

September 30, 2005

Re: IO-05-61

You inquired whether the fire department may accept a newspaper's offer of a 50% discount to place a notice in the paper advertising an employment recruitment drive being held by the department. In exchange for the discount, the newspaper would like to be mentioned in the advertisement as a "co-sponsor" of the event. The newspaper would also like to attend the event to hand out copies of its newspaper to people who attend the event. The newspaper's targeted readership would include some of the attendees at the event so the presence of the newspaper at the event is a promotional opportunity.

The ethics commission advises that the fire department may not accept the offered discount (worth about \$1000) under these circumstances. The Public Ethics Law, §5-107 prohibits a county employee from intentionally using the prestige of office or public position for the private gain of another. On several occasions, the ethics commission has applied this provision to the use of county facilities by private entities.

The meaning of "sponsorship" depends on the facts of each case. To say that the newspaper is a sponsor, if the extent of its sponsorship is a discounted ad in the newspaper, may be misleading. In previous opinions, sponsorship has involved active participation – an information booth at a senior fair held by the department of aging, for example. See, AO-98-119, AO-97-114. In the present case, the "co-sponsorship" seems to involve nothing more than a discounted advertisement, not the level of participation that is more typically associated with an event.

Previous opinions have also advised that under the same provision of law, county resources cannot be used to promote the commercial activities of private entities, unless the same opportunities are offered to others on an equal basis. See, IO-00-179, IO-00-139, IO-99-107, IO-98-80, and AO-97-114. In AO-98-92, the commission said that, "Whenever the county government, upon request of a private organization, solicits charitable contributions, encourages county employees to take advantage of a commercial offer, or otherwise provides assistance with a private organization's advertising or promotions, it is appearing to endorse that organization." In IO-98-80, the commission said, "While it is not a violation of the ethics law for a private concern to advertise its services to county employees, it must do so with any assistance from county employees."

While the county could accept the discount outright as a gift to promote its public purpose to recruit fire department employees, it may not accept a deal to help promote the purposes of a private entity.

Sincerely,

Betsy K. Dawson

Executive Director