COUNTY CODE OF CONDUCT REVIEW BOARD

Katy Duhigg, Member
Luis Hernandez, Jr Member
Catherine Howell, Member

Alan Packman, Chair
Peter Vredenburg, Vice Chair

Advisory Opinion 2018-001

Dear Mr. Pena:

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 was approached by a candidate running for public office to inquire my services to do graphic design for an upcoming campaign they are running for. The language in question taken from the Code of Conduct policy presented a bit of a grey area if you will, that I would appreciate assistance with interpretation of the language. Being that I would neither be serving in the capacity of a "campaign consultant, paid campaign treasurer or paid campaign manager for a candidate" does the following line "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" apply to the proposed role of a graphic designer? Also, I would appreciate clarification to define the term "reimbursement" opposed to "compensation". Being that reimbursement is widely defined as "the action of repaying a person who has spent or lost money" (*Oxford Dictionaries)* does the line in the Code of Conduct Policy, "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" apply to services rendered? I believe services rendered would fall more in-line with compensation than reimbursement?"

The question, therefore, seems to be whether or not you could accept payment for services as a graphic designer for a political campaign given 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 for pay would constitute a violation under the Code.

In considering your question, the Board took into account all of the restrictions contained in Section 2-130 (h). The subsection which appears to be most applicable to your question is contained in Sections 2-130 (h) (4). That section states the following:

"(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 the offer to do graphic design for a political campaign it is the view of the Board that such activity would constitute a violation of this provision of the Code. Initially, the Board is in disagreement with your personal assessment that such work would not constitute being a paid campaign consultant. It is the view of this Board that any direct paid services or input provided to a political campaign by a County employee would constitute a paid campaign consultant service. The Board believes that this section of the Code is intended to prevent County employees from "moonlighting" for political campaigns for pay. The appearance created by such actions (e.g. County endorsement of a particular candidate by virtue of county employees being paid for their service to a campaign) should be avoided in order to maintain the integrity of the election process conducted by the County. As such, it is the conclusion of this Board that a county employee providing professional services for pay to a political campaign is prohibited by this provision and that such political consultants may not receive any compensation for such work. However, it should be noted that any county employee may freely volunteer their time or services to any political candidate or campaign that they choose.

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 Packman, Chair
Bernalillo County Code of Conduct Review Board

Date 2/8/18