

Oregon Community College Board Orientation – Board Basics

Karen Smith

OCCA General Counsel

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Oregon Community College Boards – Structure and Organization

- * Seven member boards
 - * Members elected, serve 4 year term
 - * Represent zone or at-large
 - * Quorum = 4 members; Pass/fail motion = 4 members
- * Authority to take action lies in Board, **not** individual board members
- * Policy Boards – Big picture, mission and vision for future

Principles of Effective Boards*

- * Act as a Unit
- * Represent the Common Good
- * Set Policy Direction
- * Employ, Evaluate and Support the President
- * Define Standards for College Operations
- * Create Positive Climate
- * Monitor Performance
- * Support and Be Advocates for the College
- * Lead As Thoughtful Educated Team

Act as a Unit

- * Integrate multiple perspectives into board decision-making
- * Establish and abide by rules for conducting board business
- * Speak with one voice, and support the decision of the board once it is made
- * Recognize that power rests with the board, not individual trustees

Represent the Common Good

- * Know community needs and trends
- * Link with the community
- * Seek out and consider multiple perspectives when making policy decisions
- * Debate and discuss issues in public
- * Serve the public good

Set the Policy Direction

- * Be proactive, visionary and future-oriented
- * Learn about and communicate with many different groups
- * Focus on community needs and trends
- * Establish the vision, mission and broad institutional goals as policy

Employ, Evaluate and Support President

- * Select and retain the best president possible
- * Define clear parameters and expectations for performance
- * Conduct periodic evaluations; provide honest and constructive feedback
- * Act ethically in the relationship with the president
- * Support the president; create an environment for success

Define Policy Standards for College

- * Define expectations for high quality educational programs
- * Define expectations for student achievement and fair treatment of students
- * Require wise and prudent use of funds and management of assets
- * Set parameters to attract and retain high quality personnel and ensure fair treatment of employees

Create Positive Climate

- * Model a commitment to learning for students
- * Focus on outcomes
- * Support professional growth
- * Seek consultation in developing policy
- * Are ethical and act with integrity

Monitor Performance

- * Monitor progress toward goals
- * Monitor adherence to operational policies
- * Use pre-established criteria for monitoring
- * Schedule a timetable for reports.

Support and Be Advocates

- * Promote the college in the community
- * Foster partnerships with other entities in the community
- * Advocate the needs of the college with government officials
- * Support the foundation and fundraising efforts
- * Protect the college from inappropriate influence.

Lead as Thoughtful Educated Team

- * Engage in ongoing learning about board roles and responsibilities
- * Are curious and inclusive
- * Are positive and optimistic
- * Support and respect each other

Ethics and Public Meetings: Let the Sunshine In

- * Public officials must avoid financial conflicts of interest when they are serving in their official capacity.
 - * Oregon Ethics Law – ORS 244
- * Deliberations and decisions of public bodies and public officials should be made in the open.
 - * Oregon Public Meetings and Public Records Law – ORS 192

Oregon Ethics Law

- * Applies to all **public officials** defined as:
 - * Elected board members,
 - * Administrators,
 - * College faculty and staff,
 - * Volunteers,
 - * Agents (people performing government function for college such as a contractor)

Prohibition on Financial Gain

- * A public official may not use official position for financial gain or to avoid financial detriment.
 - * “But for” test
- * Example – A college employee borrows a power washer owned by the college to wash the exterior of his personal residence before painting it.

Exceptions to Prohibition on Gain

- * Official compensation
- * Reimbursement of expenses
- * Unsolicited awards for professional achievement
- * Allowable honorarium – less than \$50 value
- * Gifts – less than \$50 value or expressly excluded
- * Contributions to legal defense fund

Conflicts of Interest

- * Financial conflicts only - **actual** and **potential**
 - * “would” versus “could”
- * Must be disclosed publicly before action or vote taken
- * If **actual** conflict, disclose and take no further official action (no discussion or vote)
- * If **potential** conflict, disclose and continue to participate in official action

Gifts - Defined

- * A gift is something of economic value given to a public official, a relative, or a member of the household of the public official:
 - * Without valuable consideration and which is not offered to others who are not public officials, or
 - * For valuable consideration less than that required from others who are not public officials.
- * Includes meals, beverages, and entertainment

Gift Limits – 2007 & 2009 Reforms

- * Annual limit for gifts given to a public official is **\$50** from a single source if the gift giver has a legislative or administrative interest in the public official to whom the gift is given.
- * A **legislative or administrative interest** is defined as an economic interest distinct from the general public in any matter subject to the decision or vote of a public official acting in their official capacity.

Gift Limit Exceptions

- * Campaign contributions
- * Gifts from relatives or members of your household
- * Unsolicited tokens or awards of appreciation if value is less than \$25
- * Admission and meals provided to you when you are invited to attend a reception, meal or meeting held by organization when you are attending as representative of the college

Exceptions (con't)

- * Informational material, publications or subscriptions related to your position
- * 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 you are delivering a speech, making a presentation, participating in a panel, or representing your college

Exceptions (con't)

- * Food, travel or lodging when you are representing your college on an “officially sanctioned” trade-promotion or fact-finding mission, or in official negotiations or economic development activities
- * Expenses provided by a public official to you for travel in state to and from an event that is related to your official office and in which you participate in your official capacity
- * Food and beverage provided at a reception (e.g. social gathering) where the food and beverage are an incidental part of the reception

Exceptions (con't)

- * Entertainment that is an incidental part of another event or in which you have been invited to participate in your official capacity (i.e., throwing out the first ball at a baseball game)
- * 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

You Be the Judge

- * A college board member attends a conference that is not open to the general public. An exhibitor that does business with the college offers the board member a basket of gifts valued at over \$100.
- * Is this a gift?
 - * Can board member accept the basket?
- * Yes.
 - * No. Gift exceeds \$50 limit (and violates financial gain prohibition).

Public Meetings Law

- * Public decisions are to be made in public.
- * Generally, the Oregon law applies to meetings of a governing body “for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.”
- * Must meet the notice requirements of the law unless there is a specific exception provided (e.g. executive sessions).

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- * Committees, subcommittee and advisory groups are considered a governing body if they have authority to make consensus recommendation or decision for public body.
 - * On-site inspections and purely social gatherings are exempt from the law.
 - * If in doubt, provide notice and post agenda. Presumption toward openness in Oregon law and court cases.

Executive Sessions

- * Exception to open meeting requirements for specific situations outlined in statute.
- * The board chair must identify the section and subsection of ORS 192.660 that define the subject matter for which the executive session is authorized.
- * News media permitted to attend in almost all cases.
- * No final decision/action permitted.

Executive Session Exceptions

- * Consider the employment of a public officer, employee, staff member or individual agent. [ORS 192.660(2)(a)]
- * Consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or agent, unless the officer, employee, staff member or agent requests an open meeting. [ORS 192.660(2)(b)]
- * Conduct deliberations with a person designated by the governing body to carry on labor negotiations. [ORS 192.660(2)(d)]
- * Deliberate with persons designated to negotiate real property transactions. [ORS 192.660(2)(e)]

Executive Session Exceptions (con't)

- * Consider records that are exempt by law from public inspection. [ORS 192.660(2)(f)]
- * Consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. [ORS 192.660(2)(h)]
- * Review and evaluate the employment-related performance of the chief executive officer, or any other public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an open hearing. [ORS 192.660 (2)(i)]
- * Conduct labor negotiations but only when **both** sides request. [ORS 192.660(3)]

Lessons from Dumdi v. Handy

- * Email – “electronic communication”
- * Serial Conversations – when no quorum present
- * Willful Misconduct – liability of individual board members

Public Meetings Law - Proceed with Caution

* **Don't:**

- * Hit “reply” or “reply all” to email message from other board members
- * Engage in “parking lot” discussions
- * Discuss issues outside of scope of executive session stated purpose
- * Put anything in an email that you wouldn't want to see on front page of paper

Public Records – What Board Members Need to Know

- * Oregon law favors disclosure
 - * Some exceptions exist
 - * Balancing test – public interest
- * Email as a public record

Finding Your Way to Sunshine

* **Do:**

- * Declare conflicts of interest on record prior to taking action
- * Keep track of gifts received – value and giver
- * Deliberate and discuss issues in open and properly noticed board meetings
- * Remember that what you write in an email is public record



* Questions?

* Contact Karen at ksmith@occa17.com or 503-399-9912