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Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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IN REPLY REFER TO:

RAS:LNG:lng
(Misc 94-19)
(RE-94-148)

May 26, 1994

Westy McDermid
Chairman
Advisory Neighborhood Commission 2-E
3265 S Street, N.W.
Washington, D.C. 20007

Re: May an Advisory Neighborhood Commission make a grant to a public school or to a neighborhood citizens association for its annual picnic?

Dear Chairman McDermid:

This is in reply to your May 11, 1994 letter requesting the advice of this Office as to whether Advisory Neighborhood Commission (ANC) 2-E may make a grant directly to a public school and may make a grant to a neighborhood citizens association to help that association pay for its annual picnic.

Hyde Elementary School in Georgetown has applied to ANC 2-E for a grant which would be used to help the school improve its library by purchasing books and electronic encyclopedia software for its library computer. As you have noted in your letter, in 1986 this Office advised ANC 6-B that it could not make a grant directly to a public school "in order to support activities such as computer literacy programs, musical instruction or cultural field trips," but could fund such activities "by a grant to a PTA, if they do not duplicate existing public school programs." See letter, dated January 10, 1986, from this Office to Mr. Caesar L. Marshall. The reason given in our 1986 advice for the prohibition on direct grants to public schools is that "Congress appropriates separate amounts for expenditure by ANCs and by the public schools," and that certain statutory procedures must be followed before appropriated funds may be shifted from one government entity to another. See D.C. Code §§ 47-361 to 47-363 (1990) regarding reprogramming of appropriated funds. Since the statutory law has not changed in this regard, the advice given in 1986 to ANC 6-B is equally applicable here. Namely, ANC 2-E may not make a grant directly to Hyde Elementary School, but may make a grant to Hyde's parent-teacher association, or its equivalent, for the purposes

recited above. These purposes are "public purposes" within the meaning of that phrase as it appears in § 738(c)(2) of the Self-Government Act, D.C. Code § 1-251(c)(2) (1992), and in § 16(1) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(1) (1992).

As to your second question, the Burleith Citizens Association has applied to ANC 2-E for a grant to help it pay for the expenses associated with its "Neighborhood Picnic and Festival" which is scheduled for June 11, 1994. The grant funds would be used by the Burleith Citizens Association to pay for food and entertainment. Since a grant from ANC 2-E would come from funds appropriated by Congress, the question of whether an ANC may make a grant for these purposes is governed by the standards set forth in the General Accounting Office's Principles of Federal Appropriations Law, 2nd ed., July 1991. In Chapter 4, Part C, section 5(d) (at page 4-100), the following is stated in this regard:

Just as the entertainment of government personnel is generally unauthorized, the entertainment of non-government personnel is equally impermissible. The basic rule is the same regardless of who is being fed or entertained: Appropriated funds are not available for entertainment, including free food, except under specific statutory authority.

With one very limited exception, there is no statute that specifically authorizes the expenditure of ANC funds for food or entertainment. The one limited statutory exception, which relates only to food, is set forth in section 16(1) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-264(1) (1992). Under section 16(1), an ANC may use its funds to purchase "nominal refreshments" for consumption "at Commission meetings." On this subject, see our March 11, 1992 letter of advice (copy enclosed) to ANC 3-C.

In sum, food and entertainment are not permissible purposes for which an ANC may make a grant. Therefore, the Burleith Citizens Association's request for a grant for its picnic and festival must be denied.

Sincerely,



Thomas F. Bastow
Deputy Corporation Counsel
Legal Counsel Division

Enclosure