

March 5, 1998

John K. Knight
Columbia County Counsel
318 Courthouse
St. Helens, Oregon 97051-0010

Dear Mr. Knight:

This letter is in response to your correspondence dated February 20, 1998, concerning an official county trip to a legislative workshop in Washington D.C. by a Columbia County Commissioner.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF OPINION
98S-007**

STATED FACTS: A Columbia County Commissioner will be attending a National Association of Counties legislative workshop in Washington D.C., from February 27 through March 4, 1998. In lieu of flying back to Oregon when the conference is concluded, the commissioner plans on driving back a truck that the commissioner will acquire from the commissioner's brother while in Washington D.C. Because a one-way ticket is \$800, Columbia County has purchased a two-way ticket for the commissioner at a cost of \$400. The commissioner proposes to drive the truck back at the commissioner's own expense, with no additional expense to Columbia County.

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: Code of ethics; prohibited actions; honoraria. 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: Would it be a violation of Oregon Government Standards and Practices law for the commissioner to fly to the conference in Washington D.C. at the expense of Columbia County and then drive the truck the commissioner will be acquiring from the commissioner's brother back to Oregon at the commissioner's own expense?

OPINION: No. The commissioner will be attending this conference in the commissioner's official capacity. Columbia County has provided the commissioner with round trip airfare for the trip which is permitted as reimbursement of expenses pursuant to ORS 244.040(1)(a). According to the stated facts, the commissioner is electing to drive back to Columbia County, at the commissioner's own expense, in a truck that the commissioner will be acquiring from the commissioner's brother while in Washington D.C. Columbia County will not be liable for any additional expense other than the previously mentioned round-trip airfare.

Your letter expressed some concern that, by using the airline ticket provided by Columbia County, someone might suggest that the commissioner would be saving the expense of traveling to Washington D.C. for what is partially a personal benefit, i.e., acquiring the truck. While this may have the appearance of impropriety, the appearance of impropriety is a subjective issue which is not addressed by Oregon Government Standards and Practices law. Avoiding the appearance of impropriety is a policy issue which must be determined by public officials and the public bodies they serve.

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THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

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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