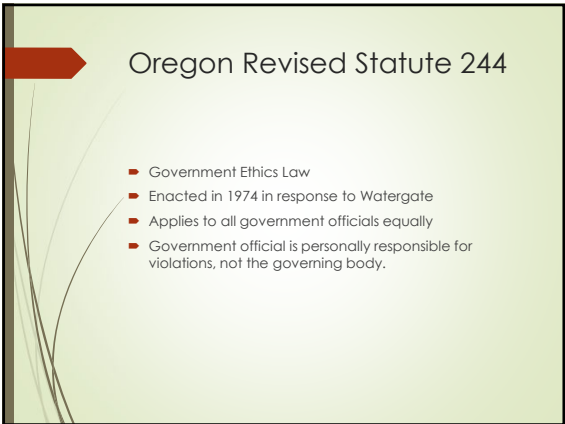
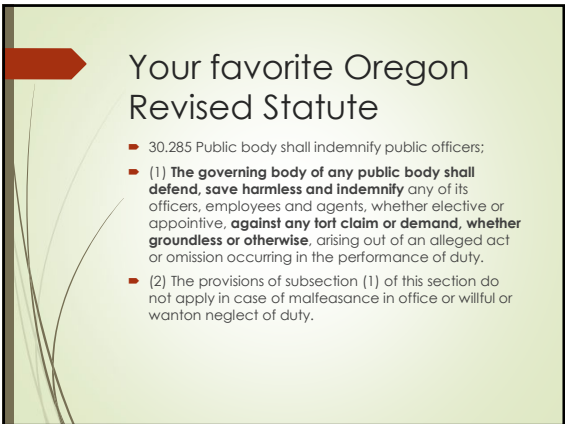




1



2




3



Oregon Government Ethics Commission

- Formed to regulate government ethics law
- Board is made up of 9 volunteers members
- Jurisdiction
 - Oregon Government Ethics law
 - ORS Chapter 244
 - Lobby Regulation law
 - ORS 171.725 to ORS 171.785
 - Executive Session provisions of Public Meetings law
 - ORS 192.660 and ORS 192.685
- Regulates ethics, not morals

4



Oregon Government Ethics Law

- ORS Chapter 244 - Overview
 - Public officials
 - Prohibited use of office
 - Gifts
 - Conflicts of interest
 - Violations/Sanctions


5



Am I a Public Official

- A Public Official is defined by ORS 244.020(15) as:
 - The First Partner and any person who, when an alleged violation of this chapter 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.


6



Prohibited use of office

- ORS 244.040(1) provides:
 - A public official may not use or attempt to use official position or office to **obtain financial gain or avoidance of financial detriment** for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available **but for** the public official's holding of the official position or office.

7



Prohibited use of office - Examples

- Personal use of City credit card
- Personal use of City pickup
- Personal use of City backhoe
 - Christmas Day example

8



Rule of thumb

- Would I have this opportunity if I was NOT a public official?
 - If no, then ORS 244.040 probably prohibits the opportunity
- Examples
 - Hotel discount
 - Cell phone company discount

9



Permitted Financial Gain

- Official Compensation Package
 - Specifically approved by your public body
- Honoraria that is less than \$50 aggregate
 - Does not include fees for services or stipends
- Reimbursement of Expenses
 - If pre-authorized and incurred as part of your official duties with your public body
- Awards for Professional Achievement
 - Must be unsolicited
 - Be offered to recognize an achievement of a public official
- Contributions to a Legal Defense Fund
 - For the benefit of a public official


10



Gifts

- ORS 244.025
- General rule is that public officials may accept gifts
- However, there are restrictions as to when, what and from whom a public official may accept them from
- Possible reporting requirements under statement of economic interest

11



Gifts Cont.

- Gift is defined in ORS 244.020(7)(a) as:
 - 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:
 - 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
 - For valuable consideration less than that required from others who are not public officials or candidates.

12



Gifts Cont.

- Whether or not a public official can accept a gift can be determined by whether the giver has a Legislative or Administrative Interest
- Legislative or Administrative Interest is defined as:
 - 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, or
 - 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.
- ORS 244.020(10)

13



Gifts Cont.

- To know whether gifts are unlimited or limited
- Must determine if decisions made by you as public official have a distinct impact on the source making the offer
 - If source receives a financial gain or avoid a financial cost by decision you make, then you can only receive a gift from them for no more than \$50 (aggregate) per calendar year.
 - If source could not reasonably be known to have a legislative or administrative interest, then there is no limit to gift you can receive. ORS 244.040(2)(f)

14



Gift Exceptions

- ORS 244.020(7)(b)
 - Campaign contributions
 - Gifts from relatives
 - Tokens of appreciation
 - Publications, subscriptions or other informational materials
 - Contributions to a legal expense defense fund (approved by ethics commission)
 - Waivers or discounts related to continuing education
 - Travel expenses paid by another public official (as part of official duties)
 - Usual or customary business practice and gift bears no relationship on person's office
 - Reasonable educational trip expenses paid to a public school employee

15

Gift Exceptions Cont.

- Food and Beverages
 - Admission, food or beverage may be provided to a public official, member of the household or staff when at a reception, meal or meeting when the public official **represents** their agency.
 - Financial transaction or business agreement between a government agency and another public body or private entity.
 - The office of the Treasurer is engaged in business related to proposed investment or borrowing.
 - The office of the Treasurer is meeting with a governance, advisory or policy making body of an entity which money is invested.

16

Gift Exceptions Cont.


- Food, Lodging and Travel can be accepted by:
 - Public officials:
 - When scheduled to speak, make a presentation, participate on a panel or represent government while:
 - Participating in a convention, fact-finding mission/trip, or a meeting where scheduled to participate and represent government.
 - Paid by a government entity, Native American tribe, membership organization or not-for-profit organization.
 - Public officials, a member of their household or staff, and relatives:
 - Officially sanctioned and pre-approved.
 - Trade-promotion, fact-finding mission, negotiations, and economic
 - These exceptions are clarified in Oregon Administrative Rules

17

Conflicts of Interest

- Two types of conflicts set forth in ORS 244.020(1), (13) and ORS 244.120
- Actual Conflict of Interest
- Potential Conflict of Interest


18



Actual Conflict of Interest

- Any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which **would** be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated.
- ORS 244.020(1)


19



Example of Actual Conflict of Interest

- A city councilor is employed by a building supply business from which the city public works director purchases building materials. City payments on invoices must be submitted to the city council and approved by a vote. The city councilor, who is employed by the building supply business, while participating in a meeting, would be met with an **actual conflict of interest** when the request to pay the invoice from the business that employs the councilor is presented to the city council for official action.

20



Potential Conflict of Interest

- Any action or any decision or recommendation by a person acting in the capacity as a public official, the effect of which **could** be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated.
- ORS 244.020(12)

21

Example of Potential Conflict of Interest

- A member of a fire district board of directors owns a sheetrock contracting business. The fire district is planning to remodel a fire station in the district. To reduce cost, the district will manage the project and solicit bids from contractors for specified work, such as the sheetrock that needs to be installed. The member on the board of directors, who is the contractor, while participating in a meeting of the board of directors, could be met with a **potential conflict of interest** when the members discuss or act on the invitation for bids on the sheetrock installation.

22

Potential versus Actual


- Difference between the two is the certainty of the financial impact on the public official, relative or business that results from an official action of the public official.
- If financial impact could occur – potential conflict
- If financial impact would occur – actual conflict

23

Dealing with Conflict of Interest

- When met with conflict, public officials are required to disclose the conflict.
 - At each occasion the conflict is met
 - Multiple meetings dealing with same issue? Must disclose at each.
 - Regardless of whether actual or potential.
- Disclosure methods differ depending upon type of public official but generally:
 - Potential – announce publicly the nature of the potential conflict prior to taking any action.
 - Actual – publicly announce and refrain from participation.


24



Overview of Violation Process

- Complaint submitted
 - Written, signed complaint or Own Motion
 - Own Motion complaints
- After complaint received, if jurisdiction and reasonable belief a violation has occurred, the Commission will refer the matter to staff for Preliminary Review
- Purpose of Preliminary Review is to clarify information in the complaint and determine if there is cause to believe a violation has occurred.
- 2015 – Preliminary Review shortened from 135 days to 30.
- Investigation is confidential and no subpoenas can be issued.

25



Violations Process continued

- If the preliminary review indicates a violation may have occurred, then the Commission refers the matter to staff for investigation.
 - Decision to investigate is **NOT** confidential and subpoenas may be issued.
- If a violation is determined, a settlement may be entered into or Contested Case Hearing may be held.


26



Sanctions

- Sanctions that may be imposed by the Commission
 - Civil Penalty – up to \$5,000 per violation – ORS 244.350
 - Forfeiture – twice the amount of any financial benefit realized – ORS 244.360
 - Letters of reprimand, explanation or education – ORS 244.350(5)


27



Ethics Law Quiz

- Mayor decides that she is tired of the City Manager arriving to City Council meetings late. She and the council decide that the reason the City Manager is late is because she drives a Prius and as such, her car is simply too slow.
- So, the City Council votes to give the City Manager, as part of her official compensation, a brand new 2020 Chevrolet Corvette, a car capable of driving zero to sixty in 2.9 seconds and with a top speed of 194 miles per hour at a cost of about \$60,000.
- To be clear, there is no way that the City Manager would get this sweet car if she wasn't the City Manager.


28



Quiz Cont.

- Is it a violation of Oregon Ethics Law for the City Manager to accept the high performance sports car?

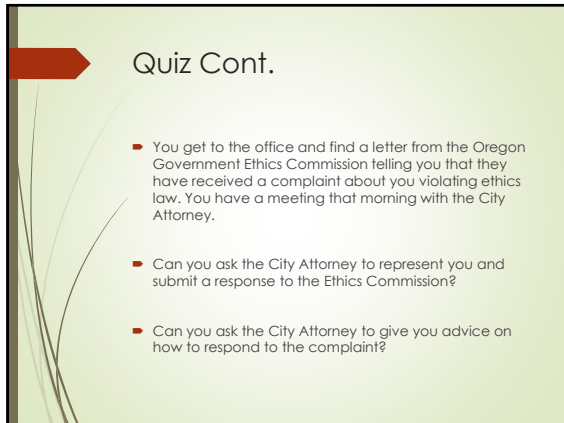
29



Quiz Cont.

- NO!
- ORS 244.040(2)(a) – public officials may accept **any** financial benefit that is identified by the public body served by the public official as part of the “official compensation package” of the public official.

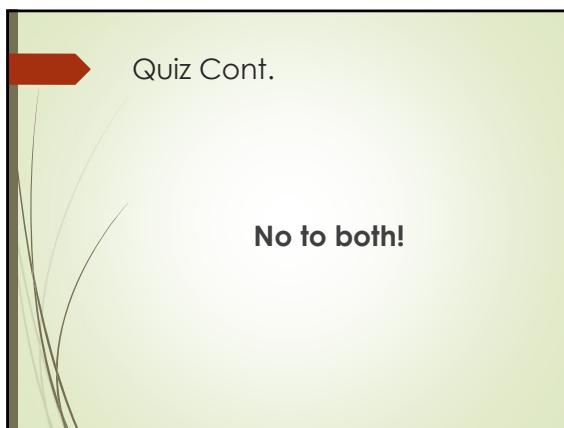
30



Quiz Cont.

- You get to the office and find a letter from the Oregon Government Ethics Commission telling you that they have received a complaint about you violating ethics law. You have a meeting that morning with the City Attorney.
- Can you ask the City Attorney to represent you and submit a response to the Ethics Commission?
- Can you ask the City Attorney to give you advice on how to respond to the complaint?

31



Quiz Cont.

No to both!

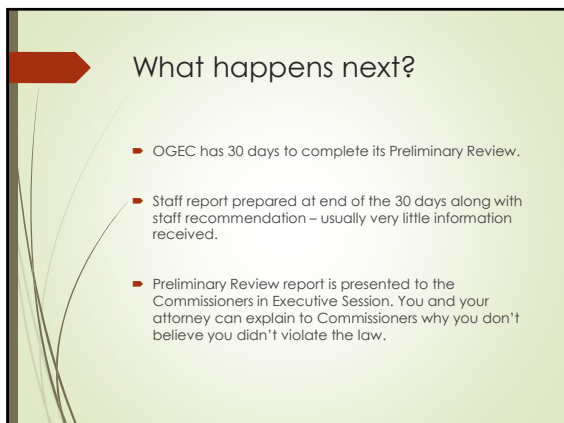
32



What to do when you receive an Ethics complaint

- Contact your Risk Manager ASAP!
- Get an attorney who is familiar with Ethics law violations.
- Gather every document the attorney asks you to gather as quickly as possible.
- Do not speak with the Ethics Commission until you have spoken with an attorney.

33



What happens next?

- OGE has 30 days to complete its Preliminary Review.
- Staff report prepared at end of the 30 days along with staff recommendation – usually very little information received.
- Preliminary Review report is presented to the Commissioners in Executive Session. You and your attorney can explain to Commissioners why you don't believe you didn't violate the law.

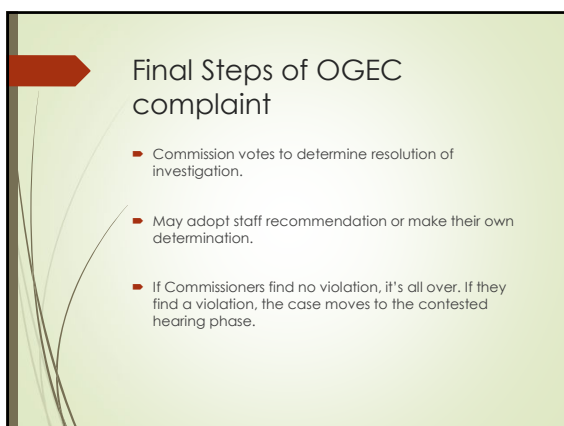
34



Next steps

- Commission votes to dismiss or investigate.
- If investigation, OGE investigator has 180 days to complete their investigation and may use subpoena authority.
- Investigatory report is prepared and submitted to Commissioners at end of investigation period along with staff recommendation.
- Staff recommendations include: "no recommendation" (quite rare), dismissal or finding of violation(s).

35



Final Steps of OGE complaint

- Commission votes to determine resolution of investigation.
- May adopt staff recommendation or make their own determination.
- If Commissioners find no violation, it's all over. If they find a violation, the case moves to the contested hearing phase.


36



Final steps Cont.

- If Commission votes to find violation(s)
- Can either have a contested hearing or move into settlement discussions.
- If dissatisfied with contested hearing results, may appeal to the Oregon Court of Appeals.

37



Thank you!

Any questions?

38
