

Queen Anne's County Ethics Commission



2008 Annual Report

Introduction

The Maryland General Assembly enacted the State Ethics Law in 1979. The purpose of the law is to protect the public's confidence and trust in government by assuring the impartiality and independent judgment of State officials and employees. The Maryland Public Ethics Law requires local jurisdictions to enact provisions that are similar to the State Public Ethics Law. The Queen Anne's County Commissioners have complied with this requirement through the passage of and amendments to the Queen Anne's County Public Ethics Law.

The Queen Anne's County Ethics Commission administers the County's Public Ethics Law (Chapter 8 of the Queen Anne's County Code) by encouraging and enforcing compliance with its requirements. The Commission does so by various education and information outreach efforts, issuance of Advisory Opinions, consideration and resolution of Complaints, ensuring compliance with public financial disclosure requirements of various County officials and employees, and overseeing lobbyist registration and annual reporting requirements – all more specifically described below.

The Ethics Commission consists of five members and one alternate. Commission members serve a five-year term, and the terms are staggered. In this way it is possible to acquire new ideas and perspectives without sacrificing continuity and experience. In 2008, Benjamin C. Tilghman, Jr. and Harold O. Wilson were appointed by the County Commissioners to fill two full member vacancies and Francis Roudiez was appointed as the alternate. Mr. Roudiez declined his appointment, and the membership consisted of Robert C. Mueller, Kendall R. Ruffatto, Reverend Nanese A. Hawthorne, Benjamin C. Tilghman, Jr. and Harold O. Wilson. The vacant alternate position was not filled in 2008. The members elected Mr. Mueller as Chairman.

The Commission meets formally once a month, usually on the third Monday of each month, in the County Commissioners' Hearing Room in the Liberty Building in Centreville. Members of the public are welcome to attend the open sessions of each

meeting. During the open portion of each meeting the Commission discusses the status of financial disclosure reports, ethics training, requests for advisory opinions and other issues, and hears comments from the public. If necessary, the Commission also meets in a closed or executive session to conduct confidential business generally including discussion of certain requests for advisory opinions, complaints and the progress of any investigations, and to consult counsel. Hearings on complaints of ethics violations are also handled during closed sessions. All final actions of the Commission are taken in the open portion of the meeting as required by Section 8-8D of the Queen Anne's County Code.

The Commission is staffed by a part time clerk, Tina Miles, and is advised by an attorney, Lynn Knight, who is appointed by the Commission with the approval of the County Commissioners.

Education and Outreach

The Ethics Commission conducted a briefing session at the March meeting for members of County boards and commissions to educate them about the County ethics law, with particular emphasis on the financial disclosure process and the purpose of this requirement. The briefing was videotaped by QACTV.

Chairman Robert Mueller conducted ethics training sessions for all new employees of County departments in the spring and fall of 2008. Copies of the Guide to the Ethics Law and one-page fact sheets on conflicts of interest, gifts and financial disclosure were distributed to all attendees. The sessions were designed to familiarize county employees with the scope and approach of the Ethics Law, with particular emphasis on the conflicts and gifts provisions, using hypothetical examples to illustrate the applicable principles.

Advisory Opinions

In 2008, the Commission issued 31 written advisory opinions upon request or initiated as the result of issues raised by the Commission. This substantial increase in the number of advisory opinions demonstrates an increased awareness and desire by County employees and officials to comply with the Public Ethics Law, and likely is an outgrowth of the aggressive information campaign of the Commission for the past two years, described above. Each opinion, redacted as necessary to maintain confidentiality, is announced in the public portion of the meeting and becomes available to the public after notification to the individual who requested it.

The opinions are summarized below. The opinions are based on the facts of particular cases presented to the Commission. Accordingly, a person should not rely on this summary for guidance but should request and review the entire opinion and ask the Commission for specific advice.

08-01

The Queen Anne's County members of a regional Citizens Advisory Committee for site selection of a regional detention center who are appointed by the County Commissioners would be subject to County Public Ethics Law (issued 01/28/2008).

08-02

An appearance of conflict exists when a paid County Risk Manager also serves as the president of a county fire department (issued 01/28/2008).

08-03

There is not a conflict of interest or appearance of a conflict when a county shop supervisor's father submits a bid for work to be performed for the County Solid Waste Department (issued 01/28/2008).

08-04

Determined that all members, whether or not County residents, of the Chesapeake College Area Plan Citizens Advisory Committee would be subject to the County Ethics Law (issued 01/28/2008).

08-05

A conflict exists when a county employee accepts a gift of \$50 for services performed while being paid by the County and using County equipment (issued 02/25/2008).

08-06

A conflict exists when two County Public Works employees hold secondary employment with a company that does business with the department in which they are employed (issued 02/25/2008).

08-07 (supersedes 08-01 of 01/28/2008)

The Queen Anne's County members of a regional Citizens Advisory Committee for site selection of a regional detention center who are appointed by the County Commissioners would be subject to the financial disclosure provisions of Section 8-13 C of the County Public Ethics code (issued 03/17/2008).

08-08 (supersedes 08-04 issued 01/28/2008)

Determined that members of the Chesapeake College Area Plan Citizens Advisory Committee would be subject to the County Ethics Law, and would be required to submit financial disclosure statements, including those members who reside in Talbot County (issued 03/17/2008).

08-09

No conflict exists when a County employee of the Mid Shore Regional Recycling Programs accepts a position on the Board of Directors for Eastern Shore Land Conservancy (issued 04/21/2008).

08-10

There is no violation of the Queen Anne's County Ethics Law for a Board member of the CAC for the Chesapeake Area Community Plan to have a private business that is a vendor for the county since no direct relationship exists between the county position and the business (issued 04/21/2008).

08-11

Determined that the operation of private vending machines by a county employee working in the same facility is violation of the Queen Anne's County Ethics Law (issued 04/21/2008).

08-12

Responding to a request to the Queen Anne's County Ethics Commission to reconsider advisory opinions 07-13 and 07-20 (which considered a possible conflict when a member of the Ethics Commission accepted employment with a private professional practice which had a relationship with the Ethics Commission), the Commission reaffirmed both with the exception of the last sentence for Advisory opinion 07-20, concerning mootness, which was withdrawn. The commission concluded, in reconsideration, that the facts presented for advisory opinion 07-13 indicated that a conflict did exist under Section 8-11.A(2), and the Commission's omission to consider it in Advisory Opinion 07-13 was an oversight. This conflict was remedied by the resignation of the Commission member prior to Advisory Opinion 07-20, and the Commission, by advisory Opinion 08-12, concluded that the violation of Section 8-11.A.(2) was remedied by the individual's resignation.

08-13

Members of the Queen Anne's County Department of Public Works Advisory Board shall be required to file an annual Financial Disclosure Statement with the Queen Anne's County Ethics Commission. Advisory opinion 07-01 is modified accordingly (issued 05/20/2008).

08-14 (Deleted by the Ethics Commission by majority vote on 08/04/2008 because same as 08-13) (issued 05/20/2008).

08-15

Determined that Fire/EMS Commission was acting only as an advisory board, and therefore not subject to the financial reporting requirements of the Ethics Law Section 8-13 (issued 06/16/2008).

08-16

Determined that the acceptance of meals and hotel accommodations by County Employees on a tour of a vendor's equipment on a remote site, which would be provided by the vendor, would constitute an improper gift and create the appearance of a conflict (issued 06/16/2008).

08-17

Determined that being paid for providing services as a vendor to the County while being an Advisory board member for the same department for which someone is employed would be a violation of the County Ethics Law (issued 08/04/2008).

08-18

Determined that a county employee's spouse's volunteer service to the County would be a violation of the County Ethics Law in that such service could be reasonably construed by an informed member of the public as being for direct development of the private business and that the employee would have a financial interest in that development (issued 08/04/2008).

08-19

Determined that a personal relationship between a lobbyist and a County employee would not cause a conflict for the lobbyist, but that there would be an appearance of a conflict for the County employee. Advisory Opinion 08-20 provides further details (issued 09/15/2008).

08-20

Determined that an appearance of a conflict exists between a County employee and lobbyist in that the County employee does have certain discretion in her job that could be used to benefit the lobbyist. Further the Ethics Commission determined that an appearance of conflict could exist under Section 8-12 (Gifts). The Commission requested that the County employee's supervisor provide the Ethics Commission with a practical remedy to insulate the employee from the lobbyist. The Ethics Commission granted an exemption for personal gifts from the lobbyist to the County employee under Section 8-15 (issued 09/15/2008).

08-21

Determined that members of County Boards and Commissions would be in violation of County Public Ethics laws if they were soliciting business from those individuals who appear before them during their term of service. There would not be a conflict if the business relationship was initiated by the individual appearing before them. Also determined that in general terms there would not be conflict with County employees participating in public auctions of County property, although an appearance of conflict could exist for a particular employee (fleet manager bidding on County vehicles) (issued 09/15/2008).

08-22

Determined that the new Citizens Advisory Board is not included in the list of boards and commissions that are generally subject to the County Public Ethics Law, although, due to the land use nature of the Board's duties, they are required to file a financial disclosure statement upon acceptance of their position (issued 09/15/2008).

08-23

Determined that there would be a violation of the County Public Ethics Law if a supervisor is requesting a donation of sick leave from an employee they directly supervise (issued 09/15/2008).

08-24

Determined that a member of the Infrastructure Topic Committee who is a lobbyist, but who would be serving in the capacity of an individual county citizen and not as a lobbyist, would not be subject to the conflicts or gifts provisions of the County Public Ethics Law (issued 10/20/2008).

08-25

In the matter of Advisory opinion 08-17, determined that while being paid for providing services and being a board member of the same department would be a violation, function as an unpaid volunteer would eliminate a conflict of interest (issued 10/20/2008).

08-26

Determined that the County Planning Commission is subject to all the provisions of the County Public Ethics Law, and that an appearance of a conflict exists for an individual serving on the County Planning Commission when the individual could receive a direct financial impact from the adoption of the Queenstown Comprehensive Plan (issued 10/20/2008).

08-27

Determined that an informed member of the public could reasonably believe that a County Employee serving as a project manager on a project where his brother's company served as a subcontractor would constitute a conflict (issued 10/20/2008).

08-28

Determined that it would be a conflict of interest for the County Chief Operating Officer, whose spouse is a newly elected member of the Board of Education, to be involved in the preparation of the operating and capital budgets of the Board of Education (issued 11/17/2008).

08-29

Determined that there was no violation under the unique facts, or an appearance of a violation, of a County employee's private catering business providing services to the County State's Attorney's Office (issued 12/15/2008).

08-30

Determined that a violation exists when a member of the County Housing Authority Board of Commissioners engages in paid consulting work for the Housing Authority (issued 12/15/2008).

08-31

Determined that there were no conflicts in a County employee's secondary employment which provides counseling services for Kent County, or through Circuit Court orders provides the private services paid for using Queen Anne's County public monies (issued 12/15/2008).

Financial Disclosure

The Queen Anne's County Public Ethics Law, Chapter 8 of the Queen Anne's County Code, requires that elected County officials, certain employees, members of decision-making-authority boards or commissions, and various other individuals disclose their financial affairs annually, as well as upon employment/appointment and upon leaving office, as a tool to guard against conflicts of interest and to assure the public that Queen Anne's County business is being properly conducted.

When a member of a pertinent board or commission is reappointed to that same position upon expiration of a term in office, the Ethics Commission has now construed Section 8-13, in the context of the Ethics Law as a whole, as follows:

- In an instance in which the timing of the reappointment precedes expiration of the first term so that expiration of the first term and the beginning of the new term is seamless, the Commission considers this uninterrupted service as a continuation of the member's term so as not to require an "exit" report at the expiration of the old term and an "initial" report at the beginning of the new term.
- In an instance in which the timing of the reappointment is such that the new term begins within 30 days of the expiration of the old term, the Commission considers this to be uninterrupted service – and, again, no "exit" or "initial" reports are required.
- In an instance in which the timing of the reappointment is such that there is more than 30 days between the expiration of the old term and the beginning of the new term, the Commission considers this to be a break in service requiring that:
 - Within 30 days of the expiration of the first term, the member must file a report under Section 8-13.F.(1) to cover the period from the date of the member's last annual report to the date of the expiration of the first term.
 - Upon reappointment, the member must file a report under Section 8-13.C. that will reflect a snapshot view of the member's relevant financial information on the date of the report.

In 2008, the Commission received and reviewed 297 financial disclosure statements. The deadline for filing the annual financial disclosure statement is January 31st.

Complaints

In 2008, the Commission initiated five complaints for late filing or failure to file financial disclosure forms. Such complaints are initiated by the Commission when the required forms have not been received by the deadline. Letters were sent to three of those individuals advising them that a complaint had been initiated and that they could cure the violation by filing the required form before a certain date and if they did not file they could appear on the date of the scheduled hearing. Two forms had been received before the letters were sent. All outstanding financial disclosure forms were subsequently filed and the complaints were terminated.

The Commission also initiated a complaint in reference to gifts received by a County employee. The employee was advised of a violation of Section 8-12 of the County Ethics Law and how to cure the violation. See Complaint Decision 08-01. The employee chose to cure the violation and the complaint was terminated.

Lobbying Disclosure

In 2008, the Ethics Commission registered 21 lobbyists and received 16 year-end disclosure reports for 2007.

The Public Ethics Law defines a lobbyist as someone who communicates with any official or employee, for the purpose of influencing that person in performance of his or her official duties and who:

- Spends or intends to spend \$100 or more on food, entertainment, services, or gifts for officials or employees or spouses or dependent children during a calendar year;
- Is compensated \$500 or more in a calendar year for lobbying;
- Spends \$500 or more in a calendar year to compensate another person or persons for lobbying to influence an official or employee in the performance of his or her official duties; or
- Spends at least \$2000 or more in a calendar year for salaries, contractual employees, postage, telecommunications services, electronic services, advertising, printing and delivery services for the express purpose of soliciting others to communicate with an official or employee to influence that person in performance of his or her official duties.

Lobbying disclosure under the Public Ethics Law has two aspects. First, lobbyists are required to file a registration statement within five days of first acting as a lobbyist, and yearly thereafter. Second, any lobbyist who expends funds or receives compensation to influence County government action, or who gives gifts, such as meals and beverages to influence County government action, is required to file a detailed year-end disclosure report of those activities. The registration statement and year-end disclosure report are public records available for inspection and copying.

Conclusion

The continued efforts of the Queen Anne's County Ethics Commission to educate County employees and officials regarding the requirements of the Public Ethics Law have generated a substantial increase in requests for opinions. A great many of these requests for opinions are originated by individuals who stand to be most directly affected by the very opinions they seek. Frequently, curing the violation or potential violation of the Ethics Code results in substantial inconvenience to the affected parties, and in more than one case, the opinion has required a noteworthy financial sacrifice on the part of the requestor to cure the violation. It is a high compliment to the integrity of the employees of Queen Anne's County that they continue to bring these questions forward, and the resulting ethics opinions, in turn, demonstrate the variety of issues that arise when all citizens seek to ensure an open and ethical governance in a rural county. The number of opinions sought is evidence that the Ethics Code is a successful, working program, and the Ethics Commission is proud to be a part of the process.

Respectfully submitted,

Queen Anne's County Ethics Commission:

Robert C. Mueller, Esquire, Chairman
Reverend Nanese A. Hawthorne
Kendall R. Ruffatto, Esquire
Benjamin C. Tilghman, Jr.
Harold O. Wilson