

From: WALKER Monica * OGEC <Monica.WALKER@oregon.gov>
Date: May 9, 2019 at 12:21:35 PM PDT
To: BUCH Heather H <Heather.BUCH@co.lane.or.us>
Subject: RE: Adjustment & Re-Issuance of Oregon Ethics Opinion Request

Dear Ms. Buch~

This e-mail is sent in response to your request to remove question #3 from your e-mail inquiry sent on November 19, 2018, and re-issue guidance based on only question #1 & #2 listed within said e-mail. It is the Oregon Government Ethics Commissions (OGECs) understanding that your request to alter the OGECs original inquiry response is based on the fact that the relationship between your property management company and St. Vinnie's indicated in question #3 no longer exists.

Re-issuance of guidance based on the above:

Oregon Revised Statute (ORS) 244.040(1) prohibits a public official from using or attempting to use their official position to obtain a financial benefit for themselves, a relative or household member, or a business with which they or a relative or household member are associated, if the financial benefit would not be otherwise available to them "but for" holding their official position.

In regards to your question concerning St. Vincent de Paul Society of Lane County, i.e. Question #1, if a public official's relative is a PAID employee of a non-profit company, that non-profit would be a "business with which that public official is associated" for purposes of the use of position or office and conflict of interest provisions of Oregon Government Ethics law. With your Step-Father, who by definition is considered a relative [ORS 244.020(15)], holding a paid position at St. Vincent, if you as Commissioner took any actions or made decisions or recommendations in your official capacity that would or could financially impact St. Vincent then you would be met with an actual or potential conflict of interest and possibly a prohibited use of official position or office. [ORS 244.020(1)(13) and ORS 244.040]

The difference between an actual and potential conflict of interest is determined by the certainty of the private financial impact. An **actual conflict** of interest occurs when a public official participates in an official action that **would** have a direct financial impact on that official, the official's relative or any business with which the official or a relative is associated. A **potential conflict** of interest occurs when a public official's action, decision or recommendation **could** have a financial impact on the official, the official's relative or any business with which the official or a relative is associated.

An **elected** official who is met with an actual or potential conflict of interest shall handle the conflict as follows [ORS 244.120(2)]:

Potential conflict of interest – After announcing publicly the nature of the potential conflict, then a public official could take action in their capacity as a public official and participate in the discussion, issue, debate or vote; or

Actual conflict of interest – announce publicly the nature of the actual conflict and:

- 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; or
- If your vote as a public official 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.

To address your question regarding the local property management company (Company) you are the sole proprietor of, i.e. Question #2, based on the information you presented in your inquiry, it appears that a conflict of interest would exist if the issue or vote before you/your board concerns Section 8 vouchers. As the Company is, by definition, a “business with which you are associated” [ORS 244.020(2) & (3)], you would need to analyze each issue coming before you/the board to determine whether or not the issue/vote would create a conflict of interest situation for you as the Commissioner [ORS 244.020(1) & (13) and ORS 244.040].

More specifically, Oregon Government Ethics law only identifies a conflict of interest as occurring whenever a public official, while acting in an official capacity, takes any action or makes a decision or recommendation that would or could result in a personal financial benefit to that public official, or a relative of that public official, or any business with which the public official or a relative is associated. So, as you indicated in your inquiry that the Company does receive income from the Section 8 vouchers, albeit nominal, it appears that a financial benefit for you or your Company could result from an official action you would be asked to take.

Thank you for contacting me with your request to adjust previously issued guidance based on a change in the original circumstances cited. It is very much appreciated. Feel free to contact me should you have questions or need additional information.

Sincerely,

Monica J. Walker

Monica J. Walker, Program Analyst/Trainer
Oregon Government Ethics Commission
3218 Pringle Road SE, Suite 220
Salem, OR 97302-1544
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Disclaimer

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



From: WALKER Monica * OGEC

Sent: Tuesday, November 27, 2018 1:31 PM

To: 'electheatherbuch@gmail.com' <electheatherbuch@gmail.com>

Subject: RE: Oregon Ethics Opinion Request

Dear Heather~

It was a pleasure speaking with you over the phone today as well as last week. Thank you for contacting the Oregon Government Ethics Commission (OGEC) and requesting guidance regarding several questions around use of position or office and conflicts of interest.

Oregon Revised Statute (ORS) 244.040(1) prohibits a public official from using or attempting to use their official position to obtain a financial benefit for themselves, a relative or household member, or a business with which they or a relative or household member are associated, if the financial benefit would not be otherwise available to them “but for” holding their official position.

In regards to your questions concerning St. Vincent de Paul Society of Lane County and St. Vinnie’s (St. Vincent), i.e. Questions #1 & #3, if a public official’s relative is a PAID employee of a non-profit company, that non-profit would be a “business with which that public official is associated” for purposes of the use of position or office and conflict of interest provisions of Oregon Government Ethics law. With your Step-Father, who by definition is considered a relative [ORS 244.020(15)], holding a paid position at St. Vincent, if you as Commissioner took any actions or made decisions or recommendations in your official capacity that would or could financially impact St. Vincent then you would be met with an actual or potential conflict of interest and possibly a prohibited use of official position or office. [ORS 244.020(1)(13) and ORS 244.040]

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An **elected** official who is met with an actual or potential conflict of interest shall handle the conflict as follows [ORS 244.120(2)]:

Potential conflict of interest – After announcing publicly the nature of the potential conflict, then a public official could take action in their capacity as a public official and participate in the discussion, issue, debate or vote; or

Actual conflict of interest – announce publicly the nature of the actual conflict and:

- 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; or
- If your vote as a public official 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.

To address your question regarding the local property management company (Company) you are the sole proprietor of, i.e. Question #2, based on the information you presented in your inquiry, it appears that a conflict of interest would exist if the issue or vote before you/your board concerns Section 8 vouchers. As the Company is, by definition, a “business with which you are associated” [ORS 244.020(2)]

& (3)], you would need to analyze each issue coming before you/the board to determine whether or not the issue/vote would create a conflict of interest situation for you as the Commissioner [ORS 244.020(1) & (13) and ORS 244.040].

More specifically, Oregon Government Ethics law only identifies a conflict of interest as occurring whenever a public official, while acting in an official capacity, takes any action or makes a decision or recommendation that would or could result in a personal financial benefit to that public official, or a relative of that public official, or any business with which the public official or a relative is associated. So, as you indicated in your inquiry that the Company does receive income from the Section 8 vouchers, albeit nominal, it appears that a financial benefit for you or your Company could result from an official action you would be asked to take.

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

Sincerely,

Monica J. Walker

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



From: electheatherbuch@gmail.com [<mailto:electheatherbuch@gmail.com>]

Sent: Monday, November 19, 2018 10:00 AM

To: WALKER Monica * OGEC <Monica.WALKER@oregon.gov>

Cc: BERSIN Ron A * OGEC <Ron.A.Bersin@oregon.gov>

Subject: Oregon Ethics Opinion Request

Hi Monica,

I am a recently elected Commissioner for Lane County to be sworn in 1/7/19 and am requesting an Advisory Opinion from the Oregon Government Ethics Commission or Director that can be relied upon on a few ethics related issues, specifically perceived potential conflicts of interest. They are:

1. **Background:** Lane County contracts with St. Vincent de Paul Society of Lane County, Inc. (St. Vinnie's), a non-profit 501(c)(3) entity and largest human services organization in Lane County, on a variety of social services conducted for the county. My step-father is their Executive Director, a paid position although not dependent upon these contracts, and my mother is on their Board of Directors, a volunteer position. As a non-profit, my relatives have no ownership interest in this entity. Additionally, the county is limited in who they can contract with for these kinds of human services contracts.

Questions: In my capacity as Commissioner, who will have contracts with this entity come before the board, I will disclose my relationship. Additionally, do I need to A) abstain from voting from any contract with this entity and/or B) recuse myself from the contract discussion and vote? Is there any other disclosure or procedure I need to complete or be aware of regarding this relationship?

2. **Background:** I am sole owner of a local property management company that houses tenants who have been awarded Section 8 housing vouchers to pay for rent from our local housing authority which is governed by the Board of Commissioners. Per landlord tenant law, landlords must accept Section 8 housing vouchers as a form of income. The management company's income is based on a commission of rent received, the amount attributed to Section 8 vouchers is nominal and the company it not dependent upon this income.

Questions: In my capacity as Commissioner, who is the governing board of our local housing authority, I will disclose my ownership interest in my business when relevant to our local housing authority issues before the board. Additionally, do I need to A) abstain from voting on issues relating to our housing authority entity and/or B) recuse myself from discussion and vote on issues relating to our housing authority entity? Is there any other disclosure or procedure I need to complete or be aware of regarding my company ownership?

3. **Background:** My property management company manages property for St. Vinnie's, specifically for their USDA-RD and mobile home park properties only. These properties are not funded, regulated, audited or otherwise have any relation to the county or official Board of Commissioner business to my knowledge.

Questions: In my capacity as Commissioner, do I need to A) disclose this relationship in any capacity? B) abstain or recuse myself from discussion and vote on issues relating to St. Vinnie's? Is there any other disclosure or procedure I need to complete regarding this issue?

Thank you for you consideration. If an opinion can be issued prior to my 1/7/19 swearing in that would be greatly appreciated.

Heather Buch
Lane County Commissioner – Elect, District 5
541-623-0412

