



*Anne Arundel County
Ethics Commission*

October 27, 2009

By Electronic Mail Only

Re: AO-09-68

You inquired whether, as a member of the [Planning Advisory Board](#) (PAB), you may accept the position of legislative representative for the Republican Women of Anne Arundel County. You stated that in this position, you would contact “members of the [state] legislature, probably Ron George, for updates on bills under consideration in the legislature, and [give] a summary of these bills to the club members.” The ethics commission advises that while there is nothing in the ethics law that bars your acceptance of this secondary employment, there are provisions that may limit your ability to carry out all your duties.

As you know, members of the PAB are considered “employees” of the county for purposes of the Public Ethics Law. [§7-1-101\(5\)](#). See [AO-99-17](#). County employees are guaranteed the right to fully participate in political activity under state law, Article 24, [§13-103](#) of the Annotated Code of Maryland. However, under state law, members of the PAB are probably considered to be “officials” rather than employees, so the protections of the so-called “anti-Hatch Act” do not apply to members of the PAB. Because of this dichotomy between state and county law, the ethics law provisions concerning secondary employment, assistance/representation, non-participation, and prestige of office apply to your proposed secondary employment, regardless of whether it constitutes “political activity.”¹

The most relevant provision to your inquiry is [§7-5-104](#), which prohibits an employee from assisting or representing a person in any matter in which the county has “an interest.”² This provision applies even though you will not, strictly speaking, be an employee of the Republican Women, and even though you will probably not be compensated for your work on its behalf. Under this provision, you would not be permitted to assist the Republican Women, even by soliciting or disseminating legislative information, if the county has “an interest” in that legislation. Nor would your name be permitted to appear on letterhead, for example, in any mailing from the Republican Women involving a matter in which the county has “an interest.” Determining what constitutes “an interest” so as to trigger the prohibitions of the ethics law provision would necessarily be a case-by-case decision. The ethics commission has previously advised that merely being interested in a matter is not the same as having a legal or equitable interest in the matter. [AO-02-151](#). Without any more specific context, the ethics commission

¹The ethics commission has found no county charter or code provision that expressly prohibits members of the Planning Advisory Board from participating in political activity.

²To trigger this prohibition, there must be the possibility that the county’s interest will be adversarial or competitive with the interests assisted or represented by the employee. See, [AO-09-03](#), [AO-07-14](#).

cannot provide further advice on the applicability of this provision to your assistance/representation.

Another provision relevant to your inquiry is [7-5-101\(a\)\(2\)\(ii\)](#), which prohibits an employee (including a member of the PAB) from participating in any matter if that employee is a member of an entity that is a party to the matter. Determining what “a party” means is again, dependent upon the facts of a given situation. However, even if the Republican Women is not a party to the matter, you should not participate in any matter in which this organization has taken a position. While it would not be strictly prohibited by law, your participation would at least raise the appearance of a conflict of interest. The Public Ethics Law is intended to ensure that county employees and volunteers act impartially and with independent judgment to avoid even the appearance of a conflict of interest. See, e.g. [AO-07-02.](#)” [AO-07-93.](#) See also, AO-99-17.

One other section of the ethics law contains restrictions that will apply to you, as to any other county employee who engages in secondary employment or in assisting or representing others. Section [7-5-107\(a\)](#) would preclude you or the Republican Women from using your title as a member of the PAB in any publicity for the organization or for the Republican Party. See [AO-08-23.](#)

Subject to the limitations imposed by the ethics law, the ethics commission advises that you may accept the position as legislative representative for the Republican Women of Anne Arundel County. If you accept the position, please feel free to contact the commission if and when specific issues arise.

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

The Anne Arundel County Ethics Commission

/s/

By: _____
Betsy K. Dawson, Executive Director