

Anne Arundel County Ethics Commission

Advisory Opinion 98 - 72

Issue:

Whether the members of the Board of Trustees for the Retirement and Pension System may accept the gift of a lunch paid for by a money management firm.

Background:

As part of its regular business, the Board of Trustees for the Retirement and Pension System recently met with a money management firm that is currently managing part or all of the county's pension fund. This meeting was an opportunity for the firm to present an annual report on the state of the county's pension investments. At the conclusion of the meeting, the firm representatives invited some of the members of the board to lunch, and the invitation was accepted.

Discussion:

Section 3-106 of the Public Ethics Law prohibits the receipt of gifts by county employees from donors who are doing business with the county. One of the exceptions to this rule permits accepting occasional meals and beverages of modest value, if the gift is not designed to impair or improperly influence the employee's judgment. In determining whether a gift is given in hopes of preferential treatment, the ethics commission reviews the circumstances in which the gift is offered. In this case, the lunch was essentially the continuation of a meeting held in the normal course of a contractual relationship. The business relationship between the money management firm and the trustees of the pension plan is ongoing, and certainly requires periodic meetings. A business lunch, paid for by the contractor in this particular case, is a normal and customary part of an ongoing relationship in which periodic communication is essential. In these circumstances, the gift of a modest meal does not create even the appearance of a conflict of interest.

If the offer of lunch to the members of the board were made by an entity seeking to do business with the county, the result would probably be different. In that situation, the lunch is designed to create a sense of indebtedness. In most cases involving business lunches, the indebtedness can be repaid in kind, with lunch on another occasion. In the case of a would be contractor, however, there is not likely to be a return lunch at the county's expense, or at the expense of the board or a member of the board of trustees. The donor is simply trying to "buy" some goodwill. The county's ethics law prohibits an employee from accepting even a modest meal in this situation. The law does not prohibit lunch meetings or any other kind of meetings between a potential contractor and a county employee. It merely requires that any meetings between them be conducted at arms length.

The conclusion would also be different if the money management firm currently under contract with the county, were to buy lunch for the members of the board on more than one or two occasions per year, or if the meals ceased to be modest in value. At that point, the gift ceases

to be part of the normal course of business and becomes a more aggressive marketing technique.

Conclusion:

The ethics commission concludes that lunch offered by a money management firm under contract with the county, to the members of the county board of trustees for the pension system, falls within the permitted exceptions to the general gift prohibition of §3-106. In the circumstances described, the meal is offered as the continuation or culmination of a regularly scheduled meeting, held in the normal course of an ongoing business relationship.

Date: _____

By: the Anne Arundel County Ethics Commission