



Approved by

No. 5-70

The Commission

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FINANCIAL DISCLOSURE

AUTHORITY

This Practice was initially approved by the Commission on March 18, 1992. This Practice was last amended on January 17, 2018 by the Commission.

PURPOSE & BACKGROUND

The purpose of this Practice is to ensure compliance with the Maryland Public Ethics Law to prevent the potential for conflicts of interest and to communicate the Agency's commitment to public accountability. This Practice establishes specific rules for the disclosure of certain financial information by designated M-NCPPC personnel.

This Practice was initially implemented in 1992, when it replaced, rescinded, and consolidated former Administrative Practices 5-70, Financial Disclosure and 5-71, Financial Disclosure by Commission Officers, Department Heads, and Certain Other Employees.

Since its inception, this Practice has been amended as follows:

- March 18, 2015: Updated filing requirements for Commissioners to file online with the State Ethics Commission and send two (2) printed copies to the Executive Director's Office.
- January 17, 2018: Updated to clarify filing requirements for those positions designated to file Financial Disclosure Statements, and incorporate other minor amendments and clarifications.
- March 21, 2018: Practice 5-70A renumbered to Practice 5-70.

REFERENCES

- General Provisions Article, Title 5, Maryland Public Ethics Law, Subtitle 6, Financial Disclosure, Annotated Code of Maryland
- Division II, Land Use Article, Annotated Code of Maryland
- M-NCPPC Administrative Practice 2-14, Non-Commission Employment
- M-NCPPC Administrative Practice 2-24, Ethics
- M-NCPPC Administrative Practice 2-72, Conditions for Acceptance of Awards from Outside the Commission
- M-NCPPC Administrative Practice 4- 10, Purchasing
- Merit System Rules & Regulations, Chapter 1900 (Workplace Conduct and Discipline)
- State of Maryland, State Ethics Commission, Financial Disclosure Form

APPLICATION

This Practice applies to all positions as described in this policy.

DEFINITIONS

For the purposes of this Practice, the following terms shall have the meanings indicated:

The Commission: The governing body of the Maryland-National Capital Park and Planning Commission, which is comprised of five members from each of the agency's two Planning Boards for Montgomery County and Prince George's County.

Commissioners: Members of the Commission.

The Maryland-National Capital Park and Planning Commission: The organizational entity. For purposes of this Practice, the terms "M-NCPPC" or "agency" shall be used to reference the organizational entity.

The Maryland State Ethics Commission: A 5-member Commission composed of private citizens who are appointed by the Governor and responsible for administering the Maryland Public Ethics Law with respect to all State officials. The State Ethics Commission oversees the Maryland State Financial Disclosure system and issues the Financial Disclosure Statement forms which are utilized by this agency.

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

Financial Interest means the following:

- (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.
- (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity.

Immediate Family shall mean the spouse, parent, brother, sister, and children of an individual required to file under this practice.

Financial Disclosure Statement: The form completed annually to meet the requirements of this policy.

POLICY

Consistent with the Maryland Public Ethics Law and our commitment to public accountability, the M-NCPPC recognizes that our system of representative government is dependent in part upon the public maintaining the highest trust in their public officials and employees, and that the public have a right to know and be assured that the impartiality and independent judgment of public officials and employees will be maintained. To help ensure accountability

and awareness of conflicts of interest, this Practice outlines the requirements for completion of Financial Disclosure Statements by individuals whose employment or office puts them in a position of influencing decisions that might benefit parties doing business with, or seeking approval from, the M-NCPPC.

Notwithstanding the requirements of this Practice, individuals are expected to comply with responsibilities and requirements outlined in other applicable ethics standards and policies.

The M-NCPPC intends this Practice to be liberally construed to accomplish its purpose. The requirements of this Practice shall in all respects be consistent with and no less stringent than the standards and requirements of the Maryland Public Ethics Law, General Provisions Article, Title 5; and Division II of the Land Use Article, Annotated Code of Maryland. Therefore, this Practice should be construed in favor of disclosure. If there is any question as to whether or not an item is required to be disclosed, individuals, as a matter of course, should include the item in their required Financial Disclosure Statement.

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I. Financial Disclosure Requirements Generally

This Practice identifies positions which must complete Financial Disclosure Statements. Specific requirements on timing and submission of disclosures are outlined in the relevant sections below.

- Financial Disclosure Statements cover the calendar year immediately preceding the year of filing.
- The Executive Director shall issue instructions on the filling of annual Financial Disclosure Statements no later than thirty days prior to the filing deadline of each year.
- The Financial Disclosure Statement for employees shall require disclosure of information and interests, if known, for the applicable period pertaining to:
 - Interests in real property;
 - Interests in corporations and partnerships;
 - Interests in business entities doing business with the State, the M-NCPPC, Montgomery County, or Prince George's County;
 - Gifts;
 - Employment by or interest in businesses entities doing business with the State, the M-NCPPC, Montgomery County, or Prince George's County;
 - Indebtedness to entity doing business with the State, the M-NCPPC, Montgomery County, or Prince George's County;
 - Family members employed by the State, the M-NCPPC, Montgomery County, or Prince George's County; and
 - Sources of earned income.
- All Financial Disclosures are to be available for public inspection upon request. See: Section III, *Maintenance of Financial Disclosure Records*.
- The filing of Financial Disclosure Statements does not relieve employees from other applicable disclosures which may exist including, but not limited to:
 - The receipt of certain gifts pursuant to Administrative Practice 2-24, *Ethics (Gifts)*.
 - Outside employment and participation in Non-Commission business pursuant to Administrative Practice 2-14, *Non-Commission Employment and Non-Commission Business*.

II. Financial Disclosure Requirements for Designated M-NCPPC Positions

A. Designated M-NCPPC Positions

The following individuals must complete a Financial Disclosure Statement Form as provided annually by the Executive Director:

1. Appointed Officers

Appointed Officers of the M-NCPPC include the Executive Director, Secretary-Treasurer, General Counsel.

- All Appointed Officers shall file their completed Financial Disclosure Statement Forms with the Commission Chair by April 30th of each year.
- The Secretary-Treasurer and General Counsel shall also forward a copy of their completed Financial Disclosure Statement to the Executive Director by April 30th.

2. Department Heads and Identified Positions

The following positions shall file a Financial Disclosure Statement with the Executive Director by April 30th of each year:

- Department Heads and Deputy-Department Heads including:
 - Director of Planning, Montgomery County
 - Deputy Director(s) of Planning, Montgomery County
 - Director of Planning, Prince George's County
 - Deputy Director(s) of Planning, Prince George's County
 - Director of Parks and Recreation, Prince George's County
 - Deputy Director(s) of Parks and Recreation, Prince George's County
 - Director of Parks, Montgomery County
 - Deputy Director(s) of Parks, Montgomery County
- Inspector General and Inspectors within the Office of the Inspector General
- Chief Information Officer
- Attorneys (as designated by the General Counsel)
- Division Chiefs

- Finance Manager
- Corporate Policy Manager
- Risk and Safety Manager

3. Other Positions Which Are Required to File Financial Disclosure Statements

Department Heads shall designate positions (outside of those listed in Section II(A)(2), above) which influence M-NCPPC matters, because of their ability to take actions, make decisions or recommendations, or advise on:

- Procurement or contracting;
- Administering grants or subsidies;
- Planning, zoning or otherwise regulating land use;
- Policy or planning decisions which impact the financial interest(s) of third-parties.
- Land acquisitions or dispositions, land development and facility planning of Commission assets, whether owned or managed; or
- Other decisions with significant economic impact.

Designated positions may include those which are assigned to serve on a board or foundation, in their official capacity as an Commission employee. (Note: Notwithstanding the requirements of this Practice, an employee who serves on external boards or foundations, which are not related to their official capacity as a Commission employee, may still be required to disclose such activity, pursuant to Administrative Practice 2-14, *Non-Commission Employment and Non-Commission Business*.)

Individuals holding such designated positions shall file a Financial Disclosure Statement Form with their Department Head, by April 30th of each year.

Each Department Head shall submit to the Executive Director within five (5) business days following April 30th of each year:

- A list of the employees who have submitted the required Financial Disclosures, as well as
- A list of employees who have not submitted their completed Financial Disclosure Statement Forms.

B. Required Filings for New Hires/Appointees, for Individuals Serving in Acting Positions, and Upon Termination

1. Newly-Hired/Appointed Individuals Holding Designated M-NCPPC Positions

Any newly-hired/appointed individual holding an M-NCPPC position designated as having to file a

Financial Disclosure Statement pursuant to subsections I(B), above, shall file the statement with the appropriate office at the time of hire. This requirement shall be included in job advertisement, and communicated and monitored, by the hiring department.

2. Individuals Assigned to Serve in an Acting Role for 60 Days or More

Individuals placed in an acting role for an M-NCPPC position otherwise required to file a Financial Disclosure Statement pursuant to subsections I(B), shall file a Financial Disclosure Statement, when their acting assignment is anticipated to last 60 days or greater. The individual shall submit the completed Financial Disclosure Statement within 30 days of the acting assignment.

3. Individuals Leaving Designated M-NCPPC Positions

Any individual who leaves a position required to file a Financial Disclosure Statement pursuant to subsections I(B), above, shall 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 shall be communicated and monitored by the hiring department.

C. Ongoing Obligations to Disclose Conflicts of Interest

Designated positions filing a Financial Disclosure pursuant to this Practice shall have a continuing responsibility to guard against conflicts of interest, whether real or perceived.

Filing a Financial Disclosure Statement shall not relieve an individual of the responsibility to immediately disclose and provide appropriate notification as soon as a situation of actual or potential conflict arises.

The following procedures shall apply:

1. Appointed Officers and Department Heads

Appointed Officers and Department Heads shall advise the Chair of the Commission in writing whenever a real or potential conflict of interest arises. The Department Heads shall also advise their respective Planning Board Chair. The Commission shall then determine in executive session whether to permit that individual to continue participation in the matter in question or to require the Appointed Officer or Department Head to recuse himself or herself from further participation. The matter's resolution shall be placed with the applicable Financial Disclosure Statement Form.

2. All Other Employees Required to File Disclosures

An employee shall advise his/her Department Head, in writing, whenever she/he believes that a conflict of interest may exist or arise.

Once a Department Head has been apprised of a real or potential conflict of interest, the Department Head shall determine whether that employee may continue to participate in the matter in question or must excuse him or herself from further participation. Both the employee's notification and the Department Head's determination shall be included with the Financial Disclosure Statement Form if applicable, or in a separate file which must be made available for public inspection upon request.

D. ENFORCEMENT

Any employee subject to the provisions of this Practice who is found to have violated its provisions, either by failure to file or by engaging in prohibited activity is subject to disciplinary action by his/her supervisor, including termination, suspension with or without pay, or other disciplinary action as may be warranted.

III. Financial Disclosure Requirements for Commissioners

Note: This Section is set forth for the reader's convenience only as a restatement of the Maryland Code applicable as of the date this Practice was promulgated. It shall not be interpreted or deemed to impose any substantive legal standard, obligation or requirement, and readers are advised accordingly to consult the Maryland Code directly for a reading of the current law.

A. Requirements for Filing Annual Financial Disclosure Statements by Commissioners

State law requires the following Financial Disclosure submissions by April 30th of each year:

1. Each Commissioner: Financial Disclosure Statements must be filed electronically with the State Ethics Commission.
2. Each Commissioner: A printed copy of the filed Disclosure Statement must be submitted to the Chief Administrative Officer of the County from which the Commissioner is appointed.
3. For Montgomery County Commissioners only: A printed copy of the filed Disclosure Statement must be submitted to the Montgomery County Council.

To assist with filing requirements, each Planning Board administrator shall compile copies of the completed Financial Disclosure Statements from the respective Commissioners and forward complete sets to comply with County submissions outlined above. One additional set shall also be forwarded to the Executive Director within 5 business days of the April 30th deadline.

B. Required Filings for Newly Appointed Commissioners and Commissioners Leaving Office

1. Newly-Appointed Commissioners

Within 30-days of appointment to a Planning Board position, each Commissioner's Office is asked to forward to the Executive Director a copy of the Financial Disclosure Statement which was completed during the appointment process.

2. Commissioners Leaving Office

Within 60 days after leaving office, each Commissioner is to file a Financial Disclosure Statement for the preceding year and any portion of the current calendar year during which the individual held office:

- a) Each Commissioner: Financial Disclosure Statements must be filed electronically with the State Ethics Commission.
- b) Each Commissioner: A printed copy of the filed Disclosure Statement must be submitted to the Chief Administrative Officer of the County from which the Commissioner is appointed.

- c) For Montgomery County Commissioners only: A printed copy of the filed Disclosure Statement must be submitted to the to the Montgomery County Council.

To assist with filing requirements, each Planning Board administrator shall forward completed Financial Disclosure Statements to comply with County submissions outlined above. One additional set shall also be forwarded to the Executive Director within 5 business days of the 60 day-deadline.

C. Ongoing Obligations to Disclose Conflicts of Interest by Commissioners

Conflicts of interest shall be disclosed and handled pursuant to Maryland Code, Land Use Art., § 15-120(g).

A Commissioner is required by State Law to disclose a conflict of interest in a regular public meeting of the Commission or the Planning Boards, and that disclosure shall appear in the minutes. A Commissioner shall disqualify himself or herself and shall not participate in a decision or act which affects or appears to affect a financial interest of the Commissioner.

D. ENFORCEMENT

For Commissioners who fail to file a Financial Disclosure Statement, the State Ethics Commission may issue a complaint against the Commissioner. Commissioners are subject to the provisions of Maryland Code, Land Use Art., § 15-120(h). The penalty for violating that section of State Law is a misdemeanor conviction punishable by a fine of not more than \$1,000 or six months in jail, or both, or by suspension from the Commission for not more than six months, or by outright forfeiture and removal from office, or by any combination of these.

IV. Financial Disclosure Requirements for Designated Employees' Retirement System (ERS) Positions

The following positions shall complete a Financial Disclosure Statement Form as provided annually by the Executive Director:

- Retirement System Administrator
- Voting members of the M-NCPPC Employees' Retirement System Board of Trustees
- Any other employee of the M-NCPPC Employee's Retirement System who, in the opinion of the Retirement System Administrator, is in a position to significantly influence any financial decision of the Employees' Retirement System

Completed Financial Disclosure Statement Forms must be filed by April 30th with the Commission Chair and the Executive Director.

V. Maintenance of Financial Disclosure Records

A. Availability for Review

All Financial Disclosure Statements filed pursuant to this Practice shall be made available for public inspection upon request during normal office hours, subject to such reasonable fees as the Executive Director may establish.

Individuals wishing to examine or copy a statement must appear in person at the Executive Office Building and register their names and home address, and the names of the persons whose statements they wish to examine or copy.

A Commissioner or M-NCPPC employee who has a statement on file is entitled, upon request, to be notified of the name and home address of anyone inspecting his/her Financial Disclosure Statement.

The Executive Director and Department Head shall maintain a list of the name and home addresses of all persons examining or copying such statements, as well as the name of the person whose statement was examined.

B. Preservation of Records

Any individual subject to the provisions of this Practice shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate any reports, statements, or records required to be made pursuant to this Practice for three years from the date of the filing of the disclosure.

All Financial Disclosure Statements filed pursuant to this Practice shall be maintained by the Executive Director or for employees required to file under Section II(A)(3), by the respective Department Heads with whom they have filed.

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 Archives for retention, pursuant to the State-Approved Records Retention and Disposition Schedule.