



**ANNE ARUNDEL COUNTY  
ETHICS COMMISSION**

September 9, 2008

*By Electronic Mail Only*

Re: AO-08-54

You inquired whether fire department employees may accept a “scholarship” from the [International Residential Code Fire Sprinkler Coalition](#) (IRC) for air fare and hotel accommodations to attend the annual meeting of the [International Code Council](#) (ICC).<sup>1</sup> For the reasons stated, the ethics commission advises that employees may not accept these travel expenses.

The ICC is a membership organization that develops model codes to construct residential and commercial buildings. These codes are frequently adopted in whole or in part by its member agencies, which includes the county fire department. Although all members may vote on preliminary hearings actions, only governmental agencies’ members may vote on “final action code change proposals.” See, [IO-03-49](#).

A proposed code change that would require fire sprinklers to be included in all new residential construction is pending at this year’s ICC meeting. The fire department strongly supports this proposal and would like to have its employees attend the ICC annual meeting to cast its 12 votes in support of the measure.

The Home Builders Association, a membership organization representing the housing industry, is opposed to this code change and is offering grants of up to \$850 to ICC members to attend the meeting, and presumably speak out and if eligible, vote against the proposed code change.

To counter this effort, the IRC is offering financial assistance to governmental members. The assistance includes transportation and two nights at designated hotels. Incidental expenses, including meals, taxis, gratuities, baggage fees, and travel agency fees, etc. must be paid by the attending member. The IRC is not reimbursing the member directly. Instead, members will book their travel and hotel reservations through a particular travel agency. The airlines and hotels will bill the IRC for these expenses and the IRC will pay these bills.

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<sup>1</sup> Information about the ICC and the IRC comes from their respective websites.

The IRC is a non-profit organization<sup>2</sup>, founded in 2007. Its mission is “is to promote the health, safety and welfare of the public and emergency responders by supporting the installation of fire sprinklers in residential occupancies.” IRC [supporting agencies](#) include “more than 80 international, national, regional, state and local supporting organizations, [representing] fire chiefs, fire marshals, building code officials and *other public safety interests* who support fire sprinklers as a standard feature in new home construction.” Of the six members on its board of directors, three are currently employed by local government entities, one is a retired government employee, one is a professional engineer, and one is the president of Advanced Fire Sprinkler, Inc. Most of the supporting agencies listed are private associations of fire chiefs, fire marshals, fire protection engineers, and fire safety inspectors. Although the IRC website does not emphasize its support from private commercial entities, the presence of a board member who is the president of Advanced Fire Sprinkler, Inc. certainly suggests that private fire sprinkler companies also support this organization, a fact that you confirmed. The financial support of these private entities is significant because fire sprinklers, installed by commercial entities, are inspected by the county fire department. §7-5-106(b)(2). Additionally, fire sprinkler installers have “a financial interest that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or non-performance of the employee’s official duties.” §7-5-106(b)(3). Therefore, it is apparent that many of the financial contributors to the “scholarship” fund are controlled donors.

There are two issues to consider in this inquiry. First, the ethics law, §7-5-106(b) prohibits county employees from accepting gifts from controlled donors. The one exception that permits acceptance of travel expenses, at §7-5-106(c)(2)(vi), is only available “in return for participation on a panel or speaking engagement at a meeting.” Attendance and voting at the ICC meeting would clearly not be covered by this exception. See, [AO-07-29](#). The gift prohibition does not apply however, if the donor of the gift is not a “controlled donor.” See, [AO-00-142](#).

Over the years, the ethics commission has issued a number of advisory opinions concerning acceptance of travel expenses from private entities.<sup>3</sup> (Their status as profit or non-profit is not relevant to the determination of whether the gift of travel expenses is permitted or prohibited.) In general, the ethics commission has concluded that where the donor organization is not a controlled donor, but its members (the entities actually paying for the conference) are controlled donors, the gift of travel expenses could not be accepted. See, [IO-01-31](#), [IO-02-66](#), and opinions cited therein.

In the present case, neither the IRC nor its supporting agencies are considered controlled donors. However, according to the executive director of the IRC, “most” of the contributions to support the “scholarship” fund are industry contributors. The executive director refused to

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<sup>2</sup> The IRC is a tax-exempt organization under 26 USC 501(c)(6), which includes: “Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.”

<sup>3</sup> See, [AO-07-29](#), [IO-06-92](#), [IO-06-26](#), [IO-06-04](#), [IO-05-19](#), [IO-04-58](#), [IO-03-63](#), [IO-02-152](#), [IO-02-66](#), [IO-01-31](#), [AO-00-142](#), [AO-00-56](#), [IO-99-139](#), [IO-99-64](#), [AO-99-189](#), [IO-98-22](#), [IO-98-15](#), [AO-98-31](#), [AO-98-24](#), [AO-98-13](#), [AO-97-132](#).

provide either the names of the donors or the amounts they contributed. The ethics commission can only assume therefore, that most, if not all of the donors to this fund are subject to the authority of the fire department and are therefore, controlled donors. Therefore, under §§7-5-106(b)(2) and 7-5-106(b)(3), career firefighters are prohibited from accepting these travel expenses.<sup>4</sup>

You also asked whether volunteer firefighters could accept these travel expenses. Since volunteer firefighters are not considered to be “employees” covered by the ethics law, they would not be subject to the gift law restrictions. They may therefore, accept this gift. Additionally, the firefighters may accept travel expenses from the fire department if the budget permits, and if the county determines that their attendance at the ICC meeting is advisable.

Thank you for your inquiry. If you have additional questions, please contact the ethics commission office.

The Anne Arundel County Ethics Commission

By: \_\_\_\_\_  
Betsy K. Dawson, Executive Director

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<sup>4</sup> The ethics commission considered a legal opinion that was written at the behest of the IRC, by a former professor of fire protection engineering at the University of Maryland, who is also an attorney. That opinion, while interesting, is not relevant to the ethics law issue presented by your inquiry. In fact, the opinion noted that “[n]aturally, there may be local laws or ethical rulings that would preclude accepting any such travel support, and this opinion cannot and does not speak to them.”