


Theodore R. Kulongoski, Governor

October 15, 2003

Sherrie Barker
Administrative Assistant
Jefferson School District, 14J
Jefferson, Oregon 97352

Dear Ms. Barker:

This is in response to your e-mail dated, October 6, 2003 regarding a softball coach at a high school also serving on the school board that oversees the same high school.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION NO. 03S-017**

STATED FACTS: For several years, the same person has been the head coach of a high school varsity softball program. The coach has received compensation for coaching.

In a recent election, the coach won a position on the school board. The school board has oversight of the same high school where the newly elected board member has coached.

Since gaining membership on the school board, the coach would like to retain head coaching duties as a volunteer without compensation.

RELEVANT STATUTES: The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

244.010(2) "The Legislative Assembly recognizes that it is the policy of the state to have serving on many state and local boards and commissions state and local officials who may have potentially conflicting public responsibilities by virtue of their positions as public officials and also as members of the boards and commissions, and declares it to be the policy of the state that the holding of such

offices does not constitute the holding of incompatible offices unless expressly stated in the enabling legislation.”

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.”

244.040 “**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: Do Government Standards and Practices law prohibit the board member from retaining head coaching duties without being paid for performing those duties?

OPINION: No. The Legislative Assembly established a policy in ORS 244.010(2) by declaring that two concurrently held public positions with potentially conflicting responsibilities does not constitute the holding of incompatible positions.

The coach, described in the stated facts, is performing his/her duties as a volunteer. The office of school board member is also uncompensated. It does not appear, therefore, that either position could be used for prohibited financial benefit in the other position.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS 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

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**ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON STANDARDS
AND PRACTICES COMMISSION.**

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

Sincerely,

L. Patrick Hearn
Executive Director

LPH/dc 03S-017