

April 10, 1998

Lt. James Hepler
Oregon State Penitentiary
2605 State Street
Salem, OR 97310

Dear Lt. Hepler:

This letter is in response to your correspondence dated April 2, 1998, concerning the solicitation of donations from the business community for the golf tournaments hosted by the Employee Entertainment and Recreation Fund and the Department of Corrections Fitness Center.

OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION 98S-012

STATED FACTS: The Employee Entertainment and Recreation Fund (EE&R) is an association operated and funded by voluntary contributions of Oregon State Penitentiary (OSP) staff. This fund provides employee leisure activities for the OSP staff, vending machines for staff and visitors of the OSP, and fund raising activities for a federally-recognized Correctional Officer week. The EE&R is independent of the Oregon State Penitentiary and the Department of Corrections.

The Department of Corrections (DOC) Fitness Center is an association operated and funded by voluntary contributions from DOC staff. The center operates and maintains exercise equipment and other health-related activities for all DOC employees and their families. This association is also considered independent of the Department of Corrections.

Both associations host a golf tournament. These tournaments are partially funded by the respective associations through the payment of green fees paid by those participating in the tournament. The director of the golf tournaments would like to send a letter to community businesses and organizations to ask if they would donate a tee prize for each of the tournaments. By donating a gift, the business would be recognized by both associations at the end of the tournament as a business which promotes the employee-sponsored activities.

Lt. James Hepler

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

ORS 244.020(2): Business means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official is associated in a nonremunerative capacity.

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.

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: Do Oregon Government Standards and Practices laws permit a member of an independent public employee association to solicit donations from community businesses for a charitable golf tournament organized to raise money for the association?

OPINION: The stated facts do not indicate that the volunteer activity of a public employee in raising funds for an independent public employee association would create a conflict of interest. Public employee associations are not operated for economic gain. Thus, such entities are not a business as defined by ORS 244.020(2). Accordingly, employees of such an association do not come within the definition of business with which the person is associated as defined by ORS 244.020(3).

There is no indication from the stated facts that the director of the golf tournaments or any other association member (public officials) will receive any financial interest or gain, to himself or his family, from any of the donations from businesses in the community. When there is no financial gain or the avoidance of a financial detriment involved for the

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public official, the public official's relative, or for any business with which the public official or the public official's relative is associated as a result of the public official's action, the public official would not violate the provisions of ORS Chapter 244, Oregon Government Standards and Practices law.

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.

Sincerely,

L. Patrick Hearn
Executive Director

LPH:aip/hepler.so