

Baltimore County Ethics Commission

Advisory Opinion 24-007

The Baltimore County Ethics Commission issues this Advisory Opinion in response to a request from a member of the Fair Election Fund (“FEF”) Commission. The member serves on the FEF commission and is also president of a local political club in Baltimore County that makes contributions to political candidates. The member wishes to know if he/she can continue to serve in both roles, that is as a member of the FEF commission and as president of a political club in Baltimore County that makes candidate donations. The Commission as a whole wants to know if any of their members could serve as members of other civic organizations that might make candidate contributions, such as the Veterans of Foreign Wars or the American Legion and still serve as FEF Commissioners. For the reasons stated below, we conclude that they may.

Pursuant to section 3-3-2502 of the Baltimore County Code, there are nine members of the Fair Election Fund Commission. The nine are nominated as follows: one resident of each councilmanic district, and two at-large nominees by the County Executive. The nominees are then confirmed by the County Council.

As individuals “elected or appointed to serve on any county board, agency, commission, or similar entity” members of the FEF commission are considered public officials who are subject to the Baltimore County Ethics code. Section 7-1-301 prohibits a public official, such as an FEF commission member, from participating in a matter if that official or a qualified relative “has an interest in the matter and the public official knows of the interest.” An interest is defined in 7-1-101(m), subject to certain exceptions, as a “legal or equitable interest, whether or not subject to an encumbrance or a condition, which is owned or held by a person subject to this title in any way, in whole or in part, jointly or severally, directly or indirectly.” In this case, there can be no conflict of interest when contributions by the organization to the FEF-funded candidate are prohibited by law.

According to section 3-3-2502(C) of the Baltimore County Code, a member of the FEF commission may not be a “candidate for public office in the current election cycle, a chair or treasurer of an open campaign account, an elected or appointed member of a local or state central committee of a political party, or a lobbyist registered with the county.” In this situation, the FEF commissioner does not serve in any of these enumerated capacities, thus he is not automatically disqualified from serving in both positions.

Additionally, the code states that candidates may not accept “a private contribution from any group or organization, including a political action committee, a corporation, a labor organization, or a state or local central committee of a political party.” 8-2-110. Therefore, the organization of which he/she is president would not be allowed to donate to Baltimore County Council or Baltimore County Executive candidates who are members of the Fair Election Fund. A political club would be making a “private contribution for any group or organization” and therefore the club would not be allowed to donate to any candidate enrolled in the Fair Election

Fund to run for Baltimore County Executive or Baltimore County Council member. As we discussed in Advisory Opinion 24-006, campaign contributions alone to an FEF-enrolled candidate do not violate the Ethics Code. In this case, without any contributions being made to FEF-enrolled candidates by the club of which he is president, the commissioner could not be said to have a conflict of interest by serving in both roles. This would be true for any organization that a member of the FEF Commission would also be part of or have a leadership role in – there is no conflict because there is no donation to the FEF by organizations. The public official (in this case, the FEF Commissioner) has no interest (within the meaning of 7-1-301) in the FEF-enrolled campaign of a candidate for Baltimore County Council or Baltimore County Executive because no donation was made by the organization of which he/she is a part.

The same reasoning can be applied to find there is also no violation of section 7-1-302. As that section states:

§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.

As we stated in Advisory Opinion 24-006, so long as the FEF commissioner is not employed by the campaign, he/she does not have an “interest” in the organization because the organization is prohibited from making contributions to FEF-enrolled candidates. If the FEF commissioner was employed by a FEF-enrolled campaign, he/she would be violating 7-1-302(a)(2) because the employment relationship “would impair the impartiality and independent judgment of the public official.”

Finally, there is no violation of Baltimore County’s section 7-1-306, Use of Prestige of Office. According to that provision, “[a] public official may not intentionally use the prestige of office for that public official’s private gain or that of another.” An FEF commissioner who is part of the membership or leadership of a private organization that is prohibited from making contributions to an FEF-enrolled campaign has not used the prestige of being an FEF Commissioner for any purpose, much less for another’s private gain.

In conclusion, the Commission finds that being a member or officer of an organization that makes political contributions would not exclude someone from serving as an FEF commissioner as private organizations are precluded from making contributions to FEF-enrolled candidates and their campaigns. However, if the person was employed by a campaign, they could not serve as an FEF Commissioner. Lastly, there is no misuse of prestige of office if an FEF Commissioner is a member or officer of a private organization that donates to local candidates so long as they do not donate to FEF-enrolled candidates, as those contributions are prohibited by law.

/s/ Mande Heinl
Mande Heinl, Commissioner

9/3/2024
Date

/s/ Laura E. Ray
Laura Ray, Commissioner

9/3/2024
Date

/s/ Kevin Murphy
Kevin Murphy, Commissioner

9/3/2024
Date

/s/ Sasha Rousseau
Sasha Rousseau, Commissioner

9/3/2024
Date

/s/ Hunter Piel
Hunter Piel, Commissioner

9/3/2024
Date