



**CUYAHOGA COUNTY  
AGENCY OF INSPECTOR GENERAL**

## **Frequently Asked Questions: Fundraising Activities**

### **I. Can a County entity operate a raffle, game of chance or betting pool in order to raise money either for charity or for its own use?**

Under Ohio law, County entities cannot directly operate raffles, games of chance or betting pools in order to raise money for charities or for their own use. The only entities permitted to administer games of chance for fundraising purposes are charitable organizations.<sup>1</sup> Raffles may be conducted by charitable organizations, public schools, chartered nonpublic schools, and community schools to raise money. Bingo games for profit may only be conducted by charitable organizations which annually obtain a license from the Ohio Attorney General.

Although County entities cannot themselves administer a raffle, they can coordinate with a raffle which is legally conducted by another permitted entity which has tax exempt status under 501(a) of the federal tax code but is not described as a 501(c)(3) organization. ORC 2915.092(A)(2). Charitable organizations which legally administer a game of chance can also retain the proceeds or donate their net profits from the game of chance to a state entity or department. ORC 2915.02(D)(1)(d). County entities, therefore, cannot operate games of chance but instead can work with recognized charitable organizations to use such games of chance, raffles or bingo as a viable fundraising tool.

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 fundraiser 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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<sup>1</sup> A charitable organization includes: any person that is determined by the internal revenue service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code; any person that is or holds itself out to be established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary purpose or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety.

## **A. Raffles**

Although raffles are considered a type of “bingo” under Ohio law, no license is required to hold a raffle for fundraising by a charitable organization. Charitable organizations that are tax exempt and described under section 501(c)(3), (4), (7), (8), (10) or (19) of the IRS tax code, or public schools, nonpublic chartered schools, or community schools may hold raffles to raise funds for their own organization or school. Those organizations which are a tax-exempt organization but are not a 501(c)(3) organization may also hold raffles but are required to donate at least 50% of the net profits from the raffle to a government entity or other charitable purpose described in the statute. Thus, in coordination with the County, charitable organizations could hold a raffle which benefits themselves, but the County cannot operate the raffle itself.

## **B. Betting Pools**

Ohio state law prohibits County public officials and employees from conducting “pool[s] conducted for profit” under ORC 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 only 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.

## **C. Games of Chance**

As with raffles, because the County is not a charitable organization the County cannot operate games of chance. In contrast, charitable organizations which have a 501(a) tax exempt status and have been in continuous existence for 2 years or longer are also able to operate games of chance for fundraising purposes. Net profits from a game of chance legally administered by a charitable organization can also be donated to a governmental entity. Permissible games of chance include gambling and activities such as Texas hold'em, black jack, poker and other similar games played to raise funds for a charity. Not permissible under Ohio law are games of chance such as craps or roulette for money. Again, the County cannot operate games of chance to raise money for a charity. Only the charitable organization may do so.

## **II. Can a County entity raise funds for an individual employee?**

In the Department’s discretion, fundraising events may be held to raise money to benefit individual employees provided that the events do not interfere with the employee’s assigned duties or disrupt the workplace.<sup>2</sup> Examples include purchasing retirement gifts or funeral flowers

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<sup>2</sup> selling non-County related items during County work hours could be construed as Misuse of County Resources (Section 407.12 of the County Code) and/or Misuse of Official Position (Section 407.16 of the County Code).

and collecting donations to assist a fellow employee with some family or medical hardship or to support employee recognition awards.

### **III. Can a County entity solicit or accept donations to be used as prizes for a raffle, bingo game or other game of chance run by a charitable organization?**

Ohio ethics law prevents any public official or employee from soliciting or accepting anything of value that is “of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person’s duties.” Solicitation of items from a vendor, retail store, restaurant, or any other such private entity with which the department does business is prohibited. Solicitation of any entities with which the department does not do business needs to be authorized by the Director’s Office because an appearance of impropriety could be created if a “party makes donations to a public agency and the agency accepts the donation where a specific case is pending before the agency involving that party, or where it could be reasonably foreseen that an action will come before the agency.” Adv. Op. 92-055 (Ohio Ethics Commission).

### **IV. How Should County Departments Account For Funds Raised for Charitable Purposes?**

Each Department’s leaders should consider the following to safeguard the funds received for charitable purposes:

- 1) Designate a coordinator and treasurer for the charity activity: Dual control translates into two-person accountability for all funds collected.
  - 2) Follow cautious cash and check handling procedures: Maintain a revenue log recording cash and checks received; record all receipts as soon as possible; try to exchange cash for a Money Order payable to the charity on a weekly basis or at every \$100.00 to \$200.00 accumulation; and, the two-person team should reconcile funds collected each week.
  - 3) All funds collected should be stored in the Department safe, or alternative secured location every night. Charitable or fundraising monies should be stored separately from other items stored in the safe or secured location.
  - 4) Document funds disbursed or payments made. Promptly pay all contributed funds to the respective charity at the conclusion of the designated fund raising time period; obtain the charity’s receipt or other official acknowledgment for the total of all funds paid to the charity; keep all financial records and payment documentation about the fund raising activity for three years after the conclusion of the activity.
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