

PUBLIC

CITY OF COLLEGE PARK ETHICS COMMISSION

ADVISORY OPINION 2012-01

November 16, 2012

City Councilmember [REDACTED] has asked the Ethics Commission for an advisory opinion regarding whether [he/she] may be employed as an administrative assistant to Prince George's County District [REDACTED] County Councilmember [REDACTED].

I. Facts

According to [City] Councilmember [REDACTED], as well as an email from [County] Councilmember [REDACTED]'s Chief of Staff, [REDACTED]'s duties as an administrative assistant would include the following:

1. Answer telephones, greet visitors; distribution/collects mail
2. Serves as councilwoman's scheduler with training and assistance.
3. Prepares council and committee notebooks.
4. Organizes and maintains files and records, prepares reports and orders supplies
5. Word processes, and prepares spreadsheets and schedules as requested.
6. Prepares copy for newsletters and announcements
7. Adds contacts to mailing lists
8. Assists Constituent Services Aide with database maintenance, communication and public programs.
9. After training, serves as constituent contact for Department of Environmental Resources and Department of Public Works and Transportation. Follow up on constituent and staff concerns.
10. Adheres to all County Council policies and procedures
11. Performs other duties as directed.

County Councilmember [REDACTED], as a member of the County's legislative body, has broad policymaking authority over all aspects of County government.

Councilmember [REDACTED], as a member of the City Council, has broad authority to establish public policy for the City and supervise the City Manager's administration of the City's laws. As an administrative assistant to County Councilmember [REDACTED], Councilmember [REDACTED] would be an employee of Prince George's County.

Prince Georges County is a party to multiple contracts with the City of College Park, including Memoranda of Understanding regarding zoning enforcement and the provision of police services.

II. Applicable Law

Chapter 38 of the College Park Code establishes ethical standards for City officials. The goal of the Ethics Chapter is to ensure that City officials perform their duties with only the best interests of the City in mind. Section 38-11 prohibits City officials from participating in certain matters and holding certain employment relationships that may create conflicts between their private interests and the interests of the City.

Section 38-11(D), which governs outside employment by City officials, provides as follows:

D. Employment and financial interest restrictions.

(1) Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(a) Be employed by or have a financial interest in any entity:

* * *

(2) That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or

(b) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

Ethics Commission Regulation 2012-01, which the Commission promulgated pursuant to its authority under section 38-11(D)(1), governs outside public employment by City officials. That section provides as follows:

Outside Ministerial Public Employment Permitted

1. This regulation is issued pursuant to section 39-11(D) of the College Park City Code.
2. The Ethics Commission, by Advisory Opinion, may permit a City official or employee to maintain specific outside employment with a state, federal, or local government entity that is negotiating or has entered a contract with the City agency, board, or commission with which the City official or employee is affiliated if:
 - a. The City official's or employee's state, federal, or local government position is purely administrative or ministerial;

- b. The City official or employee notifies, in writing; the head of his or her City agency, board, or commission (which, for City Councilmembers and the City Manager, shall be the City Council) of the potential employment, including the employer, position title, and position duties, and submits a copy of the written notice to the Ethics Commission; and
- c. The Ethics Commission thereafter determines that the City official's or employee's specific circumstances do not otherwise create a conflict of interest or appearance of conflict.

III. Discussion.

A. Section 38-11(D)(1) Employment Restriction

As noted above, as an administrative assistant to a County Councilmember, City Councilmember ██████ would be a Prince George's County employee. Because Prince George's County is a party to contracts with the City, section 38-11(D), on its face, prohibits Councilmember ██████ from being employed by the County while [he/she] is a City official.

B. Ethics Regulation 2012-01

Based upon the description of the duties of the County administrative assistant position, it appears to the Commission that Councilmember ██████'s duties would be purely ministerial and administrative. Accordingly, Councilmember ██████'s proposed outside employment is permissible under Regulation 2012-01 if we determine that it does not raise a conflict of interest or an appearance of conflict with [his/her] duties as a City Councilmember.

Given the relative size of the City of College Park and Prince George's County, in terms of geography, population, and budget, the Commission believes that the possibility that Councilmember ██████'s employment as an administrative assistant for a Prince George's County Councilmember will influence [his/her] in the performance of [his/her] duties as a City Councilmember is too remote to create even the appearance of a conflict of interest. The Commission does not believe that any vote cast, policy endorsed, or action taken by Councilmember ██████ in the performance of [his/her] official City duties will have a sufficient impact upon the Prince George's County Government, County Councilmember ██████, or Councilmember ██████'s position as an administrative assistant to influence Councilmember ██████'s decision making as a City official.

Councilmember ██████ has provided written notice of [his/her] proposed County employment to the City Council in accordance with section 2(b) of Regulation 2012-02, and submitted a copy of [his/her] notice to the Commission.

IV. Conclusion.

Based on the facts provided by [City] Councilmember [REDACTED] and the facts readily available to the Commission, we conclude that Councilmember [REDACTED]'s proposed employment as an administrative assistant to Prince George's County Councilmember [REDACTED] is permissible under section 38-11(D)(1) of the College Park Code and Ethics Commission Regulation 2012-01. However, in light of the ongoing relationship between the City and Prince George's County, the Commission recommends that Councilmember [REDACTED] remain vigilant for potential conflicts of interest that may arise and recuse [himself/herself] from City matters in which there is a conflict of interest or apparent conflict as a result of [his/her] employment as an administrative assistant to Councilmember [REDACTED].

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