

Baltimore County Ethics Commission
Advisory Opinion 24-005

The Baltimore County Ethics Commission (the “**Commission**”) issues this Advisory Opinion in response to an inquiry made by a Baltimore County supervisory employee (the “**Employee**”) as to whether the Employee would be permitted under the Baltimore County Ethics Code (the “**Ethics Code**”) to have secondary employment by owning an engineering consulting firm that provides the same type of services he provides in his county job but only provides them outside of Baltimore County.

In considering whether the Ethics Code precludes Panel Member from doing work for other business outside of Baltimore County, the Commission carefully reviewed Section 7-1-302 of the Ethics Code (“Restrictions on Employment, Financial Interests and Affiliations”). That provision provides as follows:

**§7-1-302 – RESTRICTIONS ON EMPLOYMENT, FINANCIAL INTERESTS,
AND AFFILIATIONS.**

- (a) *In general.* Except as provided in subsections (b) and (c) of this section, a public official may not:
 - (1) Be employed by or have a financial interest in:
 - (i) An entity subject to the authority of that public official or of the agency, board or commission with which the public official is affiliated; or
 - (ii) An entity that is negotiating or has entered a contract with the agency, board or commission with which the public official is affiliated or an entity that is a subcontractor or a contract with the agency, board or commission;
 - (2) Hold any other employment relationship if that employment relationship would impair the impartiality and independent judgment of the public official; or
 - (3) Be employed by, have a financial interest in, or be affiliated with a private entity that is established or created by the county for the purpose of receiving public funds.
- (b) *Exceptions.* The prohibitions of subsection (a) of this section do not apply:
 - (1) To employment or a financial interest allowed by regulation of the Ethics Commission if:

- (i) The employment does not create a conflict of interest or the appearance of a conflict of interest; or
 - (ii) The financial interest is disclosed;
- (2) To a public official who is appointed to a regulatory or licensing unit pursuant to a statutory requirement that entities subject to the jurisdiction of the unit be represented in appointments to it; or
- (3) As allowed by regulations adopted by the Commission, to a public official whose government duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest.

(c) *Same – Extraordinary situations.*

- (1) Subject to paragraph (2) of this subsection, the Ethics Commission may exempt a public official of the administrative services of county government from the prohibitions of subsection (a) of this section. If the Commission determines that:
- (i) Failure to grant the exemption would limit the ability of the county to:
 - 1. Recruit and hire highly qualified or uniquely qualified professionals for public service; or
 - 2. Assure the availability of competent services to the public; and
 - (ii) The number of exemptions granted under this subsection has not tended to erode the purposes of subsection (b) of this section or other provisions of this title.
- (2) (i) The Ethics Commission may grant an exemption under paragraph (1) of this subsection only:
- 1. in extraordinary situations; and
 - 2. Upon recommendation of the County Executive at the request of the agency involved.
- (ii) The Ethics Commission shall apply this subsection as consistently as possible under similar facts and circumstances.

Section 7-1-302 applies to the Employee because as a Baltimore County employee, he/she is a public official. See § 7-1-101(1) (defining “public official” to include within its meaning, subject to certain exceptions not applicable here, “[a]n employee of the County”).

However, the prohibitions of §7-1-302 do not apply here because the Employee plans to limit his/her engineering consulting business to jurisdictions outside of Baltimore County. The Commission is aware of no facts suggesting that if Employee operates the consulting firm outside of Baltimore County, it would impair his/her impartiality or independent judgment as a Baltimore County employee; and (c) neither the consulting firm nor jurisdictions other than Baltimore County were “established or created” by Baltimore County “for the purpose of receiving public funds” The Commission does want the Employee to be aware that if any of the non-Baltimore County business(es) he/she does work for as owner of a consulting firm need service in Baltimore County, he/she must recuse him/herself and he/she is prohibited from attempting to influence or direct other people in his department in any way who will handle the Baltimore County work of one of his/her non-Baltimore County customers.

Accordingly, based upon the facts before it, the Commission concludes that the Employee’s secondary employment is not prohibited by the Baltimore County Ethics Code.

/s/ Laura Ray
Laura Ray, Commissioner

/s/ Kevin Murphy
Kevin Murphy, Commissioner

/s/ Sasha Rousseau
Sasha Rousseau, Commissioner

/s/ Hunter Piel
Hunter Piel, Commissioner