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DIVISION 1

PROCEDURAL RULES

199-001-0000

Notice of Proposed Rule

Prior to the adoption, amendments or repeal of any rule other than a temporary rule, the Oregon Government Ethics Commission will give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

(2) By mailing or e-mailing a copy of the notice to persons on the Oregon Government Ethics Commission's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(4) By mailing or e-mailing, or furnishing a copy of the notice to:

- (a) Oregon Common Cause;
- (b) League of Oregon Cities;
- (c) Association of Oregon Counties;
- (d) Capitol Club;
- (e) Oregon School Boards Association;
- (f) Special Districts Association of Oregon;
- (g) Confederation of Oregon School Administrators;
- (h) Director, Department of Administrative Services;
- (i) Capitol Press Room;
- (j) Associated Press;
- (k) State Court Administrator.

(5) The Oregon Government Ethics Commission may update the mailing list described in section two of this rule annually by requesting persons to confirm that they wish to remain on the mailing list. If a person does not respond to a request for confirmation within 28 days of the date the Commission sends the request, the Commission will remove the person from the mailing list. Any person removed from the mailing list will be immediately returned to the mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

Stat. Auth.: ORS 244.290 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: EC 8, f. & ef. 12-24-75; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

199-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Oregon Government Ethics Commission adopts the Attorney General's Model Rules of Procedure, January 1, 2008 version, as its rule of procedure.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the agency.]

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 183.341

Hist.: EC 1(Temp), f. 1-2-75, ef. 1-25-75 thru 5-25-75; EC 11, f. & ef. 7-28-76; EC 1-1982, f. & ef. 3-2-82; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

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199-001-0007

Commission Funding

(1) Beginning July 1, 2009, the Commission will charge assessments to State Agencies and Local Governments, Local Service Districts and Special Government Bodies that are subject to the Municipal Audit Law:

(a) State Agencies will be assessed one half of the legislatively approved amount. For the 2009-11 biennium, State Agencies will be assessed \$14.78 per Full-Time Equivalent (FTE) employee.

(b) Local Governments, Local Service Districts and Special Government Bodies that are subject to the Municipal Audit Law will be assessed the remaining half of the Legislatively approved amount as indicated in the following chart: [Chart not included, See ED. NOTE]

(2) The Department of Administrative Services will collect the assessments for State Agencies and Local Governments, Local Special Districts and Special Government Bodies through an annual billing. The Department of Administrative Services will notify all non-paying entities with a final notice that allows 30 days to remit the required payment. After 30 days, the account will be forwarded to the Oregon Department of Revenue for collection.

[ED. NOTE: Chart referenced is available from the agency.]

Stat. Auth.: ORS 244.255 & 244.290

Stats. Implemented: ORS 244.255

Hist.: GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

199-001-0010

Commission Meetings

(1) Definitions:

(a) "Commission" means Oregon Government Ethics Commission;

(b) "Commissioner" means a duly appointed member of the Oregon Government Ethics Commission;

(c) "Director" means the Executive Director appointed by the Commission pursuant to ORS 244.310 or a person designated by the Executive Director to carry out specific tasks;

(d) "Public Official" means 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 of the state as an officer, employee or agent, irrespective of whether the person is compensated for such services;

(e) "Staff" means the Executive Director and all other persons employed by the Commission.

(2) The Commission shall be governed by the statutes of the State of Oregon, these rules and the Attorney General's Model Rules of Procedure for the conduct of contested cases as provided in ORS Chapter 183. In event of a conflict, precedence shall be in that order.

(3) The Commission has adopted the following rules of procedure:

(a) A quorum consists of four Commissioners. No decision may be made without an affirmative vote of four members. In the absence of a quorum, Commissioners present may meet to discuss any matter before the Commission, but no action shall be taken.

(b) The Commission shall vote by roll call vote on any action taken to initiate or conclude preliminary review or investigative phases, adopt any final order, or adopt an advisory opinion.

(c) The Commission may utilize a consent calendar for action on agenda items when appropriate. In preparation of the consent calendar, the Director shall group together as separate categories preliminary reviews, dismissal of a case at conclusion of investigation, stipulated final orders, and default final orders on the agenda. The Director shall also submit a recommended action for each item. Any Commissioner may request of the chair to have a matter removed from the consent calendar and considered separately. All consent calendar items not removed as such, shall be disposed of upon the motion of any Commissioner and a roll call vote.

(d) The Commission will use the following processes in making decisions:

(A) Consensus to approve meeting minutes;

(B) Voice vote of a quorum of Commissioners in all other matters.

(e) A motion does not require a second.

(f) Annually, at the last regular meeting of the Commission before January 1, the Commission shall select from its members a Chair and a Vice-Chair who shall serve until their successors are selected and qualified. The Chair or Vice-Chair may resign as such or may be removed from that position by vote of four Commissioners. If the Chair or Vice-Chair shall cease to be a Commissioner, the position shall be vacant and a successor shall be selected at the next regular meeting of the Commission.

(g) The Chair shall preside over all meetings of the Commission. Except for final orders and advisory opinions, the Director may execute all documents that are executed in the name of the Commission. Only the Chair shall execute final orders and advisory opinions in the name of the Commission.

(h) The Vice-Chair shall act in lieu of the Chair when the Chair is unable to perform the duties of the office of Chair or while the office is vacant.

(i) The Director shall serve as Secretary to the Commission.

(j) Where permitted by law and conforming to the requirement of the Public Meetings Law, ORS 192.670, the Commission may meet by means of a telephone conference.

(k) The Director, in consultation with the Chair, shall set the agenda and cause all notices of time and place of the meeting of the Commission to be given. Commissioners may request items to be placed on the agenda prior to its being distributed.

(l) All meetings of the Commission shall be open to the public unless otherwise permitted or required by statute.

(m) The agenda of meetings of the Commission shall set forth all matters expected to come before the Commission. The Agenda shall contain items in the following order:

(A) Minutes of previous meetings;

(B) A consent calendar composed of reports of investigation with dismissal recommended by staff, stipulated final orders and final orders by default;

(C) Adoption of contested case final orders, including those which impose a civil penalty or financial forfeiture;

(D) Reports of investigation with preliminary finding of violation recommended by staff;

(E) Adopt advisory opinions pursuant to ORS 171.776 and 244.280;

(F) Presentation of correspondence, publications, or any issue introduced by the Chair related to the Commission and its duties.

(n) Exercising the authority provided by ORS 192.660 and 244.260, the Commission may meet in executive session.

(o) In action on any agenda item, the Commission may dismiss any proceeding or rescind any motion.

(p) The Chair shall be responsible for order and decorum at all meetings of the Commission.

(q) The Chair may suspend or bar from further participation any person who engages in conduct which intentionally delays or disrupts commission proceedings.

(r) Parties may appear in person or be represented by attorneys who are active members of the Oregon State Bar. Others may appear before the Commission on behalf of a party with the permission of the Chair.

(s) The Chair may, at the Chair's discretion, change the order of an agenda in order to accommodate parties appearing before the Commission or for other cause shown.

(t) Commissioners will be advised in writing by the Director or staff of the issues, perceived facts, and arguments during the preliminary review phase. An oral statement from the public official or other respondent will be permitted at the discretion of the Chair when the Commissioners are considering any matter during this phase. The Chair will determine the duration of any oral statement permitted.

(u) Oral statements by the affected public official or any other respondent, their representative or Staff may be permitted by the Chair at any consideration of a motion to move to a contested case,

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approval of a stipulated disposition of a matter or the adoption of any final order.

(v) The Director shall maintain complete files of all documents submitted in any matter and shall summarize for the Commissioners in an impartial and objective manner all relevant favorable and unfavorable material collected and all documents filed in the Commission's office on any matter before the Commission. At the request of any respondent or complainant any written material submitted to the Director in a timely manner will be reviewed and if the Director determines the information is relevant the material may be provided to each Commissioner for consideration. A document shall be considered filed in a timely manner if submitted in a form permitting it to be copied no less than eight business days before any meeting of the Commission in which the subject matter of the document will be an item on the agenda.

(w) Ex-parte communications with Commissioners by persons other than the staff are not permitted. Documents must be submitted to the Commission through the Director. Oral and written communications to Commissioners concerning matters pending before the Commission other than during the course of formal Commission proceedings, are ex-parte communications.

(x) A subpoena authorized by ORS 244.260(6)(b) may be issued by the Chair, Vice-Chair, or Director:

(A) The subpoena may require the witness to testify to an inquiry which is not privileged and which is relevant to an investigation or inquiry of the Commission including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. It is not grounds for objection that the information sought will be inadmissible at a hearing pursuant to ORS 183.413 et seq. if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(B) Upon motion by the witness subpoenaed, or the person under investigation or inquiry, and for good cause shown, the Commission may make any order that justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including one or more of the following:

(i) That the inquiry not be had;

(ii) That the inquiry may be had only on specified terms and conditions, including a designation of the time or place;

(iii) That certain matters not be inquired into, or that the scope of the inquiry be limited to certain matters;

(iv) That the inquiry be conducted with no one present except persons designated by the Commission; or

(v) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.

(C) A motion for a protective order under this subsection shall be in writing filed with the Director and shall be heard and first decided by the Chair, or in the absence of the Chair, the Vice-Chair, within three business days of the date filed. If the motion for a protective order is denied in whole or in part by the Chair or Vice-Chair, the person making the motion may within three business days thereafter request that the full Commission hear and decide the motion which shall occur within three business days. If the full Commission denies the motion, the party making the motion may within three business days request a contested case hearing pursuant to ORS 183.413 et seq.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 244.250, 244.260, 244.290 & 244.310

Hist.: EC 1-1993, f. & cert. ef. 4-22-93; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10; GEC 1-2016, f. & cert. ef. 6-1-16

199-001-0014

Guidelines on How Multiple Violations Will Be Charged

The Commission will identify each action that appears to constitute a violation of ORS Chapter 244 and that does not qualify as part of an official compensation package as defined in OAR 199-005-0035(3), and when multiple violations are committed will charge them in the following manner:

(1) When a public official appears to have committed two or more violations by subsequent equivalent actions, the Commission will charge the public official with a single violation and count the repeated actions using the number of the equivalent acts as aggravating factors when imposing any sanction as discussed in (2) of this rule. The following examples are offered to illustrate this rule and not meant to limit its application:

(a) Each personal use of a government agency's wireless telephone could be a distinct violation of ORS 244.040(1). If a public official makes personal calls with the agency's wireless telephone on two or more occasions, the multiple violations will be combined into the charge of one violation with each additional personal call being counted as an equivalent action.

(b) Each occasion a public official uses the government agency's equipment (vehicle, tractor, chainsaw, trailer, etc.) for personal purposes could be a distinct violation of ORS 244.040(1). If a public official makes personal use of the agency's equipment on two or more occasions, the multiple violations will be combined into the charge of one violation with each additional personal use of equipment being counted as an equivalent action.

(c) Each occasion a public official uses the government agency's resources (storage space, fuel, cash or other financial transactions, internet connection, computer, etc.) for personal purposes could be a violation of ORS 244.040(1). If a public official makes personal use of the agency's resources on two or more occasions, the multiple violations will be combined into the charge of one violation with each additional personal use of the resource being counted as an equivalent action.

(d) The source that provides a public official with paid expenses for an event defined in ORS 244.020(6)(b)(F) or with honorarium defined in 244.020(7) could violate 244.100 each time the source fails to provide a written notice to the public official as to the value of the paid expenses. If a source fails to notify two or more public officials, who participated in the same event, the multiple violations will be combined into the charge of one violation with each additional failure to notify being counted as an equivalent action.

(e) Each time a public official is met with a conflict of interest, as defined in ORS 244.020(1) or (12), and fails to disclose the nature of the conflict the public official could violate 244.120. If a public official, under similar circumstances, fails to disclose the nature of the same conflict of interest on two or more occasions, the multiple violations will be combined into the charge of one violation with each additional failure to disclose the nature being counted as an equivalent action.

(2) When two or more single violations are charged as one violation, each additional violation by this rule will be counted as equivalent acts. Each of the equivalent acts will be identified as an aggravating factor and included in the calculation of any assessment of a civil penalty or forfeiture that would constitute a sanction as setout in OAR 199-001-0015.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 244.290, 244.350, 244.370, 244.390

Hist.: GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

199-001-0015

Oregon Government Ethics Commission Guidelines on Sanctions

(1) The Commission will identify alleged violations of statutes or rules within the Commission's jurisdiction during the preliminary review phase or by preliminary finding of violations at the end of an investigative phase. This rule will standardize the method for setting sanctions to be imposed when a matter before the Commission is to be concluded by a stipulated final order, final order or a final order by default.

(2) TABLE A lists the factors that the staff and Commission may consider as mitigating or aggravating any violation of Oregon Government Ethics law in ORS Chapter 244, Oregon Lobbying Regulation in ORS Chapter 171 or the executive session provisions in ORS 192.660. [Table not included, See ED. NOTE]

(a) Points will be assigned from the factors listed in TABLE A. A total of the points assigned will be calculated.

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(b) The total of the points assigned from TABLE A will be applied to TABLE B to determine the type and severity of any sanction imposed.

(A) If the point total indicates a civil penalty, TABLE B will be used to determine the percentage of the maximum civil penalty that may be imposed.

(B) If forfeiture is available as a sanction, TABLE B will be used to determine the percentage of the maximum forfeiture that may be imposed.

(3) If there are aggravating or mitigating factors that are not listed on TABLE A, the director will prepare a summary of those factors for the Commission to consider. This method will not limit the Commission's authority to exercise its discretion to deviate from the calculated sanctions from TABLE B and modify the civil penalty or the forfeiture.

(4) This rule does not apply in cases where the sanction is limited under ORS 244.280, 244.282, 244.284, 244.320 or 244.350(2)(b). This rule also does not apply to sanctions imposed by the Commission for the late filing of reports required by ORS 244.050(2) to (4) or 171.752.

[ED. NOTE: Table referenced is available from the agency.]
Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.290, 244.350, 244.370, 244.390
Hist.: GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

199-001-0020

Settlement

(1) The Oregon Government Ethics Commission encourages the settlement of a case by stipulated final order. As used in this rule, a stipulated final order is an agreement between the Commission and the party which resolves all of the issues pending in the matter.

(2) The stipulated final order shall be in writing and shall be signed by the person who is the subject of a complaint or against whom an investigation has commenced or by the attorney representing such person, if any, before being submitted to the Commission.

(3) The stipulated final order shall contain a short and plain:

(a) Statement of the nature of the complaint and the basis of the jurisdiction of the Oregon Government Ethics Commission;

(b) Statement of all agreed facts and of all facts, if any, that are not agreed;

(c) Statement of the terms of settlement;

(d) Statement that both the commission and respondent have had an opportunity to seek the advice of counsel;

(e) Statement of the effect of the agreement including that it is subject to final approval of the Government Ethics Commission, and that it is binding upon both parties and that the respondent waives the right to a contested case hearing and waives the right to judicial review.

(4) The stipulated final order is a final order of the Commission.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.260
Hist.: EC 1-1993, f. & cert. ef. 4-22-93; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

199-001-0030

Advisory Opinions

(1) The Oregon Government Ethics Commission may, upon the written request of any person, or upon its own motion, issue opinions on the requirements of ORS Chapter 244 and of ORS 171.725 to 171.785.

(2) The Oregon Government Ethics Commission will issue an Advisory Opinion based on real or hypothetical facts or circumstances but not upon actual events that have already occurred.

(3) The Oregon Government Ethics Commission shall issue an Advisory Opinion only after approval from a majority of Commissioners at a regular meeting of the Commission.

(4) An Advisory Opinion shall contain:

(a) A short and plain statement of the real or hypothetical facts or circumstances on which it is based;

(b) Relevant statutes;

(c) A short and plain statement of the question presented;

(d) A short and plain statement of the opinion of the Commission based on the real or hypothetical facts in answer to the question. The opinion of the Commission may cite relevant statutes of the State of Oregon, opinions of the Oregon appellate courts, opinions of the Attorney General of Oregon, and previous opinions of the Oregon Government Ethics Commission;

(e) A typed notice in uppercase letters not less than 10 point that states the following:

"THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT ETHICS COMMISSION PURSUANT TO (INSERT ORS 171.776 OR 244.280). A PERSON SHALL NOT BE LIABLE UNDER (INSERT ORS CHAPTER 244 OR ORS 171.725 TO 171.785) FOR ANY GOOD FAITH ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN".

(5) All draft Advisory Opinions shall be reviewed and signed by the Commission's legal counsel before being submitted to the Commission for adoption.

(6) When issued, an Advisory Opinion shall be assigned a sequential number. Thereafter, the Opinion may be cited as "Oregon Government Ethics Commission Advisory Opinion No. _____".

(7) An Advisory Opinion of the Oregon Government Ethics Commission shall have precedential effect. A person shall not be liable under ORS Chapter 244 or under 171.725 to 171.785 for any good faith action or transaction carried out according to an Advisory Opinion of the Oregon Government Ethics Commission.

(8) In addition to an Advisory Opinion of the Oregon Government Ethics Commission, the Director may issue informal written opinions of the staff on actual or hypothetical facts or circumstances when requested by any person. The informal written opinion of the Director shall have no precedential effect and the Oregon Government Ethics Commission shall not be bound by any informal written opinion of the Director. The opinion of the Director shall be clearly labeled as such and that it is not issued under authority of the Commission, but is only the informal opinion of the Director. At the next regular meeting of the Commission, all informal written opinions of the Director shall be reported to the Commission and the Commission on its own motion may thereafter issue an Advisory Opinion of the Commission on the same facts or circumstances.

(9) The issuance of an advisory opinion by the Oregon Government Ethics Commission is at its discretion and the failure of the Commission to issue an Advisory Opinion shall have no precedential effect.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.280(3), 244.282 & 244.284
Hist.: EC 1-1993, f. & cert. ef. 4-22-93; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 4-2010, f. & cert. ef. 8-4-10; GEC 1-2016, f. & cert. ef. 6-1-16

199-001-0035

Criteria and Procedures for Exercise of Prosecutorial Discretion

(1) The purpose of this rule is to establish how the Commission uses prosecutorial discretion to decide whether to proceed with an inquiry of a potential violation of ORS Chapter 244, 171.725 to 171.785 or 192.660 (collectively, matters within the Commission's jurisdiction).

(2) All complaints from members of the public concerning alleged violations of matters within the Commission's jurisdiction shall be submitted to the Commission's staff in writing and signed with the person's true name. No anonymous complaints or oral complaints will be accepted. The Director shall review each complaint to determine if the matters alleged come within the Commission's jurisdiction, if the matters alleged occurred within four years of the date the complaint was submitted, and if the complaint contains enough specific information to warrant further review. If the Director determines that the complaint contains allegations without any corroborative information, the Director shall, within 10 days of the complaint's receipt, notify the person filing the complaint that the complaint lacks sufficient information to warrant further review. If the Director is able to determine the nature of additional

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information that would enable the Commission to pursue the matter, the person filing the complaint shall likewise be also notified.

(3) The Director shall submit all complaints that meet the requirements of subsection (2) to the Commission to be acted upon within the time lines established by law. In addition, the Director or any member of the Commission may propose that the Commission initiate a preliminary review based on information received from objective sources, such as media accounts or information obtained from the Commission's own records or from other public agencies that indicates that a violation within the Commission's jurisdiction may have occurred.

(4) The Commission shall consider fully all matters presented for preliminary review, or initiated by the Commission's own motion, to determine whether there is "cause" to investigate the matter, as that term is defined in 244.260(13)(a). Following the investigation phase, the Commission shall move a matter to a contested case hearing when the Commission determines that the information presented is sufficient to make a preliminary finding of violation of a statute or statutes within the Commission's jurisdiction. All matters before the Commission may also be settled, at any point in the proceedings, in compliance with OAR 199-001-0020. No settlement negotiated by the Director shall be binding on the parties unless approved by the Commission by motion and vote.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 244.290(5)(d)

Hist.: GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

199-001-0040

Exercise of Prosecutorial Discretion in Enforcement of ORS 244.040(1)

(1) In addition to the criteria described in OAR 199-001-0035 for the exercise of prosecutorial discretion in all matters subject to the Commission's jurisdiction, this rule describes criteria for the exercise of prosecutorial discretion in enforcement of ORS 244.040(1) when the receipt of financial benefit or avoidance of financial detriment is minimal and does not substantially conflict with the purposes of ORS Chapter 244.

(2) The Commission will not proceed following investigation to move a matter to a contested case proceeding for a violation of ORS 244.040(1) in the following circumstances:

(a) If it appears to the Executive Director that a complaint filed with the Commission involves only allegations that fall within one of the exceptions, the Director need not submit the matter to the Commission.

(b) If sufficient information is available prior to the conclusion of the investigatory phase to determine that the alleged violation falls within one of the exceptions, the matter may be dismissed at any earlier stage of the proceeding.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 244.290 & 244.040

Hist.: GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

DIVISION 5

GIFTS

199-005-0001

Definitions

The following definitions are provided for words or terms as they are used in ORS Chapter 244, especially in the exceptions to the definition of a gift in ORS 244.020(6)(b):

(1) "Entertainment" means amusement or diversion. Entertainment may be provided by others (such as athletes at sporting events) but also includes events where the public official, relative, or member of household personally participates. Examples of entertainment include, but are not limited to concerts, plays, movies, operas, sporting events, participating in sports (golf, skiing, hunting or fishing, etc), comedy shows, and similar events.

(2) A "fact finding mission or trip" is any activity related to a cultural or educational purpose, or any activity aimed at providing intergovernmental assistance, such as for the purpose of international aid or sharing best practices, or developing intergovernmental relationships directly related to the public official's duties. The sponsor of a fact finding mission should be directly and immediately associated with the event or location being visited.

(3) "Incidental" means secondary or minor, but associated to something more important. Anything with financial value provided in conjunction with a primary event but of secondary in importance to the time and attention to the main purpose of the event is incidental.

(4) A "Meeting" is an event that includes multiple attendees who are members of an organization or members of the general public who have been invited to the event. The purpose or agenda for the meeting would be included in any advance notice of the event.

(5) "Official capacity" means that the public official attends an activity while engaged in duties or responsibilities that are customary to their office or position.

(6) "Organization" means any public body, corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust, or other entity other than an individual.

(7) "Representing Government" means that a public official is representing a state or local government or a special government body when the public official attends an event on behalf of the government agency. The following examples are offered to illustrate the meaning of "representing government," but are not meant to be the only circumstances that would define representing government:

(a) A fire chief attends an event to honor protection services representatives and attends on behalf of the station in an official capacity.

(b) A department manager attends a conference being sponsored by a vendor that has in the past sold products to the agency in which the manager is employed. The manager's official duties include the responsibility of attending conferences on behalf of the governing body.

(c) An executive director for a state agency attends ceremonial events; the director's official duties include representing the agency at such events.

(d) A state employee who works in the IT department whose responsibilities include reviewing and recommending software attends a workshop on software applications held by a professional membership organization.

(e) A planning commissioner speaks to a non-profit organization on behalf of the county planning department.

(f) A volunteer for a city park department attends an event representing the department at a meeting to discuss issues surrounding volunteerism.

(g) A legislator attends an event being sponsored by a Native American tribe on behalf of a legislative committee on which the legislator serves.

(h) A city councilor attends the local chamber of commerce breakfast.

(8) "Reception" means a social gathering. Receptions are often held for the purpose of extending a ceremonial or formal welcome and may include private or public meetings during which guests are honored or welcomed. Food and beverages are often provided, but not as a plated, sit-down meal.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 244.020, 244.025, 244.040 & 244.060

Hist.: GEC 2-2010, f. 3-12-10, cert. ef. 3-15-10

199-005-0003

Legislative or Administrative Interest Defined in ORS 244.020(9)

(1) If the source of a gift has a legislative or administrative interest, any gift offered to a public official or candidate, a relative or member of a public official's or candidate's household, may only be offered and accepted under conditions set forth as permitted in ORS Chapter 244. If, however, the source of a gift does not have

a legislative or administrative interest, gifts are not restricted or prohibited.

(2) "Decision" as used in ORS 244.020(9)(a) and (b) means an act that commits the public body to a particular course of action within the public official's scope of authority and that is connected to the source's economic interest. A decision is not a recommendation or work performed in an advisory capacity. The following examples illustrate the types of acts that are considered to be "decisions":

(a) An employee makes a decision when issuing or denying a permit.

(b) An enforcement employee makes decisions on whether to cite, warn or arrest.

(c) An employee who approves contracts makes a decision on a contract.

(d) An employee who commits their public body's funds for goods and services, such as office supplies, makes a decision.

(e) Should a chief executive officer, director or manager with authority to make a final decision on a matter delegate the decision to a subordinate, the chief executive officer, director or manager would retain responsibility as the final decision maker. The subordinate has also made a decision.

(3) As required by ORS 244.050, any public official or candidate who completes an Annual Verified Statement of Economic Interest (SEI) form will apply the meaning of "decision" in OAR 199-005-0003(2) when identifying a legislative or administrative interest held by any creditor, debtor, business or person, or entity that paid a service fee when listing the information required by ORS 244.060 and 244.070.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.020, 244.025, 244.040 & 244.060
Hist.: GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10; GEC 2-2010, f. 3-12-10, cert. ef. 3-15-10

**199-005-0005
Determining the Value Received by Public Officials**

(1) Purpose. The purpose of this rule is to guide public officials, candidates and others in determining the value of items or services received by public officials to ensure accurate reporting in ORS 244.060 and to comply with gift and honoraria limits in 244.025 and 244.042.

(2) The fair market value of the merchandise, goods, or services received shall be used to determine benefit or value. Fair market value is the dollar amount goods or services would bring if offered for sale by a person who desired, but was not obligated, to sell and purchased by one who is willing, but not obligated, to buy.

(a) In calculating the benefit or value conferred to a public official, any portion of the benefit transferred to an entity that is tax-exempt under section 501(c) of the Internal Revenue Code shall not be included as part of the benefit or value to the public official, if the public official does not claim the charitable contribution on personal tax returns.

(b) In calculating the per person cost at receptions or meals, the payer of the public official's admission or meal shall include all costs other than any amount donated to a charity.

(c) The following example demonstrates how the value of a charitable dinner would be calculated. A person with a legislative or administrative interest buys a table for a charitable dinner at \$100 per person. If the cost of the meal was \$25 and the amount donated to charity was \$75, the benefit conferred on the public official is \$25. This example requires that the public official does not claim the charitable contribution on personal tax returns.

(3) For receptions and meals with multiple attendees, but with no price established to attend, the source of the public official's meal or reception shall use reasonable methods to determine the per-person value or benefit conferred. The following examples are deemed reasonable methods of calculating value or benefit conferred:

(a) The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons whom the payer reasonably expects to attend the reception or dinner;

(b) The source divides the amount spent on food, beverage and other costs (other than charitable contributions) by the number of persons who actually attend the reception or dinner; or

(c) The source calculates the actual amount spent on the public official.

(4) Upon request by the public official, the source shall give notice of the value of the merchandise, goods, or services received.

(5) Attendance at receptions that qualify as an exception to the gift definition under ORS 244.020(6)(b)(L) is permitted without regard to the fair market value of the food and beverage provided.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.020, 244.025, 244.042 & 244.100
Hist.: GEC 2-2008, f. & cert. ef. 3-7-08; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

**199-005-0010
Resale Value of Unsolicited Tokens or Awards**

(1) The purpose of this rule is to assist public officials in determining the resale value of items provided under ORS 244.020(6)(b)(C).

(2) Engraved or otherwise personalized items that include a public official's name are deemed to have a resale value under \$25, unless the personalized item is made from gold or some other valuable material that would have value over \$25 as a raw material.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.020
Hist.: GEC 2-2008, f. & cert. ef. 3-7-08; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

**199-005-0015
Attendance at Receptions, Meals or Meetings under ORS 244.020(6)(b)(E)**

The purpose of this exception is to allow public officials to attend organized, planned events and engage with the members of organizations when representing state government as defined in ORS 174.111, a local government as defined in 174.116 or a special government body as defined in 174.117. This exception to the gift definition does not authorize private meals where the participants engage in discussion. The following list of factors may indicate whether paid expenses may be accepted under this exception:

(1) A large number of people or groups are invited. For example, all members of an organization are invited.

(2) The invitations or programs are sent in advance.

(3) The event is publicized.

(4) The reception, meal, or meeting is open to the public.

(5) Written materials such as a printed program are available.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.020
Hist.: GEC 2-2008, f. & cert. ef. 3-7-08; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

**199-005-0020
Gift Exceptions in ORS 244.020(6)(b)(F) and (H)**

(1) The purpose of this rule is to provide clarification for these gift exceptions that permit public officials to accept payment of reasonable expenses while in their official capacity. The exceptions are for certain limited purposes. Travel that meets the requirements of ORS 244.020(6)(b)(F) or (H) and this rule may be either within the United States or international.

(2) As provided in ORS 244.020(6)(b)(F) the expenses offered to and accepted by a public official may only be accepted by a public official and not relatives or members of the public official's household.

(a) The event in which the public official participates may be a convention, fact-finding mission or trip or other meeting and the public official must be representing government, making a speech, participating in a panel discussion or making a presentation. "Speech" means to give a formal address. Self introductions or other perfunctory remarks do not constitute speaking for purposes of this exception. "Panel discussion" means to engage in a formal discussion with other members of the panel or audience. To "make a presentation" may range from presenting prepared remarks on a topic to a brief statement when giving an award.

(b) The source of the payment for a public official’s expenses must provide the public official with a written notice that includes the aggregate sum paid for the expenses over \$50 as required in ORS 244.100.

(c) Any public official who is required to file the Annual Verified Statement of Economic Interest form with this Commission must report the expenses paid on the public official’s behalf and provide the details for the event on the form as required by ORS 244.060.

(3) As provided in ORS 244.020(6)(b)(H), when a public official is representing government, expenses may be offered to and accepted by the public official. Payment of expenses may also be offered to and accepted by a public official’s relatives, members of the public official’s household and members of the public official’s staff. The following conditions must be met before the offer of paid expenses may be made to and accepted by a public official:

(a) The purpose for the activity must be for either an officially sanctioned trade promotion or fact-finding trip/mission or for officially designated negotiations or economic development activities.

(b) “Officially sanctioned or officially designated” means written approval by a state or local public body or by a person authorized by the public body to provide that approval. When the activity is officially designated as negotiations or economic activity, the written notice will include approval for the public official to accept the payment of reasonable expenses. Unless the public body determines otherwise, the written notice from the following is sufficient to constitute an officially sanctioned or officially designated activity under ORS 244.020(6)(b)(H):

- (A) A supervisor;
- (B) A governing body of a public body;
- (C) The President of the Senate, Speaker of the House, the designated majority or minority leaders of either chamber or appointed committees of the Legislative Assembly for any elected member;

(D) Elected state officials holding the positions of Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, and Superintendent of Public Instruction have authority to officially sanction or designate events for themselves;

(E) Elected state court judges and district attorneys have authority to officially sanction or designate events for themselves;

(F) Elected county sheriffs, surveyors, treasurers, assessors and justices of the peace have authority to officially sanction or designate events for themselves;

(G) The chief administrators of state executive departments, commissions or boards have authority to officially sanction or designate events for themselves;

(H) The chief administrator of a city or county government or a special district has authority to officially sanction or designate events for themselves.

(c) “Trade Promotion” means an activity for the purpose of encouraging or developing commerce or the buying and selling of goods and services.

(d) “Economic Development Activities” mean activities undertaken for the purpose of strengthening, expanding, or enhancing the economy, or activities that provide community development or cultural enhancement. Specific activities include, but are not limited to: promoting tourism; promoting a favorable investment climate to strengthen businesses; creating jobs; raising real wages; assisting Oregon communities to build a capacity to retain, expand or attract business; improving national and global competitiveness of Oregon companies; improving transportation access; and marketing products, services, or opportunities.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.020
Hist.: GEC 2-2008, f. & cert. ef. 3-7-08; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

**199-005-0025
Entertainment Permitted Under ORS 244.020(6)(b)(M) and (N)**

(1) Entertainment is incidental when it is secondary to the main purpose of the primary event and provided in conjunction with the primary event (such as a singer or band at an awards dinner). Incidental entertainment is secondary in importance and in time devoted to the entertainment compared to the primary, non-entertainment event. Entertainment that involves personal participation is not incidental to another event (such as a golf tournament at a conference).

(2) Entertainment is ceremonial when a public official appears at an entertainment event for a “ceremonial purpose” at the invitation of the source of the entertainment who requests the presence of the public official at a special occasion associated with the entertainment. Staff members accompanying a public official may also attend if they are performing official duties. An example of an appearance by a public official at an entertainment event for a ceremonial purpose includes, but is not limited to, throwing the first pitch at a professional or college baseball game, appearing in a parade, and ribbon cutting for an opening ceremony. To qualify, the entertainment must be provided by the source of the entertainment, and the public official must have an official role in the entertainment event.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.020
Hist.: GEC 2-2008, f. & cert. ef. 3-7-08; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

**199-005-0027
Usual and Customary Practice as used in ORS 244.020(6)(b)(O)**

(1) The purpose of this rule is to clarify the exception in ORS 244.020(6)(b)(O) that permits public officials and candidates or a relative or member of the household of a public official or candidate to accept or solicit anything of economic value when provided as part of the usual and customary practice of the person’s private business, or the person’s employment or position as a volunteer with a private business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or other legal entity operated for economic value and the offer or solicitation bears no relationship to the public official’s or candidate’s holding of, or candidacy for, the official position or public office.

(2) “Usual and customary practice” means an offer that is part of a historical or established custom. Such offers are long standing traditions that embody ordinary or expected practices resulting in economic benefits for those that are not public officials or candidates. As this term is used in ORS 244.020(6)(b)(O), anything of economic value offered or solicited as a “usual and customary practice” must bear no relationship to a public position or office held by the public official or candidate. Examples of usual and customary practice may include:

(a) A pharmacist is elected and becomes a member of the Oregon Legislative Assembly. In the past, as with other pharmacists, the pharmacist and her spouse were invited to dinners hosted by representatives of pharmaceutical manufacturers to discuss products and services. The pharmacist, now a legislator, and her spouse would be able to continue the usual and customary practice of accepting or soliciting these paid expenses for meals received in the practice of her private employment as long as the offer or solicitation bears no relationship to the position held in the Oregon Legislative Assembly and is made to other pharmacists who are not public officials.

(b) A county commissioner owns a lumber mill. In the past, as owner of the lumber mill, sales representatives of equipment manufacturers have offered to pay food, lodging and travel expenses for the owner to view new products and observe manufacturing processes as is offered to other lumber mill owners. Although a county commissioner, the lumber mill owner would be able to continue the usual and customary practice of accepting or soliciting these paid expenses for food, lodging and travel received in the

conduct of his private business as long as the offer or solicitation bears no relationship to the position held as a county commissioner and is made to other lumber mill owners who are not public officials.

(c) A member of the board of directors for a local chapter of the American Red Cross is elected to the city council. For the past 15 years the local chapter has provided all board members and their spouses paid food, lodging and travel expenses to attend an annual leadership retreat. The board member, now a city councilor, and his spouse would be able to continue with the other board members in the usual and customary practice of accepting or soliciting these paid expenses for food, lodging and travel expenses in the conduct of his volunteer duties as long as the offer or solicitation bears no relationship to the position held as a city councilor and is made to other board members who are not public officials.

(d) A cattle rancher is a volunteer youth leader in a local 4-H club and was recently appointed to the county fair board. Prior to serving on the fair board, the rancher accompanied 4-H members to livestock competition at the county fair and would receive paid admission and parking passes for her and her family members for each day of the county fair. Although a fair board member, the rancher would be able to continue with the other volunteer youth leaders in the usual and customary practice of accepting or soliciting these paid expenses for herself and her family to attend the county fair while continuing her volunteer position with the 4-H as long as the offer or solicitation bears no relationship to the position held as a fair board member and is made to other youth leaders who are not public officials.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.020(6)(b)(O)
Hist.: GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

**199-005-0030
Determining the Source of Gifts**

(1) ORS 244.025 and 244.040(2)(e) limit the offering and receipt of gifts from sources that could reasonably be known to have a legislative or administrative interest in the vote or decision of the public official who holds any official position or office. This rule is intended to clarify how a public official determines who the source of the gift is. Public officials need to be aware of the source of any gifts they receive (or those that are received by their relatives or members of their household), regardless of amount, to make sure that they comply with the \$50 limit on gifts from a single source in a calendar year. To that end, public officials should not accept gifts in any amount without obtaining information from the person or entity offering the gift as to who is the source of the gift. It is the public official's personal responsibility to ensure that no single source provides gifts exceeding an aggregate value of \$50 in a calendar year, if the source has a legislative or administrative interest.

(2) The source of any gift provided to a public official is the ultimate payer(s) of the expense.

(3) The \$50 gift limit in ORS 244.025 applies separately to the public official or candidate, and to the public official or candidate's relatives or members of household. Each such individual may accept gifts from a single source of a total of \$50 per calendar year.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.0025 & 244.040
Hist.: GEC 2-2008, f. & cert. ef. 3-7-08; GEC 4-2010, f. & cert. ef. 8-4-10

**199-005-0035
Guidelines for compliance with ORS 244.020(6), 244.025, 244.040, 244.042 and 244.047**

(1) The purpose of this rule is to define certain terms and to clarify substantive provisions of ORS 244.020(6), 244.025, 244.040, 244.042 and 244.047.

(2) The term "official duties" means that the public official's actions are directly related to serving the state of Oregon or any of its political subdivisions or any other public body as a public official.

(3) 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.

(4) As used in ORS 244.040(2)(c), "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. Expenses paid by the public body to their own public officials need not be reported by the public official under ORS 244.060.

(5) "Confidential information" means any record that is exempt from public disclosure or inspection under state law, or any information obtained in the course of or by reason of holding position as a public official that is not publicly disclosed. The record or information is no longer confidential if it has been voluntarily disclosed by the public body, or been disclosed through a public records disclosure order or court order.

(6) 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.

(7) As defined in ORS 244.020(14), a public official includes 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).

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.020, 244.025, 244.040, 244.042, 244.047
Hist.: GEC 2-2008, f. & cert. ef. 3-7-08; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

DIVISION 10

LOBBYING REGISTRATION AND REPORTING

199-010-0005

Definitions

As used in these rules:

(1) "Commission" means the Oregon Government Ethics Commission.

(2) "Entertainment" means amusement or diversion. Entertainment may be provided by others (such as athletes at sporting events) but also includes events where the public official, relative, or member of household personally participates. Examples of entertainment include, but are not limited to concerts, plays, movies, operas, sporting events, participating in sports (golf, skiing, hunting or fishing, etc), comedy shows, and similar events.

(3) "Goodwill", as used in the definition of "lobbying", ORS 171.725(8), means kindness, friendliness, benevolence or generosity by a person or entity directed toward a "legislative official", ORS 171.725(7) that could cause the legislative official to have a favorable impression of or thankfulness to the person or entity.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 171.725, 171.745, 171.750
Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0025

Lobbyist Registration

(1) Individuals not exempted in ORS 171.735 from the lobbying registration law must register within three working days after spending either \$100 or 24 hours during a calendar quarter on lobbying activities.

(2) All lobbyists must register by submitting an official Lobbyist Registration Statement form. The form is available on the Commission's website at www.oregon.gov/ogec/forms_publications.shtml or from the Oregon Government Ethics Commission by telephone to (503) 378-5105 or by email to ogec.mail@state.or.us.

(3) Lobbyists must file a registration statement for each person, business or organization they represent. This requirement also applies to persons who lobby on behalf of public agencies. An organization or business comprised of more than one lobbyist may file one registration statement on behalf of the lobbyists with that organization or business. The registration statement must include the names of all the individual lobbyists authorized to lobby on behalf of the person, business or organization represented. The form must otherwise conform to the requirements of OAR 199-010-0035. Each named lobbyist shall sign the form certifying to the accuracy of the information on the statement.

(4) All lobbyist registrations expire on December 31 of each odd-numbered year. Renewals must be filed by March 31 of the following even-numbered year to be considered a continuous registration.

(5) Once registered with the Commission, a lobbyist must file a registration statement for each additional client/employer within three working days of engaging in representation of that client/employer.

(6) Either a lobbyist or a represented client/employer may terminate a lobbyist registration at any time by submitting a lobbyist termination form or by providing a written notification to the Commission. Terminations are effective on the date they are received in the Commission offices.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 171.740

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0035

Instructions for Completing Lobbyist Registration Statement

Unless otherwise exempted by ORS 171.735, a lobbyist must file a registration statement on a form provided by the Commission that includes the following information:

(1) Section 1 — Lobbyist Contact Information:

(a) The mailing address where the expenditure reports are to be sent, telephone and fax numbers, and an email address where the lobbyist or a designated contact person may be reached;

(b) The name of any member of the Legislative Assembly employed, retained or otherwise compensated by the lobbyist.

(2) Section 2 — Lobbyist Verification: Each lobbyist must certify that the information provided in the registration statement is true and correct by signing and dating the form.

(3) Section 3 — Client/Employer Information:

(a) The name of the business, organization, person or public agency that the lobbyist represents along with the name of a designated contact person;

(b) The mailing address where the expenditure reports are to be sent, telephone and fax numbers, and an email address where the client's contact person may be reached;

(c) A general description of the client/employer's type of business or activity;

(d) Whether or not the client/employer is a public or governmental agency;

(e) The general subject of legislative action or interest of the client/employer;

(f) The name of any member of the Legislative Assembly employed, retained or otherwise compensated by the client/employer.

(4) Section 4 — Designation: A responsible representative of the client/employer must sign the registration form to certify that the lobbyist has been authorized to lobby on behalf of the client/employer.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 171.740

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0060

Who Must File

(1) Any person registered as a lobbyist must file quarterly expenditure reports.

(2) An expenditure report must be filed even if there were no expenditures during the reporting period.

(3) An expenditure report must be filed for any portion of a reporting period prior to a registration termination.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 171.745

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0070

When Reports Must Be Made

Lobbyist expenditure reports must be filed by the 15th of the month following each calendar quarter (January 15, April 15, July 15, and October 15). Postmark dates will be used as the filing date for those expenditure reports returned by U.S. Postal Service. Expenditure reports returned by fax or email will be considered filed on the date they are received.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 171.752

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 14, f. & ef. 1-31-77; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0075

Content of Lobbyist Quarterly Expenditure Report (ORS 171.745)

(1) Part A: A lobbyist must list the total amount of money spent during the reporting period for all lobbying activity expenditures that were made for food, refreshment and limited entertainment during the reporting period as required by ORS 171.745(1)(a).

(a) Except for entertainment provided under the conditions set forth in ORS 244.020(6)(b)(M) or (N), entertainment expenses paid for a public official are subject to a \$50 limit on the aggregate value of gifts from a source who could reasonably be known to have a legislative or administrative interest as provided in ORS 244.025.

(b) The lobbyist must list the total amount reimbursed to them for food, refreshment and entertainment and must identify each client or employer and the amount of reimbursement that each provided.

(c) If a lobbyist initiates and participates in the lobbying activity and uses or arranges for payment with a credit card, debit card or any other form of payment, it is the lobbyist's responsibility to report the expense. In the following examples, the methods of payment are the equivalent of a reimbursed expense that must be reported by the lobbyist:

(A) A lobbyist arranges a lobbying activity and those arrangements include placing the charges on a credit or debit card account belonging to the lobbyist's client or employer.

(B) A lobbyist registered to represent a client or employer is also an employee or executive official of that same client or employer. The client or employer is the holder of a credit or debit card and authorizes the lobbyist to use the credit or debit card.

(C) A lobbyist places a lobbying activity expense on a personal or business account. When the billing statement is received, it is submitted to and paid by the represented client or employer.

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(d) The lobbyist must list the net expenditures made for food, refreshment and entertainment, which is the result of subtracting the total of expenditures reimbursed by the client or employer from the total of all expenditures reported.

(e) If lobbying services are provided by two or more registered lobbyists from the same business, public agency or other organization, a quarterly expenditure report may be filed that consolidates the lobbying activity expenditures of the lobbyists. The lobbying activity expenses reimbursed to each individual lobbyist must be detailed as required in (1)(b), (1)(c) and (1)(d) of this rule. To use this method of reporting lobbying expenditures, contact the Oregon Government Ethics Commission for additional information (ORS 171.745(4)).

(2) Part B: A lobbyist must list each occasion when an amount exceeding \$50 was spent for a lobbying purpose that was for the benefit of a legislative or executive official. The information listed must include the date, payee, name of the official, purpose and amount (ORS 171.745(1)(b)).

(a) If a legislative or executive official was accompanied by a relative or a member of the official's household on the itemized occasion, the expenditure made for the benefit of the relative or a member of the official's household must be included in the aggregate value of the lobbying expenditure that was for the benefit of the legislative or executive official. The relative or member of the household that accompanied the official must be identified.

(b) If a relative or a member of the household of a legislative or executive official is not accompanied by the legislative or executive official on the itemized occasion, the expenditure made for the benefit of the relative or a member of the official's household is reported as a benefit to the legislative or executive official. The relative or member of the household that participated must be identified.

(c) When a legislative or executive official receives a benefit exceeding \$50 and the expense is shared by two or more lobbyists, one lobbyist must be designated to itemize the occasion in Part B of the designated lobbyist's quarterly expenditure report. The lobbyist designated to itemize the occasion must also identify the other lobbyists and the amount paid by each (ORS 171.745(1)(b) and 244.025(1)).

(d) If a client or employer of the lobbyist has itemized the expenditure as required by ORS 171.750(1)(b) and OAR 199-010-0095 in Part B of the client's or employer's quarterly expenditure report, the expenditure does not have to be itemized by the lobbyist.

(e) If a business, public agency or other organization, with two or more lobbyists, chooses to file a quarterly expenditure report that consolidates the lobbying activity expenditures, the itemization of the occasion must include the identity of the individual lobbyists responsible for the itemized lobbying activity expense (ORS 171.745(4)).

(3) The lobbyist must attach to the quarterly expenditure report copies of any written notices that were provided to legislative or executive officials as required by ORS 244.100(1) and 244.100(2).

(4) The lobbyist must certify that the information contained in the report is correct by signing and dating the expenditure report form.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 171.745

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1980(Temp), f. & ef. 12-24-80; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1998(Temp), f. & cert. ef. 9-1-98 thru 2-28-99; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 1-2008(Temp), f. & cert. ef. 3-7-08 thru 5-6-08; Administrative correction 5-20-08; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0080

How to Report Expenditures

(1) A lobbyist must report all lobbying related expenditures made during reporting periods, as defined in OAR 199-010-0075.

(2) The expenditures must be reported on a quarterly expenditure report form provided by the Commission.

(3) If the amount of any expenditure required to be included in the statement is not accurately known at the time of the report, an estimate thereof should be submitted and updated in a subsequent report when more accurate information is available.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 171.745

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1980(Temp), f. & ef. 12-24-80; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0085

Who Must File

(1) Any person, business, organization or public agency that engages anyone to lobby, who is registered as a lobbyist under OAR 199-010-0025 of these regulations, must file a report for its lobbying expenditures.

(2) The expenditures must be reported on a Quarterly Client/Employer Expenditure Report form provided by the Commission.

(3) A report must be filed even if there were no expenditures during the reporting period.

(4) A report must be filed for any portion of a reporting period prior to a registration termination.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 171.750

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; Suspended by EC 1-1980(Temp), f. & ef. 12-24-80; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0090

When Must Reports Be Filed

(1) Client/Employer Expenditure Reports must be filed by the 15th of the month following each calendar quarter (January 15, April 15, July 15, October 15).

(2) Postmark dates will be used as the filing date for those reports returned by U.S. Postal Service. Reports returned by fax or e-mail will be considered filed on the date they are received.

Stat. Auth.: ORS 244.290

Stats. Implemented: ORS 171.752

Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 14, f. & ef. 1-31-77; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

199-010-0095

Content of Client/Employer Quarterly Expenditure Report (ORS 171.750)

(1) Part A: A client/employer of a lobbyist must list the total amount spent during the reporting period on lobbying related activities (ORS 171.750(1)(a)).

(a) Include overhead costs related to lobbying activity. Expenses related to travel for the purpose of lobbying are excluded from the reporting requirement (ORS 171.750(1)(c)).

(b) List each registered lobbyist who is compensated to provide lobbying services and include the amount paid in compensation and the amount paid in reimbursement to the lobbyist for food, refreshment and entertainment (ORS 171.750(1)(c)).

(c) If the lobbyist representing the client/employer has initiated and participated in a lobbying activity and has used or arranged for payment with the client's/employer's credit card, debit card or any other form of payment, it is the lobbyist's responsibility to report the expense as a reimbursement from the client/employer and the client/employer must list the expense as a reimbursement to the lobbyist. In the following examples, the methods of payment are the equivalent of a reimbursed expense to the lobbyist and must be reported as such by the client/employer:

(A) A lobbyist arranges a lobbying activity and those arrangements include placing the charges on a credit or debit card account belonging to the client/employer.

(B) A lobbyist registered to represent a client/employer is also an employee or executive official of that same client/employer. The

client/employer is the holder of a credit or debit card and authorizes the lobbyist to use the credit or debit card.

(C) A lobbyist places a lobbying activity expense on a personal or business account. When the billing statement is received, it is submitted to and paid by the represented client/employer.

(d) If lobbying services are provided to a client/employer by two or more registered lobbyists from the same business, public agency or other organization, list the amounts paid for compensation and for reimbursed expenses to the business, public agency or organization (ORS 171.750(1)(c)). In listing reimbursed expenses, use the same criteria to identify a reimbursed expense as described in (1)(b) and (1)(c) of this rule.

(2) Part B: A client/employer must list each occasion when an amount exceeding \$50 was spent for a lobbying purpose that was for the benefit of a legislative or executive official. The information listed must include the date, payee, name of the official, purpose and amount (ORS 171.750(1)(b)).

(a) If a legislative or executive official was accompanied by a relative or a member of the official's household on the itemized occasion, the expenditure made for the benefit of the relative or a member of the official's household must be included in the aggregate value of the lobbying expenditure that was for the benefit of the legislative or executive official. The relative or member of the household that accompanied the official must be identified.

(b) If a relative or a member of the household of a legislative or executive official is not accompanied by the legislative or executive official on the itemized occasion, the expenditure made for the benefit of the relative or a member of the official's household is reported as a benefit to the legislative or executive official. The relative or member of the household that participated must be identified.

(c) When a legislative or executive official receives a benefit exceeding \$50 and the expense is shared by two or more client/employers, one client/employer must be designated to itemize the occasion in Part B of the designated client/employer's quarterly expenditure report. The client/employer designated to itemize the occasion must also identify the other contributing client/employers and the amount paid by each (ORS 171.750(1)(b) and 244.025(1)).

(d) If the lobbyist representing the client/employer has itemized the expenditure as required by ORS 171.745(1)(b) and OAR 199-010-0075 in Part B of the lobbyist's quarterly expenditure report, it does not need to be itemized by the client/employer.

(e) If the client/employer has reimbursed the lobbyist for an occasion that is itemized in Part B of the client/employer's quarterly expenditure report, the lobbyist who received the reimbursement must be identified.

(3) The client/employer must attach to the quarterly expenditure report copies of any written notices that were provided to legislative or executive officials as required by ORS 244.100(1) and (2).

(4) A representative of the client/employer must certify that the information contained in the report is correct by signing and dating the expenditure report form.

Stat. Auth.: ORS 244.290
 Stats. Implemented: ORS 171.750
 Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1989(Temp), f. & cert. ef. 1-18-89; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1998(Temp), f. & cert. ef. 9-1-98 thru 2-28-99; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2002, f. & cert. ef. 10-18-02; GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 1-2008(Temp), f. & cert. ef. 3-7-08 thru 5-6-08; Administrative correction 5-20-08; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

**199-010-0100
 Filing Deadlines**

Lobbyist Quarterly Expenditure Reports and Client/Employer Quarterly Expenditure Reports must be postmarked or received by the Commission on or before the due date indicated in the instructions provided with the reporting forms.

Stat. Auth.: ORS 244.290
 Stats. Implemented: ORS 171.745 & 171.750
 Hist.: EC 2(Temp), f. & ef. 2-14-75 thru 6-14-75; EC 5, f. 7-7-75, ef. 7-25-75; EC 7(Temp), f. & ef. 10-8-75; EC 9, f. & ef. 1-23-76; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GSPC 1-2004, f. & cert. ef. 8-4-04; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

**199-010-0150
 Civil Penalty for Late Filing**

(1) The Commission may impose a civil penalty for each day a lobbyist expenditure report or client/employer expenditure report required by ORS 171.745 and 171.750 is late beyond the due date established in 171.752(2). The penalties will accrue at \$10 per day for the first 14 days and at \$50 per day thereafter. Such penalty shall not exceed the amount of \$5,000 pursuant to ORS 171.992(2)(c).

(2) Excluding violations of ORS 171.752, the Commission will identify each action that constitutes a violation of ORS Chapter 171 and when multiple violations are committed, will charge them in the following manner:

(a) When a lobbyist or client/employer of a lobbyist has committed two or more violations by subsequent equivalent actions, the Commission will charge the lobbyist or client/employer with a single violation and count the repeated actions using the number of the equivalent acts as aggravating factors when imposing any sanction as discussed in (2)(b) of this rule. The following examples are offered to illustrate this rule and not meant to limit its application:

(A) Each lobbyist must register with the Commission when exceeding the limits of time or expenditures set forth in ORS 171.735(4). Failure to register as a lobbyist for each client/employer could be a distinct violation of ORS 171.740(3). If a lobbyist fails to register for two or more client/employers, the multiple violations will be combined into the charge of one violation with each additional failure to register being counted as an equivalent action.

(B) When a lobbyist fails to list an occasion on the Lobbyist Quarterly Expenditure Report form when an amount exceeding \$50 is spent for the benefit of a legislative or executive official, the lobbyist violates ORS 171.745(1)(b). If a lobbyist fails to list two or more officials who participated in the same event, the multiple violations will be combined into the charge of one violation with each additional failure to list an official being counted as an equivalent action.

(C) When a client/employer represented by a lobbyist fails to list an occasion on the Client/Employer Quarterly Expenditure Report form when an amount exceeding \$50 is spent for the benefit of a legislative or executive official, the client/employer violates ORS 171.750(1)(b). If a client/employer fails to list two or more officials who participated in the same event, the multiple violations will be combined into the charge of one violation with each additional failure to list an official being counted as an equivalent action.

(b) When two or more single violations are charged as one violation, each additional violation by this rule will be counted as an equivalent action. The number of equivalent acts will be identified as an aggravating factor and included in the calculation of any assessment of a civil penalty that would constitute a sanction as set out in OAR 199-001-0015.

Stat. Auth.: ORS 244.290
 Stats. Implemented: ORS 171.745, 171.750, 171.752 & 171.992
 Hist.: EC 14, f. & ef. 1-31-77; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; GEC 3-2010, f. 3-12-10, cert. ef. 3-15-10

DIVISION 20

STATEMENT OF INTEREST

**199-020-0005
 Identification of Public Officials Required to File Annual Verified Statements of Economic Interest**

Cities, counties, and those state boards and commissions, special districts and others affected by the filing requirements of ORS 244.050 shall inform the Oregon Government Ethics Commission of the following information related to individuals required to file the Annual Verified Statement of Economic Interest forms:

(1) Each public body shall provide in writing to the Commission the name, title, mailing address, phone number and e-mail address of a designated contact person. Any changes to the designated contact person or their information shall be submitted in writing to the Commission within 10 working days.

(2) Each designated public body contact person shall provide annual written notification to the Commission no later than February 15 of the name, position or office held and mailing address of each individual required to file the Annual Verified Statement of Economic Interest form. Any changes, additions or deletions of this information that occur between the submission of the annual written notification and April 15 must be made in writing to the Commission within three working days.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.050, 244.060, 244.070 & 244.090
Hist.: EC 4(Temp), f. & ef. 5-29-75; EC 6, f. & ef. 10-8-75; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; EC 1-1993, f. & cert. ef. 4-22-93; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99; Suspended by GEC 1-2008(Temp), f. & cert. ef. 3-7-08 thru 5-6-08; GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

**199-020-0008
Exemption Procedure for Annual Verified Statements of Economic Interest**

(1) This rule implements ORS 244.290(2)(b), directing the Commission to allow exemptions for public officials who are otherwise required by 244.050 to file an annual statement of economic interest when the public body on which the public official serves meets so infrequently so as not to warrant the public disclosure. Public officials shall submit a request for an exemption from the filing requirements of 244.050 on a form prescribed by the Commission.

(2) Only public officials required to file under ORS 244.050(1)(j) are eligible to request the exemption under this rule. The Commission will accept requests that are submitted on behalf of all of the public officials serving on a particular city or county planning, zoning or development commission.

(3) The Commission will grant the exemption if the following criteria are met:

(a) The public body on which the public official serves has met no more frequently than twice annually for the last three calendar years.

(b) The public body has no decision making authority, but limits its function to making recommendations to an accountable public body or public official.

(c) The request for exemption is accompanied with copies of agendas and meeting minutes for all meetings conducted by the public body within the last three calendar years, as well as documentation of the authority or role of the public body.

(4) Applications for an exemption from filing the annual verified statement of economic interest due April 15 of a given year, must be received in the office of the Oregon Government Ethics Commission not later than 5:00 pm March 31 of that year. Public officials who do not meet that deadline, or whose application is not approved by the Commission, must file the annual verified statement of economic interest as required by April 15. Public officials who receive the exemption will be notified in writing.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.050, 244.290
Hist.: GEC 1-2010, f. 3-12-10, cert. ef. 3-15-10

**199-020-0020
Filing Deadlines**

Statements of Economic Interest postmarked on or before the due date will be accepted as filed on the due date.

Stat. Auth.: ORS 244.290
Stats. Implemented: ORS 244.050
Hist.: EC 4(Temp), f. & ef. 5-29-75; EC 6, f. & ef. 10-8-75; EC 1-1990, f. 7-31-90, cert. ef. 7-26-90; GSPC 1-1999, f. 7-29-99, cert. ef. 8-1-99

**DIVISION 40
EXECUTIVE SESSION**

**199-040-0020
Permitted Topics for Executive Session**

(1) The purpose of this rule is to clarify that an executive session may only be held when permitted by a specific provision of ORS 192.660 or other state law authorizing an executive session. Each prerequisite and requirement of the specific provision of ORS 192.660 must be met before an executive session may be convened. The topic(s) discussed in an executive session must be limited to those topics expressly permitted by the specific provision(s) under which the executive session was convened. Members of governing bodies may not discuss topics in executive session other than those delineated in ORS 192.660 or other state law permitting an executive session, even if the additional topics are related to the issue concerning which the governing body convened the executive session.

(2) Compensation, including salaries and benefits, must not be discussed or negotiated during an executive session under ORS 192.660(2)(a), (b) or (i).

Example: City A interviews candidates for the position of city manager in an executive session held under ORS 192.660(2)(a). The governing body wishes to discuss non-salary compensation with the candidates, including access to a city vehicle and membership in a professional organization. This is not a topic permitted in executive session.
Stat. Auth.: ORS 244.290
Stat. Implemented: ORS 192.660
Hist.: GEC 2-2016, f. & cert. ef. 6-1-16

**199-040-0025
Complaints**

(1) The purpose of this rule is to clarify procedures regarding the opening of one or more preliminary reviews based on a complaint of violations of ORS 192.660 made against member(s) of a governing body.

(2) Attendance at any executive session by a member of the governing body will be considered participation in the executive session.

(3) When the Director makes a determination to open a preliminary review based on a complaint alleging violations of ORS 192.660 by one or more members of a governing body, the Director will open preliminary reviews on each member of the governing body who the Director has reason to believe participated in the alleged violation of ORS 192.660, even if all of the participating members of the governing body are not named or identified in the original complaint. Any preliminary reviews against members of