

ROBERT G. CASSILLY
Harford County Executive

ROBERT S. McCORD
Director of Administration



JEFFERSON L. BLOMQUIST
County Attorney

HARFORD COUNTY BOARD OF ETHICS ADVISORY OPINION 25-01

Question Presented:

By letter dated January 15, 2025, a member of the Harford County Council (the “Councilmember”) requested that the Harford County Board of Ethics (the “Board”) issue an advisory opinion in accordance with Chapter 23 of the Harford County Code (“Ethics Code”), as amended. The Councilmember expressed interest in serving on the Administrative Charging Committee (“ACC”) and requested that the Board consider any Ethics Code violations that may arise should he be appointed. Further, the Councilmember advised that, if appointed to the ACC, he would serve without the benefit of compensation and recuse himself from any County Council votes involving ACC matters.

Answer:

Ethics Code conflict-of-interest provisions the Councilmember from serving on the ACC while concurrently serving on the County Council, irrespective of compensation or recusal from County Council votes involving ACC matters. Moreover, an exemption under HCC § 23-5(H) would not be in the public’s interest. The Board therefore does not recommend an exemption to the County Council pursuant to HCC § 23-5(H)(6).

Facts:

Harford County Bill No. 22-018 established the ACC, as well as outlined the ACC’s functions, duties and authority, in accordance with Public Safety Article, Section 3-104, Annotated Code of Maryland, as amended. The ACC is comprised of 5 appointed members and is primarily tasked with determining whether a law enforcement officer or agency accused of “police misconduct”¹ will be administratively charged pursuant to HCC § 9-142. The ACC’s procedure for making such a determination is summarized as follows:

1. Any complaint alleging police misconduct is filed with or forwarded to the law enforcement agency that employs the accused officer.

¹ Police misconduct is defined as: [a] pattern, a practice or conduct by a police officer or law enforcement agency that includes: 1) [d]epriving persons of rights protected by the Constitution or laws of the State of Maryland or the United States; 2) [a] violation of a criminal statute; and 3) [a] violation of law enforcement agency standards and policies. HCC § 9-139.

Harford County Celebrates 250 Years ~ 1773-2023

410.638.3205 | 410.879.2000 | 220 South Main Street, Bel Air, Maryland 21014 | www.harfordcountymd.gov

2. That agency conducts an internal investigation into the alleged misconduct and forwards the results thereof to the ACC for consideration.
3. The ACC reviews the data compiled resulting from the agency's investigation into the alleged misconduct and determines if the officer will be administratively charged or not administratively charged.
4. If the ACC determines that the officer will be administratively charged, then the ACC will recommend disciplinary action to the agency employing the officer in accordance with the Uniform State Disciplinary Matrix.
5. The agency may concur with the ACC's recommendation or implement a higher degree of disciplinary action.
6. Alternatively, in the event the agency and officer reach a settlement agreement that does not impose the same or a higher degree of disciplinary action, the ACC must review and approve the settlement agreement.
7. If the ACC rejects such settlement agreement, the ACC's original disciplinary recommendation stands.

HCC § 9-142.

The Councilmember's duties relevant to this advisory opinion include those related to the Harford County, Md. (the "County") budget approval process as outlined in Article V of the Harford County Charter ("Charter"), and the Councilmember's participation in the payment of settlements associated with any tort or liability claim against the County in accordance with HCC § 123-41.1.

Analysis:

The Councilmember is an elected "official" as defined in HCC § 23-2.1 and therefore subject to the conflict-of-interest provisions set forth in HCC § 23-5. HCC § 23-3(B) provides the Board with exclusive jurisdiction to issue advisory opinions concerning requests for interpretation of Ethics Code provisions.

In essence, the primary function of the ACC is to determine if an officer accused of police misconduct is indeed culpable of the alleged infraction. HCC § 23-142. Information and materials provided to the ACC remain confidential until final disposition. Md. Public Safety § 3-104(h). The ACC findings and final disposition are reduced to a written opinion, which is forwarded to the police officer subject to the complaint, the agency employing the officer, and the complainant. Md. Public Safety § 3-104(e)(7).

As discussed in further detail in Board Opinion 24-01, which is incorporated by reference herein, HCC § 123-41.1 requires the County Council to approve payment of monetary settlements associated with any tort or liability claim against the County in excess of \$100,000, which includes claims against deputies employed by the Harford County Sheriff ("Sheriff").

Situations have arisen and may continue to arise in which a complaint alleging police misconduct involves a Sheriff's deputy. The conduct alleged in that complaint may additionally give rise to a claim or potential claim against the Sheriff and/or his deputies, which may be settled for a monetary sum requiring County Council approval. This scenario would create conflict of interest or an appearance thereof which cannot be cured.

Here, the Councilmember, if appointed to the ACC, is in the position to advocate that such officer not be administratively charged. The Councilmember's role as an ACC member would, at a minimum, portray an appearance of benefitting, the County, County Council, taxpayers generally, the Councilmember's constituents, the Councilmember's interest in retaining his council seat, etc., by impacting potential settlement amounts, or by avoiding liability altogether. Such interests and duties owed to the County directly conflict with the functions of the ACC. In short, the Councilmember's role as an ACC member would portray an appearance of impropriety.

The Councilmember's proposed remedy of recusing himself from voting on matters related to the ACC will not negate an appearance of impropriety. The Councilmember's interests in retaining his position by benefiting his constituents, the County, taxpayers, etc., exist irrespective of such recusal.

For the reasons set forth above, the Board finds that the Councilmember is precluded from serving on the ACC as such appointment is violative of HCC §§ 23-5(D)(1)(b)² & 23-5(C)(1)³. Moreover, the Board does not recommend an exemption to County Council pursuant to HCC § 23-5(H)(6) due to the unavoidable and inherent nature of this conflict.

The Board additionally commends the Councilmember for recognizing this conflict and requesting an advisory opinion in accordance with the process outlined in the Ethics Code.

For the Board:

Kirk F. Vollmecke

Kirk Vollmecke
Chairman

² Although the Councilmember indicates his intent to serve on the ACC without the benefit of compensation, an "employment relationship" in accordance with this section exists and directly conflicts with his duties and role on the County Council.

³ As discussed in this Board's Advisory Opinion 23-001, "interest" and "financial interest" are very broadly defined terms in the Ethics Code and encompass any legal or equitable economic interest. Therefore, the Councilmember's interests as a County Councilmember conflict with the duties of the ACC and, at the very least, has the appearance of the potential for impartiality.