



City of Rockville Ethics Commission

ADVISORY OPINION 17-01

October 18, 2017

Request

A current member of the Ethics Commission has requested an advisory opinion pursuant to § 16-3(i) of the Chapter 16 of the Rockville City Code (the “Public Ethics Ordinance”). The requestor has been asked to play an active role on a City of Rockville (the “City”) Councilmember’s campaign for a State elected office. The Councilmember is running for a seat in the Maryland House of Delegates, District 17. The Councilmember is currently serving on the City’s Council and the Councilmember’s term runs through 2019. If the Councilmember is not elected to the Maryland House of Delegates, then the Councilmember will remain on the City Council.

The requestor wants to know if any provision of the Public Ethics Ordinance would prevent the requestor from performing the following campaign-related activities on behalf the Councilmember:

- Serve in an advisory capacity for policy positions
- Distribute yard signs
- Donate to the campaign

The requestor would not receive any compensation for performing any of the campaign-related activities specified in the request.

Based on the facts presented, the Ethics Commission advises that no provisions in the Public Ethics Ordinance would prevent the requestor from: (i) serving in an advisory capacity for policy positions; (ii) distributing yard signs; or (iii) donating to the campaign.

Discussion

An issue presented by this request is whether the requestor’s non-compensated activities results in employment for the purposes of the Public Ethics Ordinance or if the requestor has an interest in an entity subject to the requestor’s authority. Section 16-27(a) of the Public Ethics Ordinance provides that “[e]xcept when such interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict and as permitted by Commission regulation, an elected or appointed official or salaried employee (decision-making or nondecision-making) may not (1) be employed by, or have a financial interest in, any entity subject to his authority or that of the City agency, board, or commission with which he or she is affiliated or any entity which is negotiating or has entered into a contract with that agency, board, or commission, or (2) hold any

other employment relationship which would impair his/her impartiality or independence of judgment.”

The Public Ethics Ordinance defines “*employment*” to mean “any occupation, trade, or profession **for which a person receives compensation** from another person for private, as opposed to governmental, services rendered.” City Code, § 16-1 (emphasis added). The term “*interest*” is defined as “any legal or equitable economic interest, whether or not subject to an encumbrance or condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly.” *Id.*

Based on the definitions contained in the Public Ethics Ordinance, any uncompensated campaign-related activities by the requestor on behalf of the Councilmember’s campaign for a State elected office would neither be “employment” nor constitute an “interest” that implicates § 16-27(a). As used in the Public Ethics Ordinance, the term “employment” does not cover uncompensated services rendered to a person or entity. The term “interest” contemplates a legal or equitable ownership interest in an entity – neither of which would be present in the uncompensated campaign-related activities. As such, § 16-27(a) does not prevent the requestor from engaging in uncompensated campaign-related activities on behalf of the Councilmember’s campaign for a State elected office.

Furthermore, the Ethics Commission has not identified any other provision of the Public Ethics Ordinance that would expressly prevent the requestor from performing any of the requested campaign-related activities.

This conclusion is based on the application of the Public Ethics Ordinance to the specific limited circumstances presented in the request.