

Office of Government Ethics

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Letter to an Employee dated August 9, 1991

You have asked whether a raffle may be held on Government property, in a situation where the proceeds will be donated to a charitable organization or to an employee welfare and recreation association. As I understand it, the Office of Personnel Management (OPM) has advised you that this type of activity is prohibited by Chapter 735, subchapter 2-8 of the Federal Personnel Manual.

There are several regulatory provisions concerning gambling or fundraising activities on Federal property. First, regulations promulgated by the General Services Administration (GSA) generally bar anyone from participating in games for money or personal property, or other gambling activities, while on any property controlled by GSA. See 41 C.F.R. § 101-20.306. This regulation applies not only to Federal employees, but also to members of the public while they are on GSA-controlled property.

Additionally, the Government-wide Standards of Conduct published at 5 C.F.R. Part 735 prohibit Federal employees from participating "in any gambling activity including the operation of a gambling device, in conducting a lottery or a pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket" while on Government-owned or leased property or while on Government duty. 5 C.F.R. § 735.208. However, the regulation excludes activities which an employee may undertake as part of law enforcement duties, or those which are permissible under section 3 of Executive Order 10927 and similar agency approved activities. *Id.* This provision mirrors the language of the provision in Chapter 735 of the Federal Personnel Manual to which you were referred by OPM. Executive Order 10927 has been revoked and superseded by Executive Order 12353 on Charitable Fundraising. This latter Executive Order has been implemented by 5 C.F.R. Part 950.

When read together, these authorities clearly prohibit gambling and similar activities (such as football pools) undertaken by individual employees while on official duty or on Government property. However, as I understand your question, you wish to know whether these prohibitions also are applicable to

employees who are acting on behalf of an agency or an organization which represents employees. In particular, you question whether the relevant provisions would restrict an agency or a group of employees from conducting a raffle for the benefit of a worthwhile charitable organization or an employee benefit organization.

Executive Order 12353, as amended, authorizes Federal agencies to conduct fundraising for charitable organizations by means of on-the-job solicitations. This fundraising, known as the Combined Federal Campaign (CFC), is governed by criteria established by the Director of the Office of Personnel Management at 5 C.F.R. Part 950. Consistent with the provisions of the Executive Order, the implementing regulations state that "[t]he CFC is the only authorized charitable fund-raising drive in the Federal workplace. . . . No other fund-raising drive may be conducted in the Federal workplace without the express written permission of the Director [of OPM]" 5 C.F.R. § 950.102(a). Moreover, these rules explicitly bar agencies from conducting raffles, lotteries, bake sales and similar events as part of the CFC fundraising effort. *Id.* at § 950.602.

Although the regulation at Part 950 does not address the issue, section 7 of the Executive Order clearly states that its provisions do "not apply to solicitations conducted by organizations composed of civilian employees . . . among their own members for organizational support or for the benefit of welfare funds for their members. Such solicitations shall be conducted under policies and procedures approved by the head of the Department or agency concerned." Exec. Order No. 12353, 3 C.F.R. 139 (1982). This provision replaced section 3 of Executive Order 10927 which is cited in 5 C.F.R. 735.208, described above.

I recommend that you contact OPM for a determination whether the regulations cited above would bar your agency from conducting any type of charitable fundraising, other than the Combined Federal Campaign. Additionally, although it seems clear that an employee welfare and recreation organization could engage in fundraising among its members for its own benefit, I suggest that you also ask OPM whether section 7 of Executive Order 12353 creates an exception for employee organizations to the general prohibition on gambling in Federal buildings. The resolution of both of these questions involves an interpretation of OPM's regulations.

Sincerely,

Stephen D. Potts
Director