

Resolution No.: 18-1214
Introduced: July 24, 2018
Adopted: July 24, 2018

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY MARYLAND**

Lead Sponsor: Council President on behalf of the Ethics Commission

SUBJECT: Approval of Ethics Commission Regulation 22-16AM, Ethics

Background

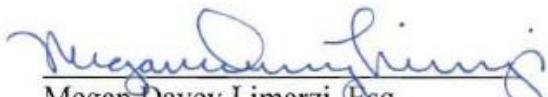
1. Ethics Commission Regulation 22-16 was submitted for Method (2) Council review on December 16, 2016. Ethics Regulation 22-16 would repeal Regulation 25-01 and Regulation 33-01. The Ethics Commission requested the County Council adopt these new ethics regulations to replace existing outdated regulations and add several new provisions to conform to recent legislation enacted by the Council.
2. After receiving comments from different stakeholders, including a letter from Police Chief Thomas Manger concerning the proposed treatment of outside employment by police officers, the Ethics Commission worked with the County Attorney's Office and the Police Department to revise the proposed regulation. Regulation 22-16AM was republished in the June 2017 County Register. Ethics Commission resubmitted Ethics Commission Regulation 22-16AM to the Council on May 8, 2018.
3. The Council reviewed the regulation under Method (2). Under Method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after the Council receives the regulation, the regulation automatically takes effect unless the Council extends the time to review it. The Council extended the time to review Ethics Regulation 22-16AM until June 30, 2018 in Resolution No. 18-972 and extended the time until December 30, 2018 in Resolution No. 18-1160.
4. On February 8, 2018, the Government Operations and Fiscal Policy (GO) Committee reviewed the proposed regulation and recommended changes. The Ethics Commission resubmitted Regulation 22-16AM with the changes requested on May 8, 2018. The GO Committee recommended approval of the amended recommendation.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Ethics Regulation 22-16AM, Ethics is approved.

This is a correct copy of Council action.



Megan Davey Limarzi, Esq.

Clerk of the Council



MONTGOMERY COUNTY ETHICS COMMISSION ETHICS COMMISSION REGULATION

Ethics Commission • 100 Maryland Ave. • Suite 204 • Rockville, Maryland 20850

Subject Ethics	Number 22-16AM
Originating Department Montgomery County Ethics Commission	Effective Date July 24, 2018

Montgomery County Ethics Commission Regulations on:

ETHICS

Issued By The Montgomery County Ethics Commission

Authority: Montgomery County Code (2016) Sections 19A-6, 19A-14, 19A-16, 19A-19

Council Review: Method 2

Supersedes:

Regulation No. 25-01
Regulation No. 33-01

Register Vol. 33 No. 9

Effective Date: July 24, 2018
Comment Deadline: June 30, 2017

Summary: This regulation establishes: Commission policies and procedures for addressing violations of the Public Ethics Law; administrative policies and procedures for outside employment requests; guidance concerning misuse of prestige of office and improper influence; guidance on gift acceptance; and ranges of value for financial disclosure by elected officials.

Staff contact: Robert Cobb, Chief Counsel, Staff Director
(240) 777-6670

Address: Montgomery County Ethics Commission
Council Office Building
100 Maryland Ave, Suite 204
Rockville, Maryland 20850



MONTGOMERY COUNTY ETHICS COMMISSION ETHICS COMMISSION REGULATION

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Subject Ethics	Number 22-16AM
Originating Department Montgomery County Ethics Commission	Effective Date

Background: The Montgomery County Public Ethics Law authorizes the Ethics Commission to adopt regulations under Method (2) to implement the Public Ethics Law. These regulations identify policies and procedures of the Commission and provide guidance on certain circumstances. Prior Ethics Commission regulations concerning outside employment and limited public financial disclosure are superseded.

SEC. 19A ETHICS REGULATIONS

19A.9.01 COMMISSION PROCEEDINGS CONCERNING POSSIBLE VIOLATIONS OF THE PUBLIC ETHICS LAW

19A.9.01.01 Applicability

This regulation addresses the handling of enforcement matters pursuant to the Public Ethics Law by the Ethics Commission and its staff. Enforcement issues covered by this regulation arise when a violation of the Montgomery County Public Ethics Law may have occurred and the Commission staff or the Commission becomes aware of the issue. The regulation covers the handling of issues by the Commission and not by other agencies; thus, other proceedings, such as adverse personnel actions, may be instituted separate and apart from Commission consideration of an enforcement issue.

19A.9.01.02 Preliminary procedures for addressing possible violations

2.0 Preliminary Inquiry. When Commission staff becomes aware of a possible ethics violation, it will assess the information received for compliance with Public Ethics Law requirements. Commission staff may conduct a preliminary inquiry (which does not involve the statutory investigative authorities of the Commission) to determine whether a matter merits being presented to the Commission for its consideration or other resolution. Where the Commission staff obtains *prima facie* evidence of a violation of the Public Ethics Law, Commission staff has available to it a number of options to resolve the matter.

2.1 Resolution of minor violations. Many potential violations involve minor compliance issues with financial disclosure, outside employment, and lobbying registration and reporting requirements. Commission staff will resolve many of the compliance issues by obtaining compliance with requirements by the responsible person.

2.2 Civil Citations. Authorized Commission staff can issue a civil citation for an apparent offense of the Public Ethics Law, enforceable in District Court.

2.3 Settlement. In lieu of issuing or enforcing a civil citation, Commission staff can seek a settlement from the person cited or to be cited; any payment to settle a matter may not exceed statutory limits for violations of the



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Public Ethics Law.

2.4 Fines. For financial disclosure non-compliance, Commission staff may impose the statutory fine in 19A-32(b) and refer the filer to the Chief Administrative Officer or the Council Administrator for disciplinary action. Within 30 days after a fine is imposed, the filer may request a waiver or reduction of the fine. The request must be in writing to the Commission showing good cause why the fine should be waived or reduced. Upon continued failure of a filer to file the required report or pay the fine imposed, authorized Commission staff may issue a citation enforceable in District Court imposing additional fines and penalties or present the noncompliance issue to the Commission.

2.5 Proposals to cure apparent violations. Commission staff can elevate a noncompliance issue by presenting it to the Commission for consideration of whether to cause an investigation and (after investigation) file a complaint. Commission staff can ask the person responsible for the possible violation any time before the Commission files a complaint or sets a matter for hearing if he or she would like to propose a cure to the Commission to remedy the possible violation. Any proposal to cure must recite stipulations of fact and law and any actions taken or agreed to be taken. Commission staff must present any such proposal to the Commission for its consideration. The Commission may accept or reject the proposal independent of staff's recommendation or agreement. In the event the Commission accepts the proposal to cure, the Commission staff may resolve the matter based on the terms agreed to by the Commission. Upon satisfaction of the terms of the accepted proposal, the Commission staff will close the matter. Any accepted proposal acknowledging a violation of the ethics law will be made public.

19A.09.01.03 Commission disposition of matters

3.0 General. The Commission will consider information presented to it by staff about a potential violation and may take any one of the following courses of action.

3.1 Obtaining additional information. The Commission may ask staff to request information from County agency officials or conduct a preliminary inquiry into a matter to obtain sufficient information to determine if an investigation is necessary to resolve a matter or if other action is warranted.

3.2 Referral to management. The Commission can refer a matter to a County agency for management consideration and resolution without conducting a Commission investigation or making any findings. In deciding whether to refer a matter, the Commission will weigh the benefit of reaching independent conclusions through investigation and adjudication versus the efficiency of agencies resolving matters themselves through internal investigation and personnel action if appropriate. The decision whether to employ Commission investigation and possible adjudication will include analysis of whether Commission action is necessary to



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ensure public confidence.

3.3 Citation issuance. The Commission may direct authorized staff to issue a citation in connection with an apparent offense. The direction to issue a citation in a matter does not constitute a finding of a violation of the Public Ethics Law by the Commission. A citation is an appropriate remedy for apparent violations of the Public Ethics Law involving failure to meet financial disclosure or lobbying filing requirements; financial disclosures of prohibited gifts; outside employment without an approved outside employment request; and other instances where an apparent violation of the Public Ethics Law exists and the Commission determines that a matter would be better handled through the citation process rather than through the Commission's investigation and adjudicatory process. Factors the Commission may consider in making this determination include the complexity of the facts involved; whether novel issues of law are present; and the relative importance of the matter in terms of the Commission's mission to ensure public confidence in the impartiality of public employees.

3.4 Investigation authorization. The Commission can cause a matter to be investigated if it finds in writing that an investigation is necessary to resolve the matter.

3.5. Closure. The Commission may close a matter or decide to take no further action in a matter if in the Commission's discretion it determines that no further action is warranted.

19A.09.01.04 Formal Complaint Process

4.0 Formal complaints. A formal complaint is an allegation of facts made under oath that would support a reasonable person in concluding that a violation of the Public Ethics Law or Sections 2-109, 11B-51, or 11B-52(a) has occurred.

4.1. Review of complaints. A formal complaint received by Commission staff must be presented to the Commission. Upon review of a formal complaint, the Commission can dismiss the complaint for failure to include facts sufficient to support a violation, set the matter for hearing, or cause an investigation of the matter. The Commission may also dismiss the Complaint without prejudice on the basis that the matter does not merit the resources associated with investigation and adjudication of the alleged violation and refer the matter to Commission staff for resolution or for referring to agency management for appropriate disposition.

4.2 Commission complaints. The Commission can, on its own motion and based on a report of investigation, file a complaint regarding a matter.

19A.09.01.05 Commission investigations



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5.0 A Commission investigation is an investigation conducted pursuant to 19A-9 of the Public Ethics Law after the Commission has found in writing that an investigation is necessary to resolve a matter. The investigation will be conducted by the Commission staff, the County Attorney, the Inspector General or such other person temporarily retained to conduct the investigation.

19A.09.01.06 Conduct of Commission hearings

6.0 Setting a matter for hearing. Once a formal complaint has been filed, and a report of investigation, if any, has been received by the Commission, the Commission may set a matter for hearing if it finds reasonable cause to believe that a violation of the ethics law has occurred.

6.1 Consent orders. Once a matter has been set for hearing, the Commission may dispose of a matter by consent order instead of conducting the adjudicatory hearing. The terms of a consent order can be negotiated between the subject of the complaint and the person assigned to prosecute the matter. Any consent order proposed by the parties must be presented to the Commission for its consideration. The Commission may accept or reject the proposed consent order, independent of any proposed agreement entered into between the prosecuting party and the subject of a complaint. In the event the Commission accepts the consent order, the Commission staff will notify the complainant, if any, of the resolution and close the matter. Any accepted proposal acknowledging a violation of the ethics law will be made public. If the Commission rejects the proposed consent order, the hearing will be conducted as originally scheduled.

6.2 Procedures. Commission proceedings are not governed by the County's Administrative Procedures Act (Chapter 2A of the County Code), though the Commission will look to the Act when appropriate for guidance, including section 2A-7(b) regarding permissible discovery. All papers and pleadings filed with the Commission must contain a Certificate of Service indicating service upon the other party. Each party must file a Notice of Service with the Commission for any discovery served upon the other party. Responses to requests for written discovery are due 30 days after service.

6.3 Prehearing Submissions and Conferences.

- a. The contents of prehearing submissions must meet the requirements of Section 2A-7(a) of the County Code.
- b. The Commission may request the parties to attend a prehearing conference and submit to Commission staff a prehearing statement including a proposed list of witnesses; any documents that will be introduced at the hearing; and an estimated length of the presentation of their case. Any evidence sought to be admitted at the hearing that has not been provided to the Commission with the prehearing



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statement at least 10 days before the hearing may be barred from admission into evidence, at the discretion of the Chair of the Commission.

- c. The Commission may designate a Commission member to conduct a prehearing conference to address preliminary motions; scheduling; the issuance of subpoenas; discovery; stipulations or other agreements to avoid unnecessary evidence; identification of witnesses; and avoidance of presentation of unnecessary, cumulative evidence. The presiding Commission member may issue a prehearing order ruling on the issues addressed at the prehearing conference. Any exception taken to a prehearing order must be taken within 5 business days of the issuance of the prehearing order.

6.4 Ex Parte Communications. Commission hearings are subject to the rule prohibiting ex parte communications in 19A-15(b).

19A.09.01.07 Imposition of Penalties.

7.0 If the Commission concludes a violation of the Public Ethics Law occurred, the Commission may order a subject of a complaint to stop violating the ethics law. The Commission may seek a court of competent jurisdiction to order a person to stop violating the ethics law or to void an official action, under limited circumstances. The Commission may: direct staff to issue a citation; seek recovery for damages or the value of anything received by a person for certain violations; seek the imposition of disciplinary action by an appropriate agency; issue a public or private reprimand; and impose a fine which does not exceed statutory limits. The Commission may, at any time, refer to an appropriate prosecuting attorney any information that indicates that a criminal offense may have occurred.

COMCOR 19A.12.01 ADMINISTRATIVE POLICIES AND PROCEDURES FOR OUTSIDE EMPLOYMENT

19A.12.01.01 Applicability

This Regulation applies to the outside employment of all County employees, as those terms are defined below.

19A.12.01.02 Definitions

2.0 **Definitions** contained in Chapter 19A are hereby incorporated. See Section 19A-4, Montgomery County Code.

2.1 Confidential Information — Information, whether oral or written, in the custody of a County employee or



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an uncompensated appointed official which is not available to the public pursuant to Title 4 of the General Provisions Article, Annotated Code of Maryland. This information includes personnel records, confidential commercial information and information protected by law.

2.2 Compensation for Services — includes receipt of any money or thing or value, regardless of form, paid for services rendered, including sharing in benefits from a business to which an employee provides services and active or earned income from a real estate or other investment business; compensation does not include the receipt of passive income from investment activities.

2.3 County Employee — Any person, including elected or appointed officials, who is compensated in whole or in part by the Montgomery County Government, but does not for purposes of this Regulation include employees of the following: Revenue Authority, Housing Opportunities Commission, or Board of License Commissioners, independent fire departments or rescue squads. A member of a County board, committee, or commission is not a County Employee for purposes of this Regulation.

2.4 County Property — All assets of the County, including but not limited to computers, office equipment, telephones, copiers, County letterhead, and County cars.

2.5 Outside Employment — The employment of a County employee performing work for compensation for other than the County or an agency, or the Revenue Authority, Housing Opportunities Commission, Board of License Commissioners, independent fire departments and rescue squads, Montgomery County Public Schools, Montgomery College, the State's Attorney's Office in Montgomery County, the Office of the Sheriff, and the Circuit Court. Outside employment does not include any military, National Guard or volunteer (non-paid) service.

2.6 Regulated by a County Agency: — Subject to the authority of or doing business with the County agency.

2.7 Supervisor — A County employee who has authority to hire, fire, rate the performance of, or direct the day-to-day activities of a subordinate employee or to participate in these actions.

19A.12.01.03 Purpose

3.0 To set forth the policies associated with the requirement to obtain approval for outside employment for County employees. Approval for outside employment does not supersede any other conduct prohibition or need for a waiver.

19A.12.01.04 Policies



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4.0 Ethics Commission approval. County employees must receive approval pursuant to these regulations for all outside employment, regardless of whether the employment is performed after hours or during vacation periods.

4.1 Prohibition on referrals, acceptance of referrals and solicitation of referrals. County employees and uncompensated appointed officials, while on duty, may not refer, accept referrals, or solicit referrals for their outside employment, nor sell or offer to sell or otherwise market products or services related to their outside employment to other County employees during work hours.

4.2 Restriction on supervisory roles. In engaging in outside employment, County employees are prohibited from:

- a. Supervising or being supervised by any person(s) the County employee supervises or is supervised by in County employment; and
- b. Working for any business in which a person the County employee supervises or who supervises the County employee as part of County employment owns a five percent or greater interest.

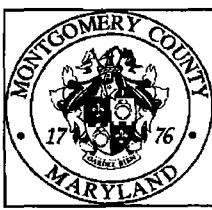
4.3 Prohibited outside employment. County employees may not be employed by any business that is regulated by or negotiates or contracts with the County agency with which the employee is affiliated.

4.4 Use of County property. County employees and uncompensated appointed officials may not use any County property whatsoever in the discharge of their outside employment including transport to and from their outside employment. The Commission may permit an employee to use County property if the employee obtains written approval by the agency head or pursuant to a regulation of the agency.

4.5 Agency outside employment requirements. Individual County agencies may have directives in regard to outside employment activities in addition to but not less restrictive than Commission regulations.

4.6 Confidential information. County employees and uncompensated appointed officials may not use or disclose confidential information gained in County employment for personal financial gain, gain of another, or for any purpose other than use in County employment.

4.7 Assistant State Fire Marshal. County employees with Assistant State Fire Marshal powers and responsibilities may not engage in any outside employment in the State of Maryland which involves fire safety practices, prevention or corrective activities, coordination of fire safety programs or critical analysis and evaluation of Maryland fire loss statistics.



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4.8 Exemption for limited outside employment. Employment of less than one day for services of \$100 or less with a person or entity that does no business with the County employee's employing agency and is not otherwise affected by the performance of County duties by the County employee is exempt from the requirement for outside employment approval by the Commission.

4.9 Exemption for certain job classes. Uncompensated appointed officials, employees below grade 27 who work for the County less than 10 hours per week, and County employees in the classifications within Grades S1-S6 and 5-13 are exempt from the requirement for outside employment approval by the Commission, except from the classifications listed below:

Data Application Trainee
Computer Operator Trainee
Crossing Guard
Data Entry Operator I & II
Data Application Specialist I & II
Legislative Intern

However, all County employees and appointed officials remain subject to the provisions of all other Commission policies and the provisions of the Montgomery County Code, Chapter 19A.

4.10 Waiver. A County employee may request a waiver of these policies by the Commission in accordance with the criteria established in § 19A-8 of the Montgomery County Code.

19A.12.01.05 Procedures for Approval

5.0 Employee.

A County employee must apply for outside employment using the Outside Employment Online System which will automatically forward the request to reviewing officials in the employee's agency. If there are no reviewing officials for an employee, such as may be the circumstance for elected officials, the Chief Administrative Officer or the Council Administrator, the request will be reviewed by the Commission without agency review.

5.1 Agency Head and Supervisor.

The Agency Head and Supervisor must recommend approval or disapproval of the employee's request and forward the employee's request with recommendations, including specific conditions when appropriate, to the Commission. If disapproval is recommended, the Agency Head or Supervisor should state the specific reasons for the disapproval recommendation. The Agency Head may delegate the recommendation function to a



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designee, but sub-delegation by a designee is not permitted. Requests for outside employment with a duration of six (6) weeks or less may be approved by the Agency Head or delegatee and will be considered approved by the Commission without further review where there is no question by the approving official concerning conflicts of interest.

5.2 Commission. With the exception of requests with a duration of six (6) weeks or less, the Commission will review the request and make a final decision. The Commission will then notify the employee and agency head in writing of its final decision.

5.3 Date work may begin. County employees may begin outside employment when the employment is approved by the agency head, with the understanding that continuation of the outside employment is contingent upon final approval by the Commission.

5.4 Changes in outside employment. County employees who have outside employment approval must submit a new request for outside employment if there are changes in the identity of outside employer or the duties involved in the outside employment.

5.5 Changes in County employment. A County employee who receives approval for outside employment and later transfers to another agency (or accepts another position within the agency) must within thirty (30) days of the transfer submit a new request for outside employment to continue the outside employment. If a new request is submitted within thirty (30) days after the transfer, the original approval will remain effective until the Commission either grants or denies the new request. If a new request is not submitted, the original approval will terminate thirty (30) days after the transfer.

5.6 Effective Dates. An approval of an outside employment request will be effective for no more than three (3) years after the approval of the request by the Commission. Employees may be granted outside employment approval for a specific period of time less than three years.

5.7 Submission of continuation requests. A County employee seeking to continue outside employment beyond the three year approval period or for a lesser specified period must submit a new request for outside employment thirty (30) days or more prior to the expiration of the applicable period. If a new request is submitted at least thirty (30) days prior to the expiration of the applicable period, the original approval will remain effective until the Commission either grants or denies the new request.

5.8 Violations. Failure to obtain Agency or Commission approval for outside employment, or failure to comply with any Agency or Commission imposed or adopted rules or conditions related to outside



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employment, violates the Ethics Law and may result in disciplinary action, the temporary or permanent revocation of permission to engage in outside employment, and other penalties as provided by law.

5.9 Revocation of approval. After giving a County employee notice and an opportunity to respond, upon a determination by the Ethics Commission that any approved outside employment is inconsistent with the Public Ethics Law, the Commission may revoke a previously granted approval. An employee must respond within 30 days to a notice from the Commission regarding a proposed revocation of an outside employment approval.

19A.12.01.06 Additional Provisions Applicable to Police Officers. In addition to the other provisions of this regulation, the following provisions also apply to police officers.

6.1 Use of County Equipment and Uniforms by Police Officers in Outside Employment. Police officers may use County equipment and uniforms in outside employment only as expressly authorized by regulation.

6.2 General Use of County Vehicles. Police officers may use County vehicles only as expressly authorized by regulation.

COMCOR 19A.14.01 ADDITIONAL GUIDANCE CONCERNING MISUSE OF PRESTIGE OF OFFICE; IMPROPER INFLUENCE.

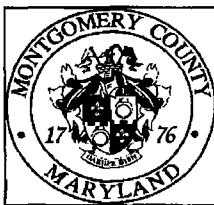
19A.14.01.01 Applicability

This Regulation applies to all public employees except as otherwise specified by law. A public employee may request a waiver of these policies by the Commission in accordance with the criteria established in § 19A-8 of the Montgomery County Code.

19A.14.01.02 Policies

2.0 A public employee must not intentionally use public office or authority for the employee's private gain or the private gain of another or to coerce or induce another, including a subordinate, to provide any benefit to the employee or to friends, relatives, or persons with whom the employee is affiliated with in a nongovernmental capacity.

2.1 Use of a subordinate's time. A public employee must not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.



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2.2 Endorsements, letters of recommendation. A public employee must not use or permit the use of any authority associated with public office in a manner that could reasonably be construed to imply that the employee's agency or the County sanctions or endorses the employee's personal activities or those of another. Letters of recommendation using official title may be issued only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual with whom the employee has dealt in the course of County employment or whom the employee is recommending for County employment. An employee must not use or permit the use of his or her Government position or title or any authority associated with his or her public office to endorse any product, service or enterprise except:

- a. In furtherance of statutory authority to promote products, services or enterprises; or
- b. As a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency's mission.

2.3 Teaching, Speaking and Writing. When teaching, speaking, or writing in a personal capacity, the employee may refer to the employee's official title or position as one of several biographical details when such information is given to identify the employee provided that his title or position is given no more prominence than other significant biographical details. An employee may not focus on Montgomery County policies and practices in a compensated teaching, speaking or writing activity or divulge the specifics of experience as a public employee for private gain.

2.4 Nepotism, employee prohibition. A public employee must not appoint, hire, or advocate the advancement of a relative (as that term is defined in the Public Ethics Law) to a County position.

2.5 Nepotism, employment prohibition. 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; or
- b. Advocates the relative's employment.

2.6 Representation by employees of persons before the County.

A public employee must not:

- a. While identifying oneself as a public employee assist or represent another person in any matter before any County agency or employee or in a matter in which the County has an interest; or



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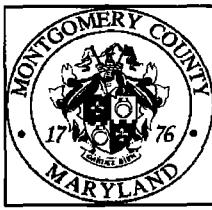
- b. Receive any gratuity, or any share of or interest in any matter before any County agency or employee, in consideration of assistance in the matter.

2.7 Exceptions to representation prohibition. Subsection 2.6 does not apply to:

- a. The performance of usual and customary constituent services without additional compensation;
- b. A Board, Commission or Committee member with respect to matters before County agencies other than the Board, Commission or Committee on which the member serves unless the member has as a public employee at any time participated personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in the matter;
- c. Assistance to or representation of an employee without compensation in an employment-related matter by an employee other than an elected or appointed employee;
- d. Acting as an agent or attorney for, or otherwise representing the employee's parents, spouse, child, or any person for whom, or for any estate for which, the employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—
 - i. in those matters in which the employee has participated personally and substantially as a public employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or
 - ii. in those matters which are the subject of the employee's official responsibility;
- e. Giving testimony under oath or making statements required to be made under penalty of perjury or contempt;
- f. Any provision of any other Federal, Maryland or County law that authorizes labor-management relations between the County and any labor organization that represents its employees;
- g. A public employee who is appointed as a representative 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.

2.8 Acting as a Representative on a Board, Commission, Committee, Task Force or Similar Body: A member of a body who is appointed to the body to represent the viewpoint of a particular industry, business or advocacy group may make recommendations to the body in furtherance of the those interests if: 1) the other members of the body are informed of the member's representative status; and 2) the member does not participate in a matter if the member knows or reasonably should know that an entity in which the member has an economic interest, including an employment relationship, is a party to a specific matter before the body.

COMCOR 19A.16.01 GIFT ACCEPTANCE BY MONTGOMERY COUNTY EMPLOYEES



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19A.16.01.01 Applicability

This Regulation applies to all public employees except as otherwise specified by law.

19A.16.01.02 Policies

2.0 Montgomery County Public Ethics Law 19A-16(c) prohibits a public employee from accepting a direct or indirect gift from a restricted donor. A gift given to an employee because of the employee's official position also may not be accepted as to do so would be a misuse of the prestige of office. There are several exceptions to these prohibitions, and the Ethics Commission, pursuant to 19A-16(d)(9), may exempt from the prohibition a specific gift or class of gifts where accepting the gift or class of gifts is not detrimental to the impartial conduct of the business of a County agency. Pursuant to this regulation, the Commission exempts the acceptance of the gifts identified in 2.2-2.5 on the basis that acceptance is not detrimental to the impartial conduct of the business of a County agency subject to the limitation that notwithstanding any exemption, an employee must not:

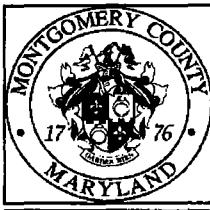
- a. Accept a gift in return for being influenced in the performance of an official act;
- b. Accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using his public office for private gain;

2.1 **Gift reporting in financial disclosure.** The existence and availability of an exemption does not negate any obligations to report gifts under financial disclosure or lobbying reporting requirements of County law.

2.2 **Gifts based on outside business and employment relationships.** An employee may accept a gift of meals, lodgings, transportation and other benefits based on outside business or employment relationship:

- a. Resulting from the business or employment activities of an employee's spouse when it is clear that such benefits have not been offered or enhanced because of the employee's official position; or
- b. Customarily provided by a prospective employer in connection with bona fide employment discussions. If the prospective employer has interests that could be affected by performance or nonperformance of the employee's duties, acceptance is permitted only if the employee first is disqualified from any matters that could affect the potential employer.

2.3 **Gifts based on personal relationships.** An employee may accept an otherwise prohibited gift based on personal relationship where:



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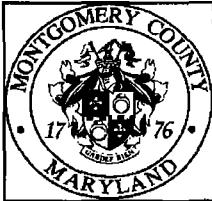
- a. The history of the relationship demonstrates that the relationship is unrelated to the employee's work as a Government employee and is not based on the employee's official position or performance of official duties;
- b. The person giving the gift personally pays for the gift;
- c. The value of the gift is appropriate to the circumstances of the gift; **and**
- d. Gifts received from a single source pursuant to this exemption are not excessive in number or value; and, further,
- e. Where a gift is given in connection with a special event, such as a wedding, baby shower, or retirement party, the giver of the gift is an invitee to the event.

2.4 Acceptance of certain opportunities and benefits. A public employee may accept:

- a. opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all public employees;
- b. reduced membership or other fees for participation in organization activities offered to all public employees by professional organizations if the only restrictions on membership relate to professional qualifications; and
- c. opportunities and benefits, including favorable rates and commercial discounts:
 - i. offered to members of a group or class in which membership is unrelated to County employment; or
 - ii. offered to members of an organization, such as an employees' association or agency credit union, in which membership is related to County employment if the same offer is broadly available to large segments of the public through organizations of similar size.

2.5 Gifts between public employees. Under certain circumstances, one employee can be a "restricted donor" as to another employee, as, for example, employees may be when they are in a superior-subordinate relationship. Additionally, gifts between employees, depending on the circumstances, can raise concerns regarding the misuse of the prestige of office. Notwithstanding these restrictions, a gift may be given and received between employees on an occasional basis, including:

- a. Any occasion on which gifts are traditionally given or exchanged, where the gift is an item, other than cash, with an aggregate market value of \$20 or less per occasion;
- b. Items such as food and refreshments to be shared in the office among several employees;
- c. Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends;
- d. Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions;



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- e. Leave solicited for and donated under personnel policies of the County, as long as the recipient or person soliciting donated leave is shielded from the identity of any person who is donating leave.
- f. A gift appropriate to the occasion may be given and received from another employee or group of employees and an employee may request voluntary contributions of nominal amounts from fellow employees for appropriate gifts:
 - i. In recognition of infrequently occurring occasions of personal significance such as marriage, illness, death in the family, or the birth or adoption of a child; or
 - ii. Upon occasions that terminate a subordinate-official superior relationship, such as retirement, resignation, or transfer; and
- g. An employee may request voluntary contributions of nominal amounts from fellow employees on an occasional basis, for items such as food and refreshments to be shared in the office among several employees, or for an agency-wide fund for gifts to be given under paragraph f. Coercion in collection of voluntary contributions is prohibited. A process allowing for anonymous contributions to such a fund is recommended to help avoid any suggestion of coercion in the collection or favoritism in the disposition of funds.

COMCOR 19A.17.01 FINANCIAL DISCLOSURE: RANGES OF VALUES FOR DISCLOSURE BY ELECTED OFFICIALS

19A.17.01.01 Policy. In accordance with State law requirements, the Public Ethics Law requires greater and more detailed disclosure by elected officials and candidates for elective office than other public employees who are filers. Consistent with the Public Ethics Law and the policies of the State Ethics Commission, these regulations balance the privacy interests of elected financial disclosure filers with the requirements for detailed financial disclosure.

19A.17.01.02 With respect to those requirements of financial disclosure identified in this regulation, elected officials and candidates for elective office who are required to file financial disclosure statements in accordance with Article IV of Chapter 19A of the County Code may, in lieu of providing exact amounts on financial disclosure statements, use ranges of values as provided in these regulations.

19A.17.01.03 Interests in Real Property

In the section of the financial disclosure statement requiring disclosure of interests in real property, in lieu of exact amounts for consideration given when a property was acquired, fair market value (where required), or consideration received when a property was transferred, an elected official (or candidate) may disclose the range for the amount of value as follows:



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\$1,000 or less
From \$1,001 to \$50,000
From \$50,001 to \$100,000
From \$100,001 to \$500,000
From \$500,001 to \$1,000,000
More than \$1,000,000.

19A.17.01.04 Ownership of Stock or Other Interests in Corporations, Partnerships or Other Businesses

4.1 In the section of the financial disclosure statement requiring disclosure of interests in corporations, partnerships or other businesses, in lieu of exact amounts for value of holdings, consideration given when an interest was acquired, or consideration received when an interest was transferred, an elected official (or candidate) may disclose the range for the amount or value as follows:

\$1,000 or less
From \$1,001 to \$50,000
From \$50,001 to \$100,000
From \$100,001 to \$500,000
From \$500,001 to \$1,000,000
More than \$1,000,000.

4.2 In the section of the financial disclosure statement requiring disclosure of interests in corporations, partnerships or other businesses, in lieu of dollar amounts for holdings, an elected official (or candidate) may, for publicly traded holdings, disclose the number of shares rather than the dollar value of the holdings. In so doing, the filer may, disclose the number of shares using the ranges below for number of shares:

100 or less
From 101 to 500
From 501 to 1000
More than 1000.

4.3 In the section of the financial disclosure statement requiring disclosure of interests in corporations, partnerships or other businesses, in lieu of dollar amounts for holdings, an elected official (or candidate) may, for non-publicly traded corporate holdings, disclose the number of shares and the percentage of equity held. In disclosing the number of shares, the filer may use the ranges identified in 4.2 of this regulation, and in disclosing the percentage of equity held, the filer may use the following ranges:



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Under 3%
From 3 to 9%
From 10 to 24%
From 25 to 49%
From 50 to 74%
From 75 to 99%
100%

4.4 In the section of the financial disclosure statement requiring disclosure of interests in corporations, partnerships or other businesses, in lieu of dollar amounts for holdings, an elected official (or candidate) may, for partnership holdings, disclose the percentage of equity held using the ranges identified in 4.3.

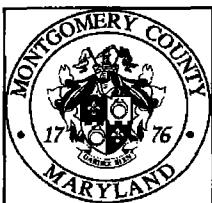
19A.17.01.05 Indebtedness to Entities Doing Business with the County

5.1 For the amount of indebtedness to an entity doing business with the County, in lieu of the dollar amount owed at the end of the year, an elected official (or candidate) may use the range for the amount of value as follows:

\$0
\$1000 or less
\$1001 to \$25,000
\$25,001 to \$50,000
\$50,001 to \$100,000
More than \$100,000.

5.2 For the amount of increase or decrease in the amount of change in principal owed to an entity doing business in the County, the filer may use the range for the amount of change in value as follows:

\$0
\$1000 or less
\$1001 to \$25,000
\$25,001 to \$50,000
\$50,001 to \$100,000
More than \$100,000.



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A handwritten signature of Steven Rosen.

Steven Rosen
Chair, Ethics Commission

Approved as to Form and Legality
Office of the County Attorney

By: Ad Hoc
Date: May 8, 2018