



# Government Ethics & Conflicts of Interest

---

Bryan Dearinger  
Associate General Counsel

Jessica Price  
Associate General Counsel

# Why Should I Care?



- Legal Requirements
- Encouraging outside activity
- Integrity
- Transparency
- Stewardship of public resources
- Public trust and confidence



**O**

# State Law Background



## Oregon Government Ethics Laws

- Oregon Legislature:
  - *Service as a public official is a public trust and that, as one safeguard for that trust, the people require all public officials to comply with applicable provisions of this chapter." ORS 244.010(1).*
- Enforced by the Oregon Government Ethics Commission ("OGEC").
- Scope: all UO employees are "public officials"

**UO policy as well**



# Oregon Law: Common Issues



- Conflicts of Interest
- Use of Official Position for Private Gain
- Gifts
- Authorization of Outside Compensation

# Oregon Law:

## Conflicts of Interest



### ORS 244.020(1) and (13)

- Actual conflict of interest
  - Any **action, 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, their relative, or any business** with which either is associated . . .
    - **Unless** the pecuniary benefit or detriment arises out of circumstances described in subsection (13) of this section [three specific exceptions].
- Potential conflict of interest
  - Any **action, decision or recommendation** by a person acting in a 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 . . .
    - **Unless** the benefit would affect everyone in a particular category the same (e.g., everyone in a certain industry, occupation, etc.)

# Oregon Law:

## Gifts



### ORS 244.025

- **The Gift Law** prohibits UO employees or their relatives from soliciting or receiving any gift or gifts with an aggregate annual value of more than \$50 from a source that could reasonably be known to have a **legislative** or **administrative interest**.
  - **Legislative or administrative interest** = economic interest in any matter subject to a decision of the public official acting in that capacity.
  - **Gift** = something of economic value without valuable consideration of equivalent value in return (or less than that required from others who are not public officials).
- **Summary:** \$50 gift limit applies if (1) the gift comes from a person with legislative or administrative interest in action you can take in your capacity as a UO employee; and (2) the gift is not also offered to general public.
- **Exceptions:**
  - The Gift Law includes a laundry list of exclusions from the definition of "gift."

O



# Oregon Law:

## Use of Official Position for Private Gain

### ORS 244.040

- With some exceptions, a public official cannot use or attempt to use their:
  - **Official position or office ...**
  - *to obtain **financial gain** or avoid financial detriment for themselves, their **relative or household member, or any business** with which either is associated ...*
  - *if the benefit **would not otherwise be available but for the public official's holding of the official position or office.***
- Exceptions...

# Oregon Law: Authorization of Outside Compensation; Adoption of Standards



## ORS 352.232

- Requires the University to adopt standards:
  - governing employee outside activities
  - including potential Col
  - the **public disclosure** thereof, and
  - **procedures** for reporting and hearing potential or actual conflict of interest complaints.
- University of Oregon Policy (“Col, Potential”)



O



# Disclosure requirements



## **ORS 244.120**

- Requires a “public official” to:

notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.



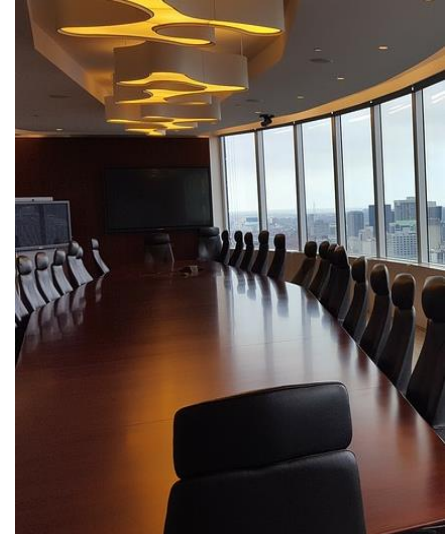
# OGEC Guidance



- Private business shall not be conducted on the public's time.
- Employees must notify their supervisor in writing of a potential or actual conflict of interest if private endeavors could or would be affected by public employment.
- Public supplies, facilities, equipment, personnel, records or any other public resources shall not be used to carry out private business.
- No official action toward a third party shall be conditioned on a private business relationship with that third party.
- No confidential information of public body can be used to obtain financial benefit for the employee.




# Scenarios



# Scenario 1



UO's Architecture department sends six employees to the National Conference of Architects. At the conference, three employees take an extra 15 minutes to fill out an optional survey describing UO's architecture plans. Because he took the survey, Employee #1 wins a prize: a laptop.



**O**

# Scenario 1: Answers

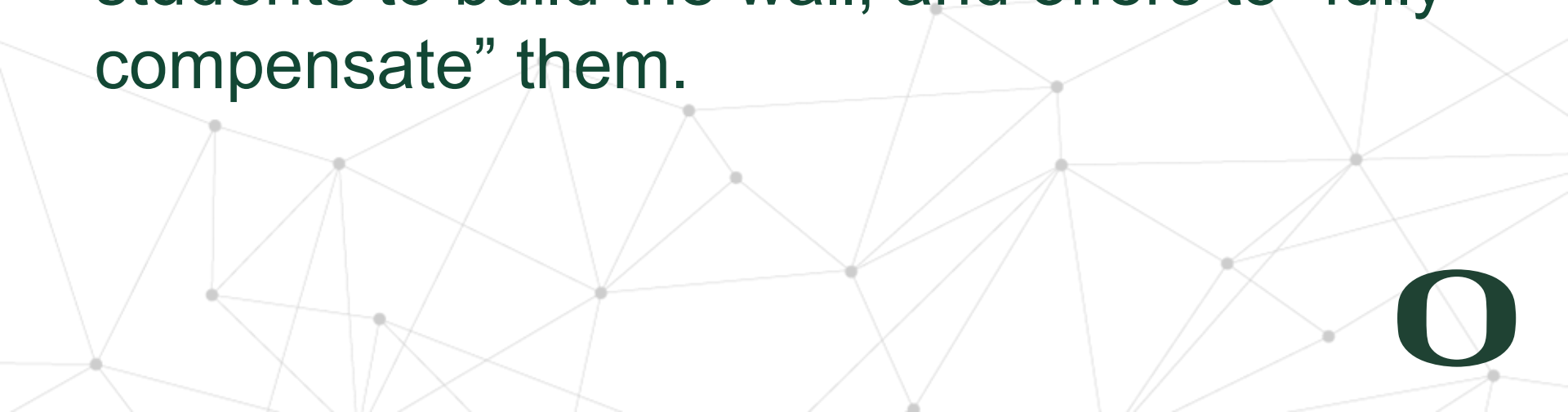


- Can Employee #1 keep the laptop?
- What if the prize is a \$100 gift card?
- What if the prize is a trip to the Bahamas?
- What if Employee #1 used their own time to complete the survey?

# Scenario 2



A UO professor in the College of Arts & Sciences wants to build a garden wall and perform other backyard landscaping work but lacks the expertise. He is considering whether to ask a couple of his current students to build the wall, and offers to “fully compensate” them.



**O**

# Scenario 2: Answers



- Can the students take the work?
- Can the professor make this offer? Does she have to do anything?
- Can the professor borrow CPFM equipment during non-work hours?
- What if the professor never makes the offer, but a student hears the professor talking about the project and offers to help? (*Assume prof offers him \$65, well below market.*)

# Scenario 3



A professor in sustainable business owns a green business consulting firm in Eugene.



**O**



# Scenario 3: Answers



Does the professor have to do anything?

Disclosure?

Limits on the practice?





**O**

# Scenario 4



One of UO employee's primary responsibilities is to plan UO events that highlight special education non-profits in the Pacific Northwest. She now wants to join the board of one of those PNW non-profit organizations.



# Scenario 4: Answers



- Potential Conflict of Interest?
  - Does it matter that the board is a non-profit?  
Or that the position is unpaid?
  - Also, what is the employee's role at UO, and what are these events?
- Use of UO position for private gain?
- Appearance, transparency, public trust?



**O**