

August 21, 1997

J. Kenneth Jones  
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Dear Mr. Jones:

At its August 21, 1997 meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION ADVISORY  
OPINION NO. 97A-1004**

**STATED FACTS:** In previous opinions, the Oregon Government Standards and Practices Commission (GSPC) has stated the payment for the dinner of a spouse of a public official, at an event such as an annual banquet, would be a violation of Oregon Government Standards and Practices laws because it would constitute the receipt of a benefit for the spouse that would not be available if the public official did not hold the official position.

**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."

ORS 244.040: "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

J. Kenneth Jones

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: The requester of this opinion asks if it would be a violation of Oregon Government Standards and Practices laws for the governing body of a public body, at a public meeting, to adopt as a specific benefit for its volunteers, a dinner for the volunteer and a guest?

OPINION: In the Oregon Government Standards and Practices Commission's (GSPC) Advisory Opinion #93A-1007 (copy attached), the GSPC stated that, when government officials attend a function in their official capacity, it would not be prohibited for the governing body to pay for the dinner of the official under the reimbursement of expenses provision of ORS 244.040(1)(a). The opinion also stated that the spouse of the public official is not a public official as defined by statute; therefore, any costs incurred due to such participation must be paid for with non-public funds.

Persons who volunteer their time to a public body are public officials subject to Oregon Government Standards and Practices laws pursuant to ORS 244.020(15) even though they are not compensated for their services. Public officials and their spouses are not permitted to receive something of economic value, at no cost, when those same benefits are not available to persons who are not public officials. Public officials who receive such economic value only because of their public position would be receiving personal financial gain in violation of ORS 244.040(1)(a).

The question proposes that a governing body, at a public meeting, adopt as a specific element of their volunteers' compensation, a dinner for the volunteer and a guest. ORS 244.040(1)(a) specifically excludes official salary as a use of office or position for personal financial gain. Providing for the cost of the relative's dinner at a public body's annual banquet as part of a volunteer's compensation package would be considered official salary. Accordingly, there would be no violation of Oregon Government Standards and Practices laws by volunteers whose relative(s) received a dinner, paid for the public entity, at an annual banquet. The GSPC, however, cautions public bodies to consult with their legal counsel to insure that they comply with any requirements to report the value of the meals as income to the federal and state governments.

QUESTION #2: Would the answer to Question #1 change if the personnel involved were paid personnel instead of volunteers, assuming a properly adopted policy setting this out as a specific benefit for the individuals involved?

J. Kenneth Jones

August 21, 1997  
Page 3

OPINION: No. The opinion to question #1 would also apply.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon, August 21, 1997.

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Legal Counsel Review:

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Lynn Rosik  
Assistant Attorney General

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Date

LPH:aip/kjones.ao