Maryland’s Public Ethics Law

Board of Regents Retreat
November 29, 2017
I. Background, Purpose, and Scope
II. Conflicts of Interest
III. Financial Disclosure
IV. Available Resources
What Is The Purpose Of The Law?

• Helps board members and employees avoid improper influence and appearance of improper influence
• Assures citizens of the impartiality and independent judgment of board members and employees
• Requires board members and employees to disclose financial affairs and to meet minimum standards of ethical conduct
The State Ethics Commission

- Five Commissioners, appointed to 5-year terms
- Charged with administering the Public Ethics Law
- Provides advice, issues formal opinions, regulates lobbyists, undertakes enforcement action
- Supported by a 12-member staff
Maryland’s Public Ethics Law

Conflicts of Interest

Maryland State Ethics Commission
What if...

...the Board is voting on the purchase of software to be used by USM institutions to evaluate professors. Among the companies whose products are being considered are businesses that employ your sister-in-law and your daughter.

Can you participate?
The Public Ethics Law prohibits participation in matters by board members or employees:

- where the board member or employee, or certain relatives of the board member or employee (spouse, parent, child, brother, sister), have a specific interest

- matters involving business entities in which the board member or employee, or certain relatives of the board member or employee, have employment, contractual, creditor, or potential employment relationships
...in the previous scenario, your daughter is employed by a bidder, but the company is national in scope and your sister works in California on contracts with that state’s university system.

Now, can you participate?
...you are assigned to a panel to interview candidates for a vacant university president position. Your brother is one of the applicants.

Can you participate?
**Exceptions allowed if:**

- Conflict is disclosed and:
  
  (1) disqualification would leave body with less than quorum (applies to Board members only);
  
  (2) disqualified individual required to act by law; or
  
  (3) disqualified individual only one authorized to act.

- Permitted by State Ethics Commission regulation
...your company was named the prime contractor for the construction of a new student union building at Towson University.

Do you see a problem here?
Absent an exception, a board member or employee may *not* be *employed by*, or have a *financial interest* in:

- an entity regulated by the board
- an entity that is negotiating or has entered a contract with the board, or...
Employment

• ...hold any other employment that would impair impartiality and independent judgment
Financial Interests

The Law defines financial interest as:

- Ownership of more than 3% of a business entity by board member or employee or spouse of board member or employee

- Ownership of securities that represent more than 3% of a business entity by board member or employee or spouse of board member or employee

- Ownership of an interest resulting in board member or employee having received in past 3 years, is currently receiving or will receive more than $1,000 per year.
Two Exceptions

• If the statute governing the board requires appointment of persons regulated by the board

• If the member holds the employment or financial interest when appointed, and the employment or financial interest is publicly disclosed to the appointing authority, the State Ethics Commission and if applicable, the Senate
APPOINTEE EXEMPTION DISCLOSURE FORM

PART 1:
NAME:

ADDRESS:

BOARD/COMMISSION NAME:

PART 2:
Please Check Item(s): 

Exemption Requested: □ No (If no, check box and skip to Part 3. Signature)
□ Yes (If yes, check box and complete rest of Part 2 and 3)

I request exemption for: □ Financial Interest □ Employment

Financial Interest Employment

Name of Entity where the financial interest exists: Employment to be Exempted:

Address of Entity: Your Position/Job Title:

Interest to be Exempted:

Current Value: □ Under $1,000 □ $1,000-$5,000
□ $5,000-$10,000 □ $10,000 or More

Explain below why you believe you may have financial interests or an employment situation that, in the absence of an exemption, will conflict with your service on the board or commission for which appointment is being considered. You may wish to contact the State Ethics Commission for information or advice at 410-260-7770.


PART 3:
Appointee: Signature: Date:

Mail the completed form to the Appointing Authority. For appointments made by the Governor:
Governor’s Appointments Office
State House
Annapolis, MD 21401

Form #5

Maryland State Ethics Commission
What if...

...you own a construction company. You participated in the development of a proposal for funding of major dormitory renovations on various campuses. You leave the Board in order to bid on the projects.

Can you do so?
Post-Employment Restrictions

Former board member or employee may not assist or represent outside entities or persons for compensation:

• In a case, contract or specific matter

• If the former board member or employee significantly participated in the matter in his/her State position
What if…

... the CEO of a company that does business with various USM institutions, who happens to be a friend, invites you to be his guest in his box at the Stadium to watch a Ravens game.

Can you accept the ticket and enjoy the food and drink?
What if...

...you are invited to lunch by a lobbyist who lobbies on higher education issues.

Can you accept and allow the lobbyist to pay?

Can you accept a logo jacket offered to you by the lobbyist?
Prohibitions Generally

- No solicitation
- No unsolicited gifts from 1) vendors, 2) regulated entities, 3) lobbyists, or 4) those with financial interests that may be uniquely affected by recipient

Key Exceptions

- Nominal = $20 or less
- Meals/beverages in the presence of the donor
- Reasonable food, lodging, and travel for participation at a speaking engagement
What if...

...your best friend’s son has applied for a position at UMCP. Your friend asks you to put in a good word for his son with the officials doing the hiring.

Can you do so?
Prestige of Office

Prohibitions Generally

- No use of office for board member’s or employee’s private gain
- No use of office for private gain of another

Covers both using the influence of one’s office and using State resources
Effective October 1, 2017, the following types of actions are specifically prohibited:

- Influencing, except as part of the official duties of the board member or employee, the award of a State or local contract to a specific person;
- Directly or indirectly initiating a solicitation for a person to retain the compensated services of a particular regulated lobbyist;
- Using public resources or title to solicit a political contribution.
...the Board has been considering, in closed session, authorizing an RFP to purchase certain education software for university-wide use. This information has not yet been made public. You want to inform your brother-in-law who owns a company you expect will be interested in bidding.

Should you do so?
Confidential Information

Cannot disclose or use confidential information acquired by reason of one’s position and not available to the public:

• For personal economic benefit, or
• For the economic benefit of another
Maryland’s Public Ethics Law

Financial Disclosure
Why Financial Disclosure?

- Annual opportunity to review employment and financial interests
- Public disclosure of possible conflicts of interest
- Demonstrate to public that interests are not hidden
- Allow voters to evaluate the suitability of candidates for office
Who Files and When?

- New board members must submit an initial filing within 30 days of assuming their positions.
- After the initial filing, a financial disclosure statement must be filed annually no later than April 30th.
- Departing board members must file a financial disclosure termination statement within 60 days of their departure, covering the period that elapsed since their previous filing.

***Effective October 1, 2017 filing must be done electronically***
What must be disclosed?

- Interests in real property*
- Interests in corporations, partnerships (e.g. stocks)*
- Interests in non-corporate businesses*
- Gifts (exceeding **$50** or series of gifts totaling $100 or more) from certain donors*
- Offices, directorships, salaried employment or similar interest (of the individual or member of immediate family) in certain businesses*
- Debts owed to entities*
- Immediate family members employed by the Board
- Sources of earned income, to include salaried employment and business interests of individual and members of the immediate family (Note HB879 – Lobbyist spouse’s clients as of 01/01/19)

*Must disclose where there is business/regulatory relationship with Board or where applicable involves lobbyist (who lobbies on matters before the Board)
Can the Public Access Financial Disclosure Statements?

**YES!**
(Note HB879 – not home address as of 01/01/19)

**Statements must be available for public inspection and copying**
(Note: HB879 – On Internet for State Official, candidate, Cabinet Secretary as of 01/01/19)
Precautions You Can Take Regarding Your Financial Disclosure Statement

Request to be notified if someone reviews your file

If you attach documents to your disclosure statement, redact personal information on end-of-year statements (SSN, account #, etc.)
Maryland’s Public Ethics Law

Available Resources
www.ethics.maryland.gov
Where do I go for Advice?

45 Calvert Street, 3rd Floor
Annapolis, MD 21401
(410) 260-7770
(410) 260-7746 (Fax)
http://ethics.maryland.gov