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**Exemption Statute and Title: [ORS 171.778](#) Complaint and Adjudicatory Process**

**Summary:** Temporarily makes confidential any information considered by the Oregon Government Ethics Commission in the preliminary phases of investigating alleged violations of Oregon lobbying laws and rules.

**Relevant Text: [ORS 171.778](#)**

(1) (a) Any person may file with the Oregon Government Ethics Commission a signed written complaint alleging that there has been a violation of any provision of [ORS 171.725](#) to [171.785](#) or of any rule adopted by the commission under [ORS 171.725](#) to [171.785](#). The complaint shall state the person's reason for believing that a violation occurred and include any evidence relating to the alleged violation.

(b) If at any time the commission has reason to believe that there has been a violation of a provision of [ORS 171.725](#) to [171.785](#) or of a rule adopted by the commission under [ORS 171.725](#) to [171.785](#), the commission may proceed under this section on its own motion as if the commission had received a complaint.

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(2) (d) Information that the commission considers before approving a motion to proceed on its own motion under this section and any correspondence regarding the motion or potential violation is confidential. Commission members and staff may not make any public comment or publicly disclose any materials relating to the motion pending the commission's approval to proceed. \*\*\*

(3) After receiving a complaint or deciding to proceed on its own motion, the commission shall undertake action in the Preliminary Review Phase to determine whether there is cause to undertake an investigation.

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(4) (c) The Preliminary Review Phase is confidential. Commission members and staff may acknowledge receipt of a complaint but may not make any public comment or publicly disclose any materials relating to a case during the Preliminary Review Phase. \*\*\*

(d) At the conclusion of the Preliminary Review Phase, the commission shall conduct its deliberations in executive session. All case related materials and proceedings shall be open to the public after the commission makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion. \*\*\*

**Key Terms:**

[ORS 171.725](#) to [171.785](#) relate to the regulation of lobbyists.

**Enumerated Exceptions or Public Interest Balancing Test?** No, but case materials and proceedings are open to the public after the commission makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 177.180](#) Reports Received Through Government Waste Hotline or by Other Method**

**Summary:** Makes confidential the identity of any person filing a report of waste, inefficiency or abuse to the SOS Government Waste Hotline; generally makes any related investigatory information confidential until the conclusion or abandonment of the investigation.

**Relevant Text: [ORS 177.180](#)**

(1) The Secretary of State shall designate one person employed by the Division of Audits of the Office of the Secretary of State to be responsible for reports of waste, inefficiency or abuse received through the Government Waste Hotline or received by the secretary through any other method. The person designated under this section shall log all reports received.

(2) Except as provided in subsection (3) or (5) of this section, the identity of any person calling the Government Waste Hotline or otherwise making a report under [ORS 177.170](#) is confidential. A person making a report under [ORS 177.170](#) may waive the confidentiality otherwise granted under this subsection.

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(4) Except as provided in subsection (3) or (5) of this section, an investigation of a report of waste, inefficiency or abuse received under [ORS 177.170](#) is confidential unless the secretary finds that waste, inefficiency or abuse has occurred and reports these determinations as provided under subsection (6) of this section or determines not to investigate following an initial investigation under subsection (3) of this section. If the secretary finds that waste, inefficiency or abuse has occurred, the investigation and any determinations made are confidential until the investigation described in subsection (3) of this section is complete. A determination by the secretary not to investigate following an initial investigation constitutes completion of the investigation.

(5) Notwithstanding subsections (2) and (4) of this section, the secretary may convey the contents of a report of waste, inefficiency or abuse made under [ORS 177.170](#) to a public body, as defined in [ORS 174.109](#), unless the person making the report under [ORS 177.170](#) objects to disclosure of the report to the public body.

(6) Subject to the confidentiality requirements of subsection (2) of this section, upon completion of an investigation under this section:

(a) The secretary shall determine in writing whether officers or employees of a state agency, or persons under contract with a state agency, are engaging in activities that constitute waste, inefficiency or abuse. The written determination may include other information about the nature of the investigation or the secretary's determination.

(b) If the secretary finds that waste, inefficiency or abuse has occurred, upon request of the person who made the report under [ORS 177.170](#), the secretary shall provide the person with a copy of the determination and any other information included by the secretary.

(c) If the secretary determines that officers or employees of another state agency or public body, or persons under contract with a state agency or public body, are involved in activities that constitute waste, inefficiency or abuse, the secretary shall notify the state agency or public body of the determination and deliver a copy of the secretary's findings to the agency or body.

(7) A written determination prepared by the secretary under this section is a public record. Following the completion of an investigation, or a determination not to investigate beyond an initial investigation, all documents, information or other records relating to the investigation are disclosable public records under [ORS 192.311](#) to [192.478](#) unless an exemption from disclosure set forth in a provision of law other than this section applies to the records, except that the identity of the person making the report under [ORS 177.170](#) shall remain confidential.

**Enumerated Exceptions or Public Interest Balancing Test?** Except for the identity of the reporter, investigative information is no longer exempt under this statute once the investigation is complete or abandoned.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Gray](#) (4/9/21) (ORS 177.180 only applies to SOS, it does not apply to complaints of public assistance fraud made to DHS)

**Exemption Statute and Title: [ORS 192.345\(8\)](#) Public Records Conditionally Exempt From Disclosure**

**Summary:** Conditionally and only temporarily exempts investigatory information relating to certain complaints of discrimination or unlawful employment practices.

**Relevant Text:** [ORS 192.345](#)

The following public records are exempt from disclosure under [ORS 192.311](#) to [192.478](#) unless the public interest requires disclosure in the particular instance:

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(8) Investigatory information relating to any complaint filed under [ORS 659A.820](#) or [659A.825](#), until such time as the complaint is resolved under [ORS 659A.835](#), or a final order is issued under [ORS 659A.850](#).

**Key Terms:**

[ORS 659A.820](#) and [659A.825](#) relate to complaints of unlawful employment practices, discrimination in places of public accommodation, and discrimination in certain real property transactions.

**Enumerated Exceptions or Public Interest Balancing Test?** Yes – not exempt if the public interest requires disclosure in the particular instance. Records are not exempt once the complaint is resolved or a final order is issued.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?**

*Pace Consultants, Inc. v. Roberts*, 297 Or 590 (1984) (the names and addresses of employers against whom unlawful practices complaints were pending were not exempt if contained in a complaint; because there is a distinction between a complaint and subsequently developed investigatory information, the exemption does not apply to the complaints themselves)

**Exemption Statute and Title: [ORS 192.345\(9\)](#) Public Records Conditionally Exempt From Disclosure**

**Summary:** Conditionally exempts from disclosure investigatory information relating to unfair labor practice complaints or charges.

**Relevant Text:** [ORS 192.345](#)

The following public records are exempt from disclosure under [ORS 192.311](#) to [192.478](#) unless the public interest requires disclosure in the particular instance:

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(9) Investigatory information relating to any complaint or charge filed under [ORS 243.676](#) and [663.180](#).

**Enumerated Exceptions or Public Interest Balancing Test?** Yes – not exempt if the public interest requires disclosure in the particular instance.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** No.

**Exemption Statute and Title: [ORS 192.345\(17\)](#) Public Records Conditionally Exempt From Disclosure**

**Summary:** Conditionally and only temporarily exempts from disclosure investigatory information relating to OSHA complaints or charges.

**Relevant Text:** [ORS 192.345](#)

The following public records are exempt from disclosure under [ORS 192.311](#) to [192.478](#) unless the public interest requires disclosure in the particular instance:

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(17) Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.

**Key Terms:** [ORS Chapter 654](#) governs Occupational Health and Safety.

**Enumerated Exceptions or Public Interest Balancing Test?** Yes – not exempt if the public interest requires disclosure in the particular instance. Records are not exempt after a final administrative determination is made or, if a citation is issued, the employer receives notice of any citation.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Long](#) (9/19/97) (public interest did not require disclosure of OSHA investigatory information in the particular instance; the exemption recognizes the need for confidentiality during the investigative phase, and expressly permits disclosure after a final administrative determination is made or, if a citation is issued, the employer receives notice of any citation)

**Exemption Statute and Title: [ORS 192.345\(37\)](#) Public Records Conditionally Exempt From Disclosure**

**Summary:** Conditionally exempts from disclosure any information related to an audit of a public body until the final report is issued or the audit is abandoned.

**Relevant Text:** [ORS 192.345](#)

The following public records are exempt from disclosure under [ORS 192.311](#) to [192.478](#) unless the public interest requires disclosure in the particular instance:

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(37) Any document or other information related to an audit of a public body, as defined in [ORS 174.109](#), that is in the custody of an auditor or audit organization operating under nationally recognized government auditing standards, until the auditor or audit organization issues a final audit report in accordance with those standards or the audit is abandoned. This exemption does not prohibit disclosure of a draft audit report that is provided to the audited entity for the entity's response to the audit findings.

**Enumerated Exceptions or Public Interest Balancing Test?** Yes – not exempt if the public interest requires disclosure in the particular instance. Records are not exempt once the final audit report is issued or the audit is abandoned.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?** No.



**Exemption Statute and Title: [ORS 244.260](#) Complaint and Adjudicatory Process**

**Summary:** Temporarily makes confidential information considered by the Oregon Government Ethics Commission in the preliminary phases of investigating alleged violations of the Oregon Government Ethics Code.

**Relevant Text: [ORS 244.260](#)**

(1) (a) Any person may file with the Oregon Government Ethics Commission a signed written complaint alleging that there has been a violation of any provision of this chapter or of any rule adopted by the commission under this chapter. The complaint shall state the person's reason for believing that a violation occurred and include any evidence relating to the alleged violation.

(b) If at any time the commission has reason to believe that there has been a violation of a provision of this chapter or of a rule adopted by the commission under this chapter, the commission may proceed under this section on its own motion as if the commission had received a complaint.

\*\*\*

(2) (d) Information that the commission considers before approving a motion to proceed on its own motion under this section and any correspondence regarding the motion or potential violation is confidential. The executive director of the commission and the commission members and staff may not make any public comment or publicly disclose any materials relating to the motion pending the commission's approval to proceed. \*\*\*

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(4) (a) The Preliminary Review Phase begins on the date the complaint is filed or the date the commission decides to proceed on its own motion and ends on the date the executive director completes the statement of the facts determined during the phase under paragraph (d) of this subsection. \*\*\*

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(c) The Preliminary Review Phase is confidential. The executive director of the commission and any commission members and staff may acknowledge receipt of a complaint but may not make any public comment or publicly disclose any materials relating to a case during the Preliminary Review Phase. \*\*\*

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(d) (D) All case related materials and proceedings shall be open to the public after the commission makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion.

**Enumerated Exceptions or Public Interest Balancing Test?** No, but case materials and proceedings are open to the public after the commission makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion.

**Applied in Court Cases, AG Opinions and/or Public Records Orders?**

[PRO Zaitz](#) (6/28/2001) (correspondence between predecessor to the Ethics Commission and a public official concerning an investigation would be a public record when in the custody of the agency; however, such correspondence is not necessarily a public record in the hands of the public official who is the subject of the proceeding)

**Exemption Statute and Title: [ORS 350.075](#) Powers, Duties and Function**

**Summary:** Expressly exempts from disclosure student complaints received by the Higher Education Coordinating Commission.

**Relevant Text:** [ORS 350.075](#)

(4) (a) The Higher Education Coordinating Commission shall implement a process to review and appropriately act on student complaints regarding any school operating in this state. \*\*\*

(5) A student complaint that is received by the Higher Education Coordinating Commission, including but not limited to a student complaint filed under subsection (4) of this section, is not subject to disclosure under [ORS 192.311](#) to [192.478](#).

**Enumerated Exceptions or Public Interest Balancing Test? No.**

**Applied in Court Cases, AG Opinions and/or Public Records Orders? No.**