

[Advisory Opinion 1996-1]

MEMORANDUM

January 22, 1996

TO: [Name withheld]
Office of Economic Development
FROM: Laurie Horvitz, Chair [initialed]
Montgomery County Ethics Commission
RE: Request for Advisory Opinion

You have asked for advice concerning an invitation you received to serve on the External Advisory Committee of the SUNY-Buffalo Greater Regional Industrial Technology Program (GRIT). In your letter to the Ethics Commission, dated November 13, 1995, you explain that the GRIT is a consortium of research universities set up for the purpose of focusing academic and technical resources on helping small technology businesses compete in the international marketplace. You indicate that your involvement with the External Advisory Committee would require attendance at semi-annual meetings. You would receive no compensation for such participation, but would receive reimbursement for travel expenses. According to your letter, you hope that this opportunity will provide you with ideas that may assist the County's economic development program. It is unclear from your letter whether your participation would be part of your County employment duties or would be pursued for your own benefit.

In light of the information provided in your letter, there are two provisions of the Ethics Law that may apply. First, the reimbursement of travel expenses could be viewed as a gift, based on the definition in the Ethics Law:

Gift means the transfer of anything of economic value, regardless of form, without an exchange of consideration of at least equal value. Gift does not include a transfer regulated by state law governing political campaigns or elections.

§19A-4(h) of the Montgomery County Code 1994, as amended. If the travel reimbursement constitutes a "gift", then it does not fall within the prohibitions of 19A-16(c). Therefore, the gift provisions do not prohibit your acceptance of any travel reimbursements.

On the other hand, the travel reimbursements may be treated as compensation for secondary employment. Instead of viewing the reimbursements as a gift, they may be treated as "consideration" for your participation at the semi-annual conferences. Therefore, if your attendance at the GRIT meetings is a personal venture, you should apply for secondary employment approval. The Commission must receive a secondary employment application, signed by your department head, in order to provide secondary employment approval. Subject to any conditions imposed by the Commission, such approval would permit you to accept travel reimbursement. In that event, you would be required to use annual leave when attending meetings that are scheduled during your work hours with the County.

If your participation at these meetings is, in fact, part of your public employment, then the County will presumably reimburse your expenses for travel. In that event, no approval would be required from the Commission.

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

cc: David Edgerley, Director, Office of Economic Development