

APPENDIX C - PUBLIC ETHICS LAW
MONTGOMERY COUNTY CODE, CHAPTER 19A, ETHICS

ARTICLE I. GENERAL PROVISIONS.

Sec. 19A-1. Short title. This chapter may be cited as the Montgomery County Public Ethics Law.

Sec. 19A-2. Legislative findings and statement of policy.

- (a) Our system of representative government depends in part on the people maintaining the highest trust in their officials and employees. The people have a right to public officials and employees who are impartial and use independent judgment.
- (b) The confidence and trust of the people erodes when the conduct of County business is subject to improper influence or even the appearance of improper influence.
- (c) To guard against improper influence, the Council enacts this public ethics law. This law sets comprehensive standards for the conduct of County business and requires public employees to disclose information about their financial affairs.
- (d) The Council intends that this Chapter, except in the context of imposing criminal sanctions, be liberally construed to accomplish the policy goals of this Chapter. The Council also intends that this Chapter meet the requirement under state law that the County adopt legislation that is similar to the state public ethics law.

Sec. 19A-3. Conflicts of law. If any other County statute or regulation relating to conflicts of interest, financial disclosure, or lobbying disclosure is more stringent than this law, the more stringent provision applies.

Sec. 19A-4. Definitions. Unless the context clearly indicates otherwise, the following words have the following meanings:

- (a) *Agency* or *County agency* means:
 - (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.
- (b) **Business** means any for-profit or non-profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institute, trust, or foundation. Business does not include a County agency, but includes an independent fire department or rescue squad.
- (c) **Commission** means the Montgomery County Ethics Commission, established under Section 19A-5.
- (d) **Compensation** means any money or thing or value, regardless of form, including the sale or delivery of tangible or intangible property, that an employer pays or agrees to pay for services rendered.
- (e) **Doing business with** means:
- (1) being a party with a County agency to a transaction that involves at least \$1,000 during a year;
 - (2) negotiating a transaction with a County agency that involves at least \$1,000 during a year; or
 - (3) submitting a bid or proposal to a County agency for a transaction that involves at least \$1,000 during a year.
- (f) **Employer** means any person who pays or agrees to pay compensation for services rendered.
- (g) **Employment** or **employ** means engaging in an activity for compensation.
- (h) **Gift** means the transfer of anything of economic value, regardless of form, without an exchange of consideration of at least equal value. Gift does not include a transfer regulated by state or federal law governing political campaigns or elections.
- (i) **Immediate family** means spouse and dependent children. For a public employee, immediate family also includes the employee's domestic partner, if the partner is receiving County benefits.
- (j) **Interest** or **economic interest** means any source of income or any other legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, directly or indirectly. **Interest** does not include:

- (1) an interest in a time deposit or demand deposit in a financial institution or in a money market fund with assets of at least \$10,000,000;
 - (2) an interest in an insurance policy, endowment policy, or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period; or
 - (3) an interest in a deferred compensation plan that:
 - (A) has more than 25 participants; and
 - (B) the Internal Revenue Service has determined qualifies under section 457 of the Internal Revenue Code; or
 - (4) an interest in a common trust fund or a trust that forms part of a pension plan or profit-sharing plan that:
 - (A) has more than 25 participants; and
 - (B) the Internal Revenue Service has determined qualifies as a trust under sections 401 and 501 of the Internal Revenue Code.
- (k) **Lobbying** means any attempt to influence any legislative, executive, or administrative action by a County agency.
- (l) **Lobbyist** means any individual or organization who spends money or is compensated to influence legislative, executive, or administrative action by a County agency.
- (m) **Public employee** means:
- (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.
- (n) **Relative** means:
- (1) the public employee's siblings, parents, grandparents, children, grandchildren;

- (2) the public employee's spouse, or domestic partner receiving County benefits, and the spouse's or partner's siblings, parents, grandparents, children, grandchildren; and
 - (3) the spouses of these relatives.
- (o) *Year* means calendar year.

ARTICLE II. ADMINISTRATION.

Sec. 19A-5. Ethics Commission.

- (a) **Creation.** The Montgomery County Ethics Commission is established. The Commission has 5 members. Each Commission member is appointed by the County Executive and confirmed by the Council.
- (b) **Composition; Qualifications for Membership.** Each member of the Commission must meet the following qualifications:
- (1) The member must reside in the County and be registered to vote in the County.
 - (2) During the member's term of office, the member must not:
 - (A) hold or be a candidate for any state, County or local elected or appointed office;
 - (B) be an employee of:
 - (i) the state;
 - (ii) a political subdivision of the state; or
 - (iii) a public body created by the state or a political subdivision of the state;
 - (C) be an employee or officer of a political party;
 - (D) participate (except by voting or contributing money) in any state, County, or local political campaign;
 - (E) participate (except by voting or contributing money) in support of or opposition to any question placed on the ballot by state, County, or local government, except a question that directly affects the Commission; or
 - (F) be a lobbyist.
 - (3) No more than 3 members may be registered to vote in primary elections of the same political party.
- (c) **Term.** Commission members serve for a term of 4 years. The terms of no more than 2 members may expire in any one year. Any vacancy must be filled only for the remainder of the unexpired term. A Commission member serves until the Council confirms a successor unless the member resigns before a successor is confirmed.

- (d) **Chair.** The Commission must select a chair annually. The Commission may select other officers annually as it finds appropriate.
- (e) **Removal.**
- (1) The Council or the County Executive may initiate the removal of a Commission member for:
 - (A) neglect of duty;
 - (B) misconduct in office;
 - (C) disability that renders the member unable to perform the duties of office; or
 - (D) violation of law.
 - (2) The Council or the County Executive must give the member written notice of the reason for the removal. The member is entitled to a hearing held under Chapter 2A. If the County Executive initiates the removal, the hearing must be held by the Council or a hearing officer designated by the Council. If the Council initiates the removal, the hearing must be held by the County Executive or a hearing officer designated by the Executive.
 - (3) A member is removed if the Council and the County Executive concur in removal.
 - (4) If the County Executive does not approve a removal within 14 days after the Council votes to remove a member, the Council may remove the Commission member without the approval of the County Executive by a vote which would be sufficient to enact legislation over the disapproval of the Executive under Section 208 of the Charter. The Council must take this action within 30 days after it first voted to remove the member.
- (f) **Administrative Support.**
- (1) The Commission must be allocated merit system staff, office space, equipment, and supplies within the limits of the Commission's appropriations. The Chief Administrative Officer appoints or assigns staff to the Commission after receiving a recommendation from the Commission. Subject to the general supervision of the Chief Administrative Officer, assigned staff serve at the direction of the Commission to perform duties assigned by the Commission.
 - (2) The Commission may ask the County Attorney to provide an opinion on any legal issue relating to the Commission's duties,
 - (3) The County Attorney must provide the Commission with legal services. However, the County Attorney may employ special legal counsel to the Commission under Section 213 of the Charter. The County Attorney must provide an attorney to prosecute a case before the Commission under Section 19A-10. An individual attorney assigned to provide general legal advice to the Commission must not be an investigator under Section 19A-9 or prosecute a case before the Commission under Section 19A-10 for one year after the attorney's Ethics Commission assignment ends.

- (4) The Commission may retain legal services from persons outside the Office of the County Attorney and without the approval of the County Attorney if:
 - (A) the Commission finds that obtaining independent legal services is necessary for the Commission effectively to perform its responsibilities; and
 - (B) the County Council approves the Commission's decision to select legal counsel and appropriates sufficient funds to cover the cost of the legal services.

Sec. 19A-6. Authority and duties of Commission; appeal of Commission decisions.

- (a) **Authority.** The Commission may:
 - (1) conduct investigations under Section 19A-9;
 - (2) authorize the issuance of summonses and subpoenas, and administer oaths and affirmations;
 - (3) impose sanctions under Section 19A-10;
 - (4) adopt regulations to implement this Chapter under method (2);
 - (5) extend a deadline for distribution or filing of forms for up to 6 months if the Commission finds that the deadline creates an unreasonable burden. An extension may apply to an individual or a class of individuals. The extension must be in writing. However, the Commission must not extend the time in which a complaint must be filed under Section 19A-10;
 - (6) conduct public education and information programs regarding the purpose and implementation of this Chapter;
 - (7) publish opinions under Section 19A-7;
 - (8) establish procedures to govern the conduct of Commission affairs;
 - (9) interpret this Chapter and advise persons as to its application; and
 - (10) take all other necessary acts to carry out the purposes of this Chapter.
- (b) **Duties.** The Commission must:
 - (1) prepare and distribute all financial disclosure forms under Article IV and lobbying disclosure forms under Article V;
 - (2) maintain, as official custodian, forms and records filed under this Chapter;
 - (3) act on a complaint filed under Section 19A-10;
 - (4) respond to a request for a waiver under Section 19A-8;
 - (5) act on a request for other employment approval under Section 19A-12; and
 - (6) respond to a request for an advisory opinion submitted under Section 19A-7.
- (c) **Appeals.** A final decision of the Commission on a complaint, request for a waiver, or request for other employment approval may be appealed to the Circuit Court under the applicable Maryland Rules of Procedure governing administrative

appeals. An appeal does not stay the effect of the Commission's decision unless the court hearing the appeal orders a stay.

- (d) **Request for rehearing or reconsideration.**
- (1) A person affected by a final decision of the Commission on a complaint, request for waiver, or request for other employment approval may ask the Commission for a rehearing or reconsideration.
 - (2) A request for rehearing or reconsideration:
 - (A) must be filed within 30 days after the issuance of the Commission's final decision; and
 - (B) must state in writing all reasons in support of the request.
 - (3) The filer of the request must mail or deliver a copy of the request to all parties of record.
 - (4) A request for rehearing or reconsideration does not stay the effect of the Commission's decision unless the Commission orders otherwise.
 - (5) A request for rehearing or reconsideration stays the time in which an appeal under subsection (c) may be filed until the Commission takes final action on the request.
- (e) **Cooperation with Inspector General.** The Commission may ask the Inspector General to investigate any matter within the Inspector General's or the Commission's jurisdiction, and if the matter is within the Commission's jurisdiction, to report any findings confidentially to the Commission. The Commission may disclose confidentially to the Inspector General any information it has that the Inspector General reasonably needs to perform statutory duties.
- (f) **Annual report.** The Commission must publish an annual report each year, not later than March 1, summarizing the actions it has taken during the preceding calendar year and describing each waiver it approved and advisory opinion it issued during that year. The report must not mention the names of any individual, unless otherwise properly made public, who was the subject of any action or opinion.

Sec. 19A-7. Advisory Opinions.

- (a) Any person subject to this Chapter or Sections 2-109, 11B-51 or 11B-52(a) may ask the Commission for an advisory opinion on the meaning or application of this Chapter or Sections 2-109, 11B-51 or 11B-52(a) to that person. A supervisor or department head may ask the Commission for an advisory opinion about the meaning or application of this Chapter or Sections 2-109, 11B-51 or 11B-52(a) to the employment-related conduct of any public employee supervised by the supervisor or department head. Unless the subject of the opinion authorizes disclosure, the Commission must keep the names of the requesting party and the

- (b) The Commission must publish each opinion when it is issued unless the Commission finds that the privacy interest of a public employee or other person clearly and substantially outweighs the public's needs to be informed about Commission actions. The Commission at least annually must publish a list of all unpublished opinions, with the reason why each opinion was not published. The Commission must take all reasonable steps consistent with making the opinion useful for public guidance to keep confidential the identity of any person who is affected by the opinion request.

Sec. 19A-8. Waivers.

- (a) After receiving a written request, the Commission may grant to a public employee or a class of public employees a waiver of the prohibitions of this Chapter and Sections 11B-51 and 11B-52(a) if it finds that:
 - (1) the best interests of the County would be served by granting the waiver;
 - (2) the importance to the County of a public employee or class of employees performing official duties outweighs the actual or potential harm of any conflict of interest; and
 - (3) granting the waiver will not give a public employee or class of employees an unfair economic advantage over other public employees or members of the public.
- (b) After receiving a written request, the Commission may waive the prohibitions of subsection 19A-12(b) if it finds that:
 - (1) the waiver is needed to ensure that competent services to the County are timely and available;
 - (2) failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or
 - (3) the proposed employment is not likely to create an actual conflict of interest.
- (c) After receiving a written request, the Commission may waive the prohibitions of Section 19A-13 if it finds that:
 - (1) failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or
 - (2) the proposed employment is not likely to create an actual conflict of interest.
- (d) The Commission may waive the prohibitions of Sections 19A-12 or 19A-13 without making the findings required in subsection (b) or (c) if an employer certifies, and the Commission agrees, that releasing pertinent facts about the proposed other employment is not in the interest of effective law enforcement or the national security of the United States.

- (e) The Commission may impose appropriate conditions to fulfill the purposes of this Chapter when it grants a waiver.
- (f) The Commission must disclose to the public any waiver that it grants. If a request for a waiver is denied, the Commission may publish its response as an advisory opinion under Section 19A-7(b). But the identity of any public employee who applies for a waiver must be kept confidential until the waiver is granted. The Commission may reveal the identity of any public employee who applies for a waiver that is not granted if:
 - (1) the public employee authorizes public disclosure; or
 - (2) the Commission has reasonable cause to believe that the public employee has engaged in the conduct for which the waiver was sought.
- (g) The Commission must include the pertinent facts in each waiver.
- (h) The Commission must promptly notify the State Ethics Commission, the Chief Administrative Officer, and the Council when it waives any prohibition of this Chapter for any class of public employees.

Sec. 19A-9. Investigations.

- (a) The Commission may on its own initiative investigate any matter that the Commission believes may constitute a violation of this Chapter or Sections 2-109, 11B-51 or 11B-52(a) if the Commission finds in writing that an investigation is necessary to resolve the matter.
- (b) Any investigation must be conducted by the staff of the Commission, the County Attorney, or a special counsel or other person temporarily retained by the Commission to conduct the investigation. The Commission must not actively participate in any investigations.
- (c) An investigator acting under the authority of the Commission may require any person to:
 - (1) respond under oath to written questions within 30 days;
 - (2) produce verified copies of records within 30 days; and
 - (3) on 15 days notice, attend a deposition to answer under oath questions asked by the investigator.

The investigator must disclose to the person from whom information is sought the general nature and purpose of the inquiry. A person must not refuse to answer written questions, produce records, attend a deposition, or answer questions at a deposition unless the refusal is permitted by law. The investigator may seek from a court of competent jurisdiction an order compelling compliance with this subsection.

- (d) The identity of any person who supplies information to an investigator and the report of the investigator must be kept confidential, except as otherwise expressly provided in this Chapter.
- (e) The investigator must give the Commission a confidential written report of the investigator's factual findings, the sources of information, and the identity of each person providing information.

Sec. 19A-10. Complaint; Adjudicatory Hearing.

- (a)
 - (1) Any individual may file a confidential written complaint with the Commission. The complaint must allege facts under oath that would support a reasonable person in concluding that a violation of this Chapter or Sections 2-109, 11B-51 or 11B-52(a) occurred.
 - (2)
 - (A) The complaint must be filed within the later of 2 years after:
 - (i) the alleged violation; or
 - (ii) the complainant learned or should have learned of facts that would lead a reasonable person to conclude that a violation occurred.
 - (B) A complaint may not be filed more than 6 years after the alleged violation occurred.
 - (3) The Commission may refer the complaint to Commission staff or the County Attorney for investigation under Section 19A-9 or may retain a special counsel or other person to conduct an investigation.
 - (4) If the complaint does not allege facts sufficient to state a violation of this Chapter, the Commission may dismiss the complaint. The Commission must inform the complainant of its decision to dismiss the complaint. The Commission may inform the subject of the complaint that the complaint was filed and dismissed, but must not disclose the identity of the complainant.
- (b) The Commission may file, on its own motion, a complaint based on a report received from an investigator under Section 19A-9, if the complaint is filed within the time limits established in subsection (a).
- (c) If, based on a complaint and a report, if any, submitted under Section 19A-9, the Commission finds reasonable cause to believe that a violation of this Chapter or Sections 2-109, 11B-51 or 11B-52(a) has occurred, the Commission must hold an adjudicatory hearing. However, the Commission may dispose of a matter by consent order instead of holding an adjudicatory hearing.
- (d) If the Commission holds an adjudicatory hearing, the Commission must:
 - (1) give the subject of the complaint a copy of the complaint, including the identity of the complainant; and

- (2) give the subject of the complaint copies of those portions of approved minutes of the Commission relating to the complaint, and any report issued under Section 19A-9.
- (e) The Commission may:
 - (1) issue summonses and subpoenas to compel attendance at a hearing;
 - (2) require any person to produce records at a hearing; and
 - (3) administer oaths or affirmations to witnesses.
- (f) The parties to the hearing are the subject of the complaint and the County. The prosecuting attorney may be the investigator who issued a report under Section 19A-9, an attorney in the County Attorney's office, or a special counsel. Each party may be represented by counsel. Each party may present evidence and cross-examine witnesses. The subject of the complaint may require the Commission to issue subpoenas for witnesses and documents to the same extent a party in litigation in state court would be entitled to the summons or subpoena.
- (g) The rules of evidence used in judicial proceedings do not apply. The Commission may admit and give appropriate weight to evidence, including hearsay, that possesses probative value commonly accepted by reasonable and prudent persons.
- (h) A hearing is closed to the public. However, the Commission may in its sole discretion open the hearing to the public if the subject of the complaint requests that the hearing be open. The Commission may issue additional rules of procedure governing an adjudicatory hearing.
- (i) The Commission must make written findings of fact and conclusions of law based on the record made at the hearing. If after a hearing the Commission finds that no violation of this Chapter has occurred, the Commission must dismiss the complaint.
- (j) If the Commission dismisses a complaint without holding a hearing or after holding a closed hearing, the Commission must not release to the public the identity of the subject of the complaint, the complainant, or any witness.
- (k) If the Commission finds that a violation of this Chapter has occurred, the Commission must publicly disclose its findings and conclusions, including the identity of the subject of the complaint, the complainant, and the witnesses.
- (l) The Commission must promptly notify the complainant and the subject of the complaint of its findings and conclusions and the disposition of the complaint.
- (m) If the Commission finds a violation of this Chapter or Sections 2-109, 11B-51 or 11B-52(a), the Commission may:
 - (1) seek injunctive relief under Section 19A-27;
 - (2) proceed under Section 19A-28;

- (3) seek recovery under Section 19A-29;
 - (4) seek the imposition of disciplinary action by appropriate public employees under Section 19A-30;
 - (5) order the subject of the complaint to stop any violation; and
 - (6) issue a public or private reprimand.
- (n) The Commission may, at any time, refer to an appropriate prosecuting attorney any information that indicates that a criminal offense may have occurred.

ARTICLE III. CONFLICTS OF INTEREST.

Sec. 19A-11. Participation of public employees.

- (a) **Prohibitions.** Unless permitted by a waiver, a public employee must not participate in:
- (1) any matter that affects, in a manner distinct from its effect on the public generally, any:
 - (A) property in which the public employee holds an economic interest;
 - (B) business in which the public employee has an economic interest; or
 - (C) property or business in which a relative has an economic interest, if the public employee knows about the relative's interest;
 - (2) any matter if the public employee knows or reasonably should know that any party to the matter is:
 - (A) any business in which the public employee has an economic interest or is an officer, director, trustee, partner, or employee;
 - (B) any business in which a relative has an economic interest, if the public employee knows about the interest;
 - (C) any business with which the public employee is negotiating or has any arrangement about prospective employment;
 - (D) any business that is negotiating with a relative or has an arrangement with a relative about prospective employment, if the public employee knows about the negotiations or the arrangement;
 - (E) any business or individual that is a party to an existing contract with the public employee or a relative, if the contract could reasonably result in a conflict between private interests and official duties;
 - (F) any business that is engaged in a transaction with a County agency if:
 - (i) another business owns a direct interest in the business;
 - (ii) the public employee or a relative has a direct interest in the other business; and
 - (iii) the public employee reasonably should know of both direct interests;
 - (G) any business that is subject to regulation by the agency with which the public employee is affiliated if:

- (i) another business owns a direct interest in the business;
 - (ii) the public employee or a relative has a direct interest in the other business; and
 - (iii) the public employee reasonably should know of both direct interests; or
 - (H) any creditor or debtor of the public employee or a relative if the creditor or debtor can directly and substantially affect an economic interest of the public employee or relative.
- (b) **Exceptions.**
- (1) If a disqualification under subsection (a) leaves less than a quorum capable of acting, or if the disqualified public employee is required by law to act or is the only person authorized to act, the disqualified public employee may participate or act if the public employee discloses the nature and circumstances of the conflict.
 - (2) Subsection (a) does not apply to an administrative or ministerial duty that does not affect an agency's decision on a matter.
 - (3) Paragraph (a)(1) does not apply to a public employee who is appointed to a regulatory or licensing body under a statutory provision that persons subject to the jurisdiction of the body may be represented in appointments to the body.
 - (4) Subparagraph (a)(2)(A) does not apply to a public employee, if the County Executive or the County Council appoints the public employee to serve as an officer, director, or trustee of a business to represent the public interest.
 - (5) Subparagraph (a)(2)(A) does not apply to a public employee who is an officer, director, or trustee of an organization, if the public employee discloses the relationship, is not compensated by the organization, and has no:
 - (A) managerial responsibility or fiduciary duty to the organization;
 - (B) authority to approve the organization's budget;
 - (C) authority to select any officer or employee of the organization; or
 - (D) authority to vote on matters as a member of the governing body of the organization.
- (c) **Thresholds.** In this section, interest or economic interest only includes:
- (1) any source of income, direct or indirect, if the employee:
 - (A) received more than \$1,000 from that source of income in any of the last 3 years;
 - (B) is currently receiving more than \$1,000 per year from that source of income; or
 - (C) is entitled to receive at least \$1,000 in any year in the future from that source of income;
 - (2) a business in which the public employee owns more than 3 percent;
 - (3) securities that represent ownership or can be converted into ownership of more than 3 percent of a business; and

- (4) any other economic interest worth more than \$1,000.

Sec. 19A-12. Restrictions on other employment and business ownership.

(a) **General restrictions.**

- (1) A public employee must not engage in any other employment unless the employment is approved by the Commission. The Commission may impose conditions on its approval of other employment.
- (2) The Commission may adopt appropriate procedures to receive and decide other employment requests.
- (3) The appointing authority should give a copy of this Section to applicants for positions that are affected by this Section. The Supervisor of Elections should give a copy to candidates for elected offices that are affected by this Section.
- (4) A request for approval of other employment is confidential. Commission action on the request is also confidential. However, the Commission must disclose to the public each action approving an employment request, including:
 - (A) the name of the employee;
 - (B) the name of the employer;
 - (C) the nature of the other employment; and
 - (D) any conditions imposed by the Commission.

(b) **Specific restrictions.** Unless the Commission grants a waiver under subsection 19A-8(b), a public employee must not:

- (1) be employed by, or own more than one percent of, any business that:
 - (A) is regulated by the County agency with which the public employee is affiliated; or
 - (B) negotiates or contracts with the County agency with which the public employee is affiliated; or
- (2) hold any employment relationship that would impair the impartiality and independence of judgment of the public employee.

(c) **Exceptions.** Subsections (a) and (b) do not apply to:

- (1) a public employee who is appointed to a regulatory or licensing body under a statutory provision that persons subject to the jurisdiction of the body may be represented in appointments to it;
- (2) a public employee whose government duties are ministerial, if the employment does not create a conflict of interest;
- (3) a member of a board, commission, or similar body in regard to employment held when the member was appointed if the employment was publicly disclosed before appointment to the appointing authority, and to the County Council when confirmation is required. The appointing authority must forward a record of the disclosure to the Commission, which must keep a record of the disclosure on file; or

- (4) an elected public employee in regard to employment held at the time of election, if the employment is disclosed to the Board of Supervisors of Elections before the election. The Commission must file the disclosure received from the Supervisor of Elections with the financial disclosure record of the elected public employee.
- (d) **Prohibition against unapproved employment.** Unless the Commission permits it or subsections (a) and (b) do not apply, a person must not knowingly employ a public employee.
- (e) **Prohibition against contingent compensation.** A public employee must not assist or represent a party for contingent compensation in a matter before or involving a County agency except in a judicial or quasi-judicial proceeding. However, a public employee may assist or represent a party for contingent compensation in any matter for which contingent fees are authorized by law.

Sec. 19A-13. Employment of former public employees.

- (a) A former public employee must not accept employment or assist any party, other than a County agency, in a case, contract, or other specific matter for 10 years after the last date the employee significantly participated in the matter as a public employee.
- (b) For one year after the effective date of termination from County employment, a former public employee must not enter into any employment understanding or arrangement (express, implied, or tacit) with any person or business that contracts with a County agency if the public employee:
 - (1) significantly participated in regulating the person or business; or
 - (2) had official responsibility concerning a contract with the person or business (except a non-discretionary contract with a regulated public utility).
- (c) Significant participation means direct administrative or operating authority to approve, disapprove, or otherwise decide government action with respect to a specific matter, whether the authority is intermediate or final, exercisable alone or with others, and exercised personally or through subordinates. It ordinarily does not include program or legislative oversight, or budget preparation, review, or adoption.

Sec. 19A-14. Misuse of prestige of office; harassment; improper influence.

- (a) A public employee must not intentionally use the prestige of office for private gain or the gain of another. Performing usual and customary constituent services, without additional compensation, is not prohibited by this subsection.

- (b) Unless expressly authorized by the Chief Administrative Officer, a person must not use an official County or agency title or insignia in connection with any private enterprise.
- (c) A public employee must not use any County agency facility, property, or work time for personal use or for the use of another person, unless the use is:
 - (1) generally available to the public; or
 - (2) authorized by a County law, regulation, or administrative procedure.
- (d)
 - (1) A public employee must not appoint, hire, or advocate the advancement of a relative to a position that is under the jurisdiction or control of the public employee.
 - (2) A relative of a public employee must not be employed in a position if the public employee:
 - (A) would exercise jurisdiction or control over the position; and
 - (B) advocates the relative's employment.
- (e) A public employee must not intimidate, threaten, coerce or discriminate against any person for the purpose of interfering with that person's freedom to engage in political activity.
- (f) A person must not influence or attempt to influence a public employee to violate this Chapter.
- (g)
 - (1) A public employee must not with respect to a particular matter represent another person, or provide advice to another person that would qualify as an expert opinion in a court, if:
 - (A) a County agency or the County is a party to the matter and the person being assisted has a position adverse to the County agency or the County; or
 - (B) the County agency or the County has a direct and substantial interest in the matter that is adverse to the interests of the person being assisted.
 - (2) This subsection does not apply to a public employee who renders assistance to:
 - (A) another public employee if the matter involves a personnel action;
 - (B) a member of the public employee's immediate family if the public employee renders the assistance without compensation; or
 - (C) a person for whom the public employee serves as a guardian, trustee or other personal fiduciary.
 - (3) This subsection does not apply to:
 - (A) a public employee while carrying out the employee's official duties; or
 - (B) a member of a board, committee or commission if:
 - (i) the member is not compensated by the County;

- (ii) the matter does not relate to the responsibilities of the board, committee or commission; and
 - (iii) the board, committee or commission solely performs an advisory function.
- (4) In this subsection "represent" means to act on behalf of another person, and includes acting as an agent or attorney for the other person.

Sec. 19A-15. Disclosure of confidential information; ex parte communications.

- (a) Except when authorized by law, a public employee or former public employee must not disclose confidential information relating to or maintained by a County agency that is not available to the public. A public employee or former public employee must not use confidential information for personal gain or the gain of another. Unless expressly prohibited by law, a public employee may disclose validly obtained confidential information to another public employee if the other public employee reasonably needs the information to carry out the employee's official duties.
- (b) A public employee must not consider any ex parte or private communication regarding any matter that must be decided on the basis of a record after giving interested parties an opportunity for a hearing. The recipient must incorporate any ex parte or private communication in the record. If the communication was oral, the recipient must write down the substance of the communication and enter it into the record. The decision-making body may consider ex parte or private communications if all parties are given an appropriate opportunity to respond. This subsection does not apply to:
- (1) advice rendered by an attorney for the County;
 - (2) advice rendered by appropriate officials or staff of County or other government agencies; and
 - (3) discussions between members of a decision-making body.

Sec. 19A-16. Soliciting or accepting gifts.

- (a) A public employee must not solicit a gift to the employee or another person or organization:
- (1) from any business or person who:
 - (A) is registered or must register as a lobbyist;
 - (B) does business with the County agency with which the public employee is affiliated; or
 - (C) is, or owns or operates a business that is, regulated by the County agency with which the public employee is affiliated;
 - (2) during official work hours, or at a County agency, or from any other public employee who is supervised directly or indirectly by the public employee;

- (3) while wearing all or part of an official uniform of a County agency, or while otherwise identifiable as a public employee;
 - (4) for the employee's own benefit, unless the Ethics Commission approves the solicitation; or
 - (5) with the intent of affecting or offering to affect any action by a County agency.
- (b) However, a public employee may solicit a gift:
- (1) from public employees during official work hours, or at a County agency, for a charitable drive that is approved by the County Executive or (for public employees of the legislative branch) the President of the Council, when the solicitation is part of the public employee's official duties;
 - (2) from any person to a charitable organization, as defined in the state law regulating public charities, or a municipality, if the public employee does not solicit gifts primarily from those persons who do business with or are regulated by the county agency with which the public employee is affiliated, or from other employees who are supervised directly or indirectly by the public employee;
 - (3) from any person, during official work hours, while identifiable as a public employee, or at a County agency, for the benefit of a County agency or a nonprofit organization formally cooperating on a program with a County agency if the solicitation is authorized by the County Executive or (for public employees of the legislative branch) the President of the Council in an order printed in the County Register that designates:
 - (A) the public employee authorized to solicit the gift;
 - (B) the purpose for which the gift is sought;
 - (C) the manner in which the gift may be solicited;
 - (D) the persons or class of persons from whom gifts may be solicited; and
 - (E) the type of gifts that may be solicited;
 - (4) while wearing all or part of a uniform of the corporation, to a nonprofit fire or rescue corporation of which the public employee is a member; or
 - (5) from any person to a charitable organization, as defined in the state law regulating public charities, while identifiable as an elected official, if the employee lists in a supplement to each annual financial disclosure statement each organization to which the employee solicited a contribution during that year.
- (c) A public employee must not knowingly accept a direct or indirect gift from any individual or organization that the public employee knows or reasonably should know:
- (1) is registered, or must register, as a lobbyist on a matter that is or could be considered by the County agency with which the public employee is affiliated;
 - (2) does business with the County agency with which the public employee is affiliated;

- (3) owns or operates a business that is regulated by the County agency with which the public employee is affiliated; or
 - (4) has an identifiable economic interest that is different from that of the general public, which the public employee may substantially affect in performing the public employee's official duties.
- (d) Subsection (c) does not apply to:
- (1) meals and beverages under \$50 per event or a higher amount, not to exceed \$100, that the Commission sets;
 - (2) ceremonial gifts or awards with a resale value of \$100 or less, if the gift or award commemorates an event or achievement associated with the public employee.
 - (3) items of personal property, other than cash, worth less than \$10;
 - (4) reasonable expenses for food, travel, lodging, and scheduled entertainment of the public employee, given in return for the public employee's participation in a panel or speaking at a meeting;
 - (5) gifts to a public employee who must file a public financial disclosure statement under subsection 19A-17(a), if the gift:
 - (A) is a courtesy extended to the office; and
 - (B) consists of tickets or free admission for the employee and one guest to attend a charitable, cultural, civic, labor, trade, sports, or political event, including meals and beverages served at the event;
 - (6) any item that is solely informational or of an advertising nature, including a book, report, periodical, or pamphlet, if the resale value of the item is \$25 or less;
 - (7) gifts from a relative;
 - (8) honoraria or awards for achievement; or
 - (9) a specific gift or class of gifts which the Commission exempts from this Section after finding in writing that accepting the gift or class of gifts is not detrimental to the impartial conduct of the business of a County agency.
- (e) Subsection (c) does not apply to unsolicited gifts to a County agency.
- (f) A public employee who receives a gift that the public employee must not accept under this Section must report the gift to the Commission, if otherwise required to report it, and return the gift to the donor or transfer the gift to the County.