CUYAHOGA COUNTY
AGENCY OF INSPECTOR GENERAL

ADVISORY OPINION

Advisory Opinion #: **IGADV-0009**

Date Issued: **March 7, 2016**

Issue Summary: ***Betting Pools***

INTRODUCTION

This Advisory Opinion offers guidance on betting pools[1] as they relate to Cuyahoga County public officials and employees.

SUMMARY

Ohio state law prohibits Cuyahoga County ("County") public officials and employees from conducting "pool[s] conducted for profit" under Ohio Revised Code ("R.C.") Chapter 2915. "Pool[s] not conducted for profit", however, are permitted so long as the total amount wagered is awarded **only** to a participant or participants.

More specifically, County officials and employees may not conduct betting pools, including basketball brackets, which distribute a portion of the proceeds to non-participants including charities. County officials and employees may conduct basketball brackets if 100% of the proceeds are distributed to the participants. Although this result may seem counter-intuitive, it reflects the current state of the Ohio Revised Code.

Accordingly, ***County public officials and employees are only permitted to conduct "pool[s] not conducted for profit" in which all of the proceeds are distributed to participants.***

[1] For purposes of this Advisory Opinion the term "betting pools" is synonymous with the word "pool" in R.C. Sections 2915.01(C) and (XX). Examples of a pool include, but are not limited to, wagering something of value on the outcome of horse or greyhound racing; awards television shows, large sporting events, elections; and birth of babies. The best known examples are NCAA "March Madness" and Fantasy Football tournaments.

DISCUSSION

The core anti-gambling provision of Ohio state law declares, in relevant part, no person shall establish, promote, or operate or knowingly engage in conduct facilitating any game of chance[2] conducted for profit or scheme of chance[3]. A violation of this provision is based on the existence of either a scheme of chance or a game of chance.[4]

I. A "Pool Not Conducted for Profit" is Not Considered a "Scheme of Chance" and Therefore is Permitted.

A "pool not conducted for profit" is defined as a scheme in which a participant gives a valuable consideration (*i.e.* money) for a chance to win a prize and the total amount of consideration wagered is distributed ONLY to a participant or participants. A "pool not conducted for profit" is specifically excluded as a "scheme of chance" under R.C. 2915.01(C).

II. In Contrast a "Pool Conducted for Profit" is Considered a "Scheme of Chance" and Therefore is Prohibited.

A "pool conducted for profit" means any or all of the wagered funds are distributed to anyone or anything other than a participant or participants. A "pool conducted for profit" is listed as one of the enumerated activities constituting a "scheme of chance" in R.C. 2915.01(C).

III. Illegal "Pools Conducted for Profit" Violate The County's Personnel Policies.

The County Personnel Policy and Procedure Manual §13.08 (Inappropriate Conduct/Grounds for Discipline) identifies "an act that would discredit the employer as a major infraction. Committing a misdemeanor by operating an illegal "pool conducted for profit" in the scope of County employment is conduct that is likely to discredit the County. County employees should be aware that such a violation could be grounds for discipline, up to and including termination.

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[2] "Game of Chance" includes poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo. *See* R.C. Section 2915.01(D).

[3] "Scheme of Chance" means a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. *See* R.C. Section 2915.01(C).

[4] The penalty is a misdemeanor of the first degree. See R.C. Sections 2915.02(A)(2) and (K).

CONCLUSION

It is the opinion of the AIG that under Ohio law, the County, County officials and County employees are prohibited from conducting or participating in "pool[s] conducted for profit" in the scope of their County work. This prohibition extends to the conduct of betting pools in which some or all of the proceeds are distributed to charitable organizations. County public officials and employees, however, may conduct and participate in "pool[s] not conducted for profit" so long as the total amount wagered is awarded **only** to a participant or participants.

Mark D. Griffin
Inspector General

The opinion rendered in this memorandum is solely the opinion of the Agency of Inspector General. This opinion is not binding on any external entity, including, but not limited to, the Ohio Attorney General or the Ohio Ethics Commission