

December 21, 2000
Re: IO-00-194

You inquired whether a part-time employee in the criminal investigation division of the county police department may serve on the county's planning advisory board ("PAB"). This inquiry raises a question of secondary employment. In AO-98-154, the ethics commission advised that an employee in the public works utilities bureau may not serve on the county board of appeals. The reason for that conclusion was the provision of the Anne Arundel County Charter, §602, which stated that the board of appeals ". . .shall perform its functions as a board that is independent of both the legislative and executive branches of the County government". Because of this provision, the ethics commission concluded that the board of appeals, in its decision making role, is a separate entity from the county government, and that membership on that board would constitute secondary employment. Service on the board of appeals was not permitted because of the many types of appeals that could involve the employee's department. Therefore, it was determined that the secondary employment would impair the impartial and independent judgment of the employee, under §3-105(b)(2). It was also determined that the secondary employment would violate §3-105(c)(1) because the employee would be assisting an independent entity in matters involving the county's interests.

There is nothing in the charter suggesting that the PAB is an independent body. On the contrary, the PAB is an advisory body that is expected to promote the county's interests from the perspective of the voting citizens of the county. For this reason it is not, for the purposes of the ethics law, a secondary employer for county employees. Since it is not secondary employment, there is no ethics issues of secondary employment to be considered, and a part-time employee of the police department may serve on the PAB.

If questions arise regarding participation in particular matters that may present a conflict of interest for this or any other member of the planning advisory board, the ethics commission will be glad to assist you.

Sincerely,

Betsy K. Dawson