

## **Anne Arundel County Ethics Commission**

### **Advisory Opinion**

**00 - 170**

#### **Issue:**

Whether an employee who works for a county administrative hearing board may solicit or accept contributions toward a sports trip for that employee's child from lawyers and law firms that represent clients before the board.

#### **Facts:**

The secretary to a county hearing board has a young child who is an athlete. The child qualified to compete in an international competition in Europe. A local newspaper article featured the child athlete and described the efforts of the family and school classmates to raise money to fund the trip. A member of a law firm that practices before the board read the article and offered the employee a contribution toward the child's trip. The law firm member also suggested that the employee solicit other law firms that practice before the board for contributions.

#### **Discussion:**

The Public Ethics Law, §3-106(a), prohibits an employee from soliciting any gift. As a general rule, this prohibition refers to personal gifts that are solicited from outside entities in the work place or in connection with the employee's county employment. A person who regularly or frequently appears before an administrative board will generally try to develop a friendly and cooperative relationship with the board's staff. The person may reasonably believe that a positive response to the solicitation is required to maintain a good working relationship with the county employee, even if that is not the case. For this reason, the solicitation, even if made congenially and without any intent to pressure the person solicited, is inappropriate and prohibited by the ethics law.

Acceptance of an unsolicited gift is generally prohibited if the donor: 1) is seeking to do business or is doing business of any kind with the county; 2) is engaged in activities that are regulated or controlled by the county; 3) has financial interests that may be substantially and materially affected by the performance of the recipient employee's official duties; or 4) is a lobbyist in matters within the jurisdiction of the board. If the donor - law firm's sole contacts with the county are those of an attorney representing a client before the board, the law firm is not "doing business" with the county, under the definition in §1-101(e). If the donor's clients cannot be materially affected by the actions of the board secretary (such as scheduling, postponing or otherwise expediting the client's case), it is unlikely that the law firm would be considered a prohibited donor. Since the secretary's duties with the board are solely ministerial

in nature, and since the board itself makes the case-management decisions, it is unlikely that the proposed donor would be in a category that would prohibit the acceptance of the gift under the provisions of §3-106(b).

Section 3-104 prohibits an employee from using the prestige, title, or authority of the employee's office or position for private gain. In this case, the donor learned of the employee's fund raising efforts through the local newspaper. The gift was offered solely in response to the article and not as part of any official communications between the employee and the donor. The fact that the donor is acquainted with the employee only through the work place is not relevant in this situation.

**Conclusion:**

The ethics commission advises that the employee may accept the contribution toward the employee's child's trip that was offered by the law firm without violating either the gift provisions of §3-106 or the prestige of office provision of §3-104. However, the employee may not solicit other lawyers who represent clients before the employee's board, because of the prohibition against gift solicitation set forth in §3-106(a).

Date: November 13, 2000

By: the Anne Arundel County Ethics Commission