

BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

In the Matter of )  
 )  
 ) STIPULATED FINAL ORDER  
 )  
 Scott Hege )  
 )  
 ) CASE NO. 19-130XSM  
 )  
 )  
 )

1. PURPOSE: The purpose of this stipulated final order is to settle any and all claims, allegations and charges by the Oregon Government Ethics Commission (Commission) against Scott Hege.
  
2. JURISDICTION: At all material times, Scott Hege was a member of the Tri-County Mental Health Board (Board) for the Mid-Columbia Center for Living ("CFL"). As the governing body of a public body, the members of the Board are subject to the executive session provisions of Oregon Public Meetings law as set forth in ORS 192.660 and ORS 192.685.
  
3. STIPULATED FACTS:
  - A. Scott Hege participated in an executive session held by the Board on May 14, 2019. When the Board convened this executive session, the presiding officer of the Board did not identify the specific statutory authorization for holding the executive session.
  
  - B. ORS 192.660(1) provides that a governing body of a public body may hold an executive session "after the presiding officer has identified the authorization under ORS 192.610 to 192.690 for holding the executive session."

- C. By participating in an executive session for which the presiding officer failed to identify the statutory authorization, Scott Hege violated ORS 192.660(1).
- D. In the executive session, the Board discussed the executive director's resignation and request for a severance package. The Board also discussed the possibility of a merger, though no merger negotiations were underway.
- E. The CFL executive director's resignation and her interest in receiving a severance package were not topics authorized for discussion in an executive session under ORS 192.660(2)(a), which applies to the initial hiring of an employee, or 192.660(2)(b), which applies to dismissal, discipline or complaints against an employee. Additionally, discussion of an officer's salary may not be held in executive session.
- F. The possibility of a merger was not a topic authorized for discussion in an executive session under ORS 192.660(2)(g), which applies to negotiations when a governing body is in competition with other states or nations, or 192.660(2)(j), which applies to negotiations with private entities carried out under ORS chapter 293.
- G. By discussing unauthorized topics in an executive session, Scott Hege violated ORS 192.660(2).
- H. The actions set forth in paragraphs 3(C) and 3(G) constitute two distinct violations of ORS 192.660.
- I. ORS 244.350(2)(a) authorizes the Commission to assess civil penalties of up to \$1,000 for each violation of ORS 192.660.
- J. The results of the Commission investigation, if submitted through exhibits and testimony at a contested case hearing, would establish a preponderance of evidence in support of a post-hearing order to find two violations of ORS 192.660.

4. TERMS OF SETTLEMENT:

The parties agree as follows:

- A. On July 12, 2019, the Commission considered information in the preliminary review phase and acted to find cause to initiate an investigation of this matter.
- B. Scott Hege has indicated that he wishes to conclude this matter by agreeing to the terms and conditions in this order without completing the investigative phase.
- C. Scott Hege will receive a letter of education, as authorized by ORS 244.350, in order to settle and compromise this matter.
- D. The Commission releases, settles and compromises any and all claims, which have been or could be asserted against Scott Hege within the scope of the above-referenced proceedings.
- E. Scott Hege will initiate no claims, litigation or other action against the Commission as a result of these proceedings.

5. REVIEW BY COUNSEL:

All of the parties hereto acknowledge that this agreement has been entered into by their own free will and with full understanding of the contents herein. Each of the parties further acknowledges that each has had the opportunity to seek the advice of counsel in comparing and reviewing this agreement.

6. EFFECT:

This agreement is subject to the final approval of the Commission. Once approved, this agreement shall be the final disposition of the matter and shall be binding upon all parties.

By signing this agreement, Scott Hege agrees to waive his right to a contested case hearing as provided in ORS Chapter 183 and ORS 244.370. This order shall be the final order and all information in the Commission files on this matter shall become part of the record.

By signing this agreement, Scott Hege agrees to waive his right to obtain judicial review of this order as provided in ORS 183.482.

IN WITNESS WHEREOF, the parties have entered into and signed this stipulated final order on the dates set forth below.



\_\_\_\_\_  
Scott Hege



\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard P. Burke, Chairperson  
Oregon Government Ethics Commission

\_\_\_\_\_  
Date

# OREGON GOVERNMENT ETHICS COMMISSION

## INVESTIGATION

**CASE NO:** 19-002EHW

**DATE:** August 15, 2019

**RESPONDENT:** S. Bruce Conner, Cruise Industry Marketing Director  
for the Port of Astoria

**COMPLAINANT:** Brett Applegate

**RECOMMENDED ACTION:** Make a Preliminary Finding of Violations of ORS  
244.040(1), ORS 244.040(4), and ORS 244.120(1)(c)

1 **SYNOPSIS:** S. Bruce Conner served as the Port of Astoria's Cruise Industry Marketing  
2 Director when the events relevant to this investigation occurred. Mr. Conner also owns  
3 and operates a travel agency and provides shore excursion tours to cruise passengers  
4 arriving in Astoria. The focus of this investigation was to determine if a preponderance of  
5 evidence exists to indicate that S. Bruce Conner was met with conflicts of interest and  
6 whether he engaged in a prohibited use of office by taking actions in his official capacity  
7 that would financially benefit his shore excursion company.

8  
9 There is a preponderance of evidence in this case that Mr. Conner, when taking official  
10 actions such as posting descriptions of his company's shore excursions on the Port of  
11 Astoria's website and communicating with cruise line shore excursion managers to gain  
12 support for a Port of Astoria policy that had the effect of prohibiting other tour operators  
13 from competing with Mr. Conner's private company, engaged in a prohibited use of office,  
14 in violation of ORS 244.020(1) and 244.040(4), and was met with actual and potential  
15 conflicts of interest and failed to comply with the disclosure and disposition requirements  
16 of ORS 244.120(1)(c).

17 ///

1 **RELEVANT STATUTES:** The following Oregon Revised Statutes and Administrative  
2 Rules are applicable to the issues addressed herein:

3  
4 **244.020 Definitions.** As used in this chapter, unless the context requires  
5 otherwise:

6  
7 244.020(1) "Actual conflict of interest" means any action or any decision or  
8 recommendation by a person acting in a capacity as a public official, the effect of  
9 which would be to the private pecuniary benefit or detriment of the person or the  
10 person's relative or any business with which the person or a relative of the person  
11 is associated unless the pecuniary benefit or detriment arises out of circumstances  
12 described in subsection (13) of this section.

13  
14 244.020(2) "Business" means any corporation, partnership, proprietorship, firm,  
15 enterprise, franchise, association, organization, self-employed individual and any  
16 other legal entity operated for economic gain but excluding any income-producing  
17 not-for-profit corporation that is tax exempt under section 501(c) of the Internal  
18 Revenue Code with which a public official or a relative of the public official is  
19 associated only as a member or board director or in a nonremunerative capacity.

20  
21 244.020(3) "Business with which the person is associated" means:

22 (a) Any private business or closely held corporation of which the person or  
23 the person's relative is a director, officer, owner or employee, or agent or  
24 any private business or closely held corporation in which the person or the  
25 person's relative owns or has owned stock, another form of equity interest,  
26 stock options or debt instruments worth \$1,000 or more at any point in the  
27 preceding calendar year.

28  
29 244.020(13) "Potential conflict of interest" means any action or any decision or  
30 recommendation by a person acting in a capacity as a public official, the effect of  
31 which could be to the private pecuniary benefit or detriment of the person or the

1 person's relative, or a business with which the person or the person's relative is  
2 associated, unless the pecuniary benefit or detriment arises out of the following:

3 \* \* \* \* \*

4 (c) Membership in or membership on the board of directors of a nonprofit  
5 corporation that is tax-exempt under section 501(c) of the Internal Revenue  
6 Code.

7  
8 244.020(15) "Public official" means the First Partner and any person who, when  
9 an alleged violation of this chapter occurs, is serving the State of Oregon or any of  
10 its political subdivisions or any other public body as defined in ORS 174.109 as an  
11 elected official, appointed official, employee or agent, irrespective of whether the  
12 person is compensated for the services.

13  
14 **244.040 Prohibited use of official position or office; exceptions; other**  
15 **prohibited actions.** (1) Except as provided in subsection (2) of this section, a  
16 public official may not use or attempt to use official position or office to obtain  
17 financial gain or avoidance of financial detriment for the public official, a relative or  
18 member of the household of the public official, or any business with which the  
19 public official or a relative or member of the household of the public official is  
20 associated, if the financial gain or avoidance of financial detriment would not  
21 otherwise be available but for the public official's holding of the official position or  
22 office.

23  
24 244.040(4) A public official may not attempt to further or further the personal gain  
25 of the public official through the use of confidential information gained in the course  
26 of or by reason of holding position as a public official or activities of the public  
27 official.

28  
29 244.040(7) The provisions of this section apply regardless of whether actual  
30 conflicts of interest or potential conflicts of interest are announced or disclosed  
31 under ORS 244.120.

1       **244.120 Methods of handling conflicts; Legislative Assembly; judges;**  
2       **appointed officials; other elected officials or members of boards.** (1) Except  
3       as provided in subsection (2) of this section, when met with an actual or potential  
4       conflict of interest, a public official shall:

5       \* \* \* \* \*

6           (c) If the public official is any other appointed official subject to this chapter,  
7           notify in writing the person who appointed the public official to office of the  
8           nature of the conflict, and request that the appointing authority dispose of  
9           the matter giving rise to the conflict. Upon receipt of the request, the  
10          appointing authority shall designate within a reasonable time an alternate  
11          to dispose of the matter, or shall direct the official to dispose of the matter  
12          in a manner specified by the appointing authority.

13  
14       **OAR 199-005-0035 Guidelines for compliance with ORS 244.020(6), 244.025,**  
15       **244.040, 244.042 and 244.047**

16       \* \* \* \* \*

17       (7) As defined in ORS 244.020[15], a public official includes anyone serving the  
18       State of Oregon or any of its political subdivisions or any other public body in any  
19       of the listed capacities, including as an 'agent.' An 'agent' means any individual  
20       performing governmental functions. Governmental functions are services provided  
21       on behalf of the government as distinguished from services provided to the  
22       government. This may include private contractors and volunteers, depending on  
23       the circumstances. This term shall be interpreted to be consistent with Attorney  
24       General Opinion No. 8214 (1990).

25  
26       **INVESTIGATION:** The Oregon Government Ethics Commission (Commission) initiated  
27       a preliminary review based on information in a signed complaint from Brett Applegate on  
28       January 3, 2019. (#PR1). At the time, Ms. Applegate was the attorney for Lori Beth Kulp,  
29       who was the complainant in an earlier complaint (18-083EDG) that the Commission  
30       dismissed on May 11, 2018 at the preliminary review stage. (#PR2; #PR3). In this second  
31       complaint, Ms. Applegate provided new and different information in support of her



1 allegations that S. Bruce Conner, the Cruise Industry Marketing Director for the Port of  
2 Astoria (Port), may have violated Oregon Government Ethics law when taking actions in  
3 his official capacity that would or could have financially affected himself or his business,  
4 Sundial Shore Excursions.

5  
6 The Commission found cause to investigate on March 7, 2019 after considering the  
7 information developed in the preliminary review. The focus of the investigation was to  
8 determine whether there is sufficient evidence to indicate that S. Bruce Conner violated  
9 Oregon Government Ethics law by failing to comply with the disclosure and disposition  
10 requirements of the conflict of interest provisions in ORS 244.120(1)(c) and the prohibited  
11 use of office provisions in ORS 244.040(1). Mr. Conner and Ms. Applegate were notified  
12 of the Commission's actions in this matter. Both have been invited to provide any  
13 information which would assist the Commission in conducting this investigation.

14  
15 Bruce Conner

16 Bruce Conner has been involved in the travel industry for many years, both as a travel  
17 agency owner and as a Port representative. When cruise lines visit Astoria, Mr. Conner  
18 appears to wear a number of different hats:

19  
20 *Sundial*

21 Mr. Conner is the owner and operator of Sundial Shore Excursions (Sundial), which  
22 provides shore excursions and tours for cruise line passengers in Astoria. Prior to 2017,  
23 when Sundial Shore Excursions was first registered with the Oregon Secretary of State's  
24 Business Registry, Mr. Conner appears to have offered these shore excursions and tours  
25 using his other two companies: Sundial Travel Service, Inc. (a travel agency, established  
26 in 1983) and Sundial Special Vacations, Inc. (a travel agency/tour operator for travelers  
27 with special needs, established in 2010). (#IR1).

28  
29 As explained below, Sundial has contracts with numerous cruise lines to provide specific  
30 shore excursions, sold to passengers on board the cruises. In his interview, Mr. Conner  
31 acknowledged that Sundial was the largest tour operator in Astoria. (#IR2 @1:10:55).

1 *Clatsop Cruise Hosts*

2 Mr. Conner is also one of the founders and current Vice-President of the Clatsop Cruise  
3 Hosts, Inc. The Clatsop Cruise Hosts (CCH) is a 501(c)(3) non-profit organization that  
4 during cruise ship visits deploys approximately 25 volunteers each day on the pier and in  
5 downtown Astoria to provide information, assistance, and directions for cruise ship staff  
6 and visitors. CCH volunteers also operate a ticket booth on the pier, where they sell tickets  
7 for Routes 11 and 12 of the Sunset Empire Transit District. These routes, which operate  
8 shuttles specifically for cruise ship visits, offer a \$6.00 all-day hop-on/hop-off ticket.  
9 Monies from the tickets are split evenly between the Sunset Empire Transit District and  
10 CCH. (#IR2 @1:51:42).

11

12 An examination of the Oregon Department of Justice Charitable Activities Reports for  
13 CCH reveals that Bruce Conner has served as a CCH Board Member since at least 2014.  
14 The reports indicate that Bruce Conner has received no remuneration from CCH. (#IR3).

15

16 *Port of Astoria*

17 Bruce Conner has served as the Port of Astoria's Cruise Industry Marketing Director since  
18 approximately 2008. (#IR2 @3:30). The Port's Personal/Professional Services  
19 Agreement with Mr. Conner includes the following duties:

20

- 21 • Maintain and increase cruise ship market; identifying market opportunities
- 22 • for potential users of the facility
- 23 • Assist in developing promotional information for marketing Port
- 24 • properties/services
- 25 • Develop advertising/marketing "Port of Astoria" message
- 26 • Maintain and meet regularly with key itinerary planners for all cruise lines
- 27 • Attend industry conferences
- 28 • Coordinate cruise ship events
- 29 • Meet and greet ship captains upon arrival
- 30 • Solicit partnerships with local entities
- 31 • Other related duties as requested by Executive Director. (#IR4).

1 According to Matt McGrath, former Port Operations Director, Bruce Conner “was the  
2 Port’s marketing arm. So he worked with the Clatsop Cruise Hosts, offering a lot of  
3 welcome and happiness to all, selling Astoria – here’s what we have for attractions, here’s  
4 how we can accommodate you.” (#IR5). In his interview, Mr. Conner asserted that he  
5 doesn’t have to sell the cruise lines on activities and shore excursions because “they have  
6 all been to Astoria and know what is available.” He emphasized that his job duties do not  
7 require him to interact with shore excursion managers; instead, he primarily interacts with  
8 cruise industry itinerary planners, working to schedule cruise visits to Astoria. (#IR2  
9 @17:23).

### 11 Cruise Line Contracts

12 Mr. Conner explained that when he and representatives from the City and the Port first  
13 attended the cruise industry convention in Miami 17 years ago, there were no cruises  
14 stopping in Astoria. And at that time, Sundial did not offer any shore excursions. Since  
15 then, the number of cruises visiting Astoria has increased steadily; over 30 cruises are  
16 scheduled to visit next year. Sundial’s shore excursion business has correspondingly  
17 developed and grown. (#IR2 @8:07).

18  
19 In his interview, Mr. Conner explained how cruise line shore excursion contracting works.  
20 Once the cruise schedule is settled, the cruise line sends Sundial an invitation to bid on  
21 the list of shore excursions the cruise line is interested in offering its passengers. Sundial  
22 then submits a bid, proposing the prices at which it would offer the listed shore excursions,  
23 and the parties then negotiate those prices. (#IR2 @1:35:25). Mr. Conner provided a copy  
24 of a 2016 invitation to bid from Crystal Cruises, inviting Sundial to submit “a proposal to  
25 host our shore excursions.” (#IR6).

26  
27 Commission staff reviewed Sundial’s contracts with Royal Caribbean Cruises Ltd. (2018-  
28 2019) (#IR7); Norwegian Cruise Line (2016 and 2018) (#IR8); and Carnival/Holland  
29 America Cruises (2018) (#IR9). These cruise lines have contracted for Sundial to provide  
30 some or all of the following shore excursions:

31 ///

1	Historic Astoria & Fort Clatsop	Mount St. Helens	Seaside & Cannon Beach
2	Flavel House Tea & Scones	Shot in Astoria	Waterfront Bike Tour
3	Willamette Valley Wine Tour	Panoramic Astoria	Oregon Coast/Tillamook
4	Ft. Stevens Behind the Scenes	Forest Zipline	Wine & Seafood Tasting
5	Glassblowing/Fernhill Studios	Astoria Ale Trail	Ft. Clatsop Hike
6	Ultimate Oregon Adventure. (#IR7; #IR8; #IR9).		

7

8 Comparing this list of shore excursions for which Sundial has cruise line contracts to the  
9 shore excursions advertised on the cruise lines' websites, as discussed below, it appears  
10 that Sundial has contracts to provide the vast majority of the shore excursions offered by  
11 cruise lines in Astoria.

12

13 The complaint in this case included a 2015 e-mail from Michelle Moraga at Norwegian  
14 Cruise Lines stating, "This season we are under Exclusive Contract with Sundial." (#PR  
15 1, Exh. S). When he appeared before the Commission in March, Mr. Conner stated  
16 emphatically that Sundial does not have an exclusive contract. (#IR10). In his interview,  
17 he maintained this position. (#IR2 @1:24:38). We noted, however, that Norwegian Cruise  
18 Lines' contracts include the following provision:

19

20       During the Term of this Agreement, Norwegian agrees to offer for sale to its  
21 passengers the Shore Excursions for the ports listed below. Norwegian reserves  
22 the right to contract with other Operators in respective ports, as long as other  
23 Operators are not offering for sale to Norwegian guests the same tours as listed  
24 below. (#IR8).

25

26 In terms of exclusivity, this may just be a matter of quibbling over semantics. Mr. Conner  
27 is correct in asserting that cruise lines do not contract with only one tour operator. Rather,  
28 exclusivity appears to be tour specific, meaning that a cruise line will contract with only  
29 one tour operator for a specified list of shore excursions, but may contract with other tour  
30 operators for other shore excursions. Appearing to concede that this is the only way it  
31 could work, Mr. Conner stated in his interview that "the cruise line would not have two

1 tours going to the same destination.” (#IR2 @1:16:33). As noted above, Sundial has  
2 contracts with the cruise lines to provide the vast majority of shore excursions in Astoria.

#### 3 4 Tour Operator Agreement and the Protection of On Board Revenue Policy

5 In early 2017, the Port required tour operators to sign a revised Tour Operator Agreement  
6 (Agreement). Previous versions of the Agreement had been simple one-page agreements  
7 for use of Port property. (#IR11). The revised Agreement included provisions addressing  
8 a new Protection of On-Board Revenue Policy (POR Policy). (#IR12). We note that it  
9 appears a POR Policy was not formally approved by the Port Commissioners until March  
10 2019. The revised Agreement included the following:

- 11
- 12 **6 Protection of On-Board Revenue.** Licensee shall protect revenue to all  
13 cruise lines that anchor or berth in Astoria by selling or otherwise booking  
14 all tickets for tours, excursions or any other packaged service through the  
15 cruise line’s shore excursion department and/or arranging, coordinating or  
16 otherwise establishing the tour, excursion, or packaged service by direct  
17 contract with the cruise line (“Cruise Booked Tour”). ***This provision’s***  
18 ***intent is to protect such On Board Revenue. In all circumstances***  
19 ***where there may be a question as to whether or not this Agreement***  
20 ***authorizes the Licensee to engage in any business dealing on***  
21 ***Licensors property, or any business dealing on or off Licensors property***  
22 ***in any way related to the type of operations and business dealings***  
23 ***authorized by this Agreement, this Agreement shall be construed to***  
24 ***require that Licensee protect the cruise lines’ On Board Revenue.*** This  
25 provision shall include, but not be limited to, the following requirements:
- 26 a) For all Independently Booked Tours the Licensee shall provide to the  
27 Port, in addition to the Section 6 reporting requirements,  
28 documentation sufficient to substantiate the amount of gross ticket  
29 sales from such Independently Booked Tours. ***Licensee shall also***  
30 ***pay to the Port twenty percent (20%) of gross ticket sales for all***  
31 ***such Independently Booked Tours. For purposes of this***

1                   **Agreement an Independently Booked Tour shall be defined as**  
2                   **any tour, excursion, or any other packaged service marketed or**  
3                   **provided to cruise ship passengers by the Licensee that is not**  
4                   **marketed and/or sold through a cruise line's shore excursion**  
5                   **department, or one that has not been arranged, coordinated or**  
6                   **otherwise established by direct contract with a cruise line.**

7                   \*\*\*\*\*

8                   d)       **Licensee shall not provide Independently Booked tours,**  
9                   **excursions, or any other packaged services that are also**  
10                  **provided by the corresponding cruise line's onboard excursion**  
11                  **department. Licensee shall not directly compete with those**  
12                  **tours, excursions, or any other packaged services that are**  
13                  **offered by the corresponding cruise line.**

14                  \*\*\*\*\* (#IR12 (emphasis added)).

15  
16       This provision declares its intent is to protect cruise lines' on-board revenue, and it does  
17       so in subsection (a) by requiring tour operators to pay a 20% commission on all  
18       independently booked tours, regardless of whether those tours are booked while the tour  
19       operators are conducting business on Port property.

20  
21       Subsection (d) outright prohibits tour operators from selling certain tours. Tour operators  
22       cannot provide independently booked tours if those tours are the same or similar to those  
23       offered on board the cruise lines. As seen above, Sundial has contracts with the cruise  
24       lines to provide the vast majority of shore excursions offered in Astoria; thus, one effect  
25       of subsection (d) is to prevent tour operators from directly competing with Sundial.

26  
27       Commission staff sought to determine the origin of these provisions and whether Bruce  
28       Conner played any role in their development. Mr. Conner said that he didn't know how  
29       the POR Policy came about, but that "it's very common in our industry." (#IR2 @31:55).  
30       While the cruise line contracts with tour operators do require them to protect on-board  
31       revenue by not independently booking tours, the Port did not provide any documents

1 showing that the cruise lines had asked the Port institute such a policy. The Port maintains  
2 that the Agreement and the POR Policy were drafted by former Port employee Shane  
3 Jensen. (#IR13). Unfortunately, we were unable to locate or contact Mr. Jensen.

4  
5 Bruce Conner's Actions

6 The complaint alleges that contrary to Mr. Conner's assertions that he plays no role in the  
7 Port's contracts with other tour operators and does not communicate with cruise lines'  
8 shore excursion teams in his capacity as a Port official, he did in fact use his position to  
9 communicate with cruise line shore excursion representatives in order to gather support  
10 for the Port's POR Policy. (#PR1). Commission staff has reviewed documents indicating  
11 that Bruce Conner, on more than one occasion, reached out to representatives for cruise  
12 lines and other entities in what appears to be an effort to buttress the POR Policy.

13  
14 April 24, 2017

15 The Agreement discussed above, with the Port's POR Policy, is dated April 3, 2017. Mr.  
16 Conner, on behalf of Sundial, signed the Agreement on April 19, 2017. Shortly thereafter,  
17 on April 24, 2017, Bruce Conner sent an e-mail with the subject line, "Fwd: Tentative Port  
18 of Astoria POA proposal," to Kirby Day and Jennifer Miller at Princess Cruise Lines (PCL).  
19 (#PR1, Exh. Q). In his interview, Mr. Conner explained that Jennifer Miller is PCL's shore  
20 excursion manager for the Pacific Northwest Coast and Kirby Day is her boss. (#IR2  
21 @37:39).

22  
23 Mr. Conner's e-mail reads as follows:

24  
25       Need your input. There has been a request from an independent tour operator to  
26       provide tours for arriving cruise lines. It is Port of Astoria's (POA) policy to allow  
27       tour operators to provide services who have contracts with visiting cruise lines.  
28       POA believes in adhering to this policy, POA protects the on board revenue for our  
29       partner cruise lines. Would you mind reviewing the below and advise if POA is  
30       heading down the right road? \* \* \* (#PR1, Exh. Q).

31 ///

1 In the e-mail, Mr. Conner inserts the Agreement's POR Policy provisions. He then writes:

2

3 As you can see it is our hope to provide some compensation to Princess/HAL when  
4 independent operators believe they should have access directly with your guests.  
5 In addition POA would provide "do and don'ts" when interacting with Cruise Line  
6 Guests. This policy would apply to tour providers who do not have contracts with  
7 Cruise Line Shorex.

8

9 Confidentiality would be appreciated as we work through this effort. (#PR1, Exh.  
10 Q).

11

12 Mr. Conner ends the e-mail by saying, "Let me know your thoughts." He signs the e-mail  
13 "Bruce," followed by a signature block that reads:

14

15 S Bruce Conner

16 Sundial Tours

17

18 Port of Astoria

19

20 Humboldt Bay Eureka (#PR1, Exh. Q).

21

22 Although this e-mail was sent from Mr. Conner's Sundial e-mail address, the content of  
23 the e-mail, along with the subject line and the signature block, support a finding that it  
24 was sent on behalf of the Port, and that Mr. Conner was acting in his official capacity. The  
25 entirety of the e-mail gives the impression of an inquiry from a Port representative seeking  
26 cruise line input and support for the Port's POR Policy.

27

28 Moreover, in his response to the complaint, Mr. Conner acknowledges that he "was asked  
29 by the Port to contact excursion managers for several cruise lines for their input on the  
30 Port's proposal." (#PR4). In his interview, Mr. Conner could not recall who at the Port  
31 asked him to contact the cruise lines, but he guessed that it was Matt McGrath. (#IR2



1 @41:30). Matt McGrath, in his interview, did not remember “asking Bruce to gather input  
2 from the cruise lines on the policy.” (#IR5).

3  
4 Bruce Conner also said that he thought he sent a second e-mail inquiry around the same  
5 time, to either Oceania Cruises or Seven Seas Mariner. He has not been able to locate  
6 this second email. When asked whether he recalled doing anything like this (reaching  
7 out to excursion managers on behalf of the Port) at any time prior to 2017 or after 2017,  
8 he said, “No. Not. No.” (#IR2 @47:52).

9  
10 September 19, 2018

11 During the public comment section of the Port Commission meeting on September 18,  
12 2018, tour operator Bob Vinatieri “spoke to the Commission regarding difficulties with Port  
13 Staff while trying to operate his business serving elderly and disabled cruise passengers.  
14 Mr. Vinatieri also noted that the Port’s standard tour operator agreement does not apply  
15 to his business, and requested that the Port draft an agreement that would address policy  
16 and procedures for the elderly and disabled.” (#IR14). Mr. Conner asserts that he was not  
17 at this Port Commission meeting. (#IR2 @50:42).

18  
19 The next morning, at 8:53 a.m., Mr. Conner sent an e-mail from his Sundial e-mail address  
20 to an unknown recipient, and copied it to SL\_ShoreExcursionManager@celebrity.com.  
21 In this e-mail, Mr. Conner writes:

22  
23 The Port of Astoria commission meeting met last night. At the meeting a local  
24 citizen has requested to be able to pick up and drop off passengers who booked  
25 outside of shorex on the pier. He has asked the Port commis[s]ion to change the  
26 current policy where citizens who wish to provide tours directly to guests are  
27 required to pick up and drop off in the designated area three blocks from the pier.

28  
29 This policy was put in place to protect Cruise Ship on board revenue from shore  
30 excursions sales, shore excursion staff ince[n]tives and reduce congestion on our  
31 small pier.

1 The commission has asked for your input regarding this specific situation. You will  
2 receive an email from the Port of Astoria asking for your policy regarding private  
3 charters access to the pier when in port.

4  
5 Just a heads up. (#IR15).

6  
7 Later that day, Mr. Conner sent this same e-mail to James Palmeri and Ruth Richebacher  
8 at Shore Excursions of America, a company which operates riverboat cruises. (#IR16;  
9 #IR2 @17:28).

10  
11 At 10:18 a.m., that same day, Ella Marion, the Port's front desk/administration employee,  
12 sent the following e-mail to representatives at Oceania Cruises, Norwegian Cruise Lines,  
13 Regent Seven Seas Cruises, and Crystal Cruises:

14  
15 The Port of Astoria is requesting your policy on allowing private charters to use  
16 pier facilities to pick up and drop off guests during your visit or continue to provide  
17 off-pier accommodations near pier. (#IR17).

18  
19 A few minutes later, Ms. Marion sent this same e-mail to James Palmeri at Shore  
20 Excursions of America. (#IR18). Ms. Marion copied Bruce Conner on both e-mails. In a  
21 telephone interview with Commission staff, Ms. Marion said she thought she was given  
22 the verbiage for the e-mail and a list of recipients to send it to. She stated, "Most likely the  
23 direction to email out came from Bruce." (#IR19).

24  
25 During his interview, Mr. Conner initially tried to explain his e-mails by stating that "[t]his  
26 was just giving them a heads up that the letter was coming." He then said that he sent  
27 the e-mail on behalf of Sundial because he had bought some electric scooters to rent to  
28 cruise passengers and wanted to see the cruise lines' policies to see if he could operate  
29 his scooter business, without revealing to them that he was renting scooters to  
30 passengers. He acknowledges that he might have given Ella the information for her e-  
31 mails, stating, "I might have given her this. \* \* \* because I'm sure talking with Matt I might

1 have said, 'Let's get this information out and find out what their policies [are]'. I'd like to  
2 know." Eventually he states, "I'm thinking I probably should have handled that differently  
3 or just that you'll have to get these addresses yourself." (#IR2 @51:16).

4

5 Port Website

6 The Port of Astoria's website provides information for cruise visitors, including  
7 descriptions of "several exciting shore excursion opportunities." The website states that  
8 "[s]hore excursions are required to be reserved in advance via your cruise line only."  
9 (#IR20). The complaint in this case noted that the Port's website "has not posted  
10 descriptions of any of the on-board excursions offered by Lor's Tours," despite repeated  
11 requests. (#PR1).

12

13 Commission staff examined the shore excursions listed on the Port's website. We also  
14 examined the shore excursions offered by Sundial on its website. (#IR21). We then  
15 examined the Astoria shore excursions offered on the websites for Norwegian, Princess,  
16 Holland America, Celebrity, and Oceania cruise lines. (#IR22). The following chart  
17 presents a comparison of these shore excursion listings:

18 ///  
19 ///  
20 ///  
21 ///  
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25 ///  
26 ///  
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29 ///  
30 ///  
31 ///

**ASTORIA SHORE EXCURSIONS**

Shore Excursion	Port Website	Sundial Website	Norwegian Website	Princess Website	Holland America Website	Celebrity Website	Oceania Website
Fort Stevens "Behind the Scenes"	X	X	X	X			X
Fort Stevens Bike Tour	X	X					
Historic Astoria Plus Lewis and Clark Winter Home	X	X	X	X	X	X	X
Mount St. Helens	X	X		X		X	X
Shot in Astoria	X	X		X	X	X	X
Ultimate Coast Tour	X	X	X	X	X	X	X
Seaside and Cannon Beach Tour	X	X	X	X	X	X	X
Tea and Scones at Flavel House Museum	X	X	X	X	X	X	X
Astoria Ale Tour	X	X	X	X	X		X
Willamette Valley Wine Tours	X	X				X	X
Panoramic Astoria Tour	X	X				X	X
Coastal Forest Zip Line	X	X					
Cranberry Museum & Oysterville	X	X					
Fort Clatsop Hike	X	X					
West Coast Museum & Lighthouse	X	X					
Eco Tours of the Columbia River		X					
Seafood and Wine Tasting		X		X	X		
Machine Gun Shooting Range		X					
Astoria Waterfront Bike Tour		**	X				X
Blow Your Mind (glass blowing)		**		X	X		

\*\* The glass blowing and bike tour shore excursions are not listed on Sundial's website, but they do appear in several of Sundial's contracts with the cruise lines.

1 All eleven of the shore excursions listed on the Port's website are listed on Sundial's  
2 website, and notably, all of the shore excursions listed on the cruise lines' websites are  
3 those offered by Sundial. Not only are the same excursions listed by the Port and by  
4 Sundial, but the details and descriptions of the shore excursions are similar, if not  
5 identical. Some of the descriptions are the same, word-for-word. Also, for most of the  
6 shore excursions on the Port and Sundial websites, the minimum and maximum number  
7 of participants allowed is exactly the same. (#IR20; #IR21).

8  
9 Commission staff asked the Port who was responsible for the shore excursion  
10 descriptions on the Port's website. In a July 9, 2019 e-mail, Port staff asked the Port's  
11 website administrator:

12  
13 Do you know who requested the update or what update was done in [M]ay 2016?  
14 I'm really looking for when and who had you put the bulk of the excursions listed  
15 on that page.

16  
17 The website administrator responded: "I believe Bruce Connor [sic.] requested the  
18 majority of changes to that page." (#IR23).

19  
20 When we showed Mr. Conner the Port's website shore excursion listings during his  
21 interview, he immediately stated, "I gotta update this." He then confirmed that the list of  
22 shore excursions on the Port's website are all Sundial shore excursions. He also  
23 confirmed that Sundial has contracts with the cruise lines to provide all of the shore  
24 excursions listed on the Port's website. Mr. Conner went on to explain that "back in the  
25 day" the Port asked for shore excursion examples. He said, "I selected ... I mean, I just  
26 said send the Port all our tours." (#IR2 @1:42:58).

27  
28 Conflict of Interest Disclosures

29 In the prior case (18-083EDG), Commission staff sought information regarding any  
30 conflict of interest disclosures made by Bruce Conner. In response to this inquiry, we

1 received an e-mail from former Port Executive Director Jim Knight on March 26, 2018. In  
2 that e-mail, Mr. Knight states:

3

4 The Port has no records of Mr. Conner providing the Port any conflict of interest  
5 disclosures. I did ask Mr. Conner if he had any recollection of providing such  
6 disclosures and he stated that he also had no memory of providing the Port any  
7 conflict of interest disclosures. (#IR24).

8

9 In response to our subpoena, the Port provided a copy of one conflict of interest disclosure  
10 made by Bruce Conner. In an e-mail on February 15, 2019, Mr. Conner disclosed to Jim  
11 Knight that he would be presenting a seminar on shore excursions to the Clatsop County  
12 Arts Commission. He described it as "a community out reach [*sic.*] on behalf of the Port  
13 of Astoria and my company will receive no finan[cial] incentives or gifts for this event."  
14 (#IR25). In his interview, Mr. Conner stated, "Jim Knight never responded. He trusted me  
15 to make the decision if there was a conflict or not." (#IR 2 @25:48).

16

17 Additional Information

18 In his interview, Mr. Conner stressed that he works hard to keep his roles separate. (#IR2  
19 @22:55). Despite his efforts, the lines separating Mr. Conner's various roles often appear  
20 blurred. Commission staff reviewed numerous e-mails where Mr. Conner appears to  
21 conduct Port business using his Sundial e-mail address, alone or in conjunction with his  
22 Port e-mail address. (#IR26). There is also one internal Port e-mail, on which Mr. Conner  
23 is copied, where Port staff discuss barring one of Sundial's competitors from access to  
24 the Pier. (#IR27).

25

26 In a March 19, 2018 e-mail, the Port Commission's attorney, Eileen Eakins, advises  
27 former Executive Director Jim Knight that it "is likely true" that Bruce Conner has a conflict  
28 of interest. Ms. Eakins notes that Mr. Conner "is not only being paid by the Port, but the  
29 work he is doing for the Port will have the direct effect of increasing tour sales for his  
30 company." She then advises that the Port should consider terminating Mr. Conner's  
31 contract. (#IR28). Despite her advice, the Port did not terminate Mr. Conner's contract.

1 **CONCLUSIONS:** S. Bruce Conner was contracted with the Port of Astoria to serve as  
2 its Cruise Industry Marketing Director when the events relevant to this case occurred. As  
3 the Port's Cruise Industry Marketing Director, Mr. Conner performed services on behalf  
4 of the Port and represented the Port in interactions with cruise lines and others. As such,  
5 Mr. Conner was the Port's agent, as defined in OAR 199-005-0035(7), and was a public  
6 official as defined in ORS 244.020(15).

7  
8 A conflict of interest means any action, decision, or recommendation by a person acting  
9 in their capacity as a public official, the effect of which would or could be to the private  
10 pecuniary benefit or detriment of the person, their relative, or a business with which they  
11 or their relative are associated. An actual conflict of interest exists if the effect of the  
12 official action, decision or recommendation would have a financial impact on the public  
13 official, their relative, or a business with which they or a relative are associated. A potential  
14 conflict of interest exists if the effect of the official action, decision, or recommendation  
15 could have a financial impact on the public official, their relative, or a business with which  
16 they or their relative are associated. [ORS 244.020(1) and ORS 244.020(13)].

17  
18 A business includes any corporation, firm, or other legal entity operated for economic  
19 gain, but excluding income producing 501(c) corporations with which the person is  
20 associated only as a member, board director, or in a nonremunerative capacity. [ORS  
21 244.020(2)]. A business with which a person is associated includes any private business  
22 or closely held corporation of which the person is a director, officer, owner, employee or  
23 agent. [ORS 244.020(3)].

24  
25 In this case, Mr. Conner is the sole owner and an employee of Sundial; as such, Sundial  
26 is a business with which he is associated. Mr. Conner also serves as a board member for  
27 the CCH. Because the CCH is a 501(c)(3) corporation and Mr. Conner serves only as a  
28 board member and does not receive any remuneration, CCH is not a business with which  
29 Mr. Conner is associated, for purposes of application of Oregon Government Ethics law.

30 //

31 //

1 A public official such as Mr. Conner, when met with a conflict of interest, is required to  
2 provide written notification to his appointing authority of the nature of the conflict and  
3 request that authority dispose of the matter giving rise to the conflict. [ORS 244.120(1)(c)].  
4 It does not appear that Mr. Conner ever made such a written disclosure for any of the  
5 matters at issue in this case.

6  
7 ORS 244.040(1) prohibits a public official from using or attempting to use the official's  
8 position to obtain a financial benefit or avoid a financial detriment for the public official, a  
9 relative or household member, or a business with which the public official or a relative or  
10 household member is associated, if the financial benefit would not otherwise be available  
11 but for the public official's holding the official positions. ORS 244.040(4) prohibits a public  
12 official from furthering or attempting to further the public official's personal gain through  
13 the use of confidential information gained by reason of holding the official positions.

14  
15 There is a preponderance of evidence in this case indicating that Bruce Conner used his  
16 position at the Port to benefit Sundial, his private company, and failed to disclose his  
17 conflicts of interest relating to these matters.

18  
19 In 2016, when the Port was updating the shore excursion information on its website, Bruce  
20 Conner provided the Port's website administrator with descriptions only of the shore  
21 excursions that Sundial offers. When he provided this information to the website  
22 administrator, he did not make a written disclosure of his conflict of interest. It appears  
23 that Sundial's ability to have its shore excursions listed on the Port's website may not  
24 have occurred but for Mr. Conner's official position, as other tour operators sought similar  
25 access to the website and were refused. Having its shore excursions listed on the Port's  
26 website appears to provide a financial benefit to Sundial, as any visitor to the Port's  
27 website will see only Sundial's shore excursions. Moreover, the Port's website informs  
28 visitors that all shore excursions are required to be booked on board the cruise line, even  
29 though there is no such requirement. Because Sundial has contracts with all of the cruise  
30 lines and its shore excursions are all booked on board, such advice benefits Sundial by  
31 discouraging visitors from independently booking tours with Sundial's competitors.



1 In 2017, Mr. Conner e-mailed at least two different cruise line shore excursion  
2 representatives seeking to gain their input and support for the Port's POR Policy. Mr.  
3 Conner did not make any disclosure of a conflict of interest to his appointing authority.  
4 The POR Policy itself created a financial benefit for Sundial, as it prohibited other tour  
5 operators from offering any shore excursions that directly competed with those offered by  
6 Sundial. A potential conflict of interest arose for Bruce Conner as his official action in  
7 sending the e-mails could provide a financial benefit to Sundial by reinforcing the POR  
8 Policy. Mr. Conner's actions also constitute a prohibited use of office. But for his position,  
9 he would not have known that there had been a request from an independent tour  
10 operator or of the need to seek support for the Port's POR Policy from the cruise lines,  
11 nor would he have been able to use his Port position to solicit support for the policy that  
12 clearly benefitted him.

13

14 In 2018, Mr. Conner again sent e-mails to the cruise lines' shore excursion representative  
15 seeking support for the Port's POR Policy. These e-mails were sent only four months after  
16 Mr. Conner appeared before the Commission in the prior case. Not only did Mr. Conner  
17 send out these e-mails, but he also directed Port staff to send similar inquiries to multiple  
18 cruise lines. Again, Mr. Conner failed to disclose his conflicts of interest, even though  
19 gaining support for the POR Policy would financially benefit Sundial by protecting its near  
20 monopoly on Astoria shore excursions. While not particularly credible, Mr. Conner's  
21 explanation that he was seeking this information for his electric scooter business does  
22 not negate the fact that he was taking action in his official capacity that could have the  
23 effect of financially benefitting his private businesses.

24

25 **RECOMMENDATIONS:** The Oregon Government Ethics Commission should make  
26 preliminary findings that S. Bruce Conner violated the conflict of interest provisions of  
27 Oregon Government Ethics law, resulting in three violations of ORS 244.120(2), and that  
28 he engaged in a prohibited use of office, resulting in one violation of ORS 244.040(4) and  
29 three violations of ORS 244.040(1). (Motion 10).

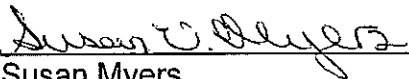
30 ///

( 1 ///


1 **ASSOCIATED DOCUMENTS:**

- 2 #PR1 Complaint and attached materials from Brett Applegate, received on 1/3/19.
- 3 #PR2 Records related to the Oregon Government Ethics Commission review of  
4 18-083EDG during executive session on 5/11/18.
- 5 #PR3 Preliminary Review report for Commission case no. 18-083EDG, dated  
6 3/30/18.
- 7 #PR4 Response received from Bruce Conner.
- 8 #IR1 Secretary of State Business Registry filings for Sundial Shore Excursions,  
9 Sundial Travel Service, Inc., and Sundial Special Vacations, Inc.
- 10 #IR2 Taped Interview of S. Bruce Conner, conducted 4/2/19. Time stamps noted  
11 in report are approximate.
- 12 #IR3 Oregon Department of Justice Charitable Activities Section reports for  
13 Clatsop Cruise Hosts, Inc.
- 14 #IR4 Port of Astoria Personal/Professional Services Agreement with S. Bruce  
15 Conner, dated 5/13/14.
- 16 #IR5 Memorandum re contact with Matt McGrath, dated 8/9/19.
- 17 #IR6 Crystal Cruises Invitation to Bid on 2016 Shore Excursions, dated 8/31/15.
- 18 #IR7 Royal Caribbean Cruises Ltd. 2018-2019 Tour Operator Agreement.
- 19 #IR8 NCL Corporation Ltd. Standard Shore Excursion Agreements, dated  
20 11/16/18 and 4/11/16.
- 21 #IR9 Carnival Corporation Tour Operator Agreement, dated 3/30/18.
- 22 #IR10 Recording of the Oregon Government Ethics Commission meeting, 3/7/19.
- 23 #IR11 Port of Astoria Port Property Usage Agreement, dated 1/1/14.
- 24 #IR12 Port of Astoria Tour Operator's Agreement, dated 4/3/17.
- 25 #IR13 E-mail from Matt McGrath, dated 3/5/19, and memo from Jim Knight, dated  
26 3/6/19.
- 27 #IR14 Port of Astoria Meeting Minutes, dated 9/18/18.
- 28 #IR15 E-mail from Bruce Conner to Celebrity Shore Excursion Manager, dated  
29 9/19/18.
- 30 #IR16 E-mail from Bruce Conner to James Palmeri at Shore Excursions of  
31 America, dated 9/19/18.

- 1 #IR17 E-mail from Ella Marion to Oceania Cruises, Norwegian Cruises, Regent  
2 Seven Seas Cruises, and Crystal Cruises, dated 9/19/18.  
3 #IR18 E-mail from Ella Marion to James Palmeri at Shore Excursions of America,  
4 dated 9/19/18.  
5 #IR19 Memorandum re contact with Ella Marion, dated 7/30/19.  
6 #IR20 Port of Astoria website page for Shore Excursions, downloaded 8/2/19.  
7 #IR21 Screenshots of Sundial website page for Shore Excursions, downloaded  
8 6/11/19.  
9 #IR22 Screenshots of Shore Excursion Listings on Oceania Cruises, Celebrity  
10 Cruise Lines, Holland America Cruises, Princess Cruise Lines, and  
11 Norwegian Cruise Lines, downloaded 6/11/19.  
12 #IR23 E-mail string between Ella Marion and Hannah Bryan, dated 7/9/19.  
13 #IR24 E-mail from Jim Knight to Diane Gould, dated 3/26/18.  
14 #IR25 E-mail from Bruce Conner to Jim Knight, dated 2/15/19.  
15 #IR26 Various e-mails from/to Bruce Conner at bruce@sundial-travel.com and  
16 bruce@portofastoria.com  
17 #IR27 E-mail from Matt McGrath to Rick Yelton, dated 10/17/17.  
18 #IR28 E-mail from Eileen Eakins to Jim Knight, dated 3/19/18.

PREPARED BY  8-15-19  
Susan Myers Date  
Investigator

APPROVED BY  8/15/19  
Ronald A. Bersin Date  
Executive Director

REVIEWED BY  8-15-19  
Amy E. Alpaugh Date  
Assistant Attorney General

The resurrected complaint of Lori Beth Culp dated January 3, 2019 filed by Lori Beth Culp should be dismissed by the Commission because it is not a new and different complaint and because it fails to provide facts or reasons to suggest that I failed to disclose a potential conflict of interest to the Port of Astoria.

1) This is not a "new and different complaint. ORS 244.260 provides:

"(1)(a) Any person may file with the Oregon Government Ethics Commission a signed written complaint alleging that there has been a violation of any provision of this chapter or of any rule adopted by the commission under this chapter. The complaint shall state the person's reason for believing that a violation occurred and include any evidence relating to the alleged violation.

(5)(a) \* . \* . \* The commission shall notify the person who is the subject of action under this section of the dismissal or rescission. After dismissal or rescission, the commission may not take further action involving the person unless a new and different complaint is filed or action on the commission's own motion is undertaken based on different conduct.

The original complaint filed by Lori Beth Culp on March 5, 2018 as supplemented by her on March 31, 2018 accused me, Bruce Conner, of having a "conflict of interest" in serving as a tour operator and as a "staff member" of the Port of Astoria.

The new complaint filed January 3, 2019 by attorney Brett Applegate on behalf of Ms. Culp alleges that I had a potential conflict of interest but failed to file a conflict of interest disclosure "related to his roles with the Port and Sundial."

This is clearly the same old complaint and same set of facts tied up in a fancy ribbon by her attorney. The April 24, 2017 email message serving as the purported basis for this regurgitation was provided and available to Ms. Culp during the commission's consideration of her complaint. Culp provides no excuse for not providing this email to the Commission in 2018. The email is not "newly discovered evidence" serving as the basis for a "new and different complaint" as she now alleges but rather a random item, seized upon by her attorney in order to reopen a case that was appropriately dismissed by this commission.

2) There is no potential conflict of interest.

Culp's new complaint alleges a potential conflict of interest. The term "Potential Conflict of Interest" is defined by ORS 244.020(13):

"Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

\* . \* . \* . \*

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class

consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged."

As discussed in relation to the original version of this complaint, my contract with the Port of Astoria is intended to help attract additional cruise line visits to Astoria. My activities affect all businesses, including mine, conducting shore excursion at the Port of Astoria.

My contract with the port identifies my duties as follows:

- Maintain and increase cruise ship market; identifying market opportunities for potential users of the facility
- Assist in developing promotional information for marketing Port properties/services
- Develop advertising/marketing "Port of Astoria" message
- Maintain and meet regularly with key itinerary planners for all cruise lines
- Attend industry conferences
- Coordinate cruise ship events
- Meet and greet ship captains upon arrival
- Solicit partnerships with local entities
- Other related duties as requested by Executive Director"

In April 2017 the Port of Astoria was developing policy guidelines for the regulation of tour operators. The policy eventually adopted appears as paragraph 6 entitled "Protection of On-Board Revenue" in the Port's Tour Operator's Agreement. Every Tour Operator, including Ms. Culp's business as well as Sundial Travel, the business I own and operate, must execute this agreement in order to operate on Port property.

As I recall, the policy was drafted by Shane Jensen for the Port. I was not involved in the drafting the guideline but was asked by the Port to contact excursion managers for several cruise lines for their input on the Port's proposal. The email Ms. Culp relies upon in this second version of her complaint against me was sent pursuant to that request. The Port's policy has always applied equally to all tour operators doing business at the Port of Astoria. As written, and eventually adopted, the guideline applies equally to Ms. Culp's business as well as Sundial Travel.

The 2017 email message relied upon by Ms. Culp does not evidence or implicate any activity I took in my official capacity that would affect my business any differently from any other tour operator doing business at the Port of Astoria. It provides no evidence that I had a potential conflict of interest by communicating with the Shore Excursion Manager for Princess, Holland America Group.

Thank you for the opportunity to respond and your time.

Sincerely  
S Bruce Conner

(

(

(



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Website: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

August 23, 2019

Michael Duyck, Chair  
Statewide Interoperability Executive Council  
c/o Office of the State CIO  
155 Cottage St NE  
Salem, Oregon 97301

Dear Michael Duyck:

At its August 23, 2019 meeting, the Oregon Government Ethics Commission (Commission) adopted the following advisory opinion in response to the request set forth in your letter to the Commission dated June 24, 2019.

**OREGON GOVERNMENT ETHICS COMMISSION ADVISORY OPINION NO.  
19-173A**

**SYNOPSIS OF FACTS AS PRESENTED TO THE COMMISSION:**

The following factual information is from your letter of June 24, 2019, along with "State of Oregon No. 2587 Amendment to Participating Addendum under the NASPO ValuePoint Wireless Communication Services and Equipment Bid Number RFP: #1907", and the staff advice letter 18-218I issued to Brad Anderson, Washington County Counsel, on September 28, 2018.

AT&T offers mobile phone plans to first responders via FirstNet. FirstNet was established by Congress in 2012 as an independent federal authority with a statutory duty to take all actions necessary to ensure the building, deployment and operation of the Nationwide Public Safety Broadband Network based on a single national network architecture. FirstNet selected AT&T as the vendor to develop this national wireless broadband network for law enforcement, firefighters and emergency medical services.

AT&T FirstNet plans offer first priority over other networks and because the services offered are unique to first responders and AT&T is the only vendor, the service costs are not comparable to other consumer cellphone plans.

FirstNet Subscriber Paid service is available to employees and volunteers who have been deemed an eligible Primary User regardless of whether or not the employee/volunteer is a public official. Primary Users are engaged in law enforcement, fire protection (including fire departments of private companies), emergency medical services (including doctors



and nurses employed by, and dedicated to the emergency department/trauma centers of medical hospitals), and employees of private ambulance companies.

All Subscriber Paid Users must be verified and approved by a Primary User Public Safety Entity (employer), which is responsible for 1) providing contact information for each eligible user to AT&T so AT&T may establish private accounts with such individuals and 2) performing audits of existing Subscriber Paid Users at least annually to remove individuals no longer eligible for the AT&T FirstNet service.

Only FirstNet Primary Users – whether the service is paid by the employer (Agency Paid) or subscriber (Subscriber Paid) – have priority access and preemption on the network built into their service plan. This is not available on “regular” wireless consumer plans. FirstNet Subscriber Paid service allows those qualified first responders whether a sworn police officer or a registered paramedic for a private ambulance company, to maintain public safety continuity even if the first responder does not have an employer issued Agency Paid device when an emergency occurs.

The FirstNet Subscriber Paid service is provided via separate rate plans offered only to FirstNet Subscriber Paid Users. The FirstNet Subscriber Paid service cannot be compared to general “consumer” wireless plans as there are different features and functionality (priority and preemption on the network). The FirstNet Subscriber Paid service is provided to eligible first responders under a separate, individual FirstNet account and cannot be combined or billed with lines on general AT&T consumer plans. FirstNet is the only public safety broadband network in the United States and the Governor has opted Oregon in to this network to facilitate public safety for Oregonians.

FirstNet Subscriber Paid service costs are:

	Monthly Service Charge
Unlimited Smartphone Plan (without tethering)	\$39.99
Unlimited Smartphone Plan (with tethering)	\$44.99
Unlimited Tablet Plan (with tethering)	\$36.80
Responder Plan for use with feature phone 100MB	\$10.99

**Question:** Are public officials who are first responders limited by the Oregon Government Ethics laws in availing themselves of the opportunity to purchase an AT&T FirstNet personal mobile service plan as a FirstNet Subscriber Paid User?

**Answer:** No.



**Application of Oregon Government Ethics law to Facts**

Public officials who are first responders and therefore have the opportunity to avail themselves of the AT&T FirstNet mobile service plan for their personal phone or device are subject to compliance with the Oregon Government Ethics laws in ORS Chapter 244.

**GIFTS:**

As used in ORS Chapter 244, a "gift" is something of economic value given to a public official (or their relative or household member): a) without valuable consideration of equivalent value, which is not extended to others who are not public officials on the same terms and conditions or b) for valuable consideration less than that required from others who are not public officials. Public officials are limited in the gifts they can receive. [ORS 244.020(7)(a), ORS 244.025, ORS 244.020(10)]

The FirstNet plan offered to public officials who are first responders is not a "gift" under the statutory definition because the AT&T FirstNet service is offered on the same terms and conditions to first responders who are not public officials such as emergency room doctors, nurses, private ambulance drivers, EMTs, private firefighters, etc. In this case, the benefit of personal access to the FirstNet service is available not because one is a public official, but due to the nature of one's profession or occupation as a first responder. From a public safety standpoint, the State of Oregon has decided that public officials/first responders need to have immediate access at all times to the FirstNet services of priority and preemption on the broadband network in the event of an emergency.

The AT&T FirstNet service is a unique service offered only to first responders. AT&T sets the price for this unique service for all first responders and does not provide a discount on the service only to public officials. We cannot say that the consideration paid by first responders is not of "equivalent value" or is "less than required from others who are not public officials" by comparing the price of the plan to others offered, as there are no different plans for FirstNet service.

**PROHIBITED USE OF OFFICE:**

In relevant part, ORS 244.040(1) prohibits a public official from using their official position to obtain a private financial gain or avoid a financial detriment for themselves if the financial benefit would not otherwise be available but for the public official's holding of their official position.

It does not appear that there is a private financial benefit for a public official/first responder in obtaining a FirstNet Subscriber Paid User mobile service plan for their personal phone. First, a Subscriber Paid User is offered the same plan at the same cost whether they are a public or private employee, there is no discount for first responders who are public officials. Second, AT&T is the sole distributor of FirstNet, a unique broadband network; there are no other vendors for comparison purposes. Thirdly, the FirstNet Subscriber Paid User is personally paying for this service for his or her private phone in order to have access to FirstNet when an emergency occurs.

Michael Duyck, Chair  
Statewide Interoperability Executive Council  
August 23, 2019  
Page 4

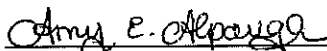
Even if there were some financial benefit for the public official in using the FirstNet plan on their private phone, a public official who is a first responder could avail themselves of the FirstNet Subscriber Paid User mobile service plan without violating ORS 244.040(1) because the opportunity is available to them as a first responder rather than as a public official.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT ETHICS COMMISSION PURSUANT TO ORS 244.280. A PUBLIC OFFICIAL 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. OTHER LAWS OR REGULATIONS NOT WITHIN THE JURISDICTION OF THE COMMISSION MAY ALSO APPLY.**

Issued by Order of the Oregon Government Ethics Commission at Salem,  
Oregon on the \_\_\_\_ day of August, 2019.

---

Richard P. Burke, Chairperson  
Oregon Government Ethics Commission

  
\_\_\_\_\_  
Amy E. Alpaugh, Assistant Attorney General

## RELEVANT STATUTES

### **ORS 244.020 Definitions**

(7)(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.

(10) "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; or

(b) Any matter that would be subject to the decision or vote of the candidate, who, if elected, would be acting in the capacity of a public official.

(15) "Public official" means the First Partner and 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.

**ORS 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.

**ORS 244.040 Prohibited use of official position or office; exceptions; other prohibited actions.** (1) Except as provided in subsection (2) of this section a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.



**BAIER Kathy \* OGEC**

---

**From:** Duyck, Michael R. <Mike.Duyck@tvfr.com>  
**Sent:** Monday, June 24, 2019 2:15 PM  
**To:** OGEC Mail \* OGEC  
**Cc:** GHEREZGIHER Ben \* DAS; Duyck, Michael R.  
**Subject:** Oregon Ethics Question on PSBN FirstNet  
**Attachments:** OregonEthicsFirstNetSIEC062419.pdf; 2018-09-28 B Anderson\_Wash Co\_AT&T phone plan.pdf; 2018-09-28 B Anderson\_Wash Co\_discounted phone plan\_full request.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Oregon Ethics Commission,

Attached is a letter from Oregon Statewide Interoperability Council and State CIO's office requesting a reconsideration of a ruling on the Public Safety Broadband Network (FirstNet) service. I have attached the previous question and response being referenced. Please let us know if you have questions or need additional information.

Thank you,

Mike.

Mike Duyck | Chair  
SIEC Oregon  
Tualatin Valley Fire & Rescue  
[Mike.Duyck@tvfr.com](mailto:Mike.Duyck@tvfr.com)

19-173A

# Statewide Interoperability Executive Council

State of Oregon



**Kate Brown**  
GOVERNOR

**Chief Michael Duyck**  
CHAIRMAN

June 24, 2019

Ronald A. Bersin  
Executive Director  
Government Ethics Commission  
3218 Pringle Rd SE Ste. 200  
Salem, OR. 97302-1544

The Oregon Statewide Interoperability Council is responsible for the oversight of implementation of the Public Safety Broadband Network (FirstNet) in Oregon. We have been working through the various phases and noticed a ruling you have made on FirstNet service. We do not agree with the opinion in the September 28, 2018 letter from Mr. Bersin with the Oregon Government Ethics Commission. As described in more detail below, the FirstNet Subscriber Paid service is not a "gift" under Oregon law as it is extended to others who are not public officials on the same terms and conditions. Eligibility for the FirstNet Subscriber Paid service is based on whether the employee/volunteer is an eligible Primary User.

FirstNet Subscriber Paid service is available to employees/volunteers that have been deemed an eligible Primary User regardless of whether or not the employee/volunteer is a public official. Primary Users are engaged in law enforcement, fire protection (including fire departments of private companies), emergency medical services (including doctors and nurses employed by, and dedicated to the emergency department/trauma center of, general medical or surgical hospitals), emergency (9-1-1) call dispatching, and emergency management. See page 12 of FirstNet Subscriber Guide ([http://serviceguidenew.att.com/sg\\_customPreviewPDFPage?testid=0680h000004PWSAAA4](http://serviceguidenew.att.com/sg_customPreviewPDFPage?testid=0680h000004PWSAAA4))

A FirstNet Subscriber Paid User may be employed by the government, a private organization or a non-profit organization. In Oregon, there are currently FirstNet Primary Users employed by a private ambulance company. Across the county there are employees with doctors and nurses employed by private hospitals and private ambulance companies that are eligible for FirstNet Subscriber Paid service.

Only FirstNet Primary Users – whether the service is paid by the employer (Agency Paid) or subscriber (Subscriber Paid) – have priority access and preemption on the network built into their service plan.

Office of the State CIO  
155 Cottage ST. NE  
Salem Oregon 97301

This is not available on "regular" wireless consumer plans. FirstNet Subscriber Paid service allows those qualified first responders whether a sworn police officer or a registered paramedic for a private ambulance company, to maintain public safety continuity even if the first responder does not have a government issued Agency Paid device when an emergency occurs.

The FirstNet Subscriber Paid service is provided via separate rate plans offered only to FirstNet Subscriber Paid Users. The FirstNet Subscriber Paid service cannot be compared to general "consumer" wireless plans as there are different features and functionality (priority and preemption on the network). The FirstNet Subscriber Paid service is provided to eligible first responders under a separate, individual FirstNet account and cannot be combined or billed with lines on general AT&T consumer plans.

FirstNet Subscriber Paid service is offered at the same rate to qualifying subscribers whether the subscriber works/volunteers for a public or private organization. (See <http://www.firstnet.com/firstnetresponder>.) Given the additional information provided, please consider revision of the opinion mentioned above. FirstNet is the only public safety broadband network in the United States and Governor Brown has opted in Oregon to this network. To deny public safety employees (public or private) the ability to use this network is detrimental to public safety for Oregonians. In addition, when questions regarding FirstNet service are addressed, if possible, please copy the state SPOC (FirstNet Single Point of Contact) at the CIO's office and the Chair of the Oregon SIEC council so we can assist with clarifications. If you have additional questions or would like to discuss further, The SPOC or myself would be happy to do so.

Sincerely,



Michael R. Duyck  
Chair, Oregon Statewide Interoperability Council



# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Website: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

September 28, 2018

Sent via email and USPS

Brad Anderson  
Washington County Counsel  
Public Services Building  
155 N. First Avenue, Ste 340, MS #24  
Hillsboro, OR 97124

Dear Mr. Anderson:

*18-218E 9/28/18*

This letter of advice is provided in response to your correspondence received September 4, 2018, regarding the application of Oregon Government Ethics law to the receipt by first responders of a discounted AT&T FirstNet mobile phone plan for their private usage. This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented, as summarized below.

### SUMMARY OF FACTS AS PRESENTED:

AT&T offers mobile phone plans to first responders via FirstNet. FirstNet was established by Congress in 2012 as an independent federal authority with a statutory duty to take all actions necessary to ensure the building, deployment and operation of the Nationwide Public Safety Broadband Network based on a single national network architecture. FirstNet selected AT&T as the vendor to develop this national wireless broadband network for law enforcement, firefighters and emergency medical services.

AT&T FirstNet plans offer first priority over other networks and are below costs offered on the open market. For instance, an unlimited talk, text, and data smartphone plan would be \$40 per month.

The FirstNet plans are available to "Primary Users", individual first responders from the agencies who are at an emergency scene first. This includes law enforcement, fire protection services, emergency medical services, emergency (911) call dispatching and government Public Safety Answering Points, emergency planning and management offices, and ambulance services.

FirstNet plans are also available to "Extended Primary Users", individuals from those agencies, organizations, non-profit or for-profit companies that provide public safety services in support of first responders. They provide mitigation, remediation, overhaul, clean-up, restoration, or other such services during or after an incident.

**Question:** Is it a violation of any ethics law in ORS Chapter 244 for a first responder at the Washington County Sheriff's Office to subscribe to an AT&T FirstNet mobile plan for the person's private mobile phone usage?

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**Answer:** It depends on whether AT&T has an economic interest, distinct from that of the general public, in the official decisions or votes of the individual public official/first responder.

**Analysis:** All of the first responders employed by the Washington County Sheriff's Office are public officials, subject to compliance with ORS Chapter 244. [ORS 244.020(15)]

As used in ORS Chapter 244, a "gift" is something of economic value given to a public official (or their relative or household member): a) without valuable consideration of equivalent value, which is not extended to others who are not public officials on the same terms and conditions or b) for valuable consideration less than that required from others who are not public officials. [ORS 244.020(7)(a)]

ORS 244.025 prohibits a public official (or their relative or household member) from receiving any gift with an aggregate value in excess of \$50 from any single source that could reasonably be known to have an economic interest, distinct from that of the general public, in decisions or votes of the public official when acting in their official capacity. [ORS 244.020(10)]

In relevant part, ORS 244.040 prohibits a public official from using their official position to obtain a private financial benefit for themselves, their relative, or their household member, if the financial benefit would not otherwise be available but for the public official's holding of their official position. Explicitly excluded from this prohibition are certain gifts that a public official is allowed to accept, such as: 1) gifts that do not exceed the \$50 gift limit from a source that could reasonably be known to have an economic interest distinct from that of the general public in their official decisions or votes, and 2) gifts received by a public official from a source that could not reasonably be known to have an economic interest distinct from that of the general public in their official decisions or votes. [ORS 244.040(2)(e), (f)]

According to the material you provided, it appears that AT&T FirstNet personal mobile phone plans are specifically designed for first responders, the majority of whom would be public officials, such as those working for the Sheriff's Office. AT&T also offers FirstNet plans to others from non-profit and for-profit businesses who provide services such as mitigation, remediation, overhaul, clean-up, and restoration during or after emergencies, in support of first responders. However, it appears from the material provided, that these "Extended Primary User" plans are not offered on the same terms and conditions as those offered to first responders, as they seem to be treated by AT&T as distinct "user" groups. No information was provided for comparison purposes that would show the cost of mobile phone plans and discounts offered by AT&T to others who are not first responders or public officials.

Therefore, the AT&T personal discounted subscriptions offered to the first responders at the Sheriff's Office will be analyzed as "gifts" as defined in ORS 244.020(7)(a), because without information to the contrary, we assume these discounts are not offered to those who are not first responders/public officials on the same terms and conditions.

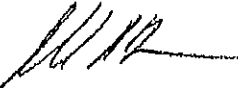
Brad Anderson  
September 28, 2018  
Page 3

Before accepting such a gift, each first responder in the Sheriff's Office must assess whether the source of the gift, AT&T, has an economic interest, distinct from that of the general public, in their official decisions or votes. For example, it appears that AT&T would have such an interest in the Sheriff's purchasing agent, IT manager, command staff, or others who select, authorize, or administer telecommunications contracts for their agency. A first responder who makes official decisions for the Sheriff's Office that could financially affect AT&T, would thus be limited to acceptance of no more than a \$50 gift from AT&T (in the form of a discounted personal mobile phone plan) during a calendar year. [ORS 244.040(2)(e) and ORS 244.025]

On the other hand, it does not appear that AT&T would have an economic interest, distinct from that of the general public, in the official decisions of a first responder who does not make purchases or administer contracts for the Sheriff's Office. Such a first responder could accept an unlimited "gift" of a personal discounted subscription plan from AT&T, because such gifts are explicitly excluded from ORS 244.040, and are not a prohibited use of their official position. [ORS 244.040(2)(f)]

If you have any additional questions regarding the application of Oregon Government Ethics law, please feel free to contact me directly.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/dg

\*\*\*\*\*DISCLAIMER\*\*\*\*\*

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

**GOULD Diane \* OGEC**

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**From:** Brad Anderson <Brad\_Anderson@co.washington.or.us>  
**Sent:** Thursday, October 25, 2018 9:18 AM  
**To:** GOULD Diane \* OGEC; Elmer Dickens  
**Cc:** Kevin Kane  
**Subject:** FW: AT&T Rates with and without FirstNet  
**Attachments:** Oregon FirstNet Amendment 2018.pdf; Opinion 09-1003.pdf

Diane,

Pursuant to my revised request for a staff opinion regarding FirstNet from yesterday, I reached out to AT&T regarding this issue. Below please find AT&T's local representative response. He refers to ethics opinion #09-1003. I reviewed that opinion (attached). That is the type of opinion I was hoping for previously, but specifically related to the FirstNet offering. FirstNet appears to be slightly different in that it is not open to everyone and the Sheriff needs to confirm that the individual who wants to be a Subscriber Paid User (i.e. own individual cell phone account) is an employee or volunteer for the SO that provides service to a Public Safety Entity.

Does opinion #09-1003 (or #09-1004) apply to the FirstNet offering by AT&T?

Thanks,

Brad

Brad Anderson  
Sr. Assistant County Counsel  
Washington County  
(503) 846-8747

---

**From:** BRAUNSTEIN, PAUL R [mailto:pb8016@att.com]  
**Sent:** Wednesday, October 24, 2018 8:14 PM  
**To:** Brad Anderson  
**Cc:** BREITLING, KILEY C  
**Subject:** RE: AT&T Rates with and without FirstNet

Hello Brad,

I work with Kiley and am the Principal Consultant for FirstNet in Oregon.

I was directly involved in the most recent contracting with Oregon to bring on FirstNet in the state. With this FirstNet amendment Oregon is viewing FirstNet Subscriber paid service, service under a first responders personal name, as not a benefit but as a need for public safety and allowing this service. Oregon is allowing FirstNet subscriber paid service and you can find this within the amendment starting on page 5 section 3.2. You can also reach out to the State of Oregon SPOC (State Point of Contact) for FirstNet in Oregon Ben Gherezgier [Ben.GHEREZGIHER@oregon.gov](mailto:Ben.GHEREZGIHER@oregon.gov) to verify this.

I have been with AT&T supporting State and Local for many years and not even related to FirstNet Subscriber paid service AT&T worked with the State Ethics Board many years ago and provided information to them on our Government Employee Offer, discount to government employees. The Ethics Board reviewed this and provided an opinion #09A-1003 allowing Oregon employees to accept our service discount on wireless plans.

As for your first question; '... is the difference is rates between the FirstNet plan and the least costly plan that offers similar services that is also offered by AT&T. Can you provide a breakdown in the cost differences to me.'.. I am not sure I understand your question... Can you clarify?

As for your second question, I don't know what the exact breakdown is. For a FirstNet user to receive FirstNet Subscriber Paid service under their own name you must qualify as a FirstNet Primary user. A Primary user of FirstNet are; Police/Fire/EMS, PSAP employees and employees within an emergency management role. These users come from a variety of organization types. 77% of firefighters in America are volunteers and qualify for subscriber paid service, but all of our Counties/Cities/States/Municipalities have police departments, some fire departments and most all have employees that are within the Emergency Management role who also qualify for FirstNet Subscriber Paid service.

Feel free to ask any additional questions and I will make sure to assist you in getting the information you need.

Thank you for reaching out

**Paul Braunstein**

Principal Consultant, Firstnet Solutions Consultant

*Public Safety Solutions*

FirstNet.com

AT&T Mobility Services, Inc.

19801 SW 72<sup>nd</sup> Ave STE 200 Tualatin, OR 97062

☎: 503.913.7565 | ✉: [pb8016@att.com](mailto:pb8016@att.com)



FirstNet Is

From: Brad Anderson [[mailto:Brad\\_Anderson@co.washington.or.us](mailto:Brad_Anderson@co.washington.or.us)]

Sent: Wednesday, October 24, 2018 2:44 PM

To: BREITLING, KILEY C <[kb7464@att.com](mailto:kb7464@att.com)>

Cc: Kevin Kane <[Kevin\\_Kane@co.washington.or.us](mailto:Kevin_Kane@co.washington.or.us)>

Subject: AT&T Rates with and without FirstNet

Ms. Breitling,

I understand you have been in contact with the Washington County Sheriff's Office regarding offering FirstNet plans to our first responders for personal use. I have been asked to look into the matter and whether it is permissible under the Oregon Ethics Laws. One question that has come up is the difference in rates between the FirstNet plan and the least costly plan that offers similar services that is also offered by AT&T. Can you provide a breakdown in the cost differences to me.

A second question is what is the breakdown of FirstNet plan holders who are public employees v. all other (volunteers/private/etc.).

If you are not the correct contact, please forward this message to the right person. Please contact me if you have any questions.

Thanks,

Brad

Brad Anderson  
Sr. Assistant County Counsel  
Washington County  
(503) 846-8747

STATE OF OREGON No.2587

AMENDMENT TO PARTICIPATING ADDENDUM  
UNDER THE  
NASPO VALUEPOINT  
WIRELESS COMMUNICATION SERVICES AND EQUIPMENT  
BID NUMBER RFP: #1907

PARTICIPATING STATE: STATE OF OREGON, ACTING BY AND THROUGH THE DEPARTMENT OF  
ADMINISTRATIVE SERVICES, PROCUREMENT SERVICES

This Amendment No. 3 ("Amendment 3") is entered into as of September 7th, 2018 (the "Amendment 3 Effective Date") by and between the STATE OF OREGON, acting by and through the Department of Administrative Services, Procurement Services ("DAS PS" or "State"), and AT&T Mobility National Accounts LLC ("Contractor") (DAS PS and Contractor are, at times, referred to individually as a "Party" or together as the "Parties").

**Section 1. Recitals.**

1.1 Contractor and the State of Nevada, acting through its Department of Administration, Purchasing Division, and the participating members of the NASPO Cooperative Purchasing Program, d/b/a "NASPO ValuePoint" (formerly known as "WSCA" or "WSCA-NASPO") (hereinafter defined as "NASPO" or "WSCA"), are parties to that certain wireless communication services and equipment contract, #1907, dated March 15, 2012, as amended (the "Contract" or "Master Service Agreement").

1.2 In connection with the Contract, DAS PS and Contractor entered into a Participating Addendum dated July 10, 2012, as amended (the "PA").

1.3 DAS PS and Contractor intend to make certain changes to the PA pursuant to the terms and conditions of this Amendment 3 which include the addition of certain new mobile plans as described below.

**Section 2. Agreement.** In consideration of the recitals set forth in §1 above, which are hereby re-stated and agreed to by the Parties, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, DAS PS and Contractor hereby agree to the terms and conditions of this Amendment 3. Unless otherwise defined, capitalized terms in this Amendment 3 have the meanings ascribed to them in the Contract and the PA. At times, the Contract, the PA, and this Amendment 3 are referred to collectively herein as the "Agreement."

2.1 "FirstNet Mobile Plans". Contractor may provide to Authorized Participating Entities (as used herein "Participating Entities"), who are "Public Safety Entities" as defined in Section SD-1.1 - General Description in the AT&T Business Service Guide included as part of Exhibit B attached hereto, certain cell phone plans whose rates are set forth in Sections 3.1 (Custom FirstNet Mobile Plans - Participating Entity Paid) and 3.2 (Custom FirstNet Mobile Plans - Subscriber Paid) below. The plans in Sections 3.1 and 3.2 are more fully defined in the AT&T Business Service Guide included as part of Exhibit B attached hereto. The following FirstNet Optional Services are also available under this Amendment. The following FirstNet Optional Services are defined in the AT&T Business Service Guide included as part of Exhibit B attached hereto. No additional cell phone plans or FirstNet Optional Services are currently available to Participating Entities under this PA.  
State of Oregon 1-7ONQSW7 1-74YXZQY Jw8001 090718  
FirstNet Amendment

- Box from AT&T
- IBM MaaS360 from AT&T
- NetMotion and
- AirWatch Hosted Solution from AT&T

Contractor acknowledge the services currently available under these FirstNet Mobile Plans and the FirstNet Optional Services may be limited as compared to the full implementation and the capability that will be available during future phases of the Implementation of the Nationwide Public Safety Broadband Network ("NPSBN"). The FirstNet Mobile Plans and FirstNet Optional Services will be provided pursuant to this Amendment 3, the AT&T Business Service Guide included as part of Exhibit B attached hereto, and the Clarifications of FirstNet Services in the State of Oregon – Q&A included as part of Exhibit B attached hereto. Upon request, Contractor shall provide DAS PS and any Participating Entity written notice of all changes to the AT&T Business Service Guide included as part of Exhibit B attached hereto. The AT&T Business Service Guide included as part of Exhibit B attached hereto may be updated and replaced upon approval by the Parties pursuant to the amendment process. 2.2 Coverage Map. Attached hereto as Exhibit A is the service availability coverage area for these FirstNet Mobile Plans as of August 9, 2018. The parties acknowledge that, from time to time, coverage may change as Contractor continues the Implementation of the NPSBN pursuant to its agreement with the FirstNet Authority. Contractor shall meet with representatives from the Office of the State Chief Information Officer, DAS PS or other representatives of the State of Oregon on a quarterly basis to discuss coverage changes, as well as other issues related to the cell phone Services under this Amendment 3. The Coverage Map (Exhibit A) may be updated and replaced upon approval by the Parties pursuant to the amendment process.

**Section 3. Custom Plans (Available only to eligible entities within the State of Oregon).**

**3.1 Custom FirstNet Mobile Plans – Participating Entity Paid.** Provided Participating Entity remains in full compliance with the terms and conditions of the Agreement, and subject to all corresponding conditions set forth in this §3 (including all sub-sections and Tables); AT&T will provide Participating Entity and its eligible users ("Corporate Responsibility Users" or "CRUs") the custom FirstNet Mobile Plans described in §3.1 (the "Custom FirstNet Mobile Plans"). The Custom FirstNet Mobile Plans are available for the term of the Agreement. The corresponding CRU must be an eligible user of an approved Public Safety Entity as described in the AT&T Business Service Guide included as part of Exhibit B and eligible to activate Service on the underlying, non-customized version of the corresponding FirstNet Mobile Plan.

Notwithstanding the foregoing, the Custom FirstNet Mobile Plans will be provided only if Participating Entity's account is active and in good standing with respect to the applicable CRU. The Custom FirstNet Mobile Plans are NOT eligible for the Service Discount, any other discount provided under the Agreement, nor any other discounts or promotions otherwise available to AT&T's customers.

For all Custom FirstNet Mobile Plans, the corresponding Plan's Monthly Service Charge will appear on the invoice at the standard price set forth in the Sales information. The customized net monthly price set forth in the corresponding table will be achieved, with the exception of the plans in Tables 3.1.3 and 3.1.4 that are being offered at AT&T's standard rates with no discount, via application of a modifier also reflected on the invoice.

**TABLE 3.1.1  
CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR FEATURE PHONES**

<b>Add-a-Line for use with an unsubsidized device</b>	\$10.99 Monthly Service Charge
<b>Add-a-Line for use with a subsidized device</b>	\$22.99 Monthly Service Charge

**TABLE 3.1.2  
CUSTOM FIRSTNET MOBILE-UNLIMITED PLANS**

<b>For use with a subsidized device</b>	<b>Unlimited Enhanced for Smartphones – Hotspot and Tethering</b>	<b>Unlimited Standard for Smartphones - No Hotspot or Tethering</b>	<b>Unlimited for Data-only Devices</b>
<b>Monthly Service Charge</b>	\$44.99	\$39.99	\$36.80

**TABLE 3.1.3  
CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR SMARTPHONES \*\***

	<b>Add-a-Line</b>	<b>2GB</b>	<b>5GB</b>	<b>50GB</b>	<b>100GB</b>	<b>500GB</b>	<b>1000GB</b>
<b>For use with an unsubsidized device</b>	\$19.00 MSC	\$28.50 MSC	\$41.00 MSC	\$227.00 MSC	\$412.00 MSC	\$1,917.00 MSC	\$3,682.00 MSC
<b>For use with a subsidized device</b>	\$39.00 MSC	\$48.50 MSC	\$61.00 MSC	\$247.00 MSC	\$432.00 MSC	\$1,937.00 MSC	\$3,702.00 MSC

**\*\* These plans do not qualify for a discount/modifier and are being offered at standard AT&T rates.**



TABLE 3.1.4

CUSTOM FIRSTNET MOBILE-POOLED PLANS FOR DATA-ONLY DEVICES \*\*

	Add -a- Line	2GB	5GB	50GB	100GB	500GB	1000GB
For use with an unsubsidized device	\$12.00 MSC	\$21.50 MSC	\$34.00 MSC	\$220.00 MSC	\$405.00 MSC	\$1,910.00 MSC	\$3,675.00 MSC
For use with a subsidized device	\$22.00 MSC	\$31.50 MSC	\$44.00 MSC	\$230.00 MSC	\$415.00 MSC	\$1,920.00 MSC	\$3,685.00 MSC

\*\* These plans do not qualify for a discount/modifier and are being offered at standard AT&T rates.

TABLE 3.1.5  
CUSTOM FIRSTNET ENHANCED PTT ONLY PLANS

Unlimited FirstNet Enhanced PTT Only Plan for use with an unsubsidized, compatible Feature Phone	\$9.99 Monthly Service Charge per device
Unlimited FirstNet Enhanced PTT Only Plan for use with an subsidized, compatible Feature Phone	\$17.99 Monthly Service Charge per device

TABLE 3.1.6  
CUSTOM FIRSTNET ENHANCED PTT BOLT-ON PLAN

Unlimited FirstNet Enhanced PTT Bolt-On Plan for use with eligible, compatible Smartphones, Feature Phones and Tablets	\$2.00 Monthly Service Charge per device
--	---

TABLE 3.1.7  
CUSTOM AT&T DYNAMIC TRAFFIC SAFETY MANAGEMENT – PUBLIC SAFETY  
FOR EXTENDED PRIMARY USERS

AT&T Dynamic Traffic Management – Public Safety, per Agency Paid User, per Month	\$7.50 (after \$7.50 credit)
--	---------------------------------

**Section 3.1.1 Activation Credits.** AT&T will provide Participating Entity with the activation credit as noted below in Table 3.1.1.1. An Activation Credit is only available to an Participating Entity or CRU who (a) activates a new two (2) year FirstNet Service on the corresponding, qualified Plan(s) on or before June 30, 2019 and and (b) remain on Service under such Plan(s) at the time the Activation Credit is applied. No other CRU is eligible for an Activation Credit. Activation Credits may not be combined with any other offers or activation credits. Qualified CRUs are only eligible for one Activation Credit. An Activation Credit may take up to two billing cycles to appear on the applicable invoice

**TABLE 3.1.1.1  
Activation Credits**

PLAN	CREDIT
FirstNet Voice Only Plan with a Monthly Service Charge of \$31.00 or higher OR a FirstNet Data Only Plan with an Monthly Service Charge of \$22.00 or higher	\$75.00
FirstNet Smartphone Plan with a Monthly Service Charge of \$39.00 or higher.	\$150.00

**3.2 Custom FirstNet Mobile Plans – Subscriber Paid.** In addition to FirstNet Mobile Plans available to Participating Entities and their CRUs, AT&T offers a subscriber paid version of such plans to eligible individuals associated with a -----Primary User Public Safety Entity----- ("Subscriber"), provided, however, the Subscriber must meet and comply with the requirements of this Amendment 3, and the Subscriber must be an authorized user under the authority of a Participating Entity and must be authorized by the Participating Entity to acquire the Goods or Services. DAS PS hereby authorizes AT&T to provide such authorized individuals with the discounts set forth in §3.2 (the "Custom FirstNet Mobile Subscriber Paid Plans").

Participating Entity must remain eligible for the Custom FirstNet Mobile Plans described in §3.1 for the Custom FirstNet Mobile Subscriber Paid Plans to apply. The corresponding subscriber must be eligible to activate Service on the underlying, non-customized version of the corresponding FirstNet Mobile Subscriber Paid Plan. The Custom FirstNet Mobile Subscriber Paid Plans are not available to Participating Entity, its CRUs, or its IRUs. For all Custom FirstNet Mobile Subscriber Paid Plans, the corresponding Plan's Monthly Service Charge will appear on the invoice at the standard price set forth in the Sales Information. The customized net monthly price set forth in the corresponding table will be achieved via application of a modifier also reflected on the invoice.

**TABLE 3.2.1  
CUSTOM FIRSTNET MOBILE SUBSCRIBER PAID – RESPONDER UNLIMITED PLANS**

	Unlimited Smartphone Plan (without tethering)	Unlimited with Tethering Smartphone Plan	Unlimited with Tethering Tablet Plan
<b>Monthly Service Charge</b>	\$39.99	\$44.99	\$36.80

**TABLE 3.2.2  
CUSTOM FIRSTNET MOBILE SUBSCRIBER PAID – RESPONDER PLANS**

	For use with Feature Phone-100MB
<b>Monthly Service Charge</b>	\$10.99

**Section 4.** Except as expressly amended above, all other terms and conditions of the PA are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the PA are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of execution of the PA.

Certification:

Any individual signing on behalf of Contractor has the authority and knowledge to make the following certifications, and hereby certifies under penalty of perjury:

- a. the number set forth in the contract is Contractor's correct taxpayer identification number;
- b. Contractor is not subject to backup withholding because:
  - i. Contractor is exempt from backup withholding;
  - ii. Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends; or
  - iii. the IRS has notified Contractor that Contractor is no longer subject to backup withholding.
- c. for a period of no fewer than six calendar years preceding the Amendment Effective Date, Contractor has faithfully complied with and is not in violation of:
  - i. all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; and
  - ii. any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; and
  - iii. any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
  - iv. any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

d. In the event that Contractor is a general partnership or joint venture, that Contractor signature(s) on this Amendment constitute certifications to the above statements pertaining to the partnership or joint venture, as well as certifications of the above statements as to any general partner or joint venturer signing this Amendment

IN WITNESS WHEREOF, the Parties have duly executed this Amendment 3 as of the Amendment 3 Effective Date.

AT&T MOBILITY NATIONAL ACCOUNTS LLC

STATE OF OREGON, acting by and through the Department of Administrative Services, Procurement Services

By: Jack Wildermuth

By: [Signature]

Name: Jack Wildermuth

Name: Debbie Dennis

Title: Senior Contract Manager

Title: State CPO

Date: 9/7/18

Date: 9/7/18

Approved for legal sufficiency by Karen J. Johnson, via email on 9/7/18

services that the entity provides. In the case of Primary Users and Extended Primary Users providing essential government services, the NAICS codes and descriptions set forth above identify Public Safety Entities that will typically be granted access to the FirstNet Solution. Other Public Safety Entities that perform duties involving law enforcement, fire protection, emergency medical services and 9-1-1 call dispatching will also be granted access to the FirstNet Solution as Primary Users once sufficient information has been provided to establish their Primary User public safety functions.

Requests for access to the FirstNet Solution as Extended Primary Users made by (1) other government agencies, (2) entities that support critical infrastructure, or (3) entities providing civilian services that may be needed to support Primary Users, will be evaluated on a case-by-case basis, with due consideration given to: (a) the public safety services being provided by the requesting entity, along with whether that entity is among those specifically mentioned in the Extended Primary Users Providing Critical Government Services Section; (b) supporting information, if any, provided by a Primary User Public Safety Entity in support of the request; (c) the requirements of the Act; and (d) the continuing oversight of the FirstNet Authority. AT&T's determination as to whether to grant an entity access to the FirstNet Solution as an Extended

Primary User will be made in AT&T's discretion, subject to the oversight of the FirstNet Authority.

Because access to the FirstNet Solution is determined by the public safety services performed by a requesting entity, there are instances when entities that are not otherwise qualified as Primary User Public Safety Entities will be granted access to Primary User FirstNet Rate Plans.

Entities who have individual employees or departments that perform the same functions as the Authorized Users of Primary User Public Safety Entities can request that a limited number of Primary User FirstNet Plans be made available to those employees or departments. Similarly, Extended Primary Users who have employees or departments who perform the same functions as the Authorized Users of a Primary User Public Safety Entity can request access to a limited number of Primary User FirstNet Plans. AT&T will consider all such requests on a case-by-case basis and all decisions it makes will be in its discretion, subject to the review of the FirstNet Authority. If granted, the extension of Primary User FirstNet Plans to individual employees or departments of an entity shall not be construed as meaning that the entity is a Primary User Public Safety Entity and/or an Extended Primary User Public Safety Entity for all purposes.

#### ***SD-2.1.4. Extent of Deployment of the FirstNet Solution within Public Safety Entities***

*Section Effective Date: 03-Aug-2018*

Primary User Public Safety Entities will generally have the ability to determine the extent to which the FirstNet Solution is deployed throughout their organizations. Extended Primary User Public Safety Entities may deploy the FirstNet Solution in their organization only to the extent necessary to provide public safety services as determined by AT&T using the criteria set forth in the Public Safety Entities Section.

Public Safety Entities are required to review the use of FirstNet Rate Plans by their Authorized Users and to terminate access to FirstNet Rate Plans by individuals who are no longer providing

public safety related duties for the Public Safety Entity. AT&T reserves the right to audit the extent to which a Public Safety Entity (both Primary and Extended Primary) has deployed FirstNet throughout its organization and to terminate access to the FirstNet Rate Plans to individuals who are no longer performing public safety duties, or, when warranted, to the Public Safety Entity. Customer shall provide all assistance reasonably required by AT&T to conduct any such audit.

## **SD-2.2. Authorized Users; Agency Paid Users; Subscriber Paid Users**

*Section Effective Date: 03-Aug-2018*

Public Safety Entities shall be responsible for vetting and approving the use of the FirstNet Solution by individuals. Vetted and approved individuals who have access to, and use of, a FirstNet Plan are referred to as Authorized Users. Authorized Users are either Agency Paid Users or Subscriber Paid Users. Agency Paid Users are individual employees and contractors of a Public Safety Entity (both Primary User and Extended Primary User Public Safety Entities) who are granted access to the AT&T FirstNet Solution through a FirstNet plan for which the Public Safety Entity is financially responsible under the Public Safety Entity's contract with AT&T. The Public Safety Entity is responsible for designating a contact who will confirm that the Agency Paid Users, whether individual employees or contractors, are verified and approved to use the FirstNet Solution. The Public Safety Entity, and not its individual Agency Paid Users, will be responsible for the monthly service charges under their FirstNet Plans for Agency Paid Users.

Subscriber Paid Users are individuals who are either (a) employees of a Primary User Public Safety Entity, or (b) authorized, active auxiliary personnel affiliated with a Primary User Public Safety Entity who provide services or perform functions on an occasional, volunteer basis, that support the Public Safety Entity in the areas of law enforcement; fire protection, or emergency medical services. All Subscriber Paid Users must be verified and approved by a Primary User Public Safety Entity, which is responsible for designating a contact who will use the FirstNet Local Control portal to: (a) provide AT&T with the name and email address of, together with the correct Foundation Account Number and other eligibility information for, each eligible individual to enable AT&T to initiate the process such individual will use to become a Subscriber Paid User and obtain a qualified FirstNet Plan (each, a "Subscriber Paid User Plan"); and (b) perform audits of existing Subscriber Paid Users as requested by AT&T on a regular, but not less than once per year, basis to remove any individuals who are no longer eligible to participate in the AT&T FirstNet Solution as a Subscriber Paid User. AT&T reserves the right to limit a Primary User Public Safety Entity's ability to verify and approve new Subscriber Paid Users until such audit is completed. Once verified and approved, Subscriber Paid Users must establish a contractual relationship directly with AT&T using an AT&T Wireless Customer Agreement ("WCA") under which they may purchase an AT&T FirstNet Solution Subscriber Paid User Plan. Subscriber Paid Users are financially responsible for payment of services provided under the WCA and the terms of the Subscriber Paid User

*The AT&T Business Service Guide is subject to change by AT&T from time to time.  
See <http://serviceguidenew.att.com> for current version.*

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Plans. See the Subscriber Paid Plans section of this Service Guide for available Subscriber Paid User Plans.

**SD-3. FirstNet Solution – NASPO Rate Plans, Features and Equipment**

**SD-3.1. FirstNet Solution – NASPO Rate Plans**

*Section Effective Date: 11-Apr-2018*

The AT&T FirstNet Solution - NASPO features a variety of voice, text and data FirstNet Plans at various price points that are available exclusively to Public Safety Entities and their Authorized Users. In addition, there are machine-to-machine (telemetry), standalone Enhanced Push-ToTalk, and IoT FirstNet Plans available for Agency Paid Users. FirstNet Plans are designed either for use by the Authorized Users of Primary Users or Extended Primary Users. See the FirstNet Plans section of this Service Guide for information regarding the FirstNet Plans for Agency Paid Users and Subscriber Paid Users.

**SD-3.2. AT&T FirstNet Solution – NASPO Included and Optional Features and Services**

*Section Effective Date: 11-Apr-2018*

The AT&T FirstNet Solution - NASPO features include many features that are included in the FirstNet Plans or made available to Public Safety Entities at no additional cost. The AT&T FirstNet Solution - NASPO also features optional AT&T services that Customers and, in certain cases, Subscriber Paid Users, can purchase as part of the AT&T FirstNet Solution - NASPO or separately. If a Customer has purchased any of the optional services pursuant to an agreement that is not part of the Customer’s AT&T FirstNet Solution -NASPO agreement, the Customer will have the choice to continue to purchase the optional services under the separate agreement or incorporate the optional services into Customer’s FirstNet Solution - NASPO agreement. The following table specifies Included and Optional features available for each FirstNet user category. Some features require specific equipment as specified in the feature’s description.

AT&T FirstNet Solution - NASPO Included and Optional Features and Services			
Feature	Primary Users	Extended Primary Users	Subscriber Paid Users
First Priority™ (not available to Authorized Users using an AT&T commercial core SIM)	Included	Optional	Included

*The AT&T Business Service Guide is subject to change by AT&T from time to time. See <http://serviceguidenew.att.com> for current version.*

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This document reflects the Service Guide in effect as of September 07, 2018







# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Website: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

July 11, 2019

Sent Via Email and USPS

Lisa Freiley  
C/o Willamette ESD  
2611 Pringle Rd SE  
Salem, Oregon 97302

RE: Advice Number 19-159I

Dear Ms. Freiley:

This letter of advice is provided in response to your request received on July 9, 2019 which presented a question regarding the reimbursement of expenses of a public official's attorney fees by the public body they serve. This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

I understand from the information provided in your request, Willamette Education Service District (ESD) is providing legal services to a school district (District) regarding a public records request. Among other things, the public records request asks for the official emails and text messages of a member of the school board (Board). The board member has expressed concerns about the public records request of their emails and text messages and is considering hiring their own attorney to represent them with respect to the public records request.

As the ESD Attorney, you have been asked to obtain guidance as to whether the board member would violate Oregon Government Ethics Law if the District reimbursed them for the attorney fees they incurred in their personal representation.

Generally, ORS 244.040(1) prohibits a public official from using or attempting to use an official position to obtain financial gain or to avoid financial detriment for the public official, if the opportunity would not otherwise be available but for the public official's holding the position.



Lisa Freiley  
C/o Willamette ESD  
July 11, 2019  
Page 2

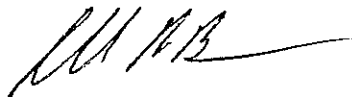
There are exceptions. One exception, ORS 244.040(2)(c), permits a public official to receive the "reimbursement of expenses." The Commission has defined the "reimbursement of expenses" by rule to mean "the payment by a public body to a public official serving that public body, of expenses incurred in the conduct of official duties on behalf of the public body. Any such repayment must comply with any applicable laws and policies governing the eligibility of such repayment." [OAR 199-005-0035(4)] The term "official duties" means that the public official's actions are directly related to serving the public body as a public official. [OAR 199-005-0035(2)]

You inform us that the District has an official policy on the reimbursement of expenses. The official policy does not provide for the reimbursement of attorney fees when a board member hires an attorney to represent them personally concerning a matter related to their official duties. Therefore the repayment would not meet the requirements for the exception in ORS 244.040(2)(c)

Additionally, because the repayment would allow the board member to use their official position to avoid a personal expense, and that opportunity would not be available but for the board member's position, it would be prohibited under ORS 244.040(1).

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/th

\*\*\*\*\*DISCLAIMER\*\*\*\*\*

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

## HEDRICK Tammy R \* OGEC

---

**From:** Freiley, Lisa <Lisa.Freiley@wesd.org>  
**Date:** Tuesday, July 09, 2019 2:08 PM  
**To:** HEDRICK Tammy R \* OGEC  
**Subject:** Ethics Question

Tammy

I hope that life is treating you well and that you had a nice 4<sup>th</sup> of July holiday.

I am working with a school district on a public records request and a specific board member's (in her official capacity as a board member) emails/text messages have been requested. I am working with the District as legal counsel to comply with the records request.

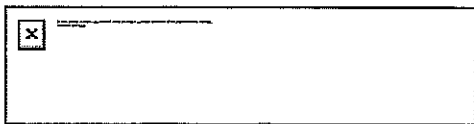
The board member has raised the issue of hiring her own attorney and having the District reimburse her given the that she has been individually named in the request and that she feels she is being targeted and harassed. I have explained I am concerned that any reimbursement would be an ethics violation due to her receiving an economic benefit and/or avoiding a financial detriment due to official position with the District. In addition, that board members are not allowed to be compensated for their service.

Am I missing something - can the District reimburse her? If you have any questions or need any further clarification please let me know.

Lisa

*Lisa*

**Lisa Freiley**  
Attorney | Willamette ESD  
[Lisa.Freiley@wesd.org](mailto:Lisa.Freiley@wesd.org)  
503.385.4604 - phone  
503.551.5180 - cell phone  
[www.wesd.org](http://www.wesd.org)



**Success, Achievement, Together...For All Students**

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# Oregon

Kate Brown, Governor

## Government Ethics Commission

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Email: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Website: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

July 11, 2019

Sent Via Email and USPS

Oregon Coastal Caucus  
C/o Senator Arnie Roblan  
900 Court St NE, S-417  
Salem, Oregon 97301

RE: Advice Number 19-1601

Dear Senator Roblan:

On July 8, 2019, the Oregon Government Ethics Commission received your email requesting guidance regarding the application of Oregon Government Ethics law and related statutes to the participation of public officials in a fact-finding mission, during which food and beverage will be provided at the 2019 Oregon Coast Economic Summit.

This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

The Oregon Legislative Coastal Caucus is holding its "8<sup>th</sup> Annual Oregon Coast Economic Summit," scheduled for August 21 – 22, 2019. The theme of this year's event "Infrastructure Investments: A Collaborative Approach" to discuss the planning, designing, building and operation of infrastructure projects that are socially, environmentally and economically attractive and feasible for coastal communities.

During this event at the Three Rivers Casino Resort, partnering sponsors: Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, will provide and pay for meals. In the request you have asked what restrictions or requirements Oregon Government Ethics law may impose on public officials who may wish to participate in this event.

Invited participants will include legislators as well as a variety of others that represent economic development from various state and local jurisdictions. The purpose of this event is to educate and inform state and local government officials



Senator Roblan  
C/o Oregon Legislative Coastal Caucus  
July 11, 2019  
Page 2

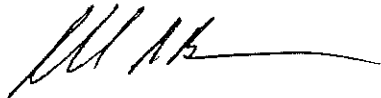
as well as regional stakeholders regarding matters affecting the current economic conditions facing Oregon's rural and coastal communities. Those who participate will be provided food and beverage expenses.

Under most circumstances when a public official is offered food and beverage at no cost to the public official it would be a gift as defined in ORS 244.020(7)(a). There are exceptions. ORS 244.020(7)(b)(E) permits a public official to receive payment of admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompany the public official, at a reception, meal or meeting held by an organization when the public official represents state government as defined in ORS 171.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 171.117.

Based on the information provided, ORS 244.020(7)(b)(E) would allow public officials, members of their household or staff of the public official when accompanying the public official, to accept the payment of food and beverage from the partnering sponsors: Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/th

\*\*\*\*\*DISCLAIMER\*\*\*\*\*

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

**HEDRICK Tammy R \* OGEC**

---

**From:** Sen Roblan <Sen.ArnieRoblan@oregonlegislature.gov>  
**Sent:** Thursday, July 11, 2019 8:14 AM  
**To:** HEDRICK Tammy R \* OGEC  
**Subject:** Re: Oregon Government Ethics Commission RE: 8th Annual Oregon Coastal Caucus Economic Summit (OCCES)

Thanks Tammy. Sponsorship to the tribes who pays for cost of meals etc.

Sent from my iPhone

On Jul 11, 2019, at 6:44 AM, HEDRICK Tammy R \* OGEC <[Tammy.R.HEDRICK@oregon.gov](mailto:Tammy.R.HEDRICK@oregon.gov)> wrote:

Good morning Senator Roblan,

Last year the Pacific North West Economic Region (PNWER) provided and paid for meals, could you tell me who is providing and paying for the meals for this event?

I appreciate your assistance in providing this information.

<image001.jpg>

**Tammy R. Hedrick Program Analyst/Trainer**  
Oregon Government Ethics Commission  
(503) 378-6802 [ogec.training@oregon.gov](mailto:ogec.training@oregon.gov)

**\*Disclaimer\***

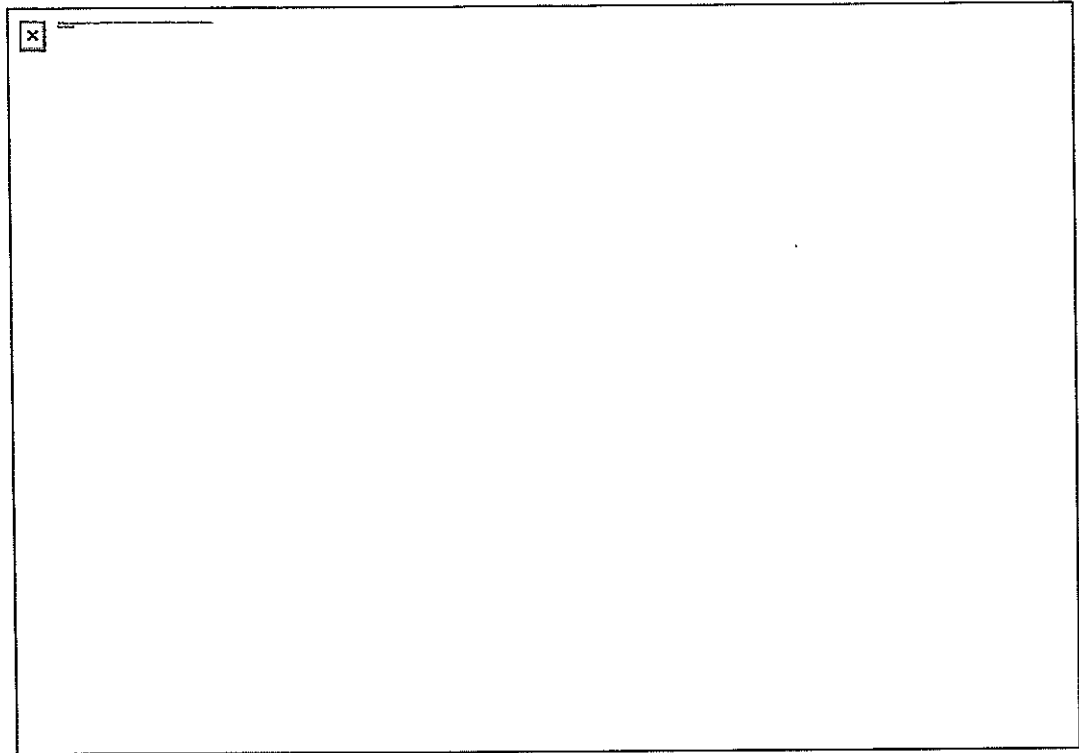
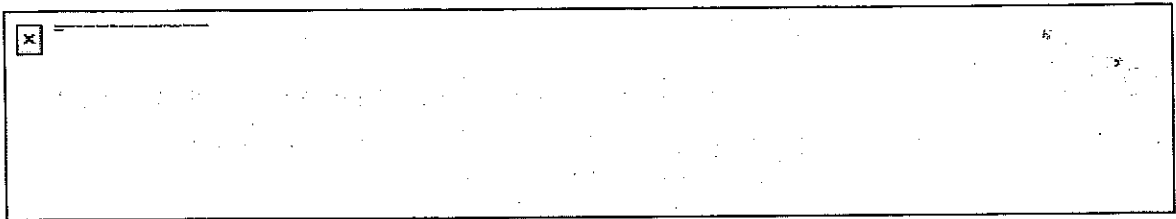
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This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

---

**From:** Sen Roblan [<mailto:Sen.ArnieRoblan@oregonlegislature.gov>]  
**Sent:** Monday, July 08, 2019 4:03 PM  
**To:** HEDRICK Tammy R \* OGEC <[Tammy.R.HEDRICK@oregon.gov](mailto:Tammy.R.HEDRICK@oregon.gov)>  
**Cc:** BERSIN Ron A \* OGEC <[Ron.A.Bersin@state.or.us](mailto:Ron.A.Bersin@state.or.us)>; BROCKER Lori L <[Lori.L.Brocker@oregonlegislature.gov](mailto:Lori.L.Brocker@oregonlegislature.gov)>; GOULDING James <[James.Goulding@oregonlegislature.gov](mailto:James.Goulding@oregonlegislature.gov)>  
**Subject:** 8th Annual Oregon Coastal Caucus Economic Summit (OCCES)

*Greetings, Tammy, rerrequesting review for OCCES19! Yes, we are in our 8<sup>th</sup> year!!! The program guides are 80% complete. We are waiting for confirmation from speakers. Thanks so much for all your help over the years.*



Hello Friends,

The Oregon Legislative Coastal Caucus (CC), a bicameral and bipartisan group of legislators representing the Oregon Coast, is pleased to invite you to attend the 8th Annual Oregon Coastal Caucus Economic Summit (OCCES). The Summit, which is sponsored in partnership with the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians and the City of Florence, will be held on Wednesday and Thursday, August 21 – 22, at the Three Rivers Casino Resort in Florence. Your attendance at this important meeting and your contributions to the discussions on the issues under consideration will be both valued and greatly appreciated.

Having gained a reputation as one of our region's major thinktanks and the source of ideas for legislation which has guided our state in the areas of planning and policy development, the Summit will bring together over 500 scholars, business leaders, government officials, and stakeholders from the public and private sectors to explore this year's theme: *Infrastructure Investments: A Collaborative Approach*.

### **Registration for OCCES19!**

Although the CC continues to be active on marine and coastal issues, job growth and economic development have, in recent years, become major focus areas for its members. Therefore this year's Summit will devote its attention to the planning, designing, building and operating of infrastructure projects that are socially,

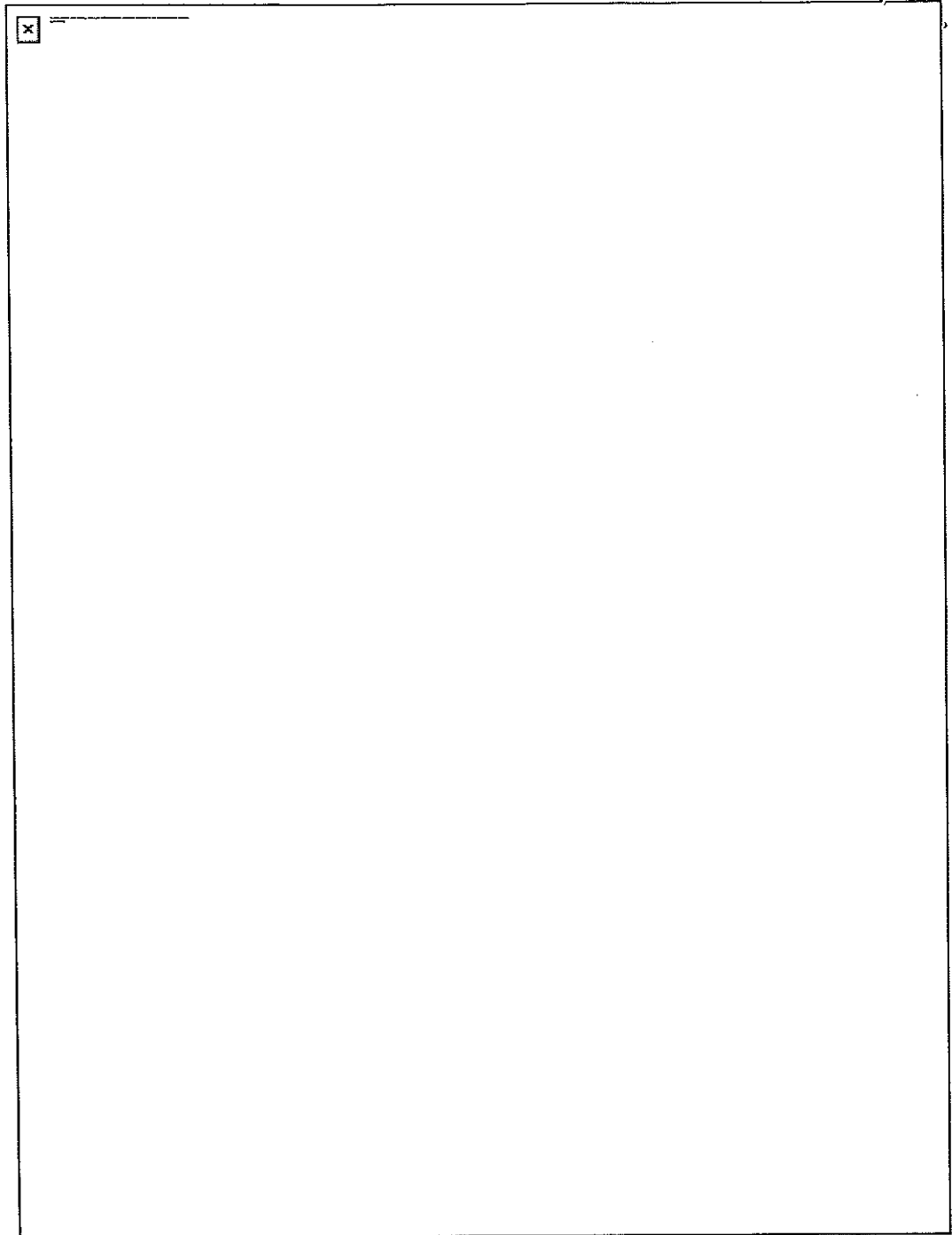


environmentally and economically attractive and feasible for our communities. These can include, but are not limited to:

- Connecting infrastructure to affordable housing through public/private investments;
- Addressing water quality and availability issues through infrastructure construction projects;
- Enhancing and expanding telecommunication and rural broadband infrastructure;
- Rationalizing Oregon's P-20 education infrastructure to achieve equity and maximum impact and utility;
- Streamlining and standardizing permitting processes to ensure consistency and project quality;
- Developing an infrastructure framework to assess and strengthen the seismic resilience of coastline structures.
- HB 2020: the costs of inaction to reduce greenhouse gas emissions vs the economic costs of adaptation for rural Oregon.

We ask you to put this meeting on your calendar of "must attend" events. We look forward to hearing from you soon with an affirmative reply and seeing you in Florence in August.

---



## **Sponsorship Opportunities:**

As a past Oregon Coastal Caucus Economic Summit (OCCES) sponsorship supporter, we would like to take this opportunity to personally thank you for ensuring that this important gathering of our statewide leaders and policy professionals can address the critical issues facing our coastal and rural communities. **We are writing to once again ask for your support and participation in OCCES 2019** on Wednesday and Thursday, August 21-22, at the Three Rivers Casino and Resort, and Florence Event Center, in Florence Oregon. Your generous sponsorship provides:

- **Free Registration** for regional leaders, local officials, legislators, and government leaders to act on the issues impacting our region;
- **Direct networking** opportunity for local government officials to determine a pathway to regional and collaborative solutions;
- **Increasing awareness** about the success and challenges our region face;
- Opportunity to **share articles and information** of a regional nature with legislators.

We hope that you will consider becoming a sponsor this year and take advantage of this exceptional opportunity to share your interest in rural-coastal economic development. For more information about our sponsorship opportunities or suggestions for this year's OCCES, please do not hesitate to call our office.

**Please make check payable to: Coastal Caucus Economic Summit**

**Mail to: Three Rivers Casino Report,**

**Attn: Mike Mascolo**

**5647 Highway 126, Florence, Or 97439**

---

email: [Sen.ArnieRoblan@oregonlegislature.gov](mailto:Sen.ArnieRoblan@oregonlegislature.gov) | phone: 503-986-1705

address: 900 Court St NE, S-417, Salem, OR, 97301

website: <http://www.oregonlegislature.gov/roblan>

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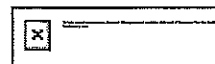
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# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Website: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

July 18, 2019

Tim Sekerak  
Chief Clerk of the House  
900 Court St. N.E., H-271  
Salem, Oregon 97301

RE: Advice Number 19-1611

Dear Mr. Sekerak:

This letter of advice is provided in response to your request received on June 28, 2019 which presented a question regarding how the application of Oregon Government Ethics law may apply to legislative officials who have been invited to represent the State of Oregon to participate in the 2019 Delegation to Taiwan.

This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

According to the information provided, the Taipei Economic and Cultural Office (TECO) has extended an invitation to legislative officials to travel to Taiwan from September 29 – October 5, 2019. The invitation includes an offer by the Taiwan government to pay for the delegation's travel expenses including transportation, lodging and meals. In offering this invitation the Taiwan government has identified several objectives: inform and share with the members of the legislature information about Taiwan's political situation, trade and investment opportunities, Taiwan's business interest in the State of Oregon and support of Oregon's business interests in Taiwan. The benefit to the State of Oregon in this international exchange is an opportunity for legislative officials to lobby the Taiwan government on behalf of Oregon companies and the potential for opening doors for Oregon in areas of trade, investment, tourism and education.

Under most circumstances when a public official is offered food, beverage, lodging and travel expenses at no cost to the public official, it would be a gift as defined in ORS 244.020(7)(a). If the provider of a gift to a public official has a legislative or administrative interest in the votes or decisions of the public official there are conditions and restrictions that apply to the acceptance of the gift. A legislative or



administrative interest is defined in ORS 244.020(10) as an economic interest that is distinct from the economic interest held by members of the general public in votes or decisions of the public official. It would appear that the government of Taiwan has a legislative or administrative interest in bills, resolutions, regulations or proposals, acted upon by legislators that would be distinct from that of the general public. Therefore, the conditions and restrictions on paid expenses offered to these public officials and their relatives could apply.

Under specific circumstances set forth in ORS 244.020(7)(b), there are exceptions when a public official and their relatives may accept gifts, such as paid expenses for food, lodging and travel or other items of value. ORS 244.020(7)(b)(H)(i) allows acceptance of the payment of reasonable expenses for food, travel or lodging expenses provided to a public official and accompanying relative, or member of their household or staff, when the public official is representing state government on an officially sanctioned trade-promotion or fact-finding mission.

While public officials may be able to accept these paid expenses, ORS 244.020(7)(b)(H)(i) requires that they do so as a representative of state government and that the event be a "fact-finding mission or trade promotion" and be "officially sanctioned."

The Oregon Government Ethics Commission issued Oregon Administrative Rules (OARs) in which "trade promotion," "fact-finding mission or trip" and "officially sanctioned" were defined as follows:

"A fact-finding mission or trip" is any activity related to a cultural or educational purpose, or any activity aimed at providing intergovernmental assistance, such as for the purpose of international aid or sharing best practices, or developing intergovernmental relationships directly related to the public official's duties. The sponsor of a fact-finding mission should be directly and immediately associated with the event or location being visited." [OAR 199-005-0001(2)]

"Trade promotion" means an activity for the purpose of encouraging or developing commerce or the buying and selling of goods and services." [OAR 199-005-0020(3)(c)]

"Officially sanctioned or officially designated" means written approval by a state or local public body or by a person authorized by the public body to provide that approval. When the activity is officially designated as negotiations or economic activity, the written notice will include approval for the public official to accept the payment of reasonable expenses. [OAR 199-005-0020(3)(b)]

Unless the public body determines otherwise, the written notice for a member of the legislative assembly must be approved by the President of the Senate, Speaker of the House, the designated majority or minority leaders of either chamber or appointed committees of the Legislative Assembly for any elected member. [OAR 199-005-0020(3)(b)(C)]

It should be understood that ORS 244.0020(7)(b)(H) does not allow public officials to accept financial benefits outside of reasonable food, travel or lodging expenses. Under most circumstances, paid expenses for entertainment would likely meet the definition of a gift as defined in ORS 244.020(7)(a) unless they fall within a specific exception for entertainment under ORS 244.020(7)(b)(M) or (N).

Based on the information you provided, it appears that ORS 244.020(7)(b)(H) would allow legislative officials to accept reasonable food, travel or lodging expenses for their representation as a legislative delegate to Taiwan. In addition, these paid expenses may also be offered to and accepted by a public official's relative, members of the public official's household and members of the public official's staff who are accompanying a member of the Legislative Assembly on this trip.

In addition, legislative officials are required by ORS 244.050 to file with the Oregon Government Ethics Commission an Annual Verified Statement of Economic Interest. ORS 244.060(6) requires officials to identify all expenses with an aggregate value exceeding \$50 when participating in an event described in ORS 244.020(7)(b)(H).

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/th

\*\*\*\*\*DISCLAIMER\*\*\*\*\*

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

**HEDRICK Tammy R \* OGEC**

---

**From:** Sekerak Tim <Tim.Sekerak@oregonlegislature.gov>  
**Sent:** Thursday, July 11, 2019 8:06 AM  
**To:** HEDRICK Tammy R \* OGEC  
**Subject:** Fwd: Wilson/Taiwan  
**Attachments:** image001.jpg; ATT00001.htm; FW: Fwd: [Taiwan\_TECO in Seattle] Greeting to Mr. Yue; ATT00002.htm

Tammy, here's what I received. Please let me know if you have any trouble with the attachment.

Sent from my iPad

Begin forwarded message:

**From:** Rep Wilson <Rep.CarlWilson@oregonlegislature.gov>  
**Date:** July 11, 2019 at 7:18:29 AM PDT  
**To:** Sekerak Tim <Tim.Sekerak@oregonlegislature.gov>  
**Subject:** Wilson/Taiwan

Mr. Sekerak  
Please review the attached email thread, which contains the invitation required to document this trip.  
Again, please let me know if this is sufficient, or if anything else is necessary?

Thank you and best regards,  
Michelle



**HEDRICK Tammy R \* OGEC**

---

**From:** Rep Barreto <Rep.GregBarreto@oregonlegislature.gov>  
**Sent:** Tuesday, July 02, 2019 1:17 PM  
**To:** REP Wilson  
**Subject:** FW: Fwd: [Taiwan\_TECO in Seattle] Greeting to Mr. Yue

-----Original Message-----

**From:** Barreto <barreto@coveoregon.com>  
**Sent:** Saturday, June 8, 2019 10:11 PM  
**To:** 'ktchen' <ktchen@mofa.gov.tw>  
**Cc:** 'ksfan' <ksfan@mofa.gov.tw>; 'solomon.yue' <solomon.yue@republicansoverseas.com>; Rep Wilson <Rep.CarlWilson@oregonlegislature.gov>; Rep Barreto <Rep.GregBarreto@oregonlegislature.gov>  
**Subject:** RE: Fwd: [Taiwan\_TECO in Seattle] Greeting to Mr. Yue

Good evening Vice Consul Ting,

Republican leader Rep. Carl Wilson and Republican Deputy Leader Rep. Greg Barreto are honored to be joining the delegation to Taiwan. I have cc'd them on the reply.

Please let them know what other information you need.

Thank you for your kind invitation and the privilege of representing Oregon on this trip.

Chris Barreto  
National Committeewoman for Oregon  
Oregon Republican Party  
503-910-5247  
NationalCommitteewoman@oregon.gop

-----Original Message-----

**From:** ktchen [mailto:ktchen@mofa.gov.tw]  
**Sent:** Wednesday, June 05, 2019 4:40 PM  
**To:** barreto  
**Cc:** ksfan; solomon.yue  
**Subject:** Re: Fwd: [Taiwan\_TECO in Seattle] Greeting to Mr. Yue

Dear Committeewoman Barreto,

I am writing to follow up the visiting-Taiwan invitation. Because we need to secure the flight seats and arrange following logistics, I would need to close the recruitment by the end of June. At the moment, the delegation has only 2 seats vacant which I reserve for Oregon. Please contact me anytime if there are anything I can assist.

Best Regards,  
Ting

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駐西雅圖辦事處  
Taipei Economic & Cultural Office in Seattle  
副領事陳冠廷 Vice Consul, Ting C.K. Chen  
+1-206-441-4586 #312  
(206) 484-7232 (Cell)

-----Original message-----

From: ktchen <ktchen@mofa.gov.tw>

To: Solomon Yue <solomon.yue@republicansoverseas.com>, Chris Barreto <barreto@coveoregon.com>

Cc: ksfan <ksfan@mofa.gov.tw>

Date: Mon, 20 May 2019 17:04:23

Subject: Re: Fwd: [Taiwan\_TECO in Seattle] Greeting to Mr. Yue

Thank you for your introduction, Solomon.

Dear Committeewoman Barreto,

Greeting from Taipei Economic and Cultural Office in Seattle.

Please refer to previous emails of our invitation for two Oregon's legislator leaders to visit Taiwan from Sep 29 to Oct 5.

Please feel free to share the invitation to legislator leaders (According to the government's accounting regulation, the participant needs to be at any leader position starting from ranking member.) and let me know if you have any questions.

Best Regards,

Ting

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駐西雅圖辦事處  
Taipei Economic & Cultural Office in Seattle  
副領事陳冠廷 Vice Consul, Ting C.K. Chen  
+1-206-441-4586 #312

From: ktchen <ktchen@mofa.gov.tw>  
Sent: Wednesday, March 6, 2019 8:02 PM  
To: Solomon Yue  
Cc: Kuo-shu Fan  
Subject: Re: Fwd: [Taiwan\_TECO in Seattle] Greeting to Mr. Yue

Thank you, Solomon,  
I believe this delegation will be awesome with your help.  
One more thing is that we can't invite the same lawmaker who has attended within past 3 years (which are 2016-2018 for this year).

Have a great evening.

Best Regards,

Ting

From: ktchen <ktchen@mofa.gov.tw>  
Sent: Wednesday, March 6, 2019 6:34 PM  
To: solomon.yue  
Cc: Kuo-shu Fan  
Subject: Re: Fwd: [Taiwan\_TECO in Seattle] Greeting to Mr. Yue

Dear Solomon,

I have been working on inviting the delegation to Taiwan for a while. So DG has me to elaborate more details on it (even though I think you might already know some of this program).

Every year, our office will come up a delegation composed of state legislative leaders from six states (ID, WA, AK, OR, WY, MT) where our office is in charge of. For Oregon, State Senate President pro tempore Laurie Monnes Anderson joined us last year. This year, we already have several state legislative leaders from MT, WA, ID sign on attending the delegation which is schedule on Sep 29 till Oct 5.

I have already reached out some Oregon legislative leaders. President Peter Courtney and Sen. Elizabeth Steiner Hayward showed their interests but their schedule can't make it this time. We always want to have and welcome Oregon's legislative leaders attending again this year. It will be great that you can assist to recommend some Oregon's legislative leaders to participate the delegation. It will be ideal if we can have two Oregonians this year.

Ps. According to the government's accounting regulation, the participant needs to be at any leader position starting from ranking member.

Thank you for your patience to go through this long letter.

## HEDRICK Tammy R \* OGEC

---

**From:** KuanTing Chen <ktchen@mofa.gov.tw>  
**Sent:** Tuesday, July 16, 2019 2:40 PM  
**To:** HEDRICK Tammy R \* OGEC  
**Subject:** Re: Oregon Government Ethics Commission RE: [駐外網站訪客留言] 來自 Tammy Hedrick 的訊息, 時間: 2019-07-16 00:44:17 (台灣時間)

Yes, Taiwan government will pay for the delegation's travel expenses(airticket and transportation in Taiwan during official visits), 6 nights lodging and food(3 meals per day only). They will need to pay their own expense if the personal transportation or extra beverage or snacks occurs.

Best Regards,  
Ting

Sent from my iPhone

On Jul 16, 2019, at 3:32 PM, HEDRICK Tammy R \* OGEC <[Tammy.R.HEDRICK@oregon.gov](mailto:Tammy.R.HEDRICK@oregon.gov)> wrote:

Thank you.

Could you provide me with a brief email describing what is being paid by the Taiwan government. You indicated in our telephone conversation that it was the cost of travel expenses, food and lodging. Is this correct?

<image001.jpg>

**Tammy R. Hedrick Program Analyst/Trainer**  
Oregon Government Ethics Commission  
(503) 378-6802 [ogec.training@oregon.gov](mailto:ogec.training@oregon.gov)

**\*Disclaimer\***

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This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding an analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

-----Original Message-----

**From:** KuanTing Chen [<mailto:ktchen@mofa.gov.tw>]  
**Sent:** Tuesday, July 16, 2019 2:12 PM  
**To:** HEDRICK Tammy R \* OGEC <[Tammy.R.HEDRICK@oregon.gov](mailto:Tammy.R.HEDRICK@oregon.gov)>  
**Subject:** Re: [駐外網站訪客留言] 來自 Tammy Hedrick 的訊息, 時間: 2019-07-16 00:44:17 (台灣時間)

Sorry, I correct my typo \*message

Sent from my iPhone

> On Jul 16, 2019, at 2:59 PM, KuanTing Chen <ktchen@mofa.gov.tw> wrote:  
>  
> Hi Tammy,  
>

> My colleague in DC forwards me your message today. I believe we already solved your questions over the phone yesterday. Please let me know if you have further questions.

>

> Best Regards,

> Ting

>

> Sent from my iPhone

>

>> On Jul 16, 2019, at 2:44 PM, tecro <consul.tecro@mofa.gov.tw> wrote:

>>

>> tammy.r.hedrick@oregon.gov

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(

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# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Website: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

July 23, 2019

Sent via e-mail and USPS

Steve Elzinga  
Sherman Sherman Johnnie & Hoyt, LLP  
693 Chemeketa St. NE  
Salem, Oregon 97301

Re: Advice Number 19-1631

Dear Mr. Elzinga:

This letter of advice is provided in response to your request received on July 16, 2019, which present questions regarding the application of Oregon Government Ethics law to your circumstances as a Salem Planning Commissioner and an attorney at a Salem law firm. The analysis and advice that follows is offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances presented.

### Facts Presented

The Salem Planning Commission ("Commission") serves as a quasi-judicial adjudicatory body for land use cases. A typical land use case involves a property owner who submits a land use application seeking a zoning change or development approval. The owner may be represented before the Commission and the owner's land use application may be submitted by a developer, attorney, consultant, architect, engineer or other professional. If one of these professionals submits the land use application on behalf of the owner, that professional is the applicant for purposes of the Commission action. During the land use hearings, city staff present recommendations and the Commission receives input from the applicant, as well as neighborhood associations, school districts, transit districts, counties, state agencies and members of the public.

You have served on the Commission for over two years. In June 2019, you started employment with the Salem law firm of Sherman, Sherman, Johnnie & Hoyt ("SSJH"). Among the practice areas handled by SSJH are real estate and land use. SSJH does work for developers, land use consultants, architects, engineers, and other businesses and individuals in Salem, any number of which may appear before the Commission.

### Questions Asked

You indicate that you understand that you may not personally represent a client for a fee before the Commission. In light of your employment at SSJH, you have asked the following questions related to your service as a Commissioner:



1. Whether you would have a statutory conflict of interest if a client represented by SSJH participates in a land use matter before the Commission? Does it make a difference if the client is the property owner, the applicant submitting the land use application, a professional submitting a report on behalf of the owner or applicant, or some other person or business testifying at the land use hearing?
2. Does the existence of a statutory conflict of interest in this scenario depend on any of the following:
  - a. Whether the client is a current or former SSJH client?
  - b. Whether the work that SSJH performs for the client is on the land use matter currently before the Commission or is on an unrelated matter?
  - c. Whether the work that SSJH performs for the client is done by you or by others at SSJH?
  - d. Whether you have previously represented or performed work for the client?

#### Applicable Statutes

Under Oregon Government Ethics law, an elected or appointed official, such as a Planning Commissioner, is a public official, as defined in ORS 244.040(15), and must comply with the provisions of ORS Chapter 244.

A conflict of interest is defined as any action, decision, or recommendation that a public official makes in his or her official capacity, the effect of which would or could be to the private financial benefit or avoidance of detriment of the public official, a relative, or a business with which the public official or relative are associated. An actual conflict of interest occurs when the effect of the official action, decision, or recommendation would have a certain private financial impact. A potential conflict of interest occurs when the effect of the official action, decision, or recommendation could have a private financial impact. [ORS 244.020(1) and (13)].

A "business with which the person is associated" includes any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year. [ORS 244.020(3)(a)]. Also, for public officials required to file a statement of economic interest, a "business with which the person is associated" includes any business listed as a source of income on the official's statement of economic interest. [ORS 244.020(3)(d)].

When an elected or appointed public official serving on a board of commission is met with an actual or a potential conflict of interest, the public official must publicly announce the



nature of the conflict of interest once on each occasion that the issue giving rise to the conflict occurs. If met with a potential conflict of interest, following the public announcement, the public official may continue to participate in his or her official capacity in any discussion, debate, or vote on the issue. [ORS 244.120(2)(a)]. If met with an actual conflict of interest, following the public announcement, the public official must refrain from discussion, debate, or vote on the issue. [ORS 244.120(2)(b)].

ORS 244.040(1) provides that public officials may not use or attempt to use their official positions or offices to obtain financial gains or avoid financial detriments for the public officials, their relatives or household members, or any business with which the public officials, or their relatives or household members, are associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's position or office. This provision applies regardless of whether actual or potential conflicts of interest are announced or disclosed. [ORS 244.040(7)].

ORS 244.040(6) provides that a person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This provision expressly does not apply to the person's employer, business partner or other associate.

#### Analysis

You already recognize and acknowledge that you cannot personally represent a client for a fee before the Salem Planning Commission. [ORS 244.040(6)]. That prohibition, however, does not extend to SSJH, your employer. If attorneys with SSJH represent clients before the Planning Commission, it does not create a prohibited use of office for you, as a Planning Commissioner.

Whether that appearance would give rise to a conflict of interest is something that you must determine on a case-by-case basis. To determine whether you would have a conflict of interest under any of the scenarios posed in your questions, you would need to examine whether you, your relative, or any business with which you are associated could or would obtain a financial benefit or avoid a financial detriment as a result of the Planning Commission action.

As a Planning Commissioner, you are a public official required to file a statement of economic interest. [ORS 244.050(1)(k)]. Thus, under ORS 244.020(3)(d), any business listed as a source of income on your statement of economic interest is a business with which you are associated for purposes of a conflict of interest or use of office analysis. Because you just recently joined SSJH, it is not listed on your most recent Statement of Economic Interest; however, SSJH does qualify as a source of income and is a business with which you are associated.

Given that SSJH is a business with which you are associated, you would be met with a conflict of interest when taking official action as a Planning Commissioner that would or could financially impact SSJH. For example, if SSJH itself has a matter before the Planning Commission, you would be met with a conflict of interest and would have to comply with the disclosure provisions in ORS 244.120(2).

When SSJH clients appear before the Planning Commission, while those clients are not businesses with which you are associated, as defined in ORS 244.020(3), you must still determine in each case whether the Planning Commission action would or could have a financial impact on SSJH, the business with which you are associated. For example, if the client's fee arrangement with SSJH is contingent on success before the Planning Commission, then you would have an actual conflict of interest. If the Planning Commission action could in the future result in more billable hours for the SSJH attorney representing the client, then you could have a potential conflict of interest.

In such circumstances, you would need to publicly disclose the nature of the conflict of interest. If your conflict of interest is only a potential conflict of interest, meaning that there is the possibility of a financial impact on SSJH, then after making the public announcement, you could continue to participate in the matter. If your conflict of interest is an actual conflict of interest, meaning that the effect of the Planning Commission action would be a certain financial impact on SSJH, then after making the public announcement, you would need to refrain from any participation.

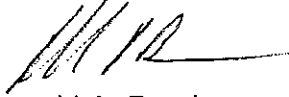
With respect to your specific questions, the determinative factor in each case will be whether the Planning Commission action would or could have a financial impact on SSJH. It does not matter if the SSJH client is the property owner, the applicant, a professional, or simply a testifying party. Because SSJH is the business with which you are associated, any conflict of interest that arises would not depend on who at SSJH perform the work for the client or whether you previously represented the client. It is the financial impact of the Planning Commission action on SSJH that would give rise to a conflict of interest for you, regardless of which SSJH attorney performs the work. Whether the client is a current versus a former SSJH client or whether SSJH's work for the client is on the matter currently before the Planning Commission or is on an unrelated matter are all factors that should be considered in terms of the likelihood that the Planning Commission action may have a financial impact on SSJH.

Public officials are individually responsible for exercising their own good judgment in determining whether or not an action, decision or recommendation presents an actual or potential conflict of interest or a prohibited use of office. As a Planning Commissioner, you must remain vigilant and rigorous in understanding the potential financial impacts of your official actions, decisions and recommendations.

Steve Elzinga  
Advice Number 19-1631  
July 23, 2019  
Page 5

If you have any additional questions regarding the application of Oregon Government Ethics law to this or other situations, please feel free to contact our office. The Commission's staff is always available by phone and e-mail to answer questions.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/svm

**\*\*Disclaimer\*\***

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

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**From:** Steve Elzinga <steve@shermmlaw.com>  
**Sent:** Tuesday, July 16, 2019 6:26 PM  
**To:** MYERS Susan \* OGEC  
**Cc:** stephen.elzinga@gmail.com  
**Subject:** Ethics Advice Request

Susan,

Thank you for taking the time to talk today about the ethics requirements for my continued service on the Salem Planning Commission in light of my new job. I greatly appreciate your guidance! As discussed, I've provided a written summary of the background facts below and would appreciate written advice on how I should proceed going forward. In talking with the city attorney's office, it would be preferable to have something from OGEC in writing that we can give to any citizen in the future who may have questions about my role on the planning commission.

**Background**

The Salem Planning Commission has two main responsibilities: (1) adjudicating quasi-judicial land use cases and (2) recommending new land use policies to the Salem City Counsel. My questions relate to the first responsibility. A typical land use case will involve a property owner (or someone who has a contract to purchase the property) who is trying to change the zoning for the property or approve a development on the property. Usually, the land owner will be represented during the application and hearing process by one or more of the following: a developer, attorney, land use consultant, architect, engineer, or other professional. If one of these professionals actually submitted the land use application on behalf of the property owner, that professional is the applicant. During hearings, city staff present their commendation for the case. Input is also often provided by neighborhood associations, school districts, transit districts, counties, state agencies, and members of the public.

In June, I started a new job with Salem law firm Sherman, Sherman, Johnnie & Hoyt, which is one of the larger firms in Salem. My firm (and myself) handle a wide variety of legal work for a wide variety of clients. We sometimes represent clients on land use or development issues. At any given time, we likely have hundreds of open/active legal matters and thousands of closed matters.

My firm pays me a base salary and benefits. I can also receive bonus compensation that depends on the amount of the revenue generated by my work and the clients I bring to the firm. My compensation structure does not directly include extra compensation for work done by other attorneys in the firm on their clients. However, after a year of employment, I will be eligible for firm profit sharing contributions to my 401K retirement account.

The Salem legal and business communities are small. At some point or another, my firm has done (or continues to do) work for many of the developers, land use consultants, architects, engineers, and other businesses who work in the city, as well as for hundreds of individuals in the Salem area.

**Questions**

In light of prior advice in 04S-008 and 12A-1004, I am wondering what business relationships I may have under ORS 244.020(3) for conflict of interest purposes related to my legal work. Specifically, you said you didn't think that I would have any conflict of interest if an entity currently represented by my firm (potentially for whom I have done work) participates in a land use matter before the planning commission so long as I wasn't representing someone directly before the commission under ORS 244.040. Can you please confirm that? If that is not the case, do any of the following distinctions make a legal difference:

1. work done by me vs by others in firm;
2. current client vs past client; or

3. client on current matter before commission vs client on unrelated different matter.

Depending on the answer to the first question, does it make any difference whether the current or former client is:

1. Owner of subject property or under contract to purchase subject property;
2. Applicant who submitted the application for a land use decision regarding the subject property;
3. Professional who submits a report to the commission on behalf of the applicant; or
4. Other person or business who testifies at the public hearing?

I appreciate your help with this! If possible, it would be wonderful to have an answer prior to our next planning commission meeting the evening of July 23, but if not, I will just recuse myself whenever I have questions.

Thank you,  
Steve

Steve Elzinga  
Attorney



SHERMAN SHERMAN JOHNNIE & HOYT, LLP - Attorneys at Law | [www.shermlaw.com](http://www.shermlaw.com)

Ph. 503-364-2281 | Fax 503-370-4308 | 693 Chemeketa St. NE Salem, OR 97301

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# Oregon

Kate Brown, Governor

## Government Ethics Commission

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July 19, 2019

Erin A. Fennerty  
Luvaas Cobb  
P.O. Box 10747  
Eugene, Oregon 97440-2747

Re: Advice Number 19-1641

Dear Ms. Fennerty:

This letter of advice is provided in response to your request received on July 10, 2019, which presents questions regarding potential ethical issues arising for a school board director who is also employed by Planned Parenthood of Southwestern Oregon. The analysis and advice that follows is offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances presented.

### Synopsis of Facts

Your letter indicates that a newly elected Director ("Director") of the Board of Directors for the Eugene School District 4J ("District") is employed by Planned Parenthood of Southwestern Oregon ("Planned Parenthood") as a Community Health Educator and coordinator of Planned Parenthood's youth leadership program. In that position, the Director provides sexuality education instruction as a guest speaker in local schools throughout southwest Oregon, potentially including schools within the District.

The District has adopted a sexuality education curriculum that comports with Oregon state standards. The curriculum is taught by District teachers, but allows for guest speakers to supplement the District instruction. The decision to utilize guest speakers is made by the individual teacher, subject to applicable policy and financial constraints. District schools primarily utilize Planned Parenthood for such guest speakers, though they also hire other guest speakers. When Planned Parenthood provides a guest speaker, the selection of which guest speaker is made by Planned Parenthood based on availability.

Historically, the District has paid Planned Parenthood approximately \$3,500 per year to provide guest speakers. The payment, made on a per class basis, generally comes from either grant funds or budget funds for instructional / professional / technical services. The District has also, on at least two occasions, contracted with Planned Parenthood to provide professional development to District teachers



The District is beginning the process of adopting a new, comprehensive health curriculum. That curriculum may include options for utilizing guest speakers to supplement teacher instruction. The curriculum adoption process will most likely include an advisory council to make recommendations to the District Superintendent. The advisory council would be comprised of various stakeholders, including some members of the District's Board of Directors. The District Superintendent will make the final decision regarding curriculum, with input from the Board of Directors. If the cost exceeds \$150,000, the curriculum contract would be subject to approval by the Board of Directors.

All members of the Board of Directors serve on the District's Budget Committee, which submits a recommended budget to the Board of Directors. That budget includes a line item for instructional / professional / technical services, which may be used to pay for guest speakers, but that line item is not further broken down by either school or type of expenditure. The Board of Directors then votes to approve the District's budget.

#### Questions

Given the District's history of utilizing Planned Parenthood to provide guest speakers and professional development, would any of the following scenarios give rise to a conflict of interest and/or a prohibited use of office by the Director:

1. While serving on the health curriculum advisory council, engaging in discussions and/or making a recommendation regarding sexual education curriculum options?
2. While sitting as the Board of Directors, engaging in discussions and providing input to the District Superintendent with respect to the proposed health curriculum, and/or voting to approve the curriculum contract?
3. While serving on the Budget Committee, engaging in discussions and/or recommending a proposed budget, when funds from line items in the proposed budget will likely be used to pay Planned Parenthood?
4. While sitting as the Board of Directors, engaging in discussions and/or voting to adopt a budget, when funds from line items in the budget will likely be used to pay Planned Parenthood?
5. Providing sexuality education instruction in District schools as a Planned Parenthood guest speaker? Would it make a difference if the Director did not provide the instruction, but other Planned Parenthood's employees did so?



### Statutes

Under Oregon Government Ethics law, an elected official, such as the Director, is a public official, as defined in ORS 244.040(15), and must comply with the provisions of ORS Chapter 244.

A conflict of interest is defined as any action, decision, or recommendation that a public official makes in his or her official capacity, the effect of which would be or could be to the private financial benefit or detriment of the public official, a relative, or a business with which the public official or his or her relative are associated. An actual conflict of interest occurs when the effect of the official action, decision, or recommendation would have a certain private financial impact. A potential conflict of interest occurs when the effect of the official action, decision, or recommendation could have a private financial impact. [ORS 244.020(1) and (13)].

ORS 244.020(2) defines a business as any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

A "business with which the person is associated" includes:

- Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year. [ORS 244.020(3)(a)].
- Any publicly held corporation in which the person or the person's relative is a director or officer or in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year. [ORS 244.020(3)(b) and (c)].
- For public officials required to file a statement of economic interest, any business listed as a source of income. [ORS 244.020(3)(d)].

When a public official is met with an actual or a potential conflict of interest, the public official must publicly announce the nature of the conflict of interest once on each occasion that the issue giving rise to the conflict occurs. If met with a potential conflict of interest, following the public announcement, the public official may continue to participate in his or her official capacity in any discussion, debate, or vote on the issue. [ORS 244.120(2)(a)]. If met with an actual conflict of interest, following the public announcement, the public official must refrain from discussion, debate, or vote on the issue. [ORS 244.120(2)(b)].

ORS 244.040(1) provides that public officials may not use or attempt to use their official positions or offices to obtain financial gains or avoid financial detriments for the public officials, their relatives or household members, or any business with which the public officials, or their relatives or household members, are associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's position or office. This provision applies regardless of whether actual or potential conflicts of interest are announced or disclosed. [ORS 244.040(7)].

### Analysis

To determine whether the Director, who is employed by Planned Parenthood, would violate the conflict of interest or prohibited use of office statutes under any of the scenarios posed in your questions, one must first examine whether Planned Parenthood is a business with which the Director is associated.

According to the Secretary of State's Business Registry, Planned Parenthood is a domestic, non-profit corporation. Planned Parenthood is tax-exempt under section 501(c)(3) of the Internal Revenue Code; however, because the Director is a paid employee, the statutory exclusion in ORS 244.020(2) does not apply. Planned Parenthood is an income-producing not-for-profit corporation of which the Director is a remunerated employee; therefore, it is a business as defined in ORS 244.020(2).

Examining ORS 244.020(3), the Director is not a public official required to file a statement of economic interest, and Planned Parenthood does not issue stock and is not a publicly held or closely held corporation. Planned Parenthood, while non-profit, is an income-producing business that pays employees. This gives rise to a financial interest on the part of those employees. Reading ORS 244.020(3)(a) in light of the language in ORS 244.020(2) and the stated purposes of the ethics laws, a private business would include an income-producing non-profit corporation of which a public official is a paid employee. Planned Parenthood is, therefore, a private business and is a business with which the Director is associated for purposes of a conflict of interest and use of office analysis.

In the specific scenarios in your letter, the health curriculum advisory council and the Budget Committee are both advisory committees and not the ultimate decision makers. The health curriculum advisory council, for example, will make recommendations on the curriculum to the District Superintendent. The Budget Committee will make a recommendation on the proposed budget to the Board of Directors, which will ultimately vote to adopt the budget. Because they are advisory committees, any conflict of interest that arises would be a potential conflict of interest.

When serving on either the health curriculum advisory council or the Budget Committee, the Director would be met with a potential conflict of interest when discussing or making a recommendation on any matter that could have a financial effect on Planned Parenthood, a business with which the Director is associated. For example, if the health curriculum advisory council recommends a curriculum that would require more guest speakers, that recommendation could have a financial effect on Planned Parenthood, the primary provider of such guest speakers. When met with such a potential conflict of interest, the Director must publicly announce the nature of the conflict of interest on each occasion that it arises. After making the public disclosure of the potential conflict of interest, the Director may then continue to participate on the matter.

When sitting as a member of the Board of Directors to discuss the proposed health curriculum and provide input to the District Superintendent, who is the ultimate decision maker on that curriculum, the Director would be met with a potential conflict of interest. The Director would need to make a public disclosure of the nature of the conflict of interest, but could continue to participate in the discussion and provide input.

If the health curriculum contract requires a vote by the Board of Directors, the Director would need to determine whether adoption of that curriculum would (actual conflict of interest) or could (potential conflict of interest) have a financial effect on Planned Parenthood. If the Director determined that the financial effect on Planned Parenthood was possible but not certain, then the Director would need to make a public disclosure of a potential conflict of interest and could continue to participate and vote. If the Director determined that the financial effect on Planned Parenthood was certain and definite, then the Director would need to make a public announcement of an actual conflict of interest and then refrain from any participation in the discussion, debate and vote on that curriculum or the contract. If the Director has an actual conflict of interest but the Director's vote is necessary in order for the Board of Directors to have a quorum, then under ORS 244.120(2)(b)(B), the Director may vote on the matter but must refrain from participation in any discussion or debate on the matter.

The District's budget includes a line item for instructional / professional / technical services, which could be used to pay for guest speakers, including guest speakers from

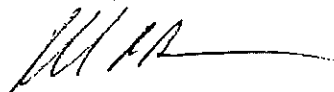
Planned Parenthood. In the budget, this line item is not broken down by individual school or type of expenditure; it does not specify or require that the funds be used for guest speakers. In the past, funds from this line item have been used to pay for Planned Parenthood guest speakers, but that decision is not made by the Board of Directors. When the budget comes before the Board of Directors, the Director would have a potential conflict of interest because the Board's action in adopting the budget could have a financial effect on Planned Parenthood. After making a public disclosure of the potential conflict of interest, the Director could continue to participate and vote on the budget.

Based on the information provided, it appears that the decision to use guest speakers from Planned Parenthood is made by the individual teachers at the schools, not by the Board of Directors. And it is Planned Parenthood that selects which of its employees to send as guest speakers. If a District school asked Planned Parenthood for a guest speaker, and Planned Parenthood selected the Director to be that guest speaker, it would not give rise to any conflict of interest for the Director because the Director would not be taking any action in the Director's capacity as a public official. Similarly, the Director would not have a conflict of interest if Planned Parenthood selected other employees to serve as guest speakers in District schools.

Even after disclosing any conflicts of interest, the Director cannot use or attempt to use the Director's official position to provide a financial gain to Planned Parenthood that would not otherwise be available to it but for the Director's official position. [ORS 244.040(1)]. For example, if the Director used the Director's official position to influence teachers to select guest speakers from Planned Parenthood, this would be a prohibited use of office. Similarly, while serving on the health curriculum advisory council if the Director sought to include in the curriculum a provision requiring that schools use guest speakers, this would constitute a prohibited use of office and would violate ORS 244.040(1).

If you have any additional questions regarding the application of Oregon Government Ethics law, please feel free to contact our office. The Commission's staff is always available by phone and e-mail to answer questions.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/svm

**\*\*Disclaimer\*\***

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

ERIN A. FENNERTY  
*Attorney at Law*

July 10, 2019

Oregon Government Ethics Commission  
3218 Pringle Road SE, Suite 220  
Salem, Oregon 97302-1544*Via Email to: [ogec.mall@oregon.gov](mailto:ogec.mall@oregon.gov)*

Re: Request for Opinion

Dear Oregon Government Ethics Commission:

This firm serves as outside general counsel for Eugene School District 4J ("4J"). I am writing to request advice on behalf of 4J regarding the application of Oregon Government Ethics Law to the circumstances set forth below.

Background

The 4J Board of Directors ("Board") has a newly-elected Director ("Director"). Director has been, and will continue to remain, employed by Planned Parenthood of Southwestern Oregon ("Planned Parenthood") as a Community Health Educator and coordinator of Planned Parenthood's youth leadership program. Approximately 40% of the Director's work is comprised of providing sexuality education instruction as a guest speaker in local schools throughout southwest Oregon. Planned Parenthood also has two other Health Educators who, to a varying degree, teach sexuality education in local schools on a guest speaker basis.

When a school makes arrangements with Planned Parenthood to have a Health Educator provide sexuality education instruction, the school does not get to select the particular Health Educator who delivers the instruction; rather, one is assigned by Planned Parenthood based upon availability. Planned Parenthood charges a fee to have a Health Educator go to a school and teach sexuality education. It is understood that the Director's (and other Health Educators') continued employment at Planned Parenthood is not predicated on the amount of fees Planned Parenthood receives for teaching sexuality education in schools.

4J has adopted a sexuality education curriculum that comports with Oregon state standards. While the curriculum is taught by 4J health teachers, it allows for utilization of community/guest speakers to supplement teacher instruction as long as the content is tied to the standards and content of the curriculum. This is not unusual, and 4J schools regularly supplement learning opportunities in various classes with guest speakers aligned with the particular curriculum being taught. Ultimately, the decision to utilize a particular guest speaker (or to utilize guest speakers at all) is up to the individual teacher, subject to applicable policy and/or financial constraints.

With respect to sexuality education, 4J schools utilize Planned Parenthood and handful of other community/guest speakers to supplement the teacher-delivered curriculum, although Planned Parenthood is utilized to greater extent than other entities. Historically, 4J has paid Planned Parenthood approximately \$3,500 per year to provide said instruction at the request of individual teachers/schools. Payment for the instruction, which is billed on a per-class basis, generally comes from two sources: either external grant funds available for any educational purpose, or a school's allotted instructional / professional / technical services budget line item. This budget line item is not further broken down into detail or specifics, but rather reflects a general budget category and schools have discretion on how to spend funds that are allocated to them for instructional / professional / technical services.

In addition to utilizing Health Educators from Planned Parenthood to provide sexuality education instruction, 4J has also contracted with Planned Parenthood on at least two occasions to provide professional development to 4J health teachers who teach the current sexuality education curriculum. It is understood that payment for these professional development services came from the district's Instructional Services Department's allotted instructional / professional / technical services budget line item which, like individual schools' similar budget line item, is generally described and spent at the discretion of the Department. It is unknown whether Planned Parenthood will be used to provide professional development services for the District in the future.

4J is beginning the process of adopting a new, comprehensive health curriculum. As part of that process, it is likely 4J will be evaluating whether to continue utilizing its current sexual education curriculum, or explore other options. Other curriculum options may or may not include options or otherwise provide for utilization of community/guest speakers to supplement teacher instruction. The curriculum adoption process will most likely include an advisory council comprised of various stakeholders, including some members of the Board of Directors. If utilized, the advisory council will receive feedback and evaluate curriculum data and options, and make a recommendation to the Superintendent regarding choice in curriculum. While the Superintendent will make the final decision regarding curriculum selection, the Superintendent's selection will be informed by input from the Board prior to final decision.

4J's annual budget, which includes the above referenced instructional / professional / technical services budget line items, must be voted on and approved by the Board. While each school is allotted funds from these budget line items, they are not broken down by individual schools in the budget document ultimately submitted to and voted on by the Board. By way of example, the budget document has an instructional / professional / technical services budget line item for "Regular High School Program," not a separate line item for each of the high schools in the district. Each school's allocation of budgeted funds for instructional / professional / technical services is then handled via internal financial practices.

In addition to voting on the district's annual budget, all members of the Board also serve on the district's Budget Committee. Seven community members appointed by the Board also serve on the Budget Committee. Each year, the Superintendent presents his/her proposed budget to the

Budget Committee, which in turn holds meetings to receive public comment, makes revisions, and ultimately approve the propose budget for submission to the Board.

Questions

1. Given 4J's history of utilizing Planned Parenthood to provide sexuality education instruction on a guest-speaker basis, would it be a conflict of interest and/or a prohibited use of official position for the Director, while serving on a health curriculum advisory council, to engage in discussions and/or make a recommendation regarding sexual education curriculum options?

2. Given 4J's history of utilizing Planned Parenthood to provide sexuality education instruction on a guest-speaker basis, would it be a conflict of interest and/or a prohibited use of official position for the Director, as a member of the Board, to take engage in discussions and/or provide input with respect to adoption of a health curriculum proposed by the Superintendent?

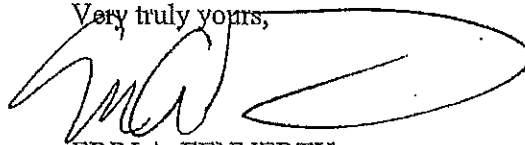
3. Given 4J's history of paying Planned Parenthood to provide sexuality education instruction on a guest-speaker basis and to provide professional development to 4J health teachers, would it be a conflict of interest and/or a prohibited use of official position for the Director, while serving on the Budget Committee, to engage in discussions and/or make a recommendation regarding a proposed budget, when funds from certain generally-described line items in said proposed budget will most likely be used to pay Planned Parenthood for services rendered to the District?

4. Given 4J's history of paying Planned Parenthood to provide sexuality education instruction on a guest-speaker basis and to provide professional development to 4J health teachers, would it be a conflict of interest and/or a prohibited use of official position for the Director to take engage in discussions and/or take action with respect to adoption of a budget recommended to the Board, when funds from certain generally-described line items in said recommended budget will most likely be used to pay Planned Parenthood for services rendered to the District?

5. Would it be conflict of interest and/or a prohibited use of official position for the Director, while serving on the Board, to continue providing sexuality education instruction as a Planned Parenthood employee in 4J schools. Would it make a difference if the Director did not provide the instruction, but rather Planned Parenthood's other Health Educators did so?

Thank you for your time, and your guidance is most appreciated.

Very truly yours,



ERIN A. FENNERTY

EAF/mmp

cc: Dr. Gustavo Balderas, Superintendent

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# Oregon

Kate Brown, Governor

## Government Ethics Commission

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July 23, 2019

Sent Via Email and USPS

Milo Denham  
12106 SE 19<sup>th</sup> Ave  
Milwaukie, Oregon 97222

RE: Advice Number 19-1661

Dear Mr. Denham:

This letter of advice is provided in response to your request which presented a question regarding the application of Oregon Government Ethics law to financial benefits offered to you by the Island Station Neighborhood District Association (ISNDA) Board. This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

I understand from the information provided in your request that you are a member of the ISNDA Board (Board) for the City of Milwaukie. You are seeking guidance as to whether the ISNDA would violate Oregon Government Ethics Law if the ISNDA reimbursed you for attorney fees and would you be able to accept such reimbursement?

It is not within the Commission's jurisdiction to advise about the ISNDA's authority to expend funds. The Commission may only advise whether actions of a public official are consistent with the ethics laws. In regard to your question whether you may solicit or receive reimbursement for your legal expenses, we understand that you have already done so, as such the Commission does not provide advice on "events that have already occurred" [ORS 244.284, OAR 199-001-0030(2)]. The following is offered to provide general guidance to public officials on the requirements of ORS Chapter 244.

ORS 244.040(1) prohibits a public official from using or attempting to use their official position to obtain a personal financial benefit or avoid a financial detriment for themselves, a relative or household member, if that benefit would not be available "but for" holding their official position. However, a public official is allowed to accept any part of their official compensation package or accept reimbursement of expenses. [ORS 244.040(2)]



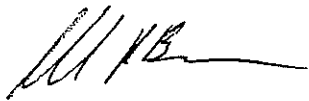
An official compensation package is defined as the wages and other benefits provided to the public official. To be part of the public official's "official compensation package," the wages and benefits must have been specifically approved by the public body in a formal manner, such as through a union contract, an employment contract, or other adopted personnel policies that apply generally to employees or other public officials. The direct payment of a public official's expenses by the public body, in accordance with the public body's policies, are also part of one's official compensation package. [OAR 199-005-0035(3)]

Reimbursement of expenses means 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. "Official duties" means that the public official's actions are directly related to serving the State of Oregon or any other public body as a public official. Any such reimbursement must comply with any applicable laws and policies governing the eligibility for such payment [199-005-0035(2) and (4)].

The Commission cannot address events that have already occurred or whether the ISNDA's actions or its use of funds was proper. As explained above, a public official can only accept payment from their public body that is part of an official compensation or reimbursement policy. Questions regarding the use of City grant funds provided to the ISNDA for legal expenses incurred by a member of the Board were previously answered for City of Milwaukie Manager Ann Ober. Attached is a copy of the guidance the Commission provided to Ms. Ober.

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/th

\*\*\*\*\*DISCLAIMER\*\*\*\*\*

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

**From:** ISNDA Chair <isnda.chair@gmail.com>  
**To:** Wednesday, July 10, 2019 5:50 PM  
**Subject:** OGEC Mail \* OGEC  
**Cc:** Charles Bird; Carolyn Tomei; Pamela Denham  
**Attachments:** Ethics Question  
1 - Arnell's Stalking Order - 2018 Aug.pdf; 2 - Hearing Memo for Arnell Stalking Trial.pdf; 3 - Special Motion to Strike - anti-SLAPP.pdf; 4 - Kathy Hyzy's Affidavit.pdf; 5 - Letter to Steve Bartol - 2018 Oct 7.pdf; 6 - Mar 21, 2019 SPO Hearing.pdf; 7 - 2019 April 24 Milo NDA Letter.pdf; 8 - 2019 May 15 - Carolyn Tomei's OpEd - Island Station Neighborhood Funding Successful Crime Watch.pdf; 9 - Vince Alvarez June 25 E-Mail, Angel Falconer June 25 E-Mail, Milo Denham June 28 E-mail.pdf; 10 - Q&A- 2019 June 20.pdf; 11 - Dismissal of SPO - 2019 Mar 21.pdf

2019 July 10<sup>th</sup>

Government Ethics Commission  
3218 Pringle Rd. SE, Suite 220, Salem, OR 97302-1544  
Telephone: 503-378-5105  
Fax: 503-373-1456  
E-mail: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Hello Oregon Ethics Commission,

I have an ethics question for you that revolves around whether or not the legal fees I incurred are those of the neighborhood association (ISNDA) Chair, and therefore are those of the ISNDA, or are they personal?

Issue

- The Island Station Neighborhood District Association (ISNDA) claims that it was proper to pay a portion of the ISNDA Chair's legal expenses as they were fees incurred on behalf of the NDA, and were not personal expenses
  - o The ISNDA is a neighborhood association within the City of Milwaukie and funded by the City of Milwaukie.
  - o While I was on vacation, the ISNDA members at the April 17<sup>th</sup>, 2019 ISNDA meeting determined that the legal fees I sustained in defending myself from Ms. Arnell's false and frivolous Stalking Protective Order were those of the ISNDA Chair, and directly arose from the ISNDA Chair speaking to the City Council on behalf of the ISNDA after a unanimous vote by the ISNDA that he talk to the City Council.
  - o Several of these members were at the March 21<sup>st</sup>, 2019 SPO trial and heard Judge Watkins say Ms. Arnell's claims in her SPO filing were false, and that the SPO was not about stalking and personal safety, but rather was about a property rights dispute between the neighborhood and the Arnells.
  - o Carolyn Tomei, who was the mayor when the NDAs and NDA funding process was established, is a member of the ISNDA and was at the April 17<sup>th</sup> ISNDA meeting. She determined that payment of the ISNDA Chair's legal fees was an appropriate expense for the ISNDA.

- City of Milwaukie claims the legal fees the ISNDA paid were personal legal fees, but they are not personal, they are the ISNDA Chair's legal fees and therefore the ISNDA's legal fees
  - The City continues to stay with its claim from August, 2018, that these are personal legal fees. The City Attorney has written a memo that personal legal fees are not a permissible use of NDA funds, but has not written one regarding legal fees of a NDA Board.
  - The City claimed that the meeting was not properly noticed (it was in both the City's website and the City's newsletter) and that a voting items "should" have been noted on the agenda (the ISNDA by-laws state that any member can bring a topic to the meeting, and some of these have resulted in spending NDA funds in the past - thus the City notes that it "should" have been included, not that it "must" be).
  - The City claimed the funds were misappropriated (they weren't) and demanded the ISNDA Chair refund the funds to the ISNDA (that was done in early May).
  - City Councilor Falconer recently implied that it is unethical to "solicit funds for personal benefit from an NDA." But the ISNDA funds would be used to pay the ISNDA Chair's legal fees, not personal legal fees.
  - Asking the ISNDA to reimburse Milo Denham for legal fees he paid on behalf of the ISNDA, should be no different than asking the ISNDA to reimburse Milo Denham for the bottled water for the picnic that he paid for on behalf of the ISNDA.

### Where do we stand on this issue?

#### Background

I am a volunteer with the City of Milwaukie serving as the Chair of one of the City's neighborhood associations: Island Station Neighborhood District Association (ISNDA). I have lived in Milwaukie since April 2013, and have been a volunteer on the ISNDA Board since 2014.

In July 2018 the ISNDA learned that the City Council was going review the Arnell's many ongoing illegal encroachments into Spring Park Nature Area. At the July 17<sup>th</sup>, 2018 ISNDA meeting the members voted to have the ISNDA Board write a letter to the City and then go read the letter at the August 7<sup>th</sup>, 2018 City Council meeting to ask the City not to accommodate a bad neighbor's (Arnell) multiple illegal encroachments into Spring Park Nature Area that had been going on since before 2009.

The Arnells own the home and property located adjacent to the entire southern boundary of the Park and had been illegally encroaching on an acre of Spring Park, treating the Park property as their own, including filing false police reports of trespass against people walking in the Park. This had been going on for over 10 years despite the neighborhood's efforts to get the City to make them stop their illegal encroachments.

As the Chair of the ISNDA I went to the August 7<sup>th</sup>, 2018 City Council meeting and read the ISNDA's letter listing the Arnell's multiple illegal encroachments into Spring Park Nature Area, and asked the City to stop the illegal encroachments.

Just days later Ms. Arnell sought to obtain an Elder Abuse Protective Order against me, which was denied, and then sought a Stalking Protective Order (SPO) that was granted, despite the fact that I had never met her, had never talked to her, and had never seen Ms. Arnell before the August 7<sup>th</sup> City Council meeting.

I hired an attorney and have a \$19,032 bill for the legal fees defending myself from the false and frivolous SPO. I did not wait for the next ISNDA meeting to hire an attorney as Pam, my wife, and I were to attend our daughter's wedding and leave for our 10<sup>th</sup> wedding anniversary trip to Europe prior to the next ISNDA meeting.

Seven months later at the SPO trial, Judge Watkins declared that Ms. Arnell misused the SPO laws, that all of Ms. Arnell's claims in the SPO filing were false, and that Ms. Arnell's SPO was only about a property dispute with the neighborhood—not about personal safety or stalking. And that is why this was a SLAPP lawsuit – an attempt by Ms. Arnell to stop the ISNDA from engaging in public discussion with the City on the issue of their illegal encroachments. In fact, the stipulation in Ms. Arnell's voluntary dismissal of the SPO was *"Respondent agrees to not personally oppose the Arnell's efforts in seeking a lot line adjustment identical or similar to the proposed attached as exhibit A with the City of Milwaukie or as a representative of the Island Station Neighborhood Development Association."*

All of this goes to prove that the legal fees were those of the ISNDA Chair, not my personal legal fees.

At the April 17<sup>th</sup>, 2019 ISNDA meeting 10 members met while Pam and I were on holiday at Depoe Bay. They reviewed the legal fees I incurred, and since several had been at the SPO trial and heard Judge Watkins comments, they determined that the legal fees were not personal, but rather were the legal fees of the ISNDA Chair, and then they decided that the ISNDA should pay \$10,000 of the legal fees (the ISNDA only had about \$14,000 at that time, and the \$10,000 had been earmarked earlier for park projects that were cancelled). Carolyn Tomei, who was the mayor of Milwaukie when the neighborhood associations were created and their funding rules established, was in attendance at the ISNDA meeting and she agreed that paying for the ISNDA Chair's legal fees was a proper use of NDA funds (See the attached OpEd story). The motion passed unanimously.

The City of Milwaukie took exception to this action, declaring this was a misuse of City funds and that the payment was not allowable because using NDA funds to pay personal legal fees is not allowed.

For the past two months my neighbors and I have been fighting to have the City reverse its current position and allow the ISNDA to pay the ISNDA Chair's legal fees. We do not see this as a fight to "solicit funds for personal benefit from an NDA" as City Councilor Falconer has recently implied.

But rather, we believe that there is no ethical issue to ask to reimburse payment of legal expenses I paid on behalf of the ISNDA. No different than being reimbursed for the purchase of bottled water for the ISNDA picnic. And we believe that the reimbursement of expenses is not prohibited under ORS §244.040 (2) (c) of the State's ethics law.

### **Where do we stand on this issue?**

Thank you for your time,  
Milo Denham  
ISNDA Chair

cc: Charles Bird, Carolyn Tomei, Pam Denham

### **Attachments:**

- 1) Arnell's Temporary Stalking Protective Order  
(1 - Arnell's Stalking Order - 2018 Aug.pdf)
- 2) Memo to Court - Including a timeline  
(2 - Hearing Memo for Arnell Stalking Trial.pdf)

- 3) Special Motion to Strike - Including affidavits, and Milwaukie Councilor Batey's affidavit  
(3 - *Special Motion to Strike - anti-SLAPP.pdf*)
- 4) Milwaukie Councilor Hyzy's Affidavit  
(4 - *Kathy Hyzy's Affidavit.pdf*)
- 5) My Letter to Milwaukie Police regarding False Police Report  
(5 - *Letter to Steve Bartol - 2018 Oct 7.pdf*)
- 6) Court Transcript of SPO Trial - typed from Court FTR Recording  
(6 - *Mar 21, 2019 SPO Hearing.pdf*)
- 7) City's Letter to ISNDA on April 24<sup>th</sup>, 2019 Claiming Payment a Mis-Use of NDA/City Funds  
(7 - *2019 April 24 Milo NDA Letter.pdf*)
- 8) Carolyn Tomei's OpEd piece from 2019 May 15 - "Island Station Neighborhood Funding Successful Crime Watch"  
(8 - *2019 May 15 - Carolyn Tomei's OpEd - Island Station Neighborhood Funding Successful Crime Watch.pdf*)
- 9) Vince Alvaraz's e-mail from June 25<sup>th</sup>, 2019 (Chair of Milwaukie's Lake Road NDA); City Councilor Falconer's e-mail response from June 25<sup>th</sup> to Vince Alvaraz; ISNDA Chair's e-mail on June 28<sup>th</sup> responding to City Councilor Falconer's June 25<sup>th</sup> e-mail  
(9 - *Vince Alvarez June 25 E-Mail, Angel Falconer June 25 E-Mail, Milo Denham June 28 E-mail.pdf*)
- 10) Q&A Document  
(10 - *Q&A- 2019 June 20.pdf*)
- 11) Ms. Arnell's Voluntary Dismissal of SPO  
(11 - *Dismissal of SPO - 2019 Mar 21.pdf*)

#### ISNDA Contacts

- Milo Denham, ISNDA Chair. [milo.denham@gmail.com](mailto:milo.denham@gmail.com)
- Charles Bird, ISNDA Vice-Chair. [charlesbird@juno.com](mailto:charlesbird@juno.com)
- Carolyn Tomei, Former Mayor [cst11907@gmail.com](mailto:cst11907@gmail.com)

**From:** WALKER Monica \* OGEC  
**To:** "Ann Ober"  
**Subject:** RE: OGEC - Ethics Inquiry  
**Date:** Wednesday, June 19, 2019 9:14:00 AM  
**Attachments:** [image001.png](#)

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Good Morning Ann~

It was a pleasure speaking to you over the phone several weeks ago. Thank you for following up with a written request for guidance regarding the allocation of Neighborhood District Association (NDA) funds to city council members for legal expenses incurred.

First, the Oregon Government Ethics Commission (OGEC) must remain objective to all situations brought to our attention. Keeping this in mind and knowing the question inquired about has already occurred, we must refrain from providing advice pertaining directly to the issue(s) but rather provide an overview of what the law states, i.e. allows/does not allow. [OAR 199-001-0030(2)]

That said, whether or not a member of an NDA is a public official depends on how NDA board members are appointed or elected as well as how the NDA is funded. If the NDA board members are appointed or elected and primarily funded by the City then, it would appear, the members of the NDA would be considered public officials and they would be subject to the provisions of Oregon Government Ethics law. [ORS Chapter 244] A public official by definition includes any person who is serving the State of Oregon or any of its political subdivisions or any other public body as an elected official, appointed official, employee or agent, whether or not the person is compensated for their services. [ORS 244.020(15)] With the information supplied, it is hard to ascertain whether the NDA board members would meet the definition of a public official.

In addition, the OGEC's jurisdiction per Oregon Government Ethics law - ORS Chapter 244 relates to conflicts of interest, prohibited use of position or office for personal financial gain, nepotism and gifts to public officials. So, when it comes to budgets and how funds are utilized to purchase goods and services, the OGEC has no jurisdiction. This includes goods and services from one public entity to another or to a public official.

Generally, Oregon Revised Statute (ORS) 244.040, prohibits public officials from using or attempting to use their public positions to obtain any financial benefit or avoid any cost, if the benefit or avoidance of cost would not otherwise be available "but for" the public official holding the position. However, despite the general prohibition in ORS 244.040, public officials are still permitted to accept benefits of employment from their public bodies, so long as the benefit is part of the public official's "official compensation package". [ORS 244.040(2)(a)]

The OGEC interprets "official compensation" relatively broadly to include virtually anything that could be considered a benefit of employment or service that a public

body wishes to offer its members/employees, as long as the benefit has been formally adopted in a written policy, employment contract or union agreement. Thus, as long as the policy has been formally adopted and in writing, it would be allowable for employees to obtain the benefits/funds you have inquired about. Guidelines for compliance with this exception are listed under Oregon Administrative Rule [OAR 199-005-0035(3)].

Again, thank you for reaching out with your inquiry. It is very much appreciated. Feel free to contact me directly should you have questions or need additional information.

Sincerely,

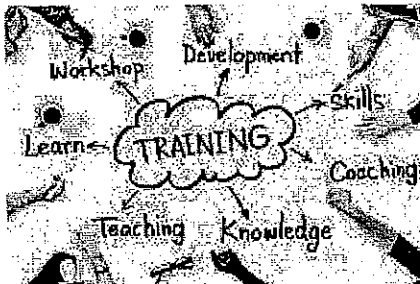
*Monica J. Walker*

Monica J. Walker, Program Analyst/Trainer  
Oregon Government Ethics Commission  
3218 Pringle Road SE, Suite 220  
Salem, OR 97302-1544  
E-mail: [ogec.training@oregon.gov](mailto:ogec.training@oregon.gov)  
Phone: (503) 378-2011  
Fax: (503) 373-1456

**\*Disclaimer\***

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This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.



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**From:** Ann Ober [mailto:[OberA@milwaukieoregon.gov](mailto:OberA@milwaukieoregon.gov)]  
**Sent:** Tuesday, June 11, 2019 5:27 AM  
**To:** WALKER Monica \* OGEC <[Monica.WALKER@oregon.gov](mailto:Monica.WALKER@oregon.gov)>  
**Cc:** Justin Gericke <[GerickeJ@milwaukieoregon.gov](mailto:GerickeJ@milwaukieoregon.gov)>  
**Subject:** RE: OGEC - Ethics Inquiry

Dear Monica-

Thank you for the conversation two weeks ago. Per that conversation, I am interested in receiving a written staff opinion from you about the use of City grant funds provided to a



Neighborhood District Association (NDA) for legal expenses incurred by one of its board members. As I disclosed in our conversation, the funds in question are an annual allocation of \$4000 to the NDAs for community engagement and leadership development and use of the funds by the NDAs is limited by the City resolution that established the NDA program in 1998. The City allows those funds to roll over each year, so in some cases the fund balance with an NDA exceeds \$10,000. I have attached the resolution to this email so you have information about how the City manages those funds. The City's position has been and remains that use of the City's grant funds for this purpose is not an authorized use.

The questions follow:

- Is it an ethics violation for a board member of an NDA to accept \$10,000 from the NDA for legal expenses he/she/they incurred fighting a stalking order entered against him/her/they by a home owner for conduct while photographing and documenting what he/she/they perceived to be a disputed boundary between a home owner and the City's park?
  - Would it affect the opinion if the person that incurred the legal expenses and received the payment from the City NDA grant funds believes he/she/they incurred the legal expenses as the NDA chair and is therefore entitled to the funds?
  - What if the board member in receipt of the funds did not vote at the meeting, but advocated for the transfer of the funds for his/her/they use before, during, and after the transfer of funds, and currently maintains he/she/they is entitled to the funds?
  - What if the funds were later returned to the NDA after the City sent a formal letter requiring return of the funds to both the NDA and NDA Chair?
  - What if he/she/they are again granted the funds at an upcoming meeting and decides to accept or keep those funds?
- If this does constitute a violation, is the violation ameliorated by the return of those funds? If not, is the second transfer of funds an additional violation?
- Does the situation change if the recipient of the funds is also a member of the City's budget committee, which recommended allocation of the yearly grant funding to the NDAs? What if the city's stance is that it does not believe a role on the budget committee is related to his/her/they unauthorized receipt of the City's grant funds?

Any response you can provide in advance would be appreciated.

Ann

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**From:** WALKER Monica \* OGEC <[Monica.WALKER@oregon.gov](mailto:Monica.WALKER@oregon.gov)>  
**Sent:** Tuesday, May 21, 2019 12:32 PM  
**To:** Ann Ober <[OberA@milwaukieoregon.gov](mailto:OberA@milwaukieoregon.gov)>  
**Subject:** OGEC - Ethics Inquiry

Dear Ms. Ober~

Thank you for reaching out to the Oregon Government Ethics Commission with your inquiry. It was a pleasure speaking with you today over the telephone. As discussed, below is my contact information. If you wish to provide your questions in writing, I will provide a written response that you will have for your records/use.

Sincerely,

*Monica J. Walker*

Monica J. Walker, Program Analyst/Trainer  
Oregon Government Ethics Commission  
3218 Pringle Road SE, Suite 220  
Salem, OR 97302-1544  
E-mail: [ogec.training@oregon.gov](mailto:ogec.training@oregon.gov)  
Phone: (503) 378-2011  
Fax: (503) 373-1456

**\*Disclaimer\***

\*\*\*\*\*

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.



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# Oregon

Kate Brown, Governor

## Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1544

Telephone: 503-378-5105

Fax: 503-373-1456

Email: [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov)

Website: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

August 9, 2019

Tim Sekerak  
Chief Clerk of the House  
900 Court St. N.E., H-271  
Salem, Oregon 97301

RE: Advice Number 19-172I

Dear Mr. Sekerak:

This letter of advice is provided in response to your request received on August 6, 2019 which presented a question regarding the application of Oregon Government Ethics law to legislative officials who have been invited to represent the State of Oregon at the 2019 Hawaii Road Usage Charge Workshop.

This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics law may apply to the specific circumstances you have presented.

According to the information provided, the State of Hawaii Department of Transportation (HDOT) has extended an invitation to State Representative John Lively, a legislative official, to travel to Hawaii from October 10 – 11, 2019 and participate as a panel member in the “2019 Hawaii Road Usage Charge Workshop”. The invitation includes an offer by the HDOT to pay for travel expenses including transportation, lodging and meals.

In offering this invitation, HDOT identified several objectives: inform and share with the members of the legislature, council members, agency directors, or agency project managers' information regarding Road Usage Charge (RUC) policies, approaches in developing RUC policy or legislation, and strategies used in public outreach and messaging. The benefit to the State of Oregon in this exchange is an opportunity to examine challenges and benefits of a mileage-based road user charge system.



Under most circumstances when a public official is offered food, beverage, lodging and travel expenses at no cost to the public official, it would be a gift as defined in ORS 244.020(7)(a). If the provider of a gift to a public official has a legislative or administrative interest in the votes or decisions of the public official, there are conditions and restrictions that apply to the acceptance of the gift. A legislative or administrative interest is defined in ORS 244.020(10) as an economic interest that is distinct from the economic interest held by members of the general public in votes or decisions of the public official.

Under specific circumstances set forth in ORS 244.020(7)(b), there are exceptions when a public official may accept gifts, such as paid expenses for food, lodging and travel or other items of value. ORS 244.020(7)(b)(F) allows acceptance of the payment of reasonable expenses paid by any unit of state government for attendance at a conference if the public official is scheduled to participate on a panel while representing state government.

The Oregon Government Ethics Commission (Commission) has adopted an administrative rule; OAR 199-005-0020(2)(a) which provides clarification to the term "panel discussion," which means to engage in a formal discussion with other members of the panel or audience.

Based on the information provided it appears that ORS 244.020(7)(b)(F) would allow a public official such as Representative Lively, to accept reasonable transportation, lodging and meal expenses to participate in the 2019 Hawaii Road Usage Charge Workshop as a panelist, which appears to meet the application of a panel discussion, as defined in OAR 199-005-0020(2)(a).

In addition, as a member of the Legislative Assembly, Representative Lively is required to electronically file an Annual Verified Statement of Economic Interest (SEI) with the Commission. He would be required to report the aggregate value of these paid expenses pursuant to ORS 244.060(5), if the value of what is received is \$50 or more on his 2020 SEI report.

In addition, it is required that HDOT, as the source of these paid expenses, provide in writing a detailed cost analysis of the value of what was received by Representative Lively. This notice should be provided within 10 days after the date the expenses are incurred. [ORS 244.100(1)]

If you have any additional questions regarding the application of Oregon Government Ethics law please feel free to contact me directly.

Sincerely,



Ronald A. Bersin  
Executive Director

RAB/th

\*\*\*\*\*DISCLAIMER\*\*\*\*\*

This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and should not be applied to circumstances that differ from those discussed in this request.

## HEDRICK Tammy R \* OGEC

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**From:** Sekerak Tim <Tim.Sekerak@oregonlegislature.gov>  
**Sent:** Tuesday, August 6, 2019 1:52 PM  
**To:** HEDRICK Tammy R \* OGEC  
**Cc:** RUTLEDGE Obie  
**Subject:** FW: Hawaii Road Usage Charge Workshop Invitation to Representative John Lively - October 10, 2019  
**Attachments:** HIRUC INVITATIONS (PANEL) (Rep John Lively) - 7-31-19.pdf; HIRUC WS#1 PRELIM AGENDA (part 2) .pdf

Hi Tammy, Rep Lively has been offered a trip at the State of Hawaii's expense to visit their highway project. Could you please response with your analysis of this offer in term of the gift exceptions that allow for a member to accept travel, food and lodging well in excess of \$50 under ORS 244.020(7)(b)(H).

Thanks

*Timothy G Sekerak*  
Chief Clerk  
Oregon House of Representatives  
State Capitol Building Rm H271  
Salem, Oregon 97301  
503-986-1870



---

**From:** Rep Lively  
**Sent:** Tuesday, August 6, 2019 1:10 PM  
**To:** Sekerak Tim <Tim.Sekerak@oregonlegislature.gov>; Rutledge Obie <Obie.Rutledge@oregonlegislature.gov>  
**Subject:** FW: Hawaii Road Usage Charge Workshop Invitation to Representative John Lively - October 10, 2019

Hello Tim and Obie

Rep. Lively is interested in attending a conference hosted by the Hawaii Depart. Of Transportation(HDOT) on the Road Usage Charge program which he has been involved in here. HDOT would reimburse all travel expenses. Attached and in the email below is all the information we currently have on the conference. Would it be okay for Rep. Lively to attend this conference and accept the reimbursement?

Thanks,

Andrew Hickerson  
Legislative Aide  
Rep. John Lively-HD 12 Springfield  
503-986-1412

---

From: Urada, Scot T <[scot.t.urada@hawaii.gov](mailto:scot.t.urada@hawaii.gov)>

Sent: Thursday, August 1, 2019 10:44 AM

To: Rep Lively <[Rep.JohnLively@oregonlegislature.gov](mailto:Rep.JohnLively@oregonlegislature.gov)>

Cc: Travis Dunn <[travis.dunn@dartagnanconsulting.com](mailto:travis.dunn@dartagnanconsulting.com)>

Subject: Hawaii Road Usage Charge Workshop Invitation to Representative John Lively - October 10, 2019

Dear Representative Lively,

The Hawaii Department of Transportation (HDOT) is planning to have our first of two workshops that is required of a Federal grant that is funding our Hawaii Road Usage Charge (HiRUC) Demonstration project. As a part of information sharing with other jurisdictions, the HDOT has committed to hosting a total of two workshops over the 3-year life of HiRUC.

We would like to invite you as a panel member and if you are able to attend, we ask if we could be notified by August 9<sup>th</sup>. I apologize for the short notice and if you need more time, please contact myself or Travis Dunn (copied on this email).

Attached with the invitation letter is a copy of our initial workshop agenda for your reference and we hope to see you here!

Thank you,

Scot Urada

Hawaii DOT HiRUC Project Manager

808.587.2222

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

IN REPLY REFER TO:

HWY-SM 2.0764

July 31, 2019

The Honorable John Lively  
Oregon State Legislature  
900 Court Street, NE H-488  
Salem, Oregon 97301

Dear Representative Lively:

Subject: Invitation to the 2019 Hawaii Road Usage Charge Workshop

The Hawaii Department of Transportation (HDOT) would like to extend an invitation to you as a panel member in our 2019 Hawaii Road Usage Charge Workshop in Honolulu, Hawaii on October 10, 2019, and for an additional networking event on October 11, 2019. The Hawaii Road Usage Charge Demonstration project (HiRUC) will conduct workshops pursuant to a federal grant under the Surface Transportation System Funding Alternatives program for other agencies and Hawaii stakeholders.

This workshop is intended as a peer-to-peer information exchange with the objective of participants sharing:

- strategies used in public outreach and messaging,
- experiences in addressing public concerns related to Road Usage Charge (RUC) policies,
- approaches taken in addressing specific concerns from special interest groups,
- approaches in developing RUC policy or legislation, and
- stories of success or learning in RUC.

Targeted participants for this workshop would include legislators, councilmembers, agency directors, or agency project managers involved in road usage charging. A copy of the proposed draft agenda is being provided for your reference. Further information regarding the workshop and networking event venues and other instructions will be transmitted to all attendees in the coming weeks after confirming attendance.



THE HONORABLE JOHN LIVELY

HWY-SM 2.0764

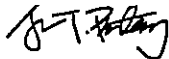
July 31, 2019

Page 2

To help offset travel costs for HiRUC workshop participants serving as a panel member, the HDOT will reimburse travel costs following normal U.S. Federal government rates and policies, including coach class tickets booked in advance and per diem allowance for meals with adjustments for workshop-provided meals (information can be found at <https://www.federalpay.org/perdiem/2019/hawaii>). The conference hotel will be the Sheraton Waikiki and up to three nights will be paid on behalf of the attendee. Additional instructions will be forthcoming in how to submit for travel cost reimbursements upon the completion of the workshop.

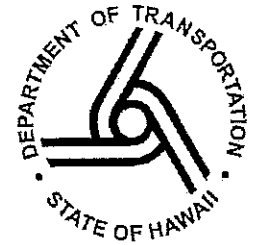
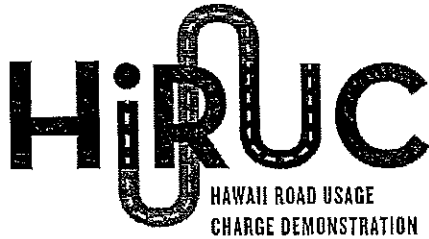
To assist us in our planning, if you are able to attend this event, we kindly request you could notify Scot Urada, HDOT Project Manager by August 9, 2019. We hope that you are able to make it and if there are any questions, please contact Scot Urada, HiRUC Project Manager at (808) 587-2222 or Travis Dunn at (512) 576-4996. Alternatively, Scot Urada and Travis Dunn can be reached by email at [scot.t.urada@hawaii.gov](mailto:scot.t.urada@hawaii.gov) and [travis.dunn@dartagnanconsulting.com](mailto:travis.dunn@dartagnanconsulting.com), respectively.

Sincerely,



JADE T. BUTAY  
Director of Transportation

Attachment



---

DRAFT Program

HiRUC Workshop: October 10, 2019

Stage Restaurant, Honolulu, HI

- 8:30am Sign-in
- 9:00am Welcome and introductions  
*Ed Sniffen, HDOT Deputy Director, Highways*
- 9:15am State of affairs in transportation funding: What is happening around the U.S.?  
*Doug Shinkle, National Conference of State Legislatures*
- 9:40am Road usage charging: What are the big issues for Hawaii? A conversation  
*Ed Sniffen, HDOT Deputy Director, Highways*
- 10:10am HiRUC project background  
*Scot Urada, HDOT HiRUC Project Manager*  
*Angela Fogle, Federal Highway Administration STSFA Grant Manager*
- 10:45am Legislative panel  
*Moderated by Doug Shinkle, National Conference of State Legislatures*  
*Panelists to be announced*
- 12:15pm Lunch and speaker: Intersection of RUC and new mobility technology and policy
- 1:45pm Agency perspectives on transportation funding  
*Moderated by Randal Thomas, Western Road Usage Charge Consortium Administrator*  
*Panelists to be announced*

**2019 Best Practices Survey  
Response Compilation**

#	DESCRIPTION	Yes	No	Total
1	Executive Director's performance expectations are current.	6		6
2	Executive Director's performance has been evaluated in the last year.	6		6
3	Agency's mission and high-level goals are current and applicable.	6		6
4	Commission reviews the Annual Performance Progress Report.	6		6
5	Commission is appropriately involved in review of Agency's key communications.	6		6
6	Commission is appropriately involved in policy-making activities.	5	1	6
7	Agency's policy option packages are aligned with its mission and goals.	5	1	6
8	Commission members review all proposed budgets.	6		6
9	Commission periodically reviews key financial information and audit findings.	6		6
10	Agency is appropriately accounting for resources.	6		6
11	Agency adheres to accounting rules and other relevant financial controls.	6		6
12	Commission members act in accordance with their roles as public representatives.	6		6
13	Agency coordinates with others where responsibilities and interests overlap.	6		6
14	Commission members identify and attend appropriate training sessions.	6		6
15	Agency reviews its management practices to ensure best practices are utilized.	6		6
Totals:		88	2	90

% Met: 98%

**N1: How are we doing?**

- In my opinion, OGEc commissioners and staff members excel in serving and responding to the public in a timely manner and in a way that is consistent with OGEc's mission.
- There is no question but that the Commission functions well. There is an appropriate separation between day-to-day management -- the staff -- and governance handled by the nine Commission members. Is there room for improvement? Sure. Always. But, overall and on balance, the Commission strikes a good and proper balance between two aspects of its mission -- education of and enforcement about -- Oregon ethics issues.
- Favorable
- Taking care of business efficiently.
- Great work product despite tight statutory timeframes.

**N2: How do we compare to others and/or to our target?**

- In my opinion, OGEc succeeds in pursuing the accomplishment of its mission in an exemplary way, particularly relative to other state agencies.
- I have been in and around many state agencies over my 40 years of involvement in Oregon government. Based on that experience, the Commission is one of the best state agencies.
- Good
- I am impressed by the level of participation and our accomplishments.
- Unknown

**N3: What factors are affecting our results?**

- Excellent staff and commissioners who, overwhelmingly, behave in a non-partisan way consistent with OGEc's mission.
- As usual, media coverage affects results, mostly in the sense that many of the reporters covering Commission processes don't understand what we do and how we do it under Oregon law. Politics also affects our results, but, that said, my sense is that political issues don't determine what we do or how we act.
- n/a
- The depth of discussion provides strong foundations for the conclusions drawn.
- n/a

**N4 What needs to be done to improve future performance?**

- Continual self-examination and sensitivity to the comments of those who appear before the commission or who otherwise contact the commission.
- Not many specifics here, just a general sense -- as well as my commitment -- to continuing to seek improvements in what we do and how we act. As just one specific, I hope we can be involved soon in updating the administrative rules under which we operate. They are not wholly bad; they just need to be updated.
- n/a
- I have no ideas about how our performance could be improved.
- Fill vacant staff position(s).

## Trainers' Report August 23, 2019

This report covers the time period of July 15, 2019, through August 22, 2019.

### Completion of training:

- Multnomah County Drainage District – ORS 244 (Portland)
- Oregon Health Authority – ORS 244 (Salem)
- Portland Metro – ORS 244 (Portland)
- Oregon Association of School Business Officials – ORS 244 (Bend)
- International Visitor Leadership Program Indonesian Delegation – ORS 244 (OGEC)
- Klamath County School District K12 – ORS 244 (Redmond)
- Oregon Health Authority – ORS 244 (Salem)

### Upcoming Trainings:

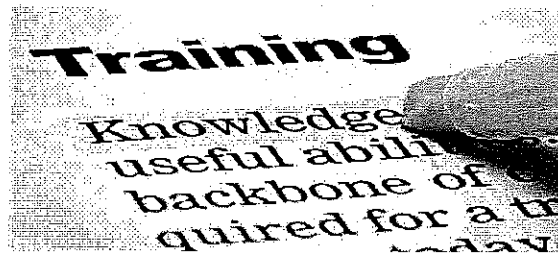
<u>Date</u>	<u>Time</u>	<u>Public Body (Topic)</u>	<u>Address</u>
8/27/19	9:30 – 11:30 AM	Oregon Health Authority – Oregon State Hospital (ORS 244)	Oregon Department of Forestry 2600 State Street, Building C Tillamook Room Salem, Oregon 97310
9/18/19	11:00 – 12:00 PM	Oregon Health Authority – New Employee Orientation (ORS 244)	Human Services Building 500 Summer St. NE Room 166 Salem, Oregon 97301
10/3 or 10/4/19 TBD	TBD	Oregon Code Enforcement Association (ORS 244)	Driftwood Shores Resort 88416 1 <sup>st</sup> Ave Florence, OR 97439
10/16/19	11:00 – 12:00 PM	Oregon Health Authority – New Employee Orientation (ORS 244)	Human Services Building 500 Summer St. NE Room 166 Salem, Oregon 97301
10/19	TBD	Oregon State Historic Preservation Office (ORS 244)	North Mall Office Building 725 Summer St. NE Salem, OR 97301

11/5/19	TBD	Oregon Corrections Enterprises Advisory Council (ORS 244)	Oregon Corrections Enterprises In the Showroom 3691 State Street Salem, Oregon 97310
11/12/19	11:00 – 12:00 PM	Oregon Health Authority – New Employee Orientation (ORS 244)	Human Services Building 500 Summer St. NE Room 160 Salem, Oregon 97301

**Upcoming Conferences:**

10/14 or 10/15/19 TBD	1:15 – 3:00 PM	Oregon Association for Court Administration / City of Milwaukie Court Operations	Hilton Garden Inn 3528 Gateway Street Springfield, Oregon 97477
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Training Staff: Tammy Hedrick 503-378-6802 [tammy.r.hedrick@oregon.gov](mailto:tammy.r.hedrick@oregon.gov)  
 Monica Walker 503-378-2011 [monica.walker@oregon.gov](mailto:monica.walker@oregon.gov)



# September 2019

## Oregon Government Ethics Commission AdobeConnect Webinar Training Calendar

Monday	Tuesday	Wednesday	Thursday	Friday
2	3	4	5	6
<div style="border: 1px solid black; padding: 5px; width: fit-content;">                     Email <a href="mailto:ggec.training@oregon.gov">ggec.training@oregon.gov</a>                      to register for a webinar.                 </div>		Gifts 10:00 – 11:00 AM		
9	10	11	12	13
	Lobby Law 2:00 – 3:00 PM		New Employees: you're a public official, now what! 10:00 – 11:00 AM	
16	17	18	19	20
23	24	25	26	27
	U/O & Conflicts of Interest 2:00 – 3:00 PM		Executive Session 10:00 – 11:00 AM	
30	Oct 1	2	3	4
			COMMISSION MEETING	





## Executive Director's Report

August 23, 2019

- Budget
  - 2017-19 biennial budget
    - Currently projected with a \$188,035.07 surplus.
    - Expenditures through June, \$108,882.35 spent per month at the end of the biennium.
    - General Fund Revenues have exceeded predictions, forecasted; \$30,000 for biennium; moneys collected to date, \$60,486.50.
    - Used current surplus budget to buy computers, software, paper and letterhead, to reduce costs in the 2019-21 biennium.
  - 2019-21 biennial budget
    - Waiting on first report on 2019-21 biennium (July actuals).
- SEI
  - Continuing to work on SEI non-filers from previous years.
  - All 2019 SEIs are filed.
- Other
  - Completed recruitment for CS2 position; new employee starting 8/26/19.
  - Still learning "Workday", the new HR system.
  - Lobbyist filings due for 1st quarter of 2019, 1 clients, 3 lobbyists. Filings due for 2<sup>nd</sup> quarter, 1 client, 2 lobbyists.
  - "Best Practices" survey completed.
  - Met with delegation comprised of eight women in government from Indonesia on August 9<sup>th</sup>. They were interested in transparency and preventing corruption in government.
  - Secretary of State's Audit Division is currently conducting a performance audit on the Commission.

**OREGON GOVERNMENT ETHICS COMMISSION**  
**Fund 0050 AGENCY REVENUE TO GENERAL FUND**  
**For the Month of MONTH 13 2019**



**REVENUES**

Budget Obj	Budget/Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
0505	FINES AND FORFEITS	167,590.00 <b>167,590.00</b>	228,076.50 <b>228,076.50</b>	30,000.00 <b>30,000.00</b>	-198,076.50 <b>-198,076.50</b>	9,503.19 <b>9,503.19</b>	#NAN <b>#NAN</b>

**SUMMARY TOTALS**

0050  
**AGENCY REVENUE TO GENERAL FUND**

Month Activity	Biennium Activity
167,590.00	228,076.50
<b>167,590.00</b>	<b>228,076.50</b>



**OREGON GOVERNMENT ETHICS COMMISSION**  
**Fund 4150 OF LIMIT - ADMIN**  
**For the Month of MONTH 13 2019**

**REVENUES**

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
0415	ADMINISTRATIVE AND SERVICES CHARGES	0.00	2,513,007.55	2,524,954.00	11,946.45	104,708.65	#NAN
0505	FINES AND FORFEITS	0.00	0.00	0.00	0.00	0.00	#NAN
0875	OTHER REVENUE	-3,332.79	-2,684.04	2,000.00	4,684.04	-111.84	#NAN
		<b>-3,332.79</b>	<b>2,510,323.51</b>	<b>2,526,954.00</b>	<b>16,630.49</b>	<b>104,596.81</b>	<b>#NAN</b>

**TRANSFER OUT**

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
9999	DEFAULT	0.00	10,000.00	0.00	-10,000.00	416.67	#NIF
		<b>0.00</b>	<b>10,000.00</b>	<b>0.00</b>	<b>-10,000.00</b>	<b>416.67</b>	<b>#NIF</b>

**PERSONAL SERVICES**

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
3110	CLASS/UNCLASS SALARY & PER DIEM	0.00	1,083,098.08	1,081,008.00	-2,090.08	45,129.09	#NAN
3160	TEMPORARY APPOINTMENTS	0.00	0.00	466.00	466.00	0.00	#NIF
3190	ALL OTHER DIFFERENTIAL	0.00	1,514.98	0.00	-1,514.98	63.12	#NIF
3210	ERB ASSESSMENT	0.00	387.72	456.00	68.28	16.16	#NAN
3220	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	0.00	209,487.65	202,950.00	-6,537.65	8,728.65	#NAN
3221	PENSION BOND CONTRIBUTION	0.00	64,675.66	61,151.00	-3,524.66	2,694.82	#NAN
3230	SOCIAL SECURITY TAX	0.00	83,418.11	82,741.00	-677.11	3,475.75	#NAN
3250	WORKERS' COMPENSATION ASSESSMENT	0.00	401.30	621.00	219.70	16.72	#NAN
3260	MASS TRANSIT	0.00	6,507.48	6,490.00	-17.48	271.15	#NAN
3270	FLEXIBLE BENEFITS	0.00	226,257.24	300,024.00	73,766.76	9,427.39	#NAN
		<b>0.00</b>	<b>1,675,748.22</b>	<b>1,735,907.00</b>	<b>60,158.78</b>	<b>69,822.84</b>	<b>#NAN</b>

**SERVICES and SUPPLIES**

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
4100	INSTATE TRAVEL	287.22	14,589.82	19,004.00	4,414.18	607.91	#NAN
4150	EMPLOYEE TRAINING	125.00	2,557.15	7,080.00	4,522.85	106.55	#NAN
4175	OFFICE EXPENSES	1,359.73	13,849.37	21,557.00	7,707.63	577.06	#NAN
4200	TELECOMMTECH SVC AND SUPPLIES	1,232.10	17,574.53	18,723.00	1,148.47	732.27	#NAN
4225	STATE GOVERNMENT SERVICE CHARGES	0.00	52,597.93	52,557.00	-40.93	2,191.58	#NAN
4250	DATA PROCESSING	90.84	32,251.63	98,254.00	66,002.37	1,343.82	#NAN
4275	PUBLICITY & PUBLICATIONS	0.00	908.46	1,023.00	114.54	37.85	#NAN
4300	PROFESSIONAL SERVICES	0.00	12,535.57	9,469.00	-3,066.57	522.32	#NAN
4315	IT PROFESSIONAL SERVICES	0.00	285,968.00	310,552.00	24,584.00	11,915.33	#NAN

Budget Obj	Budget Obj Title	Monthly Activity	Biennium to Date Activity	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to Spend
4325	ATTORNEY GENERAL LEGAL FEES	0.00	184,525.51	161,995.00	-22,530.51	7,688.56	#NAN
4375	EMPLOYEE RECRUITMENT AND DEVELOPMENT	0.00	199.99	2,484.00	2,284.01	8.33	#NAN
4400	DUES AND SUBSCRIPTIONS	0.00	0.00	450.00	450.00	0.00	#INF
4425	FACILITIES RENT & TAXES	0.00	82,491.37	94,494.00	12,002.63	3,437.14	#NAN
4575	AGENCY PROGRAM RELATED SVCS & SUPP	208.65	3,202.69	0.00	-3,202.69	133.45	#NAN
4650	OTHER SERVICES AND SUPPLIES	1,463.57	166,692.27	164,091.00	-2,601.27	6,945.51	#NAN
4700	EXPENDABLE PROPERTY \$250-\$5000	0.00	691.50	7,607.00	6,915.50	28.81	#NAN
4715	IT EXPENDABLE PROPERTY	0.00	17,352.45	0.00	-17,352.45	723.02	#INF
		<b>4,767.11</b>	<b>887,988.24</b>	<b>969,340.00</b>	<b>81,351.76</b>	<b>36,999.51</b>	<b>#NAN</b>

### SUMMARY TOTALS

2150  
OFFICE ADMIN

	Month Activity	Biennium Activity
REVENUES		
REVENUE	-3,332.79	2,510,323.51
Total	-3,332.79	2,510,323.51
EXPENDITURES		
PERSONAL SERVICES	0.00	1,675,748.22
SERVICES AND SUPPLIES	4,767.11	887,988.24
Total	4,767.11	2,563,736.46
TRANSFER OUT	0.00	10,000.00
Total	0.00	10,000.00

OREGON GOVERNMENT ETHICS COMMISSION  
AY19 CASH FLOW

	Appn 30000 - Admin - PCA 41501				Appn 70000 - GF - PCA 00501			
	Actuals To Date	Actuals + Projected	2017-2019 LAB	Variance	Actuals To Date	Actuals + Projected	2017-2019 LAB	Variance
<b>Beginning Cash Balance</b>	798,167.30	798,167.30						
<b>REVENUE</b>								
0415 ADMINISTRATIVE AND SERVICES CHARGES	2,519,661.13	2,519,661.13	2,524,954.00	5,292.87	60,486.50	60,486.50	30,000.00	(30,486.50)
0505 FINES AND FORFEITS				0.00				0.00
0975 OTHER REVENUE	648.75	648.75	2,000.00	1,351.25				0.00
<b>Total Revenue</b>	<b>2,520,309.88</b>	<b>2,520,309.88</b>	<b>2,526,954.00</b>	<b>6,644.12</b>	<b>60,486.50</b>	<b>60,486.50</b>	<b>30,000.00</b>	<b>(30,286.50)</b>
<b>TRANSFERS</b>								
2010 TRANSFER OUT TO OTHER FUNDS	(10,000.00)	(10,000.00)		10,000.00				0.00
1107 TRANSFER IN FROM DEPT OF ADMIN SVCS				0.00				0.00
<b>Total Transfers</b>	<b>(10,000.00)</b>	<b>(10,000.00)</b>		<b>10,000.00</b>				<b>0.00</b>
<b>PERSONAL SERVICES</b>								
3110 CLASS/UNCLASS SALARY & PER DIEM	1,083,098.08	1,083,098.08	1,119,202.00	36,103.92				0.00
3160 TEMPORARY APPOINTMENTS			466.00	466.00				0.00
3170 OVERTIME PAYMENTS				0.00				0.00
3190 ALL OTHER DIFFERENTIAL	1,514.98	1,514.98	456.00	(1,514.98)				0.00
3210 ERB ASSESSMENT	387.72	387.72	206,804.00	68.28				0.00
3220 PUBLIC EMPLOYEES' RETIREMENT SYSTEM	209,487.65	209,487.65	61,420.00	(2,683.65)				0.00
3221 PENSION BOND CONTRIBUTION	64,675.66	64,675.66	82,741.00	(3,255.66)				0.00
3230 SOCIAL SECURITY TAX	83,418.11	83,418.11	621.00	(67.11)				0.00
3250 WORKERS' COMPENSATION ASSESSMENT	401.30	401.30	6,490.00	219.70				0.00
3260 MASS TRANSIT	6,507.48	6,507.48	311,148.00	(77.48)				0.00
3270 FLEXIBLE BENEFITS	226,257.24	226,257.24	1,789,348.00	84,890.76				0.00
<b>Total Personal Services</b>	<b>1,675,748.22</b>	<b>1,675,748.22</b>	<b>1,789,348.00</b>	<b>113,599.78</b>				<b>0.00</b>
<b>SERVICES AND SUPPLIES</b>								
4100 INSTATE TRAVEL	14,302.60	14,702.60	19,094.00	4,301.40				0.00
4125 OUT-OF-STATE TRAVEL				0.00				0.00
4150 EMPLOYEE TRAINING	2,432.15	2,727.15	7,080.00	4,352.85				0.00
4175 OFFICE EXPENSES	12,489.64	12,489.64	21,557.00	9,067.36				0.00
4200 TELECOMM/TECH SVC AND SUPPLIES	16,342.43	16,342.43	16,723.00	2,380.57				0.00
4225 STATE GOVERNMENT SERVICE CHARGES	52,597.93	52,874.93	52,557.00	(517.93)				0.00
4250 DATA PROCESSING	32,160.79	32,160.79	98,254.00	66,093.21				0.00
4275 PUBLICITY & PUBLICATIONS	908.46	908.46	1,023.00	114.54				0.00
4300 PROFESSIONAL SERVICES	12,535.57	12,930.15	9,469.00	(3,461.15)				0.00
4315 IT PROFESSIONAL SERVICES	285,968.00	299,318.00	310,552.00	17,234.00				0.00
4325 ATTORNEY GENERAL LEGAL FEES	184,525.51	184,525.51	161,995.00	(22,530.51)				0.00
4375 EMPLOYEE RECRUITMENT & DEVELOPMENT	199.99	1,441.99	2,484.00	1,042.01				0.00
4400 DUES AND SUBSCRIPTIONS		225.00	450.00	225.00				0.00
4425 FACILITIES RENT & TAXES	82,491.37	82,491.37	94,194.00	12,002.63				0.00
4575 AGENCY PROGRAM RELATED SVCS & SUPP	2,994.04	2,994.04	164,091.00	(2,994.04)				0.00
4650 OTHER SERVICES AND SUPPLIES	165,228.70	166,728.70	7,607.00	(2,637.70)				0.00
4700 EXPENDABLE PROPERTY \$250-\$5000	3,144.88	3,144.88	7,607.00	4,462.12				0.00
4715 IT EXPENDABLE PROPERTY	14,899.07	14,899.07		(14,899.07)				0.00
<b>Total Services and Supplies</b>	<b>883,221.13</b>	<b>894,904.71</b>	<b>969,340.00</b>	<b>74,435.29</b>				<b>0.00</b>
5900 OTHER CAPITAL OUTLAY								
<b>TOTAL EXPENDITURES</b>	<b>2,558,969.35</b>	<b>2,570,652.93</b>	<b>2,758,688.00</b>	<b>188,035.07</b>				<b>0.00</b>
<b>Ending Cash Balance*</b>	<b>749,507.83</b>	<b>737,824.25</b>						

\*Outstanding Revenue Invoices not taken into consideration

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