



No. 2-24

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William Spencer, Acting Executive Director

CODE OF ETHICS

- AUTHORITY** Pursuant to Maryland Public Ethics Law, Article 40A, Annotated Code of Maryland 1957, 1990 replacement volume, and Division II of the Land Use Article of the Annotated Code of Maryland, the Commission last approved amendments to this Practice on April 17, 2024.
- APPLICATION** This Administrative Practice applies to all employees, including Commissioners, Merit System employees, contract employees, and appointed officials. As to volunteers, only Section I(A) (Standard of Conduct) applies. To the extent an employee is a member of a collective bargaining unit, and any provision of this Code of Ethics directly conflicts with an applicable collective bargaining agreement, the collective bargaining agreement will control with respect to the area of conflict. To the extent other documentation of the employment relationship of an officer, director, or deputy director legally supersedes any provisions referenced herein, that superseding document would control in the event of a conflict. As to Commissioners, to the extent that any provision of this Code of Ethics conflicts with the General Provisions Article of the Maryland Code, Title 5 (Maryland Public Ethics Law), or Section 15-120 of Division II of the Land Use Article of the Maryland Code, the Maryland Code shall prevail.
- RESCISSION** Practice 2-14 and accompanying Procedures 03-05, *Non-Commission Employment and Non-Commission Business*; Practice 2-15, *Employee Use of Commission Property*; Practice 2-72, *Conditions for Acceptance of Awards from Outside the Commission*; Practice 2-90, *Solicitations on Commission Property*; and Practice 5-70, *Financial Disclosure* are rescinded and replaced by this Practice.
- CONTACT** General questions regarding this policy can be directed to the Policy Office by calling 301-454-1736 or by emailing policyreview@mncppc.org. For questions regarding interpretations and applicability, as well as reporting concerns, contact the Ethics Officer in the Office of the Office of General Counsel at 301-454-1671 or by email at ethics@mncppc.org.

**PURPOSE/
BACKGROUND**

The Commission initially approved Practice 2-24, Code of Ethics on June 16, 1991, to create a comprehensive Practice governing the M-NCPPC’s rules and regulations pertaining to conflicts of interest and ethical conduct. Employees of the Commission must maintain high professional and ethical standards in the performance of their official duties. This Code of Ethics establishes the framework for promoting ethical compliance.

This Code of Ethics addresses the ethical standards applicable to employees. Other Commission Administrative Practices and policies specifically address ethical responsibilities uniquely applicable to particular third parties, including but not limited to lobbyists (Practice 5-61, *Lobbying Disclosure*), volunteers, vendors, and others seeking to do business with the Commission (Practice 4-10 and the Commission’s *Procurement Manual*, including Section 2 (Ethics and Sanctions in Purchasing)).

Since its initial adoption, this Practice has been amended, as follows:

- January 9, 2023: Amended to reflect that nominal value is defined by the Executive Director, subject to consultation with the Chair and Vice Chair of the Commission, and in consideration of those amounts set by Prince George’s County, Montgomery County, and the State of Maryland.
- November 15, 2023: Amended to update Practice 2-24 and create a single, comprehensive, Code of Conduct, consistent with Maryland Public Ethics Act, Section 5-823 and 5-829 requiring the Commission to adopt conflict of interest and financial disclosure regulations substantially similar to those provisions found in Subtitles 5 and 6 of the Act.
- January 17, 2024: Amended to clarify a former employee may represent or assist a governmental entity on a specific matter or contract in which the former employee significantly participated as a Commission employee, for compensation, provided an actual or perceived conflict of interest is not created.
- April 17, 2024: Amended to update the definition of “restricted external party” and the required contents of annual Financial Disclosure Statements.

REFERENCES

- Maryland Public Ethics Law, Article 40A, Annotated Code of Maryland 1957, 1990 replacement volume
- Section 15-120 of Division II of the Land Use Article of the Code of Maryland
- Administrative Practice 1-31, *Organization and Functions of the Audit Committee and Office of the Inspector General*

- Administrative Practice 2-28, *Composition, Privacy, and Disposition of Employment Records*
- Administrative Practice 2-16, *Seasonal/Intermittent, Term and Temporary Employment* and its accompanying Procedures 00-02
- Administrative Practice 3-31, *Fraud, Waste & Abuse*
- Administrative Practice 4-10, *Purchasing Policy, and accompanying Procedures 05-02, Procurement Manual*
- Administrative Practice 5-61, *Lobbying Disclosure*
- Administrative Practice 5-81, *Maryland Public Information Act Policy, and accompanying Procedures 22-01, MPIA Procedures Manual*
- Administrative Practice 6-10, *Vehicle Use Program*
- Administrative Practice 6-13, *Electronic Communications Policy*
- Administrative Procedures 21-01, *Business and Personal Use of Social Media*
- Administrative Procedures, 99-04, *Time and Attendance*
- Merit System Rules and Regulations

DEFINITIONS

Business means any for-profit or not-for-profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institute, trust, or foundation. Business does not include a governmental entity.

Ceremonial gift means an item of customary and reasonable value normally given at functions such as dedications, inaugurations, initiations, awards, tributes, and retirements, but not limited to such events, where food, beverages, entertainment, and mementos (souvenirs) may be provided.

Ceremonial occasions mean functions such as dedications, inaugurations, initiations, awards, tributes, and retirements, but not limited to such events, where food, beverages, entertainment, and mementos (souvenirs) may be provided.

The Commission means: (a) the Maryland National Capital Park and Planning Commission which is the organizational entity referred to in this Practice, or (b) the 10-member voting body of the Maryland-National Capital Park and Planning Commission.

Commissioner means a member of the ten-member voting body of the Maryland-National Capital Park and Planning Commission, and a member of the respective five-member Planning Board for Montgomery County or Prince George's County.

Commission resources mean any service, asset, or property, whether physical, digital, electronic, virtual, or intellectual, owned, purchased, leased, or under contract with the Commission. Commission resources include, but are not limited

to cash (currency, checks, money orders, credit card receipts); facilities; general equipment and tools; natural items (*e.g.*, plants, trees, mulch, compost, and firewood); vehicles and machinery; office equipment and supplies, including Commission stationery; computer hardware, software, and other electronic equipment; printers and copiers; telecommunication services such as telephones, mobile devices, facsimile machines, internet/intranet, electronic mail; data stored on, received by, or transmitted by the agency's operating systems or servers; Commission issued uniforms, and staff services delivered by Commission employees, contractors, or volunteers; and rights under any license or other agreement relating to intellectual property, know-how, and information of commercial value, whether or not protected by patent, trademark, copyright, or other legal entitlement.

Compensation means any money or thing of value, regardless of form, including the sale or delivery of tangible or intangible property, that an employer pays or agrees to pay for services rendered.

Conflict of interest means any circumstance or set of circumstances which interfere with, appear to interfere with, or have the potential to interfere with, the impartiality and independent judgment of an employee, inclusive of a Commissioner, Appointed Officer, and Department Head. (See also: Maryland Code, Land Use Art., § 15-120, *et seq.*; and Maryland Code, General Provisions Art., §§ 5-501 and 5-502).

Employee, for the purposes of this Practice, means any person employed by the Commission, whether employed on a full-time or part-time basis, as a Merit System employee; Seasonal/Intermittent, Temporary, or Term contract employee; Appointed Officer; Department Head; or, Commissioner, regardless of the manner of entry into Commission service.

Employer means any person who pays or agrees to pay compensation for services rendered.

Employment or **employ** means engaging in an activity for compensation.

Ethics Officers means employees who are trained and designated to provide advice regarding compliance with the Code of Ethics and recommend appropriate actions.

Family member (Employee's relative) means any individual who is related by blood, marriage, adoption, domestic partnership, or guardianship, including but not limited to a spouse, domestic partner (as qualified under the Commission's Health and Benefits Program), parent or step-parent, spouse's parents, grandparent, or

spouse's parents, child or step-child, legal guardian, brother or step-brother, sister or step-sister, the siblings of one's parents and those siblings' children.

Fiduciary duty means a legal obligation that results from a position of trust with respect to a third party's business and assets.

Financial interest means:

1. Ownership of any interest as the result of which the owner has received within the past three years, or is presently receiving, or in the future is entitled to receive, more than \$1,000 per year; or
2. Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by:
 - a. An official;
 - b. An employee; or
 - c. The spouse of an official or employee;

Gift means the transfer of anything of economic value regardless of the form without adequate and lawful exchange of consideration of at least equal value.

Gratuity means anything of value that is presented or promised in anticipation of receiving a consideration, whether the consideration is less than, equal to, or greater than the value presented or promised.

Honorarium means the payment of money or anything of value for:

1. Speaking to, participating in, or attending a meeting, conference, or other function; or
2. Writing an article, other than a book, which has been or is intended to be published.

Interest means any source of income or any other legal or equitable economic interest, whether subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, directly, or indirectly. Interest does not include:

1. An interest in a time deposit or demand deposit in a financial institution;
2. An interest in an insurance policy, endowment policy, or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period;
3. An interest in a mutual fund or exchange-traded fund (ETF);
4. An interest held in the capacity of an agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter; or
5. An interest in a deferred compensation plan that:
 - a. Has more than 25 participants, and

- b. The Internal Revenue Service has determined qualified as a trust under Sections 401, 507, and 501 of the Internal Revenue Code.

Maryland Public Ethics Law means the general Provisions Article, Title 5, of the Maryland Annotated Code.

Non-Commission Business means activities performed while on duty and which are unrelated to the business of the Commission as further described in this Practice.

Non-Commission Employment means work activities performed for oneself or a third party unrelated to the business of the Commission as further described in this Practice.

On-duty means being engaged in or responsible for an assigned task or duty either on Commission or non-Commission property. An employee is not considered on duty when attending lectures, meetings, training programs, and similar activities if the following four criteria are all met: (a) attendance is outside of the ‘employee’s regular working hours; (b) attendance is in fact voluntary; (c) the course, lecture, or meeting is not directly related to the employee’s job; and (d) the employee does not perform any productive work during such attendance.

Person means an individual, receiver, trustee, guardian, personal representative, fiduciary, corporation, company, association, firm, partnership, joint stock company, or any other organization, institution, or entity.

Procurement means all acts and functions that pertain to the responsibility of the acquisition of any goods, services, equipment, supplies, insurance, construction, or intellectual property, including but not limited to the description of requirements, selection, and solicitation of sources, preparation, and award of contract, or purchase order, and all phases of contract administration.

Quasi-governmental entity means an entity that is created by State statute, which performs a public function, and that is supported in whole or in part by the State but is managed privately.

Regulatory Matters means matters that come before the respective Planning Boards that involve the Planning Board’s exercise of planning and zoning authority as described in the Land Use Article.

Vendor means a party obligated by contract or subcontract to provide goods, services, or property to the Commission for consideration, including contracts and subcontracts for construction and professional services related to construction.

POLICY

Commission employees must maintain high professional and ethical standards in the performance of their official duties. This Code of Ethics establishes the framework for promoting compliance.

Consistent with the Maryland Public Ethics Law and the Commission's commitment to public accountability, the Commission recognizes that (i) our system of representative government is dependent in part upon the public maintaining the highest trust in their public officials and employees; and (ii) the public has a right to know and be assured that the impartiality and independent judgment of public officials and employees shall be maintained.

To help ensure accountability and awareness of conflicts of interest, this Practice outlines requirements for employees to avoid actual as well as perceived conflicts of interest. This includes those related to solicitation and acceptance of gifts, non-Commission business and employment, use of Commission resources, use of prestige of office, use of confidential information, post-employment restrictions, political activities, and nepotism. This Practice also outlines the requirements for the completion of Financial Disclosure Statements by individuals whose employment or office puts them in a position of influencing decisions that might benefit parties seeking to do business with, doing business with, or regulated by, the Commission. Furthermore, employees are prohibited from aiding, facilitating, or colluding with third parties in violation of this Code of Ethics.

The Commission intends for this Practice to be liberally construed, to accomplish its purpose.

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I. CONFLICTS OF INTEREST

A. Standard of Conduct

1. An employee must avoid any action, whether or not it is expressly prohibited, that might result in, or create the appearance of a conflict of interest, including, but not limited to:
 - a. Using public office for the private gain of the employee or another.
 - b. Giving preferential treatment to an external party, e.g., vendor, or person seeking to do business with the agency, except in conjunction with the Commission's supplier diversity program.
 - c. Participating in any matter that involves:
 - i. A business in which the employee or a family member has an economic interest.
 - ii. A business in which the employee or a family member is an officer, director, trustee, partner, or employee;
 - iii. A property in which the employee or a family member has an economic interest.
 - iv. Negotiating or seeking prospective employment for the employee or a family member or any arrangement with a business or entity about employment.
 - v. A business or individual that is a party to an existing contract with the employee or a family member, if the contract could reasonably result in a conflict between private interests and official duties;
 - vi. An entity doing business with the Commission in which a direct financial interest is owned by another entity in which the employee has a direct financial interest, if they may be reasonably expected to know of both direct financial interests; or
 - vii. A creditor or debtor of the employee or their family member if the creditor or debtor can directly and substantially affect an economic interest of the employee or their family member;
 - viii. A case, contract, or other specific matter affecting a party for whom, in the prior year, the employee was required to register to engage in lobbying activity under Practice 5-61, *Lobbying Disclosure*.

2. Exceptions:

- a. An employee who otherwise would be disqualified from participation under Section I(A)(1) shall disclose the nature and circumstances of the conflict and may participate or act, if:
 - i. The disqualification would leave a body with less than a quorum capable of acting;
 - ii. The disqualified employee is required by law to act; or
 - iii. The disqualified employee is the only individual authorized to act.

All disclosures must be filed with the Ethics Officer.

- b. Section I(A)(1) does not apply to an administrative or ministerial duty that does not affect an agency's decision on a matter.
- c. Section I(A)(1) does not apply to a police officer who is exercising the employee's official duties in an emergency affecting a business or property in which the employee or a relative of the employee has an economic interest.

(See also: Section 2 (Ethics & Standards in Purchasing) of Administrative Procedures 05-02, *Purchasing Manual*.)

B. **Gifts**

1. **Gifts from External Parties**

- a. Soliciting Gifts from External Parties. An employee shall not solicit, directly or indirectly, a gift from an external party, except when an exception is authorized by the respective Department Head. The respective Department Head may authorize an exception for an employee to solicit a gift from an external party for a Commission program or initiative, in support of the mission of the M-NCPPC. When an exception is authorized, each of the following conditions must be met:
 - i. The solicitation for a gift shall be broad and not be directed at restricted external parties, as defined in Section I(B)(1)(c)(i), below;
 - ii. Employees involved in regulatory, or procurement matters may not solicit a gift on behalf of the Commission;
 - iii. The solicitation shall not confer any special access or benefit to the external party in dealings with the Commission;

- iv. The gifts solicited shall not result in personal benefit to the employee; and
- v. All funds and in-kind gifts shall be accounted for in accordance with applicable laws and Commission policy as it relates to fiscal, procurement, or related accounting principles.

All authorized exceptions shall be forwarded to the Executive Director, to ensure consistent application of policy.

- b. Soliciting and Accepting Tips. An employee, including one who interacts with the public (e.g., staff working at snack bars, golf courses, etc.), shall not solicit or accept tips under any circumstances. The use of tip jars is prohibited.

- c. Accepting Gifts from Restricted External Parties

- i. *In General*. An employee shall not accept, directly or indirectly, a gift from a restricted external party. A **restricted external party** is a person or entity that:

- (a) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
- (b) Is engaged in an activity or operation that is regulated or controlled by the Commission; or
- (c) Is acting in the capacity of a lobbyist with respect to matters on which the Commission has oversight.
- (d) Has interests that may be substantially affected by the performance or non-performance of an employee's official duties.
- (e) Is an association, or an entity acting on behalf of an association, which is engaged only in representing counties or municipal corporations.

- ii. *Exceptions*. Subject to Subsection iii, below, the following are exceptions to the prohibition on accepting gifts from restricted external parties covered in Subsection i, above:

- (a) Receipt of gifts or entertainment because of obvious family or personal relationships from a person related by blood, marriage, or legal guardianship; domestic partner; or financially dependent relative, when it is clear that the relationship, rather than the business of the persons concerned, are the motivating factors.

- (b) Ceremonial gifts or awards of insignificant monetary value.
 - (c) Attendance at an event (e.g., charitable, cultural, political, community, or professional event), as a representative of the Commission.
 - (d) Honoraria for (i) speaking at, or participating in, a meeting, or (ii) writing an article that has been or is intended to be published, when unsolicited, off duty, and not related to the employee's official position.
 - (e) Reasonable expenses for food, travel, lodging, scheduled entertainment, and reasonable and verifiable expenses for the care of a child or dependent adult, which are actually incurred, when these items are provided in return for participation in a meeting, or as a panel member, or as a speaker or participant at a meeting.
 - (f) Loans from banks or other financial institutions on customary terms for usual activities of employees, such as home mortgage loans, and consumer loans; and
 - (g) Prizes and awards from a person through a "lottery" or through another similar activity where the receipt is selected on a random basis (e.g., a raffle or drawing.)
 - (h) Meals/beverages consumed by an employee in the presence of a donor/entity.
 - (i) Unsolicited gifts of nominal value not to exceed \$20. Note: In determining the value of a gift and whether it exceeds nominal value, the value of the gift shall be the fair market value.
 - (j) Trivial gifts of informational value (e.g., writings, recordings, documents, records, or other items intended primarily to communicate information, not including images intended primarily for display or decoration).
 - (k) Any other gifts from external parties that are specifically authorized by the agency.
- iii. *When Exceptions Are Not Allowed*: An employee shall not accept a gift listed in Subsection (ii) (*Exceptions*), above, if:
- (a) The gift would tend to impair the impartiality and independent judgment of the employee;
 - (b) The gift is of significant value, and it would give the appearance of impairing the impartiality and independent judgment of the employee; or

- (c) The gift is of significant value and the employee believes or has reason to believe that the gift is designed to impair the impartiality and independent judgment of the employee.
- iv. *Handling Receipt of Disallowed Gifts:* Excluding gifts described in Subsection (ii)(Exceptions), above, an employee who involuntarily receives a gift from a restricted external party shall:
 - (a) Return the gift;
 - (b) Transfer the gift to an organization that is tax-exempt pursuant to 26 U.S.C. 501(c)(3);
 - (c) Reimburse the party the market value of the gift; or
 - (d) If the gift is perishable and it would not be practical to return it, share it with the office staff, or destroy it.

2. **Gifts Between Employees**

- a. In General. An employee may not solicit a gift from another employee.
- b. Exceptions: The following are exceptions to the prohibition of an employee soliciting gifts from another employee.
 - i. Soliciting voluntary contributions of a reasonable amount for a gift made on a special occasion such as marriage, illness, retirement, or death. Whether a contribution is considered reasonable shall be based on the relevant facts and circumstances. For example, a reasonable contribution for a wedding gift may differ from one for the funeral of a colleague of modest means.
 - ii. Soliciting a voluntary contribution for a charitable drive for an external party that is authorized, in writing, by a Department Head or the Executive Director.

C. **Non-Commission Business and Employment**

1. **Non-Commission Business**

- a. Non-Commission business is prohibited.
- b. Non-Commission business means activities performed while on duty related to:

- i. Personal business;
 - ii. Non-Commission employment;
 - iii. Third-party business; or
 - iv. Work for an association, club, or any other entity as an employee, representative, or volunteer.
- c. Non-Commission business does not include participation in external activities that (i) relate to the business of the Commission, and (ii) are approved in advance, in writing, by an appropriate supervisor and Department Head.
- d. When speaking before a public body, with the media, or with members of the public, an employee may not hold themselves out as representing the agency in their official capacity, unless authorized to do so either explicitly or by the nature of their position.

2. Non-Commission Employment

- a. Non-Commission employment includes the following:
- i. Employment or contractual arrangements structured on a salary, fee, commission basis, or pro bono legal representation.
 - ii. Participation in any business ventures as owner, proprietor, partner, or investor.
 - iii. Participation for pay or as a volunteer in any business or non-profit entity involving fiduciary duties or responsibilities in a position such as an officer, manager, or director.
 - iv. Participation in any business or non-profit entity in which the participant holds 5 percent or more of the outstanding voting interests.
 - v. Other similar activities resulting in, or for the purpose of, remuneration.
- b. Non-Commission employment does not include:
- i. Service in the United States Armed Forces (active or reserve, including the National Guard); and
 - ii. Participation in official activities of a union representing M-NCPPC employees. This participation shall be governed by the respective collective bargaining agreement between the M-NCPPC and the union.

- iii. Serving on the board of the M-NCPPC Credit Union or the Employees' Retirement System.
- c. Non-Commission employment is permitted only when participation is specifically approved, in writing, by the employee's Department Head upon a finding that each of the following conditions is met:
 - 1. Engaging in non-Commission employment does not cause the existence of, potential for, or appearance of, a conflict of interest with respect to Commission duties assigned to the employee, or with any Commission policy, procedures, activities, or actions;
 - 2. Engaging in non-Commission Employment does not diminish, interfere with, or detract from the performance of Commission duties;
 - 3. The employee's performance before engaging in non-Commission employment is at a fully satisfactory level;
 - 4. Non-Commission employment does not increase the risk of liability to the Commission during, or from, the employee's performance of Commission-assigned duties including, but not limited to, increased health and safety concerns;
 - 5. Non-Commission employment does not result in the employee using the prestige of their Commission office, official title, or position for private gain, or the gain of another;
 - 6. Engaging in non-Commission employment does not occur while on duty with the Commission;
 - 7. Non-Commission employment does not result in coercing other Commission employees to buy or use goods, services, or other items of value (including interests in land) sold, or offered, as part of their non-Commission employment;
 - 8. Non-Commission employment does not result in an employee working for (a) a person or entities owned by the employee's Commission subordinate or supervisor, or (b) any business subject to the authority of the Commission or that does business with the Commission when there is an actual or perceived conflict of interest;
 - 9. Confidential information gained through Commission employment is not used for financial gain, or any use other than Commission employment;
 - 10. Non-Commission employment does not result in the solicitation or acceptance of referrals for any non-Commission employment while on duty;

- 11. Non-Commission employment does not result in the unauthorized use of Commission resources;
- d. Approval for Non-Commission employment by Department Heads and appointed officers must be obtained from the Commission's Chair and Vice Chair.
- e. The Commission retains the right to deny, rescind, revoke, or modify approval of non-Commission employment if the employment violates any of the conditions in Section I(C)(2)(c), above.

3. Review Process for Non-Commission Employment Requests

- a. Employees must request and receive approval for non-Commission employment before engaging in such employment. Employees must also request approval of changes to previously approved non-Commission employment as soon as any changes are known. Requests must be submitted using Appendix A, "*Request to Participate in Non-Commission Employment Form*," and include:
 - i. Employee name, position title, work schedule (days and work hours), and description of Commission job duties;
 - ii. Name of non-Commission employer;
 - iii. Address where non-Commission employment will be performed;
 - iv. Non-Commission employment work schedule (days and work hours) including start date and end date (if known);
 - v. A description of non-Commission employment duties.
- b. Employees must submit requests to their supervisor. Department heads and appointed officers must submit requests to the Commission Chair and Vice-Chair. In considering a Seasonal/Intermittent Contract employee's request for non-Commission employment, a reviewer must take into consideration the fact that the Commission may not be the Seasonal/Intermittent Contract employee's primary employer.
 - i. Supervisors must review the "Request to Participate in Non-Commission Employment Form" and send a recommendation of approval or denial to their Division Chief, with a copy to the employee, within seven (7) calendar days of receiving the written request.
 - ii. If the recommendation is for denial, the supervisor must include the reasoning.

- iii. If a supervisor does not forward the recommendation within seven (7) calendar days of receipt of the employee's written request, the employee may forward the request to the Division Chief.
- iv. The Division Chief will review the employee's requests, and if applicable, the supervisor's recommendation.
 - (a) The Division Chief must review the "*Request for Non-Commission Employment Form*" and forward it with a recommendation for approval or denial to the Department Head, with a copy to the employee, within seven (7) calendar days of receiving the written request, or longer in extenuating circumstances. If the recommendation is for denial, the Division Chief must include the reasoning.
 - (b) If the Division Chief does not forward the recommendation within seven (7) calendar days of receipt of the employee's written request, the employee may forward the request to the Department Head.
- v. The Department Head will review all employee requests along with the supervisor's and Division Chief's recommendations.
 - (a) The Department Head's decision will be made by signing the request form, within seven (7) calendar days of receiving the request from the Division Chief, or longer in extenuating circumstances. An employee's request shall not be considered approved until and unless approved by the Department Head.
 - (b) A copy of the decision shall be maintained in the departmental personnel file and a copy forwarded to the Human Resources Information System (HRIS) Office for filing in the official personnel file of the employee.
 - (c) The Department Head's decision (i.e., to act or not act) is final.
- vi. Approvals are only for the non-Commission employment stated in the request.
 - (a) If any information provided in the request changes at any time, the employee must provide the supervisor with written notice of the change, immediately.
 - (b) Any approval may be suspended or rescinded orally if a conflict of interest arises during the employee's engagement in the non-Commission employment. The Department Head must provide written notice confirming the action within seven (7) calendar days of the oral action.

- (c) If an employee engages in approved non-Commission employment that impairs their ability to perform Commission duties, the employee may be directed to modify or cease participation in the non-Commission employment while employed by the Commission.
- vii. The employee's supervisor shall review the non-Commission employment, annually during the performance review, to determine if the non-Commission employment has not diminished, interfered with, or detracted from the employee's job duties.
- viii. During their Annual Performance Review, an employee must inform their supervisor whether their non-Commission employment status has changed during the past year, and if so, complete or update the "*Request to Participate in non-Commission Employment Form*" (Appendix A).
- ix. An employee who moves to another department is required to complete and file a new request with the new department for any desired participation in non-Commission employment.

D. Use of Commission Resources

1. **In General.** Commission resources may be used only for the official business of the agency. Any use of Commission resources for a reason other than official business is prohibited, unless permitted under the "Allowable Exceptions" set forth in the Section below.
2. **Allowable "*De Minimis*" Exceptions.** Restricted use of Commission resources is permitted as outlined in other agency policies, including:
 - a. Administrative Practice 6-10, *Vehicle Use Program*. Note: Personal use of M-NCPPC vehicles is generally prohibited, however in limited circumstances M-NCPPC may assign a take-home vehicle to an employee, authorizing commuting (between the workplace and home) and *de minimis* personal use of a vehicle, subject to Internal Revenue Service Regulations. Onsite assigned vehicles, take-home vehicles, and pool vehicles may also be used for personal use which is incidental to the business need (i.e., meals and breaks) and temporary overnight use, when approved.
 - b. Administrative Practice 6-13, *Electronic Communications Policy*, and its accompanying Administrative Procedure; 12-01, "Mobile Technology," including but not limited to Section IV(A). Note: Although employees may occasionally and incidentally need to use Commission communication technology for personal reasons, such personal use must be kept to a minimum, must be brief, must not interfere with the performance of the employee's duties and responsibilities, and must be consistent with Commission Practice 6-13, *Electronic Communications* and any other applicable policy directives affecting technology.

3. **Required Oversight by Management**

a. Managers and supervisors must:

- i. Reasonably monitor and enforce the proper use of Commission resources by those they manage and supervise; and
- ii. Report concerns that are related to the inappropriate use of Commission resources to their Department Head, Inspector General, Park Police, or Executive Director in accordance with Commission Practice 3-31, *Fraud, Waste, and Abuse*.

b. Department Heads must:

- i. Ensure that their employees comply with Sections I(D)(1-2);
- ii. Ensure that violations are reported and addressed in a timely and consistent manner; and
- iii. Report concerns that are related to the inappropriate use of Commission resources to the Inspector General, Park Police, or Executive Director as may be required in Commission Practice 3-31, *Fraud, Waste, and Abuse*.

E. **Use of Prestige of Office**

1. An employee must not intentionally use the prestige of office or public position:
 - a. For that employee's private gain or that of another; or
 - b. To influence, except as part of the official duties of the employee, the award of a Commission contract to a specific person.
2. An employee may not directly or indirectly request that a person retain the compensated services of a particular regulated lobbyist or lobbying firm.

F. **Disclosure or Use of Confidential Information**

1. Except in the discharge of an official duty, an employee or former employee may not disclose or use confidential information acquired by reason of the official's or employee's position and not available to the public.
2. An employee or former employee may not use confidential information for:
 - a. Personal economic benefit; or

- b. The economic benefit of another.
- 2. Examples of confidential information include, but are not limited to, privileged documents, documents that are confidential pursuant to Practice 2-28, *Composition, Privacy and Disposition of Employment Records*, and documents that may not be disclosed pursuant to the Maryland Public Information Act (§4-301, *et seq.* of the General Provisions Article of the Maryland Code).

G. Post-Employment Restrictions

- 1. Except as provided in paragraph 2, a former employee may not assist or represent another party on a specific matter or contract for compensation if the matter involves the Commission and the former employee significantly participated in the matter as a Commission employee.
- 2. A former employee may assist or represent a governmental entity on a specific matter or contract in which the former employee significantly participated as a Commission employee, for compensation, provided an actual or perceived conflict of interest is not created.
- 3. “Significant participation” means making a decision, approval, disapproval, recommendation, rendering of advice, investigation, or similar action taken as an officer or employee. Significant participation ordinarily does not include program or legislative oversight, or budget preparation, review, or adoption.

H. Political Activities

1. In General.

- a. Pursuant to §1-303 of the Local Government Article of the Maryland Code, an employee may freely participate in any political activity and express any political opinion and may not be required to provide a political service.
- b. §1-304 of the Local Government Article of the Maryland Code prohibits employees of bi-county agencies from engaging in political activity while on the job during working hours or advocating the overthrow of the government by unconstitutional or violent means. A bi-county employee who violates §1-304 of the Local Government Article of the Maryland Code is guilty of a misdemeanor and is subject to potential fines and imprisonment.
- c. In addition to §§1-303 and 1-304 of the Land Use Article of the Maryland Code, the Commission’s expectations of employee conduct are set forth in Chapter 1800 (*Political Activities*) of the Merit System Rules and Regulations (Merit Rules) and M-NCPPC Notice 22-07, *Employee Conduct With Respect to Political Activities*. The Merit Rules supersede these provisions, which are provided to further elucidate the ethical standards applicable to employees in this area.

2. **Permissible Activities.** Employees have the responsibility to regulate their political activities in such a manner as not to interfere with their employment. Employees may engage in political activities off-duty, off Commission premises, and without the use of Commission resources. (e.g., Employees may retain membership in political parties; participate in political activities, including seeking candidacy for public office; register and vote as they please; and express their personal opinions on political subjects.)

3. **Prohibited Activities.** Political activities of employees that interfere with the performance of their official duties and responsibilities are prohibited, whether done in-person or using social media. The following political activities are specifically prohibited:
 - a. Campaigning, fundraising, or engaging in other partisan political activities on Commission premises while performing duties and responsibilities as an employee;
 - b. Using one's Commission position to engage in political activities or to advance associated goals;
 - c. Using public office or political affiliations for private gain that may result in a conflict of interest;
 - d. Promising, or appearing to promise, employment, a position, compensation, or any other benefit in consideration, favor, or reward for political activity, especially but not limited to, when such action presents a conflict of interest;
 - e. Performing political activities at the direction of a supervisor, appointed officer, Department Head, Commissioner, any other employee, or vendor;
 - f. Engaging in political activity that interferes with the Commission's work or the duties or responsibilities of Commission employees;
 - g. Accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or other item from a restricted external party, in exchange for another's participation in political activity, especially when such action presents a conflict of interest as defined in the Code of Ethics;
 - h. Use of scheduled work hours or unauthorized use of Commission resources for political or partisan activities;
 - i. Participating in political activities while receiving leave not appropriate for such purposes e.g., Union Leave or administrative leave approved to attend Commission-sponsored or -approved programs, training, forums, seminars, or similar career-enhancement functions;
 - j. Using public office or political affiliation for private gain that may result in, or give the appearance of, a conflict of interest with the Commission;

- k. Coercing other Commission employees, including subordinates, to participate in political activities;
- l. Lobbying elected officials during work hours on behalf of candidates for appointed or elected positions;
- m. The appearance of promising, or an actual promise of, employment, promotion, demotion, dismissal, or any other human resources action, based on partisan political activity;
- n. Displaying partisan political signs, banners, posters, or other endorsements, while on duty, on the Commission's premises, or while representing the Commission. Employees also may not place political bumper stickers, logos, signs, or endorsements on any Commission vehicles, property, or facility, or otherwise engage in electioneering while on duty;
- o. Soliciting any person who has business before the Commission, including the employee's office, to engage in political activity;
- p. Engaging in political activities while wearing Commission apparel or uniforms, employee identification, or any other items with badges, insignia, or logos that identify the Commission. Notwithstanding these restrictions, the incidental wearing of Commission uniforms or identification while voting off-duty is permissible. (*e.g.*, while in uniform, stopping to vote before or after scheduled work hours would not be considered a violation of this policy); and
- q. Otherwise in any way participating in political activities that involve, or would reasonably appear to involve, a conflict of interest, as defined in this Code of Ethics or that would violate this Code or other Commission Practices.

Note: Notwithstanding the above, receipt of unsolicited emails of a political nature will not be considered unauthorized use of Commission resources for political activities. If such an email is received, the employee must take every step to unsubscribe from the email list or contact the sender to remove the employee from the email list. If the employee is unsuccessful in unsubscribing, the employee should contact their respective departmental IT division for assistance in blocking messages.

I. **Nepotism**

Consistent with Merit Rules Section 155 (*Nepotism*):

- 1. An employee, including a Department Head, may not appoint, promote, reassign, or participate in any employment action affecting a family member as defined in the "Definitions" section.
- 2. A Department Head must:

- a. Not permit the employment of members of a family where it would result in any person having direct or indirect supervisory responsibility over a family member.
- b. Recuse themselves from employment decisions involving members of their own family and delegate their authority to another such as a Deputy Director.

II. FINANCIAL DISCLOSURE

A. Financial Disclosure Requirements for Designated M-NCPPC Positions

1. In General.

- a. This Section identifies those whose positions require them to complete Financial Disclosure Statements in accordance with the form and instructions which are contained in Appendix B, “*Financial Disclosure Statement Instructions & Form*” Specific requirements for the timing and filing of Financial Disclosure Statements are outlined below.
- b. Financial Disclosure Statements cover the calendar year (January 1st through December 31st) immediately preceding the year of filing and are due by April 30th of each calendar year.

2. **Individuals Required to File a Statement.** The following individuals must complete a Financial Disclosure Statement form:

- a. Appointed Officers. Appointed officers and deputy appointed officers of the Commission including the Executive Director, Secretary-Treasurer, General Counsel, and their deputies.
- b. Department Heads and Identified Positions.
 - i. Department Heads and Deputy Department Heads including:
 - (a) Director of Planning, Montgomery County;
 - (b) Deputy Director(s) of Planning, Montgomery County;
 - (c) Director of Planning, Prince George’s County;
 - (d) Deputy Director(s) of Planning, Prince George’s County;
 - (e) Director of Parks and Recreation, Prince George’s County;

- (f) Deputy Director(s) of Parks and Recreation, Prince George’s County;
 - (g) Director of Parks, Montgomery County; and
 - (h) Deputy Director(s) of Parks, Montgomery County.
- ii. Inspector General and Inspectors within the Office of the Inspector General;
 - iii. Chief Information Officer;
 - iv. Attorneys (as designated by the General Counsel); and
 - v. Division Chiefs/Division Directors.
- c. Other Individuals Whose Positions Require the Filing.
- i. *Positions Designated by Department Heads:* Department Heads shall designate positions for filing Financial Disclosure Statements (outside of those listed above in Section II(A)(2)(b)), that influence Commission matters because of their ability to take actions, make decisions, or recommendations, or advise on:
 - (a) Procurement matters or contracting;
 - (b) Administering grants or subsidies;
 - (c) Planning, zoning, or otherwise regulating land use;
 - (d) Policy or planning decisions that impact the Financial Interest(s) of third parties;
 - (e) Land acquisitions or dispositions, land development, and facility planning of Commission assets, whether owned or managed; or
 - (f) Other decisions with significant economic impact.
 - ii. *Individuals Who are Assigned by Department Heads to Serve on a Board or Foundation:* Department Heads shall identify employees in designated positions who are assigned to serve on a board or foundation in their official capacity as a Commission employee.
3. **Contents of Statements.** The Financial Disclosure Statement for employees must require disclosure of information and interests, if known, for the applicable reporting period pertaining to:

- a. Receipt of any gifts of more than \$20 in value, or a series of gifts from any one person totaling \$100 or more;
- b. Interests in real property;
- c. Interests in corporations and partnerships;
- d. Interests in Business entities doing business with the State, the Commission, Montgomery County, or Prince George's County;
- e. Employment by or interest in business entities doing business with the State, the Commission, Montgomery County, or Prince George's County;
- f. Indebtedness to entity doing business with the State, the Commission, Montgomery County, or Prince George's County;
- g. Family Members Employed by the State, the Commission, Montgomery County, or Prince George's County;
- h. Sources of earned income; and
- i. Any financial or contractual relationship with (i) the University of Maryland Medical System, (ii) a governmental entity of the State or a local government in the State, or (iii) a quasi-governmental entity of the State or local government in the State.

4. Filing Procedures and Deadlines.

- a. No later than 30 days before the filing deadline each year, instructions on filing annual Financial Disclosure Statements must be provided by:
 - i. *The Executive Director* to appointed officers, Department Heads, and identified positions named in Section II(A)(2)(a-b).
 - ii. *Each respective Department Head* to positions they designate as required to file, including individuals assigned to serve on a board or foundation in their official capacity as a Commission employee as covered in Section II(A)(2)(c).
- b. Except as provided in subparagraph (d), positions required to file a financial Disclosure Statement must file a statement by April 30th of each year. See Section II(A)(2) for the list of positions required to file.
 - i. Appointed officers, Department Heads, and identified positions named in Section II(A)(2)(a-b) file with the Executive Director's office.

- ii. Positions designated as required to file by the respective Department Head, including individuals assigned to serve on a board or foundation, as covered by Section II(A)(2)(c) file with the respective Department Head's office.
- c. Each Department Head must submit to the Executive Director within five (5) business days following April 30th of each year a list of employees who have and who have not submitted their completed Financial Disclosure Statement.
- d. Procedures for New Hires or Appointees, for Individuals Serving in Acting Positions, and Upon Termination:
 - i. *Any newly hired or appointed individual holding a Commission position required to file a Financial Disclosure Statement* must file the statement with the appropriate office at the time of hire. This requirement must be included in job advertisements and communicated and monitored by the hiring department.
 - ii. *Individuals placed in an acting role for a Commission position that requires the filing of a Financial Disclosure Statement* must file a statement when their acting assignment is anticipated to last 60 days or longer. The individual must submit the completed statement within 30 days of the acting assignment.
 - iii. *Any individual who leaves a position that requires the filing of a Financial Disclosure Statement* must file the statement with the appropriate office during the close-out process, prior to separation. Failure to file a required disclosure form upon separation may result in the delay or withholding of a final paycheck in appropriate circumstances. This requirement must be communicated and monitored by the hiring department.

B. Entities Doing Business with the Commission.

1. The Executive Director must cause to have published annually, either in print or in electronic format, an alphabetized list of non-governmental entities doing business with the State, Montgomery County, Prince George's County, and the Commission during the preceding year and make it available to individuals for the purpose of filing Financial Disclosure Statements.
2. The list must be available for public inspection by March 1st of each year.

C. Maintenance of Financial Disclosure Records

1. **Availability for Review**

- a. Subject to subparagraph (d), all Financial Disclosure Statements filed pursuant to Section II (A)(2) must be made available for public inspection upon request during normal office hours, subject to such reasonable fees as the Executive Director may establish.
- b. Any person examining or copying these statements shall be required to provide their name, home address, and the name of the person whose disclosure statement was examined or copied.
- c. An employee who has a statement on file is entitled, upon request, to be notified of the name and home address of anyone inspecting their Financial Disclosure Statement.
- d. The above disclosure shall be handled in accordance with Section II(F), "Disclosure or use of confidential information." Namely, an employee's home address must be redacted from a statement that is made available for examination or copying, if the person has identified it as their home address.

2. Retention Requirements

- a. Any person who is required to file a report, statement, or record under this Code of Ethics, must retain each account, bill, receipt, book, paper, or other document necessary to substantiate the filing. Any person who is required to file a report, statement, or record under this Code, must retain each account, bill, receipt, book, paper, or other document necessary to substantiate the filing.
- b. The person must retain the document for three years after:
 - i. The date the report, statement, or record was filed; or
 - ii. If the report, statement, or record is not filed, the date the report, statement, or record was required to be filed.
- c. All Financial Disclosure Statements filed pursuant to Section II(A)(2)(a-b) shall be maintained by the Executive Director, and those filed pursuant to Section II(A)(2)(c) shall be maintained by the respective Department Heads with whom they have filed.
- d. The Executive Director and the Department Heads shall maintain records of the Financial Disclosure for three years, at which time they shall be sent to the Commission's Archives and Records Office for retention, pursuant to the State-Approved Records Retention and Disposition Schedule.

D. Financial Disclosure Requirements for Commissioners

Commissioners and individuals applying to be a Commissioner should refer to §§5-824 and 5-825 of the General Provisions Article of the Code of Maryland for Financial Disclosure requirements.

III. DELEGATION OF AUTHORITY

- A. A Department Head may designate, in writing, a representative to implement any of the provisions of this Practice.
- B. A Department Head may withdraw their designation at any time, which shall also be in writing.

IV. ETHICS OFFICERS AND DIRECTING CONCERNS

There shall be a Commission-wide ethics officer(s) appointed by the General Counsel who is an attorney in the General Counsel's Office, and who shall have the authority to: (i) advise employees confidentially on the requirements of the Code of Ethics; and (ii) if needed, investigate known or suspected violations, and take appropriate action. The Ethics Officer shall:

- A. Serve as a point of contact for employees regarding inquiries and concerns of conflicts of interest. This includes providing advice and preparing verbal and written responses and guidance regarding the Code of Ethics, and related policies, rules, and regulations. Employees are also encouraged to seek advice from their immediate supervisor and chain of command, provided such staff are not the subject of the inquiry or suspected violation. Note: Pursuant to Administrative Practice 3-31, *Fraud, Waste, and Abuse*, employees are required to report any suspected or known fraud, waste, or abuse, and are provided several reporting options, including: (i) the Department Head responsible for the program in which the fraud, waste, or abuse is suspected; (ii) the Office of the Inspector Generals; (iii) Park Police; and (iv) the Executive Director. See: Practice 3-31, for more information.
- B. After consultation with the General Counsel, refer matters to the appropriate internal and/or external authorities, where warranted, including but not limited to the Executive Director, Commission, Park Police, County Police, and state and federal authorities.
- C. Preparation of an annual report on ethics to address the number and types of inquiries, violations, and corrective measures.

V. REQUIRED TRAINING

- A. Subject to Subsection V(B), immediately below, all employees are required to receive ethics training each calendar year to be provided by the agency's Ethics Officer(s). Note: Commissioners who attend the training offered by the State of Maryland Ethics Commission satisfy this requirement and may elect to take the Commission's ethics training.

- B. Seasonal/Intermittent employees may attend the ethics training provided by the Ethics Officer(s) and will receive orientation on the Code of Ethics as part of their onboarding process.
- C. The Ethics Officer(s) is responsible for developing and updating training materials, with input and assistance from the Corporate Policy Office.

VI. VIOLATIONS

- A. Employees who violate Administrative Practice, 2-24, *Code of Ethics*, may be subject to disciplinary action, up to and including termination.
- B. The Commission may refer a violation for criminal investigation and prosecution.
- C. In the case of unauthorized use of Commission resources by an employee, or other loss or damage to the Commission occasioned by the violation, the Commission may recover any loss or damages from the employee through direct repayment by the employee, payroll deduction, or other legal action.
- D. Failure to comply with the requirements of the Code of Ethics due to a lack of knowledge or misinterpretation of the rules and regulations of this Policy or any other applicable Practice(s) cannot be used as an excuse to violate this Code.
- E. An employee shall be provided an opportunity to explain any conflict of interest or appearance of conflict of interest and any other apparent violations of this Practice.

VII. RESPONSIBILITIES

- A. **All Employees** are responsible for:
 - 1. Complying with the Code of Ethics.
 - 2. Avoiding taking any actions that violate or that may give the appearance of violating the Code.
 - 3. Seeking advice, when needed, and reporting any suspected or known ethics violations, pursuant to Section IV(Ethics Officer(s) And Directing Concerns).
 - 4. Seeking approval to engage in any non-Commission employment utilizing the *Request to Participate in Non-Commission Employment Form* (Appendix A).

5. Submitting a Financial Disclosure Statement, if designated to do so by this Practice or the respective Department Head.
6. Completing the required ethics training.
7. Fully cooperating with investigations of potential violations of the Code of Ethics.

B. Supervisors are responsible for:

1. Reviewing the non-Commission employment of employees under their supervision, annually during the performance review, to determine if the non-Commission employment has not diminished, interfered with, or detracted from the employee's job duties.
2. Responding to inquiries on ethics issues they receive from employees they supervise and seeking further guidance and/or assistance from the Ethics Officer(s), as needed.
3. Reporting suspected and known violations of this Code of Ethics, as appropriate, pursuant to Section V(Inquiries and Concerns).
4. Ensuring employees under their supervision complete the annual ethics training course.

C. Department Heads are responsible for:

1. Approving/disapproving non-Commission employment requests, in a timely manner, utilizing the appropriate form submitted by the employee.
2. Ensuring that all employees under their supervision who are required to submit annual Financial Disclosure Statements (FDS) do so, and reporting annually to the Executive Director those employees who submitted as well as those who did not submit an FDS.
3. Ensuring all staff under their authority receive the required ethics training annually.

D. The Ethics Officer(s) is responsible for:

1. Serving as a point of contact for ethics inquiries and complaints; as well as, providing responses and guidance.
2. Referring matters to the appropriate internal and/or external authorities, where warranted, as appropriate.
3. Facilitating the required annual training on ethics for Commission employees. This includes developing training and ancillary material the Ethics Officer(s) determine are necessary to promote compliance with this Code, with the support of the Corporate Policy Office.

4. Preparing an annual report that contains information on conflict of interest issues and regulations during the previous calendar year.

E. **The General Counsel** is responsible for:

1. Appointing one or more Ethics Officers to be the point of contact for inquiries, advice, training, and investigation/resolution of ethics-related issues . The General Counsel may also delegate to others in the Office of the General Counsel certain responsibilities to ensure compliance with the Code of Ethics and to assist the Ethics Officer(s), as necessary.
2. Reviewing and approving the annual ethics report(s) prepared by the Ethics Officer(s).

F. **The Executive Director** is responsible for:

1. Receiving information regarding Department Head authorizations for employees in the respective departments to solicit gifts from external parties.
2. Approving/disapproving, in writing, requests for soliciting voluntary contributions for a charitable drive for an external party.
3. Maintaining records of Financial Disclosure Statements for designated positions required to file with the Executive Director, for three years, and making them available for public inspection in accordance Section I(G)(Disclosure or Use of Confidential Information) by ensuring employees' home addresses are not disclosed, when a property is identified as an employee's home address.

APPENDICES

- A. Request to Participate in Non-Commission Employment Form
- B. Financial Disclosure Statement Instructions & Form