

## ADVISORY OPINION

APPROVAL DATE: April 22, 2015

NUMBER: 15-02

STATUS: Current employee  
N/A

SUPERSEDES:

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### Use of Frequent Flyer Miles by County Employees

#### QUESTION:

1. Can a County officer or employee use frequent flyer miles earned from official County travel for personal travel?

#### SHORT ANSWER:

1. Yes, with limitations. The County may allow County officers and employees may use frequent flyer benefits earned on official travel. While the Ethics Code does not specifically prohibit the use of frequent flyers miles earned while on official County business, receiving such miles is of a beneficial interest resulting from a County transaction. Therefore, County officers or employees may not participate in the selection of a carrier when they receive frequent flyer miles on that carrier.

#### ANALYSIS:

This analysis mirrors Washington State Ethics Advisory Board's on the very same question. Frequent flyer miles or "frequent traveler benefits" represent an individual traveler's contractual right to receive air transportation services or other benefits, such as service upgrades, for free or at reduced costs by reason of prior purchases of property or services. Frequent traveler benefits are broadly available to the traveling public. Normally, a traveler receives his or her benefit by establishing an individual account with an airline or other transportation carrier. For most airlines, frequent traveler benefits accrue to the traveler and are not tied in any way to the source of funds used to purchase the ticket. Similarly, accrued benefits can be used for most qualified travel at the discretion of the traveler.

The Ethics Code prohibits a County employee from using his/her office for a private purpose, including receipt of benefits. PCC.3.12.030.A. Similarly, RCW 42.23.030 prohibits a public employee from having a beneficial interest in a contract made by, through, or under his/her supervision.

A decision to select a specific airline carrier for official travel involves the exercise of discretionary authority of the employee's office and resulting ticket purchase would constitute a contract. Therefore an employee would violate PCC 3.12.030.A and RCW 42.23, if he/she participated in or directed the selection of a specific airliner carrier for official travel and also received frequent traveler benefits for personal use from that carrier. In order to prevent such violations, an employee who participates in a frequent traveler benefit program may not be involved in purchasing and may not recommend or direct that his or her official travel be booked on a certain airline carrier.<sup>1</sup>

Additionally, the Ethics Code prohibits employees from accepting anything of value in connection with their official duties (See PCC 3.12.030.D-G). The Ethics Code, however, excludes group discounts (such as frequent traveler benefits) from the definition of "anything of value," PCC 3.12.020.A.9). When consideration is paid for a frequent traveler benefit in the form of the purchase of services from an airline carrier and those benefits are broadly available to all members of the group, receipt of such benefits for personal travel would not violate the Ethics Code.

The Commission's advisory opinion is based on the general facts as stated above. The Commission did not investigate the facts. Please be aware that modification of the facts, or knowledge of more specific facts or circumstances, might cause the Commission to reach a different conclusion. In addition, the Commission opinions are narrowly drawn to interpret the Pierce County Code of Ethics (Chapter 3.12). They do not address whether the proposed action is prudent, good public policy or effective management practice.

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<sup>1</sup> The Commission suggests, based on the State's analysis, that the administrative costs for Budget and Finance (B&F) to track, collect, and transfer (if such transfers are even available under the benefit program) frequent flyer credits of the County's officers and employees in official travel status, would exceed the minimum benefit received by the County. Accordingly, unless/until the County

studies and adopts a policy requiring that employee frequent flyer miles be transferred to the County, employee retention of such frequent flyer benefits would not be prohibited by other County policy.