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Article I. General Provisions.

Sec. 19A-1. Short title.

This chapter may be cited as the Montgomery County Public Ethics Law. (1990 L.M.C., ch. 21, § 1.)

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. (1990 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 37, §1.)

Editor's note-The above section is quoted in Sugarloaf Citizens Assn. v. Gudis, 319 Md. 558, 573 A.2d 1325 (1990) and in Sugarloaf Citizens Association v. Gudis, 78 Md.App. 550, 554 A.2d 434 (1989).

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. (1990 L.M.C., ch. 21, § 1.)

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. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, § 1; 1999 L.M.C., ch. 30, § 2.)

Editor's note—Section 19A-4, paragraph (n) (the definition of "relative") was quoted in *Tyma v. Montgomery County*, 369 Md. 497, 801 A.2d 148 (2002).

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. (1990 L.M.C., ch. 21, § 1; FY 1991 L.M.C., ch. 9, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, §1; 1999 L.M.C., ch. 13, §1.)

Editor's note-The above section is cited in FOP, Montgomery County Lodge No. 35 v. Mehrling, 343 Md. 155, 680 A.2d 1052 (1966).

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. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, §1.)

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 subject of the opinion confidential.

(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. (1990 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 37, §1.)

Editor's note-The above section is interpreted in Sugarloaf Citizens Assn. v. Gudis, 319 Md. 558, 573 A.2d 1325 (1990).

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. (1990 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 37, §1.)

Editor's note-The above section is cited in FOP, Montgomery County Lodge No. 35 v. Mehrling, 343 Md. 155, 680 A.2d 1052 (1996).

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. (1990 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 37, §1.)

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. (1990 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 37, §1.)

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. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1.)

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. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, §1; 1997 L.M.C., ch. 37, §1.)

Editor's note—The above section is cited in FOP, Montgomery County Lodge No. 35 v. Mehrling, 343 Md. 155, 680 A.2d 1052 (1996).

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

(a) A former public employee must not work on or otherwise 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 if the public employee significantly participated during the previous 3 years:

(1) in regulating the person or business; or

(2) in any procurement or other contractual activity concerning a contract with the person or business (except a non-discretionary contract with a regulated public utility).

(c) Significant participation means making a decision, approval, disapproval, recommendation, rendering of advice, investigation, or similar action taken as an officer or employee. Significant participation ordinarily does not include program or legislative oversight, or budget preparation, review, or adoption. (1990 L.M.C., ch. 21, §1; [2003 L.M.C., ch. 5, § 1.](#))

Editor's note—2003 L.M.C., ch. 5, § 2, states: Applicability. Section 19A-13, as amended by Section 1 of this Act, applies to any public employee who leaves public employment after this Act takes effect [July 11, 2003].

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. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, §1.)

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. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, §1.)

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. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, §1.)

Sec. 19A-16A. Political activities of quasi-judicial officials.

(a) A County quasi-judicial official must not:

(1) solicit or accept from a person within the official's jurisdiction a financial contribution for any political candidate, political organization or ballot question (other than a ballot question which directly affects the official's agency); or

(2) solicit from a person within the official's jurisdiction an endorsement of or opposition to a political candidate.

(b) In this Section:

(1) County quasi-judicial official means:

- (A) a member or alternate member of the Animal Matters Hearing Board;
- (B) a member of the County Board of Appeals;
- (C) a member of the Board of Electrical Examiners;
- (D) a member of the Board of Registration;
- (E) a member or alternate member of the Commission on Landlord-Tenant Affairs;
- (F) a voting member of the Commission on Common Ownership Communities;
- (G) a member of the Ethics Commission;
- (H) a voting member of the Fire and Rescue Commission;
- (I) a member of a case review board of the Human Rights Commission;
- (J) a member of the Merit System Protection Board;
- (K) a member of the Sign Review Board;
- (L) a member of the Historic Preservation Commission;
- (M) a member of the Contract Review Committee;
- (N) the Chief Administrative Officer;
- (O) a hearing examiner in the Office of Zoning and Administrative Hearings;
- (P) any Public Hearing Officer in the Office of the County Executive.

and

(2) Political organization means;

- (A) an "authorized candidate campaign committee" as defined in the state election law;

- (B) a “partisan organization” as defined in the state election law;
 - (C) a “political committee” as defined in the state election law;
 - (D) a “political action committee” as defined in the state election law; and
 - (E) a “political party” as defined in the state election law.
- (3) Candidate has the same meaning as in the state election law.
- (4) Person within the official’s jurisdiction means an individual who:
- (A) is registered, or is required to register, as a lobbyist on a matter that is or could be considered by the official;
 - (B) owns or operates a business that is regulated by the official;
 - (C) does business with or has a matter pending before the official’s agency;
- or
- (D) has an identifiable economic interest, different from that of the general public, that the official may substantially affect in performing the official’s duties. ([2001 L.M.C., ch. 23](#), § 1.)

Article IV. Financial Disclosure. [Note]

Sec. 19A-17. Who must file financial disclosure statements.

- (a) The following persons must file a public financial disclosure statement under oath:
- (1) each incumbent and candidate for:
 - (A) County Executive; and
 - (B) County Council;
 - (2) the following public employees:
 - (A) Chief Administrative Officer and any Deputy Chief Administrative Officer;
 - (B) special assistants to the County Executive;

(C) director and deputy director of each department, principal office, and office in the County government;

(D) members of the County Board of Appeals;

(E) members of the Commission; and

(F) members of the Merit System Protection Board;

(3) any person who is appointed to serve in an acting capacity in any position listed in the preceding paragraphs while the position is vacant;

(4) any other public employee in the Executive branch, or in the Revenue Authority, Board of License Commissioners, or Housing Opportunities Commission, including any person listed in subsection (b), who the County Executive designates by regulation issued under method (2) after finding that filing a public financial disclosure statement will promote trust and confidence in County government;

(5) any other public employee in the legislative branch including the County Board of Appeals, and in the Merit System Protection Board, including any person listed in subsection (b), who the Council designates by resolution after finding that filing a public financial disclosure statement will promote trust and confidence in County government; and

(6) the members of a board, commission, committee, or similar body in the Executive branch, or of the Revenue Authority, Board of License Commissioners, or Housing Opportunities Commission, which the County Executive designates by regulation issued under Method (2) or any public employee in the legislative branch, including the County Board of Appeals, and in the Merit System Protection Board, who the Council designates by resolution, after finding that filing a limited public financial disclosure statement will promote trust and confidence in County government. The financial disclosure required under this paragraph must be limited to information concerning any economic interest or gift that may create a conflict between the employee or member's personal interests and official duties. The Commission must adopt a regulation specifying the information that must be disclosed. A public employee who files a limited public financial disclosure statement under this paragraph must also file a confidential financial disclosure statement if required to do so under subsection (b). A public employee need not file a limited public financial disclosure statement under this paragraph if the employee already is required to file a public financial disclosure statement.

(b) The following persons must file a confidential financial disclosure statement under oath:

(1) Assistant Chief Administrative Officers;

- (2) attorneys in the Office of the County Attorney;
 - (3) Hearing Examiners;
 - (4) Members of the Fire and Rescue Commission;
 - (5) paid members of any board, commission, committee, or authority of County government, including members of the Board of License Commissioners, the Revenue Authority, and the Housing Opportunities Commission;
 - (6) any non-merit public employee (except temporary consultants and special legal counsel) paid at a rate above the minimum pay for pay grade 20, as adjusted from time to time under subsection 33-11(b), or the comparable pay grade if the general salary schedule is revised;
 - (7) any public employee in the Executive branch, or in the Revenue Authority, Board of License Commissioners, or Housing Opportunities Commission, who the County Executive designates by regulation issued under method (2) after finding that filing a confidential financial disclosure statement will promote trust and confidence in County government; and
 - (8) any public employee in the legislative branch including the County Board of Appeals, and in the Merit System Protection Board, who the Council designates by resolution after finding that filing a confidential financial disclosure statement will promote trust and confidence in County government.
- (c) In designating public employees to file public or confidential financial disclosure statements under subsection (a)(4) or (b)(7), the Executive should include those employees who have substantial responsibility for;
- (1) contracting or procurement;
 - (2) administering grants or subsidies;
 - (3) land use, planning and zoning;
 - (4) regulating, licensing or inspecting any business;
 - (5) other decisions with significant economic impact;
 - (6) law enforcement; and
 - (7) controlling access to confidential information.
- (d) The Executive and Council, respectively, must annually review the list of employees designated under subsections (a)(4), (a)(5), (b)(7), and (b)(8) for compliance

with the purposes of this Article. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, §1; [2000 L.M.C., ch. 35](#), § 1; [2001 L.M.C., ch. 4](#), § 1.)

Editor's note-In Department of Transportation v. Armacost, 311 Md. 64, 532 A.2d 1056 (1987), the court quoted with approval from the opinion in Montgomery County v. Walsh, 274 Md. 502, 523, 336 A.2d 97 (1975), appeal dismissed, 424 U.S. 901, 96 S.Ct. 109-1, 47 L.Ed.2d 306 (1976), which upheld as constitutional the delegation of power to the County Executive to implement by regulation a prior County financial disclosure law containing provisions similar to those currently in §§ 19A-17(a)(4) and 19A-17(b)(7). In Walsh, the court also held that the prior County ethics law met the requirements of the State ethics law and did not violate employees' right to privacy.

Sec. 19A-18. Financial disclosure statement; procedures.

(a) (1) Each public employee required to file a public financial disclosure statement under subsection 19A-17(a) must file the statement under oath by April 15 of each year for the previous year.

(2) Any person nominated by the County Executive to hold any office listed in paragraph 19A-17(a)(2) must file the statement before the Council confirms the appointment.

(3) If the Council makes an appointment to any office listed in paragraph **19A-17(a)(2)**, the applicant must file the statement as part of the application for the position.

(b) Unless a statement has been filed under subsection (a), each candidate for an office listed in paragraph 19A-17(a)(1) must file with the Board of Supervisors of Elections a financial disclosure statement under oath for the year before the year in which the certificate of candidacy is filed. The statement must be filed with the certificate of candidacy.

(c) If a certificate of candidacy is filed before January 1 of the year in which the election is held, the candidate must file a supplemental financial disclosure statement under oath for the year before the year in which the election is held. The supplemental statement must be filed with the Board of Supervisors of Elections on or before the last day to withdraw a candidacy. The Board of Supervisors of Elections must notify each candidate of this obligation to file a supplemental financial disclosure statement at least 20 days before the last day to withdraw a candidacy. If the candidate fails to file a timely supplemental statement, the candidacy is withdrawn.

(d) The Board of Supervisors of Elections must not accept a certificate of candidacy or certificate of nomination unless a financial disclosure statement in proper form has been filed. Within 30 days after receiving a statement, the Board must forward the statement to the Commission to be retained under this Chapter.

(e) (1) (A) Any person required to file under subsection 19A-17(b) must file a financial disclosure statement under oath with each director of a County agency with which the person was affiliated during the reporting period. Any person required to file under subsection 19A-17(b) who is not supervised by a director must file a financial disclosure statement under oath with the Chief Administrative Officer.

(B) The statement must be filed by April 15 for the previous year.

(C) The director or the Chief Administrative Officer must review the statement to see if:

- (i) the answers are complete;
- (ii) there is any conflict of interest with the person's official duties; and
- (iii) there is any potential conflict of interest.

(D) A director of a County agency or the Chief Administrative Officer may designate the deputy director of the agency to review a statement. The designator should inform the Commission of the delegation. The designee is subject to the same rules of confidentiality as the designator.

(2) After certifying that the statement has been reviewed, the agency director or Chief Administrative Officer must forward it to the Commission within 30 days after receiving it. The agency director or the Chief Administrative Officer may retain a copy of the statement for one year after forwarding it to the Commission. If asked by an agency director, the Chief Administrative Officer, the County Executive, a Council member, or the filer of the statement, the Commission must review any statement within 120 days after receiving it.

(3) The Commission, the Chief Administrative Officer, the County Executive, a member of the County Council, the County Attorney, the Director of the Office of Legislative Oversight, the filer of the statement, or their designees, may review a statement at any time. A designee must be appointed in writing and is subject to the same rules of confidentiality as the designating party.

(4) Any confidential financial disclosure statement filed under this Chapter must not be made available to the public for examination. The Commission must retain each statement for 6 years. After the 6-year period expires, the Commission must destroy each statement unless the Commission determines that the statement is needed to resolve an investigation or complaint.

(f) Each public employee required to file an annual financial disclosure statement under Section 19A-17 must also file a financial disclosure statement:

(1) within 15 days after the employee begins employment in a position covered by Section 19A-17, unless the employee has already filed a statement for the previous year; and

(2) before the employee leaves a position covered by Section 19A-17, unless the employee has taken another position covered by Section 19A-17. The Director of Finance must not issue an employee's final paycheck until the employee has filed a statement required by this paragraph. Any statement filed under this paragraph must be treated and reviewed as if it were an annual statement, except that it need only report on the period after the employee's last previous annual statement, if any.

(g) The Commission must make available each statement filed under subsection 19A-17(a) for examination and copying during normal office hours. The Commission may charge reasonable fees and adopt procedures for examining and copying statements.

(h) The Commission must provide forms for filing financial disclosure statements. Forms should be made available no later than January 1 each year.

(i) A person must not use any financial disclosure statement required under this Chapter for commercial purposes.

(j) A financial disclosure statement is filed under oath if the person signs a declaration that the financial disclosure statement is made under the penalties of perjury. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, §1.)

Sec. 19A-19. Content of financial disclosure statement.

The financial disclosure statement required under Section 19A-17 must disclose the following information about the filer for the previous year:

(a) all economic interests in any real property, including leasehold interests and interests in oil, gas, or mineral royalties or leases, if the property is located in Montgomery County, Prince George's County, Howard County, or Frederick County, Maryland; the District of Columbia; or Fairfax County or Loudoun County, Virginia. The filer must specify:

(1) the nature of each property, and its location by street address, mailing address, or legal description;

(2) the nature and extent of the interest held, and any applicable conditions and encumbrances;

(3) how, when, and from whom the interest was acquired;

(4) the nature and amount of the consideration given in exchange for the interest. If the interest was not acquired by purchase, the filer must provide the fair market value of the interest when it was acquired;

(5) if an interest was transferred during the previous year:

(A) the interest transferred;

(B) the nature and amount of the consideration received; and

(C) to whom the interest was transferred; and

(6) the name of any other person with an interest in the property;

(b) all economic interests in any business. In this subsection, business does not include an agency or instrumentality of federal, state, County, or local government. The filer must specify:

(1) the name of the business. If the business is a corporation, the filer must list the stock exchange (if any) on which the corporation's securities are traded and the corporation's trading symbol. If securities of the business are not publicly traded, the filer must list the address of the business' principal office;

(2) the nature and value of the interest held, and any applicable conditions and encumbrances. The filer must specify what percentage of the business the filer owns, if the filer knows the percentage; and

(3) if an interest was acquired or transferred during the previous year, the filer must describe the interest acquired or transferred, the nature and amount of the consideration and, if known, the name of the other person or business in the transaction;

(c) each source of income from an economic interest that is not disclosed elsewhere, from which the filer received or was entitled to receive \$500 or more during the previous year. The filer must specify:

(1) the name, and the address of the principal office or residence, of the source;

(2) the type of income; and

(3) the amount of income by category:

(A) \$500 to \$5,000; or

(B) over \$5,000.

(4) (A) If the source and the filer have a confidential relationship, the filer need not report the information required under paragraph (1) unless the source:

(i) is registered or must register as a lobbyist on a matter that is or could be considered by the County agency with which the filer is affiliated;

(ii) does business with the County agency with which the filer is affiliated;

(iii) owns or operates a business that is regulated by the County agency with which the filer is affiliated; or

(iv) has an economic interest that is different from the public interest, which the filer may substantially affect in performing the filer's official duties.

(B) The Commission must designate only one person to review this information. If the reviewer finds a reasonable basis to believe that a violation of this Chapter, or Sections 2-109, 11B-51 or 11B-52(a), has occurred, the entire Commission may review the information.

(C) Confidential relationship means a relationship between two persons that creates a privilege against testifying under state law;

(d) (1) each gift given to the filer, to a member of the filer's immediate family, or to any other person at the filer's direction, during the previous year if the donor of the gift:

(A) is registered, or must register, as a lobbyist on a matter that is or could be considered by the County agency with which the filer is affiliated;

(B) does business with the County agency with which the filer is affiliated; or

(C) owns or operates a business that is regulated by the County agency with which the filer is affiliated.

(2) The filer must specify:

(A) the nature of each gift;

(B) the value of each gift by category:

(i) \$50 or under;

(ii) \$51 to \$100;

(iii) \$101 to \$500; or

(iv) over \$500; and

(C) the person who gave the gift or directed, either directly or indirectly, that the gift be given.

(3) The filer need not report the following gifts on any part of the financial disclosure statement:

(A) a gift to the filer with a value of less than \$50, unless the same person gave the filer, members of the filer's immediate family, another person at the filer's direction, or any combination of them, gifts totaling more than \$100 during the previous year;

(B) a gift to a member of the filer's immediate family with a value of less than \$100, unless the same person gave the filer, members of the filer's immediate family, another person at the filer's direction, or any combination of them, gifts totaling more than \$100 during the previous year;

(C) a gift received under Section 19A-16(d)(5), unless the gift is admission to a cultural or sports event valued at \$50 or more;

(D) a gift from a relative of the filer, or a gift to a relative by the filer, unless:

(i) the value of all gifts from the same relative exceeds \$100, and

(ii) the relative:

(a) is registered, or must register, as a lobbyist on a matter that is or could be considered by the County agency with which the filer is affiliated;

(b) does business with the County agency with which the filer is affiliated; or

(c) owns or operates a business that is regulated by the County agency with which the filer is affiliated; or

(E) a political contribution governed by state law;

(e) (1) all offices, including any directorship, trusteeship, or partnership, held at any time during the previous year in any business that:

(A) is doing business with or is regulated by a County agency;

(B) has an office in the County; or

(C) to the filer's knowledge, has an interest in real property located in the County.

(2) The filer must specify:

(A) the name, and the address of the principal office, of each business; and

(B) the title and nature of each office;

(f) all liabilities over \$500 owed at any time during the previous year by the filer, except a debt owed to a relative. The filer need not report any debt less than \$5000 owed on a consumer credit card account. The filer need not report a debt over \$5000 owed on a consumer credit card account unless the debt is owed for more than 90 days. A consumer credit card account is an open-ended credit card account used to obtain money, property, or services for personal, family, or household purposes. The filer must specify:

(1) to whom the liability is owed;

(2) the amount owed at the end of the year;

(3) the terms of payment of the liability;

(4) how much the principal amount of the liability increased or decreased during the year; and

(5) any security given for the liability;

(g) all debts over \$500 owed to the filer at any time during the previous year, except a debt owed by a relative. The filer must specify:

(1) the debtor;

(2) the amount of the debt at the end of the year;

(3) the terms of payment of the debt;

(4) how much the principal amount of the debt increased or decreased during the year; and

(5) any security given for the debt;

(h) a list of all members of the filer's immediate family who are employed in any capacity by a County agency; and

(i) any other interest or information that the filer wants to disclose to carry out the purposes of this Chapter.

(j) If the filer is required to file under paragraph 19A-17(a)(1), the filer must list the amount and issuer of each bond or other security owned during the previous year that was issued by the County, any bi-county agency with jurisdiction in the County, and any city or town in the County.

(k) If the filer is required to identify any person or business, the filer must designate, if known, whether that person or business has done business or expects to do business with, or is regulated by, a County agency.

(l) In this Section and Section 19A-20, interest means any interest held at any time during the previous year.

(m) If a filer is required to report any amount or value, including the value of any property, under this Section, except subsections (c) and (d), the filer may specify the amount or value by category:

(1) \$1000 or less;

(2) over \$1000. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1994 L.M.C., ch. 28, § 1; [2001 L.M.C., ch. 4](#), § 1.)

Sec. 19A-20. Interests attributable to filers.

Under section 19A-19, the following must be reported as an economic interest of the filer:

(a) any economic interest held by a member of the filer's immediate family;

(b) any economic interest held by a relative of the filer, if:

(1) the interest was controlled by the filer, directly or indirectly, at any time during the previous year; and

(2) the interest could be affected by an action or a failure to act by the filer in the performance of official duties;

(c) any economic interest in real property held by a business in which the filer owns an interest, if the property is located in Montgomery County, Prince George's County, Howard County, or Frederick County, Maryland; the District of Columbia; or Fairfax

County or Loudoun County, Virginia; and if the filer's prorated interest in the real property has a market value of more than \$1,000. If the securities of the business are publicly traded, the filer need not report the interest in the real property; and

(d) any economic interest held by a trust, except a common trust fund, if the filer:

- (1) holds an income interest of more than \$1,000;
- (2) holds a reversionary interest of more than \$1,000; or
- (3) is a trustor or beneficiary of a revocable trust. (1990 L.M.C., ch. 21, § 1.)

Article V. Lobbying Disclosure.

Sec. 19A-21. Who must register as a lobbyist; exceptions.

(a) Any individual or organization must register as a lobbyist under this Article if, during a year, that individual or organization:

(1) communicates with a public employee to influence legislative action by a County agency, and for that purpose either:

(A) spends more than \$500, or

(B) receives compensation, including a pro-rated part of a salary or fee for services, totaling more than \$500; or

(2) communicates with a public employee to influence executive or administrative action by a County agency, and for that purpose spends a total of more than \$500 for:

(A) meals and beverages;

(B) transportation;

(C) lodging;

(D) provision of any service;

(E) one or more special events; and

(F) one or more gifts.

(b) In this Article, legislative action does not include any matter covered by subsection **19A-** 15(b).

(c) This Article does not apply to:

- (1) drafting bills or advising clients about proposed or pending legislation without any other attempt to influence the legislative process;
- (2) communicating with a County agency when requested by the agency, without engaging in any other activity to influence legislative, administrative, or executive action on the subject of the communication;
- (3) communicating with a County agency as an official act of an official or employee of the state, a political subdivision of the state, or the United States, and not on behalf of any other person or business;
- (4) actions of a publisher or working journalist in the ordinary course of disseminating news or making editorial comment to the general public, without engaging in other lobbying that would directly and specifically benefit the economic interests of a specific person or business;
- (5) appearing before a County agency at the request of a lobbyist if the witness:
 - (A) takes no other action to influence legislative, administrative, or executive action; and
 - (B) identifies himself or herself as testifying at the request of the lobbyist;
- (6) communicating on behalf of a religious organization for the sole purpose of protecting the right of its members to practice the doctrine of the organization;
- (7) communicating as an official duty of an officer, director, member, or employee of an organization engaged exclusively in lobbying for counties or municipalities, and not on behalf of any other person or business;
- (8) acts regulated under Chapter 8, Cable Communications; and
- (9) an action of any person representing an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code if:
 - (A) the action promotes the exempt purposes of the organization; and
 - (B) the organization gave gifts totaling less than \$500 to public employees in a year; and
 - (C) the representative is paid or spends less than \$1,000 in a year to influence executive, administrative, and legislative action.
- (d) Except for the authorization required by Section 19A-22, an individual or organization is exempt from the reporting requirements of this Article if the individual or organization:

- (1) compensates one or more lobbyists;
- (2) reasonably believes that each lobbyist will timely register and report all expenditures required to be reported; and
- (3) engages in no other lobbying.

If a lobbyist fails to report timely any information required under this Article, the lobbyist's employer is immediately subject to the reporting requirements of this Article. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1.)

Sec. 19A-22. Authorization to lobby.

Every employer of a lobbyist must sign an authorization to act, which the lobbyist must file with the Commission at registration. If the employer is a corporation, an authorized officer or agent other than the lobbyist must sign the written authorization. The authorization must include:

- (a) the full legal name and business address of both the employer and the lobbyist;
- (b) the period of time during which the lobbyist is authorized to act, unless sooner terminated; and
- (c) each legislative proposal or subject upon which the lobbyist is authorized to act. (1990 L.M.C., ch. 21, § 1.)

Editor's note-The above section is quoted in Sugarloaf Citizens Assn. v. Gudis, 319 Md. 558, 573 A.2d 1325 (1990); Section 19A-22(b) was declared unconstitutional in Sugarloaf Citizens Assn. v. Gudis, 319 Md. 558, 573 A.2d 1325 (1990) .

Sec. 19A-23. How and when to register as a lobbyist.

- (a) Every person required to register with the Commission under Section 19A-21 must disclose the following information on a form provided by the Commission:
 - (1) the lobbyist's name and permanent address;
 - (2) the name and permanent address of any person who will lobby on behalf of the lobbyist;
 - (3) the name, address, and nature of business of any person who compensates the lobbyist, with the written authorization required under Section 19A-22; and

(4) the identification, by formal designation if known, of each matter on which the lobbyist expects to lobby or employs someone to lobby.

(b) This form must be filed not later than 5 days after an individual or organization first meets the requirements for registration under this Article.

(c) A lobbyist must register separately for each employer.

(d) Each lobbyist may file a notice of termination within 30 days after:

(1) stopping any lobbying activity; and

(2) filing the reports required under this Article.

(e) The Commission may charge each lobbyist a reasonable annual registration fee in an amount set by an Executive regulation adopted under method (2). The revenue to be raised by the fee must not exceed the cost of administering this Article. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1.)

Sec. 19A-24. Compensation must not be contingent.

A person must not pay another person compensation that depends on or varies with the success or defeat of any legislative, administrative, or executive action by a County agency. (1990 L.M.C., ch. 21, § 1.)

Sec. 19A-25. Reports by lobbyist to the Commission.

(a) Each registered lobbyist must file with the Commission, under oath:

(1) a report covering the period from January 1 through June 30, filed by July 31; and

(2) a report covering the period from July 1 through December 31, filed by January 31.

(b) If the lobbyist is not an individual, an authorized officer or agent of the lobbyist must sign the form. Each lobbyist must file a separate report for each individual or organization that compensates the lobbyist.

(c) Each report must include:

(1) a complete and current statement of the information required under Section **19A-23**;

- (2) total expenditures on lobbying in each of the following categories:
 - (A) office expenses;
 - (B) professional and technical research and assistance;
 - (C) publications that expressly encourage persons to communicate with public employees;
 - (D) names of witnesses and the fees and expenses paid to each;
 - (E) meals and beverages for public employees or their immediate families;
 - (F) special events, including parties, dinners, athletic events, entertainment, and other functions, to which all members of the Council or the governing body of an agency are invited;
 - (G) expenses for food, lodging, and scheduled entertainment of public employees given in return for participation in a panel or speaking engagement at a meeting;
 - (H) other gifts to or for public employees or their immediate families; and
 - (I) other expenses;
- (3) total compensation paid to the lobbyist. If lobbying is only part of the person's employment, compensation means a prorated amount based on the time spent on lobbying compared to the time spent on other employment activities. A prorated amount must be labeled as such; and
- (4) the name of each public employee or relative who receives, directly or indirectly, a gift given by a lobbyist or any person acting on behalf of a lobbyist, if the gifts have a total value of at least \$50 during the year. The lobbyist must list each gift by the date given, the beneficiary, the amount or value, and the nature of the gift.
 - (d) Expenses reported in subparagraphs (c)(2)(F) and (G) need not be allocated to individual public employees. However, the lobbyist must specify the date, location, total expenses incurred, and the names of the employees who attended each event.
 - (e) The Commission may require any lobbyist to submit additional reports or information to fulfill the purposes of this Chapter. (1990 L.M.C., ch. 21, § 1.)

Sec. 19A-26. Public inspection of lobbyist registration documents.

(a) The Commission must maintain all required documents under this Article and make them available to the public for inspection and copying. The Commission may establish procedures and charge reasonable fees.

(b) By September 30 and March 31 each year, the Commission must compute and make available to the public:

- (1) a subtotal under each category in paragraph 19A-25(c)(2) for each lobbyist;
- (2) a subtotal representing the combined total of subparagraphs 19A-25(c)(2)(E), (F), and (G), for each lobbyist; and
- (3) the total amount reported by each lobbyist for lobbying activities during the year.

(c) If any report filed with the Commission contains the name of a public employee or relative as required under paragraph 19A-25(c)(4), the Commission must notify the public employee within 30 days after the report is filed.

(d) After being notified that a public employee's or relative's name appears in a report, the public employee may, within 30 days after receiving the Commission's notice, file a written exception to the inclusion of the name. The Commission must include the exception in its files. (1990 L.M.C., ch. 21, § 1.)

Article VI. Enforcement.

Sec. 19A-27. Petition for injunctive or other relief; cease and desist orders; voiding official actions.

(a) The Commission may ask special counsel appointed under Section 19A-5(f)(4) or the County Attorney to, or the County Attorney may on his or her own initiative, seek injunctive or other appropriate relief to require compliance with this Chapter or Sections 2-109, 11B-51 or 11B-52(a) in a court of competent jurisdiction.

(b) The court may:

(1) order a person to stop violating this Chapter or Sections 2-109, 11B-51 or 11B-52(a); or

(2) void an official action if:

(A) the action arises from or involves the subject matter of a conflict of interest for which no waiver was granted;

(B) the outcome of the official action was substantially affected by the conflict of interest; and

(C) legal action is filed within 90 days after the official action.

(c) The court, after hearing and considering all the circumstances, may grant all or part of the relief sought. However, an official action is not voidable if that action:

(1) appropriates funds;

(2) levies a tax; or

(3) provides for the issuance of bonds, notes, or other evidence of public obligation. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1; 1997 L.M.C., ch. 37, §1.)

Editor's note-In Sugarloaf Citizens Ass'n., Inc. v. Gudis, 78 Md. App. 550, 554 A.2d 434 (1989), aff'd on other grounds, 319 Md. 558, 573 A.2d 1325 (1990), the Court of Special Appeals held that § 19A-22(b) did not create a private right of action to enforce the County ethics law and that the Ethics Commission has primary jurisdiction to hear and investigate complaints of violations of the County ethics law. Section 19A-22(b) was later transferred under 1990 L.M.C., ch. 21 to § 19A-27(b) without substantive change. In Sugarloaf Citizens Assoc., Inc., v. Gudis, 319 Md. 558, 573 A.2d 1325 (1990), the Court of Appeals held that § 19A-22(b) unconstitutionally granted to the judiciary discretionary authority to invalidate an action of the County Council (on the basis of conflict of interest) if the court deemed it in the "public interest" to do so. The court also held § 19A-22(b) to be severable such that the remainder of the County ethics law (§§ 19A-1 through 19A-32) continued in force.

Sec. 19A-28. Penalties.

Unless otherwise indicated, any violation of this Chapter or regulations adopted under it, or any violation of an order of the Commission, is a class A violation. (1990 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 37, §1.)

Sec. 19A-29. Civil recovery.

(a) The County may recover damages and the value of anything received by any person in a transaction that violates:

(1) Article III of this Chapter;

(2) Article XII of Chapter 11B; or

(3) Section 2-109.

(b) The County may use a setoff, attachment, garnishment, or any other appropriate legal action or proceeding to recover any amount due.

(c) A taxpayer of the County may file a legal action under subsection (a) on behalf of the County if:

(1) the taxpayer files a written demand with the County Attorney to bring an action under subsection (a); and

(2) the County Attorney does not file the action within 60 days after receiving the written demand.

(d) The Court may order that a substantially prevailing party to an action under this Section be reimbursed court costs and litigation expenses, including a reasonable attorney fee. (1990 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 37, §1.)

Sec. 19A-30. Termination or other disciplinary action; suspension of compensation.

If the Commission finds after holding a hearing under Section 19A-10(c) that a public employee has violated this Chapter, the appointing authority may:

(a) terminate employment or take other disciplinary action; and

(b) suspend payment of salary or other compensation until the employee complies with an order of the Commission. (1990 L.M.C., ch. 21, § 1.)

Sec. 19A-31. Retaining papers and documents.

(a) Any person who is subject to this Chapter must obtain and preserve all documents that are necessary to complete and substantiate any reports, statements, or records required under this Chapter. These documents must be retained for 3 years after the report, statement, or record that involves the documents is filed. These documents must also be available for inspection by the Commission after reasonable notice.

(b) The Commission must retain for 4 years all documents submitted to it. (1990 L.M.C., ch. 21, § 1.)

Sec. 19A-32. Removal for failure to file financial disclosure statement.

If a public employee does not file a financial disclosure statement when required to under Section 19A-18, the Chief Administrative Officer (for employees in the Executive branch) or the County Council staff director (for employees in the legislative branch) may remove the employee from employment with a County agency or from membership

on a board, commission or similar body, paid or unpaid. Before an employee is removed for failing to file a financial disclosure statement, the County Attorney must give the employee 30 days notice of the proposed removal. The Chief Administrative Officer and the Council staff director must not remove an employee if the employee files the required financial disclosure statement within the time specified in the notice. This section does not apply to elected public employees. (1990 L.M.C., ch. 21, § 1.)

Endnotes

[Note] Editor's note—Section 3 of 1999 L.M.C., ch. 30, reads as follows: "Regulations. All personnel regulations in effect when this Act becomes law [March 3, 2000] continue in effect, except that any reference in the regulations to an employee's "spouse" (or equivalent term, such as "widow") or a "spouse's dependent" means "spouse or domestic partner" and "spouse's or domestic partner's dependent", respectively, when that meaning is consistent with this Act. Within 120 days after this Act becomes law [March 3, 2000], the County Executive must submit to the Council, for approval under method (1), amendments to the personnel regulations to implement this Act. In this Section, "employee" includes both active and retired employees." Section 1 of 1990 L.M.C., ch. 21 amended ch. 19A to read as set out in §§ 19A-1—19A-32. The chapter formerly consisted of §§ 19A-1—19A-27 and was derived from 1983 L.M.C., ch. 1, § 1; 1983 L.M.C., ch. 22, § 23; 1983 L.M.C., ch. 29, § 1; 1983 L.M.C., §§ 1—7, 9; 1984 L.M.C., ch. 24, § 21; 1985 L.M.C., ch. 7, § 1; 1985 L.M.C., ch. 57, § 1. Editor's note—Chapter 19A and individual sections are cited in *Sugarloaf Citizens Assn. v. Gudis*, 319 Md. 558, 573 A.2d 1325 (1990). Chapter 19A applied in *Sugarloaf Citizens Association v. Gudis*, 78 Md.App. 550, 554 A.2d 434 (1989). Charter references—Ethics generally, § 405 et seq.; code of ethics required, § 410.

[Note] *Editor's note-A prior County financial disclosure law was upheld in *Montgomery County v. Walsh*, 274 Md. 502, 336 A.2d 97 (1975), appeal dismissed, 424 U.S. 901, 96 S.Ct. 1091, 47 L. Ed 2d 306.

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