

Clerks Note: The effective date has been corrected to 2023.

Bill No. 17-22
Concerning: Public Ethics Law –
Amendments
Revised: 11/1/2022 Draft No. 3
Introduced: June 21, 2022
Enacted: November 1, 2022
Executive: November 14, 2022
Effective: February 13, 2023
Sunset Date: none
Ch. 33, Laws of Mont. Co. 2022

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the Ethics Commission

AN ACT to:

- (1) define terms under the Public Ethics Law;
- (2) alter ethics requirements related to procurement;
- (3) prohibit retaliation against an individual for communicating with the Ethics Commission or participating in an investigation of a potential ethics violation;
- (4) alter the required contents of financial disclosure statements; and
- (2) generally amend the Public Ethics Law.

By amending

Montgomery County Code
[[Chapter 11B, Procurement
Section 11B-52]]
Chapter 2, Administration
Section 2-148

Chapter 19A, Ethics
Sections 19A-4, 19A-10, 19A-17, 19A-18, and 19A-19

By adding

Chapter 19A, Ethics
Section 19A-13A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Sections** ~~[[11B-52,]]~~ 2-148, 19A-4, 19A-10, 19A-17, 19A-18, and 19A-
 2 **19 are amended, and Section 19A-13A is added, as follows:**

3 **2-148. Appointments, removals, and training.**

4 * * *

5 (d) Each member of a group must complete training on the Maryland Open
 6 Meetings Act, [and] basic parliamentary procedure, and the Montgomery
 7 County Public Ethics Law. The Executive must establish standards for
 8 this training by method 2 regulation.

9 **11B-52. Ethics; Contractor conduct.**

10 (a) Unless authorized by law or the Ethics Commission under Chapter 19A,
 11 a person while engaged in a procurement matter with [the County] ~~[[an~~
 12 ~~agency or County agency]]~~ the County must not employ or offer to
 13 employ a public employee if the duties of the public employee include
 14 significant participation in the procurement matter~~[[, regardless of~~
 15 ~~whether the procurement matter is governed by this Chapter]].~~ [Public]
 16 ~~[[Agency or County agency, public]]~~ Public employee, employ, and
 17 significant participation, as used in this section, are defined in Chapter
 18 19A.

19 * * *

20 **19A-4. Definitions.**

21 Unless the context clearly indicates otherwise, the following words have the
 22 following meanings:

23 (a) *Agency or County agency* means:

24 (1) any department, principal office, or office of the executive or
 25 legislative branch of County government;

- 26 (2) any board, commission, committee, task force, or similar body
- 27 appointed by the County Executive or County Council;
- 28 (3) the Revenue Authority, the Housing Opportunities Commission,
- 29 and the Board of License Commissioners;
- 30 (4) each independent fire department or rescue squad that receives
- 31 funds from the County or uses property owned by the County; and
- 32 (5) any other public body if the Commission finds that:
- 33 (A) the public body is subject to the County's legislative
- 34 authority to enact an ethics law; and
- 35 (B) the policies articulated in section 19A-2 would be
- 36 significantly furthered by the application of this Chapter to
- 37 the public body.

* * *

- 39 (o) *Restricted donor* means a person or business that:
- 40 (1) is registered or must register as a lobbyist under Section 19A-21;
- 41 (2) does business with the County agency with which the public
- 42 employee is affiliated;
- 43 (3) is engaged in an activity regulated or controlled by the County
- 44 agency with which the public employee is affiliated; [or]
- 45 (4) has a financial interest that may be substantially and materially
- 46 affected in a manner distinguishable from the public generally by
- 47 the performance or nonperformance of the public employee's
- 48 duties; or
- 49 (5) is an association, or any entity acting on behalf of an association,
- 50 that is engaged only in representing counties or municipal
- 51 corporations.

- 52 (p) Quasi-governmental entity means an entity that:
- 53 (1) is created by the State of Maryland or County law;
- 54 (2) performs a public function; and
- 55 (3) is supported in whole or in part by the State of Maryland but is
- 56 managed privately.

57 (q) *Year* means calendar year.

58 **19A-10. Complaint; Adjudicatory Hearing.**

59 * * *

- 60 (o) A public employee must not retaliate against an individual for:
- 61 (1) communicating with the Commission; or
- 62 (2) participating in an investigation of a potential violation of this
- 63 Chapter or of Sections 2-109, 11B-51, or 11B-52(a).

64 **19A-13A. Contractor Conduct.**

- 65 (a) For purposes of this Section, the terms *agency* or *County agency* do not
- 66 include agencies or County agencies that are subject to Section 11B-52.
- 67 (b) Unless authorized by law, or by the Ethics Commission under this
- 68 Chapter, a person while engaged in a procurement matter with an agency
- 69 or County agency must not employ or offer to employ a public employee
- 70 if the duties of the public employee include significant participation in
- 71 the procurement matter.

72 **19A-17. Who must file a financial disclosure statement.**

73 The following persons must file a public financial disclosure statement under
74 oath:

75 * * *

- 76 (b) the following public employees:

77 * * *

(15) the Inspector General and the deputy Inspector General; ~~[[and]]~~

~~(16) members of the Police Accountability Board;~~

~~(17) members of the Administrative Charging Committee; and~~

~~[(16)] (18) any person who is appointed to serve in an acting capacity in any position listed in the preceding paragraphs while the position is vacant; and~~

* * *

19A-18. Financial disclosure statement; procedures.

* * *

(b) Each candidate for an office listed in subsection 19A-17(a) must file with the County Board of Elections a financial disclosure statement covering the year prior [year and the current year up] to the date of filing the candidate’s certificate of candidacy. The statement must be filed with the certificate of candidacy or certificate of nomination. The County Board of Elections must not accept a certificate of candidacy or certificate of nomination unless a financial disclosure statement in proper form has been filed. [If a] A statement [has been] filed for the prior year under subsection (a)[, then the statement required by this subsection need only cover the current year up to the date of filing the certificate of candidacy or nomination] that is available for inspection under subsection (f) satisfies the requirements of this subsection.

(c) If at the end of a calendar year in which a candidacy is pending and no election has occurred, the candidate must file a financial disclosure statement with the County Board of Elections covering the year just ended. The statement must be filed on or before the last day to withdraw a candidacy. A statement filed under subsection (a) on or before the last

104 day to withdraw a candidacy covering the year just ended that is
 105 available for inspection under subsection (f) satisfies the requirements
 106 of the subsection. The County Board of Elections must notify each
 107 candidate of this obligation to file the financial disclosure statement at
 108 least 20 days before the last day to withdraw a candidacy. If [the
 109 candidate does not file a timely statement under this subparagraph, the
 110 candidacy is withdrawn by operation of law] a statement required under
 111 this subsection is overdue and not filed within 8 days after the candidate
 112 receives written notice from the County Board of Elections of the
 113 failure to file, the candidate is deemed to have withdrawn the
 114 candidacy.

115 * * *

116 **19A-19. Content of financial disclosure statement.**

117 (a) Each financial disclosure statement filed under Section 19A-17(a) must
 118 disclose the following:

119 * * *

120 (11) Relationship with University of Maryland Medical System, state or
 121 local government, or quasi-governmental entities.

122 (A) A filer must disclose any financial or contractual
 123 relationship with:

124 (i) the University of Maryland Medical System;

125 (ii) a governmental entity of the State of Maryland or of
 126 a local government in the State of Maryland; or

127 (iii) a quasi-governmental entity.

128 (B) For each financial or contractual relationship reported, the
 129 schedule must include:

- 130 (i) a description of the relationship;
 131 (ii) the subject matter of the relationship; and
 132 (iii) the consideration.
- 133 (C) A public employee, other than an elected official or
 134 candidate for elective office, is not required to disclose
 135 employment as a public official under this paragraph.
- 136 (D) Prior to the release of a statement, the Commission must
 137 redact any information concerning consideration disclosed
 138 under this paragraph.
- 139 (b) For the purposes of subsections (a)(1) and (a)(2), the following interests
 140 must be treated as the interests of the filer of the statement:
- 141 (1) an interest held by a member of the filer’s immediate family;
 142 (2) an interest held by a relative of the filer, if the filer, at any time
 143 during the reporting period, directly or indirectly controlled the
 144 interest;
- 145 (3) [an interest held by a business entity in which the filer held a 30%
 146 or greater interest at any time during the reporting period; or]
- 147 [(4)] an interest held by a trust or estate in which, at any time during the
 148 reporting period:
- 149 (A) the filer held a reversionary interest or was a beneficiary; or
 150 (B) if a revocable trust, the filer was a settlor; or
- 151 (4) An interest held, at any time during the reporting period, by:
 152 (A) a business entity in which the filer held a 10% or greater
 153 interest;

154 (B) a business entity under subparagraph (A) of this subsection
 155 in which the business entity held a ~~[[50%]] 25% or greater~~
 156 interest;

157 (C) a business entity under subparagraph (B) of this subsection
 158 in which the business entity held a 50% or greater interest;
 159 and

160 (D) a business entity in which the ~~[[filed]]~~ filer directly or
 161 indirectly, through an interest in one or a combination of
 162 other business entities, holds a 10% or greater interest.


163 (c) Each statement filed under Sections 19A-17(b) and 19A-17(c) must
 164 disclose all information required to be disclosed under subsection (a).
 165 However, the filer need not specify the nature or amount of consideration
 166 given in exchange for an interest or the fair market value of an interest.
 167 For a debt, the filer need only disclose the information required under
 168 subsection (a)(6)(A).

169 (d) For each disclosure of the name of a business in a statement filed under
 170 this Article, the filer must also disclose any other names that the business
 171 is trading as or doing business as.

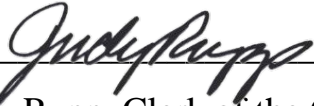
Approved:


_____ 11/02/2022
Gabe Albornoz, President, County Council Date

Approved:


_____ 11/14/2022
Marc Elrich, County Executive Date

This is a correct copy of Council action.


_____ 11/14/2022
Judy Rupp, Clerk of the Council Date