

Summary of Advisory Opinion 2016-3

Issues Presented

- 1) Whether is it proper for an official or employee to solicit funds from outside sources to pay for an event (community, private or county related);
- 2) Whether it is appropriate to establish accounts outside the County internal accounting and finance systems in order to raise funds for County events.
- 3) How to proceed with funding that remains in an account.

Facts

The Development Authority of DeKalb County, a/k/a Decide DeKalb requested advice from the Ethics Board on how to proceed with a \$9,400 balance in an account (the “Account”) that Commissioner Boyer established for the purpose of funding costs of events to benefit DeKalb employees. In October of 2013 Decide DeKalb agreed to act as fiscal agent for Commissioner Boyer and maintain the Account. Between 2013 and the time Commissioner Boyer resigned from office, \$35,200 was deposited into the account by various donors and expenses of \$30,121.56 were paid from the account.

Question One

The first question at issue is whether the practice of soliciting donations from local organizations is a violation of the Ethics Code. Section (c)(2)(A) of the DeKalb Ethics Code prohibits an official or employee from soliciting or accepting gifts (or anything of value) from an individual or organization which either does business with the County, now or in the near future, or from someone who is seeking official action or preferential treatment from an employee or official.

This prohibition applies to accepting gifts for oneself or others, including other County employees or outside non-profit organizations. Regardless of the worthiness of the cause, the request of a gift from one of the above sources gives the appearance of a need for return favor or a quid pro quo.

Solicitation of a gift for a County benefit when received from an organization that does not do business with or is not requesting official action from the County is generally not prohibited under the Ethics Code. The Board’s advice, however, is to seek advice from the Ethics Officer or the Ethics Board when soliciting or accepting gifts on behalf of the County or an outside non-profit.

Question Two

The second question raised by this matter is whether it is appropriate to establish accounts outside the County internal accounting and finance systems in order to raise funds for County

events. Such activity is very problematic and has the potential to violate the State Code, the Ethics Code and County ordinances and policy.

Creating accounts outside the County finance system allows an individual to skirt the accounting and spending guidelines of the County. It permits both unchecked spending by the official as well as an easy method to misappropriate funds (which may include County funds) intended for a County event. Additionally, the outside account is a method for secreting the account from the public and avoiding the state open records requirements. It is advised by this Ethics Board that no such activity take place in the future.

Question Three

The third question involves disposition of the assets remaining in the Account held by Decide DeKalb. The Ethics Board advises Decide DeKalb to seek advice from their legal counsel with respect to this issue.