



MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion 23-04-009

April 19, 2023

A public employee sought advice from the Ethics Commission with respect to two activities the employee would like to participate in as a County official. In one, the employee was introduced by a former County employee to an opportunity to speak with officials of a midwestern city in connection with the former employee's firm's provision of consulting services to the city. The second activity involves a request to interview the employee on County property for a video/podcast series highlighting best practices for government technology adoption and constituent communication. The entity requesting to interview the employee is a County vendor that does business with another County agency. The interview would take place on County property that is under the control of the County employee.

The Ethics Commission does not believe that either circumstance implicates a prohibition of the County's ethics law. The employee does not have any economic stake in the matters, and the activity is related to the employee's duties in conducting government business. As there is no prohibition necessarily implicated, there is no need for the employee to seek a waiver from the Ethics Commission in order to engage in the activities.

Nonetheless, circumstances that do not necessarily implicate a prohibition in the ethics law can be considered sufficiently high risk that an internal control is necessary and appropriate to assure that no violation occurs.¹ Outside speaking events arranged by consultants or accepting invitations to be interviewed (by a vendor) should, as an internal control, be reviewed by an employee's chain of command to provide assurance that an employee is not abusing the employee's position and is in fact carrying out these activities in furtherance of County government. In determining whether to authorize an employee to make an official presentation at a conference or other speaking opportunity, an agency necessarily would have to determine that it is in the Government's interest for the employee to participate and that the event is an appropriate forum for the exchange of information relevant to the programs, operations, or responsibilities of the agency. In making this determination, the employee's

¹ An example of a formal internal control provides assurance that the gift exception for certain gifts "accepted by a County agency" (19A-16(e)) is appropriately utilized. Administrative Procedure 1-16 assures that employees are not to make decisions individually as to whether certain gifts can be accepted by the County because of a potential for abuse.

supervisor should consider a number of factors, including the amount of official time to be used, the cost to the government of attendance, the identity of the sponsoring entities, the risk that undue self-advancement rather than government benefit motivates involvement in the activity, and the extent of participation by other government entities or businesses with which the County regularly interacts.

With such a review, there is a substantially reduced likelihood of a misuse of the prestige of office.

For the Commission:

A handwritten signature in cursive script that reads "Bruce Romer".

Bruce Romer, Chair