

February 26, 1997  
Re: IO-97-27

You inquired whether you could give testimony on behalf of a former employee of the County Executive before the Anne Arundel County Board of Appeals. You said that you had no factual evidence to present, and that your testimony would consist of your sincere and firm belief that the disability of the employee was not caused by XXXXXX. You stated further that there are other people that are available and will be called as witnesses to provide similar testimony.

In view of these facts, it appears that you are being called as a witness because of your position as a member of the County Council. Although you did select one of the Board members, that member does not serve at your pleasure and is not subject to your influence in a direct way. However, the County Council does vote on the budget of the Board of Appeals, and can, from time to time, add to their duties.

The Public Ethics Law, Article 9, §3-104(a) provides that:

An employee may not use the prestige, title, or authority of the employee's office or position for the employee's private gain or the gain of another.

It would appear that you would be called as a witness precisely because of your prestige, title, and authority. Your testimony could have significant weight, and that influence could create a financial gain for the employee in question. If your testimony were to provide relevant facts or information not otherwise obtainable, issues of the prestige of your office would be less apparent. In the present circumstances however, it is my conclusion that you would violate §3-104(a) by providing testimony for the employee in question. Additionally, your testimony, or even your presence, at the Board of Appeals hearing would create the appearance of improper influence.

I hope this letter answers your question satisfactorily. If you have further questions, feel free to call me any time.

Sincerely,

Betsy K. Dawson  
Executive Director