



Oregon

Kate Brown, Governor

Government Ethics Commission

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September 6, 2019

Bev Clarno, Secretary of State
c/o Tasha Petersen, HR Director
Secretary of State's Office
255 Capitol St NE, Suite 105
Salem, Oregon 97310

Dear Secretary Clarno:

This opinion is issued in response to a request for a staff opinion received by the Oregon Government Ethics Commission (Commission) on August 16, 2019 from the Human Resources Director of the Secretary of State's Office on behalf of the Secretary of State, Bev Clarno. The request regards the application of Oregon Government Ethics law to the employment of the Secretary of State's relative by the Secretary of State's Office.

OREGON GOVERNMENT ETHICS COMMISSION STAFF ADVISORY OPINION NO. 19-182S

STATED FACTS:

The Secretary of State (Secretary) is a statewide elected office. The Secretary manages the Office of the Secretary of State (Office), which employs 200 people in several divisions, including the Executive Office. The divisions are Elections, Audits, Archive, Corporate, Business Services, Information Services, and Human Resources. "[E]ven if the Secretary did not directly supervise a member of her family, (her son, for example) that person's supervisor would ultimately report to the Secretary." The Secretary is the top of the "chain of command".

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

ORS 244.020 Definitions As used in this chapter, unless the context requires otherwise:

(1) "Actual 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 would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (13) of this section.

(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:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(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.

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

(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.

(16)(a) "Relative" means: The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;

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.

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

(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

244.175 Definitions for ORS 244.177 and 244.179. As used in ORS 244.177 and 244.179:

(1) "Governing body" has the meaning given that term in ORS 192.610. [192.610(3) "Governing body" means the members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.]

(2) "Public body" has the meaning given that term in ORS 174.109.

244.177 Employment of relative or member of household; exceptions. (1) Except as provided in subsections (2) to (4) of this section:

(a) A public official may not appoint, employ or promote a relative or member of the household to, or discharge, fire or demote a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises

jurisdiction or control, unless the public official complies with the conflict of interest requirements of this chapter.

(b) A public official may not participate as a public official in any interview, discussion or debate regarding the appointment, employment or promotion of a relative or member of the household to, or the discharge, firing or demotion of a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control. As used in this paragraph, "participate" does not include serving as a reference, providing a recommendation or performing other ministerial acts that are part of the normal job functions of the public official.

(2) A member of the Legislative Assembly may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position as an unpaid volunteer with the public body that the public official serves or over which the public official exercises jurisdiction or control.

(3)(b) Paragraph (a) of this subsection does not apply to the appointment, employment, promotion, discharge, firing or demotion of a relative or member of the household to a position as an unpaid member of a governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control.

(3)(c) A relative or member of the household described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) This section does not prohibit a public body from appointing, employing, promoting, discharging, firing or demoting a person who is a relative or member of the household of a public official serving the public body.

244.179 Supervision of relative or member of household; exceptions. (1) Notwithstanding ORS 659A.309 and except as provided in subsections (2) to (4)

of this section, a public official acting in an official capacity may not directly supervise a person who is a relative or member of the household.

(2) A member of the Legislative Assembly may directly supervise a person who:

(a) Is a relative or member of the household; and

(b) Serves as a public official in a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official acting in an official capacity may directly supervise a person who is a relative or member of the household if the person serves as an unpaid volunteer.

(3)(b) Paragraph (a) of this subsection does not apply to service by a person in a position as an unpaid member of a governing body that a public official of whom the person is a relative or member of the household serves or over which the public official exercises jurisdiction or control.

(3)(c) A relative or member of the household serving as an unpaid volunteer described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) A public body may adopt policies specifying when a public official acting in an official capacity may directly supervise a person who is a relative or member of the household.

Question: What limits or restrictions would Oregon Government Ethics law place upon the employment of the Secretary's relative in the Office of the Secretary of State?

Answer: The Secretary of State and all employees in the Office of the Secretary are public officials, subject to compliance with the Oregon Government Ethics laws in ORS Chapter 244. The Secretary is the manager of the 200 employees of the Secretary of State's Office and she exercises jurisdiction and control over the Office. The nepotism, conflict of interest, and prohibited use of office provisions of Oregon Government Ethics law apply in this situation, as described below.

Nepotism

In relevant part, the nepotism provisions of ORS Chapter 244 prohibit the Secretary from participating in appointing, employing, or promoting a relative to, or discharging, firing, or demoting a relative from, a paid position with the Office over

which she exercises jurisdiction or control, unless she complies with the conflict of interest provisions of ORS Chapter 244.

Further, Secretary Clarno may not participate in her official capacity in any interview, discussion or debate regarding the appointment, employment, or promotion of a relative to, or the discharge, firing, or demotion of a relative from, a paid position with the Office over which she exercises jurisdiction or control. The Secretary may, however, provide a relative a reference or recommendation or perform other ministerial acts that are part of her normal job functions as Secretary. [ORS 244.177(1)]

An exception allows the Secretary to participate in the appointment of a relative to an unpaid volunteer position with the Office. [ORS 244.177(2), (3)]

In pertinent part, a public official is prohibited from directly supervising a relative in a paid position with the public body that the public official serves or over which the public official exercises jurisdiction or control. Again, a relevant exception applies to the Secretary who may supervise a relative in an unpaid volunteer position. [ORS 244.179]

A *public body* is not prohibited from appointing, employing, promoting, discharging, firing, or demoting a person who is a relative of a public official serving the public body and a public body may adopt policies specifying when a public official may, in their official capacity, supervise a person who is their relative. [ORS 244.177(4) and 244.179(4)]

Conflict of Interest

ORS 244.020(1) defines an actual conflict of interest and ORS 244.020(13) defines a potential conflict of interest. The difference between an actual and potential conflict of interest is determined by the certainty of the private financial impact. In relevant part, an **actual conflict** of interest occurs when a public official participates in an official action that **would** have a direct financial impact on their relative. A **potential conflict** of interest occurs when a public official's action, decision or recommendation **could** have a financial impact on their relative.

Secretary Clarno serves in an elected position and when met with a conflict of interest, she must on each occasion, publicly announce the nature of her conflict, regardless of whether the conflict is actual or potential. In this instance, any official action Secretary Clarno were to take concerning the employment or supervision of a relative would be an actual conflict of interest and she would have to publicly announce the nature of her conflict, either through a press release, a posting on the Secretary of State's website, or any other means designed to inform the public. Following her announcement, Secretary Clarno must then refrain from participating in her official capacity in any actions on the issue. [ORS 244.120(2)]

Prohibited Use of Office

In relevant part, ORS 244.040 prohibits the Secretary from using her official position to obtain a private financial gain for a relative if the benefit would not otherwise be available but for the Secretary's holding of her official position. This prohibition applies regardless of whether the Secretary complies with the conflict of interest provisions of Oregon Government Ethics law. [ORS 244.040(1), (7)]

Application to the Secretary of State

In order to comply with all the provisions of Oregon Government Ethics law, it appears that the Secretary of State could not participate in any official actions pertaining to the paid employment or supervision of her relative in a position with the Office. A nepotism provision states that she could participate in the appointing, employing, or promoting of a relative to a paid position with the Office over which she exercises jurisdiction or control, provided that she complied with the conflict of interest statutes. In this case, however, Secretary Clarno's compliance with the conflict of interest statutes would prevent the Secretary's participation on the issue.

The Secretary would have an actual conflict of interest when met with taking any official action concerning the paid employment or supervision of her relative with the Office. When met with an actual conflict of interest, Secretary Clarno is required to publicly announce the nature of her conflict and then refrain from taking any official actions on the issue giving rise to the conflict.

Further, even if the Secretary were to comply with the conflict of interest provisions, she would be in violation of the prohibited use of office provision if the paid employment of her relative with the Office would not be available "but for" the Secretary's holding of her position as the person who exercises jurisdiction and control over the Office.

The Secretary may participate in the employment and supervision of a relative who serves in any *unpaid* position in the Office.

Application to the Office

Under the nepotism provisions, the Office itself is not prohibited from taking employment related actions concerning a relative of a public official serving the public body. And, the Office may adopt policies specifying when a public official may, in their official capacity, supervise a person who is their relative.

Most of the nepotism provisions place limits on a public official's participation in the employment or supervision of a relative *with the public body that the public official serves or over which the public official exercises jurisdiction or control* (emphasis added) [ORS 244.177 and 244.179].

ORS 244.177(4) explicitly permits the public body to appoint, employ, promote, discharge, fire or demote a person who is a relative of a public official serving the public body. Unlike other provisions of the same statute, this section does not state that the public body may take those employment related actions for a person who is a relative of a public official who exercises jurisdiction or control over the public body, such as the Secretary of State.

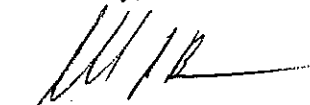
Thus, it would seem that the Office of the Secretary of State may not have the statutory authority under ORS 244.177 to employ a relative of the Secretary in a paid position with the Office. In any event, the Commission does not have jurisdiction over a public body itself, but rather over individual public officials. It appears, however, that it would be very difficult for the Office of the Secretary to hire the Secretary's relative in a manner that would not place the Secretary in possible violation of one or more of the provisions of Oregon Government Ethics law.

In conclusion, it does not appear that the Secretary could participate in the appointment or supervision of her relative in a paid position in the Office and remain in compliance with the nepotism, conflict of interest, and use of office provisions of Oregon Government Ethics law.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A COMMISSION ADVISORY OPINION PURSUANT TO ORS 244.280. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT ETHICS COMMISSION.

Please contact this office if you would like this opinion submitted for adoption as a Commission advisory opinion pursuant to ORS 244.282(4).

Sincerely,



Ronald A. Bersin
Executive Director

RAB/dg

HUNTER David * OGEC

From: PETERSEN Tasha * SOS
Sent: Friday, August 16, 2019 12:21 PM
To: OGEC Mail * OGEC
Subject: Staff Opinion Requested

Good morning,

The Secretary of State would like to request a staff opinion on a matter related to Nepotism.

The Secretary of State is an (elected) public official and is the "head" of the Secretary of State's office. As such, all employees ultimately report to her.

As such, even if the Secretary did not directly supervise a member of her family (her son, for example) that persons supervisor would ultimately report to the Secretary. Consequently, the Secretary would be at the top of the "chain of command."

Would employing a family member (as defined by ORS 244.020(15)) constitute a violation of the nepotism law and be prohibited?

Is there any circumstance in which a family member of the sitting Secretary of State could be employed by the Secretary of State's office and still be in compliance with the law?

Is there any applicable exception?

Thank you for your assistance,

Tasha Petersen, SPHR
Human Resources Director
Human Resources Division, Oregon Secretary of State
Desk: 503.986.2168 | Cell: 971.304.5499 | Confidential Fax: 503.986.2175

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Kate Brown, Governor

Government Ethics Commission

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August 16, 2019

Kathy Storm
C/o Oregon Forest Resources Institute
317 SW Sixth Ave., Suite 400
Portland, Oregon 97204-1705

RE: Advice Number 19-175I

Dear Ms. Storm:

This letter of advice is provided in response to your request received on August 15, 2019 which presented a question regarding the application of Oregon Government Ethics law and how the law may apply to public officials who may participate in the Oregon Forest Resources Institutes Board of Directors Active Management of Dry-side Forests for Fire Resiliency Tour scheduled for October 10-11, 2019.

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.

From the information provided, the Oregon Forest Resources Institute (OFRI) is hosting a reception and educational tour for public officials. The purpose of the event is to educate and inform state government officials, county commissioners, city officials, and other officials from all other levels of government on forest collaborations at work in Oregon and outcomes of forest restoration. The tours will highlight forest restoration projects in the Deschutes National Forest and host several speakers and presentations.

During these events, OFRI will provide and pay for food, beverage, lodging and travel expenses. In this request, the question asked is what restrictions or requirements Oregon Government Ethics law may impose on public officials who may wish to participate in this tour.

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). ORS 244.020(7)(b) excludes several items from the statutory



Kathy Storm
C/o OFRI
August 16, 2019
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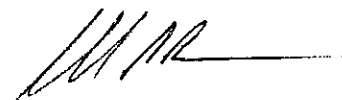
definition of "gift", including reasonable food, travel and lodging expenses provided to a public official when representing government. ORS 244.020(7)(b)(F) allows acceptance of the payment of reasonable expenses for food, beverage, travel and lodging for public officials, when the public official is representing their government agency during a fact-finding mission. The Commission has adopted an administrative rule found in OAR 199-005-0001(2) to provide clarification to the term "fact-finding mission or trip".

Based on the information you provided it appears that ORS 244.020(7)(b)(F) would allow public officials to accept meals, transportation and lodging expenses to participate in the Oregon Forest Resources Institute educational forest reception and tours, which appears to meet the definition of a fact-finding mission, as defined in OAR 199-005-0001(2).

For the public officials who participate in the event and who must file an Annual Verified Statement of Economic Interest report with the Oregon Government Ethics Commission would be required to report the aggregate value of these paid expenses pursuant to ORS 244.060(5). As the source of these paid expenses, it is required that OFRI provide a detailed cost analysis of food, travel and lodging provided to those public officials who may wish to participate, within 10 days of the event. [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

From: Kathy Storm <storm@ofri.org>
Sent: Thursday, August 15, 2019 7:32 AM
To: HEDRICK Tammy R * OGEC
Cc: STORM Kathy
Subject: OFRI Fact Finding Mission Tour for Ethics Approval
Attachments: 2019 Fall OFRI Board Tour Agenda v3.docx

Tammy,

On behalf of OFRI's board of directors, we are planning a fact-finding tour on the subject of mass timber in Bend on October 11, 2019, and we are seeking approval via email from the Oregon Ethics Commission that this tour qualifies as an exemption of a "gift" under ORS 244.020(7)(b)(F). Listed below are the details:

What is the date of the event?

- October 10, 2019 reception
- October 11, 2019 forest tour

What is the purpose of the event?

- The event will highlight forest collaboratives at work in Oregon and outcomes of forest restoration.

Who will be invited to participate?

- State legislators, county commissioners, city officials, and other officials from all other levels of government.

Of those individuals invited, what types of decisions or votes do they make that would have an economic impact on OFRI?

- None of the invitees make decisions or votes nor have an economic impact on OFRI. OFRI is governed by a 13-member board of directors who vote on action items.

What paid expenses are being provided (cost per person)?

- | | |
|---|----------|
| • Reception and dinner catering on Oct. 10 (optional) | \$61.00 |
| • Lodging the night of Oct. 10 (optional) | \$151.19 |
| • Opening session coffee and pastries Oct. 11 | \$18.30 |
| • Tour bus | \$27.00 |
| • Cloth bag to hold tour materials and snack | \$4.00 |
| • Lunch on Oct. 19 | \$25.62 |

Who is paying for the expenses?

- Oregon Forest Resources Institute

Attached is a draft agenda for the tour. Please let me know if you need additional information. I look forward to your response.

Kathy Storm
Senior Manager, Business Operations
storm@ofri.org

Oregon Forest

Resources Institute

9755 SW Barnes Road, Suite 210

Portland, OR 97225

971-673-2953

503-805-0855 cell

oregonforests.org

My office hours: 6:30 – 3:00

2019 OFRI Board Tour:

Theme: Management of Dry-side Forests for Fire Resiliency

Date: October 10 & 11, 2019

Hosts: Deschutes Collaborative Forest Project – Deschutes National Forest

Start/End: Riverhouse on the Deschutes, 2850 Rippling River Court, Bend, Ore.

Agenda

October 10, 2019

5:30 p Welcome Reception

6:00 p Dinner

7:00 p Presentation on Douglas Collaborative Forest Project's Outreach Program and it's evaluation – Christina Frieauf (DCFP) and Michelle Neiss or John Horvick (DHM)

October 11, 2019

8:00 a Coffee & Carbs

8:30 a Welcome & Introductions – **Mike Cloughesy** (OFRI), **Erin Isselmann/Quincy Powers** (OFRI) & **Ed Keith** (DCFP Co-Chair & Deschutes County Forester)

8:45 a Primer on Fire in Oregon's Forests & Overview of Restoration in Dry Fire-Dependent Forests – **Pete Caligiuri** (The Nature Conservancy)

9:15 a Break & Load Bus

9:30 a Travel to Stop 1

10:00 a Stop 1 – West Bend Project (or Rocket) – **Kevin Larkin & Shannon Berg** (Deschutes National Forest) - *Invited*, **Ed Keith** (DCFP) & **Brad or Russ Scott** (Scott Logging) - *Invited*

- Overview of West Bend Project Description
- Role of the DCFP in project planning and implementation
- Logging
- Mowing and mechanical fuels reduction
- Prescribed burning

11:15 a Travel to Stop 2 – Phil's Trail

- 11:45 a Lunch at Stop 2 – Presentation on Local Markets and Products to make Forest Restoration Pay –
- Sawlogs – **Dylan Fritz** (InterFor) - *Invited*
 - Torrefaction – **Bruce Daucsavage** (Ochoco Lumber) - *Invited*
 - Red Rock Biofuels – TBA
 - Chips and Firewood – **John Williams** (Quick Silver) - *Invited*
- 12:45 p Stop 2 – Deschutes Collaborative Forest Project Outreach and Community Engagement in the West Bend Project
- DCFP Outreach – **Melanie Fisher** (Cog Wild) - *Invited*, **Christina Frieauf** (DCFP Outreach Coordinator)
 - Smoke Management – **Bob Madden** (Bend Fire Department) - *Invited*
 - Public Health – **Heather Keisner** (Deschutes County Health Department) - *Invited*
 - Tourism – **Keveny Dugan** (Visit Bend) - *Invited*
- 1:45 p Oregon’s Role in Accelerating Pace & Scale – **Chad Davis** (Oregon Department of Forestry) - *Invited*
- 2:15 p Wrap up – **Phil Henderson** or **Tony DeBone** (Deschutes County Commissioners) - *Invited*, **Cheri Helt** (Oregon House of Representatives) - *Invited*, **Sen. Jeff Merkley** (US Senate) - *Invited*, TBA (Local HOA) & **Mike Cloughesy** (OFRI)
- 2:45 p Return to Riverhouse
- 3:15 p Tour Adjourns



Oregon

Kate Brown, Governor

Government Ethics Commission

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August 28, 2019

Sandy Braden, Chief of Staff
Oregon Youth Development Division
Oregon Department of Education
255 Capitol Street NE
Salem, Oregon 97310-0203

Re: Advice Number 19-180I

Dear Ms. Braden:

This letter of advice is provided in response to your request received on August 16, 2019, which presents questions regarding potential ethical issues arising when the Oregon Youth Development Council engages in grant proposal review and award. 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

The Oregon Youth Development Council (Council) supports Oregon's education system by developing state policy and administering grant funding to community and school-based youth development programs, services, and initiatives for youth ages 6-24. The Council currently has 18 Council members, who are appointed by the Governor.

With its mandate to administer grant funding, the Council periodically issues requests for grant proposals. A grant proposer (Grantee) may be a non-profit organization, faith based organization, public benefit company, mutual benefit corporation, federally recognized tribe, county, city, or other local government entity. [OAR 423-110-0020]. When Grantees submit grant proposals, those grant proposals are reviewed and scored by Council staff, who then present that information for Council review and final award approval.

Questions

In the current round of grant proposals, it appears that one or more Council members may be employed by a Grantee; other Council members may work closely with a Grantee; and still other Council members may serve on the board of a Grantee. In light of these connections between Council members and Grantees, you have asked:



1. How should the Council members handle actual and potential conflicts of interest?
2. Whether Council members with a conflict of interest are required to recuse themselves from any voting process? and
3. If staff presented a "blind" report to the Council, removing any potential Grantee identification, would that allow the Council members with conflicts of interest to participate in the vote, or should they recuse themselves regardless?

Statutes

Under Oregon Government Ethics law, appointed public officials, such as the Council members, are public officials, 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 is 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 244.020(3)(c)].
- For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060(3). [ORS 244.020(3)(d)].

ORS 244.020(16) defines a relative as: (a) the public official's spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law; (b) the parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the public official; (c) any individual for whom the public official has a legal support obligation; or (d) any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment.

When an appointed 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)].

Analysis

Public officials are individually responsible for exercising their own good judgment in determining whether or not they have a conflict of interest. Because the Council is awarding funding to the Grantees, the conflicts of interest, if any exist, would be actual conflicts of interest, because the effect of the Council's action would have a certain financial impact on the Grantees.

In order to determine whether a conflict of interest will arise, each Council member must determine whether the Grantee in question is a business with which the Council member, or the Council member's relative, is associated, as defined in ORS 244.020(2) and 244.020(3). If the Grantee is not a business with which the Council member or a relative is associated, then there would be no conflict of interest and no need for recusal. If the

Grantee is a business with which the Council member or a relative is associated, then the Council member would have an actual conflict of interest and would be required, under ORS 244.120(2)(b) to make a public announcement of the nature of the conflict of interest and to refrain from discussion, debate, or vote on the Grantee's grant proposal or approval of the grant award.

To determine whether a Grantee is a business with which the Council member or a relative is associated, one must first determine whether the Grantee is a business. ORS 244.020(2) defines a business as a legal entity, in various forms, that is operated for economic gain. It excludes from the definition of business an income-producing 501(c) non-profit corporation with which a public official is associated only as a member, board director, or in a nonremunerative capacity.

Possible Grantees include tribes, counties, cities, and other local governments (collectively, governmental units). Because governmental units are not legal entities operated for economic gain, they do not fall within the definition of a business; therefore, they cannot be businesses with which the Council members are associated. Thus, even if the Council member or a relative is an employee of such a Grantee, the Council member would not have a conflict of interest and could participate in the discussion, debate and vote on the Grantee's grant proposal.

Other possible Grantees are non-profit, faith-based, public benefit and mutual benefit organizations. Some or all of these organizations may be tax exempt under section 501(c) of the Internal Revenue Code. If the Grantees are not tax exempt 501(c) organizations, then they would be legal entities operated for economic gain, and would be businesses, as defined in ORS 244.020(2). If the Grantees are tax exempt 501(c) organizations, then they would not be considered businesses if the Council member or a relative is associated with them only as a member, board director, or in a nonremunerative capacity. If, however, the Council member or a relative is an employee or receives any remuneration from the Grantee, then the organization would be considered a business, even if it is tax exempt under section 501(c).

If the Council member determines that the Grantee in question is a business, as defined in ORS 244.020(2), then the Council member would need to determine whether it is a business with which the Council member or a relative is associated, as defined in ORS 244.020(3). There are three ways in which a Grantee could be a business with which the Council member or a relative is associated:

- If the Grantee is a private business or closely held corporation and the Council member or a relative is a director, officer, owner, employee or agent, or owns currently or has owned stock or other equity interest worth \$1,000 or more during the preceding calendar year, then the Grantee is a business with which the Council member or a relative is associated. [ORS 244.020(3)(a)].
- If the Grantee is a publicly held corporation and the Council member or a relative is a director or officer, or owns currently or has owned \$100,000 or more in stock or other equity interest at any point in the preceding calendar year, then the Grantee is a business with which the Council member or a relative is associated. [ORS 244.020(3)(b) and (c)].
- If the Council member or a relative is required by ORS 244.050 to file a statement of economic interest, then any business required to be listed as a source of income on that statement of economic interest is a business with which they are associated. [ORS 244.020(3)(d)]. Thus, if the Council member or a relative lists the Grantee as a source of income on a statement of economic interest, then the Grantee is a business with which the Council member or a relative is associated.

For the three scenarios described in your request – where the Council members are associated with the Grantees as (a) employees, (b) work associates (i.e., “work closely with”), and (c) board members -- an actual conflict of interest would arise in each case where the Grantee is a business with which the Council member or a relative is associated. No conflict of interest would arise for Council members solely because they “work closely” with a Grantee. But for those cases where the Council member is an employee or board member of the Grantee, then an actual conflict of interest may arise if the Grantee is a business with which the Council member or a relative is associated. In such a case, the Council member is required by ORS 244.120(2)(b) to disclose the conflict of interest by making a public announcement of the nature of the conflict of interest and to refrain from any participation in the matter giving rise to that conflict.

The proposal to have staff present a “blind” report to the Council would not satisfy the statutory requirements. If one of the Grantees is a business with which the Council member or a relative is associated, then an actual conflict of interest would arise, regardless of whether the report is blind or not. In such a case, the Council member would still need to disclose the conflict of interest and refrain from participation.

We have provided the following hypothetical examples to help illustrate this analysis:

Sandy Braden
Advice Letter 19-1801
August 28, 2019
Page 6

- Grantee is the YMCA, a mutual benefit corporation that is 501(c) tax exempt. Council member Myers serves on the YMCA board of directors and receives no remuneration. Council member Myers would not have a conflict of interest because the YMCA is not a business under ORS 244.020(2) and thus is not a business with which Council member Myers is associated.
- Council member Gould's son is employed as a summer lifeguard at the YMCA. Council member Gould would have a conflict of interest because the YMCA is a business, under ORS 244.020(2), and is a business with which Council member Gould's relative is associated, under ORS 244.020(3). Council member Gould would need to publicly disclose the conflict of interest and refrain from participation in the discussion and vote on the YMCA's grant proposal.
- Grantee is Edu-Vision, a non-profit 501(c)(3) corporation. Council member Christon is its owner and is a salaried employee. Council member Christon would have a conflict of interest because Edu-Vision is a business, under ORS 244.020(2), and is therefore a business with which Council member Christon is associated, under ORS 244.020(3). Council member Christon would need to publicly disclose the conflict of interest and refrain from participation in the discussion and vote on Edu-Vision's grant proposal.

As you can see, the determination of whether a Grantee is a business with which a Council member or a relative is associated can be very fact-specific. We encourage you or the Council members to contact our office directly at 503-378-5105 or ogec.mail@oregon.gov. Staff is available to answer questions by phone or e-mail every day.

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.

HUNTER David * OGEC

From: BRADEN Sandy - YDD <sandy.r.braden@state.or.us>
Sent: Friday, August 16, 2019 1:21 PM
To: OGEC Mail * OGEC
Subject: Conflict of Interest advice requested

Importance: High

Good Afternoon,

I needed advice/recommendations on how best to handle potential conflicts of interest.

We have requested proposals for grant funding which we have received and are in the process of having reviewed and scored. We will then present that information to our Council for their review and award approval. Some of our council members may currently be employed by a grantee which submitted a proposal, work closely with a grantee who submitted a proposal or serves on the board for the grantee. Do they recuse themselves from any voting process in which those situations would apply?

If so, if we presented a "blind" report to the council removing any potential grantee identification would that then allow them to vote or to avoid any possibility of a conflict, should they recuse themselves regardless?

Our Council meeting is September 12th so would appreciate any advice/recommendations you have by Sept. 3rd to allow time to prepare our report. If you need any additional information, please do not hesitate to contact me. Thank you.

Regards,

Sandy

Sandy Braden
Chief of Staff
Oregon Youth Development Division
of the Oregon Department of Education
Office: 503-378-5129 | Cell: 503-400-5056 | Sandy.r.braden@state.or.us



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

Website: www.oregon.gov/ogec

September 4, 2019

Tammy Dennee, CMP, CAE – Legislative Director
Oregon Dairy Farmers Association
1320 Capitol Street NE, Suite 160
Salem, Oregon 97301

RE: Advice Number 19-193I

Dear Ms. Dennee:

This letter of advice is provided in response to your request received on August 29, 2019 which presented a question regarding the application of Oregon Government Ethics law and how the law may apply to the participation of public officials, such as members of the State Legislature and their staff, in a tour of various Oregon dairy farms scheduled for February 7, 2020, during which food, beverage and travel will be provided.

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 information provided, the Oregon Dairy Farmers Association (ODFA) is proposing to conduct educational tours for public officials of several Oregon dairy farms to view how these farms are using technological advancements and environmental practices, and how the use of this technology enhances their commitment to animal welfare. The purpose of the tours is to educate and inform state government officials on the technological advances that are key to protecting the environment and animal welfare.

During these tours, ODFA will provide and pay for a boxed lunch and transportation expenses to and from the selected locations. In this request, the question asked is what restrictions or requirements Oregon Government Ethics law may impose on public officials who may wish to participate in these tours.



Under most circumstances when a public official is offered food, beverage and transportation at no cost to the public official, it would be a gift as defined in ORS 244.020(7)(a). ORS 244.020(7)(b) excludes several items from the definition of a "gift", including reasonable food, beverage and transportation expenses provided to a public official when representing government. ORS 244.020(7)(b)(F) allows acceptance of the payment of reasonable expenses for food, beverage and transportation for public officials, when the public official is representing their government agency during a fact-finding mission. The Commission has adopted an administrative rule [OAR 199-005-0001(2)] to provide clarification to the term "fact-finding mission or trip," and the ODFA farm tour meets that definition.

In addition, State Legislators who participate in the tour/event who are required to electronically file an Annual Verified Statement of Economic Interest (SEI) report with the Commission, 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. Further, it is required that ODFA, as the source of these paid expenses, provide a detailed cost analysis of the value of what was received by each individual public official.

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.

August 26, 2019

Ron Bersin
Executive Director
Oregon Government Ethics Commission
3218 Pringle Drive SE, Ste. 220
Salem, OR 97302-1544

Dear Mr. Bersin:

The Oregon Dairy Farmers Association (ODFA) was formed in 1892, 125 years ago, by Oregon's Dairy Producers for the purpose of providing a place for the producers to work together on matters of importance. The same is true today. At the time of formation, Oregon was home to more than 1,000 dairies. Today, Oregon is home to approximately 200 dairy farms and 124,000 dairy cows. The ODFA is governed by eight dairy farmers and one representative from allied industry.

This letter serves as a request for a written opinion on a proposed educational tour that the Oregon Dairy Farmers Association is planning for Friday, February 7, 2020. The primary audience of the tour will be the members of the State Legislature and their key staff members.

This is the third tour with the primary objective of bringing legislators onto dairy farms to view the latest technological advancements, environmental practices and commitment to animal welfare.

The Oregon Dairy industry continues to rank 4th among all of Oregon's commodities according to the Oregon Department of Agriculture in August 2018. While the number of dairy farms is on the decline in Oregon, the economic and environmental contributions have remained strong.

The tour will showcase two or three dairy farms. A boxed lunch and transportation will be provided. The costs associated with the tour will be commensurate with the number of attendees. We will invite every elected official in the Oregon Legislature and encourage them to bring a staff person with them. Therefore, the cost per person could range between \$30 - \$70 per person, depending upon the number of participants. Since this is a fact finding event, elected officials and other public officials will attend at no cost.

A written response from OGEC clarifying this is a fact finding tour and that it meets the statutory requirements is hereby requested and sincerely appreciated.

Thank you for your assistance. Please do not hesitate to contact me at (541) 980-6887 for additional information.

Sincerely,



Tammy Dennee, CMP, CAE – Legislative Director
OREGON DAIRY FARMERS ASSOCIATION

RECEIVED
AUG 29 2019

OREGON GOVERNMENT
ETHICS COMMISSION



1320 Capitol Street NE
Suite 160
Salem, OR 97301
(971) 599-5269
oregondairyfarmers.org



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

Website: www.oregon.gov/ogec

September 10, 2019

Sent Via Email and USPS

Senator Elizabeth Steiner Hayward
900 Court Street NE
Rm S-215
Salem, Oregon 97301

RE: Advice Number 19-195I

Dear Senator Steiner Hayward:

This letter of advice is provided in response to your request received on September 2, 2019 which presented a question regarding the application of Oregon Government Ethics law to a public official's use of governmental resources for personal gain. 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 in your email, you are a physician practicing Family Medicine as a member of the faculty at Oregon Health Science University Hospital (OHSU) and currently serve as a member of the Oregon Legislative Assembly. According to information on the Oregon State Legislature home page your biography includes a statement to your constituents and the State of Oregon regarding your commitment to affordable healthcare and to "...making Oregon the healthiest state in the nation."

In your capacity as a healthcare professional, you have undertaken the writing of a book that would provide a narrative history of the development, implementation, and evolution of the Oregon Health Plan (OHP) which provides health care coverage for low-income Oregonians. You state that during the research and development process for this book you will be conducting interviews of individuals that could include former legislators and state employees relevant to OHP.



You ask a series of questions all of which concern whether you may use government time and resources to work on your book without running afoul of the Oregon Government Ethics Laws. Specifically, you ask: Is it acceptable for you to use the State OneDrive to store documents related to this work? May you make phone calls from state phone lines about it? May you work on the book in your Capitol Office? May your staff do small amounts of work related to the book project?

The answer to your questions is "no." You state that the book potentially will generate some (Probably small) personal income for you. Hence the book is a private business interest. While public officials may engage in private business activities during their personal time using their own personal resources, they may not use their government bodies' time or resources to do so. Thus you may not use state time and resources to work on your book, including but not limited to using state computers, state staff time, and state facilities.

In general, ORS 244.040(1) prohibits a public official from using or attempting to use an official position to obtain financial gain or avoid financial detriment for the public official, a relative or household member, or any business with which the public official, relative or household member of the public official are associated if the opportunity would not otherwise be available but for the public official's holding the official position.

ORS 244.040 is not interpreted to prohibit public officials from pursuing personal interests during their personal time, including private income producing opportunities, as long as the public official is acting within the limitations and restrictions set forth in ORS Chapter 244.

The Oregon Government Ethics Commission has established a set of guidelines to assist public officials who may wish to engage in such income producing activities so as to avoid violating Oregon Government Ethics law:

GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS

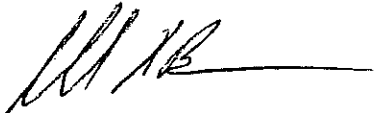
1. Public officials are not to engage in private business interests or other employment activities on their governmental agency's time.
2. A governmental agency's supplies, facilities, equipment, employees, records or any other public resources are not to be used to engage in private business interests.
3. The position as a public official is not to be used to take official action that could have a financial impact on a private business with which you, a relative or member of your household are associated.

4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.
5. When participating in an official capacity and met with a potential or actual conflict of interest related to a business associated with the public official, relative or household member, the public official must disclose the nature of the conflict of interest using the appropriate method prescribed in ORS 244.120.

The primary principle underscored in the guidelines is that a public official who also engages in private income producing activities must maintain a clear distinction between the use of official time and resources of the government body and personal time and resources of the official. A member of the Legislative Assembly must take particular care to ensure that the member's official position is not used in any manner related to private income producing activities.

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 Steiner Hayward <Sen.ElizabethSteinerHayward@oregonlegislature.gov>
Sent: Monday, September 2, 2019 6:23 AM
To: HEDRICK Tammy R * OGEC
Subject: Query about using state resources appropriately

Hi Tammy,

I am in the process of developing a book project to create a narrative history of the development, implementation, and evolution of the Oregon Health Plan. Many of the people I will interview will be current or former legislators and state employees.

While I do consider this work relevant to my work as a legislator, it is also relevant to my work as family physician on faculty at OHSU. If the book proposal is accepted and the book is published, i do not anticipate making much money (some small amount on royalties, but I'd be stunned if it were more than a few thousand dollars all told). However, it would add to my credentials as an academic family physician and potential help me get promoted. Getting promoted is lovely in terms of credentials but does not increase my salary at OHSU at all (where I'm currently only paid for 0.05 FTE anyway).

Is it acceptable for me to use the state OneDrive to store documents related to this work? May I make phone calls from state phone lines about it? May I work on it in my Capitol office? May my staff do small amounts of work related to the book project?

Of note, I will be asking the same questions at OHSU, since conversely there I will be doing something that in theory benefits me as a legislator.

Thanks in advance for your guidance,
Sen. Elizabeth Steiner Hayward

Sent from my iPad



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

Website: www.oregon.gov/ogec

09/04/2019

Michelle Binker
Chief of Staff, District & Constituent Services
Representative Carl Wilson
900 Court Street
Office H-395
Salem, Oregon 97301

Re: Advice Number 19-1961

Dear Michelle Binker:

This letter of advice is provided in response to your request received on September 3, 2019 which presented a question regarding how the provisions of Oregon Government Ethics law may apply to public officials who may participate in a "WORKing Together" conference on September 25 and 26, 2019, in Eugene, Oregon. 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.

Your request states that the Rogue Workforce Partnership, a domestic non-profit, 501(c)(3) organization recognized as such by the Oregon Secretary of State, is hosting a two-day "WORKing Together" conference. Rogue Workforce Partnership has offered to pay the \$325 conference registration cost for each of the named group of legislators, which includes Representative Wilson, on a "first come, first served" basis. The material supplied by you indicates that the purpose of the event is to bring together various community members, including public officials, to focus on "working together" to create "regional and statewide solutions that address [] workforce skills and crisis and prosperity opportunity gaps". In the request you have asked whether it would be appropriate for Representative Wilson to accept the paid registration to this event.

Under most circumstances, when a public official is offered paid registration to participate in a conference, 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 accompanying 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.



Michelle Binker
09 /04/2019
Page 2

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 the cost of the conference as "admission" provided to the official at "a meeting held by" the organization at issue, Rogue Workforce Partnership

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

*****DISCLAIMER*****

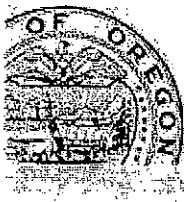
This staff advice is provided under the authority given in ORS 244.284(1). This opinion offers guidance on how Oregon Government Ethics law may apply to the specific facts described in your request. This opinion is based on my understanding and analysis of the specific circumstances you described and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

ethicsOP5

From: Rep Wilson <Rep.CarlWilson@oregonlegislature.gov>
Sent: Tuesday, September 3, 2019 3:10 PM
To: BERSIN Ron A * OGEC <Ron.A.Bersin@state.or.us>
Cc: SEKERAK Tim <Tim.Sekerak@oregonlegislature.gov>; TEDROW Chase <Chase.Tedrow@oregonlegislature.gov>
Subject: FW: WORKing Together - Free Conference Registration Opportunity - Act Today
Importance: High

Good afternoon,
Our office has received the following offer to cover costs associated with conference attendance in state. Can you please tell me if accepting this is appropriate?
Thank you!

Michelle



Michelle Binker

Chief of Staff, District & Constituent Services
Representative Carl Wilson
Oregon House District 03
(O) (503) 986-1403
900 Court Street, Office H-395 | Salem OR, 97301
BinkerM@oregonlegislature.gov
Rep.CarlWilson@oregonlegislature.gov

*Please note that all emails sent to and from this email may be subject to disclosure under public records law.

From: Jim Fong <JimF@rogueworkforce.org>
Sent: Tuesday, September 3, 2019 12:29 PM
To: Rep Wilson <Rep.CarlWilson@oregonlegislature.gov>; Rep Leif <Rep.GaryLeif@oregonlegislature.gov>; Rep Wallan <Rep.KimWallan@oregonlegislature.gov>; Rep McLane <Rep.MikeMcLane@oregonlegislature.gov>; Rep Marsh <Rep.PamMarsh@oregonlegislature.gov>; Sen Linthicum <Sen.DennisLinthicum@oregonlegislature.gov>; Sen Baertschiger <Sen.HermanBaertschiger@oregonlegislature.gov>; Sen Golden <Sen.JeffGolden@oregonlegislature.gov>
Cc: Tami Allison <TamiA@rogueworkforce.org>
Subject: FW: WORKing Together - Free Conference Registration Opportunity - Act Today
Importance: High

Dear Senators Baertschiger, Golden, Linthicum & Representatives Wilson, Leif, Wallan, McLane, Marsh:

On behalf of the leaders of the Rogue Workforce Partnership, we want to provide an opportunity for you and/or your staff to get free conference registration to the **WORKing Together** conference on September 25th & 26th in Eugene.

This dynamic conference brings together a huge array of stakeholders from elected office, business, K-12 education, higher education, maker spaces, innovation hubs, labor, workforce, human services, community-based organizations, and many others. These include elected officials, policy-makers, executives, superintendents, administrators, middle managers, frontline practitioners/staff, and community members. All focused on “*working together*” to create regional and statewide solutions that address our workforce skills crisis and prosperity opportunity gaps.

RWP is offering to pay the \$325 conference registration cost for up to 10 regional partners - *on a first come-first serve basis*. We think that allocating funds that we have previously spent on sending our Local Workforce Board leaders to a national conference, will get a much higher return on investment if we create capacity for more of our regional partners/stakeholders such as you to participate in this tremendous statewide conference.

The deadline for the discounted hotel rates is today, and there are still rooms available.

So, book your hotel rooms today, and send us an email reply so we can work out the conference registration payment logistics later this week. Pasted below are links for conference information and hotel booking.

Let me know if you have any questions, etc..
I hope to see you at the conference.
Jim



**ROGUE WORKFORCE
PARTNERSHIP**

James G. Fong | Executive Director
Office: 541-842-2515 | Cell: 541-482-4381 | Email:
jimf@rogueworkforce.org | <http://rogueworkforce.org>
Woolworth Building - 1st Floor ♦ 37 N. Central Avenue, Medford, OR 97501

From: Michela Coniglio [<mailto:michela@viva-consult.com>]
Sent: Thursday, August 29, 2019 4:50 PM
To: Michela Coniglio, CMP <michela@viva-consult.com>
Subject: WORKing Together Conference: Book Your Hotel by September 21

20 WORKING 19 TOGETHER

REIMAGINING...

September 25-26, 2019
Graduate Hotel Eugene | Eugene, OR

HAVE YOU BOOKED
YOUR HOTEL?



Discounted guestrooms at the Graduate Hotel Eugene during the conference dates are running low. Your hotel must be booked by **Monday, September 2** in order to receive the discounted conference rate. Reserve your **discounted** guestroom now before it's too late!

Click the button below to reserve your room, or call the reservations line at (413) 821-3144 and refer to booking code: **WORK**.

[Book Hotel](#)

Registration closes on **Friday, September 13**. This conference sold out last year, so register early!

[Register Now!](#)

[Event Website](#)

For registration questions, please contact:
Michela Coniglio, WTC Registration Manager
Email: michela@viva-consult.com
Phone: (971) 277-6393

[2018 Video Recap: Why Attend?](#)



Oregon Workforce Partnership
PO Box 4476
Salem, OR 97302



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

Website: www.oregon.gov/ogec

September 20, 2019

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

RE: Advice Number 19-2161

Sent via USPS and email

Dear Mr. Sekerak:

This letter of advice is provided in response to your request received on September 19, 2019 which presented a question regarding how the application of Oregon Government Ethics law may apply to the four legislative officials who have been invited to represent the State of Oregon to participate in the 2019 Delegation to the Fujian Province of China. This response does not apply to any other member of the delegation.

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 Foreign Affairs Office of the Fujian Provincial People's Government has extended an invitation to legislative officials to travel to the Fujian Province from September 25 – 30, 2019. The invitation includes an offer by the Fujian government to pay for the delegation's transportation, hotel accommodations and meals while in the Fujian Province. Delegates will be responsible for all international travel costs and all personal spending.



In offering this invitation, the Fujian government has identified several objectives: to recognize the 40th anniversary of US-China diplomatic relations and the 35th anniversary of the sister province/state relations between Oregon and Fujian Province, trade and investment opportunities, Fujian's business interest in the State of Oregon and support of Oregon's business interests in Fujian. The benefit to the State of Oregon in this international exchange is an opportunity for legislative officials to lobby the Fujian 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 Fujian Province 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 Fujian Province. 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.

Tim Sekerak
September 20, 2019
Page 4

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, September 19, 2019 9:28 AM
To: HEDRICK Tammy R * OGEC
Subject: FW: Legislative Trip to China
Attachments: Invitation Letter to Oregon (8 days).pdf; Updated Itinerary in Fujian(Oregon Delegation).docx

Tammy, here's another fact finding trip for you to look at. Could you give us your analysis on this please. Thanks

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



From: LG Billy Dalto <billy@daltolaw.com>
Sent: Wednesday, September 18, 2019 5:05 PM
To: Rutledge Obie <Obie.Rutledge@oregonlegislature.gov>
Cc: Sekerak Tim <Tim.Sekerak@oregonlegislature.gov>
Subject: Re: Legislative Trip to China

So, we added a non-legislative member to the invitee list and we have substantially changed the agenda to reduce sightseeing and add relevant content including economic development meetings and a school visit. I will provide you with the draft revised itinerary and invitation list, but both will be superseded.

I called the OGEC, but they have not yet responded. Do you have a good contact over there?

Billy

On Sep 18, 2019, at 4:35 PM, Rutledge Obie <Obie.Rutledge@oregonlegislature.gov> wrote:

Hi Billy-

Yes, we are beginning to run out of time. Remind me, when is the trip? I am coping the Clerk. I don't think there is really a form, but rather the invite and agenda. I believe the agenda is the most important element. Do you have a rough draft?

Obie Rutledge

From: LG Billy Dalto <billy@daltolaw.com>
Sent: Wednesday, September 18, 2019 3:19 PM
To: Rutledge Obie <Obie.Rutledge@oregonlegislature.gov>
Subject: Re: Legislative Trip to China

Hi Obie: I have yet to receive the amended invitation and agenda. I asked again for it. I also checked in on the Senate side. Do you have some kind of form to fill out?

I'm concerned as to whether we can receive a written opinion from the OGEC in time. Thoughts?

Billy Dalto

On Sep 9, 2019, at 2:39 PM, Rutledge Obie <Obie.Rutledge@oregonlegislature.gov> wrote:

Billy-

Just checking in with you on this. Did you get a finalized invite and agenda, yet?

Thank you,

Obie Rutledge

From: LG Billy Dalto <billy@daltolaw.com>
Sent: Thursday, August 15, 2019 3:07 PM
To: Rutledge Obie <Obie.Rutledge@oregonlegislature.gov>
Cc: jlan@chinaselections.com; Sekerak Tim <Tim.Sekerak@oregonlegislature.gov>; OBrien Lindsey <Lindsey.OBrien@oregonlegislature.gov>
Subject: Re: Legislative Trip to China
Importance: High

Hello Obie:

Great to hear from you. I am working on finalizing the agenda with the Fujian government. I'll also request an invitation. We may be adding participants. At any rate, I'll route both to you and the Senate side for submission to OGEC.

Thank you!

Billy Dalto

L.G. Billy Dalto | Attorney at Law
242 Church St. SE, Suite 200

Mail to: P.O. Box 943
Salem, OR 97308
Tel: 503-339-3211
Fax: 503-990-7981
billy@daltolaw.com

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On Aug 15, 2019, at 8:48 AM, Rutledge Obie
<Obie.Rutledge@oregonlegislature.gov> wrote:

Good morning, Jin Lan and Billy-

First, nice to see your name Billy. I was unaware of your position with the Oregon Fujian Sister State Association – that is fantastic, congratulations!

I know our members are excited to be attending this mission. In order for all the details to be arranged prior to the trip, we will need to get this fact-finding mission sanctioned. The attached agenda is great. Would it be possible to get the formal invitation; and a roster of the members that will be attending? Once we get this information, we will work with the Oregon Government Ethics Commission (OGE). They will produce a memo that complies with the relevant statutes. Once that occurs, the Clerk can sanction the trip as a legislative fact-finding mission. As you are both well aware of, these trips having been occurring for a long time, so OGE is well aware of them. Still, we need to “cross all the T’s and dot all the I’s.”

Assuming you have some Senators going, have you been working with the Secretary of the Oregon Senate? They have a similar process to ours. If not, I’d be happy to connect those dots. Might be good to get it accomplished simultaneously.

Respectfully,

Obie Rutledge | Deputy Chief Clerk
Oregon House of Representatives
[Office of the Chief Clerk](#) | [Facebook](#)
obie.rutledge@oregonlegislature.gov
PH: 503.986.1875
<image002.png>

<Updated Itinerary in Fujian(Oregon Delegation).docx>

L.G. Billy Dalto | Attorney at Law
242 Church St. SE, Suite 200
Mail to: P.O. Box 943
Salem, OR 97308
Tel: 503-339-3211
Fax: 503-990-7981
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Updated Itinerary in Fujian(19-8-13)

Sept. 25

- Morning** Arrival in Fuzhou City
- Afternoon** Go to Ningde City through a vehicle
Visit Ningde CATL
Go back to Fuzhou and Check in hotel
- Evening** Meeting and Dinner with Fujian Officials

Sept. 26

- Morning** Check out
Bullet Train to Wuyi Mountain, Nanping City
Check in hotel
- Afternoon** Bamboo rafting
- Evening** Watch Dahongpao Tea Themed Performance

Sept. 27

- Morning** Check out
Go to Fuzhou City by Bullet Train
- Afternoon** Visit to a middle school
Talk with local wine(beer/liquor) distributors
- Evening** Attending the National Day Reception
Free time in Three Lanes and Seven Alleys

Sept. 28

- Morning** Bullet Train to Longyan City
- Afternoon** Visit to Tulou
- Evening** Check in hotel in Longyan

Sept. 29

- Morning** Check out & Bullet Train to Xiamen
- Afternoon** Visit to Kulangsu Island & a pedestrian street
- Evening** Free time

Sept. 30

Morning Check out
Visit to Meitu Inc.

Afternoon Flight back to the US

中华人民共和国福建省人民政府外事办公室

THE FOREIGN AFFAIRS OFFICE OF THE FUJIAN
PROVINCIAL PEOPLE'S GOVERNMENT

FUZHOU, FUJIAN, CHINA
ZIP CODE:350003

TEL:(86-591)87827338
FAX:(86-591)87838267

August 13, 2019

Hon. Jeff Barker,

This year marks the 40th anniversary of US-China diplomatic relations and the 35th anniversary of the sister province/state relations between Oregon and Fujian. With a view of advancing the friendly relationship between the two sides, it would be my pleasure to invite you to lead a delegation to visit Fujian in September and October this year for eight days.

During your visit, we will arrange you to tour around Fujian and experience its development after the reform and opening-up to know better about this province, and have talks on how to deepen our exchanges and cooperation in such fields as economy, trade, education and culture.

Your delegation will include the following members:

Name	Title/Organization	Date of Birth
Hon. Jeff Barker	State Representative, Oregon Legislature	April 1, 1943
Hon. Lew Frederick	State Senator, Oregon Legislature	December 17, 1953
Hon. Sheri Schouten	State Representative, Oregon Legislature	October 7, 1953
Hon. Dick Schouten	County Commissioner, Washington County, Oregon	November 3, 1952
Hon. David Brock Smith	State Representative, Oregon Legislature	December 19, 1976
Robin Rogers	Accountant, Oregon China Council Treasurer	December 27, 1955
Billy Dalto	Business Lawyer Former State Representative Oregon China Council Board Member	October 21, 1976

Your delegation's expenses in Fujian Province, including transportation, hotel accommodations and meals, will be covered by the Fujian Foreign Affairs Office. The international travel costs and other personal spending (e.g. hotel laundry service, mini bar) will be borne by the delegates.

I am looking forward to meeting you in Fujian.

Sincerely,



Wang Tianming
Director-General
Fujian Provincial Foreign Affairs Office

HEDRICK Tammy R * OGEC

From: Barbara Hejtmanek <Barbara_Hejtmanek@co.washington.or.us>
Sent: Thursday, September 19, 2019 1:25 PM
To: HEDRICK Tammy R * OGEC
Subject: FW: Oregon Ethics Inquiry re: Trip to China

Hi, Tammy,

Here is Commissioner Dick Schouten's reply re: the trip to China. Based on his reply, do you need him to fill out any forms or do anything further?

Thank you!
Barbara

From: Dick Schouten <Dick_Schouten@co.washington.or.us>
Sent: Thursday, September 19, 2019 1:19 PM
To: Barbara Hejtmanek <Barbara_Hejtmanek@co.washington.or.us>
Cc: Kathryn Harrington <Kathryn_Harrington@co.washington.or.us>; Robert Davis <Robert_Davis@co.washington.or.us>; Catherine Jacoby <Catherine_Jacoby@co.washington.or.us>; Sheri Schouten <sherileem@aol.com>
Subject: Re: Oregon Ethics Inquiry re: Trip to China

Barbara:

I am going as a Washington County Commissioner to "show the [County] flag" - to further economic and cultural ties between Washington County, the State of Oregon and Fujian Province.

BTW, I've brought County business cards with "Simple Chinese" translations printed on one side and English on the other.

Dick

Sent from my iPhone

HEDRICK Tammy R * OGEC

From: LG Billy Dalto <billy@daltolaw.com>
Sent: Friday, September 20, 2019 11:31 AM
To: HEDRICK Tammy R * OGEC
Subject: Revised itinerary - Oregon China Council trip
Attachments: Updated Itinerary in Fujian(Oregon Delegation).docx

Hi Tammy:

Here's an updated itinerary I received from our Chinese hosts overnight. This version supersedes the itinerary I sent you yesterday.

Thank you,

L.G. Billy Dalto | Attorney at Law
242 Church St. SE, Suite 200
Mail to: P.O. Box 943
Salem, OR 97308
Tel: 503-339-3211
Fax: 503-990-7981
billy@daltolaw.com

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Updated Itinerary in Fujian(19-9-20)

Sept. 25 (Wednesday)

- 11:50 Flight HU7695 Beijing to Fuzhou
- 12:30-13:30 Lunch
- 13:30-15:00 Go to Ningde City through a vehicle
- 15:00-16:15 Visit Ningde CATL
- 16:20-18:00 Go to Fuzhou
- 18:30-19:30 Dinner
- 20:00 Go to Fuzhou & Check in at Fuzhou Kempinski Hotel

Sept. 26 (Thursday)

- 08:00 Check out
- 08:15-08:30 Go to Fuzhou Railway Station
- 09:01-10:10 Take Bullet Train G1634 to Wuyishan East Station
- 10:20-10:50 Go to Wuyishan C&D Hotel
- 11:00 Check in hotel
- 11:30-12:45 Lunch
- 13:00 Depart for Ferry terminal
- 13:30-15:30 Bamboo rafting
- 15:30-17:00 Visit to a tea company
- 17:15 Go back to Hotel.
- 18:00-19:00 Dinner
- 19:00-19:20 Go to the theater
- 19:30-20:40 Watch Dahongpao Tea Themed Performance

Sept. 27 (Friday)

- 08:00 Check out
- 08:10-08:40 Go to Wuyishan East Railway Station
- 09:12-10:31 Take Bullet Train D4653 to Fuzhou City
- 11:00 Lunch

- 12:30 Check in at Fuzhou Kempinski Hotel
- 14:30-16:00 Visit to a middle school
- 17:00-17:45 Meeting with Vice Governor Guo (Dress code: Formal)
- 18:00 Attending the National Day Reception Hosted by Fujian Provincial People's Government
- 20:00 Free time in Three Lanes and Seven Alleys

Sept. 28 (Saturday)

- 08:15 Check out
- 08:30 Go to Fuzhou Railway Station
- 09:25-12:19 Take Bullet Train D6407 to Longyan
- 12:30 Lunch with officials of Longyan City
- 13:30 Go to Yongding County
- 15:30 Visit to Tulou (World Cultural Heritage)
- 18:00 Dinner with officials of Yongding County
- 20:30 Check in at Longyan Jinghua Fliport Hotel

Sept. 29 (Sunday)

- 08:00 Check out
- 08:15 Go to Longyan Railway Station
- 08:49-10:05 Take Bullet Train D3293 to Xiamen North Station
- 10:10-10:45 Go to Xiamen Planning Exhibition Hall
- 11:00-11:45 Visit to Xiamen Planning Exhibition Hall
- 12:15 Lunch
- 13:15-15:15 Visit to Kulangsu Island
- 15:30-16:00 Go to Xiamen Yuzhou Wyndham Hotel & Check in
- 17:15-17:35 Go to Xiamen International Conference Center Hotel
- 18:00 Attending the National Day Reception Hosted by Xiamen Municipal People's Government (Dress code: Formal)

Sept. 30 (Monday)

09:00-09:20 Go to Xiamen Intretech Inc.(smart manufacturing)
09:30-10:45 Visit to Xiamen Intretech Inc.
11:00-12:00 Visit to Seashine Imported Goods Sales Center
Talk with local wine/pork distributors
12:30 Lunch
13:30-17:30 Shopping time in Zhongshanlu Pedestrian Street
18:00 Dinner

Oct. 1 (Tuesday)

All Day Free time in Xiamen
(delegates can have lunch & dinner at cafeteria in the hotel)

Oct.2 (Wednesday)

08:00 Check out
08:30 Go to Xiamen Goqi international Airport
11:00 Flight 8101 from Xiamen to Beijing

MEMORANDUM

DATE: September 17, 2019

TO: Ronald A. Bersin
Executive Director

FROM: Lisa Christon
Investigator

SUBJECT: Respondent: Valarie Applegate
Case No. 19-190ESM

The purpose of this memorandum is to request that the investigative phase of the case against Valarie Applegate, Case No. 19-190ESM, be suspended, as allowed by statute.

The preliminary review in this matter was opened by the Commission on its own motion on August 23, 2019, based on a news report that Ms. Applegate had been charged with 52 criminal counts relating to her use of her position as a public official. The preliminary review report on this matter is being presented to the Commission at its meeting on October 3, 2019, and the Commission is expected to vote on whether or not to initiate an investigation of the matter.

ORS 244.260(6)(c)(A) provides that the time limit imposed on the Commission's investigation may be suspended if there is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the Commission and the Commission determines that it cannot adequately complete its investigation until the pending criminal investigation is complete.

Materials upon which the preliminary review was initiated indicate that there is a pending criminal matter against Valarie Applegate in the Multnomah County Circuit Court, and that the next court date is October 24, 2019. The conduct at issue in the Commission's preliminary review is the same conduct that forms the basis for the pending criminal prosecution.

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THE HERMAN E. BAERTSCHIGER JR.
LEGAL EXPENSE TRUST FUND

This Agreement establishes the Herman E. Baertschiger Jr. Legal Expense Trust Fund (the "Trust")

RECITALS

- A. Herman E. Baertschiger Jr. (hereafter "Grantor"), who is an Oregon State Senator, has incurred and is responsible for expenses in connection with Oregon Ethics Commission Case No. 19-146FDG.
- B. It is the desire of Grantor to create a trust for the purpose of accepting funds and making expenditures in connection with legal expenses incurred in the defense of the matter referenced above.
- C. Grantor has read and understands the provisions of ORS 244.205 to 244.221.

NOW THEREFORE, in accordance with the above:

Trust Property. Grantor does hereby assign to the Trust funds payable to or contributed to the Trust which shall hereafter come into Grantor's possession. Negotiable instruments made payable to "Herman E. Baertschiger Jr. Legal Expense Fund" shall be considered as being donated to the Trust.

Trust Purposes. The sole purpose of this Trust is to receive funds and to pay legal expenses incurred in defending Grantor in the matter described above in Paragraph A, that relates to or arises from Grantor's service as an Oregon State Senator, and other expenses permitted under ORS 244.207.

Trustee Duties. Grantor is his/hers/their own trustee. The Herman E. Baertschiger Jr. Legal Expense Fund Trust will be established, administered, and terminated in a manner consistent with and in compliance with ORS 244.205 to 244.221, which are incorporated by reference herein. Grantor, as Trustee, will operate as a fiduciary in relation to the Trust property and the Trust purposes.

IN WITNESS WHEREOF, said Grantor and Trustee have signed this instrument, intended to be legally bound hereby on the day, month, and year written below.

<u>Herman E. Baertschiger Jr.</u> Grantor	<u>9/24/19</u> Date	<u>Micayla Lallo</u> Witness	<u>9-24-2019</u> Date
<u>Faith Healey</u> Witness	<u>9-24-19</u> Date	<u>Micayla Lallo</u> Witness	<u>9-24-2019</u> Date
Print Name: <u>Faith Healey</u>		Print Name: <u>Micayla Lallo</u>	

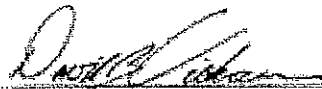
1 of 2

KS-2018-05196 2-0000474-000001

State of Oregon)
) ss
County of Josephine)


On this 24th day of September, 2019, before me personally appeared Herman E. Baentschinger Jr. to me known, and known to me to be the individual described in and who executed the foregoing Trust as Grantor and who acknowledged the execution of the same to be his/her/their free act and deed.

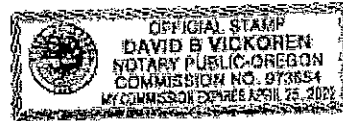
SUBSCRIBED AND SWORN TO before me this 24th day of September, 2019.



Notary Public for Oregon

My commission expires: April 25, 2022


Grantor Date



AFFIDAVIT OF HERMAN E. BAERTSCHIGER JR.

State of Oregon)
) ss
County of Josephine)

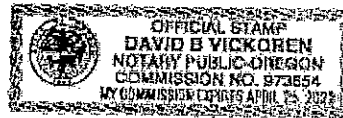
I, Herman E. Baertschiger Jr., of the age of majority, being first duly sworn and upon my oath according to law, depose and say as follows:

1. I am an Oregon State Senator seeking to establish a Legal Expense Trust Fund.
2. This fund is intended to defray legal expenses and other expenses permitted under ORS 244.207 incurred in defending Oregon Government Ethics Commission Case No. 19-146EDG.
3. As a beneficiary of the trust fund, I will be bound by the provisions of ORS 244.205 to ORS 244.221, which govern the establishment, administration, and termination of legal expense trusts. I have read and understand these statutes.
4. I am the trustee of the Trust. I understand that I bear ultimate responsibility for the proper administration of the Legal Expense Trust Fund in conformity with the above-mentioned statutes.

SUBSCRIBED AND SWORN TO before me this 24th day of September, 2019.

David B. Vickoren
Notary Public for Oregon
My commission expires: April 25, 2022.

Herman E. Baertschiger Jr.
Grantor Date



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Trainers' Report October 3, 2019

This report covers the time period of August 26, 2019, through October 3, 2019.

Completion of training:

- Oregon State Hospital – ORS 244 (Salem)
- Marion Soil & Water Conservation District Board – ORS 192.660 (Salem)
- Oregon Health Authority – ORS 244 (Salem)
- Oregon Department of Agriculture: Plant Programs– ORS 244 (Salem)
- Portland Clean Energy Fund Grant Committee – ORS 244 (Portland)
- LOC/Oregon City Attorneys Association – ORS 244 (Bend)
- Oregon Office of Emergency Management – ORS 244 (Salem)

Upcoming Trainings:

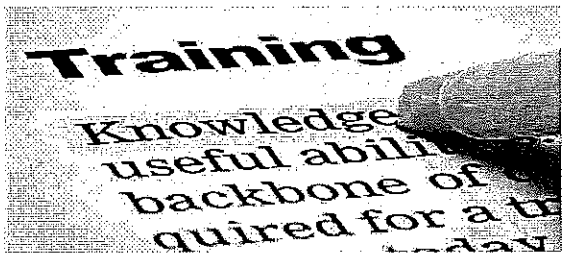
<u>Date</u>	<u>Time</u>	<u>Public Body (Topic)</u>	<u>Address</u>
10/4/19	1:30 – 3:00 PM	Oregon Code Enforcement Association (ORS 244)	Driftwood Shores Resort 88416 1 st Ave Florence, OR 97439
10/7/19	4:00 – 6:00 PM	Eastern Oregon Border Economic Border Board	Treasure Valley Community College Hanigan Board Rm 1115A 650 College Blvd Ontario, Oregon 97914
10/14/19	1:15 – 3:00 PM	Oregon Association for Court Administration / City of Milwaukie Court Operations	Hilton Garden Inn 3528 Gateway Street Springfield, Oregon 97477
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
10/18/19	9:15 – 10:00 AM	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:

11/8/19	10:00 – 11:30 AM	SDAO- Oregon Fire Service Conference	Seaside Civic & Convention Center 415 First Avenue Seaside, Oregon 97138
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Training Staff: Tammy Hedrick 503-378-6802 tammy.r.hedrick@oregon.gov
 Monica Walker 503-378-2011 monica.walker@oregon.gov



October 2019

Oregon Government Ethics Commission AdobeConnect Webinar Training Calendar

Monday	Tuesday	Wednesday	Thursday	Friday
	1 New Employees: you're a public official, now what! 10:00 – 11:00 AM	2	3 COMMISSION MEETING	4
7	8	9	10 Gifts 2:00 – 3:00 PM	11
14	15	16 U/O & Conflicts of Interest 2:00 – 3:00 PM	17	18
21 Executive Session 2:00 – 3:00 PM	22	23	24	25
28	29	30 Lobby Law 2:00 – 3:00 PM	31	

Email ogec.training@oregon.gov to register for a webinar.

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Executive Director's Report

October 3, 2019

- Budget
 - 2017-19 biennial budget
 - Closed
 - 2019-21 biennial budget
 - Completing Legislatively Approved Budget
 - Working with DAS CFO on biennial financial plan
 - Published assessment plan
 - DAS has begun sending assessment invoices
- SEI
 - Continuing to work on SEI non-filers from previous years
- Audit
 - Performance Audit continues for the agency
 - All staff have been interviewed
- Reports
 - Fiscal year end reports due by end of September
 - All reports filed timely including:
 - Performance measures
 - LFO receivables report
 - Risk Management report
- Other
 - Lisa (CS2), began working on 8/26
 - Continuing to learn "Workday", the new HR system.
 - Lobbyist filings due for 1st quarter of 2019, 1 clients, 3 lobbyists. Filings due for 2nd quarter, 1 client, 2 lobbyists.
 - Presenting at the Public Law Conference October 23rd with Amy

Local Government Oregon Government Ethics Commission
2019-21 Fee Calculation

Level	(A) Annual Sec of State Muni Audit Fee		(B) Number of Entities	(C) Sec of State Audits Amount		(D) Entity Rate Percentage	(E) Biennial Assessment		(F) Biennial Special Assessment Fee		(G) 1st Year Regular Assess Special Assess		(H) 2nd Year Regular Assess Special Assess		(I) 2nd Year Regular Assess Special Assess		(J) 2nd Year Regular Assess Special Assess		
1	\$20.00		291	\$5,820.00	0.0000594	\$87.82	\$0.00	\$43.91	\$0.00	\$43.91	\$0.00	\$43.91	\$0.00	\$43.91	\$0.00	\$43.91	\$0.00	\$43.91	\$0.00
2	\$40.00		223	\$8,920.00	0.0001187	\$175.64	\$0.00	\$87.82	\$0.00	\$87.82	\$0.00	\$87.82	\$0.00	\$87.82	\$0.00	\$87.82	\$0.00	\$87.82	\$0.00
3	\$150.00		274	\$41,100.00	0.0004452	\$656.64	\$0.00	\$329.32	\$0.00	\$329.32	\$0.00	\$329.32	\$0.00	\$329.32	\$0.00	\$329.32	\$0.00	\$329.32	\$0.00
4	\$200.00		177	\$35,400.00	0.0005936	\$878.18	\$0.00	\$439.09	\$0.00	\$439.09	\$0.00	\$439.09	\$0.00	\$439.09	\$0.00	\$439.09	\$0.00	\$439.09	\$0.00
5	\$250.00		412	\$103,000.00	0.0007420	\$1,097.73	\$0.00	\$548.87	\$0.00	\$548.87	\$0.00	\$548.87	\$0.00	\$548.87	\$0.00	\$548.87	\$0.00	\$548.87	\$0.00
6	\$300.00		94	\$28,200.00	0.0008904	\$1,317.27	\$0.00	\$658.64	\$0.00	\$658.64	\$0.00	\$658.64	\$0.00	\$658.64	\$0.00	\$658.64	\$0.00	\$658.64	\$0.00
7	\$350.00		214	\$74,900.00	0.0010388	\$1,536.82	\$0.00	\$768.41	\$0.00	\$768.41	\$0.00	\$768.41	\$0.00	\$768.41	\$0.00	\$768.41	\$0.00	\$768.41	\$0.00
8	\$400.00		99	\$39,600.00	0.0011872	\$1,756.36	\$0.00	\$878.18	\$0.00	\$878.18	\$0.00	\$878.18	\$0.00	\$878.18	\$0.00	\$878.18	\$0.00	\$878.18	\$0.00
Totals			1784	\$336,940.00		\$1,479,474.00		\$739,737.00		\$739,737.00		\$739,737.00		\$739,737.00		\$739,737.00		\$739,737.00	

Level	(A) Annual Sec of State Muni Audit Fee	(B) Number of Entities	(C) Sec of State Audits Amount	(D) Entity Rate Percentage	(E) Biennial Assessment	(F) Biennial Special Assessment Fee	(G) 1st Year Regular Assess Special Assess	(H) 2nd Year Regular Assess Special Assess	(I) 2nd Year Regular Assess Special Assess	(J) 2nd Year Regular Assess Special Assess
1	\$20.00	291	\$5,820.00	0.0000594	\$87.82	\$0.00	\$43.91	\$0.00	\$43.91	\$0.00
2	\$40.00	223	\$8,920.00	0.0001187	\$175.64	\$0.00	\$87.82	\$0.00	\$87.82	\$0.00
3	\$150.00	274	\$41,100.00	0.0004452	\$656.64	\$0.00	\$329.32	\$0.00	\$329.32	\$0.00
4	\$200.00	177	\$35,400.00	0.0005936	\$878.18	\$0.00	\$439.09	\$0.00	\$439.09	\$0.00
5	\$250.00	412	\$103,000.00	0.0007420	\$1,097.73	\$0.00	\$548.87	\$0.00	\$548.87	\$0.00
6	\$300.00	94	\$28,200.00	0.0008904	\$1,317.27	\$0.00	\$658.64	\$0.00	\$658.64	\$0.00
7	\$350.00	214	\$74,900.00	0.0010388	\$1,536.82	\$0.00	\$768.41	\$0.00	\$768.41	\$0.00
8	\$400.00	99	\$39,600.00	0.0011872	\$1,756.36	\$0.00	\$878.18	\$0.00	\$878.18	\$0.00
Totals		1784	\$336,940.00		\$1,479,474.00		\$739,737.00		\$739,737.00	

Example: If you paid the Secretary of State \$40.00

The calculation would be \$40 times 223 entities in Level 2, which equals \$8920. The Total for Sum C is \$336,940. Then take the \$40 Muni Fee in Level 2 and divide it by Sum C or \$336,940, which will equal the proportionate percentage of each entity in Level 2, or 0.0001187. Multiply that percentage times the total budget amount (\$1,479,474) and you get a biennial charge of \$ 175.64. Divide that biennial charge by 2 to get the amount of the annual OGEC invoice.



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

REVENUES

<u>Agv Obj</u>	<u>Agv Obj Title</u>	<u>Biennium to Date</u>		<u>Monthly Avg to</u>		<u>spend</u>
		<u>Monthly Activity</u>	<u>Activity</u>	<u>Monthly Avg to</u>	<u>Date</u>	
1810	PENALTY GENERAL FUND REVENUE - GF	2,795.00	3,555.75	1,777.88	1,777.88	-161.63
		2,795.00	3,555.75	0.00	1,777.88	-161.63

SUMMARY TOTALS

REVENUES	<u>Month Activity</u>	<u>Biennium Activity</u>
	2,795.00	3,555.75
REVENUE	2,795.00	3,555.75
Total	2,795.00	3,555.75



OREGON GOVERNMENT ETHICS COMMISSION
Fund 4150 OF LIMIT - ADMIN
For the Month of AUGUST 2019

REVENUES

Agv Obj	Agv Obj Title	Monthly Activity	Biennium to Date	Financial Plan	Unobligated Plan	Monthly Avg. to Date	Monthly Avg. to Date	spend
0402	AGENCY GOVT ASSESSMENT CHARGES	739,666.00	739,666.00	0.00	-739,666.00	369,833.00	369,833.00	-33,621.18
		739,666.00	739,666.00	0.00	-739,666.00	369,833.00	369,833.00	-33,621.18

PERSONAL SERVICES

Agv Obj	Agv Obj Title	Monthly Activity	Biennium to Date	Financial Plan	Unobligated Plan	Monthly Avg. to Date	Monthly Avg. to Date	spend
3111	REGULAR EMPLOYEES	46,440.64	91,807.64	0.00	-91,807.64	45,903.82	45,903.82	-4,173.07
3120	BOARD MEMBER STIPENDS	120.00	240.00	0.00	-240.00	120.00	120.00	-10.91
3210	PUBLIC EMPLOYEES' RETIREMENT	8,804.85	17,454.24	0.00	-17,454.24	8,727.12	8,727.12	-793.37
3212	PENSION BOND ASSESSMENT	2,893.72	5,720.87	0.00	-5,720.87	2,860.44	2,860.44	-260.04
3215	PERS CONTRIBUTION - RHIA	19.36	38.72	0.00	-38.72	19.36	19.36	-1.76
3216	PERS CONTRIBUTION - RHIPA	165.21	327.52	0.00	-327.52	163.76	163.76	-14.89
3221	SOCIAL SECURITY TAXES	3,608.72	7,135.24	0.00	-7,135.24	3,567.62	3,567.62	-324.33
3241	WORKERS' COMPENSATION	15.13	30.15	0.00	-30.15	15.08	15.08	-1.37
3262	SEBB HEALTH CARE CASH	232.15	464.30	0.00	-464.30	232.15	232.15	-21.10
3263	MEDICAL, DENTAL, LIFE INSURANCE	9,778.40	19,556.80	0.00	-19,556.80	9,778.40	9,778.40	-888.95
3281	MASS TRANSIT TAX	280.03	554.34	0.00	-554.34	277.17	277.17	-25.20
3291	EMPLOYMENT RELATIONS BOARD	18.72	35.10	0.00	-35.10	17.55	17.55	-1.60
		72,376.93	143,364.92	0.00	-143,364.92	71,682.46	71,682.46	-6,516.59

SERVICES and SUPPLIES

Agv Obj	Agv Obj Title	Monthly Activity	Biennium to Date	Financial Plan	Unobligated Plan	Monthly Avg. to Date	Monthly Avg. to Date	spend
4108	INSTATE GROUND TRANSPORTATION	175.29	175.29	0.00	-175.29	87.65	87.65	-7.97
4113	INSTATE MILEAGE REIMBURSMT-	254.04	576.52	0.00	-576.52	288.26	288.26	-26.21
4200	OFFICE SUPPLIES	83.22	83.22	0.00	-83.22	41.61	41.61	-3.78
4206	CATERING SERVICES	106.20	106.20	0.00	-106.20	53.10	53.10	-4.83
4251	POSTAGE	62.80	62.80	0.00	-62.80	31.40	31.40	-2.85
4252	MAIL SERVICES	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4302	RENTAL OF OFFICE EQUIPMENT	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4352	SUBSCRIPTIONS AND PUBLICATIONS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4375	COMPUTER TECHNOLOGY COMPUTER	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4406	PROF DEV'N STATE TUITION/	440.00	440.00	0.00	-440.00	220.00	220.00	-20.00

Agv Obj	Agv Obj Title	Monthly Activity	Biennium to Date	Financial Plan	Unobligated Plan	Monthly Avg to Date	Monthly Avg to	Monthly Avg to	spend
4531	TELECOM/VOICE USAGE	0.00	197.86	0.00	-197.86	98.93	98.93		-8.99
4535	TELECOM/NETWORK SERVICES	665.11	1,330.22	0.00	-1,330.22	665.11	665.11		-60.46
4615	PROFESSIONAL SERVICES APPLICATION	70,850.00	78,200.00	0.00	-78,200.00	39,100.00	39,100.00		-3,554.55
5003	EMPLOYEE ASSISTANCE PROGRAM	0.00	112.32	0.00	-112.32	56.16	56.16		-5.11
5050	ATTORNEY GENERAL LEGAL FEES	31,251.06	31,251.06	0.00	-31,251.06	15,625.53	15,625.53		-1,420.50
5107	STATE TREASURERS CHARGES	10.00	20.00	0.00	-20.00	10.00	10.00		-0.91
5108	SECRETARY OF STATE CHARGES	814.26	814.26	0.00	-814.26	407.13	407.13		-37.01
5200	OTHER SERVICES	0.00	15.00	0.00	-15.00	7.50	7.50		-0.68
5234	DAS-EGS-SFS-SHARED ACCOUNTING	0.00	0.00	0.00	0.00	0.00	0.00		0.00
5400	FACILITIES RENT	3,762.35	7,524.70	0.00	-7,524.70	3,762.35	3,762.35		-342.03
5901	OFFICE FURNITURE & NON-IT	0.00	0.00	0.00	0.00	0.00	0.00		0.00
		108,474.33	120,909.45	0.00	-120,909.45	60,454.73	60,454.73		-5,495.88

SUMMARY TOTALS

REVENUES	REVENUE	Month Activity	Biennium Activity
Total	739,666.00	739,666.00	739,666.00
EXPENDITURES	PERSONAL SERVICES	72,376.93	143,364.92
	SERVICES AND SUPPLIES	108,474.33	120,909.45
Total	180,851.26	180,851.26	264,274.37

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