



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion No. 07-11-020

“A former public employee must not work on or otherwise assist any party, other than a County agency, in any case, contract, or other specific matter for 10 years after the last date the employee significantly participated in that matter as a public employee.” § 19A-13(a).¹ A County board asks whether one of its former board members would violate this rule if the board moved one of its bank accounts to the bank where the former board member is president and CEO. The Commission concludes that the former board member would not violate this rule because he would not be working on the same specific matter he participated in as a board member.²

After leaving the board, the former board member proposed to manage one of the board’s accounts by having the board move that account from its present bank to the bank where the former board member serves as president and CEO. The Commission understands that the former employee did not make this proposal until after leaving the board.³

The Commission concludes that the former board member would not violate § 19A-13(a) if the board moved its account to the former board member’s bank because the former board member would not be working on the **same specific matter** he participated in as a board member. The Commission has narrowly interpreted § 19A-13(a), given its proscription against working on the same “specific matter” and its relatively harsh 10-year prohibition. *See Advisory Opinion 03-015* (former county employee could work for company conducting inventory of bus stops although duties as a public employee included planning bus service, recommending route changes, and community outreach); *Advisory Opinion 03-016* (former County employee could perform accounting work for company although duties as a public employee included budget work). The account with the former board member’s bank would not, as a contractual matter, be the same account that the board had with its prior bank.

¹ Unless indicated otherwise, all references are to the Montgomery County Code (2004), as amended.

² This request for an advisory opinion comes to the Commission in an unusual posture. Only a person subject to the ethics law, or that person’s supervisor, may ask the Commission for an advisory opinion on the application of the ethics law to that person. § 19A-7(a). Thus, the Commission would normally respond to the question presented in this case upon request of the former board member. Because this request comes from the board itself, and not the former board member, the Commission is treating it as a request for an opinion about whether the Board would violate § 19A-14(f), which prohibits a person from influencing or attempting to influence an employee to violate the ethics law, by moving its account to the former board member’s bank and thereby influencing the former board member to violate § 19A-13(a).

³ It would have been a conflict of interest for the former board to make this proposal while still serving on the board. *See* § 19A-11(a)(1)(B) (an employee must not participate in any matter that affects, in a manner distinct from its effect on the public generally, any business in which the employee has an economic interest).

Thus, by moving its account to the bank where the former board member is president and CEO, the board will not influence the former board member to violate the prohibition of § 19A-13(a).

In reaching this decision the Commission has relied upon the facts as presented by the requestor.

FOR THE COMMISSION:

2-8-08
Date

Antar C. Johnson
Antar C. Johnson, Chair