

[Advisory Opinion 1995-4]

March 21, 1995

[Name1 withheld]
Risk Management Specialist
Montgomery County Public Schools
850 Hungerford Drive
Rockville, Maryland 20850-1747

Re: Request for Waiver

Dear [Name1 withheld]:

You have requested a waiver of the Ethics Law to permit you to participate on the Qualification and Selection Committee (QSC) for the bid for the claims adjusting service for the County's Self-Insurance Fund.

In your letter, you indicate that you were on QSC in 1991. Since that time, your sister-in-law has become employed by the current claims administrator, Trigon. You explained that your relationship will not impair your impartial evaluation of the bids.

The Ethics Law provides:

Prohibitions. Unless permitted by a waiver, a public employee must not participate in:

(1) any matter that affects, in a manner distinct from its effect on the public generally, any:

* * *

(C) property or business in which a relative has an economic interest,

Section 19A-11(a) of the Montgomery County Code 1994, as amended.

To obtain a waiver, the following criteria must be established:

- (1) the best interests of the County would be served by granting the waiver,
- (2) the importance to the County of a public employee performing his or her official duties outweighs the actual or potential harm of any conflict of interest, and
- (3) granting the waiver will not give a public employee an unfair advantage over other members of the public.

Section 19-8(a) of the Montgomery County Code. The Ethics Law further defines a relative to include the spouse of sibling, e.g., a sister-in-law. Section 19-4(n) of the Montgomery County Code.

Based upon these provisions of the Ethics Law, the Ethics Commission must deny your request to participate on the QSC. The information contained in your letter is insufficient for the Commission to make the necessary findings quoted above. If you would like to provide additional information addressing these criteria, the Commission will reconsider your request.

If you have any questions regarding this decision, please do not hesitate to contact the Commission.

Sincerely,
[signed]
Jay L. Cohen, Chair
Montgomery County Ethics Commission

cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission