



MONTGOMERY COUNTY ETHICS COMMISSION

July 18, 2022
Waiver 22-07-013

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.

Markia Graham is a Social Worker II at Child Welfare Services (CWS) in the Children, Youth and Family Services (CYFS) Division at the Montgomery County Department of Health and Human Services (DHHS). She would like to engage in outside employment as a PRN Psychiatric Crisis Clinician at the Emergency Department of Holy Cross Health in Silver Spring (Holy Cross). Holy Cross is an entity which has contracts with DHHS.

I. Relevant Facts

As a Social Worker II with DHHS-CYFS, Ms. Graham works in the intake/assessment unit. She executes many roles within the unit to include investigating and assessing reports of alleged child abuse and neglect. Another role is to provide case management and permanency planning for children who have been placed in foster care or relative placement. In her official capacity with Montgomery County, she works with children and families that reside in Montgomery County.

As a Psychiatric Crisis Clinician with Holy Cross, Ms. Graham will be providing direct clinical consultation to patients and their families, when appropriate, as part of an assessment consultation team, with emphasis on completing psychosocial assessments and recommending appropriate behavioral health treatment to patients in the Emergency Department.

Holy Cross has several contracts with DHHS that involve cancer prevention, providing medical care to pregnant women, and addressing the medical and nutritional needs of senior citizens. Ms. Graham will be working at the Emergency Department in her proposed role at Holy Cross and, therefore, will have no interaction with the Holy Cross contracts with DHHS.

Ms. Graham does not perform any contract procurement, monitoring or execution roles in her official role with DHHS and will not conduct such activities at her proposed outside employment with Holy Cross. Additionally, if she is presented with a crossover client in either of her roles, she will hand that case to a colleague to avoid any potential conflict of interest.

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II. How the waiver standard has been met

In concurring in the waiver request, the DHHS agency head's designee for review of the request stated:

In this case, there are two factors that are salient to the potential for a conflict of interest in this case. First, Ms. Graham will not be working under one of the County contracts with Holy Cross and has no ability to influence the contracting process. Second, in her work both with the County and at Holy Cross, she has no control over the clientele that is served. In both cases, she is required to assist whoever happens to arrive. For both reasons, she is not in a position to unfairly advantage either herself or Holy Cross through this outside employment. I am therefore recommending approval of this waiver.

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 Department's concurrence in and support for the waiver request, 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 on which the waiver is based remaining unchanged. This waiver is also conditioned on Ms. Graham not making referrals as a County employee to Holy Cross or soliciting other County employees to make such referrals.

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 Ms. Graham.

For the Commission:



Susan Beard, Chair