTION 24. TERMS OF OFFICE. The term of office of an officer elected at a general election begins at the first council meeting of the year following the election and continues until the successor to the office assumes the office. In case of an appointment to fill a vacancy in an office, the person appointed shall enter upon the office immediately.

SECTION 25. OATH. Before taking office, an officer shall swear or affirm that he or she faithfully will perform the office's duties and support the laws of the City of Troutdale, the State of Oregon and the United States.

SECTION 26. NOMINATIONS. The council shall provide by ordinance the mode for nominating elective officers.

CHAPTER VII. VACANCIES IN OFFICE

SECTION 27. WHAT CREATES A VACANCY.

- A. The office of the mayor or councilor becomes vacant if the incumbent:
 - 1. Dies;
 - 2. Is adjudged to be incompetent;
 - 3. Is recalled from office; or,
 - 4. Resigns.
- B. In addition, the office of mayor or councilor may be declared to be vacant by the council if the incumbent;
 - 1. Is convicted of a felony or crime pertaining to the incumbent's office;
 - 2. Fails to qualify for the office within ten days after the term for the office is supposed to begin;
 - 3. Ceases to reside in the city;
 - 4. Ceases to be a qualified elector under state law;
 - 5. Is absent from the city for more than thirty consecutive days without consent of the council; or,
 - 6. Is absent from three consecutive regular meetings of the council without consent of the council.

SECTION 28. FILLING OF VACANCIES.

- A. A vacancy in the office of councilor shall be filled by appointment by a majority of the council. The appointee's term of office runs from the time of appointment and qualification until expiration of the term of the predecessor who left the office vacant. If, however, the vacancy is filled prior to July 15 of the second year of the term, the appointee's term of office runs only until the first council meeting in the third year of the term. At the general biennial election in the second year of the term, a person shall be elected to the council for a two-year term.
- B. A vacancy in the office of the mayor shall be filled by election only. That election shall be called for at the next regular election date as defined by state law following the sixty-first day after the position becomes vacant.

CHAPTER VIII. ORDINANCES

SECTION 29. ENACTING CLAUSE. The enacting clause of all ordinances shall be, "BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE."

SECTION 30. ORDINANCE ADOPTION PROCESS.

- A. The council shall adopt all legislation by ordinance. Except as this charter otherwise provides, the council may not adopt any ordinance at a meeting unless:
 - 1. The ordinance is introduced at a previous meeting of the council at which a public hearing was held;
 - 2. The title of the ordinance as introduced is included in a written agenda of the meeting at which the ordinance is adopted;
 - 3. The agenda of that meeting is publicized not less than three business days nor more than ten days before the meeting; and,
 - 4. Copies of the ordinance are available for public inspection at least three business days before that meeting.

The text of an ordinance may be amended, but not substantially revised, at the meeting at which it is adopted.

- B. The provisions of subsection A do not apply to an ordinance adopted by all council members present, containing findings on the need for immediate adoption, and which has been distributed to the council and made available for public inspection at least twenty-four hours prior to its adoption.
- C. A nonemergency ordinance takes effect on the thirtieth day after its adoption or on a later day the ordinance prescribes. An ordinance declaring an emergency, and approved by all council members present, may take effect earlier or immediately upon passage. The reasons for the emergency must be clearly stated in a separate section of the ordinance.
- D. Each ordinance may embrace only one subject and matters properly connected with it. The council shall plainly word each ordinance and avoid technical terms as far practicable.
- E. After adoption of an ordinance, the custodian of the city records shall endorse it with the date of adoption and the endorser's name and title of office. Within three days of adoption, the mayor shall sign and date the ordinance over the title of "Mayor."

CHAPTER IX. PUBLIC IMPROVEMENTS

SECTION 31. CONDEMNATION. The necessity for taking property by condemnation shall be determined by the council, and declared by a resolution or ordinance describing the property and stating the use to which it is to be devoted. Condemnation proceedings shall be conducted in accordance with the general laws of the State of Oregon.

SECTION 32. SPECIAL ASSESSMENT. The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or services to be charged against real property shall be governed by general ordinance.

SECTION 33. BIDS FOR PUBLIC IMPROVEMENT. All contracts for public improvements shall be handled in accordance with state law.

CHAPTER X. MISCELLANEOUS

SECTION 34. DEBT. The City's indebtedness may not exceed debt limits imposed by state law. City officers or employees who create or officially approve indebtedness in excess of such limitation are jointly and severally liable to the city for the excess.

SECTION 35. REPEALING CLAUSE AND DATE CHARTER BECOMES EFFECTIVE. Any and all former Charters of the City of Troutdale, together with the amendments, are hereby repealed. Provided, however, that such repeal shall not in any manner affect or impair any of the provisions or rules of the council hereto or now existing and under which the council prepared and submitted this charter to the legal voters of the city. This charter shall become effective on January 1st following the November General Election at which it is approved by the voters of the City of Troutdale.


SECTION 36. SEVERABILITY. The terms of this charter are severable. If a part of this charter is held invalid, that invalidity does not affect any other part of this charter unless required by logical relation between the parts.

SECTION 37. AMENDMENT OF CHARTER. All amendments to this charter must be made by a vote of the electorate. The council may refer, and the city voters may initiate, amendments to this charter. A proposed charter amendment may embrace only one subject and matters properly connected with it. The council shall provide by ordinance for a procedure to revise this charter.

County, City, and District Candidate Manual

Published by

Elections Division
255 Capitol St NE, Suite 501
Salem, OR 97310-0722

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fax 503 373 7414
tty 1 800 735 2900
www.oregonvotes.gov

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Using This Manual

Icons

The following icons are used in this manual to emphasize information:


alert icon

indicates alert; warning; attention needed


deadline icon

indicates a deadline


form icon

indicates a reference to a form


info icon

indicates additional information


petition sheet icon

indicates a reference to a signature sheet


search icon

indicates information located elsewhere

Help

For help, please contact:

Elections Division
255 Capitol St NE Suite 501
Salem OR 97310

503 986 1518
 503 373 7414



elections.sos@sos.oregon.gov



www.oregonvotes.gov



1 866 673 8683
se habla español

tty 1 800 735 2900
for the hearing impaired

Other Assistance

For city candidate assistance contact your city administrator or city recorder (auditor). For county and district candidate assistance, contact your county:

Baker County

1995 Third St, Ste 150
Baker City, OR 97814-3365
541-523-8207/TTY 800-735-2900
skirby@bakercounty.org

Benton County

4500 Research Way
Corvallis, OR 97333
541-766-6756/TTY 541-766-6080
elections@co.benton.or.us

Clackamas County

1710 Red Soils Ct, Ste 100
Oregon City, OR 97045-4300
503-655-8510/TTY 503-655-1685
elections@co.clackamas.or.us

Clatsop County

820 Exchange St, Ste 220
Astoria, OR 97103-4609
503-325-8511/TTY 800-735-2900
clerk@co.clatsop.or.us

Columbia County

Courthouse 230 Strand St.
St Helens, OR 97051-2040
503-397-3796/TTY 503-397-7246
elections@columbiacountyor.gov

Coos County

Courthouse 250 N Baxter St.
Coquille, OR 97423-1875
541-396-7610/TTY 800-735-2900
coosclerk@co.coos.or.us

Crook County

Courthouse 300 NE Third St, Rm 23
Prineville, OR 97754-1919
541-447-6553/TTY 541-416-4963
elections@co.crook.or.us

Curry County

94235 Moore St, Ste 212
Gold Beach, OR 97444-97055
541-247-3297 or 877-739-4218
clerk@co.curry.or.us

Deschutes County

PO Box 6005
Bend, OR 97708-6005
541-388-6547/TTY 1-800-735-2900
elections@deschutes.org

Douglas County

PO Box 10
Roseburg, OR 97470-0004
541-440-4252/TTY 1-800-735-2900
elections@co.douglas.or.us

Gilliam County

PO Box 427
Condon, OR 97823-0427
541-384-2311/TTY 800-735-2900
ellen.wagenaar@co.gilliam.or.us

Grant County

201 S Humbolt, Ste 290
Canyon City, OR 97820-6186
541-575-1675
percyb@grantcounty-or.gov

Harney County

450 N Buena Vista Ave, Ste 14
Burns, OR 97720-1565
541-573-6641
derrin.robinson@co.harney.or.us

Hood River County

601 State St
Hood River, OR 97031-1871
541-386-1442/TTY 800-735-2900
elections@hoodrivercounty.gov

Jackson County

1101 W Main St, Ste 201
Medford, OR 97501-2369
541-774-6148/TTY 800-735-2900
elections@jacksoncounty.org

Jefferson County

Courthouse 66 SE D St, Ste C
Madras, OR 97741-1739
541-475-4451/TTY 800-735-2900
kate.zemke@co.jefferson.or.us

Josephine County

PO Box 69
Grants Pass, OR 97528-0203
541-474-5243/TTY 1-800-735-2900
clerk@josephinecounty.gov

Klamath County

305 Main St
Klamath Falls, OR 97601-6332
541-883-5134/TTY 800-735-2900
elections@klamathcounty.org

Lake County

513 Center St.
Lakeview, OR 97630-1539
541-947-6006/ TTY 800-735-2900
sgeaney@co.lake.or.us

Lane County

275 W 10th Ave.
Eugene, OR 97401-3008
541-682-4234
elections@lanecountyor.gov

Lincoln County

225 W Olive St, Rm 201
Newport, OR 97365-3811
541-265-4131/TTY 800-735-2900
countyclerk@co.lincoln.or.us

Linn County

PO Box 100
Albany, OR 97321-0031
541-967-3831/TTY 800-735-2900
sdruckenmiller@co.linn.or.us

Malheur County

251 B St. W, Ste 4
Vale, OR 97918-1375
541-473-5151/TTY 800-735-2900
countyclerk@malheurco.org

Marion County

PO Box 14500
Salem, OR 97309-5036
503-588-5041 or 800-655-5388
TTY 503-588-5610
elections@co.marion.or.us

Morrow County

PO Box 338
Heppner, OR 97836-0338
541-676-5604/TTY 800-735-2900
elections@co.morrow.or.us

Multnomah County

1040 SE Morrison St
Portland, OR 97214-2495
503-988-3720/ TTY 800-735-2900
elections@multco.us

Polk County

850 Main St, Rm 201
Dallas, OR 97338-3179
503-623-9217/TTY 800-735-2900
clerk.elections@co.polk.or.us

Sherman County

PO Box 243
Moro, OR 97039-0365
541-565-3606/TTY 800-735-2900
countyclerk@shermancounty.net

Tillamook County

201 Laurel Ave.
Tillamook, OR 97141-2311
503-842-3402/TTY 800-735-2900
clerk@co.tillamook.or.us

Umatilla County

216 SE 4th St, Ste 18
Pendleton, OR 97801-2699
541-278-6254/TTY 800-735-2900
elections@umatillacounty.net

Union County

1001 Fourth St, Ste D
La Grande, OR 97850-2100
541-963-1006/TTY 800-735-2900
clerk@union-county.org

Wallowa County

101 S River St, Ste 100
Enterprise, OR 97828-1335
541-426-4543, option 5/TTY 800-735-2900
slathrop@co.wallowa.or.us

Wasco County

511 Washington St, Rm 201
The Dalles, OR 97058-2237
541-506-2530/TTY 800-735-2900
countyclerk@co.wasco.or.us

Washington County

2925 NE Aloclek Dr, Ste 170
Hillsboro, OR 97124
503-846-5800/TTY 800-735-2900
elections@co.washington.or.us




Wheeler County

PO Box 327
Fossil, OR 97830-0327
541-763-2374/TTY 800-735-2900
bsnowpotter@co.wheeler.or.us





Yamhill County

414 NE Evans St
McMinnville, OR 97128-4607
503-434-7518/TTY 800-735-2900
elections@co.yamhill.or.us

2022 Local Elections Calendar

 Last day for	Primary Election		General Election	
	March 8	May 17	August 23	November 8
County Elections Official to Publish				
→ notice of district board election (ORS 255.075)	November 27	January 27	May 13	July 21
 Regular district elections are generally held in May of odd numbered years. Districts should contact the county elections official of the county in which the district's administrative office is located for election information.				
County, City or District Candidates to file with Local Elections Official				
→ a declaration of candidacy and required filing fee	January 6	March 8	June 23	August 30
or				
→ a verified nominating petition containing 100% of the required number of signatures				
→ a statement for inclusion in county voters' pamphlet	January 10	March 10	June 27	September 1
→ a statement for inclusion in county voters' pamphlet if the candidate files candidacy with governing body other than county clerk	January 10	March 21	June 27	September 12
 District Candidates: The enabling statutes, or principal act, of a district specifies how board members are elected. Most districts, as defined in ORS 255.012, elect board members at the regular district election which is held in May of odd numbered years or at the Primary or General Election. As provided for in ORS 255.235(2)(a), the March and September deadlines included above are only applicable if the election is a district's first election to elect board member and are not included in the daily calendar.				

2023 Local Elections Calendar

 Last day for	Primary Election		General Election	
	March 14	May 16	August 22	November 7
County Elections Official to Publish				
→ notice of district board election (ORS 255.075)	December 2, 2022	February 3	May 12	July 28
 Regular district elections are generally held in May of odd numbered years. Districts should contact the county elections official of the county in which the district's administrative office is located for election information.				
Candidates to file with County Elections Official				
→ verified signatures or \$10 filing fee (ORS 255.235)	January 12	March 16	June 22	September 7
→ statement for inclusion in county voters' pamphlet	January 17	March 20	June 26	September 11
 County and City Candidates: Deadlines applicable to county and city office are not included on this calendar. Candidates for those offices, unless otherwise provided for by charter or ordinance, are elected at the primary or general election. If a county or city charter provides for candidates to be elected at an election other than the primary or general election but does not specify a deadline or adopts the statutory filing deadline, ORS 249.722 applies.				
 District Candidates: The enabling statutes, or principal act, of a district specifies how board members are elected. Most districts, as defined in ORS 255.012, elect board members at the regular district election which is held in May of odd numbered years or at the Primary or General Election. The March, September and November deadlines included above, are only applicable if the election is a district's first election to elect board member (ORS 255.235(2)(a)). They are not included in the daily calendar.				

Getting Started

Types of Public Office

There are two types of public office in Oregon, partisan and nonpartisan.

Partisan Offices

A partisan office is an office for which a candidate may be nominated by a major or minor political party or as a nonaffiliated candidate.

Partisan offices include:

- County Commissioner (unless county home rule charter or ordinance specifies otherwise) and
- Precinct Committeeperson.

Nonpartisan Offices

A nonpartisan office is an office for which a candidate does not run under the name of any political party. All candidates for nonpartisan office must run in the primary election.

Nonpartisan offices include:

County Commissioner (unless county home rule charter or ordinance specifies otherwise), County Clerk, Sheriff, County Assessor, County Auditor, County Treasurer, County Tax Collector, County Surveyor, Justice of the Peace, Mayor, City Councilor, Municipal Judge, Board Member, Director of a District, All Special District offices, any elected office of a metropolitan service district under ORS chapter 268, and any office designated nonpartisan by a home rule charter or ordinance.

For local offices not listed, please contact the local elections official to determine whether the office is partisan or nonpartisan.

Filing Methods for Public Office

Generally, candidates may file for public office by:

- submitting a completed candidate filing form and paying the required filing fee, if any;

or

- submitting a nominating petition containing the required number of valid signatures.



A prospective petition may be filed at any time. However, candidates need to allow enough time for signature collection and signature verification to be completed by county elections officials prior to the filing deadline.



See the Filing Requirements on pages 9, 11, 20, 22 and 24 for filing fees and deadline to submit completed forms.

Candidate filing forms can be submitted by:

- mail;
 - fax;
- or
- as a scanned attachment to an email.

Multiple Nominations to Public Offices

In Oregon, **candidates running for partisan office** may be nominated by multiple political parties. Candidates nominated by more than one party or by other nominating processes may select up to three parties or designations to be printed with their name on the general election ballot.

A candidate may designate the order in which the parties or designations will be listed, with two exceptions:

- If a political party nominates one of its members for a partisan office, that party will be listed first, followed by no more than two additional parties.
- If individual electors or an assembly of electors nominate a nonaffiliated candidate, “nonaffiliated” will be listed first, followed by no more than two additional parties.

When selecting political parties or other designations the following rules apply:

	Candidate is nominated by:	Information and default order listed on ballot:
Member of political party	Party of which the candidate is a member	The ballot lists this party first, followed by two or fewer additional parties in alphabetical order. The candidate may specify a different order for the additional parties.
	Party of which the candidate is not a member	The ballot lists three or fewer parties in alphabetical order. The candidate may specify a different order. If more than three parties nominate the candidate, the candidate may choose which appear.
Not affiliated with any political party	Individual or Assembly of Electors	The ballot lists “nonaffiliated” first, followed by two or fewer parties in alphabetical order. The candidate may specify a different order for parties. If more than two parties nominate the candidate, the candidate may choose which appear.
	Any political party	Three or fewer parties are listed in alphabetical order. If more than three parties nominate the candidate, the candidate may choose which appear.

Running for Multiple Offices

Candidates can file for more than one position as long as the offices are:

- not on the same district board;
- not a city office on the same ballot;
- not for more than one precinct committeeperson office; and
- not a lucrative office;



An office is considered lucrative if a salary or other compensation beyond expenses is attached to it; it is created by statute or the constitution; its holder exercises part of the sovereign power of government; it is a matter of public concern; and the position is not temporary or intermittent.

Campaign Finance Reporting

Oregon campaign finance law may require candidates to establish a campaign account, file a Statement of Organization designating a candidate committee and file contribution and expenditure transactions with the Elections Division.

For further details on campaign finance reporting requirements, review:



The [Campaign Finance Manual](#), and the [ORESTAR User's Manuals](#) available at www.oregonvotes.gov.

Qualifications for Public Office

The qualifications for public offices differ depending on the office. Before filing, the candidate should review the constitutional and statutory requirements for the office sought.



See the qualifications for most offices provided in each applicable section of this manual.

However, qualifications for city or district office are governed by city charter or ordinance or district by-laws and are not provided. Contact the local elections official for more information.

Precinct Committeeperson Candidates

ORS 248.015-248.029, 249.031, and 249.037

Qualifications for Precinct Committeeperson

All Candidates must be US Citizens and Registered Voters

Office	Age	Residency	Term of Office	Special Requirements	Vacancies
Precinct Committee-person	18	A candidate may be elected to represent the precinct in which they reside, an adjoining precinct in the same county or a precinct that is in the same county and the same state representative district as the precinct the candidate reside in ORS 248.015.	A precinct committee-person holds office from the 24th day after the primary to the 24th day after the next primary.	<p>To be placed on the ballot, a candidate must be a member of the major political party by September 9, 2021.</p> <p>A write-in candidate must be a member of the major political party for 180 days prior to the Primary election.</p> <p>Any votes received for a write-in candidate will only be counted if an SEL 105D Write-In Candidate Declaration or SEL 105N Write-In Candidate Nomination is filed no later than May 17, 2022, 8 pm.</p> <p>Any candidate must receive at least 3 votes to be elected to the office.</p>	Vacancies are filled according to ORS 248.026.



Forms are available online at www.oregonvotes.gov.

Filing Requirements for Precinct Committeeperson

Office	Filing Fee	First day to file	Last day to file	Last day to Withdraw
Precinct Committeeperson	None	*September 9, 2021	March 8, 2022	March 11, 2022
Write-In Declaration	None	*September 9, 2021	May 17, 2022, 8 pm	Not applicable
Write-In Nomination	None	*September 9, 2021	May 17, 2022, 8 pm	Not applicable

*Even though September 9, 2021, is the official first day to file for office, due to the delay in receiving 2020 U.S. Census population data, precinct boundaries will not be finalized by September 9, 2021. As a result, the precinct associated with candidate's address may change. Candidates are encouraged to wait until the precinct boundaries are final before filing.

It is the responsibility of the candidate to make sure they file in the correct precinct.

Any candidate who files a declaration of candidacy or write-in declaration (or any person who files a write-in nomination) before redistricting has been completed should contact the county elections office before the filing deadline to verify that they are a candidate in the correct precinct. If the candidate will not qualify in the redrawn precinct the original filing will need to be withdrawn (if applicable) and a new filing submitted in the correct precinct before the deadline.

Filing Method for Precinct Committeeperson Candidate

A precinct committeeperson candidate must choose one of two methods of election and file the required form with the **county elections** official. They may also be nominated by another person, if the person resides in the same precinct, adjacent precinct, or house district as the candidate.



See the instructions for completing the required portions of the [Candidate Filing form on page 31](#).

Candidate Filing

A precinct committeeperson candidate who wants their name to appear on the ballot must file:



Form SEL 105 Candidate Filing – Precinct Committeeperson



A person may not hold office as a committeeperson in more than one precinct. A person may only file for one precinct committeeperson at the same election. Unless the person has withdrawn from the first filing, all filings are invalid. ORS 249.013

Write-In Candidate Declaration

A precinct committeeperson candidate who wants to be elected by write-in votes must file:



Form SEL 105D Write-In Declaration – Precinct Committeeperson



Filing Form SEL 105D withdraws any precinct committeeperson candidate declaration previously filed for the same election. County elections officials will only count the write-in votes received by candidates who file Form 105D no later than 8 pm, May 17, 2022.

Write-In Nomination

An elector who wants to nominate another elector as a write-in precinct committeeperson must file:




Form SEL 105N Write-In Nomination – Precinct Committeeperson


County Candidates

General Information


ORS 249.056

Candidates may file with the county elections office by paying a fee or by petition to obtain signatures.

 See the instructions for completing the required portions of the [Candidate Filing form on page 31](#).

 A prospective petition may be filed at any time. However, candidates need to allow enough time for signature collection and signature verification to be conducted by county elections officials prior to the filing deadline.

County charter requirements for county offices may differ. For information regarding specific candidate filing requirements for county office, contact the county elections official.


 A person may only file for one lucrative office at the same election. Unless the person has withdrawn from the first filing, all filings are invalid. ORS 249.013

Partisan Office – County

ORS 249.031

Qualifications

All Candidates must be US Citizens and Registered Voters


Office	Age	Residency	Term of Office	Special Requirements	Vacancies
County Commissioner	18	Resident of county one year prior to election ORS 204.016	4 years ORS 204.010	This is a partisan office unless a county home rule charter or ordinance deems it nonpartisan.  Contact the local elections official for further information.	County governing body appoints qualified person until successor is elected ORS 236.215


Filing Requirements

All signatures must be of active registered voters within the district

Office	Major Party Fee or Required Signatures	Minor Party	Individual Electors	Assembly of Electors
 First Day to File	September 9, 2021	June 1, 2022	June 1, 2022	June 1, 2022
 Last Day to File	March 8, 2022	August 30, 2022	August 30, 2022	August 30, 2022
 Last Day to Withdraw	March 11, 2022	September 2, 2022	September 2, 2022	September 2, 2022
County Commissioner  Contact the local elections official for applicable charter or ordinance provisions that may supersede this information.	\$50 or The lesser of either 500 signatures or 2% of the number of votes cast in the county for US President by members of the candidate's party	Nominating convention held in accordance with party bylaws and state law	Number of signatures equal to 1% of the number of votes cast in the county for US President	250 signatures obtained at a nominating convention held in one place, at one time, during a 12-hour period


Major Party Candidates – County

 A candidate who files for a major political party office must have been registered to vote as a member of that political party by September 9, 2021. Exceptions are allowed if the candidate's registration is inactive or the candidate will turn 18 between September 9, 2021 and March 8, 2022 ORS 249.046.

 A major political party candidate on the primary election ballot who is not nominated to the general election may not be the candidate of any other political party or become a nonaffiliated candidate for the same office at the general election. ORS 249.048

Filing Methods for a Major Party Candidate Other than Precinct Committeeperson


ORS 249.031

 A person may only file for one lucrative office at the same election. Unless the person has withdrawn from the first filing, all filings are invalid. ORS 249.013

Filing by Fee

ORS 249.056

A candidate must file:


 Form SEL 101 Candidate Filing – Major Political Party or Nonpartisan;
and

→ Pay the required filing fee, if any; See [Filing Requirements on page 11](#).

File by Petition


ORS 249.008, 249.020, 249.031, 249.035, and 249.061-249.076

The following information provides instruction on collecting and submitting sufficient valid signatures to place the candidate's name on the ballot.

 Violations of certain circulator requirements may result in conviction of a felony with a fine of up to \$125,000 and/or prison for up to 5 years. ORS 260.715

Prospective Petition

Prior to obtaining any signatures, candidates must file the following to begin the signature sheet approval process:

 Form SEL 101 Candidate Filing-Major Political Party or Nonpartisan marked "Prospective Petition"
and

 Form SEL 102 Candidate Signature Sheet – Major Party.

 See [Signature Sheet Requirements on page 27](#).

Approval to Circulate

After receiving the completed forms, the elections official reviews for required information and if complete will provide written approval to circulate the prospective nominating petition that includes:

- petition number;
- number of signatures required; and
- filing deadline.



All signature sheets must be approved in writing by the elections official before circulating. Failure to do so will result in the rejection of the signature sheets.

Required Signatures

County partisan candidate must have the lesser of either:

- 500 signatures;
- or
- 2% of the number of votes cast in the electoral district for president by members of the candidate's party.

Complete Filing

To complete the filing process a candidate will:

- 1 ensure each signature sheet certification is signed and dated by the circulator;
- 2 submit the signature sheets with Form [SEL 338 Petition Submission – Candidate, Voters' Pamphlet](#) to the county elections official for verification allowing sufficient time for the verification process to be completed prior to the filing deadline.

Candidate Filing Timeline



The 2022 Primary Election filing period is from September 9, 2021 to 5pm on March 8, 2022.

Minor Party Candidates – County

Filing Methods for a Minor Party Candidate

Minor political parties may nominate candidates for any partisan office, including federal, state, and county offices, as long as the party has been established within the electoral district and maintains ballot access.

A minor political party nominates candidates by convening a nominating convention that complies with party bylaws and state law. Candidates that are nominated by a recognized minor political party complete and file with the appropriate elections official the following:



Form [SEL 110 Candidate Filing – Minor Political Party](#) with the Candidates Nomination Certificate executed by a party officer and notarized.

Nonaffiliated Candidates – County



To qualify for nomination by individual electors or to conduct an assembly of electors, a candidate cannot be registered to vote as a member of any political party as of March 3, 2022.

Filing Methods for a Nonaffiliated Candidate

Candidates who are not a member of any political party may file for a partisan or nonpartisan office on the general election ballot by completing one of two processes:

→ Individual Electors

A nomination by individual voters involves obtaining a required number of valid signatures from registered voters

or

→ Assembly of Electors

An Assembly of Electors involves a gathering of registered voters in one place at one time to nominate candidates to partisan office.

Individual Electors

ORS 249.740

To be nominated by individual electors the candidate must obtain a required number of valid signatures from active Oregon registered voters in the district.

1 File a Prospective Petition

Prior to obtaining any signatures candidates must file the following forms to begin the signature sheet approval process:



Form SEL 114 Candidate Filing – Individual Electors marked Prospective Petition, designating circulator pay status

and



SEL 122 Candidate Signature Sheet – Individual Electors with all fields completed.



See Signature Sheet Requirements on page 27.

2 Receive Approval to Circulate

If the form is complete, the elections official will give written approval that includes:

- petition number;
- number of signatures required; and
- filing deadline.



All signature sheets must be approved in writing by the elections official before circulating. Failure to do so will result in the rejection of the signature sheets.

3 Gather Petition Signatures

Once the petition has been approved to circulate, but before collecting any signatures, a candidate must review with all circulators the legal requirements and guidelines for circulating the candidate nominating petition.



See Guidelines for Circulation on page 28.



Violations of certain circulator requirements may result in conviction of a felony with a fine of up to \$125,000 and/or prison for up to 5 years. ORS 260.715 and 260.993

After reviewing the legal requirements and guidelines for circulating the nominating petition, a candidate may begin gathering signatures.



Failure to comply with the legal requirements will result in rejection of those sheets.

A candidate is advised to obtain more than the required number of signatures to ensure the petition has a sufficient number of valid signatures.

4 Complete the Petition

Allow sufficient time for the verification process to be completed prior to the filing deadline.

Before submitting signature sheets for verification, the candidate must:

- ensure each signature sheet certification is signed and dated by the circulator; and
- sort the signature sheets by county, if required;

5 Signature Verification

To complete the petition process a candidate must file with the appropriate elections official:



Form [SEL 338 Petition Submission – Candidate, Voters’ Pamphlet](#);

and

- the signature sheets that contain at least 100% of the required number of signatures.

The elections official reviews each signature sheet to ensure that sheets are sorted by county if required and that the circulator’s certification is sufficient. After reviewing the signature sheets the elections official tabulates the number of valid signatures contained on the accepted signature sheets.



If the elections official determines the petition does not contain the required number of valid signatures and the filing deadline has not passed, the candidate may submit additional signatures.

Assembly of Electors

ORS 249.735

An Assembly of Electors is a nominating convention of active Oregon registered voters who gather in one place, on a single day during a single 12-hour period. A presiding officer conducts the assembly, and the assembly secretary records nominations in the minutes. The minutes also include the signatures of the assembly participants. Those signatures are submitted to the elections official.



The presiding officer must coordinate the date, time, and place of the assembly with the elections official, so elections staff can attend and supervise the nominating convention.



See the [Filing Requirements](#) section for a list of required signatures and the deadline to submit completed forms.

1 File a Prospective Petition

The candidate or presiding officer must file Form [SEL 115 Candidate Filing – Assembly of Electors](#). Only by the candidate should sign the form.

2 Receive Approval to Schedule the Assembly

If the form is complete, the elections official will give written approval to schedule the Assembly of Electors.



3 Determine the Logistics for the Assembly

The candidate or presiding officer must coordinate with the elections official to:

- determine a mutually convenient time to conduct the assembly;
- review assembly requirements;
- provide final signature sheets for approval; **and**
- file copy of published notice.

4 Publish a Notice of Assembly

Next, the candidate or presiding officer must publish a notice of the Assembly of Electors at least once in at least three newspapers of general circulation in the electoral district for which the assembly will nominate a candidate.

The notice must contain:

- the time and place of the assembly;
- the office or offices for which nominations will be made; **and**
- the names and addresses of at least 25 active Oregon registered voters who want to have the assembly and who are eligible to participate;
- before publishing the notice, the candidate or presiding officer may submit the 25 names to the elections official to confirm that they are active registered voters.

5 File the Notice of Assembly

To receive final approval to convene the assembly, the candidate or presiding officer must file a copy of the published notice with elections official.



The candidate or presiding officer must publish the notice and file it with the elections official no later than ten days before the nominating convention. ORS 249.735(3).



If the published notice is not filed on time or does not meet the requirements described above, the Assembly of Electors will be cancelled. The candidate or presiding officer may reschedule the assembly in coordination with the elections official and may hold the assembly once all the requirements are met.

6 Get Affidavits to Prove the Notice was Published

The candidate or presiding officer must get an affidavit from each of the newspapers where the notice is published, to prove that the notice was published, as required. Each affidavit should attach to a copy of the notice and be signed by one of the following:

- the newspaper's owner; **or**
- the newspaper's editor; **or**
- the newspaper's publisher; **or**
- the newspaper's manager; **or**
- the newspaper's advertising manager; **or**
- the principal clerk of the owner or editor or manager; **or**
- the newspaper's printer or the printer's foreperson.



The candidate or presiding officer should not submit the affidavit with the filed notice. They should keep it and submit it to the elections official when they file the completed petition after the Assembly of Electors.

7 Receive Approval to Hold the Assembly

Once the candidate or presiding officer files a copy of the published notice (see Step 5, above), the elections official will review it for completeness. If complete, the elections official will give approval, in writing, to hold the Assembly of Electors. The approval document will include:

- the petition number; and
- the number of required signatures; and
- the filing deadline; and
- a signature sheet template, to use for gathering signatures.

8 Hold the Assembly of Electors

The presiding officer is advised to invite more than the required number of participants, to ensure that the minutes include enough valid signatures from active voters. After starting the assembly, the presiding officer must explain that:

- the nominating convention is held in one day in one location and is completed within 12 hours or the process must begin again;
 - the assembly participants must be active Oregon registered voters within the electoral districts from which the assembly is nominating candidates;
 - the assembly may only nominate candidates for offices published in the notice;
 - the candidate who receives the highest number of votes for an office will be the assembly's nominee for that office;
 - only assembly participants who are active registered voters may sign the signature sheets;
- and**
- once the required number of active registered voters are present to participate, they must remain in the assembly until candidates have been nominated, signature sheets are signed, and the convention is adjourned.

9 Filing a Vacancy in Nomination(s)

If a vacancy in nomination occurs, it may be filled in either of the following ways:

- The presiding officer may reconvene the assembly following the same rules as the original assembly. **or**
- The original assembly must vote to appoint the committee to whom the assembly will delegate the authority to fill vacancies. A committee designated by the original assembly may select a nominee to fill the vacancy. The assembly is considered the same assembly if the presiding officer and secretary are the same as during the original assembly. The committee only has the authority to select a nominee to fill the vacancy if the petition has the required number of signatures.

The presiding officer, or the committee, must file with the elections official a certificate of nomination designating the nominee to fill the vacancy.



The vacancy must be filled no later than the 70th day before the general election, August 30, 2022.

10 Adjourn the Assembly of Electors

After the assembly has completed the nomination process and selected the committee to fill vacancies, if any, the assembly is adjourned. The elections official collects all completed signature sheets and stamps each sheet under the last signature line signed to ensure no additional signatures are added. The signature sheets will be returned to the presiding officer.

11 Complete the Petition, Signature Verification

To complete the petition process the candidate or presiding officer must submit to the elections official:



Notarized form [SEL 115 Candidate Filing – Assembly of Electors](#) with the Certificate of Nomination executed by the presiding officer and secretary of the assembly;



The Certificate of Nomination may be executed and notarized on a copy of the [SEL 115](#) originally submitted. If executed and notarized on a new [SEL 115](#), all sections of the form must be completed in their entirety.

→ signature sheets that contain at least 100% of required number of signatures;

and

→ proof of published notice affidavit(s).

The candidate or presiding officer submits signature sheets to the appropriate county elections official for verification allowing sufficient time for the verification process to be completed prior to the filing deadline.

Before submitting the signature sheets for verification, the presiding officer must:

→ ensure each signature sheet certification is signed and dated by the circulator and

→ sort the signature sheets by county, if required.

The county elections official verifies the original signatures against the voters' registration record.

12 Signature Tally

The elections official tabulates the number of valid signatures contained on the accepted signature sheets and notifies the candidate and presiding officer of the final tally.

Nonpartisan Office – County


ORS 249.031


In a county nonpartisan race, a candidate does not run as a member of a political party. County nonpartisan offices include Justice of the Peace, County Clerk, County Assessor, County Treasurer, and Sheriff; it may also include County Commissioner. ORS 249.002. Check with the County Clerk for specific qualifications.

Qualifications

All Candidates must be US Citizens and Registered Voters

Office	Age	Residency	Term of Office	Special Requirements	Vacancies
Assessor	18	Resident of county one year prior to election ORS 204.016	4 years ORS 204.010	The candidate must be a registered appraiser or an appraiser trainee; have two years accounting experience or two years employment in an appraiser's office; and be certified to be eligible by the Dept. of Revenue. ORS 204.016(4)	County governing body appoints qualified person to serve until successor is elected ORS 236.210
Auditor	18	Resident of county one year prior to election ORS 204.016	4 years ORS 204.010	Must be a registered CPA	County governing body appoints qualified person to serve until successor is elected ORS 236.210
Clerk	18	Resident of county one year prior to election ORS 204.016	4 years OR Const., Art VI, §6		County governing body appoints qualified person to serve until successor is elected ORS 236.210
Sheriff	21	Resident of county one year prior to election ORS 204.016	4 years OR Const., Art VI, §6	Proof of certification or eligibility for certification by the Department of Public Safety Standards and Training must be provided to the filing officer no later than the 61 st day prior to the election. Exceptions may apply. ORS 206.015 (3) and (4)	County governing body appoints qualified person to serve until successor is elected ORS 236.210
Treasurer	18	Resident of county one year prior to election ORS 204.016	4 years OR Const., Art VI, §6		County governing body appoints qualified person to serve until successor is elected ORS 236.210
Justice of the Peace	18	Resident of state 3 years and residence or office in district one year prior to appointment or becoming a candidate ORS 51.240	6 years (must retire at end of calendar year in which judge attains the age of 75) OR Const., Art VII §1a	If not a member of the state bar, must take 30 hours of continuing education every 2 calendar years ORS 51.245	Governor appoints qualified person to serve until successor is elected ORS 51.260

 County Commissioner is a partisan office unless a county home rule charter or ordinance deems it nonpartisan. Contact the local elections official for further information.

 Qualifications for county, city, or district office may be governed by county or city charter or ordinance or district by-laws and are not provided. For those offices or any other office not listed in these tables, contact the local elections official for the required qualifications.

Filing Requirements

All signatures must be of active Oregon registered voters within the district

	Primary Election	General Election	Regularly Scheduled District Election
First Day to File	September 9, 2021	June 1, 2022	February 4, 2023
Last Day to File	March 8, 2022	August 30, 2022	March 16, 2023
Last Day to Withdraw	March 11, 2022	September 2, 2022	March 16, 2023
Office	Fee	Required Signatures	
Justice of the Peace	Free ORS 249.056 (2)		
Assessor, Auditor, Clerk, Sheriff or Treasurer	\$50	or	The lesser of either 500 signatures or 1% of the number of votes cast in the district for governor at the last election at which the Governor was elected to a full term.
Contact the local elections official for applicable charter or ordinance provisions that may supersede this information			

Filing Methods for a Nonpartisan Office Candidate

ORS 249.020

A person may only file for one lucrative office at the same election. Unless the person has withdrawn from the first filing, all filings are invalid. ORS 249.013

Filing by Fee

ORS 249.056

A candidate files form [SEL 101](#), and pays the required filing fee, if any. See Filing Requirements above.

File by Petition

ORS 249.008, 249.020, 249.031, 249.035, and 249.061-249.076

The following information provides instruction on collecting and submitting sufficient valid signatures to place the candidate's name on the ballot.

Violations of certain circulator requirements may result in conviction of a felony with a fine of up to \$125,000 and/or prison for up to 5 years. ORS 260.715 and 260.993

Prospective Petition

Prior to obtaining any signatures, candidates must file the following forms to begin the signature sheet approval process:

- [SEL 101 Candidate Filing-Major Political Party or Nonpartisan](#) marked "Prospective Petition"
- and
- [SEL 121 Candidate Signature Sheet – Nonpartisan](#).
- See [Signature Sheet Requirements](#) on page 27.

Approval to Circulate

After receiving the required forms, the elections official reviews for required information and if complete will provide written approval to circulate the prospective nominating petition that includes:

- petition number;
- number of signatures required; and
- filing deadline.



All signature sheets must be approved in writing by the elections official before circulating. Failure to do so will result in the rejection of the signature sheets.

Required Signatures

County nonpartisan candidates must have the lesser of either:

- 500 signatures
- or
- 1% of the number of votes cast in the electoral district for governor.

A nonpartisan candidate may obtain signatures from any active Oregon registered voter in the county, regardless of political party affiliation.

Complete Filing

To complete the filing process a candidate will:

- 1 ensure each signature sheet certification is signed and dated by the circulator;
 - 2 submit the signature sheets to the county elections official for verification allowing sufficient time for the verification process to be completed prior to the filing deadline;
- and
- 3 file the signature sheets with the Form [SEL 338 Petition Submission – Candidate, Voters’ Pamphlet](#).

Candidate Filing Timeline



The 2022 Primary Election filing period is from September 9, 2021 to 5pm on March 8, 2022.





City Candidates

City candidates may file with the city elections office by paying a filing fee or by a petition containing signatures.

The city elections official will verify qualification for a candidate prior to their name being placed on the ballot. If the candidate does not qualify for the position, the filing will be rejected and any fees will be refunded.

Qualifications and requirements set by city charter or ordinance may differ from state statutes. For more information and specific requirements, contact the city elections official before filing.

Filing Requirements

	Primary Election	General Election
 First Day to File	September 9, 2021	June 1, 2022
 Last Day to File	March 8, 2022	August 30, 2022
 Last Day to Withdraw	March 11, 2022	September 2, 2022
Office	Fee	Required Signatures
City Office  Contact the local elections official to determine which election the office will appear on and for any applicable charter or ordinance provisions that may supersede this information.	Set by charter or ordinance or	The lesser of either 500 signatures or 1% of the number of votes cast in the district for governor at the last election at which the Governor was elected to a full term.

Filing Methods for City Candidates



A person may only file for one lucrative office at the same election. Unless the person has withdrawn from the first filing, all filings are invalid. ORS 249.013

File by Fee

ORS 249.056

A candidate must file the following with the city elections office:



Form SEL 101 Candidate Filing – Major Political Party or Nonpartisan

and

→ pay the required filing fee, if any.

City candidate filing fees may be set by a city charter or ordinance. Check with your city elections official for more information.

File by Petition

ORS 249.008, 249.020, 249.031, 249.035, and 249.061-249.076

All signatures must be from active Oregon registered voters within the district.

A candidate must allow sufficient time for signatures to be verified before the filing deadline.



Violations of certain circulator requirements may result in conviction of a felony with a fine of up to \$125,000 and/or prison for up to 5 years. ORS 260.715 and 260.993

The following forms must be completed and filed with the city elections office:

 SEL 101 Candidate Filing – Major Political Party or Nonpartisan marked “Prospective Petition”

and

 SEL 121 Candidate Signature Sheet – Nonpartisan.



See [Circulator and Petition Sheet Requirements](#) on page 27.

Approval to Circulate

After receiving the completed forms the elections official reviews for required information and if complete will provide written approval to circulate the prospective nominating petition that includes:

- petition number;
- number of signatures required; and
- filing deadline.



All signature sheets must be approved in writing by the elections official before circulating. Failure to do so will result in the rejection of the signature sheets.

Required Signatures

A candidate is advised to obtain more than the required number of signatures to ensure the petition contains a sufficient number of valid signatures.

City candidate must have the lesser of either:

- 500 signatures

or

- 1% of the votes cast in the electoral district for all candidates for Governor at the last election where the Governor was elected to a full term.

City charter or ordinance may have different requirements.

Complete Filing

To complete the filing process a candidate must:

- 1 ensure each signature sheet certification is signed and dated by the circulator;
- 2 submit the signature sheets to the city elections official for verification allowing sufficient time for the verification process to be completed prior to the filing deadline;

and

- 3 file the signature sheets with Form [SEL 338 Petition Submission – Candidate, Voters’ Pamphlet](#).

Signature Verification

The city elections official will review signature sheets for sufficient circulator certification.


The city elections official will submit the signatures to the county elections official for signature verification.

The county elections official will:

- verify the original signatures against the voters’ current registration record **and**
- return the certified signature sheets to the city elections official.

The city elections official will notify the candidate of the results of the signature verification. If it is determined that there are not enough valid signatures and the filing deadline has not passed, the candidate may submit additional signatures.

Candidate Filing Timeline

 If a city does not elect candidates at a primary election, the first day to file for office is June 1, 2022, and the deadline is 5 pm on August 30, 2022, for the November 8, 2022 General Election.

District Candidates

ORS 255.235

District candidates may file with the county elections office by paying a filing fee or by petition to obtain signatures.

Qualifications for District Offices

Contact the Elections Division for what procedures apply to candidates for a newly created district board. Before filing for district office, a candidate should contact the county elections official to review the statutory requirements for the office sought.

Special district statutory requirements may differ from general state elections requirements.

Soil and Water Conservation District candidates must contact the Oregon Department of Agriculture for information related to filing for candidacy.





Regular district elections to elect district board members are held at the May election in each odd-numbered year. For more information and specific requirements, contact the county elections official before filing.


Candidates for Metropolitan Service District (MSD) offices must follow the same process as state and county nonpartisan candidates.

Filing Requirements for District Offices

Contact your county elections official to ensure all statutory requirements are met.

All signatures must be of active Oregon registered voters within the district.

	Primary Election	General Election	Regularly Scheduled District Election
 First Day to File	January 27, 2022	July 21, 2022	February 4, 2023
 Last Day to File	March 8, 2022	August 30, 2022	March 16, 2023
 Last Day to Withdraw	March 8, 2022	August 30, 2022	March 16, 2023
Office	Fee		Required Signatures
 District Office District board members are elected at the regular district election in May of each odd-numbered year.	\$10 or		The lesser of either 25 signatures or 10% of the total number of active registered voters in the district. Contact the local elections official for any applicable by-laws that may supersede this information.

 No person may be a candidate for more than one position on the same district board to be filled at the same election. ORS 249.013

Filing Methods for District Candidates



A person may only file for one lucrative office at the same election. Unless the person has withdrawn from the first filing, all filings are invalid. ORS 249.013

File by Fee

ORS 249.056

A candidate will file:



Form [SEL 190 District Candidate Filing form](#)

and

→ The appropriate filing fee.

File by Petition

ORS 249.064, 249.076, 255.012, 255.235

A candidate must allow sufficient time to have the signatures verified before the filing deadline. A candidate nominating petition for a district candidate is not approved by the county elections official prior to circulation. Instead the district candidate uses the following signature sheet to gather signatures:



Form [SEL 121 Candidate Signature Sheet – Nonpartisan](#) or



See [Circulator and Petition Sheet Requirements](#) on page 27.



Form [SEL 338 Petition Submission – Candidate, Voters’ Pamphlet](#).



Violations of certain circulator requirements may result in conviction of a felony with a fine of up to \$125,000 and/or prison for up to 5 years. ORS 260.715 and 260.993

Complete Filing

To complete the filing process a candidate must:

- 1 obtain the required number of signatures, although obtaining more than the required number may help to ensure the petition contains a sufficient number of valid signatures;
 - 2 ensure each signature sheet certification is signed and dated by the circulator;
- and
- 3 submit the signature sheets to the appropriate county elections official for signature verification along with:



Form [SEL 190 Candidate Filing – District](#).

Signature Verification

The county elections official reviews signature sheets for sufficient circulator certification and verifies the original signatures against the voters’ current registration record.

Write-In Candidates

ORS 254.548

Oregon voters have the option of writing in the name of a candidate for any office instead of voting for a candidate printed on the ballot. Write-in votes are tallied together with a lump sum recorded for each office unless there is no candidate on the ballot, or the total number of write-in votes exceeds the candidate with the most votes.

A candidate seeking nomination or election to office by write-in does not complete any candidate filing forms but must qualify for the office and may be required to establish a campaign account and file a Statement of Organization designating a candidate committee.



See the [Campaign Finance Manual](#) and the [ORESTAR User's Manuals](#) available at www.oregonvotes.gov.

Prior to sending a notification to any person who is nominated or elected by write-in, the filing officer will conduct a review of the qualifications of the office. If the person who received the most votes does not qualify for the position, the office becomes vacant.

If any individual is nominated or elected by write-in votes, the procedures for accepting the nomination of office are explained in the following sections.

Notification

The elections official notifies the candidate by sending:



Form [SEL 141 Write-In Candidate Acceptance](#)

Acceptance of Nomination or Office

To accept the nomination or office, the candidate completes, signs, and returns form [SEL 141](#) to the elections official.

Certificate of Nomination or Election

Upon receipt of the completed and signed [SEL 141](#) the elections official prepares and delivers a certificate of nomination or election to the candidate and if applicable, issues a proclamation of election.



Deadline to Complete Write-In Process

	Primary Election	General Election	District Election
Notification	June 25, 2022	December 17, 2022	June 24, 2023
Acceptance	June 27, 2022	December 19, 2022	June 26, 2023
Certificate	July 1, 2022	December 23, 2022	June 30, 2023

Vacancy

The procedures for the filling of vacancies in an elective public office or nomination are dependent on the office. A **vacancy in nomination** occurs when a candidate on the ballot becomes disqualified or dies (a candidate may only withdraw from the ballot after they have filed and up to the specified deadline for withdrawal). A **vacancy in office** occurs when the current office holder resigns, is recalled, becomes disqualified or dies.

For local elective public offices, the vacancy procedures are under the authority of the local jurisdiction and the Secretary of State, Elections Division does not generally provide advice or resolve disputes about those procedures. The Secretary of State, Elections Division has a role **only** in the vacancy procedures for **state offices**. These procedures differ depending on whether the public office is partisan or nonpartisan and also differ for specific offices within those categories.

A vacancy in office may occur at any time during the term of office, even before the person takes the oath of office or before the term ends.

- The processes for filling a vacancy are dependent upon the type of office and when the vacancy occurred, not why the vacancy occurred.
- Reasons for vacancies may include death, resignation, disqualification, or recall.
- ORS 236.320 provides that resignations for public office shall be in writing and filed with the appropriate filing officers.

The Oregon Constitution, Oregon Revised Statutes, and Oregon Administrative Rules have applicable sections regarding vacancies. The Oregon Constitution and Oregon Revised Statutes can be searched [here](#). The search can be narrowed by using the ORS General Index. Oregon Administration Rules are found [here](#).

Petition Guidelines and Requirements

The guidelines and requirements for producing and circulating candidate nominating petition signature sheets are explained in the following sections.

Official Signature Sheets

ORS 249.031, 249.061, and 249.064

Local candidates must use approved signature sheet forms to collect signatures. Candidate nominating petitions cannot be circulated using an electronic signature sheet.

Signature sheets must be submitted for approval exactly as intended to circulate, including weight, style, and color of paper. Official signature sheets include:

- Form SEL 102, Candidate Signature Sheet – Major Party
- Form SEL 116, Candidate Signature Sheet – Assembly of Electors
- Form SEL 121, Candidate Signature Sheet – Nonpartisan
- Form SEL 122, Candidate Signature Sheet – Individual Electors




Any proposed variation to the approved signature sheet must be resubmitted and approved in writing by the elections official before circulating.

Signature Sheet Requirements

Each signature sheet must meet the following formatting requirements:

- standard 8½ x 11 size paper or equivalent;
- at least 20 pound uncoated paper or equivalent; **and**
- printed on white or colored paper stock to enable elections officials to readily verify signatures.

 Forms are available online at www.oregonvotes.gov.

Guidelines for Circulation

ORS 249.061

To ensure compliance with circulating requirements, candidates must educate circulators on the guidelines for circulating and monitor their activities.

Circulator Requirements

Each circulator must:	What this means:
→ personally witness each signature collected;	✓ Watch the person sign the petition. ⓘ It is not sufficient to merely be present in the same room or vicinity.
→ complete the circulator certification after witnessing all signatures collected on a sheet; and	✓ Sign the certification using a legal signature. ⓘ A legal signature is defined as a signature possessing obvious and predominantly matching characteristics to signatures on file from a paid circulator's registration, signatures in the Oregon voter registration file, or the signature on an official government document. ⓘ Initials, signature stamps, illegible or printed script are not sufficient unless verified by exemplar.
→ provide the date when the certification was signed.	✓ The date must be provided in month, day, year order if written in all numbers.



A circulator's failure to comply with these requirements may result in the rejection of the petition signature sheets and a felony conviction for the circulator.

Circulator Prohibitions



It is against the law for circulators to knowingly:

- circulate a petition containing a false signature;
- attempt to obtain the signature of a person who is not qualified to sign the petition;
 ⓘ Only active Oregon registered voters may sign a petition.
- make false statements to any person who signs the petition or requests information about it;
- offer money or anything of value to another person to sign or not sign the petition;
- sell or offer to sell signature sheets; or
- write, alter, correct, clarify or obscure any information about the signers unless the signer initials after the changes are made.
 ⓘ A circulator may assist a disabled signer who requests assistance in completing their printed name, address and date signed. In such a case, no initials are required.



Violations of the circulator requirements may result in conviction of a felony with a fine of up to \$125,000 and/or prison for up to 5 years. ORS 260.715 and 260.993


Signer Requirements

Each petition signer must:	What this means:
All Petition Types	
→ Signers should provide an original signature and should be encouraged to provide their printed name and date signed.	✓ Signers must sign the petition using a signature contained in their voter registration record.
 These informational fields, while optional unless otherwise noted below, provide valuable assistance when verifying signatures.	
 Signers must include printed name for Nomination by Assembly of Electors and for Major Party Presidential Candidates.	
→ Signers should be an active registered voter at the time of signing the petition in the candidate's electoral district.	✓ Information in the voter's registration record is up to date, and they would be able to vote for the candidate.
→ Sign a petition sheet that is designated for their county of residence, if applicable.	✓ Signers should sign a petition sheet designated for the county in which they are registered to vote.
→ Provide a residence or mailing address.	✓ Signers should provide the address at which they are registered to vote.
Nominating Petition Only	
→ At the time of signing the petition, signers are encouraged to include the signer's precinct name or number.	✓ Signers are encouraged to provide precinct information.
Major Party Petition Only	
→ At the time of signing the petition, the signer should be a member of the same political party as the candidate.	✓ Information in the voter's registration record is up to date, and they would be able to vote for the candidate at a primary election.

Signature Date

If no date is provided by the signer, the signature is only considered valid if the signer:


- ✓ was an active Oregon registered voter between the date the petition was approved to circulate and the circulator's certification date; or
- ✓ was originally registered to vote on or after the date the petition was approved to circulate and was an active registered voter between their original registration date and the circulator's certification date.

 This standard also applies to any signer that provides a date of birth or a date that at the time of verification has not yet occurred instead of the date they signed the petition.

Signer Prohibitions

It is against the law for signers to knowingly:

- sign another person's name under any circumstances;
- sign a petition more than one time; or
- sign a petition when not qualified to sign it.

 Only active Oregon registered voters may sign a petition. If the signer is not registered to vote or an active voter the signature will be rejected unless a completed registration card is received by a designated voter registration agency or an elections filing officer before 5 pm the day the petition is signed or 11:59 pm if completed electronically online at www.oregonvotes.gov.

Certification of Signature Sheets

OAR 165-014-0270

After all signatures on a signature sheet have been collected, circulators complete the certification by signing their legal signature and providing the date when the certification was signed. A legal signature is defined as a signature possessing obvious and predominantly matching characteristics to signatures on file from a paid circulator's registration, signatures in the Oregon voter registration file, or the signature on an official government document.

! If the circulator certification is not completed or determined to be insufficient the signature sheet will be rejected.

Prior to submission to elections officials the circulator may correct the following defects:

Circulator Signature Defects



If the circulator has:	Then the circulator should:
→ signed using only initials; i Unless verified by exemplar.	✓ sign and re-date certification with legal signature;
→ signed using a signature stamp; i Unless approved under ORS 246.025.	✓ re-sign and re-date certification with legal signature;
→ signed using an illegible signature; i Unless verified by exemplar.	✓ re-sign and re-date certification with legal signature;
→ photocopied or carbon copied the certification; or	✓ sign and re-date certification with legal signature; or
→ signed in a manner that the signature, printed name, and address are all illegible;	✓ re-sign and re-date certification with legal signature.

Certification Date Defects

If the date is:	Then the circulator should:
→ missing;	✓ re-sign and date or date and initial correction;
→ crossed out;	✓ re-sign and re-date or re-date and initial correction;
→ overwritten with a different date;	✓ re-sign and re-date or re-date and initial correction;
→ earlier than all petition signers; i Unless the circulator and the only signer are the same person.	✓ re-sign and re-date or re-date and initial correction;
→ earlier than some, but not all petition signers; i Only those signatures dated on or before the date of the certification will be accepted.	✓ re-sign and re-date or re-date and initial correction;
→ partial or ambiguous; or	✓ re-sign and re-date or re-date and initial correction; or i Date must be provided in month, day, and year order if written in all numeric characters.
→ obscured in any way by white out or other correction fluid or adhesive tape.	✓ re-sign and re-date or re-date and initial correction.

The following defects in the circulator certification cannot be corrected and any signature sheet submitted that contains one of these defects will be rejected:


Incurable Defects


- the original signature of a circulator has been crossed out, and a different circulator's signature is inserted;
 -  Does not apply if the original signature is that of an individual whose signature appears on the same signature sheet as a signer.
- two individuals sign and date as circulator; or
 -  Does not apply if the only signers and the circulators are the same people.
- white-out or other correction fluid or adhesive tape appears on the signature line.

Guidelines for Completing Candidate Filing Forms

ORS 249.031

All forms must be complete before submitting them to the elections official.

-  Failure to provide information for each of the required fields may result in rejection of the candidate filing forms.

-  Providing false statements on filing forms is a violation of Oregon Election Law and the candidate may be convicted of a Class C Felony. ORS 260.715(1) and 260.993

Additional information may be required and will be discussed further in this section under the specific section.

Original or Amendment

Indicate if the filing is an Original filing or an Amendment that is changing information prior to the filing deadline.

Candidate Information

Complete the following information:

- **Name of Candidate:** This should be the candidate's full name (first, middle initial if applicable, and last). If filing online through ORESTAR, this field is automatically populated from the user profile and cannot be modified.
- **How name should appear on ballot:** Include how the candidate wishes their name to appear on the ballot. If a nickname is used in connection with the candidate's full name, the nickname should be in parentheses. Titles and designations (e.g., Dr., CPA) should not be included as they cannot appear on the ballot.
- **Candidate Residence Address:** Residential address of the candidate, including the county must be used.
- **Mailing Address for Candidate Correspondence:** Include the address where the candidate wishes to receive correspondence from the elections official. To use the residence address as the mailing address for candidate correspondence, click in the checkbox.
- **Contact Information:** Enter valid phone number where the candidate can be reached during normal business hours, fax, email address, and website, if applicable.

The following are guidelines to complete the required fields of occupation, occupational background, educational background, and prior governmental experience on the candidate filing forms. These fields are required and information provided must be accurate. Not every occupational, educational, or prior governmental experience is required to be provided. If the candidate has no relevant experience, “none” or other equivalent must be entered.

Occupation and Occupational Background

- **Occupation (present employment – paid or unpaid):** The current full- or part-time employment or other line of work, business, craft, or professional information (not required to indicate whether paid or not paid). If not employed, enter “Not Employed”.
- **Occupational Background (previous employment – paid or unpaid):** Previous full- or part-time employment or other line of work, business, craft or professional information (not required to indicate whether paid or not paid).

Educational Background

- **Educational Background (schools attended):** This may include schools attended by the candidate, including the last grade level completed, whether a diploma, degree or certificate was received, and the course of study. It is not required that every educational experience be listed, but what is listed must be accurate.
- **Educational Background (other):** Other educational experiences of the candidate.



A degree indicates a college, university or professional school has awarded a title upon the person for completion of a program of study. For this purpose, honorary degrees or degrees from "degree mills" should not be included under this requirement.

Prior Governmental Experience

- **Prior Governmental Experience (elected or appointed):** The current or previous governmental experience, which refers to a person’s involvement in governmental activities, such as appointed boards and commissions, elected boards other elected or appointed public offices or organizations that are recognized by a governmental body. Full- or part-time, paid or unpaid, or volunteer experience may be included (not required to indicate whether paid or not paid). If the candidate has no prior governmental experience, enter “None” or other equivalent.

Candidate Signature and Date Signed

Additional Information Required

The following instructions are for fields on specific forms that are unique to that form.

SEL 101 Candidate Filing – Major Political Party or Nonpartisan

Filing Method

Complete the following information.

- **Fee:** If paying a fee, check this box.
- **Prospective Petition:** If collecting signatures in lieu of paying the filing fee, check this box.
- **Some circulators may be paid:** When collecting signatures, if circulators may be paid to gather the sufficient number of signatures, mark “Yes.” If circulators are volunteering their time to help collect signatures, mark “No.”

Office Information


Complete the following information.

- **Filing for Office of:** Indicate the office the candidate is filing for.
- **District, Position or County:** Indicate the district, position or county of the office the candidate is filing for.
- **Party Affiliation:** Select the candidate’s party affiliation. If entering your candidacy online, “Nonpartisan” will automatically populate if the office indicated is nonpartisan.
- **Incumbent Judge:** If filing for a state judge position, indicate if the candidate is the incumbent judge by selecting “Yes” or “No.”

SEL 110 Candidate Filing – Minor Political Party

Nomination Information

- **Party nomination you are accepting with this filing:** Check the box for the party that is nominating you and whose nomination you are accepting.
- **Order of parties on ballot:** Indicate whether the order of the parties will be in default order or in a specified order. If marking Specified, specify the order in the space provided.

 If you have previously filed a candidacy filing with the filing officer for the current election cycle, skip to the Candidate Nomination Certificate and Candidate Attestation on the form. If you have **not** previously filed a candidacy filing with the filing officer for the current election cycle, fill out all remaining fields.

Candidate Nomination Certificate

Candidate filings by a minor party must be notarized prior to submission. The following fields must be completed.

- **Name of Minor Political Party:** Include the name of the Minor Party nominating the candidate.
- **Signature of the Officer of Minor Political Party:** Include the signature of one of the officers listed on the by-laws of the minor political party.
- **Date Signed:** Include the date the officer of the political party signed the candidate filing form.

- **Printed Name of the Officer of Minor Political Party:** Include the clearly printed name of the officer that signed the candidate filing form.

The following fields are completed by a Judge or Notary Public.

- **State of Oregon, County of:** Include the name of the county in which the Judge or Notary Public is signing the candidate filing form.
- **Signed before me on:** Include the date the Judge or Notary Public witnessed the Minor Political Party officer sign the candidate filing form.
- **By:** Include the name of the Judge or the Notary Public
- **Judge or Notary Public-State of Oregon:** Include the signature of the Judge or Notary Public

SEL 114 Candidate Filing – Individual Electors

- **Name of Chief Sponsor:** Include the name of the candidate or other person interested in placing the candidate name on the ballot. This can be the candidate.

SEL 115 Candidate Filing – Assembly of Electors

Assembly of Electors fields to complete.

- **Name of Person Submitting Certificate of Nomination:** Include the name of candidate or a person designated as the presiding officer.
- **Address of Person Submitting Certificate of Nomination:** Include the address of the candidate or the presiding officer named in the above field.
- **Signature of Presiding Officer:** Include the signature of the candidate or the signature of the presiding officer of the assembly.
- **Printed Name of Presiding Officer:** Include the clearly printed name of the presiding officer.
- **Signature of the Secretary:** Include the signature of the candidate or the secretary of the assembly.
- **Printed Name of the Secretary:** Include the signature of the candidate or the signature of the secretary of the assembly.

The following fields are completed by a Judge or Notary Public.

- **State of Oregon, County of:** Include the name of the county in which the Judge or Notary Public is signing the candidate filing form.
- **Signed before me on:** Include the date the Judge or Notary Public witnessed the Minor Political Party officer sign the candidate filing form.
- **By:** Include the name of the Judge or the Notary Public.
- **Judge or Notary Public-State of Oregon:** Include the signature of the Judge or Notary Public.

SEL 141 Candidate Filing – Write-In Acceptance

Nomination or Election

Indicate whether you are accepting a nomination or if you have won the election for this office.


Office Information

Complete the following information.

- **Filing for Office of:** Indicate the office for which you are accepting the nomination.
- **District, Position or County:** If the office has a district number and/or a position number or the office covers an entire county, indicate that information in this field.

Nomination Information

- **Party nomination(s) you are accepting:** Check the box for the party or parties that nominated you by write-in at the Primary election and whose nomination you are accepting.
- **Order of parties on ballot:** Indicate whether the order of the parties will be in default order or in a specified order. If marking Specified, specify the order in the space provided.

 If you have previously filed a candidacy filing with the filing officer for the current election cycle, skip to the signature line on the form. If you have **not** previously filed a candidacy filing with the filing officer for the current election cycle, fill out the remaining fields.

SEL 150 Candidate Filing – Withdrawal

Withdrawal from Candidacy or Nomination for Office Information

- **Office of:** Indicate the office for which you originally filed.
- **District, Position or County:** Indicate the applicable district, position number, or county of the office for which you filed.
- Check the box to indicate if you were a Candidate for Nomination or if you were running for office by political party.
- **Withdrawal Reason:** In the box, indicate why you are withdrawing your candidacy.

SEL 190 Candidate Filing - District

Office Information

Complete the following information

- **Filing for Office of:** Select the office for which the candidate is filing.
- **District, Position or County:** Select the district, position, or county of the office for which the candidate is filing.

Filing Information

Please check the method used to file a completed form.

- Filing with the required \$10.00 fee or
- Prospective Petition, see the District Candidate section of this manual for the requirements for a candidate filing by petition.

Other Forms

Additional forms that may be necessary to file.

SEL 220 Statement of Organization for a Candidate Committee

Please refer to the Campaign Finance Manual for further information about the SEL 220.

PC 7 Certificate of Limited contributions and Expenditures

Please refer to the Campaign Finance Manual for further information about the PC 7.

SEL 338 Petition Submission

Form submitted that provides the number of signatures submitted for verification by completing and filing candidacy by petition.



List of Forms

SEL 101

Candidate Filing – Major Political Party or Nonpartisan

SEL 102

Candidate Signature Sheet – Major Party

SEL 105

Candidate Filing – Precinct Committeeperson

SEL 105D

Write-In Declaration – Precinct Committeeperson

SEL 105N

Write-in Nomination – Precinct Committeeperson

SEL 110

Candidate Filing – Minor Political Party

SEL 114

Candidate Filing – Individual Electors

SEL 115

Candidate Filing – Assembly of Electors

SEL 116

Candidate Signature Sheet – Assembly of Electors

SEL 121

Candidate Signature Sheet – Nonpartisan

SEL 122

Candidate Signature Sheet – Individual Electors

SEL 141

Write-In Candidate Acceptance Form

SEL 150

Withdrawal – Candidacy or Nomination

SEL 190

Candidate Filing – District

SEL 220

Statement of Organization for a Candidate Committee

SEL 338

Petition Submission – Candidate Voters' Pamphlet


PC 7

Certificate of Limited Contributions and Expenditures

Restrictions on Political Campaigning by Public Employees - ORS 260.432

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Using this Manual

This manual details allowable and restricted activities, consistent with ORS 260.432 and advice from the Attorney General. It is adopted by Oregon administrative rule. Violations of this rule are to be enforced as violations of ORS 260.432. This manual details for public agencies and individuals allowable and restricted activities, consistent with ORS 260.432 and the Attorney General's advice and provides information on the Elections Division prior review process.

Icons

The following icons are used in this manual to emphasize information:



alert icon

indicates alert; warning; attention needed



info icon

indicates additional information



deadline icon

indicates a deadline



example icon

indicates an example



form icon

indicates a reference to a form



search icon

indicates information located elsewhere

Assistance

If you have any questions about the material covered in this manual or need further assistance, please contact:

Elections Division
255 Capitol St NE Suite 501
Salem OR 97310



elections.sos@state.or.us



www.oregonvotes.gov

503 986 1518
 503 373 7414



1 866 673 VOTE/673 8683
se habla español

tty 1 800 735 2900
for the hearing impaired

Getting Started

An Attorney General letter dated October 5, 1993 states:

"Public bodies may use public funds to inform voters of facts pertinent to a measure, if the information is not used to lead voters to support or oppose a particular position in the election. However, we also have pointed out that 'informational' material may be found to 'promote or oppose' a measure even if it does not do so in so many words if the information presented to the public clearly favors or opposes the measure and, taken as a whole, clearly is intended to generate votes for or against a measure."

ORS 260.432 Statutory Provisions

Essentially, public employees may not engage in political activity while on the job. This manual will go into detail about what it means to promote or oppose, and when a public employee is "on the job during work hours." The statute has three specific paragraphs:

ORS 260.432(1) states that a person - including public employers and elected officials - may not require a public employee to promote or oppose any political committee or any initiative, referendum or recall petition, ballot measure or candidate.

ORS 260.432(2) states that public employees (including school administrators, city managers, police chiefs, etc.) may not be involved in **promoting or opposing** any political committee or any initiative, referendum or recall petition, measure or candidate **“while on the job during working hours.”**

ORS 260.432(3) states that each public employer must have posted - in all appropriate places where public employees work - a notice about the prohibitions of ORS 260.432. See the final page of this manual for a sample notice.

When Does 260.432 Apply?

- for initiative, referendum and recall petition efforts, as soon as a prospective petition is filed with the appropriate elections filing officer (for a statewide initiative, this is the date the sponsorship prospective petition is filed);
- for a ballot measure referred to the ballot by a governing body (district, city, county, state) as soon as the measure is certified to the ballot. A county, city or district measure is certified to the ballot when the elections official files the referral with the county election office;
- for a candidate, as soon as the person becomes a candidate under the definition in ORS 260.005(1)(a); and
- for political committees, whenever the political committee is active.

The prohibition ceases to apply at 8:00 pm on the date of the election at which the candidate, measure, recall or referendum is being voted on. The prohibition ceases to apply to a petition (initiative, referendum or recall) on the date the petition is withdrawn or becomes void.

Overview of Restrictions and Allowable Activities

Public employees may not use their work time to support or oppose measures, candidates, recalls, political committees or petitions. When this manual refers to engaging in "political activity" or "advocacy", it means only that political activity or advocacy which is restricted by the statute- supporting or opposing measures, candidates, recalls, political committees or petitions. Supporting or opposing political issues which do not fall into any of those categories is not restricted by the statute.

Oregon election law does not specify any amount of work time that may be used before a violation occurs, so a public employee may be found in violation even though they used a minimal amount of work time.

An elected official or any other employer of a public employee may not require or direct public employees to prepare or distribute advocacy materials.

Who must follow ORS 260.432?

All non-elected public employees are covered by 260.432. Elected officials are covered insofar as they direct other public employees to engage in political activities.






See [Candidates and Elected Officials](#), page 10.

Federal employees, including persons principally employed by state or local executive agencies in connection with programs financed in whole or in part by federal loans or grants, are covered by the federal Hatch Act, which is administered by the U.S. Office of Special Counsel.

Appointed Board Members and Commissioners

ORS 260.432 applies to appointed board and commission members when they are acting in their official capacity. Appointed board or commission members are acting in their official capacity when they are at a meeting of the board or commission, working on a duty assigned by the board or commission, working on official publications (including website materials) for the board or commission, or when appearing at an event in an official capacity.

Appointed board or commission members may use their titles to engage in political advocacy (including endorsing candidates, measures, etc.) as long as they are not acting in an official capacity when authorizing use of their title.

-  On personal time, a candidate approaches a planning commission board member and asks for their endorsement. The candidate asks if they can use the board member's title, and the board member agrees. This is allowable.
-  Example: A candidate, attending a planning commission meeting, asks the board members for an endorsement and some board members agree. This is not allowable, because the board members are at a meeting and therefore acting in an official capacity.
-  See [Use of Public Employee Title](#) on page 11 for more information.


Salaried and Hourly Employees: What is “On the Job”?


Salaried employees’ work time is not as easily measured as hourly workers. If the work performed falls generally within the job duties of the public employee, the work is performed in an official capacity regardless of the time of day or location.

If a salaried employee applies for expense reimbursement for a function, they are considered on the job.

A regular workday may not be definable for a position, or may not have a specific time period. It is based on the activities and whether the person is acting, or appears to be acting, in an official capacity.

Personal note-keeping by salaried employees to record when the employee is on or off duty is suggested. During public appearances, the employee is encouraged to specifically announce to the audience that the employee is not acting in his or her official capacity if they are engaging in political advocacy. Such an announcement would not negate a subsequent statement or action that indicates the public employee is acting in his or her official capacity (such as handing out official publications, or speaking on behalf of the jurisdiction).

-  If a salaried police officer attends a meeting about a bond measure on his own time (i.e. while not “on duty”) and advocates for the measure, he should announce to the audience that he is there in his capacity as a citizen, and is not representing the police department.

However, if the police officer went on to hand out official publications from the jurisdiction, the police officer would be acting in his or her official capacity (despite their previous announcement) and would be subject to the requirements of ORS 260.432.
-  A school superintendent is acting in his or her official capacity at all school board meetings and school functions.

→ A salaried public employee may be acting in his or her official capacity even when using personal equipment and personal time, if the activity is related to work duties.

ex A public employee who, on their own computer on the weekend, drafts a press release about how a measure might affect their agency, and signs the document with their title, is acting in their official capacity.

→ Salaried employees have the right to participate in political activity on their own time. An employee would not be on the job solely because they may be subject to a call back to duty at any time.

Common activities that are always undertaken in an official capacity (regardless of time of day or location) and are therefore subject to the requirements of ORS 260.432 include:

- posting material to an official website (and approving material to be posted to an official website)
- drafting or distributing an official publication from the jurisdiction
- Appearing at an event as a representative of a jurisdiction

Q See [Use of Public Employee Title on page 11](#) for more information.

Volunteer personnel at a public agency

Volunteers (other than members of appointed boards or commissions) receiving no compensation are not considered public employees and therefore are not restricted by ORS 260.432. Workers compensation coverage is not considered compensation.

These volunteers may be bound by the policies of the jurisdiction. The policies may include limits on political advocacy during their volunteer activities as well as limits on access to agency resources for advocacy purposes. While a volunteer will not be liable under ORS 260.432, a public employee may have exposure if the public employee directs a volunteer to engage in political advocacy.

Government Contractors

Public employees may not direct government contractors to engage in political activity as part of the contracting service.

Contractors are bound by the policies of the jurisdiction and the terms of the contract. While a contractor will generally not be liable under ORS 260.432, a public employee may have exposure if the public employee directs a contractor to engage in political advocacy.

ex A school district may hire a public relations firm to help communicate with the public about an upcoming measure. If the public relations firm drafts material to be approved and disseminated by public employees, the material must be impartial. If the material is not impartial, the public employee who approved it would be liable for a violation of ORS 260.432.

National Voter Registration Act (NVRA) and ORS 247.208(3)

While the restrictions imposed under ORS 260.432 apply generally to all public employees, ORS 247.208(3) imposes a separate, rigorous set of restrictions that apply only to persons who provide voter registration services required under the National Voter Registration Act (NVRA). NVRA is a federal Act enacted by Congress in 1993.

Public employees or other persons providing NVRA-required voter registration services on behalf of a designated public agency may not:

- seek to influence the political preference or party registration of a person registering to vote;
- attempt to discourage a customer from registering to vote;
- display any indications of political preference or party allegiance (including the choice of candidates for partisan political office);

- make any statement or take any action towards a person registering to vote that would lead the person to believe the voter registration has any bearing on the availability of services or benefits;
- seek to induce any person to register to vote or to vote in any particular manner.

These restrictions prohibit public employees from wearing political buttons while performing NVRA services, which is more restrictive than the general rule that is explained on [page 8](#).



See OAR 165-005-0070 for detailed guidelines.

Personal Expression by Public Employees

Signs and Posted Information

Campaign Signs

Oregon election law does not address the size, location or timing of political campaign signs. Many local jurisdictions (cities and counties) have ordinances or policies that address campaign signs.

Public employees may generally have political stickers on their cars or post political signs in their work area, as long as they do so on personal time and such action does not violate any employer policy. Public employers are encouraged to have written policies about posting political material at work.



See [National Voter Registration Act \(NVRA\)](#) on [page 6](#) for signage rules specific to NVRA employees.

Union Bulletin Boards

Public employee unions may have a designated bulletin board to post information. The location and contents of those bulletin boards are regulated by collective bargaining agreements and are not subject to the requirements of ORS 260.432.

Distribution of Political Material within a Government Agency

Public employees may not distribute material that contains political advocacy while on the job during work hours, except public employees may, as part of their job duties, process and distribute incoming mail addressed to specific employees that contains political advocacy.

Political material may be distributed in public jurisdictions if the person doing the distribution is not on the job, if other people would be granted equal access, and if it does not violate the jurisdiction's policies.



A teacher, while not on the job (before or after work or during lunch), may place information about his candidacy for a local office in the boxes of the other teachers at the school so long as any other candidate who asked would be allowed to distribute materials into the boxes.

Unions may distribute political materials to their members pursuant to their contract.



See [Email](#) on [page 14](#) regarding responding to or forwarding political emails.

Verbal Communication

ORS 260.432 does not restrict the right of a public employee to express personal political views during their personal time. However, it does restrict some verbal communication while on the job during working hours (or while acting in an "official capacity").

A public employee cannot promote or oppose a political position while they are on the job during work hours.

- ex** A City Manager gives a presentation to staff about a pending measure. During the presentation, he says "I hope we all agree that it is important that this measure passes". That verbal communication would constitute a violation.

Public employers may add additional policies.

Public Presentations and Speeches

A public employee cannot give a speech or presentation advocating a political position if they are on the job or acting in their official capacity. An elected official may give political presentations and speeches, so long as no public employee work time is utilized.

When making a presentation that contains political advocacy during non-work time, the public employee should announce that they are acting in their capacity as a private citizen. The employee should also document that they were not on the job.

- ex** Employees may document that they are not on the job by keeping: a log, payroll records that indicate when they were on the job, time off slips, etc.

Meetings

Public employees may attend meetings at which political issues are discussed, so long as they do not engage in political advocacy themselves while on the job or acting in their official capacity.

Public employees cannot be compelled to attend political presentations. If a public agency has a mandatory staff meeting and a political group is making a presentation, the agency must make it clear that attendance at the political presentation is optional. Public employees who do attend the political presentation must do so during non-work time. Political advocacy presentations should not occur in close proximity to events requiring public employee attendance.

Buttons, T-Shirts, and Uniforms

Political Buttons and Clothing

Public employees may wear political buttons or clothing at work so long as it does not violate their employer's policy.

A public employer may not request or require that public employees wear political clothing, buttons, etc.

- ex** It would not be a violation for a teacher, on their own, to choose to wear a "Vote Yes on Measure 1234" button to school (so long as that did not violate school policy). It would be a violation for school administration to give out "Vote Yes on Measure 1234" buttons and email to encourage teachers to wear them to school on Election Day.

Uniforms

Generally, wearing a uniform while engaging in political activity is governed by the uniform policy of the jurisdiction that issues the uniform. Wearing a uniform to a political event, or while giving a political presentation, is not a violation of ORS 260.432, unless other elements of the presentation violate requirements of this rule. Public employees who wear uniforms and engage in advocacy should notify the audience that they are not acting in their official capacity.

Lobbying and Legal Challenges

Legal Challenges by Public Jurisdictions

Public employee's work involvement in legal court challenges as part of their regular job duties is not a violation of ORS 260.432.

- ex** Examples of legal challenges include whether an initiative petition meets constitutional requirements, whether a ballot title complies with statutory standards, etc.

Legislation and Lobbying

Legislative bills are not covered by ORS 260.432. Therefore it is allowable, under election law, for public employees to lobby governing bodies. Once a referral has been certified to the ballot, political advocacy is restricted by ORS 260.432.

- i** For more information about lobbying, contact the Oregon Government Ethics Commission.

Public Property

If a governing body makes their property available for advocacy activities, they must grant equal access for all political groups to use public property. This includes charging the same fee or requiring the same permit.

If a candidate (or group supporting or opposing a recall, measure, initiative, etc.) requests to use public property for political purposes, then the government agency must allow the same access at the same price (if any) to any other candidate.

Public agencies may have policies that regulate the use of public property. The policy may be more restrictive than the requirements of ORS 260.432.

- i** ORS 294.100 provides a limited remedy for possible inappropriate use of public resources. That statute is not within the jurisdiction of the Elections Division, and therefore we cannot give advice about compliance with that statute.

An elected official is not required to grant equal access to their office or equipment, even if it is in a public building.

Contact Lists

If lists are available to the public, a public employee must grant equal access to anyone who requests the list. This includes any list that the public body administers. The public body must charge the same fee, if any.

A candidate may not use any list administered by a public body that is not available to all other candidates. Candidates may use contact lists that they created (including constituent contacts collected as an elected official) without granting equal access to other candidates.

- ex** This issue commonly arises with the use of personnel lists, public utility lists, email lists, voter lists, etc. Public bodies must allow equal access to these lists.

Government Logos

A governing body must allow equal access to logos for political purposes, meaning that if any candidate is allowed to use the logo, all candidates must be allowed. It is not allowable to allow certain candidates (or other political groups), such as incumbents, to use logos but prohibit another candidate from doing the same.

Government agencies are encouraged to have written policies about use of their logos.


Public Records

Governing bodies must grant equal access to public records. All requestors of records should be charged the same fee, if any.

Advertising

Public jurisdictions which raise funds through advertisement must grant equal access to any political group or person. The public body must charge the same fee, if any, to any candidate or other political group for the same level of advertising space or time.

Public employees should not design an advertisement or verbally promote a sponsor candidate or political group at an event. A public employee may edit the advertisement for size, clarity, etc. but should not edit the substance of the advertisement.

-  A school district produces game programs for football games. A candidate asks to have a half page ad placed in the program. A public employee charges the candidate the same fee any other person or group would have been charged for the space, and places the candidate's pre-designed ad into the program.

Public jurisdictions are encouraged to have written policies on advertising which incorporate the requirements of ORS 260.432.

Candidates and Elected Officials


An elected official may engage in political activity during work time. Elected officials are not considered public employees for the purposes of ORS 260.432.

A person appointed to fill a vacancy in an elective public office is considered an elected official for purposes of this statute.

Elected officials cannot request public employees who are on the job or acting in an official capacity to engage in political advocacy. A request made by an elected official is considered a command.

An elected official's quote, opinion piece, letter or speech advocating a political position may not be published in a jurisdiction's newsletter or other publication produced or distributed by public employees.

-  See [Material Produced by Governing Bodies, page 12](#). See [Voters' Pamphlet, page 13](#), for an exception to this standard.

-  Public employees may not prepare the text for a speech, a press release, constituent mail that advocates a vote, candidate filing forms, voters' pamphlet filing forms, file contribution and expenditure (C&E) transactions online, etc. during their work time.

An elected official, as part of a governing body, may vote to support or oppose a measure put before the body. The elected official may publicly discuss the vote. Elected officials may not use public employee staff time, except for ministerial functions.

-  See [Material Produced by Governing Body, page 12](#).

An elected official may only solicit volunteer help from public employees during employee breaks or other personal time.

Candidate Forums

A governing body may sponsor a candidate forum if it is open to all candidates, though not all candidates must attend.

Public employees may use work time to arrange the forum. The public employee may perform administrative support functions in conjunction with the forum and may attend on work time.



All public employee involvement in the forum must be impartial. Public employees may not draft or select questions for the candidates.

Scheduling Political Appearances

Public employees may maintain the schedule of elected official candidates. Public employees may not solicit political scheduling opportunities for an elected official, but may respond to scheduling requests. Prohibited activities include organizing campaign events, communicating on political matters with the press or constituents, or initiating any other political activity on behalf of the official.

As discussed in the measure section, incoming calls about measures must be answered in a strictly factual manner.

Visits by Candidate or Candidate Representative

A candidate may request to visit a government agency work site. The public agency must grant equal access to all candidates. The government agency should not initiate candidate visits, except for candidate forums.

Public employees involved in the arrangements for the visit may perform administrative duties necessary to arrange the event.

No public employee may take any actions to promote or oppose the candidate before or during the visit. This includes taking a political position when announcing the event, holding a campaign sign during the event or assisting the candidate in distributing campaign materials.

Sharing Information with the Media

Use of Public Employee Title

Public employees may use their work title in political activity so long as the title is the only indication that the public employee is acting in an official capacity. Use of a title may give people the impression that a public employee is acting in an official capacity, so it is suggested that public employees use caution. However, a violation of ORS 260.432 will only be found where a public employee is on the job or acting in an official capacity. Public employees may not always have control over whether people or political groups add a title to a publication.



A public employee, after work on personal time, is asked whether they are willing to endorse a candidate with the purpose of including the endorsement on the candidate's website. The public employee agrees. Regardless of whether the candidate adds the title of the public employee on their own or whether the public employee specifically agrees for his or her title to be included, the public employee would not be in violation of ORS 260.432 because the endorsement occurred after hours and the title is the only indication that the public employee is acting in an official capacity.

→ It would be a violation for a public employee to receive a call at work from a candidate and agree to endorse the candidate, regardless of whether the candidate includes the title in the endorsement, because the public employee is on the job during work hours.



See *Salaried v. Hourly: "On the Job"* on page 5.

Guest Opinions or Letters to the Editor by Public Employees

If a public employee is asked in their official capacity to produce a guest opinion related to a ballot measure or candidate, the content must be impartial.

A public employee may write a letter to the editor that contains political advocacy so long as they do so on their own time and not in their official capacity.

Agency Interaction with Media

A spokesperson for an agency may respond to media inquiries about the possible effects of a measure or initiative so long as the information they provide is impartial. The public employee must not state or imply support or opposition.

A public employee may draft and distribute an impartial news release, except for a news release regarding a resolution advocating a political position on a measure.

 See [Resolutions \(Vote Taken\) by an Elected Governing Body](#), page 15.

Information that is entirely factual may nonetheless be considered advocacy (for example, by omitting required cost information).


 See [Determining Impartiality for Documents](#), page 17.

Material Produced by Governing Bodies

Any covered political materials produced by public employees while on the job during work hours must be impartial. The Elections Division is available to review documents prior to publication to ensure compliance with ORS 260.432. If the document is submitted to the Elections Division and approved in writing, there will be no violation of ORS 260.432 as long as what is printed does not deviate from the approved version. This review process will be completed within five business days of the submission of the document.

Contact

Oregon Secretary of State, Elections Division

 **503 986 1518**

Fax 503 373 7414

 elections.sos@state.or.us

When the Elections Division receives a document for prior review (usually submitted by fax or email), it will review it utilizing the [impartiality requirements on page 18](#) of this manual. It will then reply to the jurisdiction, usually by email, with a statement that the document as submitted is acceptable, or with notes about how to make the document more impartial. The jurisdiction may re-submit the material incorporating the suggested changes as many times as necessary.

Who is Liable for Advocacy Material

Any public employee who authors or drafts material that contains advocacy may be in violation of ORS 260.432. This includes any public employee who creates material for inclusion in an advocacy document.

A supervisor who requests that an advocacy document be created, or oversees the project, may also be in violation of ORS 260.432, even if they are not the author of the document.

A public employee may edit material that is subsequently found to contain advocacy if the public employee only edits for grammar, spelling and other non-substantive issues. A public employee may not edit advocacy materials if they make or suggest substantive changes. It is not a violation for a public employee to design materials that are subsequently found to contain advocacy so long as they are not involved in the substantive content of the document.

It is not a violation of ORS 260.432 for a public employee, at the direction of a supervisor, to post advocacy materials to a website or otherwise distribute them. The supervisor who directed the distribution of materials may be in violation of ORS 260.432.

 See [Determining Impartiality of Documents](#), page 17.

Letterhead and State Seal


Government Letterhead

Election law does not regulate the use of government letterhead.

We recommend agencies have policies in place governing letterhead that incorporate the requirements of ORS 260.432.

State Seal


ORS 186.023 governs the use of the Oregon State Seal. Elected officials may use the state seal in an official capacity, but not as a candidate for public office.

 For questions about the use of the Oregon State Seal, contact the Secretary of State, Executive Office at 503-986-1523.

Specific Kinds of Materials

Voters' Pamphlet

A public employee's duties may include producing an official voters' pamphlet. Public employees may not prepare measure arguments or candidate statements for inclusion in the voters' pamphlet while on the job during work hours.

 See [page 16](#) for information about ballot titles and explanatory statements.

Postcards

Postcards produced or distributed by public employees must be impartial. The postcards must meet the [impartiality requirements, described on page 18](#).


When a public employee is involved in the production of a series of small mailers, each piece must be individually impartial. Read together, the series of mailers must also be impartial. For ballot measure material, any discussion of the measure's effects must be balanced with the amount of taxes or fees.

"Don't Forget to Vote" Materials

Public employees may produce "don't forget to vote" materials as long as they are impartial. These materials can contain information about the date of the election, how to return ballots, etc. and can also include information about a measure, as long as that information is impartial.

Previously Published Materials

Public employees may respond to public records requests with information that contains advocacy, but may not proactively distribute advocacy material.

 See [Websites, page 14](#), for information about links to previously published materials.

Video and Audio Productions

Video and Audio productions created or distributed by public employees must be impartial.

Public employees who record video of public meetings may do so even if non-public employees (or public employees who are not on the job or acting in their official capacity) engage in advocacy on the video. Public employees may not make recordings where the purpose of the video or audio production is advocacy. Public employees may not edit a video so that the resulting product is advocacy.

Public employees may broadcast videos of meetings for public access channels and post the videos on government websites, even if the videos contain advocacy. Posting only excerpts of the meeting where there is advocacy with an intent to advocate would be a violation.

Websites

No advocacy material may be posted on any government website or blog unless it is part of an official function of the agency.

ex An elections website may contain voters' pamphlet information.

→ Any public body may post information that is a record of a public meeting, even if it contains advocacy.

Candidates and other political groups may link to government websites, but government websites may not contain links to advocacy material. Even if a public employee posts advocacy material on the government website during their personal time or on their personal equipment, the public employee would be acting in their official capacity and therefore would violate ORS 260.432.

Government websites may contain public records about measures or candidates. Those public records must be treated the same as other public records, which do not contain advocacy. Public records which contain advocacy cannot be proactively distributed or placed in a prominent location on a website when a measure or other restricted issue is pending.

ex A city manager may produce a memorandum to the city council about the need for a possible future bond measure referral. If the city council refers the bond measure, then that memorandum cannot be proactively distributed after the measure is certified. The city could respond to a public records request for the memorandum or maintain it with, for example, the minutes for the meeting in an archival section of the website.

Government agencies should have a policy in place for their website that incorporates the requirements of ORS 260.432.

E-mail

Public employees may open and read emails that contain political advocacy. They may not, while on the job during work hours, send or forward emails that contain advocacy, except as outlined below.

A public employee may forward an email containing advocacy to their personal email, so long as this does not violate the employer's policies. Public employees may unsubscribe or otherwise ask to be removed for an email list while they are on the job.

A public employee may forward an email containing links to advocacy material only when that material is germane to the government agency and the public employee does not provide commentary.

ex A wildlife official may forward emails to other public employees that contain a link to an article about an upcoming measure that would change the way the state regulates the wolf population. They may not include commentary that endorses or opposes the article or issue. They may include commentary germane to how the measure would affect the agency, so long as the commentary is impartial. The wildlife official may not forward an advocacy article about a measure that would impose a public school bond (or any other issue not related to the agency).

Agencies are advised to have a policy on use of government email that incorporates the requirements of ORS 260.432.

New Media (Twitter, Facebook, etc.)

Public employees may not post to government Twitter, Facebook, etc. material that contains political advocacy.

If a government agency interacts with candidates or covered political groups in new media (i.e., if a candidate left a comment on an agency Facebook post), the agency must ensure that they treat all candidates or political groups equally and that any agency interaction remains impartial.

If a government agency allows comments on social media posts, it must ensure that comments that support or oppose restricted political issues are treated equally.

- ex** An official school district facebook page posts a "don't forget to vote" message. Several people comment supporting and opposing a school district bond measure that is on the ballot. It would be a violation if the school district deleted the negative comments and maintained the positive comments. It would not be a violation to delete a comment opposing the measure if the comment also violates school district comment policy (e.g. the comment contained profanity).

Agencies are advised to have policies on use of government new media accounts that incorporate the requirements of ORS 260.432.

Initiatives, Measures, and Ballot Titles

When Does ORS 260.432 Apply?

- for initiative, referendum and recall petition efforts as soon as a prospective petition is filed with the appropriate elections filing officer;
- for a ballot measure referred to the ballot by a governing body (district, city, county, state) as soon as the measure is certified to the ballot. A district or city measure is certified to the ballot when the elections official files the referral with the county election office.

The actions taken by a governing body and its public employees in the planning stages of a possible measure are not subject to ORS 260.432.

Public employees may produce and distribute advocacy material about referrals prior to the measure being certified to the ballot. Any public employee work time used to change, amend, edit, distribute, etc. a document found to be supporting or opposing a referral between the date it is certified to the ballot until the date of the pertinent election could be a violation of ORS 260.432.

Public employees may respond to public records requests for documents that contain advocacy, even if the measure has been certified. They may not proactively distribute those materials after the measure is certified.

A public employee may not distribute prior measure materials that contain advocacy where the same or similar issue is currently on the ballot.

- ex** If a school district has a recurring bond levy, district employees may not proactively distribute any materials from the previous levies (even though those elections have passed) during the period between certification and the current election.

Resolutions (Vote taken) by an Elected Governing Body

Elected boards of governing bodies may take a position on a ballot measure (or initiative, referendum or recall petition) provided there is no use of public employee work time to advocate that position.

With regard to a governing body's resolution that advocates a political position on a ballot measure, initiative, referendum or recall, a public employee:

May	May Not
Edit the jurisdiction's name and board member names to conform it to the requirements for the resolution	Draft, type, or edit the resolution
Prepare neutral, factual information for the board to use in taking a position on the measure, including impartial information on how the measure could affect the jurisdiction.	Recommend how to vote on the resolution
Be available at the board meeting to offer impartial information upon request.	Sign a resolution, unless the public employee's signature is ministerial and included only to attest that the board took the vote
Respond to direct questions from the media about the resolution, if their response is impartial.	Prepare a news release or other announcement of the resolution.
If the jurisdiction lists all votes on resolutions in a regularly published publication, they may include the vote in an impartial manner.	Include the vote or position of the governing body in a jurisdiction newsletter or other publication.
Use work time to record the vote if that is part of the employee's work duties.	
Use work time for regular job duties, such as responding to public records requests, taking minutes, retyping the resolution to conform to the required format, etc.	

Ballot titles

Public employees may use work time to draft ballot titles. A public employee may also defend a challenged ballot title.

Because the impartiality requirements and ballot title challenge process in ORS chapter 250 are distinct from the requirements of ORS 260.432, this office will not review ballot titles for impartiality. Public employees who draft ballot titles as part of their job duties do not violate ORS 260.432 by drafting a ballot title.



See [Legal Challenges by Public Jurisdictions](#), page 9.

Explanatory statements

Public employees may use work time to draft explanatory statements.

Because the impartiality requirements and explanatory statement process in ORS chapters 251 are distinct from the requirements of ORS 260.432, this office will not review explanatory statements for impartiality. Public employees who draft explanatory statements as part of their job duties will not be found in violation of ORS 260.432 for drafting an explanatory statement.



See [Legal Challenges by Public Jurisdictions](#), page 9.

Public Employers Discussing Possible Effects of a Measure with Public Employees

A public employer may tell employees about the possible effects of a measure so long as the information presented is impartial and balanced. They may not encourage (implicitly or explicitly) public employees to support or oppose the measure.



Pursuant to ORS 260.665, it is a crime to threaten loss of employment (or other loss) or offer a thing of value to induce someone to vote in a particular manner.

Measure Forums

A forum to allow political proponents and opponents to debate ballot measures may be held using public employee work time as long as equal access is granted.

Measure forums are governed by the same principles as candidate forums.



See [Candidate Forums](#), page 10.

Determining Impartiality of Documents

Elections Division Review of Documents

The Elections Division offers a review service to give advice on whether a document complies with the requirements of ORS 260.432.

To submit a document for review, you may:



elections.sos@state.or.us

Fax 503 373 7414



255 Capitol Street NE, Suite 501, Salem, OR 97310

Any Elections Division review of a document must occur before publication or distribution of the document. The Elections Division does not review documents for accuracy, only for impartiality.



ORS 260.532 governs false statements in elections material. It prohibits false statements of material fact about candidates, political committees, or measures. That statute is not enforced through the Elections Division, but instead requires an aggrieved party to pursue their claim in court.

Approval by the Elections Division provides a safe harbor for compliance with ORS 260.432. Should the Elections Division receive a complaint, it will be rejected as long as what was published is exactly what was submitted for review and all recommended changes were made.

When governing bodies receive Elections Division advice, they may choose to make some or all of the changes. If a complaint is received, the governing body will only be provided a safe harbor if they:

- 1 Accepted and made all of the changes recommended by the Elections Division
- 2 Did not otherwise alter the document

Once a document has been reviewed and all of the changes are made, a governing body may include a disclaimer that reads: "This information was reviewed by the Oregon Secretary of State's Office for compliance with ORS 260.432." This is the only acceptable disclaimer.

Impartiality Requirements

The overall inquiry for determining impartiality is whether the material “promotes or opposes” a candidate, initiative, measure, political committee or recall. In order to be impartial for the purposes of ORS 260.432, a document must meet three requirements:

- Documents must not explicitly urge a yes or no vote;
- Documents must be factually balanced;
- Any document that talks about what a measure would pay for must also fully describe how much it would cost.

The requirements are discussed in further detail below.

1 Vote Yes/No

The contents of the document must not urge a yes or no vote for the measure. There should be no “vote yes” or “vote no” language. The document must not include phrases such as:

- “Vote Yes on Measure 99,”
- “Support for Measure 99 is encouraged,”
- “The County is asking voters to approve,”
- “Why Should I Vote for Measure 99?”
- “Voters are asked to support Measure 99,”
- “At election time, please support the Home Rule Charter,”
- “On May 15, 2012, Anytown voters are being asked to continue their support of the community youth by renewing the Youth Action Levy, Measure 57,” and
- “Please support our incumbent mayor.”

Even if the remainder of the document is impartial, explicitly urging someone to vote in a particular manner would be a violation of ORS 260.432.

2 Balance of Factual Information

Documents produced by governing bodies must not be one-sided. They must include a balance of factual information.

3 Description of Cost

If a measure proposes to affect taxes or fees, the cost of the measure to an individual taxpayer or consumer must be included. In the context of a bond levy, this is generally the cost per \$1,000 of assessed value. The cost must not be worded in a way to minimize it. It is allowable to include an estimate if the exact cost is not known.

ex It would be advocacy to describe the cost as “less than”, “merely”, or “only” \$X.

It is allowable to indicate that a bond renewal would not “raise taxes” where the jurisdiction states that the bond, if renewed, would continue to cost \$X per \$1000 assessed value. It is also allowable to state how much the bond would raise taxes compared to the previous bond, as long as the full cost information (generally cost per \$1000) is also included.

ex “The ABC Library bond will not raise taxes. If the bond is renewed the rate will remain at \$1.23 per \$1000 assessed value.”

“The ABC School bond is an increase of \$.25 per \$1000 assessed value over the previous bond. The total rate if the bond is passed would be \$1.45 per \$1000 assessed value.”

For measures that use funding mechanisms other than cost per \$1000 assessed value, the cost must be described in a way that clearly informs the public of how the measure would affect taxes.

Enforcement

Complaints (ORS 260.345)

Any Oregon elector may file a signed, written complaint with the Secretary of State, Elections Division alleging that a violation of ORS 260.432 (or any other election law) has occurred. The Elections Division also has its own authority to initiate an investigation when it has reason to believe a violation has occurred.

When a complaint is received, the Secretary of State will acknowledge receipt of the complaint to the complainant and the subject of the complaint within 48 hours of receiving the complaint. When the complaint is against a jurisdiction and not any specific individuals, it will be acknowledged to someone the Elections Division believes has responsibility for the area where the public employees are alleged to have violated the statute. The acknowledgment will be in writing.



If a complaint is against a City and it is not clear who is responsible, it will be acknowledged to the City Manager.

Because ORS 260.432 is a civil statute, the complaint and all investigative documents are public information. The complaint and all correspondence are available for any person who makes a public records request.

Investigation

Once a complaint is received, an investigation is conducted. The Elections Division will collect information and make inquiries. The subject of the complaint will be invited to respond to the allegations and provide any relevant information. As part of the investigation, the Elections Division may review materials not submitted with or mentioned in the complaint, and those materials may be the basis for a violation. The Elections Division may consider any information it considers relevant to the question of whether individuals in the jurisdiction violated ORS 260.432.

The investigation is independent of any election. The election will not dictate when a determination is made, and any determination will not change the outcome of the election.

Determination

If the Elections Division determines there is insufficient evidence of a violation of ORS 260.432, it will issue a letter to the complainant and subject of the complaint closing the case.

If the Elections Division determines there is sufficient evidence to indicate individual(s) violated ORS 260.432, it will issue a Notice of Proposed Civil Penalty (PPN). The PPN will lay out the basis for the violation. When the person subject to the penalty receives the notice, they may:

- Choose to pay the penalty, or
- Contest the charges by requesting a hearing

If the person does not contest the penalty, the Elections Division will issue a default final order imposing the civil penalty. If the person chooses to pay the penalty, payment may be submitted by check made payable to the Secretary of State or paid by credit card over the phone. Payment may be mailed to the Elections Division at any time after the PPN is issued, but must be received not later than 60 calendar days after the default final order is issued.

If the person chooses to contest the charges, they must submit a hearing request form (which will be included with the PPN) and an answer, explaining their reasons for contesting the charges and including any relevant mitigating circumstances.

Mitigating Circumstances

The Elections Division will consider reducing, in whole or in part, the civil penalty where the violation is the direct result of an error by an elections officer. The burden is on the person alleged to have committed the violation to show that this mitigating circumstance exists and caused the violation.

Hearing Process

Hearings are conducted by an administrative law judge with the Office of Administrative Hearings (OAH) in Salem. On the hearing request form, the person subject to the civil penalty may select either a hearing in-person or by telephone.

When the Elections Division receives the hearing request and answer, they will forward this information, as well as the PPN and exhibits, to OAH. OAH will schedule a hearing not later than 45 calendar days after the deadline for requesting a hearing and notify the parties of the hearing date. A 15 calendar day extension may be granted if requested in writing by the person subject to the civil penalty.

Submitting Exhibits

Not less than five business days prior to the commencement of the hearing, each party, including the Elections Division, must deliver copies of the exhibits it intends to offer into evidence at the hearing. Exhibits must be delivered to the administrative law judge, all parties, and the Elections Division.

Any documentary evidence submitted after the deadline may be admitted only if the administrative law judge finds that inclusion of the evidence in the record is necessary to conduct a full and fair hearing.

Conduct of In-Person or Telephone Hearing

If the hearing is in-person, it will be held in a hearing room at the Office of Administrative Hearings in Salem. If the hearing is by telephone, the parties will call the phone number provided in the Notice of Hearing sent by the Office of Administrative Hearings. The hearing will be presided over by an administrative law judge who will describe the hearing process at the beginning of each hearing. The parties will then be given the opportunity to give opening statements, present and examine witnesses, and give closing statements.

If the party that requested the hearing does not appear within 15 minutes of the time set for a hearing, the administrative law judge will declare the party in default unless the party gives notice of a reason for the inability to appear at the designated time and requests and receives a continuance.

Opportunity to Opt Out of In-Person or Telephone Hearing

A person that requests a hearing may decide that he or she does not want to appear at the hearing, but still wants to contest the penalty. The person may submit notarized testimony and other evidence for entry into the hearing record before the administrative law judge in lieu of attending the hearing. The Elections Division must receive the testimony no later than three business days before the day of the scheduled hearing.

The Elections Division may also submit notarized testimony. The Elections Division testimony must be received by OAH not later than 5:00 pm on the scheduled date of the hearing. If the Elections Division fails to submit notarized testimony, the Elections Division exhibits become part of the case file and may establish the basis for liability.

Proposed Order

Not later than 30 calendar days after the hearing is closed, OAH sends the administrative law judge's proposed order to the parties. The proposed order will provide a deadline to file written exceptions to the proposed order. If the Elections Division chooses to amend the proposed order issued by the administrative law judge, the Elections Division will send an amended proposed order to the parties, which will provide a deadline to file written exceptions to the amended proposed order.

Final Order

After reviewing and considering the written exceptions, if any, the Elections Division will issue a final order no later than 90 calendar days after the hearing is closed. If the final order imposes a civil penalty, the party has 60 calendar days to pay the penalty or file an appeal.

Judicial Review

After the issuance of a final order or default final order, the person subject to the civil penalty is entitled to judicial review of the order. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 calendar days of the service date of the order.

ATTENTION ALL PUBLIC EMPLOYEES:


The restrictions imposed by the law of the State of Oregon on your political activities are that “No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of a public employee to express personal political views.”

It is therefore the policy of the state and of your public employer that you may engage in political activity except to the extent prohibited by state law when on the job during working hours. (ORS 260.432)

Election Law Summary

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Using This Manual

This document provides readers with a list of some of the election laws that apply to campaigning in Oregon. The information should be viewed as a reference or starting point rather than a comprehensive list of all activities that could fall under the election laws. This information is to be used in addition to that provided in the *Campaign Finance Manual* and other manuals specific to candidate and petition processes available at www.oregonvotes.gov.

We extend the services of our office to individually review and advise agencies, candidates, committees and individuals on allowable actions in advance of undertaking activities that may cause concern about the application of election law.

Icons

The following icons are used in this manual to emphasize information:

**alert icon**

indicates alert; warning; attention needed

**info icon**

indicates additional information

**example icon**

indicates a detailed example of a concept, process or form

**search icon**

indicates information located elsewhere

Assistance

If you have any questions about the material covered in this manual or need further assistance, please contact:

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www.oregonvotes.gov

tty 1 800 735 2900

for the hearing impaired



1 866 673 VOTE/673 8683
se habla español

Generalized Election Laws

The following are some election laws that may apply to anyone involved in the political process. For complete filing and reporting regulations, a candidate, political committee or other filer needs to review any applicable elections manual available at www.oregonvotes.gov).

246.021; Time Within Which Election Documents Must be Received

Except for voter registration cards (which in some circumstances are accepted based on the postmark, as discussed on [page 29](#) of this document) and electronically filed campaign finance reports (which may be filed no later than 11:59:00 of the day the transaction is due), an election document and any necessary fee must be delivered to the appropriate elections filing officer no later than 5 pm on the deadline day. If the deadline day is a weekend day or holiday, the filing deadline is extended to the next business day. In each case, the election document must be actually received in the filing office. An exception is made when an individual is physically in line in the office waiting to deliver the document. Election documents, except for ballots, voter registration cards or petitions requiring signatures, may be faxed. All elections offices are required to be open on a filing deadline date until 5:00 pm.

ORS 260.266 (2019); Disclosures Required on Political Material

In the 2019 Legislative Session, a new law was passed requiring a statement of persons who paid for communications in support of or in opposition to a clearly identified candidate. This was codified at ORS 260.266, which became operative on December 3, 2020. The disclosure must include the name of the persons that paid for the communication, and include contributor and donor information in certain circumstances. This statute does not apply to communications related to measures.

Former statute ORS 260.522 specified the identification required on political material - but it was repealed by the 2001 Legislature due to a 1999 Attorney General Opinion (OP 8266) concerning the statute's constitutionality.

Radio and television advertisements are regulated by the Federal Communications Commission (FCC). Contact the FCC for more information: phone: 1-888-225-5322 (toll free) or 1-202-418-1440 (Elections and political candidate matters), website: www.fcc.gov.

ORS 260.532; False Publication Relating to Candidate or Measure

No person may knowingly or with reckless disregard make a false statement of material fact about a candidate, political committee or measure. Candidates are liable if they know of and consent to false statements made by others. This election law is enforced by private lawsuit between the parties involved and is not enforced by the Secretary of State.

The Secretary of State does investigate complaints alleging possible false statements in documents required by election law, such as the required portion of a candidate's filing form or voters' pamphlet statement. In these cases, the candidate signs an affidavit or oath as to the veracity of the information on an election form. See ORS 260.715(1).

Complaints arising under ORS 260.532 must be filed with the appropriate circuit court, either in the county in which the defendant resides or in the county where the material was published. A "candidate or political committee aggrieved by a violation" of this statute may file an action in an appropriate circuit court to recover damages and secure equitable relief.

An action under this statute must be filed not later than the 30th day after the election to which the material relates.

Violations of this statute may result in economic and non-economic damages, or \$2,500, whichever is greater. Additionally, the court may grant other relief, such as ordering a retraction of the false statement.

ORS 260.635; Bets and Wagers on Election Results

No candidate shall make a bet on an election and no person or candidate shall make a bet on an election in order to influence the results of an election.

ORS 260.665; Undue Influence

This election law prohibits the use of “undue influence” as defined in the statute for certain purposes. Some subsections are criminal penalty offenses (Class C Felony) and the remaining subsections are civil penalty offenses.

The specific definition of “undue influence” includes the use of:

- Force, violence, restraint or the threat of it;
- Inflicting injury, damage, harm, loss of employment or other loss or the threat of it; or
- Giving or promising to give money, employment or other thing of value.

To violate this law, a person, acting either alone or with or through another person, must subject a person to “undue influence” with the intent to induce the person to take one of the following actions:

Civil Penalty

- Register or not register, vote or not vote, or register or vote in a particular manner;
- Challenge or not challenge a person offering to vote;
- Apply or not apply for an absentee ballot; or
- Sign or refrain from signing a prospective petition or an initiative, referendum, recall or candidate nominating petition.

Criminal Penalty

- Become or not become a candidate or cease being a candidate;
- Contribute or not contribute to any candidate, political party or political committee; or
- Render or not render services to any candidate, political party or political committee.

Many situations that may be considered “influence” are not considered to rise to the level of “undue influence.” For instance, an expression of personal opinions on political issues is not undue influence. Conduct that may otherwise appear to fall within the scope of ORS 260.665 cannot be the subject of a criminal prosecution if it is protected by constitutional guarantees of free expression that are contained in Article I, Section 8 of the Oregon Constitution or the First Amendment to the U.S. Constitution. The law contains exceptions. These exceptions allow employing persons to render services to a candidate or PAC; distributing free-of-charge campaign items that are readily available to the public without charge; providing free child care when people are voting; providing free transportation to and from county elections offices and ballot deposit sites (if no campaign influence is used with the transportation); and providing refreshments incidental to a political gathering.

Two common campaign activities that involve “undue influence” and thus may violate election law are 1) a candidate giving something of value to a voter; and 2) providing refreshments at a political gathering.

Giving Something of Value

With some exceptions, Oregon election law prohibits giving something of value for no charge with the intent to influence how a person votes or other political activity. Campaign buttons, bumper stickers, posters, brochures, doorknob hangers and campaign literature have no use or value independent of a political campaign. These items may be given away at no charge.

There are three elements that must be present for giving away a thing of value to constitute undue influence:

- ✓ The item must be an item of value (see lists below);
- ✓ The item must be advertised or otherwise promoted as available as an inducement; and
- ✓ The inducement must be to get a person to take an action restricted by statute (vote in a particular way, support a candidate, etc.).

Therefore, it is sometimes allowable for a political group to give away a thing of value. If, for example, there is no advertising or promotion of the give away, and if individuals will receive the item regardless of their support or opposition of the political issue, this does not constitute undue influence.

ex At a voter registration table, you may give away t-shirts if the give-away is not advertised in any way, and if individuals are eligible to receive a t-shirt regardless of whether they choose to register to vote at the table.

ex It is allowable to provide door prizes at a fundraiser as long as the door prizes are not advertised as an inducement to attend the fundraiser.

Items of nominal value include **very inexpensive** types of:

- balloons
- bookmarks
- calendars (such as plastic or magnetic)
- eye glass repair kits (of low value)
- emery boards
- fans (paper or plastic)
- flags (novelty with campaign info)
- ink pens
- key chains
- litterbags (paper or plastic)
- matchbooks
- pencils
- small candy refrigerator magnets or "mini-magnets"
- return envelopes – these may be pre-stamped or postage metered and should be pre-labeled or otherwise addressed with a mailing address to the political campaign



Loose postage stamps **may not** be given away for free in a campaign context. Also, envelopes that are stamped but are blank as to a return mailing address **may not** be given away for free. This is because this would make the envelope something of value, as it could be used for other purposes by the recipient, whereas a pre-stamped and addressed envelope would merely facilitate the return of the envelope to the campaign with no independent value.

- rulers (small - wood or plastic)
- shopping bags (paper or plastic)
- bottled water

The distribution of these types of items is not “undue influence,” inducing the recipient to take a certain political action in violation of election law, if the committee ensures:

- ✓ only very small quantities of an item are given to any one person;
- ✓ the distribution of the item is incidental to the political activity that occurs during the distribution; **and**
- ✓ the item does not also contain another connected offering for something of value (for example, the back of a fan should not contain a coupon for \$3.00 off a pizza)

Items that **should not** be used as an inducement (advertised as available for free in connection with a political issue covered by ORS 260.665):

- calculators
- flashlights
- frisbees
- hats
- postage stamps
- toys
- t-shirts

If a committee advertises and gives away items of value, then the campaign must charge at least the cost of the item. The money spent to purchase the items and the money received in payment for the items must be reported in compliance with campaign finance regulations.

- ex** At a fundraising dinner where each guest is charged \$50 to enter, the campaign may include on the invitation a notice that all attendees will receive a free t-shirt.

Providing Refreshments at a Political Gathering

A common political practice is to have a "meet the candidate" neighborhood event at which incidental refreshments such as coffee, tea and cookies may be served at no charge. Refreshments may be provided at a political gathering for no charge if they are incidental to the event. Food or refreshments, at no charge, **cannot be the featured attraction** to induce people to attend a political event (e.g., an advertisement that announces “Join John Doe at a free spaghetti feed”).

If more food is served than what would be conservatively defined as incidental to the event, there must be a charge for at least the actual cost of the food or refreshments if the food and refreshments are advertised.

The host may either:

- 1 charge for the cost of the food only

- ex** “Join John Doe for spaghetti dinner, cost \$3.50 per person.” (\$3.50 is the actual cost of the dinner.)
or

- 2 charge a per plate/per person cost in excess of the value of the food, with the amount collected in excess is considered a campaign contribution

- ex** “Join John Doe for spaghetti dinner, cost \$25 per person,” (\$3.50 is the cost of the dinner). Report each person as contributing the difference of \$21.50.

“Thank you” or “appreciation” events

Another related, frequently asked question is whether it is allowable to hold a “thank you” or “appreciation” event **after** the election to honor political campaign volunteers, at which food and beverages will be provided and small prizes may be awarded. This type of event is allowable and would not be considered a violation of the “undue influence” law **if** the event is not used as an inducement **before** the election to get the attendees to provide services or otherwise contribute to the campaign. Therefore, the event **must not** be advertised in any way **before** the election.

Additionally, at the event the attendees **must not** be induced by the provided food, prizes, etc. to provide any further services or make contributions to the campaign. In these specific, limited circumstances, the food served may go beyond the “refreshment” category into pizza and such and the prizes may be of a bit more value than the above listed nominal value items.

Overall, caution must be taken to **not** include information about the possible prizes as an inducement prior to the election in order to induce a person to volunteer for the campaign.

The *Campaign Finance Manual* contains detailed information on campaign fundraising regulations and reporting. When in doubt regarding the provisions of ORS 260.665, it is advisable to contact an elections official to discuss the situation.

ORS 260.715(1); False Statements in Material Required by Election Law

Violation of this statute is a Class C Felony. A first time violation of this statute, resulting from a person signing a ballot belonging to a different elector, may result in a civil penalty if the Secretary of State or Attorney General determine the violation was not made with the intent to commit fraud. (HB2351)

This election law prohibits knowingly making false statements in material required by election law. The material includes the required information on candidate filing forms and the required information for a candidate’s voters’ pamphlet statement. It does not include the optional portion of the candidate’s statement or measure arguments for the voters’ pamphlet.

However, ORS 260.532 (discussed above) applies to the optional portions of the candidate’s statements and to measure arguments for the voters’ pamphlet. Complaints under that statute must be filed with the appropriate circuit court.

ex An example of a false statement under ORS 260.715(1) is stating the candidate has a college degree when the candidate does not.

Candidates and Political Parties

The following are some election laws that apply to candidates and political parties. The election laws discussed in other sections of this memo - including Campaign Finance, General Election Laws and Voters' Pamphlet, are also of importance to candidates.

For additional election laws relevant to candidates and political parties and complete filing and reporting regulations, a candidate should review the *Candidates Manual* and the current *Campaign Finance Manual*.

For **state** major political party candidates and **state** nonpartisan candidates filing for office at the Primary election, the Secretary of State, Election Division’s electronic reporting system ORESTAR is available. All local candidates must continue to file on paper forms.

ORS 248.005, 248.011; Political Party Representation and Enforcement of Political Party Rules

Each political party by rule is to insure the widest and fairest representation of party members in the party organization and activities. The Secretary of State, county clerk or other election officials do not have jurisdiction to enforce this requirement, or any other rule adopted by a political party.

ORS 249.008(3); Removal of Signature from Candidate Petition

A voter **may not** have their signature removed on a nominating petition; minutes of an assembly of electors; or a petition by individual electors after signatures are submitted to the elections filing officer for signature verification.

ORS 249.013; Candidacy for More than One Office

A candidate may not file for more than one **lucrative office** to be filled at the same election. If a person does so without first filing a written withdrawal from the first office, all filings by the person are invalid. Additionally, the Oregon Constitution, Article II, Section 10, prohibits the simultaneous holding of more than one lucrative office (but does not prohibit a person who currently holds one lucrative office from *running* for a different office).



Some specific exceptions for serving in the state legislature are allowed under the Oregon Constitution, Article XV, Section 8.

No person shall be a candidate for more than one city office to be filled at the same election. No person shall be a candidate for more than one position on the same district board to be filled at the same election.

Lucrative office, is a position under this provision if:

- 1 a salary or other compensation beyond expenses is attached to it;
 - 2 it is created by statute or constitution;
 - 3 its holder exercises part of the sovereign power of government;
 - 4 it is a matter of public concern;
- and
- 5 the position is not temporary or intermittent.

Attorney General Opinion no. 8254, February 10, 1998



Two other Attorney General letters, dated November 9, 1992 and March 2, 1994, explain that a public office is lucrative if the recipient receives compensation for services (except for expenses). The officer cannot make the office non-lucrative merely by refusing the compensation; that status would need to be changed by the governing body. If the only payment to the officer is for expenses, the office is not lucrative. In any case, the determination of whether an office is lucrative is up to each jurisdiction.

Public Employee's Eligibility to Run for Public Office

Generally, a public employee may be a candidate for elective office as long as they conduct their campaign activities on their **own personal** time (with the exception being an employee employed by an agency subject to the Federal Hatch Act and therefore restricted from being a candidate for a **partisan**, public elective office). See ORS 249.002(7) for a definition of nonpartisan office.

ORS 260.432 only applies if a person uses their work time to campaign. Additionally, an employer may not use “undue influence” to threaten an employee’s position because they are a candidate for a public office, per ORS 260.665. Whether the Federal Hatch Act applies in a specific case needs to be answered by the public employee’s agency HR Department or legal counsel. A related website is www.osc.gov, for the Office of Special Counsel of the United States; select “Political Activity, Hatch Act.”

If a public employee is not restricted from running for a public office under the Federal Hatch Act and the employee is elected to an office such as State Representative, the employee may have to resign from the state public employee job at the time of assuming the office (with the exception of Article XV, Section 8; for higher education, etc.). See also Article III, Section 1 on separation of powers.

ORS 249.048; Unsuccessful Candidate Not Eligible as Candidate

If a candidate for a partisan office at the primary election fails to win the major political party nomination, the candidate may not be the candidate of any other political party or become a nonaffiliated candidate for the same office at the succeeding general election.

ex Candidate A is a Republican candidate for State Representative District 34 at the 2008 Primary Election, but does not win the nomination to proceed to the 2008 General Election. Candidate A **may not** be a non-affiliated candidate for the same office at the 2008 General Election, either through nomination by petition (Individual Electors) or assembly of electors or be the nominee of a minor political party.

ORS 249.088, 249.091; Nomination and Election to Nonpartisan Office

The manner in which a **nonpartisan** candidate is nominated or elected is dependent upon which of two categories the office falls:

Category 1

Nonpartisan candidates, such as Statewide judicial office, Circuit Court Judge, District Attorney, City or District offices and County offices **except** for the offices of Sheriff, County Clerk or County Treasurer. Also included in this category are nonpartisan candidates filed for an office that is open due to a vacancy but the office would otherwise be on the next ballot in any case.

ORS 249.088 provides that a nonpartisan candidate in Category 1 is **elected at the primary election** if the candidate receives a majority of the votes cast (at least 50% plus one vote). This rule also applies to a candidate for an office that is on the ballot with a vacancy, but the office would have been printed on the ballot in any case. If no candidate receives a majority of votes, the top two vote getters move forward to the general election.

Category 2

Nonpartisan candidates for the offices of Sheriff, County Clerk and County Treasurer. Also included in this category is any candidate who files for a nonpartisan office that is on the ballot to fill a vacancy that, if not for the vacancy, would **not** normally be on the ballot in that year (because the vacating officer’s term was not up) and so must be elected at the General Election.

Article V, Section 16 and **Article VI, Section 6**, of the **Oregon Constitution** provide that candidates for the offices of Sheriff, County Clerk, County Treasurer, and nonpartisan offices that are open due to a vacancy in office and the office is **not** normally printed on the ballot, may **not** be elected at the Primary Election but **must be** elected at the General Election.

ORS 249.091 provides that if only one or two candidates have submitted their filing of candidacy for a nonpartisan office such as described in Category 2, the one candidate or the two candidates are the nominees for the office to be on the General Election ballot. Therefore, even though the candidates must file for the office by the filing deadline for the Primary Election, the names of these candidates are not printed on the ballot at the Primary Election and they are not included in the Voters' Pamphlet for the Primary Election.

If three or more candidates file for an office within Category 2, the contest will be printed on the Primary ballot for nomination. If one of these three or more candidates receives a majority of the votes cast (at least 50% plus one vote), then only that candidate is nominated and goes forward to the General Election ballot. If no candidate receives a majority of votes, then the top two vote getters move forward to the General Election. Again, it is noted that these candidates **may not** be elected at the Primary Election.

(ex) Some examples follow:

- 1 Candidate Sharon Myers is the incumbent Judge in a Circuit Court position. Her six year term of office would normally end in 2009, and Judge Myers decides to run again in the Primary of 2008. This situation fits into Category 1. Two other candidates file for this same office. However, candidate Myers receives a majority of votes at the Primary Election (at least 50% plus one) and is elected. The Secretary of State issues Candidate Myers a certificate of election, and her name will not be printed on the General Election ballot. Her new term begins January 2009.
- 2 A new Circuit Court position is added by the Legislative Assembly and the office is open for the next Primary Election, with the term set to begin in January following the General Election. Five candidates file for this office at the Primary Election. This new office is not considered to "fill a vacancy" so it fits within Category 1. Therefore, if a candidate receives a majority of votes, that candidate is elected at the Primary Election. However, if no candidate receives a majority of votes (at least 50% plus one), the top two vote getters are nominated to the General Election ballot. These two candidates do not need to re-file candidate filing papers, but they do need to re-file for the state Voters' Pamphlet if they want to be included.
- 3 Two candidates for Sheriff file for the office by the filing deadline for the Primary Election. This office fits within Category 2, as it is an office that **may not** be elected at the Primary Election, but **must** be elected at the General Election. Because only two candidates have filed for this office, both candidates are automatically nominated to the General Election and their names do not appear on the Primary Election ballot. These two candidates are also not in the County Primary Election Voters' Pamphlet.

Also, while these two candidates do not have to re-file candidacy papers for the General Election, they must file for the General Election County Voters' Pamphlet if they want to be included. If three or more candidates file for this office, their names are printed on the Primary Election ballot.
- 4 Circuit Court Judge James Jones retired in the middle of his six-year term; he was elected in 2004 and he would not have had to run again until 2010 with a new term starting January 2011. The Governor appointed a replacement judge, but this office must be on the ballot in 2008 to fill the vacancy. This office fits within Category 2 and no candidate can be elected at the Primary Election.

Four candidates file for this office, including the person who had been appointed and who may use the term "incumbent." Since more than two candidates have filed, the names of these candidates are listed on the 2008 Primary Election ballot. At this election, none of the four candidates receives a majority of votes. Therefore, the top two vote getters are nominated to the 2008 General Election. These candidates do not need to re-file candidacy papers for the 2008 General Election but must re-file for the state 2008 General Election Voters' Pamphlet, if they wish to be included.

ORS 260.550; Use of Term “Incumbent”

This law prohibits the use of “incumbent” or a description of a candidate as the incumbent when the candidate is not the incumbent. An incumbent is defined in this statute as having been elected or appointed to the identical office with continuous service, with exceptions for redistricting (see question about redistricting below). A candidate appointed to an office is considered the incumbent beginning on the day he or she is sworn in for that office.

One question that often arises is whether, in a campaign context, the word “for” is required between a candidate’s name and the name of the office for which the person is running. An example is “Joan Smith – State Representative” used in a campaign publication when Joan Smith is not the incumbent. This reference to the office directly following the candidate’s name may imply either that the candidate is the incumbent or is running for that office. Because this does not necessarily imply incumbency, it is not a violation of election law – as long as it is in a campaign context.

The publication should indicate in some manner that the person is a candidate. It should not contain any other language, photos or graphics that imply the candidate is the incumbent when they are not. For example, it should not include official government seals or logos.

However, we strongly advise candidates to make their campaign wording clear and avoid misunderstandings and possible complaints by including the word “for” in between the candidate’s name and the office title, such as, “Joan Smith for State Representative.” Another alternative in which it is made clear that the candidate is running for office and does not imply incumbency is “Elect Joan Smith State Representative.”

Questions also arise over the use of the term “**re-elect**.” There is no longer any election law that specifically addresses the use of the term “re-elect.” It was found unconstitutional and was repealed in 1993. However, a candidate may not use the term “re-elect” - by itself or with other statements clearly intended to state incumbency - if the candidate is not the incumbent in the office and the statement is completely false.

A candidate **may** use the term “re-elect” in their campaign literature if they, **in the past, held an office of the same name as the one they are running for** (same name of office, not necessarily same position or district number) even though there has been **a lapse of years**. This is not a violation of ORS 260.550, as it could not be proven to be a wholly false statement in itself. (In this context, the word “return” or phrase “return as” would be acceptable.) However, caution must be taken that the rest of the campaign publication not include language implying that the candidate is currently in office, and should not include any official office insignia or symbol. Of course, such a candidate may discuss his or her past experience in the office.

Another related question is, may a state legislator, upon **redistricting** (*which occurs every ten years*), who has been **appointed to a new district of the same legislative branch** (*may have a different position number and different area than the legislator’s previous district*) use the term “re-elect” in campaign literature? This would not be a violation of ORS 260.550, since the fact that “re-elect” implies incumbency in office is not a false statement - the candidate is a current legislator in the same legislative body. (ORS 260.550 (3)).

Another question arises about the use of the term “re-elect” when a candidate has been **appointed to an office** and is currently serving in the office, **but has never actually been elected** to an office of the same name. Although it is true that the candidate is the incumbent, it is advisable that the candidates not use the term “re-elect,” as it could be viewed by readers as misleading or false. Such a candidate may certainly discuss his or her experience and state they are the incumbent.

Finally, a candidate who is an **incumbent in one office, who is running for an office of a different name**, such as a state representative running for state senate, **should not use the term “re-elect.”** “A person who has never been elected a senator cannot be re-elected senator.” (1981 Attorney General Opinion - 42 Op Atty Gen at 129).

Again, such a candidate may certainly discuss his or her experience in the office they are serving or in past offices.

ORS 260.567; Alteration of Information on Petition Signature Sheet; Exceptions

Only a signer **may** complete their signature and information about themselves, such as their printed name, address and date signed. A circulator or other individual **must not** alter, correct, clarify or obscure on the signature sheet any information about the petition signer unless the signer initials the changes made. However, a circulator **may** assist a disabled signer who requests assistance in completing the optional information.

ORS 260.569; Payment Based on Signatures Obtained on Nominating Petition or Voter Registration Card

Circulators **must not** accept compensation to circulate a petition that is based on the number of signatures obtained. This prohibition applies to all candidate nominating petitions, but does not apply to minor political party formation petitions.

Withdrawal from Candidacy or Nomination

A candidate may file a statement of withdrawal with the elections filing officer with whom their candidacy filing was made. The form provided for this purpose is SEL 150. This form must state the candidate's reason for the withdrawal and be filed not later than the 67th day before the applicable election date.

If the candidate does not withdraw by the applicable deadline date, the candidate's name will still be on the printed ballots. However, if the candidate is nominated or elected, the candidate does not have to accept the nomination or office. In that case, a vacancy in nomination or office would be created.

Write-In Candidate Procedures

Oregon voters have the option of not voting for any of the candidates for office who are printed on the ballot, but instead writing in a name of a candidate for each office. All write-in votes for each office on the ballot are tallied together with a lump sum recorded unless:

- 1 No names of candidates are printed on the ballot for the office; or
- 2 If the total number of write-in votes for candidates equals or exceeds the total number of votes for any candidate for the same nomination or office.

In these two circumstances, the county clerk tallies all write-in votes cast for the office to show the total number of votes for each write-in candidate.

Also of note is that ORS 254.505 provides in part, "County board clerks shall disregard misspelling or abbreviations of the names of candidates if it can be ascertained from the ballot for whom the vote was intended." This does not allow for counting write-in names consisting of initials, as an initial can stand for any number of names. An abbreviation is a shortened form of a written word or phrase used in place of the whole.

ex Joseph Walton has publicly announced he is running a write-in campaign (he did not file to be on the printed ballot in time). No candidate filed to be on the ballot for the office and so all write-in votes must be tallied. Counting boards, when tallying write-in votes for this office, will count the abbreviated name Joe Walton towards Joseph Walton, since Joe is a common abbreviation of Joseph. However, they may not count a write-in name of J Walton towards the count for Joseph Walton, because this initial "J" could stand for any number of names beginning with a J, such as Jane, Jim or Jessica.

U.S. President and Vice President Election Process

Although a vote for the candidates for U.S. President and Vice President is a vote for the group of presidential electors supporting those candidates selected by law, the names of the electors are not printed on the General Election ballot. However, the General Election ballot will state that the presidential electors for President and Vice President are being elected and that a vote for the candidates of President and Vice President is a vote for the presidential electors supporting those candidates.

In any of these cases, state campaign finance reporting requirements do not apply. The offices of President and Vice President are federal offices. Therefore, candidates for these offices must meet the federal campaign finance reporting requirements, not Oregon's. Contact the Federal Election Commission at 1 800 424 9530 or www.fec.gov for information.

ORS 248.355; The Electoral College for U.S. President and Vice President

The Electoral College is the body of electors who meet after a presidential election in each state to select the next president and vice-president of the U.S. All of the Electoral College members elected throughout the country will meet in their respective states on the Monday after the second Wednesday in December, to cast their votes.

Each political party nominating candidates for U.S. President and Vice President selects a number of candidates equal to the number of U.S. Representatives and U.S. Senators - which is 7 for Oregon. A candidate for elector must sign a pledge form that if elected the candidate will vote in the Electoral College for the candidates of the party. The party certifies the names of the selected candidates for elector to the Secretary of State not later than the 70th day before the election of electors (General Election). Each major and minor political party follows their party rules for selecting the electors. The Secretary of State does not have jurisdiction to enforce those party rules.

Under the provisions of the U.S. Constitution, voters who participate in the presidential election choose the members of the Electoral College. An elector who casts a vote for a presidential and vice presidential candidate is not voting directly for the candidates, but is, instead, casting a vote for a slate of electors who pledged their support for those candidates. In more than half of the states, the names of the presidential candidates and the elector's names appear on the ballot. In Oregon, only the presidential and vice presidential candidates appear on the ballot. In each state, the winning presidential and vice presidential candidate is determined by counting the votes for each slate of electors. The slate that receives the most votes is declared elected.

To be elected to the presidency, a candidate must receive a majority of the Electoral College votes cast. A separate vote is taken to elect the vice president.

Campaign Finance Reporting

The following are some of the election laws that apply to campaign finance regulations. For complete filing and reporting regulations, all state and local candidates, political action and petition committees should consult the *Campaign Finance Manual*. Two companion manuals for the electronic reporting system ORESTAR are also available: the *ORESTAR User's Manual: Statement of Organization* and *ORESTAR User's Manual: Transaction Filing*.

ORS 260.076; Contributions Received During a Legislative Session

There is a separate and distinct filing deadline to file any contribution (cash, in-kind, pledge, or non-exempt loan of any amount) received during a legislative session.



For more detailed information, see the current *Campaign Finance Manual*.

ORS 260.163; County or City Campaign Finance Provisions

All county and city candidates, political committees and chief petitioners must file their Statement of Organization and contribution and expenditure transactions with the Secretary of State, Elections Division. However, a county or city candidate, political committee or chief petitioner should check with their county or city, as this statute allows a county or city to adopt ordinances that require a committee to also file campaign finance transactions with the county or city. If the county or city adopts such a charter provision or ordinance, they must file a copy of it with the Secretary of State.

ORS 260.241; Removal from General Election Ballot for Failure to File Statement; Notice to Candidate

The Secretary of State may remove a candidate's name from the general election ballot if they have not filed transactions in ORESTAR (or a Certificate of Limited Contributions and Expenditures), the filing officer must mail a notice to the candidate and treasurer notifying them that the candidate's name may be removed from the general election ballot if transactions or a Certificate, whichever is applicable, are not filed before the 61st day before the general election. A candidate's name must be removed from the general election ballot if campaign finance reporting is not filed before the 61st day before the general election.

ORS 260.245; Withholding Certificate of Election or Certificate of Nomination for Failure to File Statement

A certificate of election or nomination may not be issued to a candidate who has not filed required campaign finance transactions.

ORS 260.402; Contributions in False Name

Violation of this statute is a Class C Felony.

A person cannot knowingly make, and a candidate, political committee, chief petitioner committee or treasurer cannot knowingly accept and record, a contribution in a person's name other than the name of the actual contributor. For example, "John" cannot legally give money to "Sue" (individual or organization) with the agreement that "Sue" contribute the money to Candidate "Mary" stating that the contribution is from "Sue" rather than from the actual contributor, "John."

ORS 260.407; Personal Use of Excess Campaign Funds

All committees are prohibited from using campaign funds for any individual's personal use. Excess campaign funds **may** be:

- Used to defray any expenses incurred in connection with the candidate's duties as a public office holder;
- Contributed to another political committee;
- Contributed to any organization described in sec. 170(c) of Title 26 of the United States Code or to any charitable organization defined in ORS 128.620; or
- Used for other lawful purpose (except personal use).



See the *Campaign Finance Manual* for additional information of what is considered personal use and public office holder expenses.

The civil penalty for a violation of this statute is \$1,000, plus the amount converted to personal use. Additionally, the fine must be paid from personal funds of the person in violation.

ORS 260.409; Expenditures for Professional Services Rendered by Candidate

A candidate committee may not use campaign funds to make expenditures to or on behalf of a candidate for the rendering of professional services by the candidate.

ORS 260.422; Acceptance of Employment Where Compensation to be Contributed

A person may not accept employment with the understanding that part of the compensation received will be contributed for political purposes.

Conduct of Elections

Most of the following election laws are used by election officials but may also be of interest to persons who want to observe the election process and to candidates and others subject to the election process. ORS Chapter 254 provides the regulations for conducting an election, including the design and contents of official ballots. As **all** elections are now vote-by-mail elections in Oregon, the Secretary of State and county elections officials also rely on the detailed procedures for conducting elections in the *Oregon's Vote-By-Mail Manual*, adopted by Administrative Rule, OAR 165-007-0030.

ORS 254.056; Date and Purpose of Primary and General Elections

The Primary Election is held on the third Tuesday in May of each even-numbered year. At the Primary Election precinct committee persons are elected and major political party candidates are nominated for partisan offices to be filled at the General Election the same year. Additionally, nonpartisan offices are on the ballot for election or nomination to the General Election.

The General Election is held on the first Tuesday after the first Monday in November of each even-numbered year.

ORS 254.074; County Elections Security Plan

Each county clerk files a county elections security plan with the Secretary of State not later than January 31 of each calendar year. Revisions must be filed one business day after the change. The plan is confidential and not subject to public disclosure, but must ensure security procedures for ballot handling, processing and transport, vote tally systems and other aspects of the election process.

ORS 250.115 and 254.108; Numbering of Measures

The Secretary of State numbers measures to be voted on in the entire state consecutively and does not repeat any number in any following election. The numbers are assigned in the order in which the measures are filed with the secretary.

Similarly, the County election officials number county, city and district measures consecutively, not to be repeated in a following election and are assigned in the order in which the measure is filed. County, city and district measures must begin with the county's prefix number (starting with Baker County as 1 and ending with Yamhill as 36, all counties are numbered based on their alphabetical order).

ORS 254.125; Nonpartisan Candidates Ballot Order and Use of Term Incumbent

Candidate names for Supreme Court, Court of Appeals, and Circuit Court positions include a designation of "Incumbent" for each candidate who is the regularly elected or appointed judge of the court to which the candidate seeks election. The ballot statements provide this designation. However, justice court and municipal court candidates do not have the "incumbent" designation.

At the primary or general election, the names of nonpartisan candidates for judicial offices (Supreme Court, Court of Appeals, Oregon Tax Court or circuit court) for judicial elections involving more than one candidate are printed on the ballot before the names of candidates for judicial offices that are unopposed.

ORS 254.135; Ballot Requirements

This election law provides some specific requirements for how candidate names and other information, such as political party, are to be printed on the ballot.

It specifies that for the offices of U.S. President and Vice President, the names are printed in groups together under the political party. Presidential electors' names are not printed on the ballot. However, a vote for President and Vice President is a vote for the group of electors supporting those candidates.

This statute also provides that the name of any candidate nominated may only be printed on the ballot once; regardless of how many times the candidate may have been nominated. It also specifies the manner in which the political party must be displayed for a candidate on the ballot, based on the circumstances. These variations are:

- For a candidate not affiliated with a political party who is nominated by a minor political party, the name of the minor political party shall be added opposite the name of the candidate;
- For a candidate not affiliated with a political party who is nominated by more than one minor political party, the names of not more than three minor political parties selected by the candidate shall be added opposite the name of the candidate;
- For a candidate who is a member of a political party who is nominated by a political party of which the candidate is not a member, the name of the political party that nominated the candidate shall be added opposite the name of the candidate;

- For a candidate who is a member of a political party who is nominated by more than one political party of which the candidate is not a member, the names of not more than three political parties selected by the candidate shall be added opposite the name of the candidate;
- For a candidate who is nominated only by a political party of which the candidate is a member, the name of the political party of which the candidate is a member shall be added opposite the name of the candidate; and
- For a candidate who is nominated by a political party of which the candidate is a member and by any political party or parties of which the candidate is not a member, the name of the political party of which the candidate is a member and the names of not more than two other political parties selected by the candidate shall be added opposite the name of the candidate.

This election law specifies that the word “nonaffiliated” is to follow the name of each candidate who is not affiliated with any political party and who is nominated either by an assembly of electors or by a petition of individual electors.

This statute also provides that if two or more candidates for the same office have the same or similar surnames, the location of their places of residence is to be printed opposite their names.

ORS 254.155; Order of Candidate Names on the Ballot

Candidate names on the ballot for an election, within the same office, are ordered based on a random ordering of the letters of the alphabet, which must be generated by the Secretary of State and sent to the counties no later than the 68th day before the election.

An Administrative Rule, **OAR 165-010-0090**, sets out the procedure to be followed for candidates whose last names begin with the same letter(s) of the alphabet, or whose names are identical etc. Briefly, the same random order is used, applied to the first letter that is different in the last names that begin with one or more of the same letters.

As noted above under ORS 254.135, if candidates for the same office have the same or similar surnames, the location of their places of residence is to be printed opposite their names.

ORS 254.445; Assistance in Marking Ballot; Allowances and Limitations

Any voter who, due to a disability or inability to read or write, is unable to mark their ballot may receive assistance. The assistance is provided either by two persons of different political parties provided by the county clerk or by some other person chosen by the voter.

Any person assisting a voter **must** follow the direction of the voter as to how to vote the ballot. Also, the person assisting the voter **must not** afterwards give out any information about how the voter voted.

Additionally, a person **may not** provide such assistance if they are an employer of the voter or an agent of the employer. Also, a person **may not** provide such assistance if they are an officer or agent of a union of which the voter is a member.

ORS 254.465; Elections to be Conducted by Mail; Rules

This statute requires that all elections in Oregon be conducted by mail. The Secretary of State must adopt rules to provide for uniform conduct (the *Oregon's Vote-By-Mail Manual*, is **adopted by** Administrative Rule, OAR 165-007-0030).

ORS 254.471; Extension of Deadline for Returning Ballots in Case of Emergency

This law allows the Governor by written proclamation, upon a written request from the Secretary of State in the event of an emergency (as defined in ORS 401.025(3)), to extend the deadline for returning ballots up to 7 calendar days after the election date. The Secretary must first consult with the affected county clerks to determine the need for the extension.

The circumstances would need to exist such that it would be impossible or impracticable for voters to return ballots or for elections officials to tally ballots. The County Clerk is prohibited from ordering a tally report from any vote tally machine until the date and time set by the Governor by which ballots must be returned in the election.

ORS 254.472 and ORS 254.474; Compartments for Marking Ballots and Voting Booths for Primary and General

County elections officials are required to provide at the county elections office at least three compartments for marking ballots. These compartments must allow for the voters' secrecy in marking their ballot and must be available during the entire time ballots are issued.

At each primary and general election, the county elections officials must maintain voting booths in their county based on the population of the county, with the location determined by the county. If the county has fewer than 35,000 voters, at least one voting booth must be maintained. If the county's population is 35,000 or more, there must be at least one voting booth for every 20,000 voters in the county.

ORS 254.482; Authorized Observers at an Election

Upon request, the county clerk permits authorized persons to watch the receiving and counting of votes at an election. The authorization needs to be in writing, signed by an officer or its county affiliate of a political party, a candidate or the county clerk and filed with the county clerk. The county clerk shall permit a limited number of persons so as to not interfere with an orderly procedure.

Post-Election Procedures

Detailed guidelines direct the procedures that must occur after an election at the closure of the polls. These include each county's testing of vote tally systems (which must be done both on the date of the election and prior to beginning the tally of ballots, as well as after the tally but before the final results are certified) and tally of ballots (ORS 254.485).

The duties of the county clerk after the election include preparation of the abstracts of votes and the delivery of the abstracts of votes to the appropriate elections officials, no later than the 20th day after the election. No later than the 30th day after the election, the county clerk issues a proclamation of winning county candidates and measures. Similarly, the Secretary of State and cities issue proclamations of the nominees or winners of the election and certificates of nomination or election within the respective jurisdictions.

If there is a very close vote, this may result in an automatic recount. There is also an opportunity for a recount demand process. If there is a tie vote in a candidate race, ORS 254.575 provides the procedures when two or more candidates for the same office, after a full recount of votes, have an equal and highest number of votes:

- For state senator or state representative, a party office or any county, city or district candidate, the elections officer must have the candidates meet publicly to decide by lot who is elected. **All** candidates **must** be present or provide an authorized representative to participate in the selection by lot. The method of the “lot” is chosen by the elections official and must be a fair and impartial procedure. This may include a roll of dice.
- For other state offices except Governor, state senator or representative, if there is a tie vote, the Secretary of State must order a new election to fill the office.
- For Governor, if there is a tie vote, the Legislative Assembly at the beginning of the next regular session meets jointly and elects one of the candidates.

Initiative, Referendum and Recall Petitions

The following are some election laws that apply to the initiative, referendum and recall petition process. For additional election laws relevant to initiative, referendum and recall petitions and complete filing and reporting regulations, a person must review the applicable manual (depending on petition type - see list of manuals at end of this memorandum) and the Campaign Finance Manual.

Another resource that is very useful to chief petitioners and petition circulators for initiative, referendum and recall petitions is the **Secretary of State, Elections Division’s Circulator Training Manual**. See our website, www.oregonvotes.gov. Each paid circulator, and at least one designee of any company that pays circulators to gather signatures, must review the Circulator Training Manual.

Additionally, persons involved in an initiative, referendum or recall petition process that involves any paid petition circulators, must follow all applicable wage and hour laws under the jurisdiction of the Bureau of Labor and Industries (BOLI). Guidelines for those requirements are included in the above mentioned on-line circulator training program. Contact information for BOLI is included at the end of this memo.

The process for a **state** initiative, referendum or recall petition is significantly different from a **local** (county, city or district) initiative, referendum or recall petition. Therefore, obtaining the appropriate procedures manual is critical.

Often, a petition circulator is also involved in voter registration efforts. If so, they are advised to review the section of this memo titled, “Voter Registration Efforts,” beginning on [page 29](#).

ORS 250.025, ORS 249.876; Removal of Signatures on Initiative, Referendum or Recall Petitions

A voter may not have their signature removed once the signature sheet on which it is placed is submitted to the elections filing officer for signature verification. This applies to state and local petitions, as well as recall petitions.

Before the petition is filed with the elections filing officer for signature verification, a person may contact the chief petitioner of the petition if they wish to request their signature be crossed out. Whether the chief petitioner agrees to do so is not addressed in election law.

ORS 250.048; Registration and Training for Paid Petition Circulators and Requirements (for state initiative, referendum and recall petitions only)

This election law provides the registration and training requirements for state initiative and referendum prospective petition circulators, which are only applicable for **state** initiative, referendum and recall petitions. The Secretary of State has implemented an on-line training program for this purpose. See our website, www.oregonvotes.gov.

A petition circulator must carry official evidence of registration provided by the Secretary of State, Elections Division. This evidence includes a photograph provided by the circulator and a registration number issued by the Secretary.

The chief petitioners of a state initiative, referendum or recall petition must acknowledge on a Chief Petitioner Acknowledgement form (SEL 309), that they are responsible for violations of law or rule committed by any paid circulator in their employ, either directly or indirectly.

Additionally, this election law provides that a person who has been convicted of a criminal offense involving fraud, forgery or identification theft, or been found in violation of ORS 260.555, 260.558, 560.575, 260.695(1), 260.715(1) or Article IV, Section 1b of the Oregon Constitution during the five-year period prior to the application date may not apply for registration.

ORS 260.262; Accounts of Chief Petitioners; Review and Inspection; Retention; Disclosure as Public Record; Rules

Chief Petitioners of statewide initiative or referendum petitions must maintain “accounts.” Accounts consist of: any paperwork documenting contracts between chief petitioners and signature gathering companies; training materials provided to petition circulators; payroll records that include hours worked, number of signatures collected and amounts paid; employment manuals; and copies of signature sheets. These accounts are to be kept current as of not later than the seventh calendar day after the date a payment is made to a paid petition circulator.

The Secretary of State is directed to review the accounts of each chief petitioner. See OAR 165-014-0100 and OAR 165-014-0260. Additionally, the Secretary, Attorney General or Commissioner of the Bureau of Labor and Industries may inspect the accounts under reasonable circumstances at any time before the deadline for filing signatures on the petition or the record retention period. If a chief petitioner is unable to produce the required accounts, they are prohibited from obtaining additional signatures on their petition until they are able to produce the documents.

These accounts are not subject to disclosure under the public record laws ORS 192.410 to 192.505.

ORS 260.368; Investigations of Violations of Prohibition on Payment Based on Number of Signatures Obtained on Petition

In investigations of violations of the prohibition on payment based on the number of signatures obtained on a petition, the Secretary of State, Attorney General and Commissioner of the Bureau of Labor and Industries may cooperate and share information as considered necessary by the secretary, Attorney General or commissioner.

ORS 260.555; Prohibitions on Circulating and Filing Petitions

Violation of this statute is a Class C Felony.

This election law contains several prohibitions on the circulators and signers of an initiative, referendum or recall petition, including:

- No petition circulator may knowingly make false statements about the contents, meaning or effect of the petition;
- No person shall file such a petition knowing it contains a false signature;
- No person shall attempt to obtain the signature of a person on a petition knowing the person signing the petition is not qualified to sign it; and
- No person shall knowingly sign a petition more than once, sign a petition when not qualified to sign it or sign a petition in any other name than their own.

ORS 260.558; Prohibitions on Payment for Signing Petition or Sale of Signature Sheets

Violation of this statute is a Class C Felony.

ORS 260.558 prohibits payment (either money or other valuable consideration) to an individual for signing or not signing an initiative, referendum or recall petition. It also prohibits the purchase of petition signature sheets with signatures already on them. (This does not prohibit payment to signature gatherers for the act of collecting signatures.)

A circulator may, during petition circulation, give away **very nominal value** items.

This means that campaign buttons, bumper stickers, posters, brochures, doorknob hangers and campaign literature, which have no use or value independent of a political campaign, may be given away at no charge by a petition circulator to potential signers when collecting signatures.

Additionally, other types of items of very nominal value may be given away for free during a petition gathering effort if the item is customarily readily available to the public without any charge by businesses, even to persons not making a purchase or using the services of the businesses giving away the items.

The distribution of these types of items is allowable and not considered an inducement to get the recipient to sign or not sign an initiative, referendum or recall petition if the provider of the item ensures that only very small quantities of an item are given to any one person and the distribution of the item is incidental to the political activity that occurs during the distribution - the distribution should not be publicized in some way (for example, do not imply, "Come get your free pencil (and sign this petition...) and I'll give you enough pencils for your child's next school year.").

Items that **must not** be given away without charge during a signature gathering effort are those that are not readily available to the public free of charge. Even though these items may also be available to a campaign at a relatively low cost, their usefulness for purposes other than campaign publicity goes beyond that of the items listed that are permitted to be given away.

Contact the Elections Division prior to the free distribution of any item not noted. Upon request from the Elections Division, the requestor must provide documentation from several sources in the appropriate electoral district that an item in question is of nominal value and is regularly given away for free by others.

If the item does not meet all the standards of this exception, then the chief petitioner, their agent or a petition circulator must charge at least the cost of the item. The money spent to purchase the items and the money received in payment for the items must be reported in compliance with campaign finance regulations.

OAR 165-014-0260; Interpretation, Ban on Pay by Signature

This Administrative Rule provides an interpretation of Oregon Constitution, Article IV, section 1b, which prohibits paying or receipt of payment based on the number of signatures obtained on an initiative or referendum petition.

This provision applies to initiative and referendum petitions filed at state, county, city and district levels, but does not apply to any other type of petition (such as recall, minor party or special district formation petitions). This law does not prohibit payment for signature gathering that is not based, directly or indirectly, on the number of signatures obtained.

The rule lists allowable practices, including paying an hourly wage or salary, establishing minimum signature requirements for circulators (so long as such requirements are disclosed on the SEL 320 as part of accounts), adjusting salaries **prospectively** relative to a circulator's productivity, and paying discretionary bonuses based on reliability, longevity and productivity, provided no payments are made on a per signature basis. For instance, the rule does not authorize a system of paying a circulator from the beginning of their work based on how many signatures are collected in that specific hour.

OAR 165-014-0260 allows some methods by which petition circulator's job performance may be taken into account. If after some time of work it is determined that the petition circulator is doing a good job circulating the petition, the **pay rate for future work may be raised**. Conversely, if the person is determined to not be meeting minimum signature requirements, the **pay rate for future work may be lowered or the person terminated**.

In either case, the pay for the hours the person already worked prior to the determination of their performance must not be changed from the agreed hourly rate, as this would in effect constitute paying the person based on the number of signatures obtained. It is the responsibility of the circulator company to set a reasonable time for a petition circulator to work prior to the company requesting the circulator submit signature sheets so that the circulator's productivity may be determined and future pay rates changed, as appropriate.

This rule specifies that the chief petitioners cannot contract or delegate to another person or entity to obtain signatures and allow the third party to pay circulators on the basis of the number of signatures obtained. It states that the chief petitioners are responsible for ensuring that agents of the chief petitioner (anyone who is delegated the task of obtaining signatures on the initiative or referendum petition) do not violate Section 1b.

Chief petitioners each sign a statement on an official election form, SEL 310, on which they attest that, "By signing this document, I hereby state that no circulators will be compensated money or other valuable consideration on this petition based on the number of signatures obtained by the circulator."

This necessitates good business auditing standards be in place to ensure that all elements of a contract are adhered to. Likewise, there must be adequate supervision in the field to ensure all involved parties comply with contractual agreements as well as all Oregon election laws. The use of any "subcontractors" must be closely monitored, because acts at each level of the petition circulation effort remain the responsibility of the contractor and the ultimate responsibility of the Chief Petitioners. Chief petitioners are required to acknowledge on a Chief Petitioner Acknowledgement form (SEL 309) that they are responsible for violations of law or rule committed by any paid circulator in their employ, either directly or indirectly.

Because an actual proposed practice that appears to fit within one of these allowances may be subject to interpretation, it is recommended that each proposal for a new practice be reviewed by private legal counsel as well as submitted for review to this office, as appropriate.

The rule states that violations of the ban on paying by the signature are to be processed under ORS 260.995 as civil penalties, against chief petitioners or any other persons either directly or indirectly paying circulators based on the number of signatures obtained. Under ORS 260.561, the chief petitioners have liability for such violations. Each individual signature sheet that contains signatures collected in violation of Section 1b shall constitute a single occurrence with a minimum civil penalty of \$2,500.

ORS 260.561; Liability of Chief Petitioners

This statute governs the liability of chief petitioners of statewide initiative or referendum petitions for violations of election laws and administrative rules that are subject to civil penalty. If the chief petitioner of a statewide initiative or referendum petition has knowledge of a possible violation related to the circulation of the petition committed by a person obtaining signatures on their petition, the chief petitioner to avoid civil liability, must notify the Secretary of State in writing.

This notification **must** be made not later than one business day after the chief petitioner obtains knowledge of a potential violation. The notice must state that a potential violation has occurred; describe the nature of the potential statutory violation; and provide specific information known to the chief petitioner about the potential violation.

ORS 260.563; Liability of Contractor Obtaining Signatures on Petition for Violations Committed by Subcontractor; Exceptions

This statute defines “contractor” and “subcontractor” in the context of an initiative or referendum petition and outlines a contractor’s liability for reporting known violations of election laws and administrative rules that are subject to civil penalty.

A “contractor” is a person who contracts with a chief petitioner, or a person acting on behalf of a chief petitioner, of an initiative or referendum petition to collect signatures.

A “subcontractor” is a person who contracts with a contractor, as defined above, for the purpose of collecting signatures on an initiative petition and who has no direct contract with the chief petitioner.

Similar to ORS 260.561, a contractor may avoid liability for a known violation if the contractor notifies the secretary in writing not later than one business day after the contractor has knowledge of an unreported violation. The notice must provide the nature of the potential violation and any specific information about it.

However, if the contractor has knowledge of an **unreported** violation of the ban on paying by the signature, by a subcontractor, that violation is conclusively considered a violation by the contractor.

ORS 260.567, Alteration of Information on Petition Signature Sheet; Exceptions

Only a signer **may** complete their signature and information about themselves, such as their printed name, address and date signed. A circulator or other individual **must not** alter, correct, clarify or obscure on the signature sheet any information about the petition signer unless the signer initials the changes made. However, a circulator **may** assist a disabled signer who requests assistance in completing the optional information.

ORS 260.575; Use of Threats and Intimidation for Purpose of Extorting Money

Violation of this statute is a Class C Felony.

ORS 260.575 prohibits any person, for the purpose of extorting money or other consideration, from hindering an initiative, referendum or recall petition process.

ORS 260.715(1); False Swearing on Circulator's Certificate

Violation of this statute is a Class C Felony.

ORS 260.715(1) prohibits, relative to initiative, referendum and recall petitions as well as candidate filing petitions, any circulator knowingly falsely signing the circulator's certification statement. The circulator's certification statement reflects that the ***circulator has personally witnessed each signature the circulator has collected***.

It is not legal for the petition to be left unattended by a circulator in order to obtain signatures, e.g., posted on a bulletin board or left, unattended, by the circulator on a counter in a public place. The certification also reflects that the circulator believes each signer is qualified to sign the petition. Additionally, forged signatures on petitions are prohibited.

ORS 260.432; Public Employees - Restrictions on Political Campaigning

The following election law, **ORS 260.432**, provides restrictions on political campaigning by public employees. The Secretary of State has prepared a more comprehensive manual on ORS 260.432, titled "*Restrictions on Political Campaigning by Public Employees*." This memorandum is available upon request and is posted on the Elections Division's website: www.oregonvotes.gov.

While this section discusses the restrictions on the political activity of public employees under ORS 260.432, any public employee in a public agency that is designated to provide voter registration services under the National Voter Registration Act (NVRA) must be aware of and adhere to another election law, ORS 247.208. **ORS 247.208 (3)** disallows political activity by a public employee when they are performing voter registration services. For more detail on this election law, see [page 32](#).

ORS 260.432 (1); Solicitation of Public Employees


No person - including public employers and elected officials - may require a public employee to promote or oppose any political committee or any initiative, referendum or recall petition, ballot measure or candidate.

ORS 260.432 is in effect whenever the actions taken by a public employee apply to any of the following: for initiative, referendum and recall petition efforts as soon as a prospective petition is filed with the appropriate elections filing officer; for a ballot measure referred to the ballot by a governing body (district, city, county, state) as soon as the measure is certified to the ballot; for candidate issues, as soon as the person becomes a candidate under the definition in ORS 260.005(1)(a); and for actions related to a political committee, whenever the political committee is active.

For instance, an elected official or any other employer of a public employee may not require or direct public employees to prepare or distribute materials used in support of or opposition to political activity during regular working hours. A work assignment made by a supervisor to a subordinate public employee is a command or requirement within the meaning of ORS 260.432(1).

Elected officials or other employers of public employees should be aware that when they — in the role of a supervisor — request a public employee to perform any campaign activity (such as typing and mailing a campaign-related document) that the request is considered to be an attempt to require the public employee to perform those tasks. Furthermore, care must be taken in soliciting “volunteer help” during employee breaks, or other personal time, as the employee may feel required to participate.


However, an elected official may personally advocate for or against candidates, measures or petitions on the official’s work time.

 A person appointed to fill a vacancy in an elective office is considered an elected official for purposes of this statute.

Oregon election law allows elected officials to communicate with their constituents about election issues. However, elected officials must be careful to not involve public employee’s work time in any activities that could be construed to be supporting or aiding an advocacy campaign effort, such as preparing advocacy material on behalf of an elected official (i.e. speeches, letters and advertising pieces). For instance, support staff cannot prepare press releases, press briefings or constituent mail that supports or opposes a candidate, measure or petition. Also, they must not prepare candidate filing forms, voters’ pamphlet filing forms, campaign finance transactions or related correspondence during their work time.

ORS 260.432(2); Activities of Public Employees during Working Hours

Public employees (including school administrators, city managers, police chiefs, etc.) may not be involved in promoting or opposing any political committee or any initiative, referendum or recall petition, measure or candidate “while on the job during working hours.”

 This subsection does not apply to elected public officials, but does apply to all other public employees, including the staff of elected public officials. Unpaid public officials, such as members of appointed boards and commissions, are considered to be public employees subject to this statute.

The overriding principle is that public employees may not use their work time to support or oppose measures, candidates or petitions. If the work performed falls generally within the job duties of the public employee, then it is assumed that the work is performed in an official capacity, regardless of the time of day or location. A salaried, executive or management level public employee (or other level) is considered “on the job during working hours” even when he or she uses what they consider personal time and personal equipment if they are working to prepare an official public agency publication that is to be distributed using public agency resources. Since in this case the public employee is conducting official agency business, the publication must be impartial or a violation would occur.

Public employees who are on work time or official duty may not perform campaign activities supporting or opposing a measure, candidate or petition, such as preparing or distributing written material. Public employee work time may also not be used for any related activities, such as collection of funds or preparation of election filing forms on behalf of a candidate or political committee.

A public employee **may** provide impartial, factual information related to a candidate, petition or measure as a part of the employee’s job on work time. Lunch hours, breaks and time off - when the employee is considered to be off duty - may be used for political activity, dependent on other employer lunch/break policies. However, any such activity must be of a voluntary nature on the part of the employee and the employee should not feel coerced or obligated by a supervisor or co-worker.

Political buttons may be worn at any time, subject to applicable employer policies (unless the public employee is performing voter registration services under NVRA, at which time they **may not** wear political buttons under ORS 247.208(3)).

As mentioned above, the Secretary of State has prepared a more detailed manual on ORS 260.432 for public employees, local governing bodies and elected officials, titled, "*Restrictions on Political Campaigning by Public Employees*." A "Quick Reference" flyer, with a brief overview of these restrictions, is also available online at www.oregonvotes.gov.

The manual includes guidelines for determining whether or not written material relating to a measure is advocacy in support of or opposition to the measure.

For a related discussion of a public employee's eligibility to run for public office, see page 6 of this publication.

Recall of Public Officer Procedures

The Oregon Constitution and state statutes (Article II, Sec. 18, ORS 249.865-249.877) allow for any non-federal public office holder in an elective office to be recalled at an election. The process involves a petition drive to collect a certain number of signatures. A chief petitioner (the recall petition filer, who **must** be a registered voter in the applicable district) first files a prospective recall petition with the appropriate elections filing officer (the Secretary of State for state offices) and **must** wait to gather signatures until the elections filing officer provides written approval before beginning to circulate. The petition gathering process **must** follow strict guidelines, as detailed in the *Recall Manual*.



15% of the total number of votes cast in the public officer's electoral district for all candidates for Governor at the last election at which a candidate for Governor was elected to a full term.

A prospective recall petition may be filed for a public office holder *other than* a State Senator or Representative only after the office holder has served at least six months of their current term of office. For a State Senator or Representative, a prospective recall petition may be filed at any time after the 5th day from the beginning of the first legislative session after the election of the legislator.

The recall petition signatures must be submitted to the elections filing officer no later than 5pm on the 90th day after filing the prospective recall petition. The elections official must complete the signature verification process no later than the 10th day after the signatures are submitted for verification or no later than the 100th day after the filing of the prospective petition, whichever is earlier.

The process then involves the elections filing officer notifying the public officer of the recall; allowance for the public officer to either resign or submit a statement of justification no later than the 5th day after the recall petition is certified; provision that if the officer does not resign the recall election is held within 35 days after the resignation period has expired; requires that an abstract of votes is produced and that the results are declared.

The *Recall Manual* is separated into two sections, with the first for recall petition efforts against a **state** public official and the second section for recall petition efforts against a **local** public official. The differences in the two processes include added petition circulation requirements for **state** recall petitions, such as required paid petition circulator registration with the Secretary of State; circulator training requirements; payroll record requirements; and a ban on petition circulators with certain past felony convictions.

Recounts and Contests of Election

The result of an election can only be changed by a recount or set aside by a judge in a court of law. A voter who believes that the outcome of an election has been changed as a result of deliberate and material violations of election law may file a petition of contest with the appropriate circuit court. A voter may also request a recount of votes.

ORS 258.150 to 258.300, ORS 258.150; Recounts of Votes, Authority of Secretary of State over Recounts

This election law provides that the Secretary of State has authority over recounts. Filings for **all** recounts must be made with the Secretary of State. The parties who are eligible to file a recount demand are:

- For a **candidate race** - a candidate or an officer of a political party on behalf of a candidate of the political party;
- For a **measure** - any voter;
- A **county clerk** may file a recount demand in specified precincts for a candidate race or measure;
- The **Secretary of State** may demand a recount for a state candidate or state measure.

The form SEL 800 is provided for recount demands. The person filing the recount demand must complete this form. A first recount demand is allowed, which can be a partial recount or a full recount (except in the case of votes for electors for president and vice president, which must be a full recount only). A first recount demand must be requested not later than the 35th day after the date of the election – for the greatest of either 5% of precincts or 3 specific precincts. A supplemental demand for a recount of all remaining precincts may be made not later than the 45th day after the election.

A **deposit of \$15 per precinct** up to a maximum of \$8,000 must be made to cover all or part of the cost of the recount. The county clerk must submit an expense record to the Secretary of State for allowable costs (*as specified in ORS 258.231*). If the actual cost of the recount exceeds the amount of the deposit, and if the outcome of the election is not changed, the person filing the recount demand must pay to the Secretary of State the amount of the excess costs. The Secretary of State then reimburses the county for the costs. However, if a full recount changes the result of the election, the Secretary of State will refund the deposit to the person filing the recount demand.

The Secretary of State directs the election official that conducted the election to conduct the recount. The Secretary of State notifies affected candidates by certified mail of the recount in the case of a candidate race. Likewise, the election official conducting the recount notifies the affected candidates of the date, time and place of the recount. If it is a full recount, the election official shall certify the results to the Secretary of State and other appropriate election official.

A full recount is required in order to change the results, except in the case of a recount by a county clerk. If a demand for a partial recount is by a county clerk, the votes recounted may be combined with votes not recounted to determine the official results.

If two or more demands are made for the same measure, the demand first received by the Secretary of State is considered. If two or more demands are made for the recount of the same nomination or office, the demand received from or on behalf of the losing candidate receiving the highest number of votes is considered the demand for a recount.

Candidates affected by a recount must be notified by certified mail by the Secretary of State, no later than the third day after the filing of the first demand. The official who is to conduct the recount must, within a reasonable time before the recount, notify the affected candidates or the person filing the recount demand for a measure, of the date, time and place of the recount.

The election official conducting the recount appoints counting boards and recounts are **conducted by hand**. An affected candidate or a voter authorized in writing by each major or minor political party may be present to watch the recount. For a measure, one voter advocating and one voter opposing the measure may be present to watch the recount.

For full recounts, an abstract of votes is certified, the person who demanded the recount is notified and the costs are certified to the Secretary of State not later than the 30th day after the completion of the recount.

ORS 258.280- 258.300; Automatic Recounts

The election law also provides that in very close races, there is an automatic full recount, which is a full recount of all precincts. Immediately following the completion of canvassing the votes, an election official must notify the Secretary of State of any election subject to an automatic full recount.

A full recount is required when two or more candidates for nomination or office have an equal and highest number of votes or the difference in the number of votes for a candidate apparently nominated or elected and the next closest apparently defeated candidate is not more than *one-fifth of one* percent (.002) of the total votes for both candidates.

A full recount is also required when the official canvass of votes for an election shows the difference in the number of votes cast for or against any measure is not more than *one-fifth of one* percent (.002) of the total votes cast for and against the measure.

ORS 258.016 to 258.085; Contests of Election

The result of an election can only be changed by a recount or set aside by a judge in a court of law. A contest of election is an action filed in court by an eligible person to contest the nomination or election of any person or the decision on any measure.

The grounds for the contest must be due to certain causes, which are: the deliberate and material violation of any election law in connection with the nomination, election, approval or rejection; ineligibility of the person elected to hold office; illegal votes; mistake or fraud in the canvass of votes; fraud in the count of votes; nondeliberate and material error in the distribution of official ballots by an elections official; or a challenge to the 50% voter turn-out requirement.



An eligible person is an elector entitled to vote for the person or measure; any person who was a candidate at the election for the same nomination or office; the Secretary of State if the contest involves a state candidate or measure; or the county clerk who conducted the election.

A petition of contest must be filed not later than 40 days after the election, or the seventh day after completion of a recount of votes (ORS 258.006- 258.085). For statewide candidates and measures, a petition of contest shall be filed with the Marion County Circuit Court. For the offices of State Senator and State Representative, Circuit Court Judge and District Attorney, the petition of contest would be filed in the Circuit Court for the county where a majority of the voters in the electoral district reside.

For other offices, the contest of election is filed with the county Circuit Court for the same county as the office's elections filing officer. A person should consult an attorney if they wish to pursue a petition of contest of election.

As provided in ORS 258.055, the person filing the contest of election – the contestant – must satisfy publication notices in the news media and must serve a copy of the petition by certified mail on each contestee. The contest proceedings take precedence over all other business on the circuit court docket, they do not involve a jury and the contestant has the burden of proof by clear and convincing evidence.

After the contest hearing, the circuit court judge shall render a judgment affirming or setting aside the nomination or election of the person to the office or the approval or rejection of a measure. If the result of a measure is set aside, the circuit court directs the measure to be resubmitted at a special election held on one of the four regular election dates. Any party to the contest may appeal the judgment to the Court of Appeals.

Vacancies in Office or Nomination Procedures

Vacancies in Office or Nomination Procedures

The procedures for the filling of vacancies in an elective public office or nomination are dependent on the office involved. A **vacancy in nomination** refers to when a candidate on the ballot becomes disqualified or dies (a candidate may only withdraw from the ballot after they have filed up to the specified deadline for withdrawal, which is before ballots are printed – see discussion below about the withdrawal from candidacy or nomination). A **vacancy in office** means the current office holder resigns, is recalled, becomes disqualified or dies.

The Secretary of State, Elections Division has an administrative role in the vacancy process for state offices only. The process varies depending on the type of vacancy. For instance, for a vacancy in a state legislative office, the Elections Division receives and processes the necessary paperwork for the legislative vacancy, including accepting notice of the nominations and forwarding them to the county commissioners and accepting the willingness to serve forms completed by the nominees.

For local elective public offices, the vacancy procedures are under the authority of the local jurisdiction and the Secretary of State, Elections Division does not generally provide advice or resolve disputes about those procedures. The Secretary of State, Elections Division has a role **only** in the vacancy procedures for **state offices**. These procedures differ depending on whether the public office is partisan or nonpartisan and also differ for specific offices within those categories. The following information provides an overview of vacancy procedures for **state** offices. For further information and special circumstances, contact the Secretary of State for state offices and the applicable local jurisdiction for all other offices.

The following information about vacancies applies only to **state** elective public offices and is organized by first discussing **vacancies in nomination**, separated by whether the office is partisan or nonpartisan; and then **vacancies in office**, again separated by whether the office is partisan or nonpartisan.

Vacancies in Nomination (Vacancy by Candidate on Ballot):

1 Vacancy in Partisan State Office Nomination

A **partisan** state office is one in which candidates file at the Primary Election, which is considered a nominating election, if they are a member of a **major** political party (Democratic, Republican, and Independent at this time). At the Primary Election, one candidate from each major political party is nominated to go to the General Election. If no candidate filed to be on the ballot in that party, no candidate for that party will run in the General Election unless nominated by write-in votes. For the General Election, candidates who are either nominated by a **minor** political party or are not a member of any political party (called nonaffiliated) may file to run at the General Election. These candidates use the nominating process for minor political party nomination or for nonaffiliated candidates, either by assembly of electors or petition of individual electors.



For further detail on these processes, see the *Candidate's Manual*.

A vacancy in the *nomination* of a **major** political party candidate may be filled before the date of the general election by that political party in accordance with the political party's rules (with some exceptions such as for the office of US Representative and US Senator, under ORS 188.120). Immediately after the new nominee is selected, the major political party must notify the elections filing officer. The Secretary by rule may adopt a schedule specifying when the major political party must make this notification. ORS 249.190-249.200.

For vacancies in the *nomination* of a *candidate* who is **not a member of a major political party**, the vacancy is filled depending on whether the vacancy was by a minor political party candidate or a nonaffiliated candidate who filed using the assembly of electors or individual electors process. ORS 249.842. If the vacancy in nomination is by a minor political party candidate, the minor party rules provide the process to fill the vacancy. If the vacancy in nomination is by a candidate who was selected by the assembly of electors process, the assembly may be reconvened to select a new nominee or a committee delegated by the assembly at its convention may select the nominee. If the vacancy is by a candidate who was nominated by individual electors with a petition and a certificate of nomination, a new certificate of nomination may be filed, together with a petition for the new candidate.

2 Vacancy in Nonpartisan State Office Nomination

A **nonpartisan** state office is one in which no political party affiliation is associated with the candidate's or office. Nonpartisan candidates must file at the Primary Election but may be either elected at the Primary Election or nominated to the General Election, based on the circumstances.

A vacancy in the *nomination* of a nonpartisan *candidate* may be filled before the date of the general election if there is only one candidate. If the only candidate nominated to a nonpartisan office dies, withdraws or becomes ineligible, or if a vacancy occurs in the nonpartisan office after the 70th day before the primary election and on or before the 62nd day before the general election, a candidate may file a declaration of candidacy or a nominating petition. The Secretary of State adopts a rule providing the schedule for filings. ORS 249.205.

Vacancies in Office (Vacancy by Current Office Holder):

1 Vacancy in Partisan State Office

A vacancy in a partisan elective office (a current office holder resigns, is recalled, becomes disqualified or dies) is filled depending on the office and when the vacancy occurs.

For the offices of **U.S. Representative and U.S. Senator**, ORS 188.120 provides the procedures. If the vacancy in office occurs before the 61st day before the general election, the Governor shall call a special election to fill that vacancy. If it occurs after the 62nd day before the general election but on or before the general election, and if the term of that office is not regularly filled at that election, the Governor shall call a special election to fill the vacancy as soon as practicable after the general election.

If a special election to fill the vacancy in election or office of **U.S. Representative and U.S. Senator** is called before the 80th day after the vacancy occurs, each major political party selects its nominee for the office and certifies the name of the nominee to the Secretary of State for the ballot.

If a special election to fill the vacancy in election or office of **U.S. Representative and U.S. Senator** is called on the 80th day or after following the vacancy, a special primary election is conducted by the Secretary of State to nominate a candidate of each major political party. A declaration of candidacy or nominating petition may be filed not later than the 10th day following the issuance of the writ of election. Other candidates (minor political party candidate or a nonaffiliated candidate filing by the individual electors petition process or by the assembly of electors process) can file by certificate of nomination. The special election would be to fill the remainder of the term.

For vacancies in the partisan offices of State Senate and State Representative by a legislator who is a member of a major political party, ORS 171.051 to 171.064 provide the procedures. These positions are filled by an appointment process within 30 days after the vacancy occurs, unless the vacancy occurs at a time close to when the office will normally be up for election. This appointment process involves the Secretary of State, upon receipt of a written resignation, notifying the state political party and local central committees that the party precinct committeepersons of the legislative district must meet within 20 days after the vacancy occurs. At this meeting, the party precinct committeepersons must select not fewer than three nor more than five qualified persons to fill the vacancy.

The nominees must sign a written statement indicating the person is willing to serve in the office (see the SEL 145). Not later than 20 days after the vacancy occurs, the state political party must notify the Secretary of State in writing of the persons nominated. If fewer than three nominee names are furnished, the county courts or boards of county commissioners may appoint any qualified candidate.

The Secretary of State sets the time and place of the meeting within the district to select an appointee. For a district made up of more than one county, the Secretary of State determines the county that will hold the meeting, based on which county has the highest number of registered voters within the district. The number of votes for each county commissioner is based on one vote for each 1,000 voters in the district (or major fraction thereof – e.g. 501). Each county commissioner is allocated the number of votes allowed for the whole county commission divided by the number of county commissioners in the county.

The county commissioners then assemble to select the appointee not later than the 30th day after the vacancy occurred and file a written statement signed by a majority of the commissioners with the Secretary of State. The Secretary of State then issues the Certificate of Appointment. If the vacancy is not filled within the time allowed, the Governor fills the vacancy by appointment within 10 days.

If a vacancy occurs in the office of State Senate in sufficient time prior to the first election during their four year term, then although an appointment is made to fill that office, the office is up for election at the next election. In this case, the person elected will only serve the two-year remainder of the four year term.

For other partisan offices, if the vacancy occurs on or before the 70th day before a primary election, candidates to fill the vacancy run at the next primary election. If the vacancy occurs after the 70th day before the primary election but before the 61st day before the general election, then the major political party selects a nominee by party rule.

For vacancies in State Legislative Offices - State Senate and State Representative - by a legislator who is not a member of a major political party, ORS 171.051 to 171.064 also provide the procedures, but they differ in that the Secretary of State notifies the applicable county courts or board of county commissioners; sets the time and place for them to meet; names a temporary chair; and by rule establishes procedures for conduct of the meeting. At the meeting, a written statement is signed by a majority of those voting to fill the vacancy that names the appointee and is filed with the Secretary of State.



If a public office holder resigns the office effective at a future date, ORS 236.325 allows the appointing authority to begin the process to fill the vacancy and to select a successor prior to the effective date of any resignation. When a resignation of office is effective at a future date, the resignation is binding unless withdrawn in writing by the end of the third business day after the resignation is filed. This provision is not applicable to the office of Governor (ORS 236.320 specifies the appropriate recipient of a resignation, based on the office involved).

2 Vacancy in Nonpartisan State Office

A vacancy in a nonpartisan elective office (a current office holder such as a circuit court judge resigns, is recalled, becomes disqualified or dies) is filled by an appointment by the Governor. The appointed nonpartisan officer fills the office only until the next Primary and General Election, after which the elected person takes office the following January. ORS 249.205 specifies that if the vacancy in office occurs in the nonpartisan office after the 70th day before a nominating election and on or before the 62nd day before the general election, a candidate may file for the office.

Voter Registration Efforts

It is very important that persons involved in a voter registration effort be aware of election laws that are applicable to their efforts. Persons who will be encouraging persons to register to vote need to be aware of:

ORS 246.025; Use of Signature Stamp by Person with Disability

This election law allows the use of a signature stamp attestation form by a person with a disability who is unable to sign any election document, including a voter registration card or ballot return envelope. The attestation form, SEL 540, is to be filed at the time the person registers to vote or updates a voter registration. On this form, the person must attest that they are unable to sign their name because of a disability.

ORS 247.012, 247.016 and 247.025; Voter Registration Requirements

A person may register to vote in Oregon, if it is the first time registering to vote in Oregon, no later than the 21st day before the election they wish to vote in (the voter registration card must be postmarked not later than this date or submitted online no later than 11:59pm). The effective date of registration is the date a completed voter registration card is received (date stamped) by a county elections office, the Secretary of State's office, DMV or another designated state agency receiving the card.

A person who is already registered to vote in Oregon but has moved, changed their mailing address or name, or their signature has significantly changed, may update their voter registration up to 8:00 pm on election day (if there is not sufficient time for mailing, the voter should go in person to the county elections office).

An update may also be used to change political party affiliation, with the only difference being that before a primary election, such a change must be made no later than the 21st day before the election. (See discussion under ORS 247.203.)

ORS 247.012(2)(a); Delivery of Voter Registration Card within Five Days

ORS 247.012(2)(a) states that if a completed registration card is delivered to any person, that person **must** forward it to a county clerk or the Secretary of State no later than the **fifth day** after receiving the card. This is **calendar days** - not business days. In any case, the people registering to vote should be allowed to choose to mail in their own cards.

ORS 247.015; Other Voter Registration Procedures

ORS 247.015(1) allows a qualified person absent from the state to register by mail, either using a completed registration card or a signed statement containing the required information.

ORS 247.015(2) allows a qualified person who because of a physical disability cannot register in person to register by mail or be registered by the county clerk.

ORS 247.015(3) allows an otherwise qualified person who will become a U.S. citizen after the 21st calendar immediately preceding an election to register before the 20th day before the election. However, unless the person appears before the county clerk and provides evidence of citizenship, the county clerk shall cancel the person's registration before the election. An administrative rule, OAR 165-005-0050 provides registration procedures for registering to vote an otherwise qualified person who will become a naturalized U.S. citizen after the registration cutoff but prior to the next election.

ORS 247.016; Registration of Person who is 17 Years of Age

ORS 247.016 allows an otherwise qualified person who is at least 17 years of age to register to vote. However, they are **not** qualified to actually vote a ballot at an election until they attain the age of 18. Additionally, until they are 18 years old and the registration becomes effective, they may not sign an election petition (candidate nominating petition, initiative, referendum or recall petition, etc.)

ORS 247.017; Voter Registration at Certain Department of Transportation Offices; Rules

This statute provides that the Oregon Department of Transportation (ODOT) is to make a voter registration card available to any person at any department office where licenses or renewal applications are distributed or received.

ODOT staff is required to inform a 17 year-old who applies for issuance or renewal of an Oregon drivers license; a state identification card; or for a change of address, that they may register to vote at 17 years old, but that they are not allowed to vote until they are 18 years old.

ORS 247.019; Electronic Voter Registration

My Vote is an electronic system available at www.oregonvotes.gov for qualified people to register to vote. The person must have an Oregon driver license (as defined by ORS 801.245), an Oregon driver permit (as defined by ORS 801.250) or a state identification card (as defined by ORS 807.400). The My Vote system is available to register to vote and to update voter registration information (such as address, party affiliation, etc.).

ORS 247.025; Registration Deadline

In order to be able to vote in a particular election, ORS 247.025 provides that a new voter registration card must be received at the county clerk's office, the Secretary of State's office, ODOT office or any designated voter registration agency no later than the time that office closes for business on the 21st day before an election, but in no case later than midnight; or the card may be postmarked no later than that date. If the person is registering online, the card must be submitted no later than 11:59pm on the 21st day before an election. (Updates to a current voter registration may be made up to 8:00pm on election day as discussed above.)

ORS 247.035; Rules to Consider in Determining Residence of Person for Voting Purposes

ORS 247.035 (1) sets out several rules an elections official must consider, to the extent they are applicable, when determining the residence and qualifications of a person offering to register or vote. ORS 247.035 (3) sets out a set of factors an elections official *may* consider when making a determination of residency for voter registration purposes. However, the elections official is not limited to considering these factors.

Voter registration standards must allow for registration of persons in situations such as the homeless, college students who are living at college, "snow-birds," military personnel, persons employed temporarily out of state or country but who may not at the time have any physical residence in Oregon but intend to return to Oregon, etc. In determining the eligibility of a voter, the election official must consider the intent of the voter. See [ORS 247.195](#) below, which provides that the county clerk, at any time, may inquire into the validity of the registration of any voter.

ORS 247.038; Registration of Person who is Homeless or Resides in Identifiable Location

This provision allows a qualified person who is homeless or resides in a shelter, park, motor home, marina or other identifiable location to register to vote using as their residence address any place within the county describing the physical location of the person. For their mailing address, a person in these circumstances may use the office of the county clerk. In this case, the person would pick up their ballot at the county clerk's office in order to vote.

In Oregon, is a person who has been convicted of a felony eligible to register to vote and vote?

In Oregon, it is not against the law for a person who has had a felony conviction to vote as long as they are not incarcerated at that time. ORS 137.281. Inmates in Oregon correctional facilities may register to vote. **However, inmates in an Oregon federal correctional facility may neither register nor vote.**

The general rule is persons convicted of a felony, whether the defendant serves their term of incarceration in a state correctional facility or in a county jail, may register to vote but cannot vote. All others in the criminal justice system may vote (such as pre-trial detainees, persons serving misdemeanor sentences in county jails, persons on parole or probation).

ORS 247.125; Alteration of Registration Card Prohibited

Violation of this statute is a Class C Felony.

ORS 247.125 states that no person shall alter any information supplied on a registration card except an elections officer in the performance of official duties or the person who fills out the registration card for the purpose of registering to vote. It is a potential violation for a person, other than the person registering to vote, to fill in parts of the voter registration card the registering person leaves blank, such as party affiliation.

ORS 247.171; Secretary of State Prescribes Voter Registration Cards

The Secretary of State designs, prepares and distributes voter registration cards. A person may apply in writing to the Secretary of State for permission to print, copy or otherwise prepare and distribute the registration cards. The content must include the information specified in the statute. No charge may be made to the public for voter registration cards by signing the completed card.

ORS 247.171(5), (7); Prohibition on False Information by Registrant

Violation of this statute is a Class C Felony.

No person shall supply any information on the voter registration card they complete and file knowing it to be false. A person must attest to the information supplied on the voter registration card by signing the completed card.

ORS 247.174; Determining if Person Qualified to Register or Update Registration; Hearing

County Election Officials are responsible for voter registration and must determine whether any person's voter registration is valid. A county elections official may reject any registration if they determine that the person is not qualified or that the registration card is illegible, inaccurate or incomplete. If so, the elections official must promptly notify the person of the rejection.

A hearing may be requested by the person whose registration is rejected, no later than the 10th day after the rejection. The county elections official must, no later than the 10th day after receipt of the hearing request, notify the person of the time and place of the hearing on the qualifications. The hearing must be held not sooner than the second nor later than the 20th day after the notice is given.

At this hearing, the person may present evidence of their qualification. The county elections official then determines whether the person is qualified and if so, processes the registration. Also see below, ORS 247.195.

ORS 247.176; Request for Delivery of Registration Card; Rules

This statute provides that any person can request and be provided by the Secretary of State up to 5,000 voter registration cards during two specified periods (the first period starts the 250th day before the Primary election and ends on the date of the Primary election and the second period starts on the day after the Primary Election and ends on the 250th day before the next Primary Election).

A request form is available for requests of 100 or more voter registration cards, SEL 505. It is advised that all requests for fewer than 500 voter registration cards be made to the county elections office.

For requests of 5,000 or more voter registration cards, the cards may be purchased or a distribution plan must be designated by the requestor on the form. In this case, the requester must agree to return any unused voter registration cards. This is further outlined in OAR 165-005-0080.

At the Secretary's discretion, requests for additional voter registration cards may be satisfied by authorizing the requestor to print at their own expense voter registration forms. These forms must be formatted according to the Secretary's specifications.

ORS 247.178; Distribution of Voter Registration Cards

This statute allows any person to distribute voter registration cards in any reasonable manner, including door to door (following all election laws such as not using any "undue influence" to induce persons to register to vote).

ORS 247.195; Inquiry into Validity of Registration; Hearing; Cancellation

This statute provides that the county elections official, at any time, may inquire into the validity of the registration of any person. If the county elections official considers an inquiry warranted, the official mails a written statement to the person that describes the nature of the inquiry and provides a suitable form for reply.

Upon receipt of the person's response, the county elections official must determine whether the information satisfies the inquiry. If the response does not prove satisfactory, the county clerk schedules a hearing and notifies the person of the time and place of the hearing. The result shall be a determination on whether the registration is valid.

ORS 247.203; Change, Termination or Adoption of Party Affiliation before Primary Election

Updates to current voter registrations (changes to home address, mailing address, name or signature) may be made up to 8:00 pm on election day. This allowance also applies to changes to a voter's political party affiliation, except for a Primary Election.

A voter may still submit an updated voter registration card making such political party affiliation changes at any time before a Primary Election, but if the update is received during the time starting on the 20th day before a Primary Election (unless postmarked or submitted online by 11:59pm on the 21st day before the election) up to the date of the Primary Election, then the county elections official may not process any change to political party affiliation (they may however process other changes made on the same updated voter registration card, such as any address change). After the Primary Election, the county elections official will process the political party affiliation change.

ORS 247.208(3); Prohibited Actions for Voter Registration Agency Employee

ORS 247.208(3) restricts public employees or other persons on behalf of a public agency that is designated to provide voter registration services under the National Voter Registration Act (a federal Act enacted by Congress in 1993) from political activity when they are performing such services. Specific restrictions include the following.



*These restrictions **do not** apply to private voter registration drive efforts.* The public employee or other person providing registration services under NVRA:

- **May not** seek to influence the political preference or party registration of a person registering to vote or attempt to discourage them from registering to vote;
- **May not** display any indications of political preference or party allegiance (including the choice of candidates for partisan political office);
- **May not** make any statement or take any action towards a person registering to vote that would lead the person to believe the voter registration has any bearing on the availability of services or benefits; and
- **May not** seek to induce any person to register to vote or to vote in any particular manner.

Additionally, **OAR 165-005-0070**, was adopted to provide more detailed guidelines. This rule specifies the items which personnel *shall not wear or display* in the presence of clients while offering the opportunity to register to vote. These include materials that identify past, present, or future holders or seekers of partisan elective office. The items must not contain logos or other graphics that may be identified with or reasonably be understood to be associated with a political party or other party preference and must not be reasonably understood to be advocating support or opposition to a ballot measure or candidate for elective office.

As discussed in a previous section about ORS 260.432, which imposes a set of restrictions on political activities during work hours that generally applies to all public employees, ORS 247.208(3) imposes a separate, rigorous set of restrictions that apply only to public employees and other persons who provide voter registration services required under NVRA. For employees covered by ORS 247.208, the restrictions imposed by this statute apply **in addition** to the restrictions imposed by ORS 260.432. Therefore, these restrictions prohibit public employees from wearing political buttons while performing NVRA services.

ORS 247.945; List of Registered Voters Availability

A person may, upon request before the 45th day before a Primary, General or Special Election, obtain a list of registered voters from a county clerk or the Secretary of State. A charge for the actual cost of supplying the list may be collected.

For a statewide list, a request may be made to the Secretary of State. A fee of \$500 is charged for this statewide list. These lists do not contain any information about participants in the Address Confidentiality Program.

ORS 247.955; Use of List of Voters Not Allowed for Commercial Purposes

ORS 247.955 states that no person shall use a list of voters (including labels) for commercial purposes, except for resale to candidates or political committees for political purposes only. Non-profit organizations with tax exempt status are generally allowed to use a list of voters, as long as the purpose could not be deemed to be “for profit.”

ORS 247.965-969; Public Record Exemption for Residence Address

Any person may request the county clerk keep their residence address exempt from public record, if the person applies for the exemption pursuant to ORS 192.410 to 192.505. Personal safety reasons must be indicated to the satisfaction of the county clerk (with the Secretary of State issuing a rule defining “personal safety” including conditions listed in ORS 247.969). However, the county clerk may disclose the exempted residence address upon receipt of a court order or law enforcement agency request, except in the case of an Address Confidentiality Program participant (ORS 192.820 to 192.868).

ORS 247.973; Copies of Signatures on Voter Registration Cards Prohibited

ORS 247.973 prohibits a person, other than an elections official in performance of official election duties, from making a copy of, or providing another person, a copy of an individual’s signature on a voter registration card. Two other exemptions from public disclosure provided by this statute are first, the identifying information or documents submitted by an individual for purposes of registering to vote as required under the Help America Vote Act (HAVA) and second, any identifying information entered in the official voter registration by an election official relating to a voter’s disability.

ORS 260.665; Undue Influence Related to Voter Registration Efforts Prohibited

This election law, discussed in more detail above in the section titled “General Election Laws,” prohibits the use of “undue influence” for certain purposes. The specific definition of “undue influence” includes giving something of value away to induce someone to register to vote or to vote, vote in a certain way, etc. Therefore, a person who is encouraging others to register to vote must not provide anything of value to a person who may want to register to vote.

Help America Vote Act (HAVA)

HAVA is a federal law passed in October 2002. This Act addresses improvements to voting systems and voter access and includes provisions on voter registration and education. HAVA requires an individual registering for the **first time** in Oregon to provide one of the following:

- **An Oregon DMV Driver's License or Identification number;** or
- If the individual does **not have** an Oregon DMV Driver's License or Identification number they **must** provide **the last four digits of their Social Security number.**
- If an individual has **neither** an Oregon DMV Driver's License or Identification number or a Social Security number and is registering for the **first time in Oregon** by US Postal Service they **must** include a copy of a valid form of identification.



Acceptable identification is a copy of a current, valid photo identification or a copy of a paycheck stub, utility bill, bank statement or other government document showing the persons' name and address.

If an Oregon DMV Driver's License or Identification number or the last four digits of their Social Security number or other acceptable identification is needed and it is not provided at the time of registration, the voter will be requested to supply it before the next federal election in order for their votes for federal offices to count. Identification is not required for a person who is already registered to vote in Oregon before 2006 and is merely updating that registration.

It should be noted that the person must sign the card, attesting to the truthfulness of the information provided. This signature subjects the person to the penalty for false swearing.

What Does the Help America Vote Act Mean to a Voter Registration Drive Effort?

Anyone involved in a voter registration effort needs to be aware of the laws that are applicable to these efforts. Each registrant registering for the first time in Oregon **must** provide an Oregon DMV Driver's License or Identification number or the last four digits of their Social Security number. If the registrant does not have either of these and attests to that fact and they plan to mail their registration card through the United States Postal Service, the registrant is required to provide acceptable identification. In this case, they should be informed that they need to review the voter registration card for identification requirements that may apply to them. The identification requirement in this situation is the registering person's responsibility.

Also Important To Voter Registration Efforts:

If a person who is encouraging others to register to vote is also circulating an election petition (such as an initiative, referendum, candidate or recall petition) there are additional election laws to consider. There are instructions for circulators on the cover sheets of the petitions, as well in the manuals provided by the Elections Division (see list of manuals at end of this memorandum). All petition circulators have the responsibility to follow these instructions.

They also need to be aware that a person is not qualified to sign an election petition until the person is actually registered to vote. A qualified person is registered to vote on the day which the **completed** voter registration card is **actually received** by the County Clerk, the Secretary of State, the DMV, a designated voter registration agency or a location designated by the County Clerk.

In addition, persons who register to vote while 17 years old may not sign petitions until they turn 18 years old (see [page 29](#)).

Voters' Pamphlet

The Oregon Voters' Pamphlet is a publication produced and distributed by the Secretary of State, Elections Division. It contains information about candidates, measures and political parties, as well as information about the election process. A state Voters' Pamphlet is produced for each Primary and General Election, as well as for any special statewide election.

The following are some election laws that apply to state and county voters' pamphlets. For more information about voters' pamphlet procedures and requirements, see the *State Voters' Pamphlet* manual. See ORS Chapter 251 for all of the procedural statutes.

ORS 251.145, Exemption from Public Records Law

Materials submitted for inclusion in a voters' pamphlet are exempt from public inspection until the fourth business day after the voters' pamphlet filing deadline.

ORS 251.175, Distribution of State Voters' Pamphlet

This statute provides the deadline for which state voters' pamphlets must be mailed for each primary, general or special state election. Generally, the Secretary must cause the state voters' pamphlet to be mailed to each post office mailing address not later than the 20th day before these elections.

ORS 260.715(1); False Statements in Material Required by Election Law

Violation of this statute is a Class C Felony.

This statute prohibits a candidate from making a false statement in the required portion of a state or county voters' pamphlet statement (this includes the required categories of occupation, occupational background, educational background and prior governmental experience).



The election laws do not define each of the categories or specify a suggested level of disclosure. The categories of occupation, occupational background, educational background and prior governmental service may include volunteer work, temporary employment, or any other types of education or services that the candidate considers part of his or her occupation. These categories may include paid or unpaid experience and there is no predetermined period that a person must spend at an occupation for it to be considered as part of the person's occupation or occupational background. Additionally, election law does not specify how far back in a person's life the background information must extend.

It does not include the optional portion of the candidate's statement or any of the statements made in measure arguments for state or county voters' pamphlets. However, ORS 260.532 applies to the optional portions of the candidate's statements and to measure arguments for the voters' pamphlet.

An example of a false statement under ORS 260.715(1) is stating the candidate has a college degree when the candidate does not.

Voting and Ballot Prohibitions

The following election laws contain several prohibitions relating to voting, ballots, the polling place and ballot deposit sites. We have not listed all sections of each statute, but some highlights.

The Secretary of State, in association with the Oregon Association of County Clerks has adopted the *Oregon's Vote By Mail Manual*, adopted by OAR 165-007-0030, to direct the processing of vote by mail elections. This manual is posted on the Elections Division's website.

The *Oregon's Vote By Mail Manual* addresses and provides guidance on such subjects as election observers, voter registration, the preparation and issuing of ballots, security requirements, regular and special ballot handling as well as the handling of challenged and provisional ballots, the ballot opening, inspection and counting process and post election and ballot storage procedures.

ORS 260.645; Illegal Acts Relating to Voting Systems

ORS 260.645 prohibits any person from tampering with voting machines or vote tally systems, or any attempts to prevent the correct operation of any voting machine or vote tally system. An unauthorized person may not make or possess a key to a voting machine or vote tally system.

ORS 260.675; Prohibited Distribution of Ballots

This statute prohibits a person employed or authorized to print official ballots from giving, delivering or knowingly permitting any of the ballots to be taken by anyone except the elections official who ordered the printing. It also prohibits knowingly printing different information on the ballots than what was directed by the elections official, as well as prohibiting an official from knowingly distributing ballots contrary to election law.

ORS 260.695(1); Sample Ballot Restrictions

ORS 260.695(1) states that no person may create a sample ballot that changes the information that will appear on the actual ballot unless the sample ballot contains the statement, “**NOT FOR OFFICIAL USE.**” However, a person may produce a sample ballot that illustrates the manner in which a candidate’s name may be written-in.

ORS 260.695(2); Restrictions on Electioneering at State or Local Government Buildings Designated for Ballot Deposit

ORS 260.695(2) states that no person may electioneer within any state or local government elections office designated for the deposit of ballots, or within 100 feet measured radially from any entrance to the building, during any time that the elections building is open to the public (business hours). This includes use of a public address system located more than 100 feet from any entrance if the person is capable of being understood within 100 feet of the building.

This includes the county elections office during the period of time when the office is issuing ballots to voters and is open to the public. Specifically, this period begins the day ballots are mailed to voters for the election and ends on election day at 8 pm or when all persons in line have finished voting.

Ballot deposit sites that are **not** located within a state or local government elections office are not under this restriction. Ballot deposit sites may include post office boxes, the post office and official drop sites designated by the county elections official, other than state or local government elections offices. A ballot drop site is a depository for voted ballots. A voter may choose to complete the voter's ballot at a drop site location (or anywhere else the voter wishes), but voting assistance, special privacy measures or other polling place amenities are not required.



“**Electioneering**” includes the display, distribution or circulation of any political material or verbal statements supporting or opposing a candidate or ballot measure on any election, even an election other than the one being conducted. It also includes exit polling and the gathering of signatures on **any** election-related petition.

The electioneering ban does **not apply** to the wearing of political buttons or other insignia (t-shirts, caps, etc.) which relate to the election in a polling place in a county clerk’s office, as a means of personal expression. Electioneering actions beyond this are not allowed.

What about parked vehicles with campaign materials on them that are visible at a location where ballots are issued?

A question that frequently arises from the perspective of a county elections official is whether an employee may park his or her vehicle in their assigned parking space that is within 100 feet from a county elections office entrance, after ballots are mailed until 8 pm on election day, when the vehicle has political bumper stickers on it, for instance in support of a candidate. Generally speaking, the advice has been that vehicles *temporarily* parked within 100 feet of the site of an elections office during the time it is issuing ballots for an election (while the vehicle's occupant is there in order to conduct election or other business within the building), do not need to be moved, even if the vehicle's owner has some political campaign bumper stickers affixed to the car.

In most cases, employees who work in a building that is periodically issuing ballots for an election (which can happen often for extended periods of time up to four times a year) should be able to continue to park their vehicle in their assigned spots even though they are located within 100 feet of the building and even though the vehicle has some political campaign bumper stickers affixed.

These situations require judgment calls on a case-by-case basis and are in most part up to the discretion of the elections filing officer. As an example, a pick-up truck with a large campaign sign in the back or a car with numerous bumper stickers for a candidate or issue prominently displayed over most of it should be moved or the signs removed if it remains stationary for a lengthy period of time within 100 feet of an entrance to the affected building.

The effect on a potential voter casting their ballot is a major factor to consider in making the distinction. Considering the high level of intelligence and independence of Oregon voters, it is most likely that a voter's voting in a particular way would not be appreciably influenced by such personal expressions of a campaign button worn by a person or the incidental car bumper sticker on a parked car they may or may not notice upon walking to the entrance.

The electioneering provision is intended to keep the area around an elections office that is issuing ballots free of actions that could reasonably be thought to result in the persuasion and influence of an elector's vote.

What about campaign signs located near election offices during an election period?

Another set of questions that often arise are about campaign signs and whether they are restricted from being posted on property near election offices during an election. Oregon election law does not specifically address the size, location or timing of political campaign signs, except that ORS 260.695(2) does prohibit campaign signs inside or within 100 feet of any entrance to a state or local government elections office building designated for the deposit of ballots from the date ballots are mailed and ending on election day at 8 pm or when all persons in line have finished voting. If the sign is posted within the restricted area, it must be removed.

Many local jurisdictions (cities and counties) have ordinances that address campaign signs. In addition, the Oregon Department of Transportation (ODOT) has policies regarding political signs on public highways (see contact information on [page 51](#)).

Although this office cannot generally offer advice as to the applicability of these provisions to particular locations, there is a concern that public employees enforce such regulations in an equitable manner so as not to indicate any support or opposition to political candidates or issues. See ORS 260.432.

Oregon Motorist Information Act (OMIA) regulates signs on private property where they are visible to a state highway. Political signs generally fall under the temporary sign exemption. ORS 377.735 and OAR 734-060-0175. No permit is required unless a person needs a variance for a size larger than 12 square feet allowed in the statute. Permits are obtained through ODOT.

Except for official signs, no signs – including political signs – are allowed in state highway right-of-way. Signs found in the right-of-way are subject to immediate pick-up by ODOT.

ORS 260.695(3); Obstructing an Entrance to a Location where Ballots are Issued or Deposited Prohibited

ORS 260.695(3) states that no person shall obstruct an entrance of a building in which ballots are issued (county elections offices); a place designated for the deposit of ballots; or a place in which voting booths are located. Voting booths are set up by each county for the primary and general election under ORS 254.474. This restriction applies from the date ballots are mailed until 8 pm on election day or when all persons waiting in line at the building or location have finished voting.

ORS 260.695(4); Voting When Not Entitled Prohibited

Violation of this statute is a Class A misdemeanor.

ORS 260.695(4) states that no person shall vote or offer to vote in any election knowing the person is not entitled to vote.

ORS 260.695(5); False Statement about Person's Ability to Mark Ballot Prohibited

ORS 260.695(5) states that no person may make a false statement about the person's inability to mark a ballot.

ORS 260.695(6); Examining Other's Voted Ballot Prohibited in Certain Circumstances

ORS 260.695(6) states that no person, except an elections official in performance of duties or a person assisting a disabled voter, may ask a person at any ballot deposit site or voting booth how the person intends to vote, or examine or attempt to examine their ballot.

ORS 260.695(7); Disclosing How a Voter Voted by Elections Official Prohibited

ORS 260.695(7) prohibits an elections official, other than in the performance of duties, from disclosing to any person how any voter has voted.

ORS 260.695(8); Permitting Identification of who Voted a Ballot Prohibited

ORS 260.695(8) prohibits any person, except an elections official in the performance of duties, from doing anything to a ballot to permit identification of the person who voted.

ORS 260.695(9); Leaving Indication of How Voted Prohibited

ORS 260.695(9) prohibits a voter from willfully leaving, in any designated ballot deposit site or voting booth, anything that shows how the voter's ballot was marked.

ORS 260.695(10); Removing Ballot Prohibited

ORS 260.695(10) prohibits a person, except an elections official in performance of duties, from removing a ballot from any designated ballot deposit site or voting booth.

ORS 260.695(11); Removing or Changing Posted Elections Notice Prohibited

ORS 260.695(11) prohibits a person, except an elections official in performance of duties or a person authorized by that official, from willfully defacing, removing, altering or destroying a posted election notice.

ORS 260.695(12); Removing or Changing Election Equipment or Supplies Prohibited

ORS 260.695(12) prohibits a person, except an elections official in performance of duties, from willfully removing, altering or destroying election equipment or supplies, or from breaking the seal or opening any sealed package containing election supplies.

ORS 260.695(13); Provision of Elections Advice and Collection of Ballots Prohibited in Certain Circumstances

ORS 260.695(13) prohibits a person, except an elections official in performance of duties, from providing elections advice or from attempting to collect voted ballots within any building in which any state or local government elections office designated for deposit of ballots is located, or within 100 feet measured radially from any entrance to the building.

ORS 260.695(14); Sign Required for Unofficial Ballot Deposit Site

ORS 260.695(14) states that a person may not establish an unofficial ballot collection site, unless a sign is prominently displayed at the site stating, "**NOT AN OFFICIAL BALLOT DROP SITE.**" The sign must be printed in all capital letters in bold 50-point type. These unofficial ballot drop off sites are not under the regulation of election officials.

ORS 254.470; Delivery of Ballots

ORS 254.470 requires that if a person returns a ballot for an elector, they must do so (by delivering it to the county clerk, an official ballot dropsite, or in the mail) not later than 2 days after receiving the ballot, or so that it is received by Election Day, whichever is sooner.

ORS 260.715(1); Voting or Signing Another Person's Ballot Prohibited

Violation of this statute is a Class C Felony. A first time violation of this statute, resulting from a person signing a ballot belonging to a different elector, may result in a civil penalty if the Secretary of State or Attorney General determine the violation was not made with the intent to commit fraud. (HB2351)

ORS 260.715(1) states that a person may not knowingly make a false statement, oath or affidavit when required under election law. For purposes of voting, this means a person may not vote or sign any other person's (including a spouse's) ballot - not even with a power of attorney. This statute also applies to all other statements required under election laws.



A supplemental voter registration form (SEL 540) is available from election officials to allow a person to use a signature stamp or other indicator of the voter's signature on any election document. The person filing the form must be disabled (unable, because of the disability, to sign the voter's name) and registered to vote (a registration card may be filed at the same time as this attestation).

ORS 260.715(2); Requesting a Ballot in Another's Name Prohibited

Violation of this statute is a Class C Felony.

ORS 260.715(2) states that a person may not request a ballot in a name other than the person's own name.

ORS 260.715(3); Voting More than Once at an Election Prohibited

Violation of this statute is a Class C Felony.

ORS 260.715(3) states that a person may not vote or attempt to vote more than once at any election held on the same date.

ORS 260.715(4); Voting More than Once at Same Election, in this State and in Another State Prohibited

Violation of this statute is a Class C Felony.

ORS 260.715(4) states that a person may not vote or attempt to vote in an election held in this state and in another state on the same date.

ORS 260.715(5) - (8); Various Ballot Restrictions

Violations of these statutes are Class C Felonies.

ORS 260.715(5) - (8) provide prohibitions against willfully altering or destroying a cast ballot, against placing a fraudulent ballot among genuine ballots, against falsely writing anything purporting to be written by an elections official in performance of duties on the ballot and against theft of a ballot, tally or return sheet or fraudulently opening a sealed tally or return sheet of the election.

ORS 260.715(9); Prohibition on Sale or Purchase of Ballots or Ballot Envelopes

Violation of this statute is a Class C Felony.

ORS 260.715(9) states that a person may not manufacture or use a fraudulent ballot return identification envelope or secrecy envelope or sell, offer to sell, purchase or offer to purchase, for money or other valuable consideration, any official ballot, replacement ballot, ballot return identification envelope or secrecy envelope.

Election Law Complaints

ORS 260.345 provides the process to file a complaint alleging a possible election law violation of **ORS Chapters 246 to 260**, with **ORS 260.205** providing a similar process to file a complaint alleging campaign finance regulation violations.



An exception is for complaints alleging false statements in campaign material, (other than required information in sworn election forms). For these types of complaints, **ORS 260.532** provides the exclusive remedy, in which the “aggrieved party,” as defined in this statute, must file the complaint in the appropriate circuit court. This type of complaint must be filed with the court no later than 40 days after the election to which the statement pertains.

The complaint **must be in writing and signed** (the complaint does not have to be on a form – unless it is about the Help America Vote Act (HAVA). For HAVA complaints, additional information should be requested from the Secretary of State, Elections Division as those types of complaints need to be on a specific form and there is a different process). A complaint may be mailed or faxed to the fax number given below. However, it **may not** be accepted as a complaint if it is sent by email, unless it is a signed attachment. Also, this election law does not allow an anonymous complaint.

The complaint should state the basis for believing that the violation occurred and any evidence relating to it. It should contain a detailed description of the alleged violation and include copies of any documentation and substantiation available.

If the complaint involves an election law classified as a civil penalty (ORS 260.995), it is immediately available to the public. For civil penalty election laws, a complaint must be filed no later than the 90th day after the election at which a violation of an election law or rule is alleged to have occurred, or 90 days following the date the violation of an election law or rule is alleged to have occurred, whichever is later.

If the complaint involves a criminal penalty election law (ORS 260.993), the investigation is exempt from public disclosure until closed. A notice is sent to the subject that a complaint has been received. The complaint file becomes public record once the case is closed. Generally, for criminal penalty election laws, a complaint must be filed within two years after the alleged violation. ORS 260.345(8).

If a written complaint received by the Elections Division is solely about an issue that is not addressed by any state election law, this office sends a letter advising this is the case and offers any advice available about where such a complaint may instead be handled.

Issues Not Addressed by State Elections Law

Issues that the Secretary of State, Elections Division **does not have jurisdiction** to investigate or enforce include:

- **Candidate qualifications**, including residency requirements, for **other than state candidates** – these determinations are the responsibility of the local jurisdiction.
- **City or County charter or ordinance enforcement** – the enforcement of these regulations are the responsibility of the local jurisdiction.
- **City incorporation processing** (see ORS 221.020).
- **Local initiative petitions**, as to the local elections filing officer's determination of whether a prospective initiative petition is the proper subject for an initiative based on whether it is **legislative vs. administrative** – these may be pursued through a lawsuit, but the Secretary of State does not intercede in these disputes for local issues.
- **Conflict of interest disclosure**, see contact information for Oregon Government Ethics Commission on [page 51](#).
- **Lobbying rules and regulations**, see contact information for Oregon Government Ethics Commission on [page 51](#).
- **Newspapers, television and radio stations, as to whether equal access** must be given for political candidates and issues. Most newspapers, television and radio stations are private enterprises and Oregon state election law does not contain a requirement that equal access must be provided to all candidates for an office or to all sides of a political issue. However, if the newspaper, television or radio station is produced by public employees on their work time, then the state election law ORS 260.432 restricting political campaigning by public employees would apply – see [page 21](#).

→ **No call list restrictions or automated call regulations.** State election law does not include any ban prohibiting recorded political phone messages and does not require the caller to be identified. A person may contact the Oregon Attorney General's office for consumer related matters and unfair trade practices concerns. See contact information on [page 51](#).



From the Oregon Attorney General's website information about the "do not call" registry (www.doj.state.or.us), it states that in order for the Attorney General to pursue violators in Oregon's state courts, Oregonians must first make sure they register their telephone numbers on the National "Do Not Call" Registry. Oregon consumers placing their landline and cell phone numbers on the federal registry will be protected by both the federal and state "no call" laws. Registration is free. Oregon residents may register by calling toll-free at 1-888-382-1222 or online at www.donotcall.gov.

However, under Oregon's No Call law, certain solicitation calls are allowed, including:

- ✓ Calls from public agencies or charitable organizations to which you belong, or to which you have previously donated or expressed interest in making a donation;
- ✓ Calls that are made in response to your request that a company call you;
- ✓ Calls that ask for your opinion or vote; and
- ✓ Calls from companies you have bought from in the past, or a "predecessor of a business enterprise" for certain financial institutions.



For more information on Oregon's "No Call" law, consumers may call the Attorney General's consumer hotline at: Salem area only: (503) 378-4321, Portland area only: (503) 229-5576 or toll-free at 1-877-877-9392.

→ **Nonprofit organization status:** a person may contact the Oregon Department of Justice, Charitable Activities Section. See contact information on [page 51](#). Further, either the Federal IRS or Oregon Department of Revenue would have jurisdiction to determine how any particular activities (such as political support or opposition) could impact the non-profit status of an organization or private foundation.



The one election law that may be thought to relate to non-profit organization activities is ORS 260.432, which restricts political campaigning by public employees - in that they are not to do so on their work time. Oregon election law does prohibit **public employees** from using their work time to support or oppose petitions, measures or candidates. "Public employee" is defined in ORS 260.432 (4)(a) and (b), generally as an employee of a government entity, including public officials who are members of government appointed boards and commissions, whether paid or not, but excluding elected officials. However, an employee or officer of a non-profit corporation generally does **not** fall under this definition of public employee.

Additionally, the Secretary of State Corporations Division has a lot of information about nonprofit organizations available [here](#).


→ **Oath of office:** The Secretary of State does not enforce requirements for oath of office, other than the Secretary of State's administrative function of providing forms to state elected and appointed public officers. See ORS 44.320.

→ **Political signs, as to the size, location and time restrictions** – these may be regulated by the local jurisdiction where the sign is located. For questions regarding political signs visible from state highways, a person may contact the Oregon Department of Transportation. See contact information on [page 51](#).


→ **Private, non-profit organization elections or business contracts:** The Secretary of State's office does not enforce procedures for private, non-profit organization elections (of officers, etc.), or their business contracts.

→ **Public office for personal gain, use of**, see contact information for Oregon Government Ethics Commission on [page 51](#).

→ **Public meeting laws** (a resource may be found at www.open-oregon.com, “**A Quick Reference Guide to Oregon’s Public Meetings Law**,” and also the applicable laws, ORS 192.610 to 192.690).*

 **ORS 192.660** is the statute that governs **executive** (closed) sessions of a public body. If a complaint alleges a violation of this aspect of public meeting law, for instance that a meeting held as an executive session should have instead been open to the public, ORS 192.685 allows such complaints to be filed with the Oregon Ethics Commission. ORS 192.685 states, in part, “*complaints of violations of ORS 192.660 alleged to have been committed by public officials may be made to the Oregon Government Ethics Commission for review and investigation as provided by ORS 244.260 and for possible imposition of civil penalties as provided by ORS 244.350.*”

→ **Public records laws** (a resource may be found at www.open-oregon.com, “**A Quick Reference Guide to Oregon’s Public Records Law**,” and also the applicable laws, ORS 192.410 to 192.505). A petition for a public records order may be submitted to the Attorney General for state agencies or District Attorney for local public bodies. Contact information for the Attorney General’s office is on [page 51](#).

 Additionally, the Oregon Attorney General’s Office website, at: www.doj.state.or.us, states that every two years, following adjournment of regular legislative sessions, the Attorney General updates and publishes a **Public Records and Meetings Manual**. This manual is intended to provide assistance to state agencies, local governments and to the public generally. Copies of the manual may be purchased from: Publications Section, Department of Justice, 1162 Court Street NE, Salem, OR 97301-4096. Phone numbers are: (503) 378-2992, #1, TTY: (503) 378-5938.

→ **Political Party rules** - ORS 248.011 states that, except as expressly required by law, the Secretary of State, a county clerk or other elections official shall not enforce the provision of ORS 248.005 or any other rule adopted by a political party. There is no express legal requirement authorizing the Secretary to monitor and enforce a party’s rules for selecting a nominating committee or for nominating candidates for office as to whether they comply with ORS 248.005.

→ **Special District procedures involving chapters outside of election laws ORS Chapters 246-260**, such as the procedures for annexation, formation, zone requirements, boundaries and public notice requirements. The Secretary of State, Elections Division **does** have jurisdiction on the Special District election procedures contained in ORS Chapter 255, for the special districts included in the definition section of this chapter (ORS 255.012). However, some special districts are not included in ORS Chapter 255, such as irrigation districts, and therefore these election procedures are not under the Secretary of State’s jurisdiction.

→ **State Seal regulations** – The Oregon State Seal must not be used in any communication to constituents that advocates for or against candidates, political committees, election petitions or measures. ORS 186.023 governs the use of the Oregon State Seal. Elected officials are entitled to use the state seal in their official capacity, but not in their capacity as candidates or to express political positions on election petitions or measures. (This statute is not an election law, but is enforced by the Secretary of State’s Executive Office. See [page 51](#) for contact information.)

→ **Statements of economic interest** - see contact information for Oregon Government Ethics Commission on [page 46](#).

→ **Tax credits for political contributions** – see ORS 316.102. The Oregon Department of Revenue may be contacted. See [page 51](#).

→ **Vacancies in office or nomination and the appointment process:** Vacancies in **local** public offices other than state office are the responsibility of the local jurisdiction. For vacancies in **state** office, the Secretary of State only has an administrative role in these proceedings. However, the qualifications of a legislative appointee are to be confirmed by the precinct committeepersons who nominate the nominee under ORS 171.060 and the county commissioners who make the appointment pursuant to ORS 171.051, 171.062 and 171.064. The Secretary has no authority under the appointment statutes to review or judge the qualifications of any nominees or the final appointee.

Other Information Sources

Other Information Sources Index (note: for each subject, the contact information is listed in alphabetical order in the table below this index):

Subject	Contact #	Subject	Contact #
Automated call regulations	B	IRS	H
Business regulations	A	Lobbyist registration laws	D
Conflict of interest restrictions and disclosure	D	No call list restrictions	B
Consumer Hotline	B	Nonprofit entity	M
Consumer related complaints	B	Oregon business guide	A
County Elections	C	Oregon Department of Revenue	I
Economic Interest, Statements of	D	Payroll tax information	A
Employer Registration	A	Political signs visible from state highway	L
Employer/employee responsibilities	J	Public meetings, as to executive sessions	D
Ethics laws	D	Public records petitions	B
Executive session public meetings	D	Radio and Television regulations (FCC)	F
Federal Candidates and Federal Election regulations	E	Raffle license	M
Federal Communications Commission (FCC)	F	Safety and health regulations	A
Federal Elections Commission (FEC)	E	State Seal, use of regulations	K
Federal Hatch Act, Federal Employees	G	Statements of Economic Interest by public officials	D
Federal Reporting requirements (IRS)	H	Use of public office for personal gain restrictions	D
Income Tax Credits for political committee	I	Wage & hour provisions	N
Independent Contractors	J	Workers' compensation	A

Contact Information for Other Information Sources

A Business Regulation

For questions about compliance with business regulations, including payroll tax information, employer registration, workers' compensation and safety and health requirements or the Oregon Business Guide, basic information and checklist for new employers.

Corporations Division
Public Service Building
255 Capitol Street NE, Suite 151
Salem, OR 97310-1327
☎ 503 986 2200
✉ CorporationDivision.SOS@sos.oregon.gov
📍 sos.oregon.gov/Business

B Consumer Related Complaints

For questions including no call list restrictions, automated call regulations and public records petitions.

Department of Justice Charitable Activities Section
1162 Court Street NE
Portland, OR 97301-4096
☎ 503 378 4400 or
✉ consumer.hotline@doj.state.or.us
📍 www.doj.state.or.us/charigroup/index.shtml

C County Elections

For questions about county elections, go 📍 [here](#).

D Ethics Laws, Enforcement of Oregon's Government

For questions involving conflicts of interest, disclosure of use of public office for personal gain, executive session provisions of public meeting laws, lobbyist registration laws and statements of economic interest filed by public officials.

Oregon Government Ethics Commission
3218 Pringle Road SE, Suite 220
Salem, OR 97302-1544
☎ 503 378 5105
fax 503 373 1456
📍 www.oregon.gov/ogec

E Federal Candidates or Federal Election Regulations

For questions regarding federal candidates or committees or federal election regulations contact:

Federal Election Commission
999 E Street NW
Washington, DC 20463
☎ 800 424 9530
fax 202 219 8500
📍 www.fec.gov

F Federal Communications

For questions relating to regulations on radio and television broadcasts.

Federal Communications Commission

445 12th Street SW

Washington, DC 20554

☎ 888 225 5322

fax 866 418 0232

📍 www.fcc.gov

G Federal Hatch Act, Applicable to Federal Employees

Includes persons principally employed by state or local executive agencies in connection with programs financed in whole or in part by federal loans or grants - check with your employer if questions on applicability.

US Office of Special Counsel

1730 M Street NW, Suite 218

Washington DC 20036-4505

☎ 800 854 2824

📍 osc.gov

H Federal IRS Reporting Requirements

For questions regarding IRS reporting requirements for political committees contact:

Internal Revenue Service

☎ 800 829 1040

📍 <https://www.irs.gov/charities-non-profits/political-organizations>

I Income Tax Credits for Political Contributions

For information about political tax credits.

Oregon Department of Revenue

Revenue Building

955 Center Street NE

Salem, OR 97301-2555

☎ 800 356 4222 or 503 378 4988

📍 www.oregon.gov/DOR

J Independent Contractor and Employer/Employer Responsibilities

For information about independent contractors and employer/employee responsibilities contact:

Oregon Employment Department

Tax Section

875 Union Street NE, Rm 107

Salem, OR 97311-0030

☎ 503 947 1488

fax 503 947 1487

📍 www.oregon.gov/employ/tax

K Oregon State Seal

For questions regarding restrictions on use.

Secretary of State
Executive Division
136 State Capitol
Salem, OR 97310-0722

☎ 503 986 1523

✉ oregon.sos@sos.oregon.gov

📍 sos.oregon.gov

L Political Signs

For questions regarding political signs that are visible from state highways:

Oregon Department of Transportation
355 Capitol Street NE, MS 11
Salem, OR 97301-3871

☎ 888 275 6368

fax 503 986 3432

✉ askODOT@odot.oregon.gov

📍 www.oregon.gov/ODOT

M Raffle License

For questions regarding applying for a raffle license or status as a nonprofit entity contact:

Department of Justice Charitable Activities Section
1515 SW 5th Ave., Suite 410
Portland, OR 97201

☎ 971 673 1880

fax 971 673 1882

✉ charitable.activities@doj.state.or.us

📍 www.doj.state.or.us/charigroup/index.shtml

N Wage and Hour Provisions

For questions regarding enforcement and filing a wage claim.

Oregon Bureau of Labor and Industries (BOLI)

☎ 541 686 7623 Eugene

☎ 541 776 6270 Medford

☎ 971 673 0761 Portland

☎ 503 378 3292 Salem

Spanish speakers are available in Portland, Salem and Medford.

So, You Want to Run for Local Office...

A Guide for Prospective
City Elected Officials

Updated April 2020



So, You Want to Run for Local Office...

A Guide for Prospective City Elected Officials

What every person interested in becoming an elected official should know about roles, responsibilities, and representing their community and city government.

This guide is primarily intended for candidates for city council. It serves as a reference and deals with a variety of important topics. This guide is meant to serve as an orientation for those who wish to assume a leadership role at the local level. The guide will outline:

- How to file for elective office;
- What to expect once elected;
- Roles and responsibilities;
- The sources of local government law;
- Communications;
- Visioning and goal setting; and
- Resources.

This guide is not a substitute for legal advice. Candidates are encouraged to speak with their privately retained attorneys for specific legal advice.

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Welcome Message from the 2020 LOC President

Welcome to the club! The number of people willing to run for elected local office is pretty small, and for good reason: it's not an easy job if you want to do it right. If you're just looking for a fancy title and all-expenses-paid junket to exotic locations, you're going to have a rough time of it, and you won't have much fun. But if you're looking for a way to use your knowledge, experience and wisdom to help make your community a better, more functional place, you may find that lending your hand to local government is one of the most rewarding endeavors you've ever undertaken.

If you haven't already gotten your feet wet by volunteering for your local planning commission, budget committee, or other municipal body, you should seriously consider doing so before you declare a candidacy. Having some experience doing "city stuff" is a good way to get a better idea about what you're likely to spend your time doing as a city councilor or mayor, and will better prepare you to answer the sorts of questions you're likely to get as a candidate.

If you haven't already started attending city council meetings, start doing so now. You're going to want to become as familiar as possible with both the issues in your city and the way the council conducts business before you're up there on the dais. If you're running because there's a single burning issue that's compelled you to run, remember that there are hundreds of other issues you're going to have to wrestle with during your term of office. If you want to do a good job, you'll want to know what those are, and tackle them with just as much energy and honest consideration as you would your pet issue.

Remember that your opponents (and your eventual fellow council members) are people too. Assume the best of them—that they're also running for office because of a genuine desire to help your community. The people you're meeting in this process tend to be good folks who remain involved with civic matters, so they're just not going to go away after the election (in fact, it's likely that you'll find yourself working with them in the not-so-distant future). So, feel free to explain why you disagree with their proposed policies, but resist any temptation to sling mud. Taking the high road is not only the right choice ethically, it's also likely to pay dividends later.

Once you've won the election and you're seated on the council, the work isn't over. Instead, that's when it begins in earnest, and the learning curve can be pretty steep. Luckily, the League of Oregon Cities has some fantastic training opportunities to help you be the best elected official you can be. Please don't hesitate to reach out, and we'll do our best to help you help your city.

– 2020 LOC President Jake Boone, Councilor, Cottage Grove

Filing for Elective Office

Qualifications for various city offices differ. Before filing for candidacy, review the city charter and statutory requirements of the office for which you plan to declare your candidacy. Requirements for filing for city office are found under Oregon Revised Statutes (ORS) Chapters 221 and 249. The forms that you will need are available from the city's elections official and the Oregon Secretary of State's Office, Elections Division.

Every candidate and prospective candidate are required to establish a principal campaign committee within three business days of receiving or spending any money to support the candidacy. This includes expenditures of personal funds by the candidate. It also includes payment of the filing fee if the candidate files by declaration, any costs relating to circulating a nominating petition, or any voters' pamphlet costs. For more information on campaign finance reporting requirements please see the Secretary of State Elections Division Candidate Finance Reporting in Oregon Candidate "Quick Guide" available at:

<https://sos.oregon.gov/elections/Documents/candidatequickguide.pdf>.

What to Expect

As a local elected official, you will have the opportunity to shape policy governing the future of your city. In addition to serving as a community leader, being a model of civility and cooperation, an educator and interpreter of public opinion – the role of an elected official will change the way you are viewed in your community. You'll rarely stop by the neighborhood coffee shop without someone complaining about roads or taxes. You may be cornered anywhere, at any time, on anything. Local elected leaders are in direct contact on a daily basis with the people they represent.

You will spend a lot of time attending meetings – not only city council meetings – but regional and statewide meetings as well. You will spend time preparing for meetings, reading any preparatory material in order to make informed decisions in the course of all meetings.

If elected, you will utilize the skills you already have, skills you never knew you had, and skills you wished you had. You may be called upon to facilitate meetings, speak to the press, respond to angry and sometimes hostile citizens, testify before legislative committees, and negotiate with contractors, bankers and engineers. You will make decisions on everything from who to hire as the next city manager, which bid to accept for paving the roads, how to pay for solid waste disposal, to joining with neighboring cities in a regional approach to providing dispatch services.

SPOTLIGHT:

Policy Process Steps

1. Identification of problems or needs
2. Establishment of community goals
3. Determine objectives
4. Development/analysis of alternative solutions (including short-term and long-term implications)
5. Establishment of priorities
6. Development of programs and strategies
7. Implementation of programs and strategies
8. Monitoring and evaluation of programs or strategies
9. Feedback
10. Program or strategy improvement and modification

SPOTLIGHT:

Basic City Services

The services provided by cities vary from community to community. However, some typical services include:

Public Safety – police, fire, and sometimes ambulance service

Utilities – water and sewer, trash collection, electricity, and natural gas

Land Use – planning, zoning, code enforcement, and other regulatory activities

Transportation – street construction and maintenance, traffic safety, and sometimes public transit

Recreation and Cultural – parks, recreation, libraries, and sometimes cultural facilities

Legal – ordinances protecting the public health, safety and welfare of the community

Roles and Responsibilities

The specific roles and responsibilities of members of city leadership will vary from community to community. Each position plays a vital role in the governance of the city. The council serves as the city's legislative body by adopting a budget and adopting local laws – called ordinances – and regulations.

Policy Role

The council is the highest authority within city government in deciding issues of policy. For a council to effectively assume a positive and active role in bringing issues forward for discussion in setting policy, councilors need a clear understanding of policy process and the stages at which council intervention is most effective.

Administrative Role

The council, as a collective body, is responsible for the oversight of administration in every city, but the roles that the mayor and individual councilors play in city administration vary considerably, depending on city size and form of government. Typically, the only city staff overseen by the council is the city's chief executive and potentially a handful of department heads.

Council/Manager Form – The majority of Oregon cities follow this structure where the council is comprised of volunteers who decide the policy for the city, which is overseen by a paid city manager who serves as the chief executive. Approximately 55% of cities nationwide utilize this form of government, and it is most popular in the Southeast and Pacific Coast regions.

Strong Mayor Form – The only city in Oregon with a strong mayor structure is the city of Beaverton. Under this form of government, the mayor is elected but also serves as the city's chief executive. Approximately 34% of cities nationwide utilize this form of government and it is most popular in the Mid-Atlantic and Midwest regions.

Commission Form – The city of Portland is the state's only true commission form of government. In this form, elected commissioners serve as the administrative head of selected city departments as assigned by the mayor. While the commission is the oldest form of local government in the country, only 1% of cities nationwide utilize a commission form of government.

The Mayor

The mayor's role varies from city to city, depending on charter requirements. The mayor serves as the public face of the community by representing the city at community events or government functions. The mayor also serves as the spokesperson for the council. During council meetings, the mayor typically serves as the presiding officer and sets the agenda for meetings. Often, the mayor appoints individuals to committees and work groups and signs ordinances and

SPOTLIGHT:

Council-Manager Form of Government

The chief characteristic of the council-manager form of government is that the council appoints a qualified professional person as city manager or administrator to take charge of the daily supervision of city affairs. The manager or administrator serves at the pleasure of the council – the council sets policy and the manager carries out that policy. While an absolute separation between policy and administration does not really exist, the council-manager form works best when the council exercises its responsibility for policy leadership and respects the manager's leadership role and responsibility for administration.

Council-manager charters commonly include specific provisions that prohibit individual councilors from giving orders to city employees and from attempting to influence or coerce the manager with respect to appointments, purchasing, or other matters. However, the charters do not prohibit, and may affirmatively provide for the council to discuss administrative matters with the manager in open meetings.

resolutions on behalf of the council. Most importantly, the mayor serves as the chief facilitator between the city manager and the city council.

Quasi-Judicial Role

Council members may act in a quasi-judicial capacity when sitting on land use hearings and other type of appeals. When acting in a quasi-judicial role, the council is acting like a court of a judge – it is applying the law to a set of specific facts.

Council as “One Voice” and Balance

The council acts as a centralized body with one voice and not as individuals. While individual council members may make motions, the motion is only passed when a majority of the council votes in favor of its passage. Newly elected and veteran elected officials may find this structure challenging as it may be difficult to pass policy based on individual platforms.

The single most difficult job of a city council is to balance diverse interests with common interests. A councilor may react to groups in isolation without considering the larger consequence of their actions. It is important to recognize and consider citizen input, but it is equally important to develop perspective. A council can seldom do everything that everyone wants.

Intergovernmental Relations

Beyond the myriad of issues that are specific to city government, city officials will quickly find that they play a pivotal role in the intergovernmental arena with other cities, county government, special districts and public schools, as well as regional, state and federal governments. Understanding these relationships and their impact on a city government’s ability to provide responsible, efficient and effective governance and delivery of services is important, particularly when funding and staffing resources are limited. Exploring new and innovative ways of funding and providing public services is one of the challenging issues facing elected officials.

It is important to recognize that the reasons you are running for office will become part of a “full plate” of issues – many of which you are not yet familiar. Because of the urgency and the complexity of these issues, governments must work together to address them. Cities no longer do their government business in isolation. The key to success is cooperation and collaboration.

Sources of Law

The main sources of law governing local government are the city charter and ordinances, the state constitution, state law and the decisions of state courts. Cities are also subject to federal laws and the United States Constitution. Local elected officials should be familiar with their city’s charter and ordinances, as well as the state laws regarding open meetings, public records, budgeting, public contracting, and ethics, some of which are described below.

Home Rule and Limitations of Power

The term “home rule” refers to the authority of a city to set policy and manage its own affairs. Without charter home rule, state law controls the existence, form of organization, functions, powers and finances of

local government. Most home rule authority is conferred on a city by its charter. A charter can be thought of as the city's constitution and may be amended only by a vote of the citizens of that city.

Even in light of home rule, local governments are subject to statutory, constitutional, judicial and charter limitations. Under Oregon constitutional home rule provisions, the voters of the state have taken from the state Legislature, and reserved to the voters of cities, the power to adopt and amend their own city charters. Initiative and referendum powers are also reserved to the voters of the city under Oregon Constitution Article VI, section 10 and Article XI, section 2.

Article I, Oregon's Bill of Rights, also applies to local governments. Other constitutional limits and restrictions include property tax limitations, prohibitions against lending the credit of a city, and regulation of city elections.

Government Ethics

Public official ethics are governed by various constitutional provisions, the common law, state statutes, and occasionally, charter or ordinance provisions.

Government ethics law is administered and enforced by the Oregon Government Ethics Commission. State law may require officials in your city to file a statement of economic interest each year with the Oregon Government Ethics Commission. State law also requires that public officials not use their official position or office to obtain financial gain other than their official salary, honorariums or reimbursements of expenses. The law limits the value of gifts that officials, candidates or members of their families may solicit or receive, or which any person may offer, and prohibits public officials from soliciting or receiving offers of future employment in return for their influence. The law prohibits public officials from furthering their personal gain by use of confidential information gained through their position with the city.

Public officials must also avoid a conflict of interest relating to taking official action that may or will result in financial benefit or detriment to the public official, the public official's relative, or a business with which the public official or their relative is associated. When a conflict of interest exists, the public official must take certain steps such as announcing the conflict and potentially recusing themselves from any participation in the discussion or vote on the issue.

Public Meetings Law

The Oregon public meetings law that applies to public bodies is found in ORS 192.610 to 192.695. Under the public meetings law, a governing body's meetings are open to the public with certain exceptions. Meetings of other city bodies such as the planning commission, budget committee, library board, etc., are also open to the public. Except in emergencies, there must be reasonable notice of regular meetings and at

RESOURCE:

For a more in-depth explanation of Oregon Home Rule and Preemptions see [LOC's Guide to Statutory Preemption of Home Rule](#) and [White Paper on the Origins, Evolution and Future of Home Rule](#), available on LOC's online reference library accessible at:
<https://www.orcities.org/resources/reference/reference-library>

RESOURCE:

Oregon Government Ethics Commission Publications

For more information and guidance on government ethics for public officials, see the Oregon Government Ethics Commission's [Guide for Public Officials](#), and related supplement available at:
https://www.oregon.gov/OGEC/Pages/forms_publications.aspx

least 24-hour notice for special meetings. Minutes are required to be taken. Executive sessions – those meetings that may be closed to the general public – may be held for certain prescribed reasons, but the media must be allowed to attend these meetings and final decisions may not be made. All final decisions must be held in a public meeting.

Public Records Law

The Oregon public records law applies to public bodies and is found in ORS 192.311 to 192.478. The public meetings law prescribes not only how local government officials and staff must handle public records, but also how the local government must respond to and handle requests for disclosure.

Budget and Finance

Budgeting is an annual process by which cities identify the types and levels of services that can be provided within the constraints of available resources. The general budgeting process is prescribed by the Oregon local budget law found in ORS 294.305 to 294.565. The Oregon Department of Revenue's Finance and Taxation section administers and provides advice and assistance to cities regarding budget matters. The section publishes a local government budget manual that is the basic reference document for local budget procedures.

In its most basic form, the budget identifies city programs, services and activities. City budgets are organized and expenditures are accounted for by “funds” such as the general fund or street fund, etc. or “activities” such as law enforcement or transportation, in order to permit identification and handling of revenue earmarked for such purposes. Additional resources on local budgeting may be accessible on the Oregon Department of Revenue's website at: <https://www.oregon.gov/DOR/programs/property/Pages/local-budget.aspx>.

Liabilities

To some extent, Oregon governments are liable for torts (wrongs to private parties) such as personal injury, property damage, wrongful entry, false arrest and detention, abuse of process, invasion of privacy, and interference with contractual relations. The Oregon Tort Claims Act places a financial limit on the extent of the government's liability for torts.

The personal liability of public officials is governed primarily by the provisions of the Oregon Tort Claims Act. Federal civil rights law, the common law of torts, and specific Oregon statutes also may impose personal liability. Some examples of personal liability are budget law violations, conflicts of interests, actions outside the scope of official duty, malfeasance in office, public contracting violations, and public meetings law and public records law violations.

The council should routinely consult with the city attorney in making decisions on city affairs. In addition to providing professional and technical services such as preparation of formal opinions and drafting of legal documents, the city attorney can supply advice regarding many other matters.

RESOURCE:

Oregon Attorney General's Public Records and Meetings Manual

Without doubt one of the most helpful resources on public meetings and records is the Attorney General's [Public Records and Meetings Manual](https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/). The Manual provides guidance and explanations to the various laws that govern Oregon public records and meetings. The Manual is available online free of charge at: <https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual/>

Some types of insurance are required by state law, and cities purchase other types for their own protection. Insurance policies are complex documents, and the advice of competent insurance advisors and the city's legal counsel should be sought to make certain that coverages are adequate for the exposures involved. For more information on risk management, contact Citycounty Insurance Services online at <https://www.cisoregon.org/Contact-CIS>.

Communications – The Key to Success

Council effectiveness is dependent upon good group dynamics. Each new configuration of the council creates its own personality and style of operation. As with any group, each council must go through the usual evolution of forming, storming, norming, performing and, eventually, reforming. A number of city councils in Oregon have adopted internal rules of council procedure to promote effective governance and establish ground rules for working together.

Elected Officials and the Public Spotlight

Becoming an elected official means living in the public spotlight 24 hours a day. Elected officials come to realize that this is simply a condition that accompanies the position – for better or worse. Don't be alarmed if your personal life becomes front page news and the "talk of the town." It's bound to happen sooner or later. Media relations is a skill that can work in the city's favor. It is wise to develop a respectful relationship with a local reporter and attempt to create a reciprocal relationship. Be sensitive of the reporter's job and their need to meet deadlines. At the same time, be careful and never speak "off the record." Expect anything you say or write to be used. Don't assume an interview is over until the reporter has left the scene. Also, before speaking with the press on a matter related to the city, make sure you and your council have identified any needed protocols for interactions with the media. Some cities have identified, through their council rules of procedure, how elected officials communicate with the press – identifying what a councilor or mayor can do when they "speak for" the city as opposed to when they are "speaking for" themselves.

Representing the Public

Two of the most important tasks of local government officials are to discover citizen opinion and to ensure that citizens have sufficient information to form knowledgeable opinions. For these tasks to be carried out successfully, elected officials must solicit public input and encourage citizen participation and involvement.

Communication is important in achieving effective citizen participation in local government. Success depends on both the attitudes and interests of citizens and city officials. Citizens need to know their efforts are recognized and valued in the decision-making process. Public hearings, advisory committees, town hall meetings, televised council meetings, volunteer participation, public opinion polls, and interest groups are ways to connect citizens with city government in a significant way.

RESOURCE:

For sample rules of procedure, see LOC's [Model Rules of Procedure for Council Meetings](https://www.orcities.org/resources/reference/reference-library) available on LOC's online reference library accessible at: <https://www.orcities.org/resources/reference/reference-library>

SPOTLIGHT:

Guidelines for Surviving Life in the "Public Fishbowl"

- ✓ Be truthful.
- ✓ If you don't know the answer, say so.
- ✓ Anticipate all situations and questions.
- ✓ Be prepared.
- ✓ Be accountable and responsible for everything you do and say.

Community Visioning and Goal Setting

City councils should develop community visioning and conduct annual goal setting processes in order to provide a roadmap for all city decisions.

Visioning: Sustaining Quality of Life

City governance is an institution that enables a community of citizens, through their elected representatives, to maintain safety and a good quality of life, which is accomplished by developing policy, adopting implementing laws and ordinances, and planning for the delivery and financing of public services. Success is dependent upon the ability to stay in touch with the public's needs and desires, to understand the issues, and to balance the short and long term social, economic and environmental impacts. A vision statement provides a blueprint for the future and helps the council, staff and citizens to set priorities, goals, and make decisions to achieve desired outcomes.

"Every city has an unbelievable talent pool that can help change a city from average to outstanding. However, members of the community must realize how important their involvement can be. I truly believe that King City is a great example of what can happen when a diverse group of dedicated residents are committed to helping the city government represent the people, as city councilors. Progress in a city can only be made by the people who represent the people in the community in which they live and deeply care about."

- Ken Gibson, Mayor, King City

Setting City Goals

A clear set of goals provides the framework within which nearly all city activities can be accomplished. Goals provide direction, reduce crisis management environments, develop cohesiveness among council members, allow managers and staff to manage their time and activities effectively, and permit periodic evaluation of progress to manage any necessary mid-course corrections.

Without goals, a council cannot distinguish between movement and progress. Individuals and groups can spend tremendous effort and resources performing activities that, in retrospect, were not necessary. Often the reason for this wasted effort is the absence of a clear set of priorities and specific plans for accomplishing them.

Typically, council goals are developed for a one to two-year period. They are a tool for focusing the council's efforts; communicating priority issues to the community; and providing clear direction to city staff. Council goals should be articulated in such a way that they are specific, realistic, outcome-based, within the city's control, and measurable. Once goals have been set and adopted by the council, they can be used as a measure for evaluating staff performance, guiding budget decisions, and managing unanticipated issues that arise during the year.

About the League of Oregon Cities

The LOC is the trusted, go-to resource that helps Oregon city staff and elected leaders serve their cities well and speak with one voice. The LOC is here to provide cities what they need to build thriving

communities, through advocacy, training, and information. Created in 1925 through an intergovernmental agreement of incorporated cities, the LOC is essentially an extended department of all 241 Oregon cities.

Resources and Recommended Reading

The LOC provides numerous resource available online at www.orcities.org. The public can access reference materials such as “Topics A-Z” and the Reference Library under the “Resources” tab. Resources include white papers, guides, model ordinances, and FAQs.

**** Please note that as of 2016 the Oregon Government Ethics Commission (OGE) has changed the SEI Form to no longer be a paper form, it must be submitted electronically. This is just a sample of the form that they've used in the past to give you an idea of the questions they ask. ****

STATE OF OREGON

Tab #8



2014

ANNUAL VERIFIED STATEMENT OF ECONOMIC INTEREST

[INFORMATION FOR THE CALENDAR YEAR 2013]

PLEASE READ CAREFULLY:

- The Oregon Government Ethics Commission (Commission) has been informed that you are a public official who is required by ORS 244.050 to file a Statement of Economic Interest (SEI) form. The governing body you serve has provided us with your name, position, and mailing address. If any of our information is incorrect, please notify your governing body as soon as possible, and also make the correction on the SEI form before you return it so we may update our records.
- You must file if you will hold your position on April 15, 2014. The information you report must reflect the economic interests you held at **any time during the calendar year January 1, 2013 through December 31, 2013**. This applies even if you did not hold your position during the calendar year 2013.
- Do not leave any section blank. Indicate "N/A" if the requested information does not apply to you, **except in item 2, Sources of Income**. You may attach additional sheets if necessary to provide complete information. Please see instructions on page 2 for additional information.
- Enter your name in the space provided at the top of each page.
- Sign, date, and provide your daytime telephone number and email address in the spaces provided at the bottom of page 6.
- **Please make a copy of the completed form and retain it for your own records in case you are asked for a copy at a later date.** If you return your form by fax or email, please include this cover sheet as it contains information we need for prompt processing of your filing.

NOTE: Failure to complete and file this form by the final filing date may subject you to an automatic civil penalty of \$10.00 for each of the first 14 days the SEI is late and \$50.00 for each day thereafter, up to a maximum of \$5,000 [ORS 244.350(4)(c)].

Name
Jurisdiction
Address 1
Address 2
City, State, Zip

Name _____
Last First

Annual Verified Statement of Economic Interest
Filing Instructions

- ORS 244.050 specifically identifies certain public officials who are required to complete the SEI form. Your position is one of those listed. **If you do not believe that you are required to file a SEI or if you have other questions, please call the Commission at (503) 378-5105 as soon as possible.**
- If you hold more than one position that is required to file, you may receive multiple forms. You need only return one form. We will apply the filing date of that one form to each position in our database that is associated with your name. It helps us if you indicate on the front page of the form what additional position(s) you hold.
- The most common errors officials make when filing their form are:
 - (a) Forgetting to sign and date the form on the last page.
 - (b) Failing to list all sources of household income for question 2. All sources of income exceeding 10% of the total annual household income must be listed. *(The question does not relate only to the public position you hold.)* Do not overlook the fact that a pension or social security benefit represents part of the household income. Please refer to the definition of income on page 3.
 - (c) Completing items 7 to 10 when not necessary. Please carefully read the instructions in the box on page 5. The questions need to be answered only if the conditions described in the instructions apply to your responses.
- **Please do not fail to respond to this notification!** ORS 244.350(4)(c) prescribes assessment of a penalty of \$10 for each of the first 14 days the SEI is late and \$50 for each day thereafter that passes after the filing deadline date, up to a maximum of \$5000.
- Please return this form to the Oregon Government Ethics Commission as soon as possible. **It must be postmarked or received no later than Tuesday, April 15, 2014.** Please contact the Commission at 503-378-5105 if you have questions.
- Return your form as soon as possible:

By mail to be postmarked on or before April 15 to: Oregon Government Ethics Commission
3218 Pringle Rd. SE, Suite 220
Salem, OR 97302-1544

By Fax to 503-373-1456, or
By scanning and emailing to ogec.mail@state.or.us

Please remember to retain a copy for your records

STATUTORY REFERENCES

Item 4-A, ORS 244.020(6)(b)(F) – Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

Item 4-B, ORS 244.020(6)(b)(H) – Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

- (i) On an officially sanctioned trade-promotion or fact-finding mission; or
- (ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

Name _____
Last First

DEFINITIONS

"Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain. This does not include income-producing not-for-profit corporations that are tax-exempt under section 501(c) of the Internal Revenue Code with which a public official or relative of a public official is associated in a non-compensated capacity. [ORS 244.020(2)]

"Income" means income of any nature derived from any source, including but not limited to any salary, wage, advance, payment, dividend, interest, rent, honorarium, return of capital, forgiveness of indebtedness, retirement income, real estate transactions, inheritance income, or anything of economic value received as income including income from government sources (i.e., social security, your public salary, etc.). [ORS 244.020(8)]

"Honorarium" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event. [ORS 244.020(7)]

"Person" means, for purposes of this form, (a) the public official required to file a Statement of Economic Interest and (b) an individual, corporation, partnership, joint venture, and any other similar organization or association.

"Member of Household" means any person who resides with the public official. [ORS 244.020(10)]

1. **BUSINESS OFFICE OR DIRECTORSHIP; BUSINESS NAME**

- A. If you or a member of your household were an officer or director of a business (see definition of "business" above) during **2013**, please indicate that information below. (These would be personal business ventures, not the public position you hold. Items A and B may be the same and Item B may be subsidiary of parent company listed in Item A for example.)

	<u>Business Name</u>	<u>Business Address</u>	<u>Description of Business</u>	<u>Title of Office</u>	<u>Held By Whom</u>
1.					
2.					

- B. List the names under which you or members of your household did business (see definition of "business" above) during **2013**:

	<u>Business Name</u>	<u>Business Address</u>	<u>Description of Business</u>	<u>Held By Whom</u>
1.				
2.				

2. **SOURCES OF INCOME**: Identify the sources of income (See definition of "income" on page 3) received by you or a member of your household, who is 18 years of age or over, during the **2013** calendar year that produced 10% or more of the total annual household income. (Your business would be a source, not the individual clients of your business.)

	<u>Name of Source</u>	<u>Address of Source</u>	<u>Description of Source</u>
1.			
2.			
3.			

Name _____
Last First

3. **REAL PROPERTY:** List all real property (*residential, commercial, vacant land, etc.*) in which, during **2013**, you or a member of your household had any ownership interest, any option to purchase or sell, or any other right of any kind in real property, including a land sales contract, **located within the geographical boundaries of the public entity you serve.** (*Boundaries for legislators, or filers from state agencies, boards, commissions or institutions would be the state borders. Boundaries for local filers would be the limits of the city, county or district you serve.*) **Do not list your principal residence.**

Description	Address
1. _____	_____
2. _____	_____
3. _____	_____

4. **OFFICE RELATED EVENTS:**

A. List the amount of any expenses with an aggregate value exceeding \$50 provided to you during **2013** when participating in a convention, mission, trip, or other meeting as described in ORS 244.020(6)(b)(F), (*see reference on page 2*), which is an exception to gift restrictions. (*Do not list expenses that were paid by the public body you represent.*)

Date	Organization Name	Address	Nature of Event	Amount
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____

B. List the amount of any expenses with an aggregate value exceeding \$50 provided to you during **2013** when participating in a mission, negotiations, or economic development activities described in ORS 244.020(6)(b)(H), (*See reference on page 2*), which is an exception to the gift restrictions. (*These events are those that were officially sanctioned or designated by your public body. Do not list expenses that were paid by the public body you represent.*)

Date	Organization Name	Address	Nature of Event	Amount
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____

5. **HONORARIA:** List all honoraria (*see definition on page 3*) allowed in ORS 244.042, with a value exceeding \$15, received by you or a member of your household during **2013**.

Date	Organization Name	Nature of Event	Amount
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

Name _____
Last First

6. **SHARED BUSINESS WITH LOBBYIST:** List the name of any compensated lobbyist who was associated with a business with which you or a member of your household was also associated during **2013**. (Example: The public official or household member is an employee or owner of a private company that also employs a lobbyist. Owning stock in a publicly traded company in which the lobbyist also owns stock is not a relationship that requires disclosure.)

	<u>Name of Lobbyist</u>	<u>Name of Business</u>	<u>Type of Business</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

PLEASE NOTE – Do NOT answer items 7, 8, 9, and 10 unless the source of the interest is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which you hold an official position or over which you exercise any authority.

"Legislative or administrative interest" means an economic interest, distinct from that of the general public in any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official.

(Please refer to the instructions in the box above.)

7. **INCOME OF \$1,000 OR MORE:** Respond only if you or a member of your household received a source of income exceeding an aggregate amount of \$1,000 during **2013**, and that income was derived from an individual or business that has been doing business, does business, or could reasonably be expected to do business with, or has a legislative or administrative interest in the governmental body you serve.

	<u>Income Source</u>	<u>Address</u>	<u>Description</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

(Please refer to the instructions in the box above.)

8. **DEBT OF \$1,000 OR MORE:** Respond only if you or a member of your household owed a debt of \$1,000 or more to a person (see definition of "person" on page 3) during **2013**, and that debt involved an individual or business that did business with, or reasonably could be expected to do business with, or had a legislative or administrative interest in the public body you serve. (Note: Do not list loans from state or federally regulated financial institutions (banks, etc.) or retail credit accounts and do not list the amounts owed.)

	<u>Name of Creditor</u>	<u>Date of Loan</u>	<u>Interest Rate of Loan</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

Name _____
Last First

(Please refer to instructions in the box on page 5.)

9. **BUSINESS INVESTMENT OF MORE THAN \$1,000:** Respond only if you or a member of your household had a personal, beneficial interest or investment in a business (see definition of "business" on page 3) of more than \$1,000 during **2013**, if the investment involved an individual or business that did business with or reasonably could be expected to do business with, or had a legislative or administrative interest in the public body you serve. (Note: Do not list the amount of the investment. Do not list individual items in a mutual fund or blind trust, or a time or demand deposit in a financial institution, shares in a credit union, or the cash surrender value of life insurance.)

	<u>Business Name</u>	<u>Address</u>	<u>Description of Business</u>
1.	_____	_____	_____
2.	_____	_____	_____

(Please refer to instructions in the box on page 5.)

10. **SERVICE FEE OF MORE THAN \$1,000:** Respond only if **you** (not your business) received a fee of more than \$1,000 in **2013** from a person (see definition of "person" on page 3) for whom you performed a service, if the service involved an individual or business that did business with, or reasonably could be expected to do business with, or had a legislative or administrative interest in the public body you serve. (Do not list fees if you are prohibited from doing so by law or a professional code of ethics.)

	<u>Name</u>
1.	_____
2.	_____

11. **VERIFICATION:** Under penalties for false swearing/false affirmation, I declare that the information submitted in this document is, to the best of my knowledge and belief, true, accurate, and complete.

→ Signature _____ Date _____

Daytime Telephone Number _____

Email Address _____

Return your form as soon as possible:

By mail to be postmarked on or before April 15 to:

Oregon Government Ethics Commission
3218 Pringle Rd. SE, Suite 220
Salem, OR 97302-1544

By Fax to 503-373-1456, or

By scanning and emailing to ogec.mail@state.or.us

Please remember to keep a copy for your records. If you return your form by fax or email, please include the cover sheet as it contains information we need for prompt processing of your filing.

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

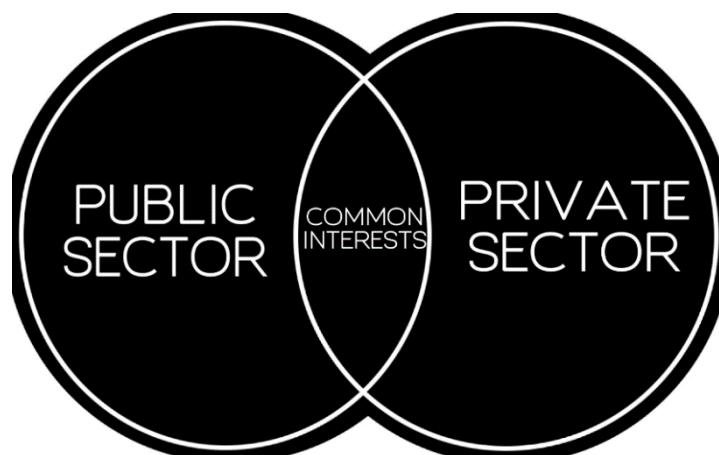
Does Oregon Government Ethics law prohibit a public official from owning a private business or working for a private employer while continuing employment with or holding a position with a public body?

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.

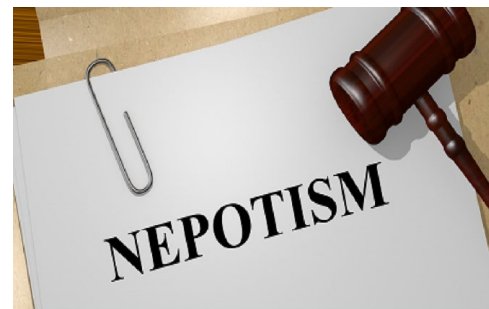
A public official who is assigned duties that include performing “ministerial acts” related

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**

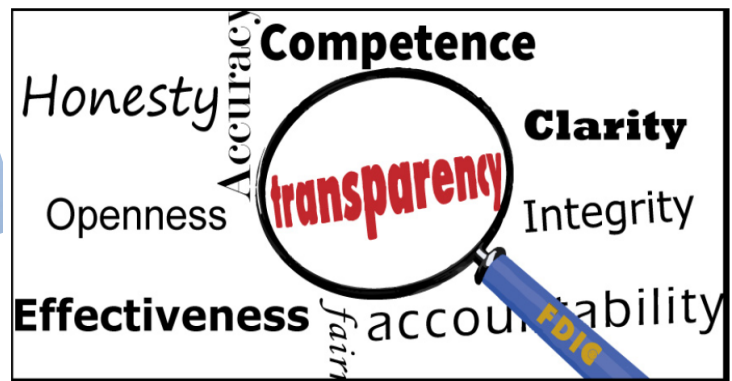
Assembly must report real property held within the entire state of Oregon. This applies to candidates for statewide office and the Legislative Assembly.

- 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

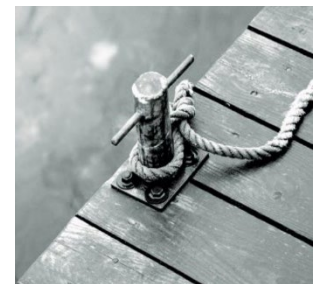
the request, along with the relevant statutes and administrative rules. The advice will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request.

- **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/oec/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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Campaign Finance Reporting in Oregon

Candidate "Quick Guide"

Tab #10

Congratulations on your decision to run for office! We hope this guide provides tips and answers to frequently asked questions by first-time candidates.



More detailed information is available in the **Campaign Finance Manual** and the **ORESTAR User's Manuals** available at www.oregonvotes.gov. The Campaign Finance Manual explains what information is disclosed when reporting campaign finance transactions. The ORESTAR User's Manual: Statement of Organization and ORESTAR User's Manual: Transaction Filing explains how to file a statement of organization and campaign finance transactions electronically using ORESTAR.

Who Must File a Candidate Committee?

If you

- Serve as your own treasurer
and
- Do not have an existing candidate committee
and
- Do not expect to spend or receive more than \$750 during the entire calendar year (including in-kind contributions and personal funds)

Then

- ✓ Relax. No action is necessary because under Oregon Election Law you are not required to establish a candidate committee if you meet all of the criteria. **However, you must keep track of all contributions and expenditures because if you exceed the \$750 threshold you must establish a committee and open a dedicated bank account not later than three business days after exceeding the threshold. NOTE: Any fee paid for filing a candidate's statement for inclusion in the state voters' pamphlet is not included for the purpose of calculating the \$750 threshold. Additionally, you must either file a Certificate of Limited Contributions and Expenditures (PC 7) or all transactions that have occurred in the calendar year. See information below to determine if you are eligible to file a Certificate.**

- Do not expect to receive a total of more than \$3,500 or spend a total of more than \$3,500 for the entire calendar year

- ✓ File a Statement of Organization and establish a dedicated bank account – either by using ORESTAR or by submitting the paper form Statement of Organization for Candidate Committee (SEL 220)
- ✓ File a Certificate of Limited Contributions and Expenditures either by using ORESTAR or by submitting the paper form (PC 7) not later than seven days after first receiving a contribution or making an expenditure

- Expect to spend or receive more than \$3,500

- ✓ File a Statement of Organization and establish a dedicated bank account – either by using ORESTAR or by submitting the paper form Statement of Organization for Candidate Committee (SEL 220)
- ✓ File campaign finance transactions using ORESTAR

What starts the whole process?

The decision to run for a public office (even if the office is not known), accepting contributions and making expenditures, whether from personal funds, campaign funds, or another person's funds to support your candidacy.

Once I become a candidate, then what?

You must register your committee with the Secretary of State not later than 3 business days of first receiving a contribution or making an expenditure if you are not exempt under the \$750 threshold law.

May I serve as my own treasurer?

Yes, you may serve as your own treasurer. The Campaign Finance Manual provides committees with information on candidate/treasurer responsibilities.

Must I have a dedicated campaign account?

Oregon law requires you to establish a dedicated campaign account if you are required to file a Statement of Organization. The account must be established in a financial institution located in Oregon that ordinarily conducts business in Oregon. One important reminder—when establishing your campaign account, the name of the committee and the name of the account must be the same.

Campaign Finance Reporting in Oregon (cont.)

Candidate "Quick Guide"

How do I file?

The key to complying with campaign contribution and expenditure disclosure requirements is to keep detailed records and file your transactions on time.

Electronic Filing

Oregon Election law requires that campaign finance transactions be filed electronically. The Secretary of State's Office provides an electronic filing system, ORESTAR, free of charge. There is a terminal located in the Election's Division office for public use.

What if I don't own a computer?

A Statement of Organization (SEL 220) and Certificate of Limited Contributions and Expenditures (PC 7) may be filed using the paper forms. If you are not eligible to file a Certificate, contribution and expenditure transactions must be reported electronically using ORESTAR. You may want to check with your local library or other public facilities in your area to see if they provide a computer terminal for public use.

When do I report contribution and expenditures?

Generally, the deadline for filing a transaction is not later than 30 calendar days after the date of the transaction. For committees active in an election, beginning on the 42nd day before the date of the election and through the date of the election, a transaction is due not later than 7 calendar days after the date of the transaction. The campaign finance reporting requirements and additional transaction deadlines are available in the Campaign Finance Manual. Information on how to electronically file transactions is detailed in the ORESTAR User's Manual: Transaction Filing.

Are my campaign finance transactions public record?

Yes, after the transactions are filed in ORESTAR they are immediately available to the public by accessing the Public Search link for ORESTAR.

How do I discontinue my committee?

In order to discontinue your committee, you must: (1) Achieve a zero balance and (2) File a Statement of Organization discontinuing the committee.

Where do I get copies of forms and instructional manuals?

All publications and forms are available online at www.oregonvotes.gov, or may be requested from the Elections Division at 503 986 1518 or via email at orestar-support.sos@oregon.gov

Need additional help?

The Elections Division staff is available to answer any questions. You may:

- email your questions to elections.sos@oregon.gov
- call us at 503 986 1518 or at 866 ORE VOTE
- visit our website at www.oregonvotes.gov

Additional manuals to assist you with your financial filing requirements are available online at: <https://sos.oregon.gov/elections/Pages/manuals-tutorials.aspx>

- ✓ Campaign Finance Manual
- ✓ Transaction Filing in ORESTAR Quick Guide
- ✓ ORESTAR User's Manual – Transaction Filing
- ✓ ORESTAR User's Manual – Statement of Organization

The State Election's Office has also created some ORESTAR tutorial videos which can be found online at:

https://www.youtube.com/playlist?list=PL6fSMEkAcQR3BM_Z_cTPFRZheZ4P-lwM7

Please direct all questions regarding financial reporting requirements, and your statement of organization to the Secretary of State, Elections Division:

- Email your questions to elections.sos@sos.oregon.gov
- Call us at 503-986-1518 or at 866-673-8683
- Visit our website at www.oregonvotes.gov