



## BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

### Advisory Opinion No. 04-011AO

Absent a waiver, the ethics law prohibits a public employee from participating in a matter if the employee knows, or reasonably should know, that any party to the matter is any business in which the employee is an officer or director. A volunteer member of one of the County's recreation advisory boards asks whether he can simultaneously serve as a member of the board of directors of an unincorporated, private association that raises funds to support Montgomery County Recreation Department programs, services, and facilities. The Commission concludes that the employee can simultaneously serve on both boards so long as he observes the conflict of interest and solicitation restrictions contained in §§ 19A-11 and 19A-16 of the ethics law.

The requester is a member of one of the County's recreation advisory boards. These boards essentially advise the County Executive and the County Council on recreation matters. They are staffed by Recreation Department employees. The Commission does not perceive any inherent conflict in serving on one of the County's recreation advisory boards and simultaneously serving as a member of the board of directors of an unincorporated, private association that raises funds to support Montgomery County Recreation Department programs, services, and facilities.

Of course, the requester will have to abide by applicable restrictions in the ethics law, including the following:

The requester must not participate in any matter as a member of the County advisory board if the private association (on which he is a board member) is a party to that matter. § 19A-11(a)(2)(A).

The requester may solicit contributions for the benefit of the private association so long as he does not solicit gifts primarily from any person who does business with or is regulated by his advisory board. Also, the requester must not solicit contributions from other employees whom he directly or indirectly supervises (including board staff). § 19A-16(b)(2).<sup>1</sup>

Finally, the requester must not solicit gifts while identifiable as a County employee; or with the intent of affecting or offering to affect any action by a County agency. §§ 19A-16(a)(3) and (5).

November 30, 2004

FOR THE COMMISSION:

Elizabeth K. Kellar, Chair

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<sup>1</sup> The solicitation permitted in this paragraph is premised upon the assumption that the private association is a charitable organization as defined in the state law regulating public charities. See Md. Code Ann., Bus. Reg. Title 6. If the private association is not subject to the fund raising regulations of Title 6, more stringent rules regarding solicitation of gifts apply. See § 19A-16(a).