

February 11, 2004

Re: IO-04-13

You inquired whether the ethics commission may give confidential advice to an employee who requests it. The answer is that the commission may not give confidential advice. The Anne Arundel County Charter, §1001B(g) provides that an advisory opinion must be made public after it is received by the person requesting the opinion. The identity of the requestor may not be revealed and any facts not material to the opinion, that would tend to identify the person who is the subject of the opinion shall also be deleted. The ethics law, §3-103, as amended by Bill 38-03, codifies this provision of the Charter.

In view of this conclusion, an employee has several options in a case where the employee seeks to keep certain information private. If the employee is confronted with a matter in which the employee's participation would constitute a conflict of interest or an apparent conflict of interest, the employee may abstain from participation in the matter. There is nothing in the ethics law that would require the employee to make public the reasons for the decision to abstain from participation.

If the employee participates in a matter where a conflict or an apparent conflict of interest exists, the employee does so at the employee's own risk. Any person, or the ethics commission itself, may initiate a complaint for violation of the ethics law as to that employee's participation.

An employee may also seek advice from the ethics commission prior to participating in a matter. But in such case, the advice issued to the employee must be made available to the public.

Thank you for your inquiry. If you have any other questions, please call me any time.

Sincerely,

Betsy K. Dawson
Executive Director