

## **Anne Arundel County Ethics Commission**

### **Advisory Opinion 99-105**

#### **Issues:**

1. Whether an employee of the fire department may participate in the filming of a training video by a private entity, while appearing in the departmental uniform, and where the employee identifies the specific position the employee holds in the fire department.

2. Whether the fire department or the employee appearing in a training video may authorize its distribution by the private entity that produced the film.

#### **Background:**

An officer with the county fire department participated in a safety training session for a private entity that is a consortium of manufacturers and vendors of propane and propane related products. The entity filmed the training session and would like to distribute it, at no cost, to its members for educational purposes. The fire department officer appeared in the video wearing the official uniform and identified himself by rank with the Anne Arundel County Fire Department. The officer was not paid for this training session, or for appearing in the video.

#### **Discussion:**

The first provision that is applicable in this instance, is §3-105, which regulates secondary employment. Under this provision, an employee may not be employed by any entity that is subject to the authority of the employee's agency, in this case, the fire department. If the consortium were to compensate the employee on behalf of member entities that are subject to the authority of the fire department, there would be issues of prohibited secondary employment. However, in this case, the employee was representing the fire department, as indicated by the uniform that was worn during the making of this video, and the fact that there was no compensation rendered for this service. Whether this participation was in fact, authorized by the appropriate supervisors, is not an ethics issue. Since he was performing official duties on behalf of the fire department, the question is whether the department can permit its employees to provide training to private entities as part of their official duties. The ethics commission has previously acknowledged that part of the fire department's duties could reasonably include educating the public on matters of fire prevention and safety. The fire department certainly has the authority to offer training as part of its official programs and responsibilities, so the ethics commission finds no problem with the employee's participation in the training session.

The problem arises if that training session, or the video produced from that training session, provides a private entity with commercial opportunities or other

financial gain. If it is disseminated to the members of the entity without cost, for educational purposes only, it could legitimately be viewed as an extension of the fire department's training effort. However, if the video is sold, or offered as an inducement to join the consortium, or to purchase products or services, then the video becomes a commercial property that provides a gain to the entity.

Section 3-104(a) prohibits an employee from using the prestige of the office or position for the financial gain of another. This section would prohibit a fire department employee from engaging in secondary employment while appearing in uniform. Additionally, and more relevant in this instance, this section would prohibit the fire department from permitting the production and use of a video for commercial purposes. Fire department personnel, appearing in a commercial production, in uniform and with the concurrence of the department, would be appearing to endorse the products or services being sold or membership in the entity offering the video. Permitting a private entity to use this video for commercial purposes would be comparable to having a commercial entity charge members of the public for the opportunity to hear a training session presented by the county fire department.

**Conclusion:**

The fire department may permit its employees to participate in training sessions for the public, or for portions of the public, while appearing in uniform, as long as this service is determined to be a service benefiting the citizens of the county. The department may not permit the commercial use of this training by any employee or by a third party, such as a business entity, that could profit from the use of the training, or from the apparent endorsement of the entity's products or services by the county fire department.