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County Executive

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**THE PRINCE GEORGE'S COUNTY GOVERNMENT
BOARD OF ETHICS**

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BOARD FORMAL ADVISORY OPINION

June 18, 2025



Prince George's County Department of the Environment
1801 McCormick Drive - Suite 500
Largo, Maryland 20774

RE: Case #25-0378e

Dear [REDACTED]:

The Board of Ethics (herein "Board") has reviewed the request made by you on behalf of employees of the Department of the Environment (herein "Department" or "DoE"), dated May 14, 2025, seeking a formal advisory opinion regarding application of the Prince George's County Code of Ethics. Specifically, your request refers to whether DoE employees who hold advanced and/or professional degrees or experience can use their County title, position, and work performed in their County capacity to be recognized for research in professional publications as part of their professional development or to meet continuing education requirements.

The Office of Ethics and Accountability (OEA) provided informal ethics advice in OEA Case #25-0375e involving the same matter, which is incorporated in this opinion. In analyzing the DoE's request for this exemption, this examination is made of the Code of Ethics, OEA informal ethics advice in Case #25-0375e, additional facts as presented by DoE, publicly available information, the Department's mission, and the employees' role and responsibilities within the agency. This review touches upon multiple provisions of the County Code of Ethics and Administrative Procedures that need to be reviewed.

Applicable Code of Ethics Provisions

A. Code of Ethics Sections 2-290 and 2-291 – Purpose & Definitions

Under Sec. 2-290(c), the statement of purpose and policy of the Code of Ethics is:

“[F]or the purpose of guarding against improper influence, the County Council enacts this Code of Ethics to require County elected officials, officials, employees, and individuals appointed to boards and commissions to disclose their financial affairs and to set minimum standards for their conduct of local business.”

County Ethics Code Section 2-291(a)(4.2) defines an employee to mean “an individual who is employed by the County.”

County Ethics Code Section 2-291(a)(7) defines honorarium as the “payment of money or anything of value for:

- (A) Speaking to, participating in, or attending a meeting, conference, or other function; or
- (B) Writing an article, other than a book, that has been or is intended to be published.”

Thus, it is important to note that the County Ethics Code excludes a payment for writing a book that has been or is intended to be published from the definition of honorarium.

B. Code of Ethics Sections 2-293(b), (c), (d), (e), and (f) - Prohibited Conduct

County Ethics Code Section 2-293(b)(1)(A) - Employment Restrictions – states:

“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.”

The Board has adopted Administrative Procedure 152 – Secondary Employment, which provides guidance and standards concerning outside employment. The County Ethics Code restricts secondary employment by employees and officials of the County. For

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purposes of the County Ethics Code, the County position is viewed as primary employment, and all other employment is considered secondary employment.

County Ethics Code Section 2-293(c) - Use of Prestige of Office - states:

“An official or employee may not intentionally use the prestige of his office for his own private gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office for an elected official's or employee's private gain or that of another.”

County Ethics Code Section 2-293(d) Solicitation or Acceptance of Gifts - restricts employees and officials from accepting gifts from prohibited sources and donors. Specifically, Section 2-293(d)(3) states that:

“No official or employee may knowingly accept any gift, directly or indirectly, from any person that he knows or has reason to know: (A) is doing business with or seeking to do business with the Council, as to members thereof, or, as to other officials or employees, with their office, agency, board, or commission; (B) has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his official duty; or (C) is engaged in an activity regulated or controlled by the official's or employee's governmental unit.”

There are several exceptions to the gift restrictions under Section 2-293(d)(4), including “that unless a gift of any of the following would tend to impair the impartiality and the independence of judgment of the official or employee receiving it or, if of significant value, would give the appearance of doing so, or, if of significant value, the recipient official or employee believes or has reason to believe, that it is designed to do so, paragraph (3) does not apply to: . .

- (B) Ceremonial gifts or awards which have insignificant monetary value;
- (C) Unsolicited gifts of nominal value that do not exceed \$20.00 in cost or trivial items of informational value;
- (D) Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for participation in a panel or speaking engagement at the meeting . . .
- (H) Honoraria, for speaking to or participating in a meeting, except as provided in Subsection (e) of this Section.”

County Ethics Code Section 2-293(e) - Honoraria - states:

“Except as provided in this Subsection, an official may not accept an honorarium if:

- (1) The payer of the honorarium has an interest that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the individual's official duty; and
- (2) The offering of the honorarium is in any way related to the individual's official position.
- (3) The prohibition under this Subsection does not apply to acceptance or receipt gifts permitted under Subsection (d) of this Section.
- (4) The Board may provide for further exemptions from this Subsection as necessary.”

County Ethics Code Section 2-293(f)(1) - Use of Resources - states:

“An official or employee may not use any County facility, property, or work time, or cause or direct any other official or employee to use a County facility, property or work time for personal use or for the use of another person unless the use is generally available to the public or authorized by a County law or regulation.”

C. Code of Ethics Sections 2-293(h) – Waiver & Exceptions

Finally, County Ethics Code Section 2-293(h) -Exemptions and Waivers - states:

“The Board or, if appropriate, the Council, may, after consultation with the Office of Ethics and Accountability, grant exemptions to or modifications of this Section as to officials or employees when it finds that the application of this Section would constitute an unreasonable invasion of privacy and would significantly reduce the availability of qualified persons for public service and if it also finds that the exemption or modification would not be contrary to the purposes of this Division. The Board or, if appropriate, the Council, may grant exceptions or modifications in accordance with this Section either on an individual basis, or, if appropriate, by general resolution.

DoE ROLE, PROGRAMS & EMPLOYEE RESPONSIBILITY

The Department is established under the County Charter¹ and is responsible for the overall administration and coordination of the County's environmental policies and programs, including, but not limited to, solid waste and recycling management, water and sewer planning, sustainability, animal control, and water quality and flood management planning.

Based on the information provided, DoE hired these employees with existing or pending advanced and/or professional degrees or experience (PhD., Master's, or in the Engineering field), versus paying for tuition reimbursement from the County, specific to the job position. The employees have a range of roles and responsibilities, including in the fields involving climate action, soil conservation, sustainability, water quality, and flood management planning and construction.

In addition, in several instances, the employees work with federal, state, and local governmental entities (i.e., NASA, County cities and towns), non-profit and private organizations, and members of the public to further the mission of the Department and the County. This includes research and project management under grant-funded programs on a range of environmental issues impacting the County. These employees, as part of their County responsibilities, professional development, or requirements for continuing education, attend and present at professional conferences and symposiums, and before governmental agencies in their respective fields.

Finally, DoE believes that the County benefits from this expertise via the staff member's name, reputation, and work product within their industry or academy, which is ultimately leveraged to help perform their work. You indicate that while the need to publish for their research and programs is not a requirement for their respective positions, as their managers, you consider it a benefit to the agency's programs and the County's reputation.

ANALYSIS

The issue here is whether these employees can use their County titles and work product to be recognized for research and work performed in their County capacity, especially staff who have advanced and/or professional degrees or experience, who must continue their professional development, or to meet their continuing education requirements. The Board has analyzed the following provisions in rendering this opinion.

¹ Prince George's County Charter, Schedule Of Legislation, Section 11.

A. DoE Staff as County Employees

First, the DoE staff are “employees” under Section 2-291(a)(4.2) of the Code of Ethics and therefore are subject to its provisions.

B. Employment Restrictions

Second, the issues raised here do not involve the employment restrictions under Section 2-293(b)(1)(A) of the Code of Ethics, as the issues are related to research and work performed in their County capacity and not from employment outside of the County. It should be noted that Administrative Procedure 152 would control any outside employment or compensation, including agency approval, OEA review, and reporting on Financial Disclosure Statements. Thus, in this case, if payment is received for publications written outside of the employee’s County position, a secondary employment request must be submitted to OEA for review.

C. Use Of The Prestige Of Office

Third, the use of the DoE employee’s County title and position for publication implicates the use of the prestige of office, in that “an official or employee may not intentionally use the prestige of his office for his own private gain or that of another. The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office. . . .” It is clear that the employees’ use of their County title and position for publications purposes of County work product benefits both them and potentially others (including co-authors, organizations, as well as the County).

A review of the provision related to the “performance of usual and customary constituent services, without additional compensation” does not directly apply to the use of their County title and position for publications purposes of County work product. This is highlighted in that the need to publish for their research and/or programs is **not** a requirement for their respective positions, based on the information provided, but based on their own professional development or to meet continuing education requirements.

D. Use of County Resources

Fourth, DoE employees use of County resources directly implicates Section 2-293(f)(1) of the Code of Ethics that “employee may not use any County facility, property, or work time, or cause or direct any other official or employee to use a County facility, property or work time for personal use or for the use of another person.” It is clear that DoE employees, as part of their County work responsibilities, use County facilities, property, and work time for their work product, including for research and professional development.

E. Honorarium

Next, while the issues raised here do not necessarily involve honorarium under Sections 2-291(a)(7) and 2-293(e) of the Code of Ethics, as related to the “payment of money or anything of value” for their research and work performed in their County capacity. Here, based on the information provided, the employees have not received any payment of money for the publication of their County work product. While there could be “value” in the use of the name and County title in other contexts (see Name, Image & Likeness (NIL) in college sports), we do not address that in this opinion. If payment of honorarium were involved for publication², the provisions of Sections 2-293(d), its exceptions, and 2-293(e) would apply, and OEA would need to review.

The Board also takes notice that the State Ethics Code³ by statute provides that State employees may accept an honorarium if “the employee is a faculty member of a state institution of higher education who does not hold another position as an official that precludes receiving the honorarium.” However, while Prince George’s County Code does not have a similar provision in our Code of Ethics that addresses this specific issue, the Board recognizes that the purpose of this State provision is to allow for professional development, subject matter expertise within higher education institutions, and for continuing academic education.

F. Waiver & Exceptions

Finally, County Ethics Code Section 2-293(h) expressly provides the Board authority to grant waivers and modifications, after consultation with OEA, when it finds that the application of this Section “would significantly reduce the availability of qualified persons for public service and if it also finds that the exemption or modification would not be contrary to the purposes of this Division.”

In this case, based on the information provided, the Board believes that a limited modification should be granted under its authority under the Code of Ethics, because strict interpretation of the Code “would significantly reduce the availability of qualified persons for public service”, especially those with advanced and/or professional degrees or experience that are required to continue their professional development or to meet continuing education requirements.

In addition, the Board believes the limited modification “would not be contrary to the purposes of” the Code, in that employees will still need to seek informal ethics review

² For the purpose of this discussion, the Board includes articles for publication as writing under Section 2-291(a)(7).

³ Section 5-505(d) (2) of Public Ethics Law (General Provisions, Title 5).

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from OEA on a case-by-case basis based on the facts of each request. In addition, if in the future the facts indicate a potential payment or honorarium, the employees will need to seek informal ethics review with OEA under Sections 2-293(b)(1)(A) (secondary employment), 2-293(d) (gifts) and 2-293(e) (honorarium) of the Code.

CONCLUSION

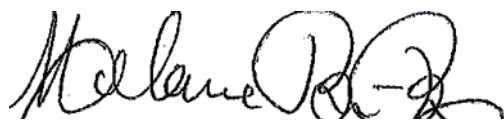
In conclusion, and with the intent of the County Council in mind – that provisions of the Code of Ethics are to be broadly applied to effectuate its purpose, the DoE's request was analyzed under the Code of Ethics, OEA informal ethics advice in Case #25-0375e, the Department's mission, and the employees' role and responsibilities within the agency.

After review of all matters, the Board finds that a limited modification to several provisions of the County Code of Ethics is required in this matter. The Board finds, as the Department does, that the County benefits from its employees' expertise via the staff member's name, reputation, and work product within their industry or academy, the agency's mission, and the County's reputation. Therefore, based on the information provided here, employees generally can use their County title, position, and work performed in their County capacity to be recognized for research in professional publications for the purpose of their professional development or to meet continuing education requirements, absent any payment or honorarium.

In reaching this decision, the Board has relied upon the facts as presented by DoE and takes notice of publicly available information. Pursuant to the Board's adopted Rules of Procedure, any party aggrieved by the decision of the Board has ten (10) business days to file a request for a hearing before the Board. The request should be in writing and state the grounds on which the person is contesting the notice, decision, order, or other action.

If you have any questions, please call the Office of Ethics and Accountability at (301) 883-3445 or at theoia@co.pg.md.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Melanie Barr Brooks", with a stylized flourish at the end.

Melanie Barr Brooks
Board Chair

cc: Todd M. Turner, OEA Executive Director