

June 27, 2000

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF**  
**OPINION 00S-014**

**STATED FACTS:** Several questions continue to surface in the ethics classes which are taught as a component of the DPSST leadership series. The following are six sets of stated facts which outline these situations.

1. Free Checking
2. No Credit Union Fees for ATM Transactions
3. No Fees for Money Orders
4. No Fees for Cashiers Checks
5. No Fees for Domestic Wire Transfers
6. No Fees for Notary Service

The Credit Union currently offers a similar no-cost program to any member who is retired and more than 50 years old.

You believe the program would be well received and is a very low key way to say thank you to these valuable public servants.

**RELEVANT STATUTES:** The following Oregon Revised Statutes are applicable to the issue 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: 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 or a relative of the public official is associated.

**QUESTION:** As indicated in the stated facts would it be a violation of the Oregon Government Standards and Practices laws for an employee of any law enforcement agency to accept a benefit package from a credit union that is not also available to other segments of the populace who are not public officials?

**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 official's holding of the official position or the office other than official salary, honoraria, the reimbursement of the expenses or an unsolicited award for professional achievement. According to the stated facts, this program would create a financial gain, albeit nominal, that would be available to participants only because of their employment with a law enforcement agency. Participants would, therefore, be in violation of ORS 244.040(1)(a).

For a government employee to be in compliance with ORS 244.040(1)(a) the program would need to be available to a greater segment of non-public officials than just members who are more than 50 years of age and retired. For example, any member whose employer, public or private, employs five (5) or more persons.

**THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.**

Tom Edwards  
June 27, 2000  
Page 3

Sincerely,

L. Patrick Hearn  
Executive Director

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