

[Waiver 1994-4]

MEMORANDUM

PRIVILEGED AND CONFIDENTIAL

September 13, 1994

TO: Joan Dyer Liversidge
Division on Children and Youth
Department of Family Resources

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

RE: Request for Waiver for Secondary Employment

The Montgomery County Ethics Commission has reviewed your request for permission to provide consultation services for the Metropolitan YMCA. You provided the following information in support of your request.

At the time of your submission, you were employed as the Substance Abuse Coordinator with the Department of Family Resources. In that position, you coordinated the provision of counseling services to families and youths experiencing problems associated with drug abuse and physical abuse. The YMCA has contracts with your department, but you are not responsible for monitoring them. The department, however, administers a few small mini-grants under the State Prevention grant program, which have been added to the Bethesda and Silver Spring youth center contracts with the YMCA. The YMCA asked you to provide consultation services on an as-needed basis to the Metro-wide area, which prompted your request for secondary employment approval. Your request is limited to providing consulting to the Metropolitan YMCA corporate office, and not the branches that operate within Montgomery County. On July 11, 1994, in a telephone conversation with the staff of the Ethics Commission, you indicated that you recently have been reassigned to a different division of the Department of Family Resources, which is not involved with the YMCA contracts.

The Ethics Law provides in part:

[U]nless the Commission grants a waiver under subsection 19A-8(b), a public employee must not:

- (1) be employed by any business that:
 - (A) is regulated by the County agency with which the public employee is affiliated; or
 - (B) negotiates or contracts with the County agency with which the public employee is affiliated; or
- (2) hold any employment relationship that would impair the impartiality and independence of judgment of the public employee.

§19A-12(b) of the Montgomery County Code 1994, as amended. The Montgomery County Code also provides:

[U]nless authorized by law or the Ethics Commission under Chapter 19A, a person transacting business with the county must not employ a public employee while the employee is a public employee

§11B-52 of the Montgomery County Code.

Pursuant to the provisions of §19A-8(b), the Ethics Commission may grant the requested waiver if it finds that:

- (1) the waiver is needed to ensure that competent services to the County are timely and available;
- (2) failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or
- (3) the proposed employment is not likely to create an actual conflict of interest.

Based upon the information you have provided, the Ethics Commission has determined that the waiver is necessary to ensure that you are able to continue providing the valuable services in the Division of Infants and Toddlers and that failure to do so could reduce the ability of the County to retain highly qualified public employees. Inasmuch as you no longer work in the division that has direct contact with the YMCA, no actual conflict of interest is likely to occur. As a result, the Commission grants the requested waiver.