

# Ethics Update

A newsletter from the Anne Arundel County Ethics Commission

May-June 2004, Issue 27

*A people that values its privileges above its principles soon loses both..*

*- Dwight D. Eisenhower*

## SECONDARY EMPLOYMENT

Rules governing secondary employment are found in §5-102, §5-103, and §5-104 of the ethics law. As an employee you should realize that even if the ethics law *permits* you to hold a certain job, the rules of your department may still *prohibit* you from holding that job. And even if your supervisor or department permits you to hold a certain job, the ethics law may prohibit you from holding a certain job. So when you consider taking on a second job and if you're not positive that it's okay, make sure you clear it with your department AND with the ethics commission. Remember, even if your supervisor says okay, you will be held responsible for taking any secondary job that violates the ethics law.

## RECENT OPINIONS

Summaries of opinions issued since the last *Ethics Update* follow. Call or e-mail for a copy of the complete opinion.

**AO-04-17:** County employees who participated in an exercise program may accept unsolicited gifts from controlled donors if the value of each gift is less than \$25.

**IO-04-13:** The ethics commission may not give confidential opinions. (Note: the law requires that opinions be made public, but also requires that the commission may not identify the requestor or include immaterial information that would tend to identify the requestor or the person who is the subject of the opinion.) Charter, §1001B, §3-103.

**IO-04-23:** An employee may serve on the board of a private organization that has no routine business with that employee's agency. The employee may not use his/her title, nor may the employee participate in any official matter involving the organization. §§5-107, 5-101(a)(2)(ii).

**IO-04-27:** An employee may not advertise his/her secondary employment while on the county job or to clients of that employee's agency. §5-107

**IO-04-20:** A council member's proposed participation on a fund raising committee for an entity that regularly appears before the council, while not strictly prohibited, would create the appearance of a conflict of interest. §1-102(a).

**IO-04-28:** An employee may appear before the board of appeals in response to a subpoena and may testify as to relevant facts not otherwise obtainable by a party, but may not offer opinion testimony or provide confidential documents in response to the subpoena. §§5-104, 5-108.

**IO-04-33:** A client of an agency is a person "subject to the authority of the employee's agency" and the employee may not contract with that client. §5-102.

**IO-04-35:** An employee may not contract with that employee's agency, either directly or through a county-wide contract. An employee may not engage in secondary employment while on county time or in the county work place and may not solicit or contract with any person subject to the employee's supervision. §§5-102, 5-107.

**IO-04-36:** An employee who administers a contract between the county and a private entity may enter into a personal contract with that entity but may no longer participate in any official business having to do with the county's contract with that entity. However there would be a number of potential conflicts of interest issues that could arise with this

type of personal contract. §5-101(a)(2)(iv) and (vi).

## HOW ABOUT THEM ORIOLES? (OR, PAYING YOUR OWN WAY TO THE BALL GAME)

According to the gift provisions of the ethics law, §5-106, employees MAY NOT ACCEPT, repeat, MAY NOT ACCEPT gifts of tickets to baseball games (or other sports events) from controlled donors. Many businesses have season tickets to see the Orioles or the Ravens, the Redskins, the Bay Sox, Navy, the Terps, or any of the other swell teams in the area. If you work with one of these business entities- on a project for the county, for instance - you get to know the people who work at that business. Maybe you share office space and eventually become good friends. You go to each other's homes for dinner and you've played golf together on occasion. It's no big deal if you are offered an unused ticket to a game, is it? One ticket won't really influence the way you make decisions concerning that business, will it?

The fact is that it may be a big deal. Even if a ticket doesn't influence your ability to be impartial in making decisions about the business entity, it *will look to others* as if your ability to be impartial and independent is impaired by acceptance of the gift. You may know better, but nobody else knows what you are thinking. What about the business entity's competitor? They can't afford season tickets to a sport. What about your co-workers who have never been invited to a game or have declined their invitations? Remember- pay your own way, make your own play.

## ETHICS TRAINING

Don't miss your opportunity to sign up for ethics training. It's fun, it's not boring, and it features a video with real Hollywood actors! As always, everybody who attends receives a *free gift*- to keep as a souvenir, and a certificate of completion to give the boss or if you are the boss, to

recycle. Training begins at 9:00 a.m. and ends sort of promptly, between 11-11:30 a.m. So sign up today, by calling or e-mailing the ethics commission office.

The dates are:

- ☞ Friday, May 21
- ☞ Wednesday, June 16
- ☞ Friday, June 25
- ☞ Friday, July 9
- ☞ Wednesday, July 21
- ☞ August- no training-go down to the beach, hon!

## CHANGES IN THE COMMISSION

The ethics commission says a reluctant good-bye to Alan Hilliard Legum, whose term expired on April 30, 2004. Alan served as the commission's chairperson for three years. We look forward to meeting and working with his as yet unknown successor.

The commission is pleased to welcome Susan Murdock as its new administrative assistant. Susan will assist primarily with lobbying, financial disclosure forms, website development, educational publications, and with training scheduling. Formerly with the office of law, Susan is a familiar face to many of us, and we're sure glad to have her.

## COMMENTS IN RESPONSE TO THE LAST ISSUE'S QUESTION ABOUT BASEBALL LEGEND, PETE ROSE

"Pete Rose was a great baseball player! The Hall of Fame is about great baseball- not ethics!" Anonymous

"Pete Rose said he was sorry. That's all anybody can do- I'd vote him in and let bygones be bygones". Anonymous

"He's a bum." Anonymous

Thanks to all of you who submitted comments, even if you wouldn't give your names. Anonymity begets courage.

## AND NOW- A TEST!

1. Who promised to have "*the most ethical administration in the history of the republic*"?

- ☉ President Jimmy Carter
- ☉ President Ronald Reagan

- ☉ President George H.W. Bush
- ☉ President William J. Clinton
- ☉ President George W. Bush
- ☉ All of the above

2. Supreme Court Justice Antonin Scalia recently refused to recuse himself from a pending case involving Vice-President Dick Cheney, a good friend, with whom he had gone on a two day hunting trip.

Justice Scalia isn't the only supreme court justice to socialize with an important public official while that official had a case pending before the Court. Which of the following events really happened?

☉ Justice William O. Douglas played poker with President Franklin D. Roosevelt.

☉ Chief Justice John Marshall attended dinner parties hosted by President John Quincy Adams.

☉ Justice Robert Jackson spent a weekend in Charlottesville with President Franklin D. Roosevelt at the home of a general, a mutual friend.

☉ Justice Byron R. White went on a skiing vacation with Attorney General Robert Kennedy and his family and with Secretary of Defense, Robert McNamara.

☉ Chief Justice Frederick M. Vinson played poker with President Harry S Truman.

Look for the answers to these test questions in the next **EXCITING** issue of the *Ethics Update*.

## AND SPEAKING OF FRIENDS. . .

Relax- the Public Ethics Law does not prohibit a county employee from having friends. And *generally*, the ethics law does not prohibit a county employee from participating in a matter in which a friend may be affected by a decision in that matter. *One exception* would prohibit a county employee from participating in a matter where that employee shares a residence and/or financial interests with a fiancée or domestic partner. Where people share financial interests, the ethics law may prohibit an employee's participation in a matter that will affect that friend. Even where the law does not prohibit an employee from participating, an employee

may want to consider the following factors in determining whether a voluntary recusal would be advisable in order to avoid even the appearance of a conflict of interest:

- ☞ The closeness and longevity of the friendship;
- ☞ The significance of your participation to the outcome of the matter; and
- ☞ The extent to which the matter will affect the friend's personal, economic or social well-being.

In some cases, voluntary recusal may not be possible. If the employee's participation is *required* by law - a rare circumstance - the employee is required to inform the ethics commission of the potential conflict or appearance of a conflict, and then the employee may act. Or, if the employee's recusal would mean that nobody could act, the employee may disclose and act.

For more information about the subject of recusal, contact the ethics commission. And by the way, "recusal" means a withdrawal from participation.

## WHERE TO FIND US

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