

July 18, 2002
Re: IO-02-93

You have inquired whether you may serve as an election judge while you serve as a member of the ethics commission. The answer is that you may not serve as an election judge.

Election judges are “officers” of the state government. They take an oath, sit for 2 years, are paid, and are not allowed to participate in partisan politics. See, Article 33, election Code, 10-202(c). The State is permitted to ban political activity for some of its employees. See, 69 Op. Atty Gen. Md 65 (1984). The fact that the state has prohibited election judges from engaging in political activity suggests that the state regards election judges as employees of the state.

The Anne Arundel County Charter, 1001(c)(3), states that a member of the ethics commission may not be “an employee of the federal, state, or local government or a political party.” I believe that as an election judge, you would be an employee of the state government, as well as a representative (albeit not strictly speaking, an employee) of your political party. Even if you would be considered an independent contractor of the state, a consideration that I don’t believe is valid, the ethics commission has interpreted “employee” to include an independent contractor on at least one occasion.

For these reasons, I believe that you may not serve as an election judge. If you would like the opinion of the ethics commission, please let me know.

Sincerely,

Betsy K. Dawson
Executive Director