



# Prince George's County, Maryland Board of Ethics

OFFICE OF ETHICS AND ACCOUNTABILITY  
9201 Basil Court, Largo Government Center  
Largo, Maryland 20774  
(301) 883-3445

Date: October 1, 2013  
To: [REDACTED]  
From: Robin Barnes Shell, Acting Director  
Re: Request for Advice – Code of Ethics

You have requested advice regarding potential conflict of interest issues arising out of your position as [REDACTED] and your position as a member of the board of directors for the Training Source, Inc., a nonprofit organization that provides job and career development training services. Specifically, you would like to know whether a conflict of interest exists after your term as a member of the board of director expires in December 2013 that permanently prohibits engaging the Training Source, Inc. to provide services to the County. In addition, you have requested advice regarding potential conflict of issues arising out of any employees of the Office of Central Services Management team serving on the Training Source, Inc. board of directors.

The specifics of your inquiry, as set forth in your memorandum to Robin Barnes-Shell, dated September 26, 2012, are as follows:

Our Human Resources staff has been in contact with the organization (Training Source) and believes the Training Source can provide comprehensive skills training for the Office of Central Services ("OCS") employees. Since I am the [REDACTED] and a Training Source Board member (non paid/voluntary position), I would like an opinion from the Office of Ethics and Accountability on whether or not engaging the Training Source to provide employee training for OCS staff would be a conflict of interest and violation of the Ethics Code.

On May 1, 2013, I received [a]n opinion from the Board of Ethics indicating that there is a conflict for me to serve on the Training Source Board of Directors and to have the organization provide training to OCS staff (see attached). I concur with the Board's opinion.

My specific question today, is given the fact my term expires in December 2013, would it still be a conflict for OCS to hire the Training Source to provide training after that date. In other words is there a requirement for some "cooling off" period before we engage the Training Source or has my membership on the Board permanently precluded the agency from retaining the Training Source as long as I am the Director of OCS.

In addition, I would like to know whether any other members of the OCS Management team serving on the Training Source Board of Directors would preclude the agency from doing business with the organization. There are currently no other members of the OCS Management team on the Board, my inquiry is for planning purposes only.

### **Applicable County Code Provisions**

#### **Sec. 2-290. Statement of purpose and policy.**

(a) The Prince George's County Council, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

(b) It is evident that this confidence and trust is eroded when the conduct of the County's business is subject to improper influence and even the appearance of improper influence.

(c) For the purpose of guarding against improper influence, the County Council enacts this Code of Ethics to require County officials and employees to disclose their financial affairs and to set minimum standards for their conduct of local business.

(d) It is the intention of the Council that this Division, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose.

#### **Sec. 2-292. Administration**

(h) Any official or other person subject to the provisions of this Division may request an advisory opinion from the Board concerning the application of this Division. The Board shall respond promptly to these requests, providing interpretations of this Division based on the facts provided or reasonably available to the Board within 60 days of the request. Copies of these interpretations, with the identity of the subject deleted, shall be published and otherwise made available to the public in accordance with any applicable State or Prince George's County law regarding public records. The Board may adopt additional policies and procedures related to the advisory opinion request process.

**Sec. 2-293. Prohibited conduct and interests.**

(a) Participation Prohibitions. Except as permitted by Board regulations or opinion, an official or employee may not participate in:

(1) Any matter, except in the exercise of an administrative or ministerial duty which does not affect the disposition or decision with respect to that matter, if, to his knowledge, he, his spouse, parent, child, brother, or sister has an interest therein.

(2) Any matter, except in the exercise of an administrative or ministerial duty, when any of the following is a party thereto:

(A) Any business entity in which he has a direct financial interest of which he may reasonably be expected to know;

(B) Any business entity of which he is an officer, director, trustee, partner, or employee, or in which he knows any of the above-listed relatives has this interest;

(C) Any business entity with which he or, to his knowledge, any of the relatives listed in paragraph (1) of this Subsection is negotiating or has any arrangement concerning prospective employment;

(D) Any business entity which is a party to an existing contract with the official or employee, or which the official or employee knows is a party to a contract with any of the above-named relatives, if the contract could reasonably be expected to result in a conflict between the private interests of the official or employee and his official duties;

(E) Any entity doing business with the County in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if he may be reasonably expected to know of both direct financial interests; or

(F) Any business entity which the official or employee knows is his creditor or obligee, or that of any of the relatives listed in paragraph (1) of this Subsection, with respect to a thing of economic value and which, by reason thereof, is in a position to affect directly and substantially the interest of the official or employee or any of the above-named relatives.

(3) If a disqualification pursuant to paragraphs (1) or (2) of this Subsection leaves any body with less than a quorum capable of acting, or if the disqualified official or employee is required by law to act or is the only person authorized to act, the disqualified person shall disclose the nature and circumstances of the conflict and may participate or act.

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**Analysis**

Section 2-292(h) allows any person subject to the County Code of Ethics of Prince George's County to request an advisory opinion from the Board of Ethics. As your request for an opinion was made to the Office of Ethics and Accountability; it has been referred to the Board of Ethics for appropriate action. This request is an extension of the previous opinion from the Office of Law, issued on May 1, 2013 by Joseph R. Hamlin, Associate County Attorney. In that

opinion, it was determined that "the engagement of the Training Source to provide employee training for OCS staff would constitute an impermissible conflict of interest under the County Code of Ethics." In your memorandum dated September 26, 2013, you indicated that you "concur with the Board[']s opinion." Once your term expires in December 2013.....

Section 2-293(a)(2)(B) prohibits you, [REDACTED] from participating in any matter, except in the exercise of a purely administrative or ministerial function, when the non-profit organization for which you are a director is a party. However, it does not address whether your participation after the expiration of your term on the board of directors.

In view of this prohibition, we advise that you recuse yourself and not participate in any County matter in which the non-profit organization on whose board you serve is a party. Further, because Section 2-290(b) indicates a concern for "even the appearance of improper influence," it is important to have a clear understanding of whether such recusal would adequately fulfill the objectives of the County Code of Ethics. Even should you recuse yourself as recommended above, because of your position as [REDACTED] it would be virtually impossible to engage the Training Source in the manner suggested without creating an appearance of improper influence. As such, we advise that the engagement of the Training Source to provide employee training for OCS staff would constitute an impermissible conflict of interest under the County Code of Ethics.

Your inquiry is not specific as to the activities of any other members of the OCS Management team serving on the Training Source Board of Directors, and as a result, only generic advice can be given as to whether their participation proposed in the memorandum would cause conflicts of interest. As a general matter, the Code of Ethics is designed to promote the impartial exercise of judgment of public employees. Allowing public employees to act as representatives of certain business interests in the exercise of their duties affecting those same interests directly conflicts with the Code of Ethics. The conflict of interest provisions in the Code of Ethics prohibit employees from working on matters affecting organizations where those employees are an officer, director, trustee, partner, or employee, or in which he knows any of the above-listed relatives has this interest as director, trustee, partner, or employee. In other words, if an employee is an officer, director, trustee, partner, or employee of the Training Source, Inc., which is seeking a contract, financial benefit or other action from OCS, the employee would be prohibited from voting or otherwise participating in OCS consideration of the contract, financial benefit, or other action that would impact the Training Source, Inc. An employee could not be involved in a decision to award a contract, make a grant, or provide a financial benefit to the Training Source, Inc. Section 2-290(b) indicates a concern for "even the appearance of improper influence." As such, it is advised that OCS Management team members serving on the board of directors of the Training Source, Inc. However, individuals who may be affected by the Code of Ethics may seek an advisory opinion to address their specific involvement in the Training Source, Inc. as it relates to any questions of

If you wish for the Board of Ethics to reconsider this advice, you should include a copy of this memorandum, which might assist the Board in expediting its review. I trust that this fully answers your inquiry. If you have any questions or need further information, please contact me at 301-883-3445 at your convenience.