

Code of Ethics

Explanations and Examples

For Elected Officials, City Employees, Appointees to Boards and Commissions, and City Volunteers

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Introduction

December 1999,

TO: Elected Officials, City Employees, Appointees to Boards and Commissions, City Volunteers

In 1994, City Auditor Barbara Clark proposed that Council adopt a new chapter to the City Code, consisting of a code of ethics. Her work was based upon material first developed by the Josephson Institute of Ethics, but also involved City elected officials, bureau managers, union representatives, attorneys, citizens, and all the City's employees.

I wholeheartedly support this Code of Ethics as an important means of conveying the principles of our organization to employees, officials, volunteers, and the public. For this reason, the code of ethics emphasizes positive expectations, rather than a long list of prohibitions.

This report also provides explanations and examples that can help you navigate through situations you may encounter. And if this report does not provide you with sufficient

guidance, I encourage you to seek the assistance of others. Your questions can help us all become better public servants.

GARY BLACKMER
Portland City Auditor

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Chapter 1.03

CODE OF ETHICS

(New Section added by Ordinance
No. 167619, May 4, 1994.)

Sections:

1.03.010 Definitions.

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1.03.010 Definitions.

A. "City official" means any elected official, employee, appointee to a board or commission, or citizen volunteer authorized to act on behalf of the City of Portland, Oregon.

B. "Ethics" means positive principles of conduct. Some ethical requirements are enforced by federal, state, or local law; others rely on training, or on individuals' desire to do the right thing. The provisions of this Chapter which are not elsewhere enforced by law shall be considered advisory only.

1.03.020 Trust.

The purpose of City government is to serve the public. City officials treat their office as a public trust.

A. The City's powers and resources are used for the benefit of the public rather than any official's personal benefit.

B. City officials promote public respect by avoiding even the appearance of impropriety.

C. Policymakers place long-term benefit to the public as a whole above all other considerations, including the concerns of important individuals and special interests. However, the public interest includes protecting the rights of under-represented minorities.

- D.** Administrators implement policies in good faith as equitably and economically as possible, regardless of their personal views.
- E.** Whistle-blowing is appropriate on unlawful or improper actions.
- F.** Citizens have a fair and equal opportunity to express their views to City officials.
- G.** City officials do not give the appearance of impropriety or personal gain by accepting personal gifts.
- H.** City officials devote City resources, including paid time, working supplies and capital assets, to benefit the public.
- I.** Political campaigns are not conducted on City time or property.

1.03.030 Objectivity.

City officials' decisions are based on the merits of the issues. Judgment is independent and objective.

- A.** City officials avoid financial conflict of interest and do not accept benefits from people requesting to affect decisions.
- B.** If an individual official's financial or personal interests will be specifically affected by a decision, the official is to withdraw from participating in the decision.
- C.** City officials avoid bias or favoritism, and respect cultural differences as part of decision-making.
- D.** Intervention on behalf of constituents or friends is limited to assuring fairness of procedures, clarifying policies or improving service for citizens.

1.03.040 Accountability.

Open government allows citizens to make informed judgments and to hold officials accountable.

- A.** City officials exercise their authority with open meetings and public records.
- B.** Officials who delegate responsibilities make sure the work is carried out efficiently and ethically.
- C.** Campaigns for election allow the voters to make an informed choice on appropriate criteria.
- D.** Each City employee and appointee is encouraged to improve City systems by identifying problems and proposing improvements.
- E.** City government systems are self-monitoring, with procedures in place to promote appropriate actions.

1.03.050 Leadership.

- A.** City officials obey all laws and regulations.
- B.** City officials do not exploit loopholes.
- C.** Leadership facilitates, rather than blocks, open discussion.
- D.** Officials avoid discreditable personal conduct and are personally honest.
- E.** All City bureaus and work teams are encouraged to develop detailed ethical standards, training, and enforcement.
- F.** The City Auditor will publish a pamphlet containing explanations and examples of ethical principles.

Explanations and Examples

1.03.010 Definitions.

1. **"City official" means any elected official, employee, appointee to a board or commission, or citizen volunteer authorized to act on behalf of the City of Portland, Oregon.**

The Code of Ethics is intended to apply to everyone. However, specific groups such as employees or elected officials may be mentioned in some examples.

2. **"Ethics" means positive principles of conduct. Some ethical requirements are enforced by federal, state, or local law. Others rely on training, or on individuals' desire to do the right thing. The provisions of this chapter which are not elsewhere enforced by law shall be considered advisory only.**

The Code of Ethics is not intended to legislate morality, but rather to convey general expectations of appropriate conduct. It is included in City Code to make it easy to find, and to emphasize the seriousness of Council's intent.

Just because an action is legal does not necessarily mean it is right or good. Similarly, not every action that is wrong needs to be punished under the law. The role of ethics is particularly to question those actions which are neither prohibited nor required by law. In this pamphlet, the applicable laws are summarized in the boxes adjacent to the explanatory text. If no law is indicated for a numbered subsection, its provisions are only advisory.

1.03.020 Trust.

The purpose of City government is to serve the public. City officials treat their office as a public trust.

City officials have special powers, along with a special obligation to act only on behalf of the public.

{ORS Chapter 244 declares public office a public trust, prohibits certain actions, and provides penalties. An explanatory guide is available from the Oregon Government Standards and Practices Commission. }

1. **The City's powers and resources are to be used for the benefit of the public rather than any official's personal benefit.**

To function effectively, the City needs the public's respect and confidence that its power will be used on behalf of the community as a whole. In this context, improper acts are doubly wrong: a selfish decision is not only wrong in itself, but also wrong because it violates the public's trust in government.

2. **Ensure public respect by avoiding even the appearance of impropriety.**

Public service requires a continual effort to overcome cynical attitudes and suspicions about the people in government. For example, conduct which could appear dishonest to a reasonable observer will undermine the public trust even if the conduct is not illegal.

- 3. Policymakers place long-term benefit to the public as a whole above all other considerations, including important individuals and special interests. However, the public interest includes protecting the rights of under-represented minorities.**

Public service involves a complex network of competing loyalties -- to country, state, community, employer, mentors, colleagues, subordinates, family and self. Often constituent interests can be satisfied without violating the public interest, but policy formulation requires evaluating information objectively and deciding what is best for the public as a whole.

There is no formula for the most difficult decisions. The long-range public interest demands that the will of the majority be tempered by a commitment to consider the rights and interests of minority groups, especially those who are not sufficiently represented in the normal decision-making process.

Elected officials have a duty to engage in dialogue with citizens, to hear their concerns and to increase their awareness of long-term efforts for the community as a whole.

- 4. Administrators implement policies in good faith, as equitably, efficiently and economically as possible, regardless of their personal views.**

City managers and service providers are supposed to implement the policies and laws enacted by City Council. Not every aspect of every situation will be specifically covered in the law, so virtually every employee will have opportunities to make decisions. These decisions should be guided by an honest effort to understand and carry out the policymakers' instructions.

Elected officials sometimes become frustrated dealing with a large, unresponsive bureaucracy. Civil servants can become equally frustrated by the passage of laws which have not sufficiently drawn on the expertise of administrators and are impractical, contradictory, ambiguous, underfunded, or ineffective. To keep these frustrations from paralyzing the organization, two-way dialogue is essential.

City workers at all levels generally have personal convictions which affect the way they interpret and implement policies. This is proper so long as their values and attitudes do not impede or nullify instructions from policy-makers.

City workers who find their personal convictions are irreconcilably incompatible with lawful policies should openly state their conflict, and in some cases, withdraw from the administration of such policies. It is not ethical to express personal convictions covertly by blocking or ignoring lawful policies.

{ City Code Section 1.01.140 provides a general penalty for violating City Code of a fine up to \$500 or imprisonment up to 6 months, or both. }

- 5. Whistle-blowing is appropriate on unlawful or improper actions.**

Anyone who observes significant unlawful or improper actions by a city official is expected to report them. Customarily, the actions are reported to the official's supervisor. If the supervisor appears to be involved in the improper actions, the report can be made to a higher level, to the City Auditor, or to the Oregon Government Standards and Practices Commission. This decision is not to be made lightly, as whistleblowing creates an atmosphere of suspicion.

"Whistleblowing" differs from "leaking" because leakers act covertly and are essentially unaccountable for the consequences of their actions.

{City Charter Section 2-405 requires that the Mayor be notified of any contract violations. The penalty for willful failure to notify is removal from office.}

Conscientious City workers protect the public from improper governmental activities, illegal secret policies and arrogant decision-making. Therefore, it is wrong to harass or punish City workers who seek to hold government accountable through whistle-blowing.

{Employer retaliation is prohibited by ORS 659.550, and by the Federal Whistleblower Protection Act of 1987. Civil and criminal penalties are provided.}

6. Citizens have a fair and equal opportunity to express their views to City officials.

Often it is impossible for an official to talk personally with every concerned citizen, but obtaining an appointment should not appear to depend on the ability of the citizen to provide personal benefits or campaign contributions.

7. City officials do not accept personal gifts.

In general, personal gifts should be refused or returned with a friendly but firm message that City officials are not allowed to receive gifts. A personal gift, lunch, or entertainment under \$100 in value is legal, but no amount is too small to be ethically questionable.

The key question for an individual official is, "Would I receive this gift if I did not hold a City position?" The ethical principle is that officials obtain no personal gain from performance of their duties except official compensation and the satisfaction of a job well done. Citizens can best show their appreciation with a letter of commendation.

Even small promotional gifts such as imprinted pens or T shirts from profit-making entities should not be used on the job, because they can create the impression that the vendor is regarded with particular favor by the official.

Tact is especially needed if personal gifts to officials are expected in the donor's culture. For example, gifts presented as part of the Sister Cities program should be graciously accepted, and become the property of the City of Portland. However, if a personal gift is offered within Portland by an immigrant business owner, the official should explain that such gifts are not the City's custom.

{ORS 244.020 (8) defines "gift." ORS 244.040 (2) prohibits accepting gifts with a cumulative value over \$100 in a calendar year. ORS 244.350 (1) provides civil penalties up to \$1000.}

Gifts for employee awards, volunteers, and community cooperation are allowed under Code section 5.08.095. Gifts exchanged between co-workers for occasions such as birthdays and holidays are not prohibited. Donations to City programs are also allowed.

8. City officials devote City resources, including paid time, working supplies, and capital assets, to benefit the public.

Time paid for by the City is intended for City business. Personal errands and calls should be confined to break periods or official time off.

Supervisors should not ask subordinates to perform personal services.

{City Charter Section 2-610 requires time on the job to be devoted to City business.}

Generally, personal photocopies and toll calls can be made during break periods and reimbursed to the City. Office supplies are for City use only.

Some work groups permit after-hours personal tasks on City computers, on the ground that the public will benefit from the employee's additional practice. Other groups prohibit any personal use even if the cost to the public would be too small to measure. If public benefit is the guiding criterion, either decision is ethically defensible.

City workers should not use their position to acquire personal benefits such as surplus City equipment, tickets to events, or special treatment. City workers should not use official letterhead or refer to their public position when requesting personal benefits or resolving personal disputes.

9. Political campaigns are not conducted on City time or property.

{ORS 260.432 prohibits solicitation of, or campaigning by, public employees during working hours, with an exception for elected officials.}

State law requires posting a notice stating, "No public employee shall solicit any money, influence, service or other thing of value or otherwise promote or oppose any political committee or promote or oppose the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder while on the job during working hours. However, this section does not restrict the right of public employees to express personal political views. It is therefore the policy of the state and of your public employer that you may engage in political activity except to the extent prohibited by state law when on the job during working hours."

{ State law does not prohibit campaigning on City property, but does require such property to be equally available to both sides of a campaign. }

For example, a City employee while on City property during a lunch break can express personal political views to co-workers but not distribute flyers for a campaign.

As a further example, for an election such as a tax limitation or bond measure, Council may declare an official position for the City. City officials are permitted to provide information on the measure's impact, but not to use public resources to promote a specific vote.

It may be difficult to distinguish official duties from campaign activities in cases such as speeches or articles communicating an elected official's opinion. In such cases, the participation of public employees is justified so long as a substantial public purpose is served.

1.03.030 Objectivity.

City decisions are based on the merits of the issues, free from conflict of interest. Judgment is independent and objective.

Financial disclosure regulations are designed to prevent bribery and extortion yet protect individuals' freedom of expression and association. The theory is that an informed public will decide on the propriety of financial links and hold the officials accountable. It is ethical for officials not only to scrupulously comply with the law, but also to personally examine each transaction offered in order to avoid suggesting any conflict of interest.

{ ORS 244.050 requires statements of economic interest, and ORS Chapter 260 requires disclosure of campaign contributions. }

1. City officials avoid financial conflict of interest and do not accept benefits from people requesting to affect decisions.

Many citizens seek to influence government actions. Some do so by offering benefits such as personal favors, entertainment, gifts, loans, and special investment opportunities. City officials are to refuse and to educate the citizens that such offers are not allowed. If the citizen is politically experienced and the attempt to unduly influence is clear, the matter should be reported to law enforcement authorities.

{ Bribery is a crime under ORS 162.015. City Charter Section 2-609 prohibits any favoring of bidders, enforced by removal from office. }

2. If an individual official's financial or personal interests will be specifically affected by a decision, the official is to withdraw from participating in the decision.

{ ORS Chapter 244 defines conflict of interest, limits participation, and provides for civil penalties. An explanatory guide is available from the Oregon Government Standards and Practices Commission. }

Recusal and disqualification involves a statement such as, "My brother-in-law is part owner of the property under discussion. Therefore, I will not be speaking or voting on this matter."

State law distinguishes between actual conflict of interest, which definitely would affect the official, and potential conflict, where the effect is not certain. In the case of a potential conflict, the official must disclose the conflict but may participate in the decision.

The law also makes an exception where the official's financial interests are included with a whole class of citizens, such as property taxpayers. For a non-specific link, an informational disclosure is appropriate, such as, "We will be voting on the Albina Neighborhood Plan. I live in Albina, but the plan does not specifically refer to my property."

State law focuses on elected officials and appointees to boards and commissions, but the ethical principle extends to all officials. For example, a building inspector would not inspect his or her own residence. City workers also undermine objectivity when they award a contract, then leave to become an employee of the contractor.

3. City officials avoid bias or favoritism, and respect cultural differences as part of decision-making.

It is improper to use public authority to help friends or to hinder enemies.

When selecting a committee or task force, it is desirable to provide as much diversity as the size of the group will allow.

{Official City policy (Res. 35162) requires that all cultures be recognized, honored, and mutually respected.}

4. Intervention on behalf of constituents or friends is limited to assuring fairness of procedures, clarifying policies or improving service to all citizens.

City officials should avoid giving citizens any reason to believe they would receive better or different services if they had a personal connection with the official.

Elected officials, in particular, should be clear about discussing information rather than pressuring administrators toward a particular decision.

1.03.040 Accountability.

Open government allows citizens to make informed judgments and to hold officials accountable.

1. City officials exercise their authority with open meetings and public records.

The laws of open government balance citizens' right to know against the need for confidentiality in matters such as medical records and employee discipline.

{Public records and open meetings are covered by ORS 192.001 and 192.610.}

2. Officials who delegate responsibilities also follow up to make sure the work is carried out.

Managers are to make sure routines are developed that support appropriate follow-up, and should sponsor staff training to handle delegated responsibilities.

3. Campaigns for election allow the voters to make an informed choice on appropriate criteria.

Elections offer the ultimate accountability for City officials. Therefore, candidates should strive for respectful and accurate discourse on important issues.

To protect freedom of speech and of the press, Oregon law does not prohibit ethically questionable actions such as untrue statements, unkept promises, or deliberate deception. Nevertheless, such actions are unethical. It is also not ethical to focus a campaign on trivial matters or on the kind of negative exchanges that make voters conclude, "A plague on both your houses."

4. Each City official is encouraged to identify problems and propose improvements.

City workers who believe a law or policy is not achieving its stated purpose, is creating unintended harm, or is inefficient, should express such concerns to their supervisors and suggest possible improvements.

City managers should share "big picture" information with their subordinates and reward suggestions for improvement.

5. City government systems are self-monitoring, with procedures in place to ensure appropriate actions.

City workers are often in the best position to observe fraud, waste, or abuse of public power, and their refusal to participate is a necessary part of protecting the public. City managers should support a workplace atmosphere that encourages employees' pride in their work, and avoid a "kill the messenger" response if problems are called to their attention. City managers should make sure their practices for purchasing, contracting, and hiring include routines that elicit fair choices and assure protection of City assets. Such routines include checklists, separation of duties, bank account reconciliations, and reports to management.

{City Code 4.01.030(I) prohibits nepotism, and 5.32.150 states that City employees may not also be City vendors without specific authorization from Council.}

Safeguards should be as simple as possible, so the cost of protection will be reasonable for the situation. Often mere record-keeping is sufficient: for example, an administrator could record and periodically report all contacts from elected officials on behalf of specific constituents.

1.03.050 Leadership.

Ethical leadership sets a good example and treats all citizens with respect.

1. City officials obey both the letter and the spirit of all laws and regulations.

Law-abiding behavior by City officials sets a good example for citizens to respect the law. Laws governing their public duties are especially important, but even actions in private life carry a public message.

{Violating an oath of office is a misdemeanor under ORS 162.075.}

In rare cases, an official may invoke this country's long tradition of civil disobedience, which is the open refusal to abide by an unjust law, as a matter of conscience and an impetus to change. Such actions must be subject to legal consequences.

Because of their knowledge of the law, public officials may be aware of ambiguities or incomplete enforcement, but they should nevertheless comply with the laws' spirit and purpose.

2. Leadership facilitates, rather than blocks, open discussion.

Any official who controls a parliamentary process has an ethical obligation to avoid behavior such as strained interpretation of the rules, refusal to recognize a person, or arbitrarily delaying a decision.

3. All City bureaus and work teams are encouraged to develop detailed ethical standards, training, and enforcement.

This Code of Ethics covers the relationship of the City as a whole to its citizens. Organizations within the City should develop additional standards as needed.

Also, ethical standards require training and enforcement, which may lead to refinement of the standards. Even the City-wide Code should be reviewed periodically.

4. The City Auditor will publish a pamphlet containing explanations and examples of ethical principles.

For comments about this pamphlet, or for additional copies, contact:

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Last reviewed January 19, 2001 by [Susan Francois](#).