

## **Anne Arundel County Ethics Commission**

### **Advisory Opinion 97-140**

#### **Issue:**

Whether county employees may participate in an official department-wide effort to support the fund-raising efforts of a private charitable organization, without violating the Public Ethics Law.

#### **Background:**

The area director of a national nonprofit charitable organization contacted a county department director concerning the official participation of the department in a fund-raising walk. Included in the package of information received by the department was a paper titled, "Company/Team Leader's Job Description." The job of Team Leader involves recruiting walkers from among the employee's co-workers, distributing sponsor forms/collection envelopes to all participants, collecting the envelopes prior to the walk, and other related activities. The recruitment letter asks potential participants to solicit sponsors who will contribute money on behalf of each walker to be given to the charitable organization. Participants will receive prizes based on how much money they collect. Presumably, the organization intended that the department would designate a team leader who would recruit volunteer walkers from within the department. These volunteers would in turn, solicit contributions for the organization, and would be eligible for prizes based on the amount of money contributed.

#### **Discussion:**

There are several potential ethical problems with a department-wide participation in the fund-raising event of this organization. Section 3-106 of the Public Ethics Law provides that an employee may not solicit any gift. The law does not specify for whom the gift is solicited. Whether the gift is solicited by the employee for himself or for a charitable organization, it is still a solicitation of a gift and is prohibited.

Exceptions to this rule have been allowed by the ethics commission where a fund-raising effort is officially sponsored on a county-wide basis and approved by the county executive. The county does participate annually in the fund-raising drive of the United Way and officially sponsors a Christmas gift-giving drive. Exceptions have also been permitted to allow solicitations of gifts to support public safety programs. These programs include participation by the public and have received the county administration's approval and support.

However, if each department or division within a department, was allowed to engage in charitable fund-raisers of its own choosing, county employees could be besieged by solicitation after solicitation. A county employee may feel undue pressure when solicited by co-workers to donate time and/or money for charitable causes, regardless of their value. In addition to the pressure placed on co-workers, particularly those who are also subject to the supervision of the fund-raising enthusiast, non-county personnel may feel pressure to contribute when asked to do

so by a county employee in an official capacity. An entity doing business with the county department for example, who wants to maintain a good working relationship with the department, may feel obliged to contribute to an official department-wide program. The ethics laws of the county are designed to prevent this kind of improper influence.

Another provision of the ethics law, §3-104, prohibits the use of the prestige, title, or authority of the employee's office or position for the gain of another. This provision prohibits the use of the name of the department in the solicitation of donations or in any written material submitted to the organization, e.g. the department may not be listed as a "team". Individual volunteers cannot solicit contributions as employees of the department or in their "official" capacities. A supervisor in the department cannot recruit employees subject to her authority because that would constitute an inappropriate use of that authority. Although a supervisor may say that the choice to contribute or not is voluntary, the employees under her authority will not necessarily believe that statement to be true.

Finally, a county department may not choose from among different charitable causes to support while maintaining the required impartiality demanded of government agencies. The ethics law is founded on the principle that the citizens have the right to be assured of the impartiality and independent judgment of county officials and employees. §1-102. A county agency cannot support the fund-raising efforts of one charitable organization and refuse to support the efforts of another without appearing to be partial to the one over the other. And yet, the sheer number of worthy causes would make it impossible to do otherwise.

### **Conclusion:**

A county department may not officially participate in a fund-raising event sponsored by a charitable organization. Supervisory employees in their official capacity may not recruit their co-workers or solicit contributions from them. The department's name cannot be used in fund-raising efforts, and county employees may not use their job titles in furthering the charitable cause. However, this conclusion does not mean that county employees may not participate in charitable fund-raising events as private citizens. They may choose to participate as team leaders, walkers, or contributors, without limitation. They may solicit their friends, relatives and neighbors for contributions but they may not solicit the employees they supervise or people or entities with whom their department does business. The ethics law requires only that employees recognize and observe the ethical limitations on participating in certain matters in their official roles as county employees. If the distinction between private and official roles is maintained, there will be no violation of the ethics laws.

July 2, 1998

By: The Anne Arundel County Ethics Commission