



MONTGOMERY COUNTY ETHICS COMMISSION

November 14, 2024

Waiver 24-11-013

Pursuant to § 19A-12(b)(1)(B) of the Public Ethics Law, a public employee must not be employed by a business that negotiates or contracts with the County agency with which the public employee is affiliated, unless the Ethics Commission grants a waiver.

Benjamin Stevenson is Director of the Montgomery County Department of Correction and Rehabilitation (DOCR). He would like to engage in outside employment as a Consultant at the American Correctional Association (ACA), an entity that contracts with DOCR.

As the Department Director, Mr. Stevenson may signal the need to request for a contract with an entity. However, he has delegated the authority to sign procurement actions such as all contracts, contract amendments, and department memos in accordance with the Montgomery County Procurement Regulations and submit emergency procurement requests. All contracts are managed by the Division Chief of the Management Services Division (MSD). The MSD Chief is ultimately responsible for the coordination of contracts and has a direct report Contract specialist that works directly with the Office of Budget and Office of Procurement. Contracts in place are vetted and worked on by the Contract Specialist. The evaluation, rating, and approval process of contracts is conducted outside of the Director's Office. As Director, Mr. Stevenson is purposely removed from the contract process until there is final approval required in extenuating circumstances under County procurement regulations.

In his proposed role as a Consultant with the ACA, his responsibilities would be to act as a knowledge expert in the field of Corrections and Reentry. Mr. Stevenson has extensive prior experience teaching corrections-related matters at the university level. As a consultant for ACA, Mr. Stevenson would be teaching an international audience on correctional-related topics for roughly one week a year.

DOCR has a contract with ACA because all three (3) County-owned and -operated detention facilities are accredited through ACA. The ACA contract is conducted outside the control of the Director's Office. ACA is the most prominent organization that provides accreditation to jails, prisons, and work release programs that meet the nation's top standards and best practices. ACA is also involved in technical assistance, which provides consulting to many different agencies, counties, states, countries, and other jurisdiction types.

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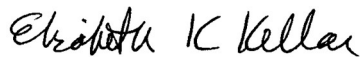
Mr. Stevenson's proposed role at ACA is not at all funded by the contract DOCR has with ACA. And he will have no contract execution role at ACA. Additionally, the Chief Administrative Officer has agreed to reassign any ACA contract-related matters to someone within the Chief Administrative Office to further reduce any potential conflicts of interest.

Pursuant to § 19A-8(b)(3) of the Public Ethics Law, the Ethics Commission may grant a waiver of the prohibition of § 19A-12(b) if the Ethics Commission concludes that the proposed employment is not likely to create an actual conflict of interest. Upon a review of the request and the Chief Administrative Officer's concurrence in and support for the waiver request, as well as his willingness to delegate any ACA contract-related duties upward to his office and away from Mr. Stevenson's office, the Commission finds that there is no actual conflict of interest. Pursuant to the standard of § 19A-8(b)(3), the Commission grants the waiver of the prohibition of § 19A-12(b).

The Commission notes that while 19A-12(b)'s prohibition is waived, the other provisions of the ethics law are not, including those prohibiting an employee from working on official matters relating to the outside employer. The approval of this waiver is conditioned on the facts upon which the waiver is based remaining unchanged. It is also conditioned on Mr. Stevenson not making referrals as a County employee to ACA.

This waiver expires when the outside employment approval with which it is associated expires, unless a continuation request for outside employment is timely filed and subsequently approved by the Ethics Commission. In reaching this decision, the Commission has relied upon the facts as presented by Mr. Stevenson.

For the Commission:



Elizabeth Kellar, Chair