

# BOARD AND COMMISSION MEMBERS

## FINANCIAL DISCLOSURE STATEMENT INSTRUCTIONS (FORM 2)

These instructions are for the individuals of the Maryland-National Capital Park and Planning Commission Employees' Retirement System (ERS) who must complete Financial Disclosure Statements, pursuant to Administrative Practice 5-70, Financial Disclosure. The M-NCPPC utilizes a Financial Disclosure form based on the form issued by the State of Maryland's Ethics Commission. These instructions reflect guidance from the State of Maryland, plus directions on how to submit your Form.

### A MESSAGE TO THOSE WHO ARE REQUIRED TO FILE DISCLOSURE STATEMENTS (FORM 2)

Please read the instructions carefully and be sure to provide all information requested for each interest you disclose on your statement. You may provide the information requested in this form by completing it either electronically or by hand. The Financial Disclosure Statement form and extra schedules can be accessed from the following link: [www.mncppc.org/2990/FDS-ERS](http://www.mncppc.org/2990/FDS-ERS). After completing the Statement, print it, then sign and date the lower portion of the first page. Note: The Statement no longer requires a notarized signature. Make a copy for your records and submit the completed Financial Disclosure Statement to the Office of the Executive Director via email: [fdsubmission@mncppc.org](mailto:fdsubmission@mncppc.org) or via mail: Office of the Executive Director, 6611 Kenilworth Avenue, Suite 402, Riverdale, MD 20737. Reference: Financial Disclosure Submission on the envelope.

Form 2 requires you to disclose interests and activities having connections with your board. In most (but not all) cases, you will not have any information to report on Schedules A through G, but you should review each Schedule carefully to ensure you do not have reportable information. Schedule H, however, requires you to disclose any salaried employment for you and members of your immediate family and any business entity wholly-owned by you or a member of your immediate family, without regard to any connection with your board. Unless you and your spouse are retired and have no earned income, you should have information to report on Schedule H.

Please read the instructions and definitions carefully, and be sure to disclose all information requested for each interest you list on your statement. If you have any questions about completing the form, please contact the Executive Director's Office at 301-454-1740.

## I. FORM INSTRUCTIONS

### Filing Under Oath

You must file the financial disclosure statement under oath, and willful and false filing is subject to the penalties of perjury as provided in § 9-101, Criminal Law Article, Annotated Code of Maryland. Public Ethics Law § 5-602(e) provides that an electronic filer's submission of the electronic disclosure form is made expressly under the penalties for perjury.

### SCHEDULE A. Real Property

Report real property interests that you, or a partnership in which you have an interest, held during the reporting period, if the interest in the real property meets any one of the following criteria:

- it is subject to a lease or other contract with your board or commission;
- it is the subject of a lease or other contract with an entity if the entity has a contract with the board or commission, or is regulated or licensed by it;
- a co-owner has a contract with your board or commission, or is regulated or licensed by it;
- it was negotiated for sale or lease or was sold or leased to your board or commission during the reporting period;
- it was held during the reporting period, and you plan to offer it for lease or sale to your board or commission

during the current calendar year;

- you purchased from or sold to a person having a contract with your board or commission, or who is regulated or licensed by it; or
- it is regulated by your board or commission.

You must disclose property you own whether or not you have constructed improvements on it. Schedule A deals with real property interests only; do not report here your interests in business entities. If real property is held by a corporate or non-partnership entity attributable to you or is held by a partnership, list the real property on this Schedule, and report your interest in the entity on Schedule B, C, or H (whichever is appropriate).

### **SCHEDULE B. Interests in Corporations (Including Limited Liability Corporations (LLCs))**

Report interests in corporations you held during the reporting period, if the interest meets any one of the following criteria:

- interests of greater than 1 percent in entities regulated or licensed by your board or commission;
- interests of greater than 1 percent in entities negotiating a contract or having a contract with your board or commission that involves doing business with the State, ERS, Montgomery, or Prince George's County, in the amount of \$5,000 or more annually;
- interests of greater than 1 percent in entities that do business with your board or commission;
- interests of 20 percent or greater in entities in which an interest is also owned by a person regulated by, contracting with (in an amount of \$5,000 or more annually), licensed by, or lobbying before your board or commission; or
- interests of 20 percent or greater in entities that own a direct financial interest in another entity regulated by, contracting with (in an amount of \$5,000 or more annually), licensed by, or lobbying before your board or commission.

You need not disclose holdings in an Internal Revenue Service qualified trust or college savings plan, including the State of Maryland § 401(a), § 401(k) and § 457 (deferred compensation) plans and Maryland College Savings Plans, such as 529 investment accounts. Other possible qualified retirement accounts include 403(b) plans. You must determine whether the plan in which you participate meets the requirements for exemption from disclosure. Interests in publicly traded mutual funds or exchange-traded funds traded on a national scale need not be disclosed unless the mutual fund or exchange-traded fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by your board or commission.

### **SCHEDULE C. Interests in Non-Corporate Business Entities**

Report interests in non-corporate business entities (including limited liability partnerships (LLPs) and sole proprietorships) you held during the reporting period, if the interest meets any one of the following criteria:

- interests of greater than 1 percent in entities regulated or licensed by your board or commission;
- interests of greater than 1 percent in entities negotiating a contract or having a contract with your board or commission that involves doing business with the State, ERS, Montgomery County, or Prince George's County, in the amount of \$5,000 or more annually;
- interests of greater than 1 percent in entities that do business with your board or commission;
- interests of 20 percent or greater in entities in which an interest is also owned by a person regulated by, contracting with (in an amount of \$5,000 or more annually), licensed by, or lobbying before your board or commission; or

- interests of 20 percent or greater in entities that own a direct financial interest in another entity regulated by, contracting with (in an amount of \$5,000 or more annually), licensed by, or lobbying before your board or commission.

#### **SCHEDULE D. Gifts**

Report each gift received by you or by any other person at your direction in excess of \$50 in value, or a series of gifts from any one person totaling \$100 or more, from or on behalf of, directly or indirectly, any person who does business with, or is regulated by, your board or commission, or is registered, or required to register, as a lobbyist with respect to your board or commission under the lobbying provisions of the Public Ethics Law. See General Instructions for the definition of "gift". You need not report the following:

- Gifts from your spouse, children, and parents.
- Campaign contributions that are regulated in accordance with the election laws and political contributions.

#### **SCHEDULE E. Offices, Directorships & Salaried Employment**

Report all offices, directorships, and salaried employment you, your spouse, or dependent children held at any time during the reporting period with any business entity doing business with your board or commission. You must also list on this Schedule, any other similar interest (such as being a partner) not otherwise disclosed that you, your spouse, or dependent child held at any time during the reporting period with an entity that does business with your board or commission. See the definition of "doing business with" in the General Instructions.

Report offices, appointments, and employment, etc. you held in corporate or non-corporate entities, including partnerships. For example, you must report the presidency of a corporation or a joint venture or employment as an engineer in a consulting firm that is a partnership.

#### **SCHEDULE F. Debts**

Report all debts you owed during the reporting period to any person or entity doing business with, or regulated by, your board or commission. You need not disclose retail credit accounts including store and bank charge accounts; however, you must disclose installment loans, mortgages, car loans, or other time debts.

#### **SCHEDULE G. Family Members Employed by Board or Commission**

List in Schedule G all members of your immediate family (spouse and dependent children) who were employed by your board or commission in any capacity at any time during the reporting period.

#### **SCHEDULE H. Employment and Business Ownership**

**NOTE:** This Schedule is different from the preceding Schedules. If you or your spouse earned any income as described in 1 or 2 below, irrespective of whether or not the employer or business did business with your board or commission, you must report it. Unless you and your spouse are fully retired and have no earned income, you should be completing this Schedule.

List the name and address of: 1) any employment that you, your spouse or dependent child held during the reporting period; 2) any business entity wholly owned by you, your spouse, or dependent child during the reporting period; and 3) any business entity partly owned by you, your spouse or dependent child, but only if that entity did business with your board or commission during the reporting period. Activities that must be reported on this Schedule include, for example, employment with a corporation, individual consulting activities, private practices and business activities involving income-producing real property (such as ownership and management of rental apartment units).

## **SCHEDULE I. Other**

The general conflict of interest provisions in Subtitle 5 of the Public Ethics Law apply to board and commission members. Subtitle 5 of the Public Ethics Law includes disqualification and employment interest prohibitions, gift solicitation and acceptance limitations, representational limits, and provisions relating to misuse of office and official confidential information. You should be aware that some interests or activities could be violations of the conflict of interest provisions even though you might not be required to disclose them in Schedules A through H,

Thus, you should also disclose on this Schedule any additional interests, not otherwise disclosed, that you believe may create a conflict of interest between your personal interest and your duties as a member of the board or commission.

You may also use this Schedule for any interest or transactions you have not been required to disclose on Schedules A through H but wish to disclose, and/or to further explain any prior entry.

## **II. General Definitions (See Public Ethics Law § 5-101)**

**"Board or commission"** includes the filer's board or commission and any unit administered, governed or subject to appellate review by the board or commission.

**"Business or business entity"** means any corporation, general or limited partnership, limited liability partnership, limited liability company, sole proprietorship (including a private consulting operation), joint venture, unincorporated association or firm, institution, trust, foundation or other organization engaged in business whether profit or nonprofit.

**"Doing business with"** means:

(1) being a party to any one or any combination of sales, purchases, leases or contracts to, from, or with your board or commission, involving consideration of five thousand dollars (\$5,000) or more on a cumulative basis during the calendar year for which a required statement is filed; including, to the extent ascertainable as of the awarding or execution of a contract or lease, the total consideration committed to be paid, regardless of the period of time over which such payments are to be made.

NOTES: 1. The Commission maintains a complete list of lobbyists and financial institutions that do business with the State, **Employees' Retirement System (ERS), Montgomery County, or Prince George's County.** 2. The Ethics Law requires each governmental unit to provide to its financial disclosure filers on or before January 15 of each year a list of entities that did business with the governmental unit during the preceding calendar year.

(2) being a regulated lobbyist (lobbyist or lobbyist employer) as defined in § 5-702 of the Public Ethics Law that lobbies on matters before your board or commission; or

(3) being an entity regulated by your board or commission.

**"Gift"** means the transfer of anything of economic value regardless of the form without adequate and lawful consideration. Gift does not include the solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with the provisions of the Election Law Article, or any other provision of State law regulating the conduct of elections or the receipt of political campaign contributions.

**"Immediate family"** means spouse and dependent children.

**"Interest"** means any legal or equitable economic interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or severally, directly or indirectly.

**Interest does not include:**

(1) an interest held in the capacity of a personal representative, agent, custodian, fiduciary or trustee, unless the holder has an equitable interest therein;

(2) an interest in a time or demand deposit in a financial institution;

(3) an interest in an insurance or 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;

(4) a common trust fund or trust that forms part of a pension or a profit-sharing plan that has more than 25 participants and which is determined by the Internal Revenue Service to be a qualified trust or college savings plan under the Internal Revenue Code; or

(5) a mutual fund or exchange-traded fund that is publicly traded on a national scale unless the mutual fund or exchange-traded fund is composed primarily of holdings of stocks and interests in a specific sector that is regulated by the individual's governmental unit.

**"Official"** means either a State or public official (including members of boards and commissions).

**"Person"** includes an individual or business entity.

**"Regulated Lobbyist"** means any entity/person or its employer required to register pursuant to the lobbying provisions of the Public Ethics Law.

**"Reporting period"** means the period covered by the Statement. An annual financial disclosure statement covers the previous calendar year and is due by April 30<sup>th</sup> each year. A termination statement covers the portion of the current calendar year served by the filer, beginning on January 1<sup>st</sup> to the last day the position is held.

**"Tenants by the Entirety"** means an undivided equal ownership interest with survivorship rights in real property with one's spouse.

### III. Attributable Interest

Section 5-608 provides that certain property and business interests not directly held by a person may be attributed to him or her, and must be reported on the Financial Disclosure Statement. The circumstances under which attribution occurs are as follows:

- a. If you owned a 30% or greater equity interest in any business entity during the reporting period and that business entity holds a property or business interest which, if you owned directly, you would be required to report on Schedule A, B, or C, the interest is attributable to you and you must report it on the appropriate Schedule. This limited attribution does not reduce or affect in any way the requirement for disclosure on Schedule A of real property held by a partnership even if the filer holds less than a 30% interest in the partnership.
- b. If your spouse or child holds a property or business interest which you would have to report on Schedule A, B, or C, if you owned it directly, and if you exercised direct or indirect control over that interest at any time during the reporting period, the interest is attributable to you and must be reported on the appropriate Schedule.
- c. If at any time during the reporting period you (a) held a reversionary interest in a trust or estate or (b) were the beneficiary of a trust or estate or (c) were the settler of a revocable trust, then any interest held by the trust or estate which you would have to report on Schedule A, B, or C, if you owned it directly, is attributable to you and must be reported on the appropriate Schedule. For purposes of this attribution provision, you are a beneficiary of a trust if you are a current income beneficiary, either receiving income or currently entitled to receive income, or if you have a current ownership or other interest in the corpus of the trust. Beneficiaries of an estate include immediate beneficiaries of an estate even if it is not settled. A trust, within the meaning of this section, does not include a common trust fund or a trust which forms part of a pension or profit-sharing plan that has more than 25 participants.

### IV. Unknown Information

COMAR 19A.03.01.04B provides that board and commission members "shall report the information specified in this section, **if known**, for the reporting period." If you claim not to know information requested on the form, state "unknown" in response to that question on the statement. Information in the public records or otherwise obtainable is not "unknown," and must be reported.