



MONTGOMERY COUNTY ETHICS COMMISSION

November 15, 2024

Waiver 24-11-014

The Montgomery County Government's (MCG) Technology and Enterprise Business Solutions (TEBS) Chief Information Officer (CIO) and Director, Gail Roper, has requested a waiver of the ethics prohibitions contained within Section 19A-14 of the Montgomery County Public Ethics Law, which pertains to misuse of prestige of office for the gain of another. Ms. Roper has asked the Ethics Commission to allow TEBS to engage in case studies with Microsoft and Zammo (a Microsoft partner).

Montgomery County Code Section 19A-14 states “(a) Unless expressly authorized by regulation or as may be permitted under Section 19A-16, a public employee must not intentionally use the prestige of office for private gain or the gain of another. Performing usual and customary constituent services, without additional compensation, is not prohibited by this subsection. (b) Unless expressly authorized by the Chief Administrative Officer (CAO), a person must not use an official County or agency title or insignia in connection with any private enterprise.”

Additionally, the Ethics Commission regulations further discuss endorsements:

COMCOR 19A.14.01 Additional Guidance Concerning Misuse of Prestige of Office; Improper Influence. 19A.14.01.02 Policies

2.2 Endorsements...A public employee must not use or permit the use of any authority associated with public office in a manner that could reasonably be construed to imply that the employee's agency or the County sanctions or endorses the employee's personal activities or those of another.

The Commission did include an exception to this restriction when the endorsement will support the agency's mission in 2.2(b), which states:

An employee must not use or permit the use of his or her Government position or title or any authority associated with his or her public office to endorse any product, service or enterprise except: . . . (b) As a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency's mission.

MONTGOMERY COUNTY ETHICS COMMISSION

100 MARYLAND AVENUE, ROOM 204, ROCKVILLE, MARYLAND 20850

OFFICE: 240.777.6670 FAX: 240.777.6672

In May 2021, TEBS sought and was granted a waiver from the Ethics Commission related to work with Microsoft and Zammo on the County's conversational artificial intelligence chatbot at the height of COVID when the County's 3-1-1 system was overwhelmed by calls from concerned members of the public seeking realtime information and assistance. The 2021 waiver, W21-05-006, granted TEBS the ability to work with private entities in a partnership that helped with implementation, study and improvement to the original chatbot, a public-private partnership that would run afoul of the prohibitions contained within 19A-14 of the Public Ethics Law.

Based on data and studies performed in the original partnership with Microsoft and Zammo, TEBS launched the second generation chatbot, Monty 2.0, in March 2024. This public-private partnership and its resultant success with Monty 2.0, led to the National Association of Counties (NACo) awarding TEBS an Achievement Award for the Monty 2.0 Generative AI Chatbot. Along with the awards and accolades, this success has garnered increased interest by other jurisdictions interested in adopting similar technology. Because of this increased interest, both Microsoft and Zammo have requested Montgomery County's engagement in case studies to demonstrate MCG's successful partnership with both private companies. Additionally, Microsoft and Zammo ask that TEBS participate in a webinar with Microsoft and local governments and municipalities, and a case study specifically with Zammo to highlight and publicly promote the use of artificial intelligence in furthering the mission of other local jurisdictions and municipalities.

Case studies can oftentimes serve little purpose other than to advertise for a particular vendor. And such case studies, as proposed, would carry the County insignia and would require other County resources in terms of personnel hours to accomplish such studies. It is TEBS' contention that County participation in these case studies will not only benefit the private companies but will also be beneficial to the County. According to the waiver request, the case studies "will highlight our speed to implementation, our ability to leverage technology to innovate quickly, our expansion of use of multilingual capabilities to remain inclusive, integration of new Microsoft functionality for an improved customer experience, and more."

According to the waiver request, these proposed case studies will be a jointly collaborative effort between MCG, specifically TEBS and the Public Information Office (PIO), Microsoft and Zammo. The output will include County insignia, and all three entities will have equal ability to share the output on their respective social media accounts. However, any content developed by any of the partners must be reviewed and approved by MCG prior to publication. And also, pursuant to the Enterprise Agreement between MCG and Microsoft, MCG can withdraw its participation at any time. TEBS contends that the benefits would not be one-sided but would also "benefit Montgomery County by promoting and encouraging innovation, inclusivity, digital equity, elasticity and efficiency" in the furtherance of MCG's goal of providing better service to our residents.

The County CAO has concurred with this request for a waiver. Pursuant to Mont. Co. Code. Sec. 19A-8, the Ethics Commission may grant a waiver of the prohibition of the public ethics law if it finds that:

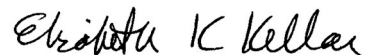
- (1) the best interests of the County would be served by granting the waiver; (2) the importance to the County of a public employee or class of employees performing official duties outweighs the actual or potential harm of any conflict of interest; and
- (3) granting the waiver will not give a public employee or class of employees an unfair economic advantage over other public employees or members of the public.

Upon review of the request and the concurrence of the CAO, the Ethics Commission concludes that the restriction on endorsements in 19A-14 should be waived in connection with the public-private partnership between TEBS, Microsoft and Zammo to facilitate the creation of further case studies and public promotion of the joint AI innovations created in this partnership.

The Ethics Commission acknowledges the TEBS department director and the CAO's support for the waiver, and that the waiver will further enhance the County's reputation for utilizing technological advancement in the furtherance of constituent services. For these reasons, the Commission believes the waiver is in the best interests of the County. The Commission also believes that the importance of utilizing County personnel hours on this partnership outweighs the harm associated with any possible appearance of endorsement of the activities of Microsoft or Zammo. Additionally, the Ethics Commission does not believe there is the potential for any County employees to unfairly gain an economic advantage over other employees or the public generally through the issuance of this waiver.

The waiver is issued in accordance with 19A-8(a) to the class of persons who are working on or assigned to work on the collaboration with Microsoft and Zammo to develop the case studies and participate in the webinars envisioned by this partnership continuation. The waiver is limited to the case studies and webinars as outlined in TEBS' waiver request of September 2024, and it does not extend to other work of either Microsoft or Zammo with the County.

For the Commission:



Elizabeth Kellar, Chair