



**Anne Arundel County
Ethics Commission**

April 29, 2009

By Electronic Mail Only

RE: AO-09-27

You inquired whether three employees who received a gift card from a local restaurant may donate that card to a fund raising event - a silent auction - that your department will be holding for your senior citizen clientele. The ethics commission advises that they may accept the gift and therefore, they may donate it to the fund raising event.

There are two provisions of the ethics law that are relevant to your inquiry. The first provision, §7-5-106, prohibits employees from accepting gifts from controlled donors, with some exceptions. In the present instance, you have indicated that the restaurant in question is not seeking to do business with the county and that it is not regulated or affected by the business of your agency. Therefore, it is probably not a controlled donor and the gift restrictions would not apply to this gift card. Even if the restaurant is a controlled donor, the value of the gift card to each of the three employees who received it, would be under the \$25 maximum considered to be a gift of nominal value (or a gift of a meal/beverage of “modest value”). Therefore, the gift may be accepted.

Another provision of the ethics law, §7-5-107, prohibits employees from using the prestige of their positions for “private gain.” As the ethics commission has interpreted this provision, it prohibits employees from accepting gifts or gratuities, in excess of \$25 in value, which are offered solely because of the employee’s position. This prohibition applies even if the gift is offered by a donor who is *not* a controlled donor. In this case, since the gift was offered to three employees in one of your agency’s specific programs, it is likely that the gift was offered because of the employees’ positions- probably by way of appreciation. Again, because the “private gain” to each employee does not exceed \$25, acceptance of the gift is not strictly prohibited.

Because the gift card may be accepted, the employees who accept it may choose to use it or dispose of it in any manner they choose.¹ They may certainly donate it to the county- there is no prohibition on *giving* gifts. The county government may accept gifts that will promote the health and welfare of its citizens. In a number of opinions, the ethics commission has advised

¹ An employee who may not accept a gift because of the prohibitions of either §7-5-106(b) or §7-5-107(a) may not donate that gift in lieu of accepting it. That is because a gift must first be accepted in order to be donated. A gift that may not be accepted by an employee must be returned to the donor. If the donor then chooses to offer the gift to the county, the donor may do so.

that the county may accept gifts as long as the gift benefits the public and not individual employees. See, [IO-03-80](#), [IO-03-53](#), [AO-02-64](#), [IO-00-152](#), [IO-00-46](#), [IO-99-54](#), [IO-98-150](#), [AO-97-162](#).

Gifts offered to the county are subject to the administrative procedures set forth at: <http://countyweb/AdminPros/BudgetGifts.htm>.

Based on the legislative policy underlying the ethics law, the ethics commission discourages employees from accepting gifts, even those which are expressly permitted by way of exception to the gift prohibitions. On the other hand, the commission commends employees who accept gifts with the intention of donating those gifts to their agencies in support of those agency's programs. Expressions of gratitude to the donor of the gift should include mention of this donation.

Thank you for your inquiry. Please call if you have additional questions.

The Anne Arundel County Ethics Commission

/s/

By: _____
Betsy K. Dawson, Executive Director