

May 28, 1998
Re: IO - 98- 80

The ethics commission office recently received via E-mail, notice from your office of the opening of the -- Health and Fitness Center. The business is offering a free visit to all county employees and offering a special rate for memberships purchased before June 30, 1998. This promotion was circulated by a flyer titled, "Super Club Now Open".

The ethics commission in IO-98-17, attached here, concluded that the county may not promote or advertise a business promotion, or use county resources (which would include E-mail) to assist in a private business promotion. The use of county resources to assist in the marketing schemes of a business violates §3-104 of the Public Ethics Law. This section prohibits an employee from using the prestige, title, or authority of the employee's position for the gain of another. Regardless of the intent of the E-mail communication, there is certainly a strong appearance that the personnel office, through one of its representatives, endorses the promotion and therefore, the product or service provided by this private business. In fact, the subject of the E-mail is "Fitness and Wellness" and suggests that the sender is encouraging employees to accept this offer.

The E-mail message also states the flyers offering this promotion are available from each department's personnel liaison. This distribution method also suggests endorsement by the personnel office, and it also constitutes an impermissible use of county resources.

While it is not a violation of the ethics law for a private concern to advertise its services to county employees, it must do so without any assistance from county employees. The ethics commission recommends that an E-mail be circulated from your office stating that the Personnel Office does not recommend or endorse the services or promotion offered by the fitness center and that in future, all employees who may be interested in the offer, should contact the business directly.

Thank you for your prompt attention to this matter. If you have any questions, please do not hesitate to call any time.

Sincerely,

Betsy K. Dawson