

February 25, 2000

Gina Firman
Tillamook County Commissioner
201 Laurel Ave.
Tillamook, OR 97141

Dear Commissioner Firman:

The Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion at its meeting on February 25, 2000:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION ADVISORY
OPINION NO. 00A-1001**

STATED FACTS: Prior to being elected to the Tillamook County Board of Commissioners, a county commissioner was a facilitator of team management training using a variety of curriculums and tools for both public and private entities. After becoming a county commissioner, the commissioner was asked to go to a training on team management systems so that the commissioner could be available as a trainer. Tillamook County agreed to pay for the commissioner's training if the commissioner agreed to use the training to train Tillamook County personnel. The commissioner has used the training to teach county personnel. The commissioner has also been asked to do training around the state for other entities for which the commissioner would be personally compensated.

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: Since the county paid for the additional training the commissioner received, can the commissioner do other team management training for pay without violating Oregon Government Standards and Practices laws?

OPINION: Yes. Oregon Government Standards and Practices laws do not prohibit private employment by public officials. ORS 244.040(1)(a) prohibits public officials from using their official position to obtain personal financial gain that would not otherwise be available to them but for the holding of their official position. Nonetheless, the GSPC and GSPC staff have previously opined that the use of knowledge gained by the public official as a result of holding official position does not violate this prohibition. A contrary result would mean that experience and qualifications gained in a public position could not be utilized by public officials in their private endeavors, such as veteran law enforcement officers teaching recruits at a police academy. The GSPC does not believe this result is compelled by ORS 244.040(1)(a). However, a public official's private endeavors must always be kept totally separate from their official duties and tasks in order to avoid violating ORS Chapter 244.

According to the stated facts, the commissioner possessed certain training skills as a facilitator of team management training before she became an elected official. The additional training that the commissioner received at county expense after being elected, will not bar the commissioner from receiving compensation for doing other training for personal compensation as long as the commissioner follows the GSPC's guidelines for outside employment.

In previous advisory opinions of a similar nature, the Oregon Government Standards and Practices Commission has issued guidelines related to public officials who choose to engage in outside employment or professional activity. Those guidelines have been based 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.

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

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 on the _____ day of _____, 2000.

Rachel Gerber, Chairperson

Lynn Rosik
Assistant Attorney General

Date