

BERNALILLO COUNTY CODE OF CONDUCT REVIEW BOARD

Don Bruckner, Member
Sarita Nair, Member
Edmund E. Perea, Vice-Chair



Michael Flynn, Member
Alan Packman, Chair

Advisory Opinion 2014-001

Dear Ms. Candelaria:

You requested an Advisory Opinion from the Code of Conduct Review Board (“the Board”) concerning a county employee’s obligations under the Bernalillo County Code of Conduct (“the Code”) related to political activity and the restrictions contained in Section 2-130 (h). Specifically you stated:

“I am serving as the treasurer for a candidate for the AMAFCA board of directors. I am serving in a volunteer capacity and my duties include maintaining the committee checkbook, reconciling the bank account, basic recordkeeping, accepting receipts for deposit and making disbursements. I conduct my duties outside of my work hours and I use only my personal property for such activities.

I am employed in the Purchasing Department of Bernalillo County as a Special Projects Coordinator. I have a wide range of duties in my position and I want to be sure I am not violating the Code of Conduct with respect to my position in the department and my role as treasurer for the campaign.”

The question, therefore, seems to be whether or not your duties (as stated) as treasurer conflict with the restrictions on political activity contained in Section 2-130 (h) of the Code. As discussed below, it is the opinion of this Board that such activities do not constitute a violation under the Code subject to certain restrictions listed in this opinion.

In considering your question the Board took into account all of the restrictions contained in Section 2-130 (h). For purposes of this Opinion, the Board assumes that the Albuquerque Metropolitan Arroyo Flood Control Authority (“AMAFCA”) is a political subdivision of the state and is, therefore, subsumed under the term “state” as contained in the sections below. The two subsections which appear to be most applicable to your question are contained in Sections 2-130 (h) (3) and (4). Those two sections state the following:

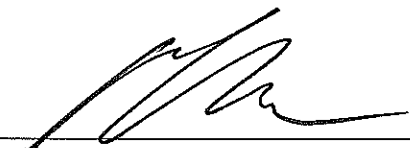
“(3) No employee with contract management authority or property management authority shall serve as a paid political consultant or as a member of the political fundraising committee of any elected official or candidate for federal, state, city or county office

(4) No employee shall be permitted to serve as a paid campaign consultant, paid campaign treasurer or paid campaign manager for a candidate for federal, state, city or county office. No employee shall be permitted to receive more than \$250.00 in reimbursement from any political campaign or political candidate, in any 12-month period.”

Based on the representations you made concerning your duties as treasurer contained in your request, the specific actions you mentioned are acceptable and do not constitute prohibited political activity for a County employee under the Code. Specifically, it is the understanding of the Board that in your role as treasurer you are not a member of a fundraising committee and are not compensated by the campaign for your services. Given this understanding, the duties you describe as treasurer do not constitute a violation of the Code.

While not specifically mentioned in your request, the Board does feel that it is important to emphasize that there are particular restrictions contained within the Code that could constitute a violation if your duties as treasurer were to include them. Initially, the restriction contained in Section 2-130 (h) (3) concerning participation in a “political fundraising committee” still pertains and so if your activities were to in any way involve the solicitation of campaign funds or if you were a part of a decision making structure that determined how campaign funds were spent, these actions are prohibited under the Code and would constitute a violation.

Your request was for an Advisory Opinion from the Board and as such you should be reminded of the conditions contained within the Board’s Rules and Regulations that attach to this opinion. Section 2 (D) of the Board’s Rules and Regulations provide that you may rely on this opinion as a basis for your future actions and as a defense to any future complaint that may be filed against you only to the extent that the material facts provided were complete and accurate and that you have followed the advice contained within this request. While this Opinion may be used by either a complainant or a respondent to a Code of Conduct Complaint as precedent, it is not binding on the Board unless it was issued to and followed by the respondent to the complaint. A copy of these rules is provided along with this Opinion for your review.



Alan Paekman, Chair
Bernalillo County Code of Conduct Review Board

9/10/14

Date