

  
Theodore R. Kulongoski, Governor

April 25, 2003

Ulys Stapleton  
City Attorney  
City of Grants Pass  
101 Northwest "A" Street  
Grants Pass, Oregon 97526

Dear Mr. Stapleton:

This letter is in response to your correspondence dated February 26, 2003 concerning a spouse staying in a motel with a city employee when the motel is paid for by the city for the city employee and a city employee taking vacation days in conjunction with an official city paid business trip.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF  
OPINION NO. 03S-009**

STATED FACTS: A city employee goes on a business trip for the employee's city employer. The employee stays in a motel paid for by the city. The motel offers rooms with a single bed and two beds and the same price. The employee takes his/her spouse on the trip and orders a room with two beds.

A city employee goes on a business trip for the employee's city employer. The city pays round trip airfare for the employee for this trip. At the conclusion of the city business the employee stays two extra days using vacation time and then returns by way of city paid air travel.

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

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."

244.020(16) "'Relative' means the spouse of the public official, any children of the public official or of the public official's spouse, and brothers, sisters or parents of the public official or of the public official's spouse."

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:"

244.040(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 a public employee to have his/her spouse share a city paid motel room if room rate was the same for single or double occupancy?

OPINION: ORS 244.040(1)(a) prohibits a public official from using, or attempting to use, their official position or office to obtain a financial gain or the avoidance of a 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, the reimbursement of expenses or an unsolicited award for professional achievement for the public official.

If the employee wishes to take his/her spouse on the trip and have him/her stay in a motel room paid for by the city the employee must personally pay for any additional costs incurred for the spouse's lodging. If such additional costs are paid for by the employee, the employee would not avoid a financial detriment and would not violate ORS Chapter 244.040(1)(a).

QUESTION #2: Would it be a violation of Oregon Government Standards and Practices laws for a public employee to extend his/her time in the area after a business trip for which the employer paid the employee's airfare for a period of two days while using paid leave?

OPINION: If the city's cost for the employee's airfare would increase due to the employee staying the extra two days for personal business, the employee would avoid a financial detriment in violation of ORS 244.040(1)(a). In addition, any and all expenses incurred as a result of the employee's extra stay must be paid for by the employee. If

the public employer were to pay for such expenses, the employee would receive a prohibited financial gain in violation of ORS 244.040(1)(a).

**THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.**

Please contact this office again if you would like this opinion submitted to the Oregon Government Standards and Practices Commission (GSPC) for adoption as a formal advisory opinion pursuant to ORS 244.280.

Sincerely,

L. Patrick Hearn  
Executive Director