



THE PRINCE GEORGE'S COUNTY GOVERNMENT
BOARD OF ETHICS

Rushern L. Baker
 County Executive

Robin Barnes-Shell
 Acting Executive Director

January 10, 2014



RE: Conflict of Interest

Dear [REDACTED]:

You have requested an opinion from the County Board of Ethics on whether there is a conflict of interest between your role as Chairperson of the [REDACTED] of Prince George's County, Maryland ([REDACTED]) and your prospective 12 to 16 week no compensation employment as an Assistant State's Attorney in [REDACTED].

In our opinion, no conflict of interest arises from your appointment as Chairperson of the [REDACTED] and your no compensation temporary employment with the [REDACTED].

Background

In your request, you state that you are an attorney with the law firm of [REDACTED]. You indicated that your firm has agreed to your "secondment" with [REDACTED] for 12 to 16 weeks in early 2014. You also stated that your firm will pay your full salary and benefits while you work in the State's Attorney's Office primarily handling criminal misdemeanors, with the small possibility of handling some felonies. Also, as we understand, you will not receive compensation from the State's Attorney's Office for the services you provide while employed there.

Analysis

Several State of Maryland and County laws are implicated by the dual provision of services as Chairman of the [REDACTED] for Prince George's County and [REDACTED] Assistant State's Attorney. The following is our analysis and application of the County's Code of Ethics to the facts and circumstances of this case.

County Laws

The office of Chairman of the [REDACTED] was created by the [REDACTED]'s enabling statute, Section [REDACTED], *et al.* of the County Code. The statute does not prohibit, implicitly or explicitly, the Chairman's employment outside the [REDACTED]. However, Section [REDACTED] of the statute does require the [REDACTED]'s compliance with the County's Code of Ethics (the "Ethics Code").

Under Section 2-291 of the Ethics Code, the words "official" and "employee" mean "any person elected to, appointed to, or employed by the County or any County agency, board, commission, or similar entity whether or not paid in whole or in part with County funds and whether or not compensated." Under these provisions, the Chairman of the [REDACTED] is a County official subject to the following employment restrictions set forth in Section 2-293(b)(1) of the Ethics Code.¹

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

- (i) Be employed by, or have a financial interest in, any entity subject to his authority or that of the County agency, board, or commission with which he is affiliated or any entity which is negotiating or has entered a contract with that agency, board, or commission; or
- (ii) Hold any other employment relationship which would impair the impartiality or independence of judgment of the official or employee.

¹ Exclusions to these prohibitions are omitted as inapplicable to these facts.

We find the foregoing employment restrictions inapplicable in this case because the [REDACTED] State's Attorney's Office is not subject to the authority of the Chairman of the [REDACTED] or the [REDACTED] as a County agency, board or commission. That said, if you become aware of a contract between the [REDACTED] and the [REDACTED] State's Attorney's Office you are advised to seek further advice from this Board. Similarly, if at any time you (or others) suspect that your impartiality or independence of judgment as Chairman of the [REDACTED] may be impaired for reasons arising from your employment as an Assistant State's Attorney, you are advised to suspend your performance of duties as Chairman and seek a supplemental opinion from this Board.

Finally, the County Charter and Article 35 of the Maryland Declaration of Rights provide guidance in the circumstances set forth herein but are beyond the scope of authority of the Board of Ethics. The Board suggests you receive an opinion from the relevant legal authority in the County regarding the interpretation of those provisions.

Conclusion

For the foregoing reasons, we opine that your concurrent appointment as Chairman of the [REDACTED] and Assistant State's Attorney is lawful under the Prince George's County Code of Ethics and, initially, presents no conflict of interest. In reaching this decision, the Board of Ethics has relied upon the facts you have presented. However, we recommend that you seek an opinion from this Board and, depending upon the circumstances, legal counsel, if at any time you determine that a conflict of interest, an appearance of a conflict of interest, or violation of the Code of Ethics may occur.

Board of Ethics

By: 
COVETTE ROONEY
Board Chair