Election Law Summary

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Using This Manual

This document provides readers with a list of some of the election laws that apply to campaigning in Oregon. The information should be viewed as a reference or starting point rather than a comprehensive list of all activities that could fall under the election laws. This information is to be used in addition to that provided in the *Campaign Finance Manual* and other manuals specific to candidate and petition processes available at **www.oregonvotes.gov**.

We extend the services of our office to individually review and advise agencies, candidates, committees and individuals on allowable actions in advance of undertaking activities that may cause concern about the application of election law.

Icons

The following icons are used in this manual to emphasize information:

alert icon
indicates alert; warning; attention needed

info icon
indicates additional information

example icon
indicates a detailed example of a concept, process or form

search icon
indicates information located elsewhere

Assistance

If you have any questions about the material covered in this manual or need further assistance, please contact:

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Generalized Election Laws

The following are some election laws that may apply to anyone involved in the political process. For complete filing and reporting regulations, a candidate, political committee or other filer needs to review any applicable elections manual available at **www.oregonvotes.gov**).

246.021; Time Within Which Election Documents Must be Received

Except for voter registration cards (which in some circumstances are accepted based on the postmark, as discussed on page 29 of this document) and electronically filed campaign finance reports (which may be filed no later than 11:59:00 of the day the transaction is due), an election document and any necessary fee must be delivered to the appropriate elections filing officer no later than 5 pm on the deadline day. If the deadline day is a weekend day or holiday, the filing deadline is extended to the next business day. In each case, the election document must be actually received in the filing office. An exception is made when an individual is physically in line in the office waiting to deliver the document. Election documents, except for ballots, voter registration cards or petitions requiring signatures, may be faxed. All elections offices are required to be open on a filing deadline date until 5:00 pm.

ORS 260.522 (Repealed 2001); Identification Required on Political Material

This law specified the identification required on political material - but it was repealed by the 2001 Legislature due to a 1999 Attorney General Opinion (OP 8266) concerning the statute's constitutionality. However, we strongly recommend that identification (i.e., name and address of who is responsible) voluntarily be included on political publications in order to provide the public with the important knowledge of who is authorizing the publication.

Radio and television advertisements are regulated by the Federal Communications Commission (FCC). Contact the FCC for more information: phone: 1-888-225-5322 (toll free) or 1-202-418-1440 (Elections and political candidate matters), website: **www.fcc.gov**.

ORS 260.532; False Publication Relating to Candidate or Measure

No person may knowingly or with reckless disregard make a false statement of material fact about a candidate, political committee or measure. Candidates are liable if they know of and consent to false statements made by others. This election law is enforced by private lawsuit between the parties involved and is not enforced by the Secretary of State.

The Secretary of State does investigate complaints alleging possible false statements in documents required by election law, such as the required portion of a candidate's filing form or voters' pamphlet statement. In these cases, the candidate signs an affidavit or oath as to the veracity of the information on an election form. See ORS 260.715(1).

Complaints arising under ORS 260.532 must be filed with the appropriate circuit court, either in the county in which the defendant resides or in the county where the material was published. A "candidate or political committee aggrieved by a violation" of this statute may file an action in an appropriate circuit court to recover damages and secure equitable relief.

An action under this statute must be filed not later than the 30th day after the election to which the material relates.

Violations of this statute may result in economic and non-economic damages, or $2,500, whichever is greater. Additionally, the court may grant other relief, such as ordering a retraction of the false statement.

ORS 260.635; Bets and Wagers on Election Results

No candidate shall make a bet on an election and no person or candidate shall make a bet on an election in order to influence the results of an election.

ORS 260.665; Undue Influence

This election law prohibits the use of "undue influence" as defined in the statute for certain purposes. Some subsections are criminal penalty offenses (Class C Felony) and the remaining subsections are civil penalty offenses.

The specific definition of "undue influence" includes the use of:

- → Force, violence, restraint or the threat of it;
- → Inflicting injury, damage, harm, loss of employment or other loss or the threat of it; or
- → Giving or promising to give money, employment or other thing of value.

To violate this law, a person, acting either alone or with or through another person, must subject a person to "undue influence" with the intent to induce the person to take one of the following actions:

Civil Penalty

- → Register or not register, vote or not vote, or register or vote in a particular manner;
- → Challenge or not challenge a person offering to vote;
- → Apply or not apply for an absentee ballot; or
- → Sign or refrain from signing a prospective petition or an initiative, referendum, recall or candidate nominating petition.

Criminal Penalty

- → Become or not become a candidate or cease being a candidate;
- → Contribute or not contribute to any candidate, political party or political committee; or
- → Render or not render services to any candidate, political party or political committee.

Many situations that may be considered "influence" are not considered to rise to the level of "undue influence." For instance, an expression of personal opinions on political issues is not undue influence. Conduct that may otherwise appear to fall within the scope of ORS 260.665 cannot be the subject of a criminal prosecution if it is protected by constitutional guarantees of free expression that are contained in Article I, Section 8 of the Oregon Constitution or the First Amendment to the U.S. Constitution. The law contains exceptions. These exceptions allow employing persons to render services to a candidate or PAC; distributing free-of-charge campaign items that are readily available to the public without charge; providing free child care when people are voting; providing free transportation to and from county elections offices and ballot deposit sites (if no campaign influence is used with the transportation); and providing refreshments incidental to a political gathering.

Two common campaign activities that involve "undue influence" and thus may violate election law are 1) a candidate giving something of value to a voter; and 2) providing refreshments at a political gathering.

Giving Something of Value

With some exceptions, Oregon election law prohibits giving something of value for no charge with the intent to influence how a person votes or other political activity. Campaign buttons, bumper stickers, posters, brochures, doorknob hangers and campaign literature have no use or value independent of a political campaign. These items may be given away at no charge.

There are three elements that must be present for giving away a thing of value to constitute undue influence:

- ✓ The item must be an item of value (see lists below);
- ✓ The item must be advertised or otherwise promoted as available as an inducement; and
- ✓ The inducement must be to get a person to take an action restricted by statute (vote in a particular way, support a candidate, etc.).

Therefore, it is sometimes allowable for a political group to give away a thing of value. If, for example, there is no advertising or promotion of the give away, and if individuals will receive the item regardless of their support or opposition of the political issue, this does not constitute undue influence.

ex At a voter registration table, you may give away t-shirts if the give-away is not advertised in any way, and if individuals are eligible to receive a t-shirt regardless of whether they choose to register to vote at the table.

ex It is allowable to provide door prizes at a fundraiser as long as the door prizes are not advertised as an inducement to attend the fundraiser.

Items of nominal value include **very <u>inexpensive</u>** types of:

- → balloons
- → bookmarks
- → calendars (such as plastic or magnetic)
- → eye glass repair kits (of low value)
- → emery boards
- → fans (paper or plastic)
- → flags (novelty with campaign info)
- → ink pens
- → key chains
- → litterbags (paper or plastic)
- → matchbooks
- → pencils
- → small candy refrigerator magnets or "mini-magnets"
- → return envelopes – these may be pre-stamped or postage metered and should be pre-labeled or otherwise addressed with a mailing address to the political campaign

! Loose postage stamps **may not** be given away for free in a campaign context. Also, envelopes that are stamped but are blank as to a return mailing address **may not** be given away for free. This is because this would make the envelope something of value, as it could be used for other purposes by the recipient, whereas a pre-stamped and addressed envelope would merely facilitate the return of the envelope to the campaign with no independent value.

- → rulers (small - wood or plastic)
- → shopping bags (paper or plastic)
- → bottled water

The distribution of these types of items is not "undue influence," inducing the recipient to take a certain political action in violation of election law, if the committee ensures:

- ✓ only very small quantities of an item are given to any one person;
- ✓ the distribution of the item is incidental to the political activity that occurs during the distribution; **and**
- ✓ the item does not also contain another connected offering for something of value (for example, the back of a fan should not contain a coupon for $3.00 off a pizza)

Items that **should not** be used as an inducement (advertised as available for free in connection with a political issue covered by ORS 260.665):

- → calculators
- → flashlights
- → frisbees
- → hats
- → postage stamps
- → toys
- → t-shirts

If a committee advertises and gives away items of value, then the campaign must charge at least the cost of the item. The money spent to purchase the items and the money received in payment for the items must be reported in compliance with campaign finance regulations.

ex At a fundraising dinner where each guest is charged $50 to enter, the campaign may include on the invitation a notice that all attendees will receive a free t-shirt.

Providing Refreshments at a Political Gathering

A common political practice is to have a "meet the candidate" neighborhood event at which incidental refreshments such as coffee, tea and cookies may be served at no charge. Refreshments may be provided at a political gathering for no charge if they are incidental to the event. Food or refreshments, at no charge, **cannot be the featured attraction** to induce people to attend a political event (e.g., an advertisement that announces "Join John Doe at a free spaghetti feed").

If more food is served than what would be conservatively defined as incidental to the event, there must be a charge for at least the actual cost of the food or refreshments if the food and refreshments are advertised.

The host may either:

1 charge for the cost of the food only

ex "Join John Doe for spaghetti dinner, cost $3.50 per person." ($3.50 is the actual cost of the dinner.)

or

2 charge a per plate/per person cost in excess of the value of the food, with the amount collected in excess is considered a campaign contribution

ex "Join John Doe for spaghetti dinner, cost $25 per person," ($3.50 is the cost of the dinner). Report each person as contributing the difference of $21.50.

“Thank you”or ”appreciation” events

Another related, frequently asked question is whether it is allowable to hold a “thank you” or ”appreciation” event **after** the election to honor political campaign volunteers, at which food and beverages will be provided and small prizes may be awarded. This type of event is allowable and would not be considered a violation of the “undue influence” law ***if*** the event is not used as an inducement ***before*** the election to get the attendees to provide services or otherwise contribute to the campaign. Therefore, the event **must not** be advertised in any way ***before*** the election.

Additionally, at the event the attendees **must not** be induced by the provided food, prizes, etc. to provide any further services or make contributions to the campaign. In these specific, limited circumstances, the food served may go beyond the “refreshment” category into pizza and such and the prizes may be of a bit more value than the above listed nominal value items.

Overall, caution must be taken to ***not*** include information about the possible prizes as an inducement prior to the election in order to induce a person to volunteer for the campaign.

The *Campaign Finance Manual* contains detailed information on campaign fundraising regulations and reporting. When in doubt regarding the provisions of ORS 260.665, it is advisable to contact an elections official to discuss the situation.

ORS 260.715(1); False Statements in Material Required by Election Law

Violation of this statute is a Class C Felony.

This election law prohibits knowingly making false statements in material required by election law. The material includes the required information on candidate filing forms and the required information for a candidate’s voters’ pamphlet statement. It does not include the optional portion of the candidate’s statement or measure arguments for the voters’ pamphlet.

However, ORS 260.532 (discussed above) applies to the optional portions of the candidate’s statements and to measure arguments for the voters’ pamphlet. Complaints under that statute must be filed with the appropriate circuit court.

ex An example of a false statement under ORS 260.715(1) is stating the candidate has a college degree when the candidate does not.

Candidates and Political Parties

The following are some election laws that apply to candidates and political parties. The election laws discussed in other sections of this memo - including Campaign Finance, General Election Laws and Voters' Pamphlet, are also of importance to candidates.

For additional election laws relevant to candidates and political parties and complete filing and reporting regulations, a candidate should review the *Candidates Manual* and the current *Campaign Finance Manual*.

For **state** major political party candidates and **state** nonpartisan candidates filing for office at the Primary election, the Secretary of State, Election Division’s electronic reporting system ORESTAR is available. All local candidates must continue to file on paper forms.

ORS 248.005, 248.011; Political Party Representation and Enforcement of Political Party Rules

Each political party by rule is to insure the widest and fairest representation of party members in the party organization and activities. The Secretary of State, county clerk or other election officials do not have jurisdiction to enforce this requirement, or any other rule adopted by a political party.

ORS 249.008(3); Removal of Signature from Candidate Petition

A voter **may not** have their signature removed on a nominating petition; minutes of an assembly of electors; or a petition by individual electors after signatures are submitted to the elections filing officer for signature verification.

ORS 249.013; Candidacy for More than One Office

A candidate may not file for more than one **lucrative office** to be filled at the same election. If a person does so without first filing a written withdrawal from the first office, all filings by the person are invalid. Additionally, the Oregon Constitution, Article II, Section 10, prohibits the simultaneous holding of more than one lucrative office (but does not prohibit a person who currently holds one lucrative office from *running* for a different office).

Some specific exceptions for serving in the state legislature are allowed under the Oregon Constitution, Article XV, Section 8.

No person shall be a candidate for more than one city office to be filled at the same election. No person shall be a candidate for more than one position on the same district board to be filled at the same election.

Lucrative office, is a position under this provision if:

1 a salary or other compensation beyond expenses is attached to it;

2 it is created by statute or constitution;

3 its holder exercises part of the sovereign power of government;

4 it is a matter of public concern;

and

5 the position is not temporary or intermittent.

Attorney General Opinion no. 8254, February 10, 1998

Two other Attorney General letters, dated November 9, 1992 and March 2, 1994, explain that a public office is lucrative if the recipient receives compensation for services (except for expenses). The officer cannot make the office non-lucrative merely by refusing the compensation; that status would need to be changed by the governing body. If the only payment to the officer is for expenses, the office is not lucrative. In any case, the determination of whether an office is lucrative is up to each jurisdiction.

Public Employee's Eligibility to Run for Public Office

Generally, a public employee may be a candidate for elective office as long as they conduct their campaign activities on their ***own personal*** time (with the exception being an employee employed by an agency subject to the Federal Hatch Act and therefore restricted from being a candidate for a **partisan**, public elective office). See ORS 249.002(7) for a definition of nonpartisan office.

ORS 260.432 only applies if a person uses their work time to campaign. Additionally, an employer may not use "undue influence" to threaten an employee's position because they are a candidate for a public office, per ORS 260.665.Whether the Federal Hatch Act applies in a specific case needs to be answered by the public employee's agency HR Department or legal counsel. A related website is **www.osc.gov**, for the Office of Special Counsel of the United States; select "Political Activity, Hatch Act."

If a public employee is not restricted from running for a public office under the Federal Hatch Act and the employee is elected to an office such as State Representative, the employee may have to resign from the state public employee job at the time of assuming the office (with the exception of Article XV, Section 8; for higher education, etc.). See also Article III, Section 1 on separation of powers.

ORS 249.048; Unsuccessful Candidate Not Eligible as Candidate

If a candidate for a partisan office at the primary election fails to win the major political party nomination, the candidate may not be the candidate of any other political party or become a nonaffiliated candidate for the same office at the succeeding general election.

ex Candidate A is a Republican candidate for State Representative District 34 at the 2008 Primary Election, but does not win the nomination to proceed to the 2008 General Election. Candidate A **may not** be a non-affiliated candidate for the same office at the 2008 General Election, either through nomination by petition (Individual Electors) or assembly of electors or be the nominee of a minor political party.

ORS 249.088, 249.091; Nomination and Election to Nonpartisan Office

The manner in which a **nonpartisan** candidate is nominated or elected is dependent upon which of two categories the office falls:

Category 1

Nonpartisan candidates, such as Statewide judicial office, Circuit Court Judge, District Attorney, City or District offices and County offices **except** for the offices of Sheriff, County Clerk or County Treasurer. Also included in this category are nonpartisan candidates filed for an office that is open due to a vacancy but the office would otherwise be on the next ballot in any case.

ORS 249.088 provides that a nonpartisan candidate in Category 1 is **elected** at the primary election if the candidate receives a majority of the votes cast (at least 50% plus one vote). This rule also applies to a candidate for an office that is on the ballot with a vacancy, but the office would have been printed on the ballot in any case. If no candidate receives a majority of votes, the top two vote getters move forward to the general election.

Category 2

Nonpartisan candidates for the offices of Sheriff, County Clerk and County Treasurer. Also included in this category is any candidate who files for a nonpartisan office that is on the ballot to fill a vacancy that, if not for the vacancy, would **not** normally be on the ballot in that year (because the vacating officer's term was not up) and so must be elected at the General Election.

Article V, Section 16 and **Article VI, Section 6**, of the **Oregon Constitution** provide that candidates for the offices of Sheriff, County Clerk, County Treasurer, and nonpartisan offices that are open due to a vacancy in office and the office is **not** normally printed on the ballot, may **not** be elected at the Primary Election but **must be** elected at the General Election.

ORS 249.091 provides that if only one or two candidates have submitted their filing of candidacy for a nonpartisan office such as described in Category 2, the one candidate or the two candidates are the nominees for the office to be on the General Election ballot. Therefore, even though the candidates must file for the office by the filing deadline for the Primary Election, the names of these candidates are not printed on the ballot at the Primary Election and they are not included in the Voters' Pamphlet for the Primary Election.

If three or more candidates file for an office within Category 2, the contest will be printed on the Primary ballot for nomination. If one of these three or more candidates receives a majority of the votes cast (at least 50% plus one vote), then only that candidate is nominated and goes forward to the General Election ballot. If no candidate receives a majority of votes, then the top two vote getters move forward to the General Election. Again, it is noted that these candidates **may not** be elected at the Primary Election.

ex Some examples follow:

1 Candidate Sharon Myers is the incumbent Judge in a Circuit Court position. Her six year term of office would normally end in 2009, and Judge Myers decides to run again in the Primary of 2008. This situation fits into Category 1. Two other candidates file for this same office. However, candidate Myers receives a majority of votes at the Primary Election (at least 50% plus one) and is elected. The Secretary of State issues Candidate Myers a certificate of election, and her name will not be printed on the General Election ballot. Her new term begins January 2009.

2 A new Circuit Court position is added by the Legislative Assembly and the office is open for the next Primary Election, with the term set to begin in January following the General Election. Five candidates file for this office at the Primary Election. This new office is not considered to "fill a vacancy" so it fits within Category 1. Therefore, if a candidate receives a majority of votes, that candidate is elected at the Primary Election. However, if no candidate receives a majority of votes (at least 50% plus one), the top two vote getters are nominated to the General Election ballot. These two candidates do not need to re-file candidate filing papers, but they do need to re-file for the state Voters' Pamphlet if they want to be included.

3 Two candidates for Sheriff file for the office by the filing deadline for the Primary Election. This office fits within Category 2, as it is an office that **may not** be elected at the Primary Election, but **must** be elected at the General Election. Because only two candidates have filed for this office, both candidates are automatically nominated to the General Election and their names do not appear on the Primary Election ballot. These two candidates are also not in the County Primary Election Voters' Pamphlet.

Also, while these two candidates do not have to re-file candidacy papers for the General Election, they must file for the General Election County Voters' Pamphlet if they want to be included. If three or more candidates file for this office, their names are printed on the Primary Election ballot.

4 Circuit Court Judge James Jones retired in the middle of his six-year term; he was elected in 2004 and he would not have had to run again until 2010 with a new term starting January 2011. The Governor appointed a replacement judge, but this office must be on the ballot in 2008 to fill the vacancy. This office fits within Category 2 and no candidate can be elected at the Primary Election.

Four candidates file for this office, including the person who had been appointed and who may use the term "incumbent." Since more than two candidates have filed, the names of these candidates are listed on the 2008 Primary Election ballot. At this election, none of the four candidates receives a majority of votes. Therefore, the top two vote getters are nominated to the 2008 General Election. These candidates do not need to re-file candidacy papers for the 2008 General Election but must re-file for the state 2008 General Election Voters' Pamphlet, if they wish to be included.

ORS 260.550; Use of Term "Incumbent"

This law prohibits the use of "incumbent" or a description of a candidate as the incumbent when the candidate is not the incumbent. An incumbent is defined in this statute as having been elected or appointed to the identical office with continuous service, with exceptions for redistricting (see question about redistricting below). A candidate appointed to an office is considered the incumbent beginning on the day he or she is sworn in for that office.

One question that often arises is whether, in a campaign context, the word "for" is required between a candidate's name and the name of the office for which the person is running. An example is "Joan Smith – State Representative" used in a campaign publication when Joan Smith is not the incumbent. This reference to the office directly following the candidate's name may imply either that the candidate is the incumbent or is running for that office. Because this does not necessarily imply incumbency, it is not a violation of election law – as long as it is in a campaign context.

The publication should indicate in some manner that the person is a candidate. It should not contain any other language, photos or graphics that imply the candidate is the incumbent when they are not. For example, it should not include official government seals or logos.

However, we strongly advise candidates to make their campaign wording clear and avoid misunderstandings and possible complaints by including the word "for" in between the candidate's name and the office title, such as, "Joan Smith for State Representative." Another alternative in which it is made clear that the candidate is running for office and does not imply incumbency is "Elect Joan Smith State Representative."

Questions also arise over the use of the term **"re-elect."** There is no longer any election law that specifically addresses the use of the term "re-elect." It was found unconstitutional and was repealed in 1993. However, a candidate may not use the term "re-elect" - by itself or with other statements clearly intended to state incumbency - if the candidate is not the incumbent in the office and the statement is completely false.

A candidate **may** use the term "re-elect" in their campaign literature if they, **in the past, held an office of the same name as the one they are running for** (same name of office, not necessarily same position or district number) even though there has been **a lapse of years**. This is not a violation of ORS 260.550, as it could not be proven to be a wholly false statement in itself. (In this context, the word "return" or phrase "return as" would be acceptable.) However, caution must be taken that the rest of the campaign publication not include language implying that the candidate is currently in office, and should not include any official office insignia or symbol. Of course, such a candidate may discuss his or her past experience in the office.

Another related question is, may a state legislator, upon **redistricting** (*which occurs every ten years*), who has been **appointed to a new district of the same legislative branch** (*may have a different position number and different area than the legislator's previous district*) use the term "re-elect" in campaign literature? This would not be a violation of ORS 260.550, since the fact that "re-elect" implies incumbency in office is not a false statement - the candidate is a current legislator in the same legislative body. (ORS 260.550 (3)).

Another question arises about the use of the term "re-elect" when a candidate has been **appointed to an office** and is currently serving in the office, **but has never actually been elected** to an office of the same name. Although it is true that the candidate is the incumbent, it is advisable that the candidates not use the term "re-elect," as it could be viewed by readers as misleading or false. Such a candidate may certainly discuss his or her experience and state they are the incumbent.

Finally, a candidate who is an **incumbent in one office, who is running for an office of a different name**, such as a state representative running for state senate, **should not use the term "re-elect."** "A person who has never been elected a senator cannot be re-elected senator." *(1981 Attorney General Opinion - 42 Op Atty Gen at 129).*

Again, such a candidate may certainly discuss his or her experience in the office they are serving or in past offices.

ORS 260.567; Alteration of Information on Petition Signature Sheet; Exceptions

Only a signer **may** complete their signature and information about themselves, such as their printed name, address and date signed. A circulator or other individual **must not** alter, correct, clarify or obscure on the signature sheet any information about the petition signer unless the signer initials the changes made. However, a circulator **may** assist a disabled signer who requests assistance in completing the optional information.

ORS 260.569; Payment Based on Signatures Obtained on Nominating Petition or Voter Registration Card

Circulators **must not** accept compensation to circulate a petition that is based on the number of signatures obtained. This prohibition applies to all candidate nominating petitions, but does not apply to minor political party formation petitions.

Withdrawal from Candidacy or Nomination

A candidate may file a statement of withdrawal with the elections filing officer with whom their candidacy filing was made. The form provided for this purpose is SEL 150. This form must state the candidate's reason for the withdrawal and be filed not later than the 67th day before the applicable election date.

If the candidate does not withdraw by the applicable deadline date, the candidate's name will still be on the printed ballots. However, if the candidate is nominated or elected, the candidate does not have to accept the nomination or office. In that case, a vacancy in nomination or office would be created.

Write-In Candidate Procedures

Oregon voters have the option of not voting for any of the candidates for office who are printed on the ballot, but instead writing in a name of a candidate for each office. All write-in votes for each office on the ballot are tallied together with a lump sum recorded unless:

1. No names of candidates are printed on the ballot for the office; or
2. If the total number of write-in votes for candidates equals or exceeds the total number of votes for any candidate for the same nomination or office.

In these two circumstances, the county clerk tallies all write-in votes cast for the office to show the total number of votes for each write-in candidate.

Also of note is that ORS 254.505 provides in part, "County board clerks shall disregard misspelling or abbreviations of the names of candidates if it can be ascertained from the ballot for whom the vote was intended." This does not allow for counting write-in names consisting of initials, as an initial can stand for any number of names. An abbreviation is a shortened form of a written word or phrase used in place of the whole.

ex Joseph Walton has publicly announced he is running a write-in campaign (he did not file to be on the printed ballot in time). No candidate filed to be on the ballot for the office and so all write-in votes must be tallied. Counting boards, when tallying write-in votes for this office, will count the abbreviated name Joe Walton towards Joseph Walton, since Joe is a common abbreviation of Joseph. However, they may not count a write-in name of J Walton towards the count for Joseph Walton, because this initial "J" could stand for any number of names beginning with a J, such as Jane, Jim or Jessica.

U.S. President and Vice President Election Process

Although a vote for the candidates for U.S. President and Vice President is a vote for the group of presidential electors supporting those candidates selected by law, the names of the electors are not printed on the General Election ballot. However, the General Election ballot will state that the presidential electors for President and Vice President are being elected and that a vote for the candidates of President and Vice President is a vote for the presidential electors supporting those candidates.

In any of these cases, state campaign finance reporting requirements do not apply. The offices of President and Vice President are federal offices. Therefore, candidates for these offices must meet the federal campaign finance reporting requirements, not Oregon's. Contact the Federal Election Commission at 1 800 424 9530 or **www.fec.gov** for information.

ORS 248.355; The Electoral College for U.S. President and Vice President

The Electoral College is the body of electors who meet after a presidential election in each state to select the next president and vice-president of the U.S. All of the Electoral College members elected throughout the country will meet in their respective states on the Monday after the second Wednesday in December, to cast their votes.

Each political party nominating candidates for U.S. President and Vice President selects a number of candidates equal to the number of U.S. Representatives and U.S. Senators - which is 7 for Oregon. A candidate for elector must sign a pledge form that if elected the candidate will vote in the Electoral College for the candidates of the party. The party certifies the names of the selected candidates for elector to the Secretary of State not later than the 70th day before the election of electors (General Election). Each major and minor political party follows their party rules for selecting the electors. The Secretary of State does not have jurisdiction to enforce those party rules.

Under the provisions of the U.S. Constitution, voters who participate in the presidential election choose the members of the Electoral College. An elector who casts a vote for a presidential and vice presidential candidate is not voting directly for the candidates, but is, instead, casting a vote for a slate of electors who pledged their support for those candidates. In more than half of the states, the names of the presidential candidates and the elector's names appear on the ballot. In Oregon, only the presidential and vice presidential candidates appear on the ballot. In each state, the winning presidential and vice presidential candidate is determined by counting the votes for each slate of electors. The slate that receives the most votes is declared elected.

To be elected to the presidency, a candidate must receive a majority of the Electoral College votes cast. A separate vote is taken to elect the vice president.

Campaign Finance Reporting

The following are some of the election laws that apply to campaign finance regulations. For complete filing and reporting regulations, all state and local candidates, political action and petition committees should consult the *Campaign Finance Manual*. Two companion manuals for the electronic reporting system ORESTAR are also available: the *ORESTAR User's Manual: Statement of Organization* and *ORESTAR User's Manual: Transaction Filing*.

ORS 260.076; Contributions Received During a Legislative Session

There is a separate and distinct filing deadline to file any contribution (cash, in-kind, pledge, or non-exempt loan of any amount) received during a legislative session.

For more detailed information, see the current *Campaign Finance Manual*.

ORS 260.163; County or City Campaign Finance Provisions

All county and city candidates, political committees and chief petitioners must file their Statement of Organization and contribution and expenditure transactions with the Secretary of State, Elections Division. However, a county or city candidate, political committee or chief petitioner should check with their county or city, as this statute allows a county or city to adopt ordinances that require a committee to also file campaign finance transactions with the county or city. If the county or city adopts such a charter provision or ordinance, they must file a copy of it with the Secretary of State.

ORS 260.241; Removal from General Election Ballot for Failure to File Statement; Notice to Candidate

The Secretary of State may remove a candidate's name from the general election ballot if they have not filed transactions in ORESTAR (or a Certificate of Limited Contributions and Expenditures), the filing officer must mail a notice to the candidate and treasurer notifying them that the candidate's name may be removed from the general election ballot if transactions or a Certificate, whichever is applicable, are not filed before the 61st day before the general election. A candidate's name must be removed from the general election ballot if campaign finance reporting is not filed before the 61st day before the general election.

ORS 260.245; Withholding Certificate of Election or Certificate of Nomination for Failure to File Statement

A certificate of election or nomination may not be issued to a candidate who has not filed required campaign finance transactions.

ORS 260.402; Contributions in False Name

Violation of this statute is a Class C Felony.

A person cannot knowingly make, and a candidate, political committee, chief petitioner committee or treasurer cannot knowingly accept and record, a contribution in a person's name other than the name of the actual contributor. For example, "John" cannot legally give money to "Sue" (individual or organization) with the agreement that "Sue" contribute the money to Candidate "Mary" stating that the contribution is from "Sue" rather than from the actual contributor, "John."

ORS 260.407; Personal Use of Excess Campaign Funds

All committees are prohibited from using campaign funds for any individual's personal use. Excess campaign funds **may** be:

- → Used to defray any expenses incurred in connection with the candidate's duties as a public office holder;
- → Contributed to another political committee;
- → Contributed to any organization described in sec. 170(c) of Title 26 of the United States Code or to any charitable organization defined in ORS 128.620; or
- → Used for other lawful purpose (except personal use).

See the *Campaign Finance Manual* for additional information of what is considered personal use and public office holder expenses.

The civil penalty for a violation of this statute is $1,000, plus the amount converted to personal use. Additionally, the fine must be paid from personal funds of the person in violation.

ORS 260.409; Expenditures for Professional Services Rendered by Candidate

A candidate committee may not use campaign funds to make expenditures to or on behalf of a candidate for the rendering of professional services by the candidate.

ORS 260.422; Acceptance of Employment Where Compensation to be Contributed

A person may not accept employment with the understanding that part of the compensation received will be contributed for political purposes.

Conduct of Elections

Most of the following election laws are used by election officials but may also be of interest to persons who want to observe the election process and to candidates and others subject to the election process. ORS Chapter 254 provides the regulations for conducting an election, including the design and contents of official ballots. As **all** elections are now vote-by-mail elections in Oregon, the Secretary of State and county elections officials also rely on the detailed procedures for conducting elections in the ***Oregon's Vote-By-Mail Manual***, adopted by Administrative Rule, OAR 165-007-0030.

ORS 254.056; Date and Purpose of Primary and General Elections

The Primary Election is held on the third Tuesday in May of each even-numbered year. At the Primary Election precinct committeepersons are elected and major political party candidates are nominated for partisan offices to be filled at the General Election the same year. Additionally, nonpartisan offices are on the ballot for election or nomination to the General Election.

The General Election is held on the first Tuesday after the first Monday in November of each even-numbered year.

ORS 254.074; County Elections Security Plan

Each county clerk files a county elections security plan with the Secretary of State not later than January 31 of each calendar year. Revisions must be filed one business day after the change. The plan is confidential and not subject to public disclosure, but must ensure security procedures for ballot handling, processing and transport, vote tally systems and other aspects of the election process.

ORS 250.115 and 254.108; Numbering of Measures

The Secretary of State numbers measures to be voted on in the entire state consecutively and does not repeat any number in any following election. The numbers are assigned in the order in which the measures are filed with the secretary.

Similarly, the County election officials number county, city and district measures consecutively, not to be repeated in a following election and are assigned in the order in which the measure is filed. County, city and district measures must begin with the county's prefix number (starting with Baker County as 1 and ending with Yamhill as 36, all counties are numbered based on their alphabetical order).

ORS 254.125; Nonpartisan Candidates Ballot Order and Use of Term Incumbent

Candidate names for Supreme Court, Court of Appeals, and Circuit Court positions include a designation of "Incumbent" for each candidate who is the regularly elected or appointed judge of the court to which the candidate seeks election. The ballot statements provide this designation. However, justice court and municipal court candidates do not have the "incumbent" designation.

At the primary or general election, the names of nonpartisan candidates for judicial offices (Supreme Court, Court of Appeals, Oregon Tax Court or circuit court) for judicial elections involving more than one candidate are printed on the ballot before the names of candidates for judicial offices that are unopposed.

ORS 254.135; Ballot Requirements

This election law provides some specific requirements for how candidate names and other information, such as political party, are to be printed on the ballot.

It specifies that for the offices of U.S. President and Vice President, the names are printed in groups together under the political party. Presidential electors' names are not printed on the ballot. However, a vote for President and Vice President is a vote for the group of electors supporting those candidates.

This statute also provides that the name of any candidate nominated may only be printed on the ballot once; regardless of how many times the candidate may have been nominated. It also specifies the manner in which the political party must be displayed for a candidate on the ballot, based on the circumstances. These variations are:

- → For a candidate not affiliated with a political party who is nominated by a minor political party, the name of the minor political party shall be added opposite the name of the candidate;
- → For a candidate not affiliated with a political party who is nominated by more than one minor political party, the names of not more than three minor political parties selected by the candidate shall be added opposite the name of the candidate;
- → For a candidate who is a member of a political party who is nominated by a political party of which the candidate is not a member, the name of the political party that nominated the candidate shall be added opposite the name of the candidate;

- → For a candidate who is a member of a political party who is nominated by more than one political party of which the candidate is not a member, the names of not more than three political parties selected by the candidate shall be added opposite the name of the candidate;
- → For a candidate who is nominated only by a political party of which the candidate is a member, the name of the political party of which the candidate is a member shall be added opposite the name of the candidate; and
- → For a candidate who is nominated by a political party of which the candidate is a member and by any political party or parties of which the candidate is not a member, the name of the political party of which the candidate is a member and the names of not more than two other political parties selected by the candidate shall be added opposite the name of the candidate.

This election law specifies that the word "nonaffiliated" is to follow the name of each candidate who is not affiliated with any political party and who is nominated either by an assembly of electors or by a petition of individual electors.

This statute also provides that if two or more candidates for the same office have the same or similar surnames, the location of their places of residence is to be printed opposite their names.

ORS 254.155; Order of Candidate Names on the Ballot

Candidate names on the ballot for an election, within the same office, are ordered based on a random ordering of the letters of the alphabet, which must be generated by the Secretary of State and sent to the counties no later than the 68th day before the election.

An Administrative Rule, **OAR 165-010-0090,** sets out the procedure to be followed for candidates whose last names begin with the same letter(s) of the alphabet, or whose names are identical etc. Briefly, the same random order is used, applied to the first letter that is different in the last names that begin with one or more of the same letters.

As noted above under ORS 254.135, if candidates for the same office have the same or similar surnames, the location of their places of residence is to be printed opposite their names.

ORS 254.445; Assistance in Marking Ballot; Allowances and Limitations

Any voter who, due to a disability or inability to read or write, is unable to mark their ballot may receive assistance. The assistance is provided either by two persons of different political parties provided by the county clerk or by some other person chosen by the voter.

Any person assisting a voter **must** follow the direction of the voter as to how to vote the ballot. Also, the person assisting the voter **must not** afterwards give out any information about how the voter voted.

Additionally, a person **may not** provide such assistance if they are an employer of the voter or an agent of the employer. Also, a person **may not** provide such assistance if they are an officer or agent of a union of which the voter is a member.

ORS 254.465; Elections to be Conducted by Mail; Rules

This statute requires that all elections in Oregon be conducted by mail. The Secretary of State must adopt rules to provide for uniform conduct (the *Oregon's Vote-By-Mail Manual*, is **adopted by** Administrative Rule, OAR 165-007-0030).

ORS 254.471; Extension of Deadline for Returning Ballots in Case of Emergency

This law allows the Governor by written proclamation, upon a written request from the Secretary of State in the event of an emergency (as defined in ORS 401.025(3)), to extend the deadline for returning ballots up to 7 calendar days after the election date. The Secretary must first consult with the affected county clerks to determine the need for the extension.

The circumstances would need to exist such that it would be impossible or impracticable for voters to return ballots or for elections officials to tally ballots. The County Clerk is prohibited from ordering a tally report from any vote tally machine until the date and time set by the Governor by which ballots must be returned in the election.

ORS 254.472 and ORS 254.474; Compartments for Marking Ballots and Voting Booths for Primary and General

County elections officials are required to provide at the county elections office at least three compartments for marking ballots. These compartments must allow for the voters' secrecy in marking their ballot and must be available during the entire time ballots are issued.

At each primary and general election, the county elections officials must maintain voting booths in their county based on the population of the county, with the location determined by the county. If the county has fewer than 35,000 voters, at least one voting booth must be maintained. If the county's population is 35,000 or more, there must be at least one voting booth for every 20,000 voters in the county.

ORS 254.482; Authorized Observers at an Election

Upon request, the county clerk permits authorized persons to watch the receiving and counting of votes at an election. The authorization needs to be in writing, signed by an officer or its county affiliate of a political party, a candidate or the county clerk and filed with the county clerk. The county clerk shall permit a limited number of persons so as to not interfere with an orderly procedure.

Post-Election Procedures

Detailed guidelines direct the procedures that must occur after an election at the closure of the polls. These include each county's testing of vote tally systems (which must be done both on the date of the election and prior to beginning the tally of ballots, as well as after the tally but before the final results are certified) and tally of ballots (ORS 254.485).

The duties of the county clerk after the election include preparation of the abstracts of votes and the delivery of the abstracts of votes to the appropriate elections officials, no later than the 20th day after the election. No later than the 30th day after the election, the county clerk issues a proclamation of winning county candidates and measures. Similarly, the Secretary of State and cities issue proclamations of the nominees or winners of the election and certificates of nomination or election within the respective jurisdictions.

If there is a very close vote, this may result in an automatic recount. There is also an opportunity for a recount demand process. If there is a tie vote in a candidate race, ORS 254.575 provides the procedures when two or more candidates for the same office, after a full recount of votes, have an equal and highest number of votes:

- → For state senator or state representative, a party office or any county, city or district candidate, the elections officer must have the candidates meet publicly to decide by lot who is elected. **All** candidates **must** be present or provide an authorized representative to participate in the selection by lot. The method of the "lot" is chosen by the elections official and must be a fair and impartial procedure. This may include a roll of dice.
- → For other state offices except Governor, state senator or representative, if there is a tie vote, the Secretary of State must order a new election to fill the office.
- → For Governor, if there is a tie vote, the Legislative Assembly at the beginning of the next regular session meets jointly and elects one of the candidates.

Initiative, Referendum and Recall Petitions

The following are some election laws that apply to the initiative, referendum and recall petition process. For additional election laws relevant to initiative, referendum and recall petitions and complete filing and reporting regulations, a person must review the applicable manual (depending on petition type - see list of manuals at end of this memorandum) and the Campaign Finance Manual.

Another resource that is very useful to chief petitioners and petition circulators for initiative, referendum and recall petitions is the **Secretary of State, Elections Division's Circulator Training Manual**. See our website, **www.oregonvotes.gov**. Each paid circulator, and at least one designee of any company that pays circulators to gather signatures, must review the Circulator Training Manual.

Additionally, persons involved in an initiative, referendum or recall petition process that involves any paid petition circulators, must follow all applicable wage and hour laws under the jurisdiction of the Bureau of Labor and Industries (BOLI). Guidelines for those requirements are included in the above mentioned on-line circulator training program. Contact information for BOLI is included at the end of this memo.

The process for a **state** initiative, referendum or recall petition is significantly different from a **local** (county, city or district) initiative, referendum or recall petition. Therefore, obtaining the appropriate procedures manual is critical.

Often, a petition circulator is also involved in voter registration efforts. If so, they are advised to review the section of this memo titled, "Voter Registration Efforts," beginning on page 29.

ORS 250.025, ORS 249.876; Removal of Signatures on Initiative, Referendum or Recall Petitions

A voter may not have their signature removed once the signature sheet on which it is placed is submitted to the elections filing officer for signature verification. This applies to state and local petitions, as well as recall petitions.

Before the petition is filed with the elections filing officer for signature verification, a person may contact the chief petitioner of the petition if they wish to request their signature be crossed out. Whether the chief petitioner agrees to do so is not addressed in election law.

ORS 250.048; Registration and Training for Paid Petition Circulators and Requirements (for state initiative, referendum and recall petitions only)

This election law provides the registration and training requirements for state initiative and referendum prospective petition circulators, which are only applicable for **state** initiative, referendum and recall petitions. The Secretary of State has implemented an on-line training program for this purpose. See our website, **www.oregonvotes.gov**.

A petition circulator must carry official evidence of registration provided by the Secretary of State, Elections Division. This evidence includes a photograph provided by the circulator and a registration number issued by the Secretary.

The chief petitioners of a state initiative, referendum or recall petition must acknowledge on a Chief Petitioner Acknowledgement form (SEL 309), that they are responsible for violations of law or rule committed by any paid circulator in their employ, either directly or indirectly.

Additionally, this election law provides that a person who has been convicted of a criminal offense involving fraud, forgery or identification theft, or been found in violation of ORS 260.555, 260.558, 560.575, 260.695(1), 260.715(1) or Article IV, Section 1b of the Oregon Constitution during the five-year period prior to the application date may not apply for registration.

ORS 260.262; Accounts of Chief Petitioners; Review and Inspection; Retention; Disclosure as Public Record; Rules

Chief Petitioners of statewide initiative or referendum petitions must maintain “accounts.” Accounts consist of: any paperwork documenting contracts between chief petitioners and signature gathering companies; training materials provided to petition circulators; payroll records that include hours worked, number of signatures collected and amounts paid; employment manuals; and copies of signature sheets. These accounts are to be kept current as of not later than the seventh calendar day after the date a payment is made to a paid petition circulator.

The Secretary of State is directed to review the accounts of each chief petitioner. See OAR 165-014-0100 and OAR 165-014-0260. Additionally, the Secretary, Attorney General or Commissioner of the Bureau of Labor and Industries may inspect the accounts under reasonable circumstances at any time before the deadline for filing signatures on the petition or the record retention period. If a chief petitioner is unable to produce the required accounts, they are prohibited from obtaining additional signatures on their petition until they are able to produce the documents.

These accounts are not subject to disclosure under the public record laws ORS 192.410 to 192.505.

ORS 260.368; Investigations of Violations of Prohibition on Payment Based on Number of Signatures Obtained on Petition

In investigations of violations of the prohibition on payment based on the number of signatures obtained on a petition, the Secretary of State, Attorney General and Commissioner of the Bureau of Labor and Industries may cooperate and share information as considered necessary by the secretary, Attorney General or commissioner.

ORS 260.555; Prohibitions on Circulating and Filing Petitions

Violation of this statute is a Class C Felony.

This election law contains several prohibitions on the circulators and signers of an initiative, referendum or recall petition, including:

- → No petition circulator may knowingly make false statements about the contents, meaning or effect of the petition;
- → No person shall file such a petition knowing it contains a false signature;
- → No person shall attempt to obtain the signature of a person on a petition knowing the person signing the petition is not qualified to sign it; and
- → No person shall knowingly sign a petition more than once, sign a petition when not qualified to sign it or sign a petition in any other name than their own.

ORS 260.558; Prohibitions on Payment for Signing Petition or Sale of Signature Sheets

Violation of this statute is a Class C Felony.

ORS 260.558 prohibits payment (either money or other valuable consideration) to an individual for signing or not signing an initiative, referendum or recall petition. It also prohibits the purchase of petition signature sheets with signatures already on them. (This does not prohibit payment to signature gatherers for the act of collecting signatures.)

A circulator may, during petition circulation, give away **very nominal value** items.

This means that campaign buttons, bumper stickers, posters, brochures, doorknob hangers and campaign literature, which have no use or value independent of a political campaign, may be given away at no charge by a petition circulator to potential signers when collecting signatures.

Additionally, other types of items of very nominal value may be given away for free during a petition gathering effort if the item is customarily readily available to the public without any charge by businesses, even to persons not making a purchase or using the services of the businesses giving away the items.

The distribution of these types of items is allowable and not considered an inducement to get the recipient to sign or not sign an initiative, referendum or recall petition if the provider of the item ensures that only very small quantities of an item are given to any one person and the distribution of the item is incidental to the political activity that occurs during the distribution - the distribution should not be publicized in some way (for example, do not imply, "Come get your free pencil (and sign this petition…) and I'll give you enough pencils for your child's next school year.”).

Items that **must not** be given away without charge during a signature gathering effort are those that are not readily available to the public free of charge. Even though these items may also be available to a campaign at a relatively low cost, their usefulness for purposes other than campaign publicity goes beyond that of the items listed that are permitted to be given away.

Contact the Elections Division prior to the free distribution of any item not noted. Upon request from the Elections Division, the requestor must provide documentation from several sources in the appropriate electoral district that an item in question is of nominal value and is regularly given away for free by others.

If the item does not meet all the standards of this exception, then the chief petitioner, their agent or a petition circulator must charge at least the cost of the item. The money spent to purchase the items and the money received in payment for the items must be reported in compliance with campaign finance regulations.

OAR 165-014-0260; Interpretation, Ban on Pay by Signature

This Administrative Rule provides an interpretation of Oregon Constitution, Article IV, section 1b, which prohibits paying or receipt of payment based on the number of signatures obtained on an initiative or referendum petition.

This provision applies to initiative and referendum petitions filed at state, county, city and district levels, but does not apply to any other type of petition (such as recall, minor party or special district formation petitions). This law does not prohibit payment for signature gathering that is not based, directly or indirectly, on the number of signatures obtained.

The rule lists allowable practices, including paying an hourly wage or salary, establishing minimum signature requirements for circulators (so long as such requirements are disclosed on the SEL 320 as part of accounts), adjusting salaries **prospectively** relative to a circulator's productivity, and paying discretionary bonuses based on reliability, longevity and productivity, provided no payments are made on a per signature basis. For instance, the rule does not authorize a system of paying a circulator from the beginning of their work based on how many signatures are collected in that specific hour.

OAR 165-014-0260 allows some methods by which petition circulator's job performance may be taken into account. If after some time of work it is determined that the petition circulator is doing a good job circulating the petition, the **pay rate for future work may be raised.** Conversely, if the person is determined to not be meeting minimum signature requirements, the **pay rate for future work may be lowered or the person terminated**.

In either case, the pay for the hours the person <u>already worked prior</u> to the determination of their performance <u>must not be changed</u> from the agreed hourly rate, as this would in effect constitute paying the person based on the number of signatures obtained. It is the responsibility of the circulator company to set a reasonable time for a petition circulator to work prior to the company requesting the circulator submit signature sheets so that the circulator's productivity may be determined and future pay rates changed, as appropriate.

This rule specifies that the chief petitioners cannot contract or delegate to another person or entity to obtain signatures and allow the third party to pay circulators on the basis of the number of signatures obtained. It states that the chief petitioners are responsible for ensuring that agents of the chief petitioner (anyone who is delegated the task of obtaining signatures on the initiative or referendum petition) do not violate Section 1b.

Chief petitioners each sign a statement on an official election form, SEL 310, on which they attest that, "By signing this document, I hereby state that no circulators will be compensated money or other valuable consideration on this petition based on the number of signatures obtained by the circulator."

This necessitates good business auditing standards be in place to ensure that all elements of a contract are adhered to. Likewise, there must be adequate supervision in the field to ensure all involved parties comply with contractual agreements as well as all Oregon election laws. The use of any "subcontractors" must be closely monitored, because acts at each level of the petition circulation effort remain the responsibility of the contractor and the ultimate responsibility of the Chief Petitioners. Chief petitioners are required to acknowledge on a Chief Petitioner Acknowledgement form (SEL 309) that they are responsible for violations of law or rule committed by any paid circulator in their employ, either directly or indirectly.

Because an actual proposed practice that appears to fit within one of these allowances may be subject to interpretation, it is recommended that each proposal for a new practice be reviewed by private legal counsel as well as submitted for review to this office, as appropriate.

The rule states that violations of the ban on paying by the signature are to be processed under ORS 260.995 as civil penalties, against chief petitioners or any other persons either directly or indirectly paying circulators based on the number of signatures obtained. Under ORS 260.561, the chief petitioners have liability for such violations. Each individual signature sheet that contains signatures collected in violation of Section 1b shall constitute a single occurrence with a minimum civil penalty of $2,500.

ORS 260.561; Liability of Chief Petitioners

This statute governs the liability of chief petitioners of statewide initiative or referendum petitions for violations of election laws and administrative rules that are subject to civil penalty. If the chief petitioner of a statewide initiative or referendum petition has knowledge of a possible violation related to the circulation of the petition committed by a person obtaining signatures on their petition, the chief petitioner to avoid civil liability, must notify the Secretary of State in writing.

This notification **must** be made not later than one business day after the chief petitioner obtains knowledge of a potential violation. The notice must state that a potential violation has occurred; describe the nature of the potential statutory violation; and provide specific information known to the chief petitioner about the potential violation.

ORS 260.563; Liability of Contractor Obtaining Signatures on Petition for Violations Committed by Subcontractor; Exceptions

This statute defines “contractor” and “subcontractor” in the context of an initiative or referendum petition and outlines a contractor’s liability for reporting known violations of election laws and administrative rules that are subject to civil penalty.

A “contractor” is a person who contracts with a chief petitioner, or a person acting on behalf of a chief petitioner, of an initiative or referendum petition to collect signatures.

A “subcontractor” is a person who contracts with a contractor, as defined above, for the purpose of collecting signatures on an initiative petition and who has no direct contract with the chief petitioner.

Similar to ORS 260.561, a contractor may avoid liability for a known violation if the contractor notifies the secretary in writing not later than one business day after the contractor has knowledge of an unreported violation. The notice must provide the nature of the potential violation and any specific information about it.

However, if the contractor has knowledge of an **unreported** violation of the ban on paying by the signature, by a subcontractor, that violation is conclusively considered a violation by the contractor.

ORS 260.567, Alteration of Information on Petition Signature Sheet; Exceptions

Only a signer **may** complete their signature and information about themselves, such as their printed name, address and date signed. A circulator or other individual **must not** alter, correct, clarify or obscure on the signature sheet any information about the petition signer unless the signer initials the changes made. However, a circulator **may** assist a disabled signer who requests assistance in completing the optional information.

ORS 260.575; Use of Threats and Intimidation for Purpose of Extorting Money

Violation of this statute is a Class C Felony.

ORS 260.575 prohibits any person, for the purpose of extorting money or other consideration, from hindering an initiative, referendum or recall petition process.

ORS 260.715(1); False Swearing on Circulator's Certificate

Violation of this statute is a Class C Felony.

ORS 260.715(1) prohibits, relative to initiative, referendum and recall petitions as well as candidate filing petitions, any circulator knowingly falsely signing the circulator's certification statement. The circulator's certification statement reflects that the ***circulator has personally witnessed each signature the circulator has collected***.

It is not legal for the petition to be left unattended by a circulator in order to obtain signatures, e.g., posted on a bulletin board or left, unattended, by the circulator on a counter in a public place. The certification also reflects that the circulator believes each signer is qualified to sign the petition. Additionally, forged signatures on petitions are prohibited.

ORS 260.432; Public Employees - Restrictions on Political Campaigning

The following election law, **ORS 260.432**, provides restrictions on political campaigning by public employees. The Secretary of State has prepared a more comprehensive manual on ORS 260.432, titled "*Restrictions on Political Campaigning by Public Employees*." This memorandum is available upon request and is posted on the Elections Division's website: **www.oregonvotes.gov**.

While this section discusses the restrictions on the political activity of public employees under ORS 260.432, any public employee in a public agency that is designated to provide voter registration services under the National Voter Registration Act (NVRA) must be aware of and adhere to another election law, ORS 247.208. **ORS 247.208 (3)** disallows political activity by a public employee when they are performing voter registration services. For more detail on this election law, see page 32.

ORS 260.432 (1); Solicitation of Public Employees

No person - including public employers and elected officials - may require a public employee to promote or oppose any political committee or any initiative, referendum or recall petition, ballot measure or candidate.

ORS 260.432 is in effect whenever the actions taken by a public employee apply to any of the following: for initiative, referendum and recall petition efforts as soon as a prospective petition is filed with the appropriate elections filing officer; for a ballot measure referred to the ballot by a governing body (district, city, county, state) as soon as the measure is certified to the ballot; for candidate issues, as soon as the person becomes a candidate under the definition in ORS 260.005(1)(a); and for actions related to a political committee, whenever the political committee is active.

For instance, an elected official or any other employer of a public employee may not require or direct public employees to prepare or distribute materials used in support of or opposition to political activity during regular working hours. A work assignment made by a supervisor to a subordinate public employee is a command or requirement within the meaning of ORS 260.432(1).

Elected officials or other employers of public employees should be aware that when they — in the role of a supervisor — request a public employee to perform any campaign activity (such as typing and mailing a campaign-related document) that the request is considered to be an attempt to require the public employee to perform those tasks. Furthermore, care must be taken in soliciting "volunteer help" during employee breaks, or other personal time, as the employee may feel required to participate.

However, an elected official may personally advocate for or against candidates, measures or petitions on the official's work time.

A person appointed to fill a vacancy in an elective office is considered an elected official for purposes of this statute.

Oregon election law allows elected officials to communicate with their constituents about election issues. However, elected officials must be careful to not involve public employee's work time in any activities that could be construed to be supporting or aiding an advocacy campaign effort, such as preparing advocacy material on behalf of an elected official (i.e. speeches, letters and advertising pieces). For instance, support staff cannot prepare press releases, press briefings or constituent mail that supports or opposes a candidate, measure or petition. Also, they must not prepare candidate filing forms, voters' pamphlet filing forms, campaign finance transactions or related correspondence during their work time.

ORS 260.432(2); Activities of Public Employees during Working Hours

Public employees (including school administrators, city managers, police chiefs, etc.) may not be involved in promoting or opposing any political committee or any initiative, referendum or recall petition, measure or candidate "while on the job during working hours."

This subsection does not apply to elected public officials, but does apply to all other public employees, including the staff of elected public officials. Unpaid public officials, such as members of appointed boards and commissions, are considered to be public employees subject to this statute.

The overriding principle is that public employees may not use their work time to support or oppose measures, candidates or petitions. If the work performed falls generally within the job duties of the public employee, then it is assumed that the work is performed in an official capacity, regardless of the time of day or location. A salaried, executive or management level public employee (or other level) is considered "on the job during working hours" even when he or she uses what they consider personal time and personal equipment if they are working to prepare an official public agency publication that is to be distributed using public agency resources. Since in this case the public employee is conducting official agency business, the publication must be impartial or a violation would occur.

Public employees who are on work time or official duty may not perform campaign activities supporting or opposing a measure, candidate or petition, such as preparing or distributing written material. Public employee work time may also not be used for any related activities, such as collection of funds or preparation of election filing forms on behalf of a candidate or political committee.

A public employee **may** provide impartial, factual information related to a candidate, petition or measure as a part of the employee's job on work time. Lunch hours, breaks and time off - when the employee is considered to be off duty - may be used for political activity, dependent on other employer lunch/break policies. However, any such activity must be of a voluntary nature on the part of the employee and the employee should not feel coerced or obligated by a supervisor or co-worker.

Political buttons may be worn at any time, subject to applicable employer policies (unless the public employee is performing voter registration services under NVRA, at which time they **may not** wear political buttons under ORS 247.208(3)).

As mentioned above, the Secretary of State has prepared a more detailed manual on ORS 260.432 for public employees, local governing bodies and elected officials, titled, "*Restrictions on Political Campaigning by Public Employees*." A "Quick Reference" flyer, with a brief overview of these restrictions, is also available online at **www.oregonvotes.gov**.

The manual includes guidelines for determining whether or not written material relating to a measure is advocacy in support of or opposition to the measure.

For a related discussion of a public employee's eligibility to run for public office, see page 6 of this publication.

Recall of Public Officer Procedures

The Oregon Constitution and state statutes (Article II, Sec. 18, ORS 249.865-249.877) allow for any non-federal public office holder in an elective office to be recalled at an election. The process involves a petition drive to collect a certain number of signatures. A chief petitioner (the recall petition filer, who **must** be a registered voter in the applicable district) first files a prospective recall petition with the appropriate elections filing officer (the Secretary of State for state offices) and **must** wait to gather signatures until the elections filing officer provides written approval before beginning to circulate. The petition gathering process **must** follow strict guidelines, as detailed in the *Recall Manual*.

15% of the total number of votes cast in the public officer's electoral district for all candidates for Governor at the last election at which a candidate for Governor was elected to a full term.

A prospective recall petition may be filed for a public office holder *other than* a State Senator or Representative only after the office holder has served at least six months of their current term of office. For a State Senator or Representative, a prospective recall petition may be filed at any time after the 5th day from the beginning of the first legislative session after the election of the legislator.

The recall petition signatures must be submitted to the elections filing officer no later than 5pm on the 90th day after filing the prospective recall petition. The elections official must complete the signature verification process no later than the 10th day after the signatures are submitted for verification or no later than the 100th day after the filing of the prospective petition, whichever is earlier.

The process then involves the elections filing officer notifying the public officer of the recall; allowance for the public officer to either resign or submit a statement of justification no later than the 5th day after the recall petition is certified; provision that if the officer does not resign the recall election is held within 35 days after the resignation period has expired; requires that an abstract of votes is produced and that the results are declared.

The *Recall Manual* is separated into two sections, with the first for recall petition efforts against a **state** public official and the second section for recall petition efforts against a **local** public official. The differences in the two processes include added petition circulation requirements for **state** recall petitions, such as required paid petition circulator registration with the Secretary of State; circulator training requirements; payroll record requirements; and a ban on petition circulators with certain past felony convictions.

Recounts and Contests of Election

The result of an election can only be changed by a recount or set aside by a judge in a court of law. A voter who believes that the outcome of an election has been changed as a result of deliberate and material violations of election law may file a petition of contest with the appropriate circuit court. A voter may also request a recount of votes.

ORS 258.150 to 258.300, ORS 258.150; Recounts of Votes, Authority of Secretary of State over Recounts

This election law provides that the Secretary of State has authority over recounts. Filings for **all** recounts must be made with the Secretary of State. The parties who are eligible to file a recount demand are:

- → For a **candidate race** - a candidate or an officer of a political party on behalf of a candidate of the political party;
- → For a **measure** - any voter;
- → A **county clerk** may file a recount demand in specified precincts for a candidate race or measure;
- → The **Secretary of State** may demand a recount for a state candidate or state measure.

The form SEL 800 is provided for recount demands. The person filing the recount demand must complete this form. A first recount demand is allowed, which can be a partial recount or a full recount (except in the case of votes for electors for president and vice president, which must be a full recount only). A first recount demand must be requested not later than the 35th day after the date of the election – for the greatest of either 5% of precincts or 3 specific precincts. A supplemental demand for a recount of all remaining precincts may be made not later than the 45th day after the election.

A **deposit of $15 per precinct** up to a maximum of $8,000 must be made to cover all or part of the cost of the recount. The county clerk must submit an expense record to the Secretary of State for allowable costs (*as specified in ORS 258.231*). If the actual cost of the recount exceeds the amount of the deposit, and if the outcome of the election is not changed, the person filing the recount demand must pay to the Secretary of State the amount of the excess costs. The Secretary of State then reimburses the county for the costs. However, if a full recount changes the result of the election, the Secretary of State will refund the deposit to the person filing the recount demand.

The Secretary of State directs the election official that conducted the election to conduct the recount. The Secretary of State notifies affected candidates by certified mail of the recount in the case of a candidate race. Likewise, the election official conducting the recount notifies the affected candidates of the date, time and place of the recount. If it is a full recount, the election official shall certify the results to the Secretary of State and other appropriate election official.

A full recount is required in order to change the results, except in the case of a recount by a county clerk. If a demand for a partial recount is by a county clerk, the votes recounted may be combined with votes not recounted to determine the official results.

If two or more demands are made for the same measure, the demand first received by the Secretary of State is considered. If two or more demands are made for the recount of the same nomination or office, the demand received from or on behalf of the losing candidate receiving the highest number of votes is considered the demand for a recount.

Candidates affected by a recount must be notified by certified mail by the Secretary of State, no later than the third day after the filing of the first demand. The official who is to conduct the recount must, within a reasonable time before the recount, notify the affected candidates or the person filing the recount demand for a measure, of the date, time and place of the recount.

The election official conducting the recount appoints counting boards and recounts are **conducted by hand**. An affected candidate or a voter authorized in writing by each major or minor political party may be present to watch the recount. For a measure, one voter advocating and one voter opposing the measure may be present to watch the recount.

For full recounts, an abstract of votes is certified, the person who demanded the recount is notified and the costs are certified to the Secretary of State not later than the 30th day after the completion of the recount.

ORS 258.280- 258.300; Automatic Recounts

The election law also provides that in very close races, there is an automatic full recount, which is a full recount of all precincts. Immediately following the completion of canvassing the votes, an election official must notify the Secretary of State of any election subject to an automatic full recount.

A full recount is required when two or more candidates for nomination or office have an equal and highest number of votes or the difference in the number of votes for a candidate apparently nominated or elected and the next closest apparently defeated candidate is not more than *one-fifth of one* percent (.002) of the total votes for both candidates.

A full recount is also required when the official canvass of votes for an election shows the difference in the number of votes cast for or against any measure is not more than *one-fifth of one* percent (.002) of the total votes cast for and against the measure.

ORS 258.016 to 258.085; Contests of Election

The result of an election can only be changed by a recount or set aside by a judge in a court of law. A contest of election is an action filed in court by an eligible person to contest the nomination or election of any person or the decision on any measure.

The grounds for the contest must be due to certain causes, which are: the deliberate and material violation of any election law in connection with the nomination, election, approval or rejection; ineligibility of the person elected to hold office; illegal votes; mistake or fraud in the canvass of votes; fraud in the count of votes; nondeliberate and material error in the distribution of official ballots by an elections official; or a challenge to the 50% voter turn-out requirement.

An eligible person is an elector entitled to vote for the person or measure; any person who was a candidate at the election for the same nomination or office; the Secretary of State if the contest involves a state candidate or measure; or the county clerk who conducted the election.

A petition of contest must be filed not later than 40 days after the election, or the seventh day after completion of a recount of votes (ORS 258.006- 258.085). For statewide candidates and measures, a petition of contest shall be filed with the Marion County Circuit Court. For the offices of State Senator and State Representative, Circuit Court Judge and District Attorney, the petition of contest would be filed in the Circuit Court for the county where a majority of the voters in the electoral district reside.

For other offices, the contest of election is filed with the county Circuit Court for the same county as the office's elections filing officer. A person should consult an attorney if they wish to pursue a petition of contest of election.

As provided in ORS 258.055, the person filing the contest of election – the contestant – must satisfy publication notices in the news media and must serve a copy of the petition by certified mail on each contestee. The contest proceedings take precedence over all other business on the circuit court docket, they do not involve a jury and the contestant has the burden of proof by clear and convincing evidence.

After the contest hearing, the circuit court judge shall render a judgment affirming or setting aside the nomination or election of the person to the office or the approval or rejection of a measure. If the result of a measure is set aside, the circuit court directs the measure to be resubmitted at a special election held on one of the four regular election dates. Any party to the contest may appeal the judgment to the Court of Appeals.

Vacancies in Office or Nomination Procedures

Vacancies in Office or Nomination Procedures

The procedures for the filling of vacancies in an elective public office or nomination are dependent on the office involved. A **vacancy in nomination** refers to when a candidate on the ballot becomes disqualified or dies (a candidate may only withdraw from the ballot after they have filed up to the specified deadline for withdrawal, which is before ballots are printed – see discussion below about the withdrawal from candidacy or nomination). A **vacancy in office** means the current office holder resigns, is recalled, becomes disqualified or dies.

The Secretary of State, Elections Division has an administrative role in the vacancy process for state offices only. The process varies depending on the type of vacancy. For instance, for a vacancy in a state legislative office, the Elections Division receives and processes the necessary paperwork for the legislative vacancy, including accepting notice of the nominations and forwarding them to the county commissioners and accepting the willingness to serve forms completed by the nominees.

For local elective public offices, the vacancy procedures are under the authority of the local jurisdiction and the Secretary of State, Elections Division does not generally provide advice or resolve disputes about those procedures. The Secretary of State, Elections Division has a role ***only*** in the vacancy procedures for **state offices**. These procedures differ depending on whether the public office is partisan or nonpartisan and also differ for specific offices within those categories. The following information provides an overview of vacancy procedures for **state** offices. For further information and special circumstances, contact the Secretary of State for state offices and the applicable local jurisdiction for all other offices.

The following information about vacancies applies only to **state** elective public offices and is organized by first discussing **vacancies in nomination**, separated by whether the office is partisan or nonpartisan; and then **vacancies in office**, again separated by whether the office is partisan or nonpartisan.

Vacancies in Nomination (Vacancy by Candidate on Ballot):

1 Vacancy in Partisan State Office Nomination

A **partisan** state office is one in which candidates file at the Primary Election, which is considered a nominating election, if they are a member of a **major** political party (Democratic, Republican, and Independent at this time). At the Primary Election, one candidate from each major political party is nominated to go to the General Election. If no candidate filed to be on the ballot in that party, no candidate for that party will run in the General Election unless nominated by write-in votes. For the General Election, candidates who are either nominated by a **minor** political party or are not a member of any political party (called nonaffiliated) may file to run at the General Election. These candidates use the nominating process for minor political party nomination or for nonaffiliated candidates, either by assembly of electors or petition of individual electors.

For further detail on these processes, see the *Candidate's Manual*.

A vacancy in the *nomination* of a **major** political party <u>*candidate*</u> may be filled before the date of the general election by that political party in accordance with the political party's rules (with some exceptions such as for the office of US Representative and US Senator, under ORS 188.120). Immediately after the new nominee is selected, the major political party must notify the elections filing officer. The Secretary by rule may adopt a schedule specifying when the major political party must make this notification. ORS 249.190-249.200.

For vacancies in the *nomination* of a *candidate* who is **not a member of a major political party**, the vacancy is filled depending on whether the vacancy was by a minor political party candidate or a nonaffiliated candidate who filed using the assembly of electors or individual electors process. ORS 249.842. If the vacancy in nomination is by a minor political party candidate, the minor party rules provide the process to fill the vacancy. If the vacancy in nomination is by a candidate who was selected by the assembly of electors process, the assembly may be reconvened to select a new nominee or a committee delegated by the assembly at its convention may select the nominee. If the vacancy is by a candidate who was nominated by individual electors with a petition and a certificate of nomination, a new certificate of nomination may be filed, together with a petition for the new candidate.

2 Vacancy in Nonpartisan State Office Nomination

A **nonpartisan** state office is one in which no political party affiliation is associated with the candidate's or office. Nonpartisan candidates must file at the Primary Election but may be either elected at the Primary Election or nominated to the General Election, based on the circumstances.

A vacancy in the *nomination* of a nonpartisan *candidate* may be filled before the date of the general election if there is only one candidate. If the only candidate nominated to a nonpartisan office dies, withdraws or becomes ineligible, or if a vacancy occurs in the nonpartisan office after the 70th day before the primary election and on or before the 62nd day before the general election, a candidate may file a declaration of candidacy or a nominating petition. The Secretary of State adopts a rule providing the schedule for filings. ORS 249.205.

Vacancies in Office (Vacancy by Current Office Holder):

1 Vacancy in Partisan State Office

A vacancy in a partisan elective office (a current office holder resigns, is recalled, becomes disqualified or dies) is filled depending on the office and when the vacancy occurs.

For the offices of **U.S. Representative and U.S. Senator,** ORS 188.120 provides the procedures. If the vacancy in office occurs before the 61st day before the general election, the Governor shall call a special election to fill that vacancy. If it occurs after the 62nd day before the general election but on or before the general election, and if the term of that office is not regularly filled at that election, the Governor shall call a special election to fill the vacancy as soon as practicable after the general election.

If a special election to fill the vacancy in election or office of **U.S. Representative and U.S. Senator** is called before the 80th day after the vacancy occurs, each major political party selects its nominee for the office and certifies the name of the nominee to the Secretary of State for the ballot.

If a special election to fill the vacancy in election or office of **U.S. Representative and U.S. Senator** is called on the 80th day or after following the vacancy, a special primary election is conducted by the Secretary of State to nominate a candidate of each major political party. A declaration of candidacy or nominating petition may be filed not later than the 10th day following the issuance of the writ of election. Other candidates (minor political party candidate or a nonaffiliated candidate filing by the individual electors petition process or by the assembly of electors process) can file by certificate of nomination. The special election would be to fill the remainder of the term.

For vacancies in the partisan offices of State Senate and State Representative by a legislator who is a member of a major political party, ORS 171.051 to 171.064 provide the procedures. These positions are filled by an appointment process within 30 days after the vacancy occurs, unless the vacancy occurs at a time close to when the office will normally be up for election. This appointment process involves the Secretary of State, upon receipt of a written resignation, notifying the state political party and local central committees that the party precinct committeepersons of the legislative district must meet within 20 days after the vacancy occurs. At this meeting, the party precinct committeepersons must select not fewer than three nor more than five qualified persons to fill the vacancy.

The nominees must sign a written statement indicating the person is willing to serve in the office (see the SEL 145). Not later than 20 days after the vacancy occurs, the state political party must notify the Secretary of State in writing of the persons nominated. If fewer than three nominee names are furnished, the county courts or boards of county commissioners may appoint any qualified candidate.

The Secretary of State sets the time and place of the meeting within the district to select an appointee. For a district made up of more than one county, the Secretary of State determines the county that will hold the meeting, based on which county has the highest number of registered voters within the district. The number of votes for each county commissioner is based on one vote for each 1,000 voters in the district (or major fraction thereof – e.g. 501). Each county commissioner is allocated the number of votes allowed for the whole county commission divided by the number of county commissioners in the county.

The county commissioners then assemble to select the appointee not later than the 30th day after the vacancy occurred and file a written statement signed by a majority of the commissioners with the Secretary of State. The Secretary of State then issues the Certificate of Appointment. If the vacancy is not filled within the time allowed, the Governor fills the vacancy by appointment within 10 days.

If a vacancy occurs in the office of State Senate in sufficient time prior to the first election during their four year term, then although an appointment is made to fill that office, the office is up for election at the next election. In this case, the person elected will only serve the two-year remainder of the four year term.

For other partisan offices, if the vacancy occurs on or before the 70th day before a primary election, candidates to fill the vacancy run at the next primary election. If the vacancy occurs after the 70th day before the primary election but before the 61st day before the general election, then the major political party selects a nominee by party rule.

For vacancies in State Legislative Offices - State Senate and State Representative - by a legislator who is not a member of a major political party, ORS 171.051 to 171.064 also provide the procedures, but they differ in that the Secretary of State notifies the applicable county courts or board of county commissioners; sets the time and place for them to meet; names a temporary chair; and by rule establishes procedures for conduct of the meeting. At the meeting, a written statement is signed by a majority of those voting to fill the vacancy that names the appointee and is filed with the Secretary of State.

If a public office holder resigns the office effective at a future date, ORS 236.325 allows the appointing authority to begin the process to fill the vacancy and to select a successor prior to the effective date of any resignation. When a resignation of office is effective at a future date, the resignation is binding unless withdrawn in writing by the end of the third business day after the resignation is filed. This provision is not applicable to the office of Governor (ORS 236.320 specifies the appropriate recipient of a resignation, based on the office involved).

2 Vacancy in Nonpartisan State Office

A vacancy in a nonpartisan elective office (a current office holder such as a circuit court judge resigns, is recalled, becomes disqualified or dies) is filled by an appointment by the Governor. The appointed nonpartisan officer fills the office only until the next Primary and General Election, after which the elected person takes office the following January. ORS 249.205 specifies that if the vacancy in office occurs in the nonpartisan office after the 70th day before a nominating election and on or before the 62nd day before the general election, a candidate may file for the office.

Voter Registration Efforts

It is very important that persons involved in a voter registration effort be aware of election laws that are applicable to their efforts. Persons who will be encouraging persons to register to vote need to be aware of:

ORS 246.025; Use of Signature Stamp by Person with Disability

This election law allows the use of a signature stamp attestation form by a person with a disability who is unable to sign any election document, including a voter registration card or ballot return envelope. The attestation form, SEL 540, is to be filed at the time the person registers to vote or updates a voter registration. On this form, the person must attest that they are unable to sign their name because of a disability.

ORS 247.012, 247.016 and 247.025; Voter Registration Requirements

A person may register to vote in Oregon, if it is the first time registering to vote in Oregon, no later than the 21st day before the election they wish to vote in (the voter registration card must be postmarked not later than this date or submitted online no later than 11:59pm). The effective date of registration is the date a completed voter registration card is received (date stamped) by a county elections office, the Secretary of State's office, DMV or another designated state agency receiving the card.

A person who is already registered to vote in Oregon but has moved, changed their mailing address or name, or their signature has significantly changed, may update their voter registration up to 8:00 pm on election day (if there is not sufficient time for mailing, the voter should go in person to the county elections office).

An update may also be used to change political party affiliation, with the only difference being that before a primary election, such a change must be made no later than the 21st day before the election. (See discussion under ORS 247.203.)

ORS 247.012(2)(a); Delivery of Voter Registration Card within Five Days

ORS 247.012(2)(a) states that if a completed registration card is delivered to any person, that person **must** forward it to a county clerk or the Secretary of State no later than the **fifth day** after receiving the card. This is **calendar days** - not business days. In any case, the people registering to vote should be allowed to choose to mail in their own cards.

ORS 247.015; Other Voter Registration Procedures

ORS 247.015(1) allows a qualified person absent from the state to register by mail, either using a completed registration card or a signed statement containing the required information.

ORS 247.015(2) allows a qualified person who because of a physical disability cannot register in person to register by mail or be registered by the county clerk.

ORS 247.015(3) allows an otherwise qualified person who will become a U.S. citizen after the 21st calendar immediately preceding an election to register before the 20th day before the election. However, unless the person appears before the county clerk and provides evidence of citizenship, the county clerk shall cancel the person's registration before the election. An administrative rule, OAR 165-005-0050 provides registration procedures for registering to vote an otherwise qualified person who will become a naturalized U.S. citizen after the registration cutoff but prior to the next election.

ORS 247.016; Registration of Person who is 17 Years of Age

ORS 247.016 allows an otherwise qualified person who is at least 17 years of age to register to vote. However, they are **not** qualified to actually vote a ballot at an election until they attain the age of 18. Additionally, until they are 18 years old and the registration becomes effective, they may not sign an election petition (candidate nominating petition, initiative, referendum or recall petition, etc.)

ORS 247.017; Voter Registration at Certain Department of Transportation Offices; Rules

This statute provides that the Oregon Department of Transportation (ODOT) is to make a voter registration card available to any person at any department office where licenses or renewal applications are distributed or received.

ODOT staff is required to inform a 17 year-old who applies for issuance or renewal of an Oregon drivers license; a state identification card; or for a change of address, that they may register to vote at 17 years old, but that they are not allowed to vote until they are 18 years old.

ORS 247.019; Electronic Voter Registration

My Vote is an electronic system available at **www.oregonvotes.gov** for qualified people to register to vote. The person must have an Oregon driver license (as defined by ORS 801.245), an Oregon driver permit (as defined by ORS 801.250) or a state identification card (as defined by ORS 807.400). The My Vote system is available to register to vote and to update voter registration information (such as address, party affiliation, etc.).

ORS 247.025; Registration Deadline

In order to be able to vote in a particular election, ORS 247.025 provides that a new voter registration card must be received at the county clerk's office, the Secretary of State's office, ODOT office or any designated voter registration agency no later than the time that office closes for business on the 21st day before an election, but in no case later than midnight; or the card may be postmarked no later than that date. If the person is registering online, the card must be submitted no later than 11:59pm on the 21st day before an election. (Updates to a current voter registration may be made up to 8:00pm on election day as discussed above.)

ORS 247.035; Rules to Consider in Determining Residence of Person for Voting Purposes

ORS 247.035 (1) sets out several rules an elections official must consider, to the extent they are applicable, when determining the residence and qualifications of a person offering to register or vote. ORS 247.035 (3) sets out a set of factors an elections official *may* consider when making a determination of residency for voter registration purposes. However, the elections official is not limited to considering these factors.

Voter registration standards must allow for registration of persons in situations such as the homeless, college students who are living at college, "snow-birds," military personnel, persons employed temporarily out of state or country but who may not at the time have any physical residence in Oregon but intend to return to Oregon, etc. In determining the eligibility of a voter, the election official must consider the intent of the voter. See ORS 247.195 below, which provides that the county clerk, at any time, may inquire into the validity of the registration of any voter.

ORS 247.038; Registration of Person who is Homeless or Resides in Identifiable Location

This provision allows a qualified person who is homeless or resides in a shelter, park, motor home, marina or other identifiable location to register to vote using as their residence address any place within the county describing the physical location of the person. For their mailing address, a person in these circumstances may use the office of the county clerk. In this case, the person would pick up their ballot at the county clerk's office in order to vote.

In Oregon, is a person who has been convicted of a felony eligible to register to vote and vote?

In Oregon, it is not against the law for a person who has had a felony conviction to vote as long as they are not incarcerated at that time. ORS 137.281. Inmates in Oregon correctional facilities may register to vote. **However**, **inmates in an Oregon federal correctional facility may neither register nor vote.**

The general rule is persons convicted of a felony, whether the defendant serves their term of incarceration in a state correctional facility or in a county jail, may register to vote but cannot vote. All others in the criminal justice system may vote (such as pre-trial detainees, persons serving misdemeanor sentences in county jails, persons on parole or probation).

ORS 247.125; Alteration of Registration Card Prohibited

Violation of this statute is a Class C Felony.

ORS 247.125 states that no person shall alter any information supplied on a registration card except an elections officer in the performance of official duties or the person who fills out the registration card for the purpose of registering to vote. It is a potential violation for a person, other than the person registering to vote, to fill in parts of the voter registration card the registering person leaves blank, such as party affiliation.

ORS 247.171; Secretary of State Prescribes Voter Registration Cards

The Secretary of State designs, prepares and distributes voter registration cards. A person may apply in writing to the Secretary of State for permission to print, copy or otherwise prepare and distribute the registration cards. The content must include the information specified in the statute. No charge may be made to the public for voter registration cards by signing the completed card.

ORS 247.171(5), (7); Prohibition on False Information by Registrant

Violation of this statute is a Class C Felony.

No person shall supply any information on the voter registration card they complete and file knowing it to be false. A person must attest to the information supplied on the voter registration card by signing the completed card.

ORS 247.174; Determining if Person Qualified to Register or Update Registration; Hearing

County Election Officials are responsible for voter registration and must determine whether any person's voter registration is valid. A county elections official may reject any registration if they determine that the person is not qualified or that the registration card is illegible, inaccurate or incomplete. If so, the elections official must promptly notify the person of the rejection.

A hearing may be requested by the person whose registration is rejected, no later than the 10th day after the rejection. The county elections official must, no later than the 10th day after receipt of the hearing request, notify the person of the time and place of the hearing on the qualifications. The hearing must be held not sooner than the second nor later than the 20th day after the notice is given.

At this hearing, the person may present evidence of their qualification. The county elections official then determines whether the person is qualified and if so, processes the registration. Also see below, ORS 247.195.

ORS 247.176; Request for Delivery of Registration Card; Rules

This statute provides that any person can request and be provided by the Secretary of State up to 5,000 voter registration cards during two specified periods (the first period starts the 250th day before the Primary election and ends on the date of the Primary election and the second period starts on the day after the Primary Election and ends on the 250th day before the next Primary Election).

A request form is available for requests of 100 or more voter registration cards, SEL 505. It is advised that all requests for fewer than 500 voter registration cards be made to the county elections office.

For requests of 5,000 or more voter registration cards, the cards may be purchased or a distribution plan must be designated by the requestor on the form. In this case, the requester must agree to return any unused voter registration cards. This is further outlined in OAR 165-005-0080.

At the Secretary's discretion, requests for additional voter registration cards may be satisfied by authorizing the requestor to print at their own expense voter registration forms. These forms must be formatted according to the Secretary's specifications.

ORS 247.178; Distribution of Voter Registration Cards

This statute allows any person to distribute voter registration cards in any reasonable manner, including door to door (following all election laws such as not using any "undue influence" to induce persons to register to vote).

ORS 247.195; Inquiry into Validity of Registration; Hearing; Cancellation

This statute provides that the county elections official, at any time, may inquire into the validity of the registration of any person. If the county elections official considers an inquiry warranted, the official mails a written statement to the person that describes the nature of the inquiry and provides a suitable form for reply.

Upon receipt of the person's response, the county elections official must determine whether the information satisfies the inquiry. If the response does not prove satisfactory, the county clerk schedules a hearing and notifies the person of the time and place of the hearing. The result shall be a determination on whether the registration is valid.

ORS 247.203; Change, Termination or Adoption of Party Affiliation before Primary Election

Updates to current voter registrations (changes to home address, mailing address, name or signature) may be made up to 8:00 pm on election day. This allowance also applies to changes to a voter's political party affiliation, except for a Primary Election.

A voter may still submit an updated voter registration card making such political party affiliation changes at any time before a Primary Election, but if the update is received during the time starting on the 20th day before a Primary Election(unless postmarked or submitted online by 11:59pm on the 21st day before the election) up to the date of the Primary Election, then the county elections official may not process any change to political party affiliation (they may however process other changes made on the same updated voter registration card, such as any address change). After the Primary Election, the county elections official will process the political party affiliation change.

ORS 247.208(3); Prohibited Actions for Voter Registration Agency Employee

ORS 247.208(3) restricts public employees or other persons on behalf of a public agency that is designated to provide voter registration services under the National Voter Registration Act (a federal Act enacted by Congress in 1993) from political activity when they are performing such services. Specific restrictions include the following.

*These restrictions **do not** apply to private voter registration drive efforts.* The public employee or other person providing registration services under NVRA:

- → **May not** seek to influence the political preference or party registration of a person registering to vote or attempt to discourage them from registering to vote;
- → **May not** display any indications of political preference or party allegiance (including the choice of candidates for partisan political office);
- → **May not** make any statement or take any action towards a person registering to vote that would lead the person to believe the voter registration has any bearing on the availability of services or benefits; and
- → **May not** seek to induce any person to register to vote or to vote in any particular manner.

Additionally, **OAR 165-005-0070**, was adopted to provide more detailed guidelines. This rule specifies the items which personnel *shall not wear or display* in the presence of clients while offering the opportunity to register to vote. These include materials that identify past, present, or future holders or seekers of partisan elective office. The items must not contain logos or other graphics that may be identified with or reasonably be understood to be associated with a political party or other party preference and must not be reasonably understood to be advocating support or opposition to a ballot measure or candidate for elective office.

As discussed in a previous section about ORS 260.432, which imposes a set of restrictions on political activities during work hours that generally applies to all public employees, ORS 247.208(3) imposes a separate, rigorous set of restrictions that apply only to public employees and other persons who provide voter registration services required under NVRA. For employees covered by ORS 247.208, the restrictions imposed by this statute apply ***in addition*** to the restrictions imposed by ORS 260.432. Therefore, these restrictions prohibit public employees from wearing political buttons while performing NVRA services.

ORS 247.945; List of Registered Voters Availability

A person may, upon request before the 45th day before a Primary, General or Special Election, obtain a list of registered voters from a county clerk or the Secretary of State. A charge for the actual cost of supplying the list may be collected.

For a statewide list, a request may be made to the Secretary of State. A fee of $500 is charged for this statewide list. These lists do not contain any information about participants in the Address Confidentiality Program.

ORS 247.955; Use of List of Voters Not Allowed for Commercial Purposes

ORS 247.955 states that no person shall use a list of voters (including labels) for commercial purposes, except for resale to candidates or political committees for political purposes only. Non-profit organizations with tax exempt status are generally allowed to use a list of voters, as long as the purpose could not be deemed to be "for profit."

ORS 247.965-969; Public Record Exemption for Residence Address

Any person may request the county clerk keep their residence address exempt from public record, if the person applies for the exemption pursuant to ORS 192.410 to 192.505. Personal safety reasons must be indicated to the satisfaction of the county clerk (with the Secretary of State issuing a rule defining "personal safety" including conditions listed in ORS 247.969). However, the county clerk may disclose the exempted residence address upon receipt of a court order or law enforcement agency request, except in the case of an Address Confidentiality Program participant (ORS 192.820 to 192.868).

ORS 247.973; Copies of Signatures on Voter Registration Cards Prohibited

ORS 247.973 prohibits a person, other than an elections official in performance of official election duties, from making a copy of, or providing another person, a copy of an individual's signature on a voter registration card. Two other exemptions from public disclosure provided by this statue are first, the identifying information or documents submitted by an individual for purposes of registering to vote as required under the Help America Vote Act (HAVA) and second, any identifying information entered in the official voter registration by an election official relating to a voter's disability.

ORS 260.665; Undue Influence Related to Voter Registration Efforts Prohibited

This election law, discussed in more detail above in the section titled "General Election Laws," prohibits the use of "undue influence" for certain purposes. The specific definition of "undue influence" includes giving something of value away to induce someone to register to vote or to vote, vote in a certain way, etc. Therefore, a person who is encouraging others to register to vote must not provide anything of value to a person who may want to register to vote.

Help America Vote Act (HAVA)

HAVA is a federal law passed in October 2002. This Act addresses improvements to voting systems and voter access and includes provisions on voter registration and education. HAVA requires an individual registering for the **first time** in Oregon to provide one of the following:

- → **An Oregon DMV Driver's License or Identification number**; or
- → If the individual does **not have** an Oregon DMV Driver's License or Identification number they **must** provide **the last four digits of their Social Security number**.
- → If an individual has **neither** an Oregon DMV Driver's License or Identification number or a Social Security number and is registering for the **first time in Oregon** by US Postal Service they **must** include a copy of a valid form of identification.

Acceptable identification is a copy of a current, valid photo identification or a copy of a paycheck stub, utility bill, bank statement or other government document showing the persons' name and address.

If an Oregon DMV Driver's License or Identification number or the last four digits of their Social Security number or other acceptable identification is needed and it is not provided at the time of registration, the voter will be requested to supply it before the next federal election in order for their votes for federal offices to count. Identification is not required for a person who is already registered to vote in Oregon before 2006 and is merely updating that registration.

It should be noted that the person must sign the card, attesting to the truthfulness of the information provided. This signature subjects the person to the penalty for false swearing.

What Does the Help America Vote Act Mean to a Voter Registration Drive Effort?

Anyone involved in a voter registration effort needs to be aware of the laws that are applicable to these efforts. Each registrant registering for the first time in Oregon **must** provide an Oregon DMV Driver's License or Identification number or the last four digits of their Social Security number. If the registrant does not have either of these and attests to that fact and they plan to mail their registration card through the United States Postal Service, the registrant is required to provide acceptable identification. In this case, they should be informed that they need to review the voter registration card for identification requirements that may apply to them. The identification requirement in this situation is the registering person's responsibility.

Also Important To Voter Registration Efforts:

If a person who is encouraging others to register to vote is also circulating an election petition (such as an initiative, referendum, candidate or recall petition) there are additional election laws to consider. There are instructions for circulators on the cover sheets of the petitions, as well in the manuals provided by the Elections Division (see list of manuals at end of this memorandum). All petition circulators have the responsibility to follow these instructions.

They also need to be aware that a person is not qualified to sign an election petition until the person is actually registered to vote. A qualified person is registered to vote on the day which the **completed** voter registration card is **actually received** by the County Clerk, the Secretary of State, the DMV, a designated voter registration agency or a location designated by the County Clerk.

In addition, persons who register to vote while 17 years old may not sign petitions until they turn 18 years old (see page 29).

Voters' Pamphlet

The Oregon Voters' Pamphlet is a publication produced and distributed by the Secretary of State, Elections Division. It contains information about candidates, measures and political parties, as well as information about the election process. A state Voters' Pamphlet is produced for each Primary and General Election, as well as for any special statewide election.

The following are some election laws that apply to state and county voters' pamphlets. For more information about voters' pamphlet procedures and requirements, see the *State Voters' Pamphlet* manual. See ORS Chapter 251 for all of the procedural statutes.

ORS 251.145, Exemption from Public Records Law

Materials submitted for inclusion in a voters' pamphlet are exempt from public inspection until the fourth business day after the voters' pamphlet filing deadline.

ORS 251.175, Distribution of State Voters' Pamphlet

This statute provides the deadline for which state voters' pamphlets must be mailed for each primary, general or special state election. Generally, the Secretary must cause the state voters' pamphlet to be mailed to each post office mailing address not later than the 20th day before these elections.

ORS 260.715(1); False Statements in Material Required by Election Law

Violation of this statute is a Class C Felony.

This statute prohibits a candidate from making a false statement in the required portion of a state or county voters' pamphlet statement (this includes the required categories of occupation, occupational background, educational background and prior governmental experience).

The election laws do not define each of the categories or specify a suggested level of disclosure. The categories of occupation, occupational background, educational background and prior governmental service may include volunteer work, temporary employment, or any other types of education or services that the candidate considers part of his or her occupation. These categories may include paid or unpaid experience and there is no predetermined period that a person must spend at an occupation for it to be considered as part of the person's occupation or occupational background. Additionally, election law does not specify how far back in a person's life the background information must extend.

It does not include the optional portion of the candidate's statement or any of the statements made in measure arguments for state or county voters' pamphlets. However, ORS 260.532 applies to the optional portions of the candidate's statements and to measure arguments for the voters' pamphlet.

An example of a false statement under ORS 260.715(1) is stating the candidate has a college degree when the candidate does not.

Voting and Ballot Prohibitions

The following election laws contain several prohibitions relating to voting, ballots, the polling place and ballot deposit sites. We have not listed all sections of each statute, but some highlights.

The Secretary of State, in association with the Oregon Association of County Clerks has adopted the *Oregon's Vote By Mail Manual*, adopted by OAR 165-007-0030, to direct the processing of vote by mail elections. This manual is posted on the Elections Division's website.

The *Oregon's Vote By Mail Manual* addresses and provides guidance on such subjects as election observers, voter registration, the preparation and issuing of ballots, security requirements, regular and special ballot handling as well as the handling of challenged and provisional ballots, the ballot opening, inspection and counting process and post election and ballot storage procedures.

ORS 260.645; Illegal Acts Relating to Voting Systems

ORS 260.645 prohibits any person from tampering with voting machines or vote tally systems, or any attempts to prevent the correct operation of any voting machine or vote tally system. An unauthorized person may not make or possess a key to a voting machine or vote tally system.

ORS 260.675; Prohibited Distribution of Ballots

This statute prohibits a person employed or authorized to print official ballots from giving, delivering or knowingly permitting any of the ballots to be taken by anyone except the elections official who ordered the printing. It also prohibits knowingly printing different information on the ballots than what was directed by the elections official, as well as prohibiting an official from knowingly distributing ballots contrary to election law.

ORS 260.695(1); Sample Ballot Restrictions

ORS 260.695(1) states that no person may create a sample ballot that changes the information that will appear on the actual ballot unless the sample ballot contains the statement, **"NOT FOR OFFICIAL USE."** However, a person may produce a sample ballot that illustrates the manner in which a candidate's name may be written-in.

ORS 260.695(2); Restrictions on Electioneering at State or Local Government Buildings Designated for Ballot Deposit

ORS 260.695(2) states that no person may electioneer within any state or local government elections office designated for the deposit of ballots, or within 100 feet measured radially from any entrance to the building, during any time that the elections building is open to the public (business hours). This includes use of a public address system located more than 100 feet from any entrance if the person is capable of being understood within 100 feet of the building.

This includes the county elections office during the period of time when the office is issuing ballots to voters and is open to the public. Specifically, this period begins the day ballots are mailed to voters for the election and ends on election day at 8 pm or when all persons in line have finished voting.

Ballot deposit sites that are **not** located within a state or local government elections office are not under this restriction. Ballot deposit sites may include post office boxes, the post office and official drop sites designated by the county elections official, other than state or local government elections offices. A ballot drop site is a depository for voted ballots. A voter may choose to complete the voter's ballot at a drop site location (or anywhere else the voter wishes), but voting assistance, special privacy measures or other polling place amenities are not required.

"Electioneering" includes the display, distribution or circulation of any political material or verbal statements supporting or opposing a candidate or ballot measure on any election, even an election other than the one being conducted. It also includes exit polling and the gathering of signatures on **any** election-related petition.

The electioneering ban does **not apply** to the wearing of political buttons or other insignia (t-shirts, caps, etc.) which relate to the election in a polling place in a county clerk's office, as a means of personal expression. Electioneering actions beyond this are not allowed.

What about parked vehicles with campaign materials on them that are visible at a location where ballots are issued?

A question that frequently arises from the perspective of a county elections official is whether an employee may park his or her vehicle in their assigned parking space that is within 100 feet from a county elections office entrance, after ballots are mailed until 8 pm on election day, when the vehicle has political bumper stickers on it, for instance in support of a candidate. Generally speaking, the advice has been that vehicles *temporarily* parked within 100 feet of the site of an elections office during the time it is issuing ballots for an election (while the vehicle's occupant is there in order to conduct election or other business within the building), do not need to moved, even if the vehicle's owner has some political campaign bumper stickers affixed to the car.

In most cases, employees who work in a building that is periodically issuing ballots for an election (which can happen often for extended periods of time up to four times a year) should be able to continue to park their vehicle in their assigned spots even though they are located within 100 feet of the building and even though the vehicle has some political campaign bumper stickers affixed.

These situations require judgment calls on a case-by-case basis and are in most part up to the discretion of the elections filing officer. As an example, a pick-up truck with a large campaign sign in the back or a car with numerous bumper stickers for a candidate or issue prominently displayed over most of it should be moved or the signs removed if it remains stationary for a lengthy period of time within 100 feet of an entrance to the affected building.

The effect on a potential voter casting their ballot is a major factor to consider in making the distinction. Considering the high level of intelligence and independence of Oregon voters, it is most likely that a voter's voting in a particular way would not be appreciably influenced by such personal expressions of a campaign button worn by a person or the incidental car bumper sticker on a parked car they may or may not notice upon walking to the entrance.

The electioneering provision is intended to keep the area around an elections office that is issuing ballots free of actions that could reasonably be thought to result in the persuasion and influence of an elector's vote.

What about campaign signs located near election offices during an election period?

Another set of questions that often arise are about campaign signs and whether they are restricted from being posted on property near election offices during an election. Oregon election law does not specifically address the size, location or timing of political campaign signs, except that ORS 260.695(2) does prohibit campaign signs inside or within 100 feet of any entrance to a state or local government elections office building designated for the deposit of ballots from the date ballots are mailed and ending on election day at 8 pm or when all persons in line have finished voting. If the sign is posted within the restricted area, it must be removed.

Many local jurisdictions (cities and counties) have ordinances that address campaign signs. In addition, the Oregon Department of Transportation (ODOT) has policies regarding political signs on public highways (see contact information on page 51).

Although this office cannot generally offer advice as to the applicability of these provisions to particular locations, there is a concern that public employees enforce such regulations in an equitable manner so as not to indicate any support or opposition to political candidates or issues. See ORS 260.432.

Oregon Motorist Information Act (OMIA) regulates signs on private property where they are visible to a state highway. Political signs generally fall under the temporary sign exemption. ORS 377.735 and OAR 734-060-0175. No permit is required unless a person needs a variance for a size larger than 12 square feet allowed in the statute. Permits are obtained through ODOT.

Except for official signs, no signs – including political signs – are allowed in state highway right-of-way. Signs found in the right-of-way are subject to immediate pick-up by ODOT.

ORS 260.695(3); Obstructing an Entrance to a Location where Ballots are Issued or Deposited Prohibited

ORS 260.695(3) states that no person shall obstruct an entrance of a building in which ballots are issued (county elections offices); a place designated for the deposit of ballots; or a place in which voting booths are located. Voting booths are set up by each county for the primary and general election under ORS 254.474. This restriction applies from the date ballots are mailed until 8 pm on election day or when all persons waiting in line at the building or location have finished voting.

ORS 260.695(4); Voting When Not Entitled Prohibited

Violation of this statute is a Class A misdemeanor.

ORS 260.695(4) states that no person shall vote or offer to vote in any election knowing the person is not entitled to vote.

ORS 260.695(5); False Statement about Person's Ability to Mark Ballot Prohibited

ORS 260.695(5) states that no person may make a false statement about the person's inability to mark a ballot.

ORS 260.695(6); Examining Other's Voted Ballot Prohibited in Certain Circumstances

ORS 260.695(6) states that no person, except an elections official in performance of duties or a person assisting a disabled voter, may ask a person at any ballot deposit site or voting booth how the person intends to vote, or examine or attempt to examine their ballot.

ORS 260.695(7); Disclosing How a Voter Voted by Elections Official Prohibited

ORS 260.695(7) prohibits an elections official, other than in the performance of duties, from disclosing to any person how any voter has voted.

ORS 260.695(8); Permitting Identification of who Voted a Ballot Prohibited

ORS 260.695(8) prohibits any person, except an elections official in the performance of duties, from doing anything to a ballot to permit identification of the person who voted.

ORS 260.695(9); Leaving Indication of How Voted Prohibited

ORS 260.695(9) prohibits a voter from willfully leaving, in any designated ballot deposit site or voting booth, anything that shows how the voter's ballot was marked.

ORS 260.695(10); Removing Ballot Prohibited

ORS 260.695(10) prohibits a person, except an elections official in performance of duties, from removing a ballot from any designated ballot deposit site or voting booth.

ORS 260.695(11); Removing or Changing Posted Elections Notice Prohibited

ORS 260.695(11) prohibits a person, except an elections official in performance of duties or a person authorized by that official, from willfully defacing, removing, altering or destroying a posted election notice.

ORS 260.695(12); Removing or Changing Election Equipment or Supplies Prohibited

ORS 260.695(12) prohibits a person, except an elections official in performance of duties, from willfully removing, altering or destroying election equipment or supplies, or from breaking the seal or opening any sealed package containing election supplies.

ORS 260.695(13); Provision of Elections Advice and Collection of Ballots Prohibited in Certain Circumstances

ORS 260.695(13) prohibits a person, except an elections official in performance of duties, from providing elections advice or from attempting to collect voted ballots within any building in which any state or local government elections office designated for deposit of ballots is located, or within 100 feet measured radially from any entrance to the building.

ORS 260.695(14); Sign Required for Unofficial Ballot Deposit Site

ORS 260.695(14) states that a person may not establish an unofficial ballot collection site, unless a sign is prominently displayed at the site stating, "**NOT AN OFFICIAL BALLOT DROP SITE**." The sign must be printed in all capital letters in bold 50-point type. These unofficial ballot drop off sites are not under the regulation of election officials.

ORS 254.470; Delivery of Ballots

ORS 254.470 requires that if a person returns a ballot for an elector, they must do so (by delivering it to the county clerk, an official ballot dropsite, or in the mail) not later than 2 days after receiving the ballot, or so that it is received by Election Day, whichever is sooner.

ORS 260.715(1); Voting or Signing Another Person's Ballot Prohibited

Violation of this statute is a Class C Felony.

ORS 260.715(1) states that a person may not knowingly make a false statement, oath or affidavit when required under election law. For purposes of voting, this means a person may not vote or sign any other person's (including a spouse's) ballot - not even with a power of attorney. This statute also applies to all other statements required under election laws.

A supplemental voter registration form (SEL 540) is available from election officials to allow a person to use a signature stamp or other indicator of the voter's signature on any election document. The person filing the form must be disabled (unable, because of the disability, to sign the voter's name) and registered to vote (a registration card may be filed at the same time as this attestation).

ORS 260.715(2); Requesting a Ballot in Another's Name Prohibited

Violation of this statute is a Class C Felony.

ORS 260.715(2) states that a person may not request a ballot in a name other than the person's own name.

ORS 260.715(3); Voting More than Once at an Election Prohibited

Violation of this statute is a Class C Felony.

ORS 260.715(3) states that a person may not vote or attempt to vote more than once at any election held on the same date.

ORS 260.715(4); Voting More than Once at Same Election, in this State and in Another State Prohibited

Violation of this statute is a Class C Felony.

ORS 260.715(4) states that a person may not vote or attempt to vote in an election held in this state and in another state on the same date.

ORS 260.715(5) - (8); Various Ballot Restrictions

Violations of these statutes are Class C Felonies.

ORS 260.715(5) - (8) provide prohibitions against willfully altering or destroying a cast ballot, against placing a fraudulent ballot among genuine ballots, against falsely writing anything purporting to be written by an elections official in performance of duties on the ballot and against theft of a ballot, tally or return sheet or fraudulently opening a sealed tally or return sheet of the election.

ORS 260.715(9); Prohibition on Sale or Purchase of Ballots or Ballot Envelopes

Violation of this statute is a Class C Felony.

ORS 260.715(9) states that a person may not manufacture or use a fraudulent ballot return identification envelope or secrecy envelope or sell, offer to sell, purchase or offer to purchase, for money or other valuable consideration, any official ballot, replacement ballot, ballot return identification envelope or secrecy envelope.

Election Law Complaints

ORS 260.345 provides the process to file a complaint alleging a possible election law violation of **ORS Chapters 246 to 260**, with ORS 260.205 providing a similar process to file a complaint alleging campaign finance regulation violations.

An exception is for complaints alleging false statements in campaign material, (other than required information in sworn election forms). For these types of complaints, **ORS 260.532** provides the exclusive remedy, in which the "aggrieved party," as defined in this statute, must file the complaint in the appropriate circuit court. This type of complaint must be filed with the court no later than 40 days after the election to which the statement pertains.

The complaint **must be in writing and signed** (the complaint does not have to be on a form – unless it is about the Help America Vote Act (HAVA). For HAVA complaints, additional information should be requested from the Secretary of State, Elections Division as those types of complaints need to be on a specific form and there is a different process). A complaint may be mailed or faxed to the fax number given below. However, it **may not** be accepted as a complaint if it is sent by email, unless it is a signed attachment. Also, this election law does not allow an anonymous complaint.

The complaint should state the basis for believing that the violation occurred and any evidence relating to it. It should contain a detailed description of the alleged violation and include copies of any documentation and substantiation available.

If the complaint involves an election law classified as a civil penalty (ORS 260.995), it is immediately available to the public. For civil penalty election laws, a complaint must be filed no later than the 90th day after the election at which a violation of an election law or rule is alleged to have occurred, or 90 days following the date the violation of an election law or rule is alleged to have occurred, whichever is later.

If the complaint involves a criminal penalty election law (ORS 260.993), the investigation is exempt from public disclosure until closed. A notice is sent to the subject that a complaint has been received. The complaint file becomes public record once the case is closed. Generally, for criminal penalty election laws, a complaint must be filed within two years after the alleged violation. ORS 260.345(8).

If a written complaint received by the Elections Division is solely about an issue that is not addressed by any state election law, this office sends a letter advising this is the case and offers any advice available about where such a complaint may instead be handled.

Issues Not Addressed by State Elections Law

Issues that the Secretary of State, Elections Division **does not have jurisdiction** to investigate or enforce include:

- → **Candidate qualifications**, including residency requirements, for **other than state candidates** – these determinations are the responsibility of the local jurisdiction.
- → **City or County charter or ordinance enforcement** – the enforcement of these regulations are the responsibility of the local jurisdiction.
- → **City incorporation processing** (see ORS 221.020).
- → **Local initiative petitions**, as to the local elections filing officer's determination of whether a prospective initiative petition is the proper subject for an initiative based on whether it is **legislative vs. administrative** – these may be pursued through a lawsuit, but the Secretary of State does not intercede in these disputes for local issues.
- → **Conflict of interest disclosure**, see contact information for Oregon Government Ethics Commission on page 51.
- → **Lobbying rules and regulations**, see contact information for Oregon Government Ethics Commission on page 51.
- → **Newspapers, television and radio stations, as to whether equal access** must be given for political candidates and issues. Most newspapers, television and radio stations are private enterprises and Oregon state election law does not contain a requirement that equal access must be provided to all candidates for an office or to all sides of a political issue. However, if the newspaper, television or radio station is produced by public employees on their work time, then the state election law ORS 260.432 restricting political campaigning by public employees would apply – see page 21.

→ **No call list restrictions or automated call regulations.** State election law does not include any ban prohibiting recorded political phone messages and does not require the caller to be identified. A person may contact the Oregon Attorney General's office for consumer related matters and unfair trade practices concerns. See contact information on page 51.

From the Oregon Attorney General's website information about the "do not call" registry (**www.doj.state.or.us**), it states that in order for the Attorney General to pursue violators in Oregon' state courts, Oregonians must first make sure they register their telephone numbers on the National "Do Not Call" Registry. Oregon consumers placing their landline and cell phone numbers on the federal registry will be protected by both the federal and state "no call" laws. Registration is free. Oregon residents may register by calling toll-free at 1-888-382-1222 or online at **www.donotcall.gov**.

However, under Oregon's No Call law, certain solicitation calls are allowed, including:

- ✓ Calls from public agencies or charitable organizations to which you belong, or to which you have previously donated or expressed interest in making a donation;
- ✓ Calls that are made in response to your request that a company call you;
- ✓ Calls that ask for your opinion or vote; and
- ✓ Calls from companies you have bought from in the past, or a "predecessor of a business enterprise" for certain financial institutions.

For more information on Oregon's "No Call" law, consumers may call the Attorney General's consumer hotline at: Salem area only: (503) 378-4321, Portland area only: (503) 229-5576 or toll-free at 1-877-877-9392.

→ **Nonprofit organization status:** a person may contact the Oregon Department of Justice, Charitable Activities Section. See contact information on page 51. Further, either the Federal IRS or Oregon Department of Revenue would have jurisdiction to determine how any particular activities (such as political support or opposition) could impact the non-profit status of an organization or private foundation.

The one election law that may be thought to relate to non-profit organization activities is ORS 260.432, which restricts political campaigning by public employees - in that they are not to do so on their work time. Oregon election law does prohibit **public employees** from using their work time to support or oppose petitions, measures or candidates. "Public employee" is defined in ORS 260.432 (4)(a) and (b), generally as an employee of a government entity, including public officials who are members of government appointed boards and commissions, whether paid or not, but excluding elected officials. However, an employee or officer of a non-profit corporation generally does **not** fall under this definition of public employee.

Additionally, the Secretary of State Corporations Division has a lot of information about nonprofit organizations available here.

→ **Oath of office:** The Secretary of State does not enforce requirements for oath of office, other than the Secretary of State's administrative function of providing forms to state elected and appointed public officers. See ORS 44.320.

→ **Political signs**, **as to the size, location and time restrictions** – these may be regulated by the local jurisdiction where the sign is located. For questions regarding political signs visible from state highways, a person may contact the Oregon Department of Transportation. See contact information on page 51.

→ **Private, non-profit organization** elections or business contracts: The Secretary of State's office does not enforce procedures for private, non-profit organization elections (of officers, etc.), or their business contracts.

- **Public office for personal gain, use of,** see contact information for Oregon Government Ethics Commission on page 51.
- **Public meeting laws (**a resource may be found at www.open-oregon.com, "***A Quick Reference Guide to Oregon's Public Meetings Law***," and also the applicable laws, ORS 192.610 to 192.690).*

  ORS 192.660 is the statute that governs **executive** (closed) sessions of a public body. If a complaint alleges a violation of this aspect of public meeting law, for instance that a meeting held as an executive session should have instead been open to the public, ORS 192.685 allows such complaints to be filed with the Oregon Ethics Commission. ORS 192.685 states, in part, *"complaints of violations of ORS 192.660 alleged to have been committed by public officials may be made to the Oregon Government Ethics Commission for review and investigation as provided by ORS 244.260 and for possible imposition of civil penalties as provided by ORS 244.350."*

- **Public records laws (**a resource may be found at www.open-oregon.com, "***A Quick Reference Guide to Oregon's Public Records Law***," and also the applicable laws, ORS 192.410 to 192.505). A petition for a public records order may be submitted to the Attorney General for state agencies or District Attorney for local public bodies. Contact information for the Attorney General's office is on page 51.

  Additionally, the Oregon Attorney General's Office website, at: www.doj.state.or.us, states that every two years, following adjournment of regular legislative sessions, the Attorney General updates and publishes a ***Public Records and Meetings Manual***. This manual is intended to provide assistance to state agencies, local governments and to the public generally. Copies of the manual may be purchased from: Publications Section, Department of Justice, 1162 Court Street NE, Salem, OR 97301-4096. Phone numbers are: (503) 378-2992, #1, TTY: (503) 378-5938.

- **Political Party rules -** ORS 248.011 states that, except as expressly required by law, the Secretary of State, a county clerk or other elections official shall not enforce the provision of ORS 248.005 or any other rule adopted by a political party. There is no express legal requirement authorizing the Secretary to monitor and enforce a party's rules for selecting a nominating committee or for nominating candidates for office as to whether they comply with ORS 248.005.
- **Special District procedures involving chapters outside of election laws ORS Chapters 246-260**, such as the procedures for annexation, formation, zone requirements, boundaries and public notice requirements. The Secretary of State, Elections Division **does** have jurisdiction on the Special District election procedures contained in ORS Chapter 255, for the special districts included in the definition section of this chapter (ORS 255.012). However, some special districts are not included in ORS Chapter 255, such as irrigation districts, and therefore these election procedures are not under the Secretary of State's jurisdiction.
- **State Seal regulations** – The Oregon State Seal must not be used in any communication to constituents that advocates for or against candidates, political committees, election petitions or measures. ORS 186.023 governs the use of the Oregon State Seal. Elected officials are entitled to use the state seal in their official capacity, but not in their capacity as candidates or to express political positions on election petitions or measures. (This statute is not an election law, but is enforced by the Secretary of State's Executive Office. See page 51 for contact information.)
- **Statements of economic interest** - see contact information for Oregon Government Ethics Commission on page 46.
- **Tax credits for political contributions** – see ORS 316.102. The Oregon Department of Revenue may be contacted. See page 51.

→ **Vacancies in office or nomination and the appointment process**: Vacancies in **local** public offices other than state office are the responsibility of the local jurisdiction. For vacancies in **state** office, the Secretary of State only has an administrative role in these proceedings. However, the qualifications of a legislative appointee are to be confirmed by the precinct committeepersons who nominate the nominee under ORS 171.060 and the county commissioners who make the appointment pursuant to ORS 171.051, 171.062 and 171.064. The Secretary has no authority under the appointment statutes to review or judge the qualifications of any nominees or the final appointee.

Other Information Sources

Other Information Sources Index (note: for each subject, the contact information is listed in alphabetical order in the table below this index):

Subject	Contact #	Subject	Contact #
Automated call regulations	B	IRS	H
Business regulations	A	Lobbyist registration laws	D
Conflict of interest restrictions and disclosure	D	No call list restrictions	B
Consumer Hotline	B	Nonprofit entity	M
Consumer related complaints	B	Oregon business guide	A
County Elections	C	Oregon Department of Revenue	I
Economic Interest, Statements of	D	Payroll tax information	A
Employer Registration	A	Political signs visible from state highway	L
Employer/employee responsibilities	J	Public meetings, as to executive sessions	D
Ethics laws	D	Public records petitions	B
Executive session public meetings	D	Radio and Television regulations (FCC)	F
Federal Candidates and Federal Election regulations	E	Raffle license	M
Federal Communications Commission (FCC)	F	Safety and health regulations	A
Federal Elections Commission (FEC)	E	State Seal, use of regulations	K
Federal Hatch Act, Federal Employees	G	Statements of Economic Interest by public officials	D
Federal Reporting requirements (IRS)	H	Use of public office for personal gain restrictions	D
Income Tax Credits for political committee	I	Wage & hour provisions	N
Independent Contractors	J	Workers' compensation	A

Contact Information for Other Information Sources

A Business Regulation

For questions about compliance with business regulations, including payroll tax information, employer registration, workers' compensation and safety and health requirements or the Oregon Business Guide, basic information and checklist for new employers.

Corporations Division
Public Service Building
255 Capitol Street NE, Suite 151
Salem, OR 97310-1327
☎ 503 986 2200
✉ **corporation.division@state.or.us**
www.filinginoregon.com

B Consumer Related Complaints

For questions including no call list restrictions, automated call regulations and public records petitions.

Department of Justice Charitable Activities Section
1162 Court Street NE
Portland, OR 97301-4096
☎ 503 378 4400 or
✉ **consumer.hotline@doj.state.or.us**
www.doj.state.or.us/charigroup/index.shtml

C County Elections

For questions about county elections, go **here**.

D Ethics Laws, Enforcement of Oregon's Government

For questions involving conflicts of interest, disclosure of use of public office for personal gain, executive session provisions of public meeting laws, lobbyist registration laws and statements of economic interest filed by public officials.

Oregon Government Ethics Commission
3218 Pringle Road SE, Suite 220
Salem, OR 97302-1544
☎ 503 378 5105
fax 503 373 1456
www.oregon.gov/ogec

E Federal Candidates or Federal Election Regulations

For questions regarding federal candidates or committees or federal election regulations contact:

Federal Election Commission
999 E Street NW
Washington, DC 20463
☎ 800 424 9530
fax 202 219 8500
www.fec.gov

F Federal Communications

For questions relating to regulations on radio and television broadcasts.

Federal Communications Commission
445 12th Street SW
Washington, DC 20554
☎ 888 225 5322
fax 866 418 0232
www.fcc.gov

G Federal Hatch Act, Applicable to Federal Employees

Includes persons principally employed by state or local executive agencies in connection with programs financed in whole or in part by federal loans or grants - check with your employer if questions on applicability.

US Office of Special Counsel
1730 M Street NW, Suite 218
Washington DC 20036-4505
☎ 800 854 2824
osc.gov

H Federal IRS Reporting Requirements

For questions regarding IRS reporting requirements for political committees contact:

Internal Revenue Service
☎ 800 829 1040
www.irs.gov/charities/political/index.html

I Income Tax Credits for Political Contributions

For information about political tax credits.

Oregon Department of Revenue
Revenue Building
955 Center Street NE
Salem, OR 97301-2555
☎ 800 356 4222 or 503 378 4988
www.oregon.gov/DOR

J Independent Contractor and Employer/Employee Responsibilities

For information about independent contractors and employer/employee responsibilities contact:

Oregon Employment Department
Tax Section
875 Union Street NE, Rm 107
Salem, OR 97311-0030
☎ 503 947 1488
fax 503 947 1487
www.oregon.gov/employ/tax

K Oregon State Seal

For questions regarding restrictions on use.

Secretary of State
Executive Division
136 State Capitol
Salem, OR 97310-0722
☎ 503 986 1523
✉ oregon.sos@state.or.us
sos.oregon.gov

L Political Signs

For questions regarding political signs that are visible from state highways:

Oregon Department of Transportation
355 Capitol Street NE, MS 11
Salem, OR 97301-3871
☎ 888 275 6368
fax 503 986 3432
✉ ask.odot@state.or.us
www.oregon.gov/ODOT/index.shtml

M Raffle License

For questions regarding applying for a raffle license or status as a nonprofit entity contact:

Department of Justice Charitable Activities Section
1515 SW 5th Ave., Suite 410
Portland, OR 97201
☎ 971 673 1880
fax 971 673 1882
✉ charitable.activities@doj.state.or.us
www.doj.state.or.us/charigroup/index.shtml

N Wage and Hour Provisions

For questions regarding enforcement and filing a wage claim.

Oregon Bureau of Labor and Industries (BOLI)
☎ 541 686 7623 Eugene
☎ 541 776 6270 Medford
☎ 971 673 0761 Portland
☎ 503 378 3292 Salem
Spanish speakers are available in Portland, Salem and Medford.