

July 28, 2000

Howard L. George  
Business Manager  
Jackson Education Service District  
101 North Grape Street  
Medford, Oregon 97501

Dear Mr. George:

This letter is in response to your correspondence dated July 25, 2000 concerning whether or not a paid school superintendent may take personal or vacation time off from the superintendent's assigned school district and perform services, for compensation, for another school district.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF OPINION  
NO. 00S-018**

**STATED FACTS:** A superintendent from one school district is requested to provide some consulting work for another school district. The superintendent takes paid time off, such as vacation time, from his school district, then uses this time to provide the requested services to the other school district. The superintendent then charges and receives payment from the requesting district for those services.

**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 the superintendent violate Government Standards and Practices law by taking vacation or personal time off to provide services to another school district for compensation?

OPINION: No violation of Government Standards and Practices law would occur. In previous advisory opinions of a similar nature, the Oregon Government Standards and Practices Commission (GSPC) has issued guidelines related to public officials who choose to engage in outside employment or professional activity. Those guidelines have been based upon Oregon law pursuant to ORS Chapter 244 and include the following:

**GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS**

1. That private business not be conducted on public time.
2. That public supplies, facilities, equipment, personnel, records or any other public resources not be used to carry out private business.
3. That no official action toward a third party be conditioned on a private business relationship with that third party.
4. That no confidential information be used to obtain financial benefit for the employee.
5. That employees will notify their appointing authority in writing of a potential or actual conflict of interest if private endeavors could or would be affected by public employment.

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If public employees follow the GSPC's guidelines for outside employment, there will most likely not be any violations of ORS Chapter 244.

You also state The question here is whether a public employee can be compensated twice for the same time. In these situations the employees are performing the same or similar services that they provide to their current employer. According to the stated facts, the superintendent performs work for the other district while on leave time, either personal or vacation, which he has earned as part of his compensation package. This leave time is the superintendent's and does not constitute being compensated twice for the same time. Nothing in ORS Chapter 244 precludes him from working during this time as long as he adheres to the guidelines noted above.

**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

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