



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion No. 10-12-019

A “public employee” who wishes to solicit gifts must do so in accordance with the strictures of §§ 19A-16(a) and (b) of the Ethics Law. A person who volunteers with the Montgomery County Police Department (MCPD) asks whether he is subject to these rules. We conclude that this person must comply with these rules, based upon our understanding that his duties bring him within the definition of a “public employee”.

Though some provisions of the Ethics Law do apply to “persons,” most apply only to “public employees.” That term is defined in § 19A-4(m) as follows:

- (1) the County Executive and each member of the County Council;
- (2) any person employed by a County agency, including the director of the agency;
- (3) any person appointed by the County Executive or County Council to a board, commission, committee, task force, or similar body, whether or not:
 - (A) the person is compensated for serving on the body; or
 - (B) the body is permanent or temporary;
- (4) any member of the Revenue Authority, the Housing Opportunities Commission, or the Board of License Commissioners; and
- (5) any other person providing services without compensation to a County agency if that person:
 - (A) exercises any responsibility for government-funded programs, procurement, or contract administration for an agency; or
 - (B) has access to confidential information of an agency that relates to government-funded programs, procurement, or contract administration.

The terms “agency” or “County” are defined in § 19A-4(a) as follows:

- (1) any department, principal office, or office of the executive or legislative branch of County government;
- (2) any board, commission, committee, task force, or similar body

appointed by the County Executive or County Council;

(3) the Revenue Authority, the Housing Opportunities Commission, and the Board of License Commissioners;

(4) each independent fire department or rescue squad that receives funds from the County or uses property owned by the County; and

(5) any other public body if the Commission finds that:

(A) the public body is subject to the County's legislative authority to enact an ethics law; and

(B) the policies articulated in section 19A-2 would be significantly furthered by the application of this Chapter to the public body.

The MCPD is a County agency under the Ethics Law. Whether a volunteer for that agency is a public employee under the Ethics Law depends upon whether that person's duties fall within § 19A-4(m)(5). It is our understanding that the requestor's uncompensated position affords access to confidential information of the MCPD that relates to government-funded programs, procurement, or contract administration. Thus, the requestor, as a public employee, must solicit any gifts in accordance with §§ 19A-16(a) and (b).

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

FOR THE COMMISSION:



December 14, 2010

Date

Stuart Rick, Chair