

June 9, 2000
Re: IO-00-96

You inquired whether an employee of the personnel office may serve as a director on the United Way Community Partnership Board of Anne Arundel County. The purpose of the partnership board, as described in its literature, is to set a direction for the organization, ensure results, represent the United Way in the county, and maintain the trust of the county in the organization. Each director is expected to attend all partnership board functions, participate in the United Way campaign as both a contributor and an active fund raiser, participate on a committee, promote the United Way, and assist in interpreting community issues.

A directorship on this board is not the same as membership on the operational board of directors of an organization. The operational board conducts the actual business of the organization, and each director has the legal duties of a fiduciary toward that organization. In the case of the partnership board, with the exception of requiring a contribution from its directors, the position appears to be purely advisory. There is no fiduciary obligation toward the organization, although directors are certainly expected to promote its goals. In the absence of a fiduciary relationship, there is generally no "employment relationship" within the meaning of the Public Ethics Law, §3-105. And since the county government officially promotes the efforts of the United Way, participating fully in its annual campaign, there are no apparent competing or adversarial interests between the organization and the county that would trigger the prohibitions of §3-105(c). Therefore, the employee may serve on the partnership board.

However, in helping to identify potential donors, the employee should avoid specifically targeting those entities that do business with the county, or that are subject to regulation by the employee's own agency. Specifically targeting those entities may reasonably appear coercive and may violate the provisions of §3-104(a), concerning use of the prestige of office.

Thank you for your inquiry. If you have other questions, please call any time.

Sincerely,

Betsy K. Dawson
Executive Director