

AP 2710 Conflict of Interest

References:

NWCCU Standard 2.D.3
ORS 244.010 to 244.047; ORS 244.120 to 244.130; ORS 244.175 to 244.179
OAR 199, Division 5 (Gifts)
Oregon Government Ethics Commission "Guide for Public Officials"

Board of Education members shall publicly announce the nature of a financial conflict of interest on the record prior to taking action on the issue before the Board as required by Oregon law. The type and nature of the conflict shall be recorded in the official minutes of the meeting.

Board of Education members may participate in discussion and may vote on an issue after announcing a **potential** conflict of interest publicly prior to taking action. If a Board of Education member announces an **actual** conflict of interest, the Board of Education member must refrain from any discussion or debate on the issue out of which the actual conflict arises and may not vote on the issue.

Employees of the college who are involved in matters in their official capacity that give rise to a potential or actual financial conflict of interest, must provide written disclosure of the conflict to their supervisor. The college must find another employee to dispose of the matter or direct the employee to address the matter as specified by their supervisor.

No board member shall solicit or receive, either directly or indirectly, any pledge or promise of future employment based on any understanding that the board's member's vote, official action, or judgment would be thereby influence.

"Potential Conflict of Interest" – means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which **could** be to the private financial 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 financial benefit or detriment arises out of the following:

a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

“Actual Conflict of Interest” – means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which *would* be to the private financial benefit or detriment of the person or the person’s relative or any business with which the person or a relative of the person is associated unless the financial benefit or detriment arises out of circumstances described above.

“Relative” means spouse, parents, step-parents, children, siblings, step-siblings, sons-in-laws, daughters-in-laws, individuals for whom the employee has a legal support obligation, or anyone for whom the employee provides benefits arising from their employment.

“Business” means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

Gifts

Board of Education members, employees of the college, and their relatives are prohibited from accepting gifts of a value greater than \$50 from a single source during a calendar year from any person that can reasonable be known to have a legislative or administrative interest in a decision before the Board of Education or the individual employee as a public official. Meals (food and beverage) and entertainment are considered gifts and are subject to the annual limitation.

The following are not considered gifts:

- a) Campaign contributions.
- b) Gifts from relatives or members of the public official’s household.
- c) Unsolicited tokens or awards of appreciation if value is less than \$25.
- d) Admission and meals provided to a public official when they are invited to attend a reception, meal or meeting held by organization when the public official is attending as representative of the college. This exception does not apply to “private meals with small numbers of participants.”
- e) Informational material, publications or subscriptions related to the public official’s position.

- f) Expenses paid by a government entity, membership organization to which the college pays dues, or a non-profit corporation for attendance at a convention, fact-finding trip, or other meeting if the public official is delivering a speech, making a presentation, participating in a panel, or representing the college.
 - a. “Representing” the college means that the public official is participating in an event on behalf of the college in their capacity as a public official.
- g) Food, travel or lodging expenses paid to a public official, a relative, member of the household, or staff when the public official is representing the college on an “officially sanctioned” trade-promotion or fact-finding mission, or in official negotiations or economic development activities.
 - a. “Officially sanctioned” means written approval given by a person authorized by the public body to give approval such as a supervisor or the college’s Board of Education.
- h) Expenses provided by a public official to another public official for travel in state to and from an event that is related to the person’s official office and in which that person participates in their official capacity.
- i) Food and beverage provided at a reception (e.g. social gathering) where the food and beverage are an incidental part of the reception.
- j) Entertainment that is an incidental part of another event or in which the public official has been invited to participate in their official capacity (i.e., throwing out the first ball at a baseball game).
- k) Gifts offered as part of the usual and customary practice of a person’s private business, employment or volunteer position that bears no relationship to the public official’s official position.

“**Gift**” means something of economic value that is offered to a public official or to relatives or members of the household of a public official or candidate without cost or at a discount or as forgiven debt and the same offer is not made or available to the general public who are not public officials.

“**Member of the Household**” means any person who resides with the public official or candidate.

“**Legislative or administrative interest**” means an economic interest, distinct from that of the general public, in any matter subject to the decision or vote of the public official acting in the public official’s capacity as a public official.

Nepotism

A Board of Education member is prohibited from participating in any personnel action taken by Treasure Valley Community College that would impact the employment of a relative or member of the public official’s household and must follow the conflict of interest requirements above. A Board of Education member may not participate in the following

personnel actions: appointing, employing or promoting; discharging, firing or demoting; interviewing; discussing or debating the appointment, employment, promotion, discharge, firing or demotion of a relative or member of the household. This prohibition does not apply to relatives or members of the household who serve Treasure Valley Community College as an unpaid volunteer.

Censure of Board Member Procedure

Oregon law authorizes the Board to establish rules governing the conduct of its members and proceedings. The following process shall be used in the case of the Board exercising its authority to consider the public censure of a board member.

1. Written complaints related to the censure of a Board of Education member

Complaints by a board member against a fellow board member shall be brought to the Board Chair and the College President. If the complaint involves the Board Chair, it shall be brought to the Vice Chair and the College President. Complaints shall be made in writing and should be specific and include dates, names of witnesses, and as much detail as possible. Any emails, letters, or other supporting information related to the issue should be attached as addendum and evidence. In addition to complaints related to the violation of the Board Member Standards of Conduct, a complaint may be brought related to actions that go against the operating principles or mission of the College established by the Board. Examples of actions that could be grounds for censure include but are not limited to: personal attacks against fellow board members or the college president, repeated disruption of meetings, release of confidential information provided to Board and/or discussed in Executive Session, interference with college operations, and improper behavior toward college employees or students. If the nature of the complaint is related to undisclosed conflicts of interest in violation of Oregon Ethics law, then the information provided in the complaint will be forwarded to the Oregon Government Ethics Commission for appropriate action under ORS 244.

2. Confidential meeting with affected board member(s)

The Board Chair and the College President shall meet confidentially with the board member(s) whom the censure would affect. In the event the censure complaint involves the Board Chair, the Vice Chair and the College President will meet confidentially with the member(s) against whom a complaint has been made. If the complaint involves both the Board Chair and the Vice Chair, the President and another member of the Board of Education, who shall be selected by the members not named in the complaint, will meet confidentially with the member(s) against whom a complaint has been made.

3. Censure resolution (if determined possible censure is appropriate to bring to the board for consideration)

A censure resolution will be drafted for consideration by the Board. The resolution may begin with the word, "Whereas", followed by a description of the concerns held by the members presenting the resolution. It should describe the violations forming the basis for the censure resolution. Censure of Board Member Procedure – BBFC-AR 2-2 Following this will be a section beginning with the words, "therefore, be it resolved that ..." followed by a statement that member is hereby being censured and describing any other action to be taken.

4. Board consideration of censure resolution

Pursuant to ORS 192.660(2)(b), an Executive Session of the Board will be held no sooner than 7 business days after the scheduled confidential meeting with affected board member(s). This will provide adequate public notice, allowing the affected board member(s) time to prepare for the meeting and to decide whether or not to request an open hearing. Under ORS 192.660(2)(b) the affected board member has the right to request a hearing of the complaint in open session.

5. Board action on the censure resolution

Board members must have the resolution read aloud at a public Board of Education meeting called in accordance with adopted board meeting procedures and Oregon Public Meetings law. Following the reading of the resolution, the floor shall be opened for comments by board members. The Board will vote on the censure resolution. The votes of the individual board members and the overall results shall be recorded in the official meeting minutes.

Approved: 12/20/22