

May 17, 2005

By Electronic & Interoffice Mail

Re: IO-05-29

You inquired whether you, a county council member, may participate in the consideration of a grant from the county to a private non-profit organization since your legislative assistant is a member of the board of the organization. The answer is that you may participate in this matter.

The organization, the Anne Arundel Conflict Resolution Center, Inc., annually receives a grant from the county to assist with its operations. For the coming fiscal year, the proposed grant will be about \$43,000. In addition, the county permits the Center to use county office space without charge.

The Center provides alternative dispute resolution services to county residents, both individual and business, and accepts referrals from the courts and the police department, among others. In addition to the fees that it charges (and occasionally waives) for its services, the Center relies upon charitable donations and state grants as well as the county grant it annually receives.

The legislative assistant serves on the Center's board. The board currently consists of 19 members, with a maximum membership of 23. The board is advisory, not operational. The Center is staffed by an executive director, administrative and programmatic assistants, and volunteers.

The Anne Arundel County Council's only connection with the Conflict Resolution Center is through its annual approval of the grant proposed for the Center by the county executive. The council cannot add to the proposed grant, although it could reject or reduce the proposed amount. The council has no supervisory or other authority over the Center's operations or its staff.

The Public Ethics Law contains two provisions concerning participation by employees in matters in which there is a conflict of interest. Section 5-101, which applies to all county employees, including members of the county council, prohibits participation in matters in which the county employee or "qualifying relatives" of the employee may have an interest. There is no prohibition on an employee's participating in matters which affect an entity in which the employee's assistant may have a fiduciary interest.

Section 5-110 of the ethics law pertains to participation by county council members in matters where the council member may have a conflict of interest. One subsection, §5-110(c)(2), presumes a conflict of interest where a council member participates in a matter in which the council member benefits financially from a "close economic association" with a person who has a particular interest in the matter. This section defines a "close economic association" to include "employees and associates in

business. . . enterprises”. Even assuming that the council member has a “close economic association” with the legislative assistant, it cannot be said that the council member benefits financially from this association. In the absence of a financial benefit, this provision of the ethics law does not apply to prohibit the council member from participating in the consideration of a proposed grant to the Conflict Resolution Center.

On occasion, even in the absence of a law prohibiting participation in certain matters, an appearance of a conflict of interest may arise if an employee participates in a matter where reasonable people could perceive a conflict of interest. Your participation would not create the appearance of a conflict of interest. You have annually supported the proposed grant to the Conflict Resolution Center, even before your assistant was appointed to the board.

For these reasons, the ethics commission has concluded that you may participate fully in the consideration of the proposed grant to the Anne Arundel Conflict Resolution Center, Inc.

Thank you for your inquiry.

Sincerely,

Betsy K. Dawson
Executive Director