

September 30, 2003
Re: IO-03-87

You inquired whether you may accept, or in the alternative, donate to the county, a \$125 restaurant gift certificate that you received from a grateful citizen. The ethics commission has concluded that you may neither accept nor donate the gift certificate, but that you must return it to the donor.

The donor is a citizen of the county, but there is no indication that the citizen is also a controlled donor- a person from whom the acceptance of gifts is restricted. But while the gift provisions of §3-106 may not apply, the prohibitions of §3-104(a) do apply to prohibit the acceptance of the gift. Section 3-104(a) prohibits an employee from using the prestige, title, or authority of the employee's office or position for the employee's personal gain. Accepting a gift that is offered because of the employee's position, would constitute use of your position for a personal gain, in violation of this section. See, AO-02-88, AO-00-119, IO-01-87, IO-01-165, IO-01-174.

In some cases, a gift offered to a county employee may be accepted on behalf of the county, for use by the employee's agency to benefit county programs or purposes. In this case, however, the gift was directed very specifically toward you personally, in appreciation for the excellent job you do. The gift was clearly not intended to benefit the county, but was intended to benefit you and your spouse. Since the gift was not intended to be a gift to the county, you may not accept it as such. Nor may you donate the gift to the county, because in order to donate a gift, you must first accept the gift, an action that is prohibited by the ethics law.

For these reasons, the only option available to you is to return the gift certificate to the donor.¹ Thank you for your inquiry.

Sincerely,

Betsy K. Dawson
Executive Director

¹ Under Bill 38-03, the gift provisions of §5-106 and the prestige of office provision of §5-107 would result in the same conclusion.