

Anne Arundel County Ethics Commission

AO-96-101

By letter dated January 16, 1996, you have requested a clarification of Section 5-101(a)(8) of Article 9 of the Anne Arundel County Code. Specifically, you wish to know whether the term “employee” refers to an employee of any organization or as you have been advised by our office it is intended to refer only to a County employee. As explained below, the Commission confirms the advice you have been given that the term “employee” in Section 5-101(a)(8) refers to an employee of the County.

Section 5-101(a) lists the activities which are exempt from lobbyist registration and reporting requirements. Section 5-101(a)(8) exempts:

activities undertaken by an employee in connection with the employee’s official duties, and not on behalf of any other entity.

You state in your letter that you believe that the logical interpretation of that Section is that it exempts the lobbying activities of any employee whose activities are undertaken in connection with that employee’s official duties and is not limited to County employees. In support of that position you refer to Section 5-101(a)(3) which exempts government employees from the provision of the Lobbying Disclosure title, apparently making Section 5-101(a)(8) superfluous.

We believe that our interpretation limiting the scope of Section 5-101(a)(8) to County employees is supported by the language of Sections 5 and 1-101 of Article 9. First, the term “employee” is a defined term for purposes of Article 9. The definition is provided in Section 1-101(f), and refers generally to a County employee.

Second, Section 5-101(a)(3) to which you refer exempts

appearances as part of the official duties of an elected or appointed official or employee of the State, or the United States, and not on behalf of any other entity.

While this could be read to encompass employees of Anne Arundel County as well as other government employees, it is more likely that any reference to a County employee would be made using the defined term “employee” as in Section 5-101(a)(8), and not by implying it through the use of the phrase “an employee of a political subdivision of the State.”

Lastly, and most telling, is an examination of the scope of each of the exemptions. Virtually all of the exemptions in Section 5-101 are narrowly circumscribed, most of them only exempting “appearances.” Even the exemption for government officials and employees in Section 5-101(a)(3) is limited to “appearances.” However, the exemption in Section 5-101(a)(8) is not limited to “appearances,” but rather, exempts “activities.” If this Section was intended to refer to any employee of any entity, it could provide the exemption which would swallow the

rule. In other words, under your interpretation, so long as an individual was an employee of an entity, that individual would be able to engage in any activity considered lobbying, e.g. expending money for meals or gifts, without having to register. We do not believe that to be the intention of the provision.

Accordingly, it is our conclusion that Section 5-101(a)(8) exempts from lobbying disclosure requirements only the activities of County employees undertaken in connection with their official duties and not on behalf of any other entity.