

AGENDA

- Commission Purpose & Resources
- Complaints Process & Sanctions
- Government Ethics Law Overview
 - What is a PROHIBITED USE of my position?
 - What are the LIMITS on private EMPLOYMENT?
 - How do I handle CONFLICTS OF INTEREST?
 - What are the limits on GIFTS I can accept?

GOVERNMENT ETHICS COMMISSION

- Enacted by voters in 1974
- 9 Members + Staff
- Agency Jurisdiction:
 - Oregon Government Ethics law - ORS Chapter 244
 - Lobby Regulation law - ORS Chapter 171
 - Executive Session provisions of Public Meetings law - ORS Chapter 192

RESOURCES & INFORMATION

- Request Guidance (*telephone, email advice, opinions*)
- Request Training (*webinars, in-person, online learning*)
- Find Materials (*Guide for Public Officials, published guidance, cases*)

Phone: 503-378-5105

FAX: 503-373-1456

e-mail: ogec.mail@state.or.us

Website: <http://www.oregon.gov/OGEC/>

Important Links

Stay informed through the Oregon Flu Info website. Protect yourself, your family and your co-workers by getting vaccinated against influenza. The few minutes it takes to get either seasonal influenza or pandemic H1N1 influenza, the more we can reduce the impact of these viruses on the state's flu virus site at www.flu.oregon.gov or call the state hotline at 1-800-978-3040.

Executive Director Annual Performance Evaluation

The Commission is committed to developing the

OGEC Resources

GUIDE for PUBLIC OFFICIALS

The Guide for Public Officials has been revised following 2009 Legislative changes. The updated guide is now available.

[Click here to access the guide.](#)

Learn Oregon - NOW AVAILABLE!

Access OGEC Training Modules online with [ilearnOregon!](#)

[Click here to learn more.](#)

LOBBYING

To report or not to report, that is the question.

[Main Oregon.gov page](#)

Featured Links

[Lobby Law Changes](#)

[Administrative Rule Updates](#)

[Commission Membership](#)

[OGEC 2009 Legislative Summary](#)

[Public Records Request](#)

[Citizens Guide to Public Records and Meeting](#)

COMPLAINTS PROCESS



- Happens 2 ways:
 - 1) Written, signed complaint submitted to OGEC
 - 2) Own motion
- Preliminary Review Phase (30 days)
- Investigation Phase (180 days)
- Contested Case Hearing

SANCTIONS FOR ETHICS VIOLATIONS



- **Civil Penalty**: \$5,000 max
 - \$10,000 max if a “willful” violation of ORS 244.040
- **Forfeiture**: 2x amount of financial benefit realized
- **Letters** of Reprimand, Explanation or Education
(ORS 244.350; ORS 244.360)

What are the
GOVERNMENT
ETHICS LAWS
I need to follow?



REGULATING, LIMITING, PROHIBITING CERTAIN FINANCIAL BENEFITS...

To the Public Official,

Relatives,

**Household
Members,**

**& Business
Associations.**

“PUBLIC OFFICIAL”

Any person who is **serving the State of Oregon** or any of its political subdivisions or any other public body, as an elected official, appointed official, employee, agent or otherwise, **irrespective of whether the person is compensated** for the service.

(ORS 244.020(15))



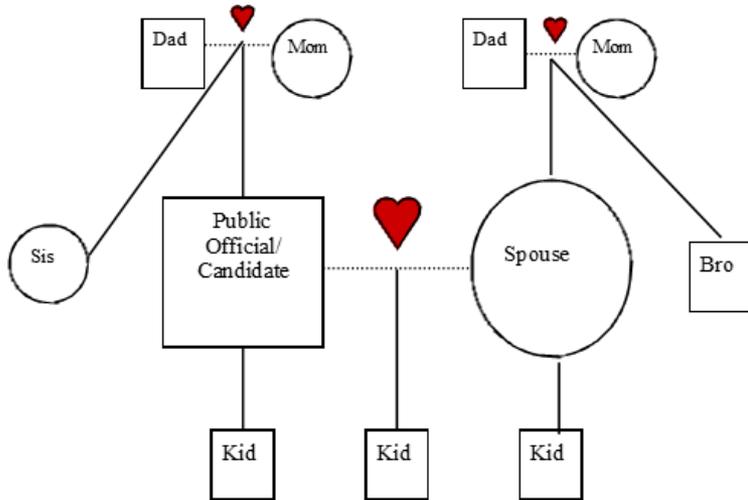
“MEMBER OF THE HOUSEHOLD”

Any person who resides with the public official.

(ORS 244.020(11))



“RELATIVE”



- A public official's:
 - Spouse
 - Child, son or daughter-in-law
 - Parent, including stepparent
 - Sibling, including stepsibling
- Same members of the public official's spouse's family.
- Anyone for whom the public official has a legal support obligation.
- Anyone receiving benefits of the public official's public employment.
- Anyone from whom the public official receives a benefit of employment.

(ORS 244.020(16))

“BUSINESS”

Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other **legal entity operated for economic gain.**

NOT:

- A **Public Body.**
- Tax-exempt 501(c) **non-profit** (*if* associated only as a **member, board director, or other unpaid position**).

(ORS 244.020(2))

BUSINESS ASSOCIATION

Private Business / Closely Held Corp:

- Director, officer, owner, employee, or agent;
OR
- Owned \$1000+ in stock, equity interest, stock options, or debt interest during the preceding calendar year.

Publicly Held Corporation:

- Officer or director;
OR
- Owned \$100,000+ in stock, equity interest, stock options, or debt interest during the preceding calendar year.
(ORS 244.020(3))



PROHIBITED FINANCIAL GAINS

PROHIBITED USE OF OFFICIAL POSITION (ORS 244.040(1))

A public official may not attempt use a public position to obtain any financial benefit for:

- the public official, a ***relative*** or ***household member***, or any ***business*** with which any are associated, ***IF***:
- the financial benefit ***would not be available but for*** the public official's holding the position.

* ***“Financial benefit” = a gain or avoidance of detriment***

EXCEPTIONS (ORS 244.040(2))

- **Official compensation** (See OAR 199-005-0035(3))
- **Honoraria** under ORS 244.042
 - * *Limited to \$50 max when related to public office or position*
- **Reimbursements** (See OAR 199-005-0035(4))
- **Unsolicited awards** for professional achievement
- Allowable **gifts** under ORS 244.020(7) & 244.025
- **Legal expense trust fund** contributions
 - * *Governed by ORS 244.205 - 221*

USE OF OFFICE & PRIVATE INCOME

In general, public officials may obtain employment with a private employer or engage in private income-producing activity of their own. However, they:

- *Must not* use the position held as a public official to *create the opportunity for additional personal income.*
- *Must ensure* a clear *distinction between* use of *personal resources* and time for personal income-producing activity, *and* use of the *public body's time and resources.*

GUIDELINES FOR PRIVATE EMPLOYMENT

- Use no governmental body time
- Use no governmental body resources
- Take no official action that could financially impact your private enterprise
- Use no confidential information obtained through your position as a public official
- Disclose all conflicts of interest



EXCEPTION FOR UNIVERSITY EMPLOYEES (ORS 352.067)

State Board of Higher Ed *and* the University's Governing Board may authorize an employee to accept private compensation for:

- Consulting services;
- Delivering speeches or making appearances;
- Intellectual property created through the university;
- Performing/providing other services paid by private individuals or organizations.

LIMIT ON SUBSEQUENT EMPLOYMENT

If you perform a significant role in authorizing (selection, execution, recommendation or approval of) a public contract,

And cease to hold a position as a public official,

You may not have a direct beneficial financial interest that public contract for **2 years** after the contract was authorized.

* ***UNLESS*** you refrained from participating in authorization in the first place.

(ORS 244.047; see OAR 199-005-0035(6))



CONFLICTS OF INTEREST

CONFLICT OF INTEREST (ORS 244.020(1), (13))

- Any action, decision or recommendation,
- Made while acting as a public official,
- That *would* (an **ACTUAL** conflict) OR *could* (a **POTENTIAL** conflict)
- Result in private financial benefit OR detriment to the public official, a relative, or any business with which either is associated.

***WHAT DO I DO
IF I AM MET
WITH A
CONFLICT?***



HOW TO HANDLE CONFLICTS FOR BOARD MEMBERS (ORS 244.120(2))

Publicly announce the conflict (when a matter requiring your to act, decide or recommend arises).

- AND if it's an ACTUAL CONFLICT—**Refrain from participating** as a public official (after making the public announcement).
- * UNLESS *participation is necessary to meet a quorum needed for the body to take official action—you may still vote, but must refrain from any other participation.*

HOW TO HANDLE CONFLICTS FOR STAFF(ORS 244.120(1)(C))

- Provide **written notice** to the person who appointed or employed you.
- Notice must:
 - **describe the nature** of the conflict, AND
 - **ask how to proceed.**
- **WAIT** for a response.

THE PUBLIC BODY'S RESPONSE

Either **assign someone else to the task** OR **instruct the employee how to take care** of the matter IN WRITING (ORS 244.120(1)(c)).

Record the notice (and response) in the official records of the public body (ORS 244.130).



EXCEPTIONS (ORS 244.020(13))

- a. Interest or membership in a business, industry, occupation or other class **required by law as a prerequisite** to holding the position.
- b. If the action would **affect to the same degree a class** of persons
 - *Could include: all inhabitants of the state, or an industry, occupation or other identifiable group.*
- c. Membership in a 501(c) **non-profit** or on its board of directors (IF UNPAID).

NEPOTISM

EMPLOYING A RELATIVE/HOUSEHOLD MEMBER

Public officials may NOT:

- **Appoint**
- **Hire**
- **Promote**
- **Discharge**
- **Fire**
- **Demote**
- **Directly supervise**



[Prohibition includes participation in any interview, discussion, or debate.]

(ORS 244.177 - 179)



GIFT LIMITS

\$50 GIFT LIMIT (ORS 244.025)



During a single calendar year...

A public official, relative, or household member...

May not receive any gift(s) worth over \$50...

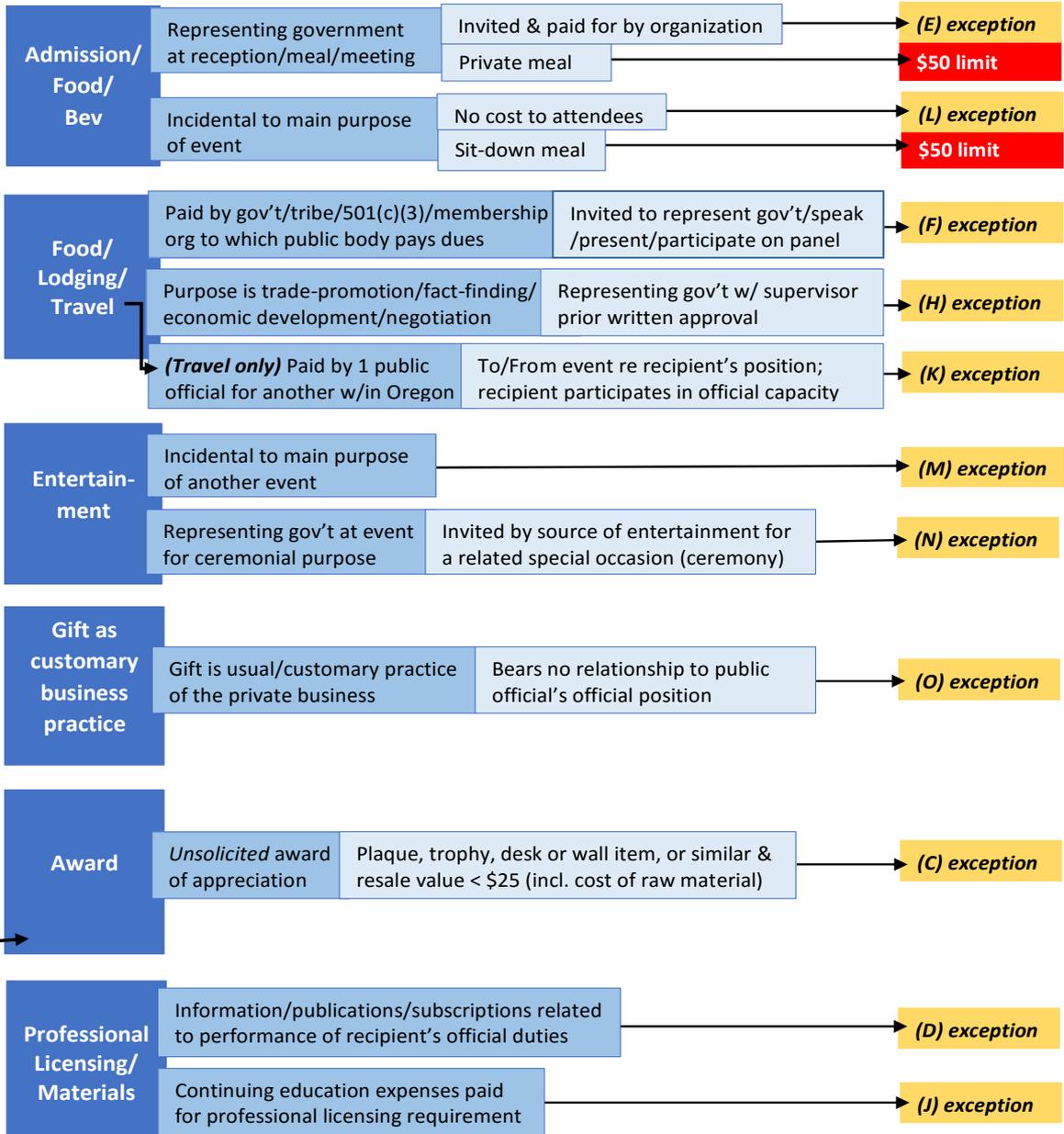
From any source reasonably known to have an **economic interest** in the public official's decision-making.

A GIFT IS: something of economic value not offered to others who aren't public officials (relatives or household members) on the same terms and conditions (ORS 244.020(7)(a))

But an offer is **NOT A GIFT** if it fails to meet the above definition *OR* if it is offered by the public entity the public official represents.

* However, Prohibited Use of Office (ORS 244.040) may apply

EXCEPTIONS TO THE GIFT LIMIT (ORS 244.020(7)(b)(A)-(O))*



SOURCE OF GIFT...



*This is a training tool not intended to substitute for review of law; select gift exceptions ((A), (B), (G), (I), (P)) excluded

Not All Gifts are Limited!

Step 1: Is it even a “Gift”? (ORS 244.020(7)(a))

If **NO** → Not a “gift”, so no limit.

If **YES** → *Step 2.*

Step 2: Is the giver reasonably known to have an economic interest? (ORS 244.025, ORS 244.020(10))

If **NO** → You may accept with no limit.

If **YES** → *Step 3.*

Step 3: Any exceptions? (ORS 244.020(7)(b))

If **YES** → No limit (within the exception).

If **NO** → You may accept subject to the **\$50 LIMIT!**

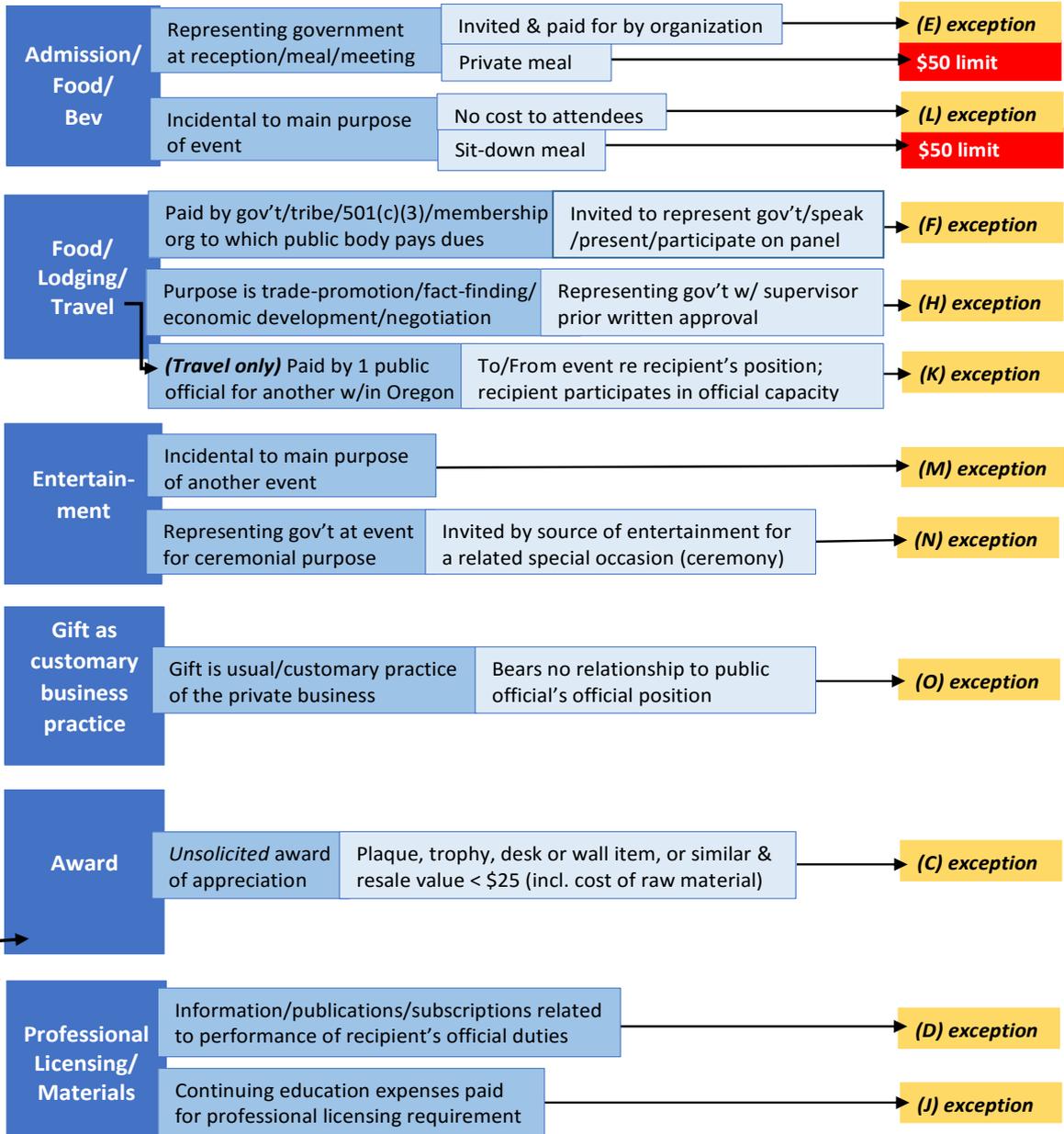


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IS IT EVEN A “GIFT”? (ORS 244.020(6))



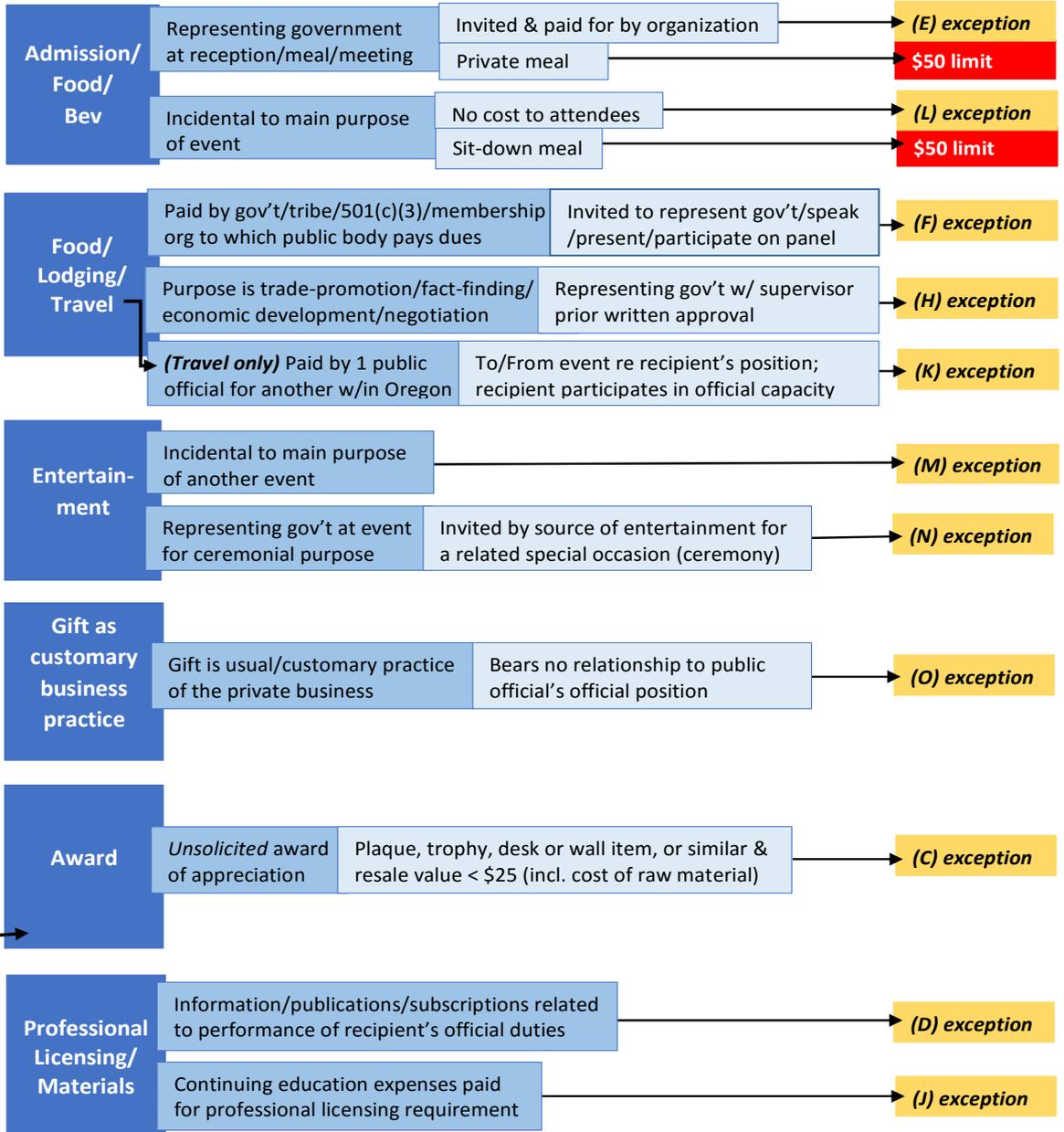
- Something of economic value...
- Offered to a public official, relative, or household member...
- Without payment or for discount value...
- That is ***not offered to others on the same terms and conditions.***

A GIFT IS: something of economic value not offered to others who aren't public officials (relatives or household members) on the same terms and conditions (ORS 244.020(7)(a))

But an offer is **NOT A GIFT** if it fails to meet the above definition *OR* if it is offered by the public entity the public official represents.

* However, Prohibited Use of Office (ORS 244.040) may apply

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