

March 3, 2003

Re: 10-03-15

You inquired whether the county employees who participated in the recent snow removal may accept a coupon worth about \$2.50 for a free sandwich from a local fast food restaurant. You indicated that there are about 400-500 employees who will receive these coupons.

This coupon is comparable to a discount, not a gift, because there is a presumption that the recipient will purchase other food items at the regular retail price. Even so, §3-104(a) of the ethics law prohibits employees from accepting a private benefit solely for doing their jobs. The ethics commission has concluded that this provision does not prohibit employees from accepting discounts from business entities when the discount is offered to all county employees as part of a generalized marketing technique, and when the employees are still required to pay a legal and adequate consideration for the discounted item. See, AO-02-64. However, in 10-00-191, the commission advised that public safety officers were permitted to accept the same kind of coupon that is being offered to the snow removal employees. The reasons for this difference are that the fast food coupons are of nominal value, the retailer providing the coupons is not in a position to either receive favors or be pressured by county employees, and because the coupon is being offered on a one-time basis only as a result of an unusually large snowstorm. If the retailer offered these coupons to a targeted group of employees on a frequent or regular basis, or if the coupon had a greater value, the benefit to the employees would become significant and they would not be permitted to accept the coupons.

Thank you for your inquiry. If you have any additional questions, please give me a call.

Sincerely,

Betsy K. Dawson
Executive Director