

November 2, 2007

By Electronic Mail Only

Re: AO-07-78

You requested advice concerning possible conflicts of interest between your participation in future legislation and your spouse's new employment as a substitute nurse with the clinic and school health division of the department of health. Because your question is general and does not address any particular legislation, the ethics commission is only able to provide you with generalized advice, based upon previous opinions.

There are several provisions of the ethics law that restrict participation in legislative matters by council members. The first provision, [§7-5-101](#), which applies to all county employees, prohibits participation in any matter in which a "qualified relative" (including a spouse) has an interest in the matter that is distinguishable from the interest of the public generally. This provision is made applicable to council members participating in legislative action by [§7-5-111\(b\)\(5\)](#).

Relying on this section, the ethics commission issued [IO-00-105\(#2\)](#), in which it advised a council member whose spouse was employed in the fire department, that "the interest of your spouse in the business of the fire department extends *at the very least* to matters affecting salary, pension, conditions of employment, and matters of general concern to the firefighter's union. . . .The possibility that a conflict of interest may exist with regard to a particular matter depends upon the facts of the particular situation."

Section [7-5-111](#) provides certain circumstances in which a disqualification from participation may be suspended. While a conflict of interest involving a family member cannot be suspended in most instances, such a conflict does not necessarily preclude a council member from voting on the operating or capital budget. [§7-5-111\(a\)\(1\)\(ii\)](#).

The commission has also issued a number of opinions where council members have alleged that although participation in legislation would create the appearance of a conflict of interest, the council member could vote impartially and with independent judgment. For example, in [IO-01-52](#), the commission advised that, "Since this legislation will not affect your spouse's pay, benefits, or other conditions of employment in any foreseeable way, the ethics commission agrees with your opinion, and advises that you

may participate in this matter. In [IO-02-84](#), the commission advised that “where legislation *may affect* a council member's interest, but it is by no means certain that it *would affect* that interest, the law permits for deference to be accorded to the council member's judgment, after full disclosure”. Also, in a number of opinions, the ethics commission has advised that where a council member's interest comprises only a small portion of the overall legislation, participation in the overall legislation may be allowed. *See, e.g.,* [IO-03-50](#), [AO-00-167](#), [IO-00-118](#).

It is likely that any bill affecting school or clinic nurses will be part of a larger bill, affecting the whole health department or all county employees. If any part of those types of bills will affect your spouse’s earnings, or terms and conditions of employment, you should not participate in any amendments dealing with those specific issues. However, you are not precluded from voting on the overall bill. If there is any legislation dealing primarily with school or clinic nurses or related issues, you should seek specific advice from the ethics commission as to your participation in that legislation.

Thank you for your inquiry. Please call if you have additional questions.

The Anne Arundel County Ethics Commission

/s/

By: _____
Betsy K. Dawson, Executive Director