



Oregon

John A. Kitzhaber, MD, Governor

Government Ethics Commission
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June 20, 2013

Kate Mackaness
Working Teachers
38954 Proctor Blvd.
Suite 193
Sandy, Oregon 97055

Dear Ms. Mackaness:

This is in response to your correspondence regarding how Oregon Government Ethics law may apply to iPads offered to public officials by Working Teachers, a nonprofit corporation, through its Technology for Literacy Development course.

OREGON GOVERNMENT ETHICS COMMISSION STAFF ADVISORY OPINION NO. 13S-001

STATED FACTS: The stated facts refer to public officials who are educators who are employed by public schools. According to your website www.workingteachers.org, Working Teachers is an Oregon nonprofit corporation which provides educational courses and workshops in Oregon and Washington predominately to educators. In a follow up telephone conversation you indicated Working Teachers markets this course predominately to teachers by email directly to the teacher or to the school districts.

Working Teachers has made available a course, "Technology for Literacy Development" which appears to meet the State of Oregon's Common Core State Standards according to your website.

Your website states that the Working Teachers course and workshops are designed to provide professional development training for educators. The Technology for Literacy Development course is designed to address digital and multimedia literacy standards in classrooms. The Technology for Literacy Development course is \$800.00, payable to Working Teachers. The \$800.00 fee covers the instruction and use of a 2nd generation iPad during the course. There is a required textbook which is available for purchase for \$26.99 at the first class session. The cost of the required textbook is not covered in the course fee.

As described in the registration information, teachers who chose to participate in this course and successfully complete it take ownership of the iPad they used during the term. If a teacher does not successfully complete the course, they are required to return the iPad to Working Teachers.

If an educator wants to obtain graduate credits they can do so through a cooperative credit program at Portland State University's (PSU) continuing education department in the Graduate School of Education. The cooperative credit program provides teachers, teachers-in-training, administrators, aspiring administrators, trainers, human service professionals and other education professionals an opportunity to receive university credit for taking classes offered by partnering nonprofits, such as Working Teachers. For a cooperative credit class, participants must register and pay an additional fee to PSU. Information indicates tuition is paid by the individual teacher or the public employer.

QUESTION: Would a public official violate Oregon Government Ethics law by taking ownership of the iPad that is available through the Technology for Literacy Development course if the course fee was paid personally by a public official?

ANSWER: No. If a teacher were to pay for this course out of their own personal funds and does not seek any reimbursement from their public employer, the capability to own the iPad would be neither a financial gain nor avoidance of a financial detriment.

QUESTION: Would the iPad, provided upon successful class completion, be a "gift" to the public official by Working Teachers?

ANSWER: No. We conclude that the iPad would not be considered to be a gift to the public official. It would appear based on the information provided, that the receipt of an iPad would not meet the definition of a "gift."

When the Oregon Government Ethics Commission addresses a question regarding the offer of a gift to a public official it considers if the offer of paid expenses, discount or other free item meet the definition of a gift as provided in ORS 244.020(6)(a).

A gift is defined in ORS 244.020(6)(a) as:

"Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to "others" who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions.

The definition of "gift" quoted above states that it is something given "without valuable consideration of equivalent value". In the stated facts, the iPad is only provided to course participants who pay an \$800 course fee. Because the iPad is provided to every

person who pays the course fee and completes the course, it is not a gift but is included as part of the tuition. The course fee is the consideration, and the iPad is not a gift. It is an integral element of the course, in the same way that course credits (if the course is taken for course credit) are provided upon successful completion.

Because the iPad is not a gift from Working Teachers, but is instead a benefit provided as an element of completing the course, the next question is whether accepting the iPad as a personal belonging complies with ORS 244.040(1) when the public employer has paid the course fee for the public official.

QUESTION: Would a public official violate Oregon Government Ethics law, by taking ownership of the iPad that is a benefit provided as an element of completing the Technology for Literacy Development course, if the course fee of \$800.00 is paid for by their public employer?

ANSWER: ORS 244.040(1) prohibits public officials from using or attempting to use their official position to obtain financial benefits for themselves, a relative or member of the household of the public official that would not otherwise be available but for the holding of the official position. District employees, are public officials as defined by statute in ORS 244.020(14). The term "but for" refers to gaining a financial benefit or avoiding a personal expense through opportunities that would not be available but for holding the position as a public official.

While ORS 244.040(1) prohibits a public official from using their official position to accept benefits that would not otherwise be available but for their official position, ORS 244.040(2) addresses circumstances in which a public official may use their position to accept financial benefits that would not otherwise be available but for holding the position as a public official. Specifically, public officials may receive any financial benefit that is stipulated by the public body served by the public official as part of an official compensation package or the reimbursement of expenses. The exceptions relevant to these circumstances are described in ORS 244.040(2)(a) and (c) as follows:

ORS 244.040(2)(a) "Any part of an official compensation package as determined by the public body that the public official serves".

ORS 244.040(2)(c) "Reimbursement of expenses".

As defined in OAR 199-005-0035(3), an official compensation package includes, in addition to wages and benefits provided to a public official, the direct payment of a public official's expenses by the public body, in accordance with the public body's policies. As defined in OAR 199-005-0035(4), reimbursement of expenses includes the payment by a public body to a public official serving that public body, of expenses incurred in the conduct of official duties on behalf of the public body. Any such repayment must comply with any applicable law and policies governing the eligibility of such repayment.

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Public officials may accept any financial benefit that is identified by the public body they serve as part of their "official compensation package". If the public body identifies such benefits as salary, or various other paid allowances in the employment agreement or contract of a public official, those financial benefits are part of the "official compensation package" [ORS 244.040(2)(a)]. The "official compensation package must specifically provide that the employee is allowed to keep items provided in relation to courses taken at the districts expense. "Official compensation" also includes the direct payment of a public official's expenses by the public body in accordance with the public body's policies.

District employees may receive financial benefits specified in their official compensation package or within the reimbursement of expense policies of the district. In the absence of a specific tuition reimbursement policy including class materials such as a personal iPad either within their official compensation package or the district's reimbursement policy the teacher would not be able to obtain ownership of the iPad. If tuition is paid by the district they would not be precluded from ownership of the iPad. Nothing in this staff opinion would prevent the district from assuming ownership of the iPad and assigning its use within the District.

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 ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT ETHICS COMMISSION.

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

Sincerely,



Ronald A. Bersin
Executive Director
Enclosure

ADDENDUM

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

199-005-0001 The following definitions are provided for words or terms as they are used in ORS Chapter 244, especially in the exceptions to the definition of a gift in ORS 244.020(6)(b):

199-005-0003 Legislative or administrative interest defined in ORS 244.020(9)

- (1) If the source of a gift has a legislative or administrative interest, any gift offered to a public official or candidate, a relative or member of a public official's or candidate's household, may only be offered and accepted under conditions set forth as permitted in ORS Chapter 244. If, however, the source of a gift does not have a legislative or administrative interest, gifts are not restricted or prohibited.
- (2) "Decision" as used in ORS 244.020(9)(a) and (b) means an act that commits the public body to a particular course of action within the public official's scope of authority and that is connected to the source's economic interest. A decision is not a recommendation or work performed in an advisory capacity. The following examples illustrate the types of acts considered "decisions":
 - (a) An employee makes a decision when issuing or denying a permit.
 - (b) An enforcement employee makes decisions on whether to cite, warn or arrest.
 - (c) An employee who approves contracts makes a decision on a contract.
 - (d) An employee with the authority to purchase office supplies makes a decision when making those purchases.
 - (e) Should a chief executive officer, director or manager with authority to make a final decision on a matter delegate the decision to a subordinate, the chief executive officer, director or manager would retain responsibility as the final decision maker. The subordinate's action on the delegated matter would also be a decision.

199-005-0030 Determining the Source of Gifts

- (1) ORS 244.025 and 244.040(2)(e) limit the offering and receipt of gifts from sources that could reasonably be known to have a legislative or administrative interest in the vote or decision of the public official who holds any official position or office. This rule is intended to clarify how a public official determines who the source of the gift is. Public officials need to be aware of the source of any gifts they receive (or those that are received by their relatives or members of their household), regardless of amount, to make sure that they comply with the \$50 limit on gifts from a single source in a calendar year. To that end, public officials should not accept gifts in any amount without obtaining information from the person or entity offering the gift

as to who is the source of the gift. It is the public official's personal responsibility to ensure that no single source provides gifts exceeding an aggregate value of \$50 in a calendar year, if the source has a legislative or administrative interest.

- (2) The source of any gift provided to a public official is the ultimate payer(s) of the expense.
- (3) The \$50 gift limit in ORS 244.025 applies separately to the public official or candidate, and to the public official or candidate's relatives or members of household. Each such individual may accept gifts from a single source of a total of \$50 per calendar year.

244.020(6)(a) "Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

- (A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or
- (B) For valuable consideration less than that required from others who are not public officials or candidates.

244.020(9) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in"

- (a) Any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official.

244.020(14) "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 as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

244.025 Gift limit (1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

(2) During a calendar year, a person who has a legislative or administrative interest may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(3) During a calendar year, a person who has a legislative or administrative interest may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

Working Teachers™

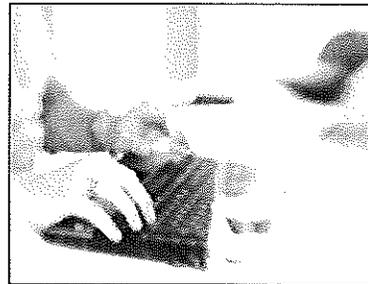
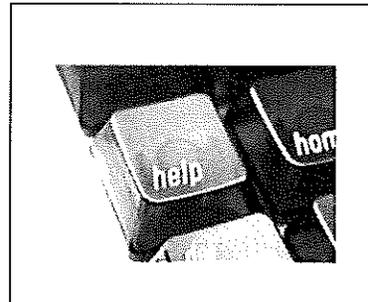
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About Us

Working Teachers started because we saw a real need for high-quality professional development that equips educators with the knowledge and resources they need to help students succeed. Too many times we watched our colleagues eager to implement a great teaching strategy, but held back by lack of resources and training. We started Working Teachers to fix that!

We believe that educators today are doing more and more with less and less-- and we aim to change that by putting tools into teachers' classrooms that lead to student engagement, learning, and success!

Our courses and workshops are designed to put tools in teachers' hands and help them start using those tools right away to drive student achievement. Our "Tech for Schools" program is designed to improve all students' access to technology by awarding grants directly to schools to purchase or improve their technology.



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Registration Info

Working Teachers Classes and Workshops

Payment of our course fee is required at the time of registration. Without payment, we are not able to reserve your spot in class. The Working Teachers course fee is \$800.00 for ten-week courses and \$150.00 for half-day Saturday workshops.

The course fee covers the use of materials (iPads, iPods, book sets, etc.) during the course, which will be yours to keep upon successful completion of the coursework. Participating educators will receive their materials/devices at the first in-person class session.

PSU Registration Information

We are a cooperating agency with PSU's Graduate School of Education. Our course fee is separate from the PSU credit fee. If you are taking the course for PSU credit (3 graduate credits), you will need to pay \$55.00 per graduate credit to PSU through your PSU student account (\$165.00 for a three-credit course and \$55.00 for a one-credit workshop).

Payment will be billed to your PSU student account after the first class session. Therefore, you will need to have a PSU student account set up prior to the first class. [Click here](#) for information on how to set up a PSU student account if you do not already have one. You will fill out PSU registration paperwork at our first class meeting. Please bring your PSU student ID number with you.

Course Materials

During registration and again when you receive your course materials, you will be asked to agree to the terms and conditions regarding the use of course materials. Specifically, you must agree to the following:

- 1) I agree that the course materials provided to me are for my use during the course in order to accomplish the course objectives, and that if I do not successfully complete the course requirements, I will return the materials in good condition to Working Teachers or reimburse Working Teachers for the full cost of the materials.*
- 2) I agree that any materials donated to me by Working Teachers are for use in my present and future classrooms in order to increase student learning.*

You may need to purchase a course text for certain classes. If this is the case, we will make them available for purchase at the first class session. We will notify you by email of the cost. Please bring a checkbook to the first class!



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Courses and Workshops

CCSS Tech	Reaching Reluctant Readers	Fiction Text Sets	Appy Hour Half-Day Session
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for the

CCSS Tech

Tools for Engaging Learners and Streamlining Your Workflow

The digital and multimedia literacy standards in the Common Core State Standards are an exciting opportunity for educators to connect students with the media they love while developing their literacy in print media and content-area knowledge. In this hands-on, interactive, collaborative class, educators will receive a 16G iPad with wi-fi connectivity for their use during the course. Participants will also develop and implement practical, ready-to-use strategies and digital texts to engage their students' interest, connect them to content, and boost their digital and print literacy. **Upon successful completion of the course, teachers will keep the iPads for classroom use.**

Teachers will also explore strategies to enhance classroom organization and productivity, including organizing classroom materials and books, one-on-one instruction, and small-group work.

Course Fee \$800.00 for the course agency fee plus an optional \$165.00 for 3 graduate credits through PSU (PSU fees will be billed to your PSU student account and we will complete the paperwork at the first class session.)

Required Text:

Pathways to the Common Core: Accelerating Achievement by Calkins, Lehman, Ehrenworth (Heinemann), \$26.99. The book will be available for purchase at the first class session. Bring a check for \$26.99 payable to Working Teachers.

[Click for a printable flyer for the Vancouver section of this course.](#)

[Click here for a printable flyer of the Beaverton section of this course.](#)

[Click here for a printable flyer of the Salem-Keizer section of this course.](#)

[Click here for a printable flyer of the SE Portland section of this course.--Course now full!](#)

[Click here for a printable flyer of the NE Portland section of this course.](#)

[Click here for a printable flyer of the Centennial section of this course.](#)

Click below to register for:

[Vancouver](#)

[Beaverton](#)

[Salem-Keizer](#)

[SE Portland ~~FULL!~~](#)

[NE Portland](#)

[Centennial](#)

Questions? Email us at info@workingteachers.org



CI 810: Technology for Literacy Development in the CCSS Tools for Engaging Learners and Streamlining Your Workflow

The digital and multimedia literacy standards in the Common Core State Standards are an exciting opportunity for educators to **connect students with the media they love** while developing their literacy in print media and content-area knowledge. In this partially-online **hands-on, interactive, collaborative** class, you will **receive a 16G iPad** for use during the term. You will develop and implement practical, ready-to use strategies and digital texts to engage their students' interest, connect them to content, and boost their digital and print literacy. **Upon successful completion of the course, teachers will keep the iPads for classroom use.**



Educators will also explore strategies to enhance classroom organization and productivity, including whole-class instruction, small-group work, and one-on-one interventions.

Texts and Tools to Use Next Year

Participants will have ample time to prepare lessons, resources, texts, one-on-one conferring systems, and small-group resources. You will hit the ground running next year, with ideas and resources to use with your students!

Course Objectives:

- Learn how to support the Common Core State Standards that place a new emphasis on multimedia literacies.
- Learn and practice how to use selected iPad apps, websites, and online resources.
- Plan lessons that incorporate short, engaging multimedia elements.
- Learn how the iPad technology can help organize small group instruction and individual interventions.

Course No./Title:	CI 810: Technology for Literacy Development in the CCSS
Dates / Time:	Work will be completed between the dates of June 15- July 6: Two in-person sessions June 22 and June 29, 2013, 12:00 to 4:00 PM and six online sessions (final essay due July 6). Online orientation and first class assignments (approximately 2 hours of online work) will be completed online anytime that fits your schedule between the dates of June 15 through 21.
Location:	Portland Community College Willow Creek Campus, 241 SW Edgeway Drive (near SW 185th and Baseline Road), Beaverton, OR
Credit:	Three Graduate credits from Portland State University (optional)
Cost:	\$800.00 course agency fee (Payable to Working Teachers) plus an optional \$165.00 payable through PSU for three graduate credits.
Required Text:	<u>Pathways to the Common Core: Accelerating Achievement</u> by Calkins, Lehman, Ehrenworth (Heinemann), \$26.99. The book will be available for purchase at the first class session. Please bring payment for the textbook to class. Checks made payable to "Working Teachers" are easiest.

Register Online: www.workingteachers.org **Phone:** (503) 489-7115

Offered cooperatively by Working Teachers and Portland State University's Department of Continuing Education. Enrollment is limited to 8 credits per term unless officially admitted to PSU (except summer term when enrollment is limited to 16 graduate or 21 undergraduate credits).