

July 14, 1997

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Dear Mr. Jones:

This letter is in response to your correspondence dated June 10, 1997 concerning rural fire protection districts and their treatment of volunteer firefighters.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION NO. 97S-020**

STATED FACTS: In previous opinions, the Oregon Government Standards and Practices Commission (GSPC) has stated the payment for the dinner of a spouse of a public official, at an event such as an annual banquet, would be a violation of Oregon Government Standards and Practices laws because it would constitute the receipt of a benefit for the spouse that would not be available if the public official did not hold the official position.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

ORS 244.020(15): "'Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

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ORS 244.040: "The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated."

QUESTION #1: Would it be a violation of Oregon Government Standards and Practices laws for the governing body to pay for the dinners of spouses of public officials if the governing body officially adopts the expense as a specific benefit of the official's compensation?

OPINION: In the Oregon Government Standards and Practices Commission's (GSPC) Advisory Opinion #93A-1007 (copy attached), the GSPC stated when government officials attend a function in their official capacity it would not be prohibited for the governing body to pay for the dinner of the official under the reimbursement of expenses provision of ORS 244.040(1)(a). The opinion also stated that the spouse of the public official is not a public official as defined by statute; therefore, any costs incurred due to such participation must be paid for with non-public funds.

Volunteer firefighters are public officials subject to Oregon Government Standards and Practices laws pursuant to ORS 244.020(15) even though they are not compensated for their services. Public officials and their spouses are not permitted to receive something of economic value, at no cost, when those same benefits are not available to persons who are not public officials. Public officials that receive such economic value only because of their public position would be receiving personal financial gain in violation of ORS 244.040(1)(a).

The stated facts propose that fire district board of directors, at a public meeting, adopt as a specific benefit of their volunteers' compensation, a dinner for the volunteer and their guest. ORS 244.040(1)(a) specifically excludes official salary as a use of office or position for personal financial gain. Providing for the cost of the relative's dinner at the fire district's annual dinner banquet as part of the volunteer firefighter's compensation package would be considered official salary. Accordingly, there would be no violation of Oregon Government Standards and Practices laws by volunteer firefighters whose relative(s) received a dinner, paid for the public entity, at the annual banquet.

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QUESTION #2: Would the answer to Question #1 change if the personnel involved were paid personnel instead of volunteers, assuming a properly adopted policy setting this out as a specific benefit for the individuals involved?

OPINION: No. The opinion to question #1 would also apply.

THIS RESPONSE IS BASED SOLELY ON THE INFORMATION PROVIDED IN YOUR WRITTEN INQUIRY AND IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Please advise this office if you would like this matter submitted to the GSPC for adoption as a formal advisory opinion at a future meeting. Do not hesitate to call or write again if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director

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