



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion No. 03-020 (Item 03-020)

Section 19A-17¹ requires that designated public employees file a financial disclosure statement with the Ethics Commission that includes certain information regarding the holdings and debts of an employee's spouse. A recently remarried public employee seeks our advice regarding the need to provide this information about the employee's spouse where "my [spouse] and I owned nothing jointly, filed separate tax returns, and signed a legal agreement specifying that our personal financial holdings, now and in the future, would be held separately and not commingled in order to protect the financial interests of our respective children." We conclude that the employee must still provide the information sought in the financial disclosure statement regarding the employee's spouse even if the employee does not have any direct interest in, or control over, those holdings or debts.

The financial disclosure statement requires an employee to provide various types of information regarding the holdings and debts of employee's spouse. These include:

- direct and indirect real property holdings and transfers held by a spouse if located in certain nearby counties
- business holdings, acquisitions, or transfers (stocks, bonds, mutual funds, etc.) held by a spouse
- sources of income received by a spouse
- gifts received by a spouse
- certain debts owed by a spouse
- certain debts owed to a spouse
- county employment held by a spouse

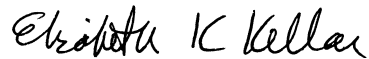
There is no requirement that the employee have any direct interest in, or control over, these spousal holdings and debts before identifying them in the financial disclosure statement. The reason for this is that one would reasonably expect a spouse to care deeply about the other spouse's holdings and debts even in the absence of any formal ownership or control, given the obviously close and personal nature of a spousal relationship. This "caring," in and of itself, could create a conflict of interest or be manipulated by others. That is the concern of the ethics law and the reason this information is sought. This does not necessarily hold true for a public employee's other relatives. Thus, a public employee must also provide some of this same information for

¹ Unless indicated otherwise, all references are to the Montgomery County Code (1994), as amended.

relatives (a broader category) only if the employee (1) controlled that relative's interest and (2) in the performance of official duties, could affect that relative's interest.

A public employee must provide the requested information regarding a spouse even if the employee does not have any direct interest in, or control over, that spouse's holdings or debts.

FOR THE COMMISSION:

A handwritten signature in black ink, appearing to read "Elizabeth K. Kellar". The signature is written in a cursive, flowing style.

Elizabeth K. Kellar, Chair

May 15, 2003