

SECRETARY OF STATE

# JLAC AUDIT BRIEFING



Oregon Government Ethics Commission (OGEC): Oregon's Ethics Commission and Laws Could Be Better Leveraged to Improve Ethical Culture and Trust in Government

Report 2021-14, Released May 2021

# AUDIT OBJECTIVES

**Objective #1:** To determine whether there are ways in which Oregon can improve its government ethics framework, particularly in these areas:

- a. Strength of ethics laws;
- b. Commission structure, independence, and qualifications;
- c. Training requirements for public employees;
- d. Promoting an ethical culture.

**Objective #2:** To determine whether there are ways in which OGEC can improve its processes for receiving, investigating, and adjudicating ethics complaints and training government employees on ethics laws.

# KEY FINDINGS

1. Oregon's ethics framework and OGEC operations are generally aligned with other states' and leading practices.
2. However, the state's ethics framework can be strengthened by increasing OGEC's independence, further protecting complainants, and implementing ethics requirements.
3. Better data practices and an enhanced training program could help OGEC improve its operations and better inform public employees and Oregonians of the state's ethics laws.

## Protecting the Public Trust

**“If we do not provide  
against corruption, our  
government will soon be at  
an end.”**

# ETHICS LAWS HELP PROTECT THE PUBLIC TRUST

- The state's ethics laws apply to all state and local government employees. Key areas covered include:
  - Use of public office for private gain
  - Conflicts of interest
  - Acceptance of gifts
  - Nepotism
  - Financial interest in public contracts
  - Statements of Economic Interest, lobbyist registration/disclosure, Executive Session

# OREGON GOVERNMENT ETHICS COMMISSION

- OGEC's mission, in brief, is to impartially administer Oregon's government ethics laws for the benefit of all Oregonians. The commission investigates complaints, provides opinions and training on ethics laws, registers lobbyists, and administers Statements of Economic Interest.
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## Commission

- 9 members

## Staff

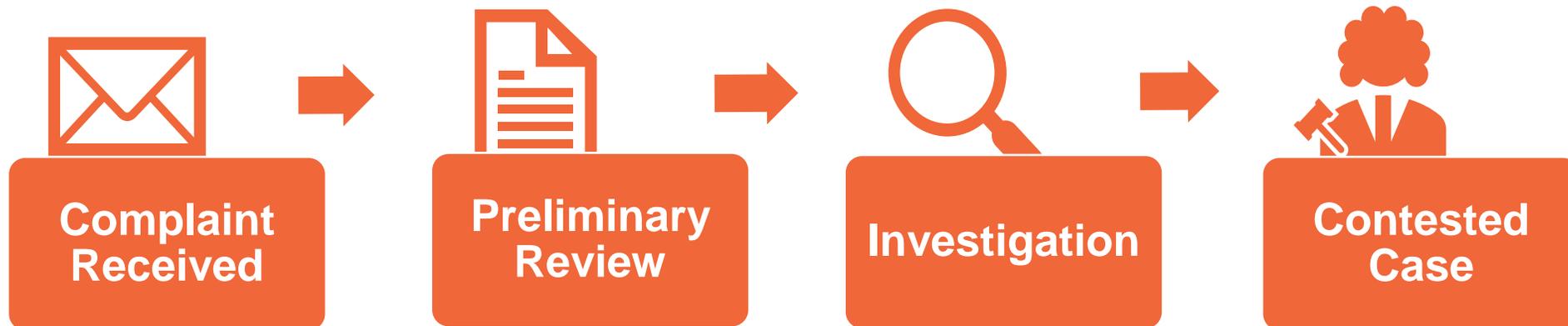
- 9 staff, including Executive Director

## Budget

- \$2.9 million for 2019-21 biennium

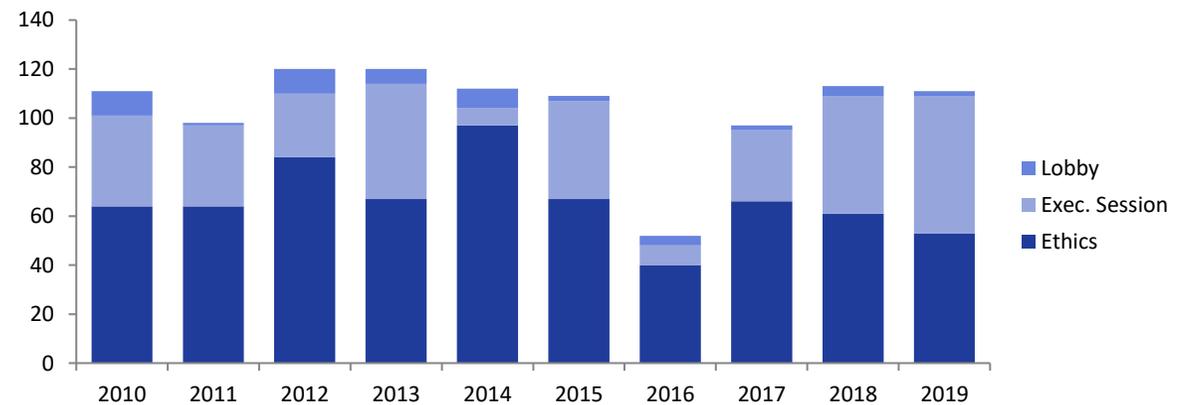
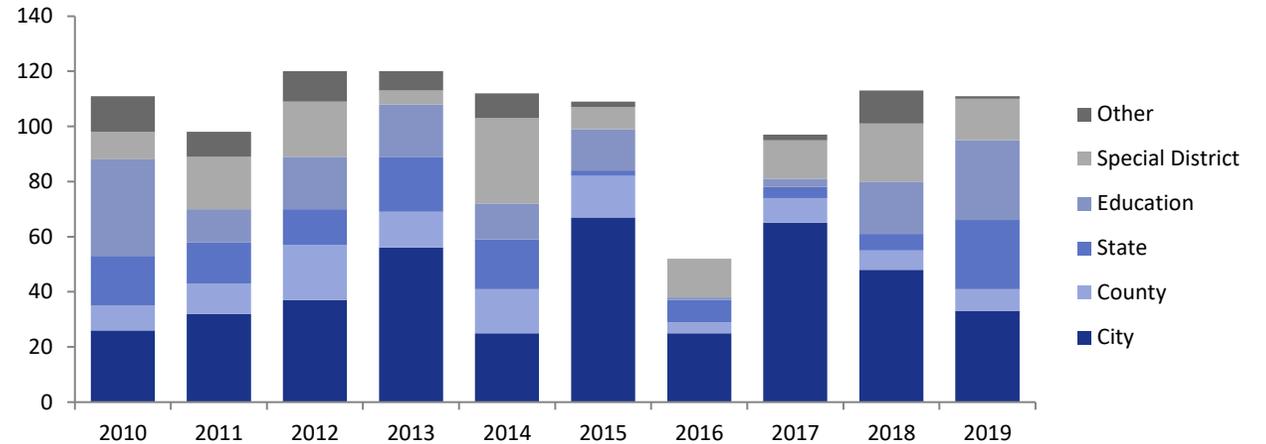
# INVESTIGATING ETHICS COMPLAINTS

- Anyone can submit an ethics complaint, but a complaint must be signed by the complainant — anonymous complaints are not accepted.
- The complaint process has four phases, though a complaint can be settled at any point.



# COMPLAINTS RECEIVED BY JURISDICTION & TYPE

- Other than 2016, the total number of cases OGEC opened each year stayed relatively steady from 2010-2019, while the types of jurisdictions associated with cases often changed significantly.
- The types of cases opened each year also seem to fluctuate, but ethics cases outnumber executive session and lobbying cases most years.



# HOW WE CONDUCTED THE AUDIT

- To address our objectives, we used a methodology that included, but was not limited to:
  - Interviewing OGEC commissioners, staff, and stakeholders and reviewing ethics statutes;
  - Researching best practice information from ethics watchdog organizations, such as the Coalition for Integrity;
  - Analyzing OGEC complaint data, policies, and procedures;
  - Interviewing managers and examining documents from seven other states' ethics regulatory bodies.

## Audit Results

**Oregon's ethics laws appear to provide a reasonable structure for preventing unethical behavior, but gaps in the areas of independence, protection of complainants, and ethics training present opportunities for strengthening the state's culture around government ethics.**

# **Oregon's ethics framework and OGEC operations are generally aligned with other states and leading practices**

- OGEC is generally independent from other branches of government
- The commission's complaint process includes sensible protections for those accused of ethics violations
- OGEC's case management system and electronic filing system have generally improved data management and expanded transparency

# **The state's ethics framework has some key weaknesses in the areas of independence and protecting complainants**

- Commissioners can be removed by the Governor for any reason, potentially jeopardizing their independence
- There are few statutory limits on commissioners' political activity
  - Commissioners are allowed to donate to political campaigns, work or volunteer for a political party, and endorse candidates or ballot measures.
- OGEC receives legal services from the Oregon Department of Justice, which may lead to a perception of a conflict of interest

Unlike some state regulatory bodies, Oregon law does not explicitly allow OGEC to accept anonymous complaints.

Some other state entities that accept anonymous complaints or keep complainant names confidential include:

- Oregon Medical Board
- Oregon Board of Dentistry
- Oregon Board of Massage Therapists
- Department of Environmental Quality
- Oregon Liquor Control Commission
- Oregon Board of Social Workers
- Oregon Secretary of State's Fraud, Waste, and Abuse Hotline.

## **The state's ethics framework has some key weaknesses (cont.)**

- Oregon's ethics laws may not adequately protect complainants, potentially resulting in fewer credible complaints from those who fear retaliation.
  - Many other boards, commissions, and agencies are allowed to accept anonymous complaints or keep complainant names confidential.

# Oregon's ethics framework has some key weaknesses (cont.)

- School board members are elected to lead large public institutions, but state law does not require Statements of Economic Interest (SEIs).
- Oregon law does not require public employees to receive ethics training and could do more to help foster an ethical culture.

**Figure 7: The state's largest school districts oversee budgets of more than \$6 billion in total, but no school board members are required to file SEIs**

School District	All Funds Budget
Portland	\$2.73 billion
Salem-Keizer	\$1.53 billion
Beaverton	\$936.5 million
Bend-La Pine	\$481.5 million
Hillsboro	\$536.2 million

Source: School district budget documents.

# OGEC data practices and training options could be enhanced to better inform the public

- OGEC could better utilize data to analyze ethics risks and trends.
- The commission maintains an ethics training program for public officials but could do more to educate government employees and improve public understanding of state ethics laws.

*Example of an annual report from the Washington Public Disclosure Commission and a newsletter published by the Ohio Ethics Commission*



## **OTHER PERTINENT INFORMATION**

- Oregon is one of two states that require legislators to vote on a matter even when it presents a conflict of interest. Virtually all other elected and appointed officials must recuse themselves from decisions that involve a conflict of interest.
- Each of the seven other states we reviewed for the audit either required or allowed legislators to recuse themselves from such decisions.
- Allowing legislators to participate in these types of matters risks weakening the public's confidence and trust in government.

# RECOMMENDATIONS

- To strengthen the state's government ethics framework, OGEC should work with the Governor's Office and Legislature to:

## Independence

- Establish statutory protections to prevent commissioner removal without just cause
- Establish more specific limitations on commissioners' political activities
- Allow the commission to hire or contract for an internal general counsel position

## Protect Complainants

- Amend statutes to allow OGEC to accept anonymous complaints or keep complainant names confidential, either at its discretion or when a complainant fears retaliation

## Ethical Culture

- Require public employees to receive regular ethics training or to document their acknowledgement and understanding of the state's ethics laws
- Establish additional policies aimed at maintaining an ethical culture in government, such as requiring ethical codes of conduct

## Other

- Require school board members to file Statements of Economic Interest

# RECOMMENDATIONS

- To improve its operations and better inform the public and public employees, OGEC should:

## Data

- Establish procedures for reviewing the accuracy of CMS data and regularly analyzing CMS and other data to look for trends.

## Train

- Continue to expand training options to provide more virtual and online trainings, which may require additional budget resources.

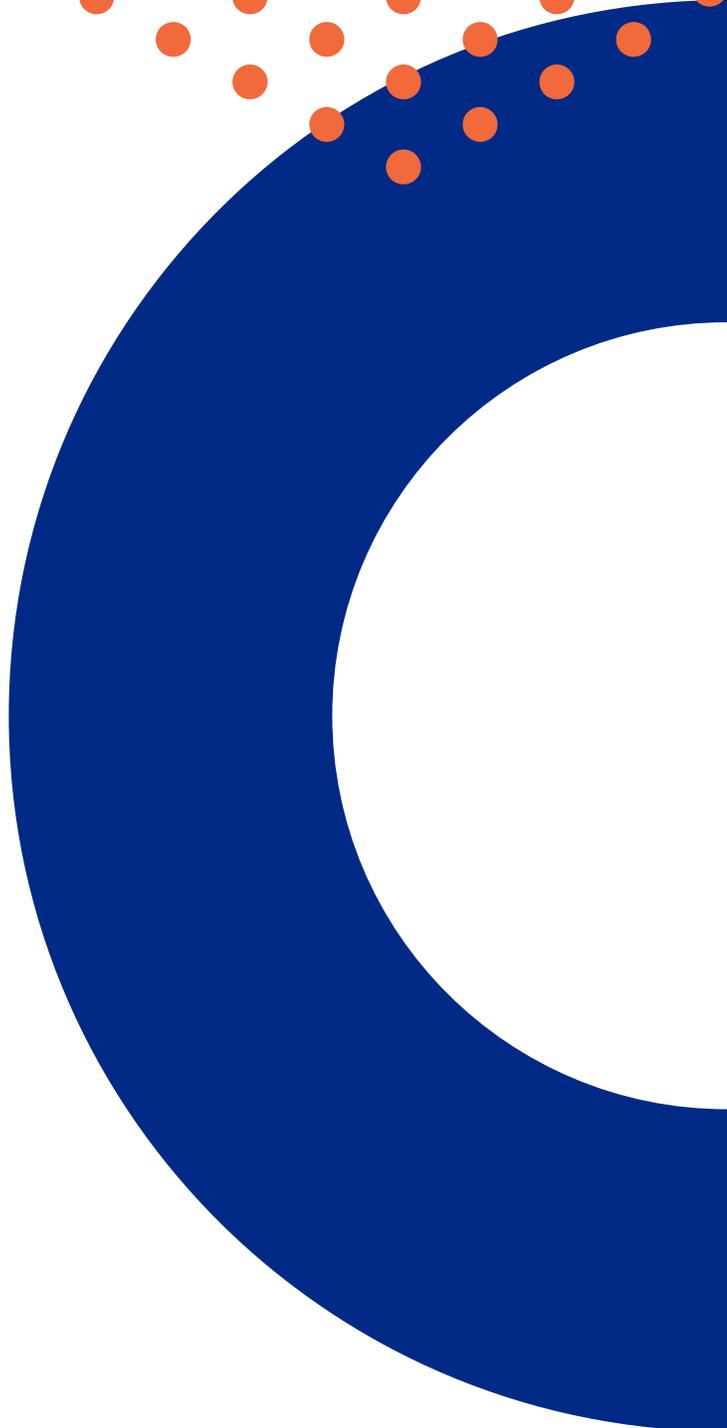
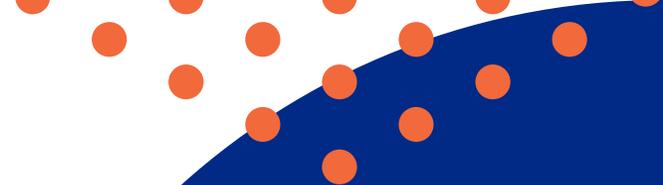
## Inform

- Create and distribute a newsletter or annual report that includes on complaints, advisory opinions, legislative changes, etc.
- Consider utilizing social media and other avenues to regularly inform the public of commission decisions, how to file a complaint, etc.

## IMPLEMENTED

- Allow commissioners to serve more than one term
- Increase the time allowed for preliminary reviews
- Update the ethics manual for public officials, in accordance with statute.

# QUESTIONS?



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