

August 26, 2002
Re: IO-02-99

You inquired whether you may direct the fee owed you by a university for teaching a continuing education course, to a charitable entity, or whether you may waive the fee altogether.

You stated that you will be teaching a course "Working with the Child's Counsel in CINA (Child in Need of Assistance) Proceedings", at the school of social work at a state university. As an attorney for the county, you are involved in CINA cases, and you work with a number of social workers in the county social services department. The class you will teach is offered through the continuing education program. Social workers are required to take a number of continuing education classes from a selection of offerings. It is likely that some of the county's social workers will sign up for the CINA class.

You are correct in concluding that you may not be compensated for teaching this class. Receiving compensation for teaching a class that is directly and immediately related to your official duties would violate §3-104(a). See AO-001-136. If you do not accept compensation for teaching the class, you will not receive a private gain, and will not be violating the ethics law.

You may waive the fee altogether, which would constitute a gift to the university. There is nothing in the ethics law that prohibits employees from giving gifts, even if the gifts are given to controlled donors. You may also accept the fee on behalf of the county, to be used by the county for public purposes, provided that the gift is approved pursuant to the county's administrative procedures. You should not direct that the fee be donated to a charitable entity of your choice because §3-104(a) also prohibits the use of the authority of your position for the gain of another. If for example, you were to direct a gift to your church, or an organization to which you belong, there would be a reasonable inference that you were receiving a benefit from the gift, either directly, or in terms of the good will of the recipient entity. See, IO-00-103, IO-00-13. You may request that the university donate your fee to a charitable entity, but you should avoid designating that entity.

Thank you for your inquiry, and please accept my apology for the delay in responding to you.

Sincerely,

Betsy K. Dawson
Executive Director