

The background is a light blue color with various decorative elements. There are several stars in different colors: a large blue star on the left, a red star at the top center, a white star at the top left, a white star at the top right, a white star at the bottom left, and a white star at the bottom center. There are also white and red geometric shapes, including a white arrow pointing up at the top center, a white zigzag line at the top right, and a red zigzag line at the bottom right.

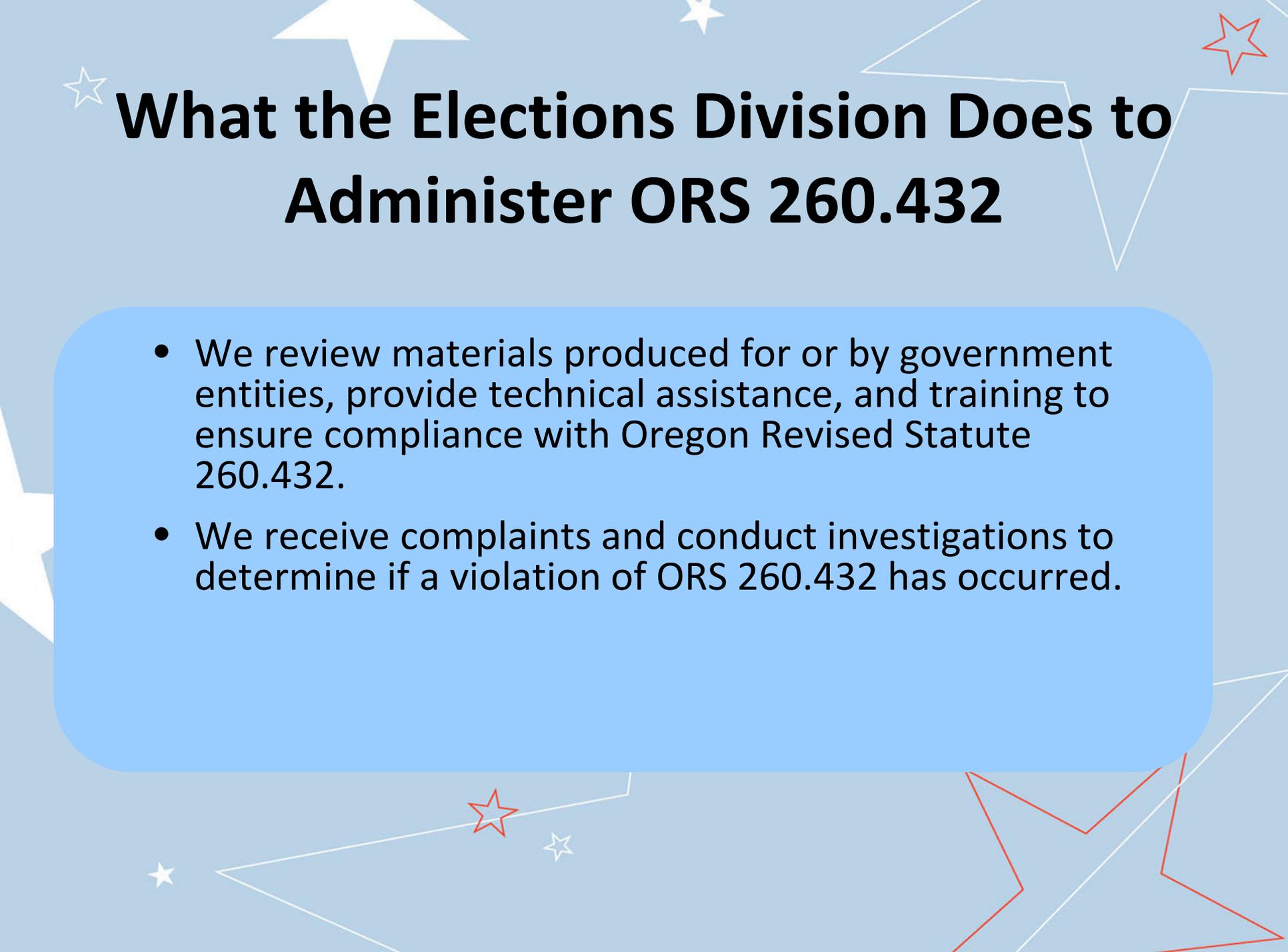
Restrictions on Political Campaigning by Public Employees ORS 260.432

February 9, 2018

Oregon Secretary of
State, Elections Division

Six Things You Will Know At the End of This Seminar

- What ORS 260.432 is
- When and who it applies to and how
- How it applies to the content of materials produced for or by government agencies
- What is the optional review service we offer
- What are the overall criteria and the impartiality requirements we apply to determine if material is compliant with ORS 260.432
- How you can apply this knowledge to create materials that are in compliance with ORS 260.432

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What the Elections Division Does to Administer ORS 260.432

- We review materials produced for or by government entities, provide technical assistance, and training to ensure compliance with Oregon Revised Statute 260.432.
- We receive complaints and conduct investigations to determine if a violation of ORS 260.432 has occurred.

What My Role Is

Lisa Ackerson,
Compliance
Specialist

- ORS 260.432 Compliance, Trainer and Investigator

What is ORS 260.432

The basics of ORS 260.432:

- ORS 260.432(2) states that a public employee may not, **while on the job** during working hours while in their official capacity, promote or oppose **political committees, candidates, petitions, measures or recall**.
- ORS 260.432(1) states that no person may **require** a public employee to participate in political activity, as defined by ORS 260.432.

When Does ORS 260.432 Apply

- For **initiative, referendum and recall efforts** as soon as the prospective **petition is filed** with the appropriate 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. A district or city measure is certified to the ballot when the elections official **files** the referral with the **county** elections office
- For a candidate, as soon as the person becomes a candidate under the definition in ORS 260.005 (1) (a); and
- For political committees, whenever the political committee is active.

Who Does ORS 260.432 Apply To and How

- **Public employees-** Must not promote or oppose a **political action committee, candidate, measure, recall, initiative, or referendum** petition **while on the job** in their official capacity.
- **Candidates and Elected Officials-** Elected Officials and Candidates **may** promote or oppose the aforementioned persons or entities. However, they **may not direct or attempt to direct** public employees to do so.

Who Does ORS 260.432 Apply To and How (Cont.)

- **Persons-** (individuals, businesses, unions, private organizations, and private groups of individuals) Must not **attempt or direct** a public employee to promote or oppose a political action committee, candidate, measure, recall, initiative, or referendum petition.
- **Government Contractors-** Are bound by the terms of their contract. Government contractors must **not attempt or direct** a public employee to support or oppose the aforementioned persons or entities. A **public employee must not direct** Government Contractors to support or oppose the persons or entities listed above.

★ When Does ORS 260.432 Apply to Work Performed by Public Employees

- For public employees that are paid an hourly wage, in most cases, this would be during working hours.
- For public employees that receive a salary, if they are performing work that generally falls within their job description, this is viewed as being in their official capacity, regardless of day or location.

How Does ORS 260.432 Apply to Informational Materials

- Public employees and government contractors may produce and distribute informational material about a candidate, initiative, recall or referendum petition, political action committee, or measure while on the job in their official capacity. In most cases, the informational material is about a measure, this seminar will focus on this subject matter.

Summary of the Review Process

- We do offer a review service, free of charge, to either public employees or government contractors that produce materials for government agencies.
- We review materials and provide feedback on how to comply with ORS 260.432.
- Once you receive the review, you may choose to either apply the feedback, resubmit the material, and receive “safe harbor”
or
- implement some or all of the feedback, not resubmit the material, and not receive “safe harbor”.

What Happens If We Receive a Complaint

- If material receives “safe harbor” and the following conditions are met: all of the changes recommended by the Elections Division are accepted and made, and the material is not otherwise altered, if the Elections Division receives a complaint it will be dismissed.
- If the material did not receive “safe harbor”, the complaint would be accepted and the matter would be investigated.

The background is a light blue gradient with various decorative elements. At the top center is a large white arrow pointing upwards. There are several white stars of different sizes scattered across the top and bottom. On the right side, there are white and red geometric shapes, including a large white star outline and a red star outline. A large, rounded blue rectangle is positioned in the center, containing the main text.

What We Do and Do Not Review

- We review documents, video, and audio material.
- We do not review explanatory statements, ballot titles, and administrative functions.
- We do not review for factual or language translation accuracy, spelling, punctuation and grammar.

★ How Long Does it Take Us to Review Material

We will complete the review process within 5 business days. If material is received between 12:01 am and 5:00 pm, it is considered to be received on that date. If it is outside of this timeframe, it is considered to be received the next business day we are open for business. Each submission starts the 5 business day clock again (this includes revisions).

How Do We Receive Materials

- Email elections.sos@oregon.gov
- Fax (503) 373-7414
- Mail 255 Capitol St NE, Salem, OR 97310
- File Share

Overall Criteria to Determine Compliance With ORS 260.432

“ Public bodies may use public funds to inform voters of facts pertinent to a measure, if the information is not used to lead voters to support or oppose a particular position in the election. However, we also have pointed out ‘informational’ material may be found to ‘promote or oppose’ a measure even if it does not do so in so many words if the information presented to the public clearly favors or opposes the measure and, taken as a whole, clearly intended to generate votes for or against a measure.”

Impartiality Requirements

- Materials must not explicitly urge a yes or no vote;
- Materials must be factually balanced;
- Materials that describe what a measure would pay for must also fully describe how much it would cost.

Vote Yes/No

The contents of the material must not urge a yes or no vote. The material should not contain a combination of words and graphics, that taken together, urge a yes or no vote.

Balance of Factual Information

The material must not be one-sided. It must include a balance of factual information. The information should fairly and neutrally explain the effect of the measure and set out known advantages or disadvantages should the measure pass or fail.

Description of Cost

- If a measure proposes to affect taxes or fees, the cost to the individual taxpayer or consumer must be included. This may be an estimate, if the specific cost is unknown.
- In the context of a bond levy, this is generally the cost per \$1000 of assessed property value and should be stated that way.
- It is allowable to indicate that if the bond passes, it would not raise taxes, if it would “renew” a bond that is currently in place.
- For a measure that uses a different funding mechanism, the cost still must be described in a way that clearly informs the public of how the measure would affect taxes or other fees.

Examples

Instead of saying: The bond **will** result in an increase of staff hired.

Say : **If the bond passes,** it **would** result in an increase of staff hired.

Instead of saying : Please **vote for** Measure 29.

Say : Please **consider** Measure 29.

Instead of saying: The cost to the average homeowner **will** be \$50 a year.

Say: **If the bond passes,** the tax assessed **would** be **\$.10 per \$1000** of **assessed property value**. For a property assessed at \$100,000 that would be \$10.00 a year.

Examples (cont.)

Instead of saying: The City of Grass Pants **will** receive approximately \$50,000 a year **when the bond passes. That is less than** the City of PollyWolly that currently pays approximately \$75,000 a year.

Say: If the bond passes, the City of Grass Pants **would** receive approximately \$50,000 a year.

Instead of saying: Please get out and **vote for** Measure 25.

Say: Please vote on May 2018.

Graphics

Vote



Group Exercise

- I will count off numbers 1-5, and you will group together by number.
- Work together for 5 minutes to write two sentences that provide information about a measure.
- One of the sentence should support or oppose the measure, in a way that is prohibited by ORS 260.432.
- The other sentence should not support or oppose the measure, in a way that complies with ORS 260.432.
- Pick a person to present the sentences aloud to the class, and explain briefly why your group wrote the sentences that way you did.

Reference:
2016 Restrictions on Political Campaigning By Public
Employees- ORS 260.432

oregonvotes.gov

You may also contact the Elections Division for guidance

relating to

ORS 260.432

at

503-986-1518

or

elections.sos@oregon.gov