



MONTGOMERY COUNTY ETHICS COMMISSION

Nina Weisbroth
Chair

Stuart Rick
Vice-Chair

September 5, 2012

Waiver 12-08-011

Pursuant to 19A-12(b) of the Public Ethics Law, unless the Ethics Commission grants a waiver, 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.

Keith Fleeman is a Substitute Librarian I. He is seeking a waiver from 19A-12(b) so that he may work as a manager of the Friends of the Library Wheaton Book Store.

Friends of the Montgomery County Library's web page articulates its history and its mission:

Friends of the Library, Montgomery County was founded in 1982 and incorporated as a 501(c)(3) nonprofit organization in 1983. With the support of the County Executive's office and the Library Board, Friends began to organize support from the County's community of Library patrons that would supplement the basic operating funds provided for in County's annual budget. As a private non-profit, Friends has operated independently for over 26 years without relying on government funding.

Our mission is to strengthen, promote, support and advocate for the public library system in order to enrich the lives of our residents and meet the diverse needs of our communities. This mission complements the combined efforts of Montgomery County Public Libraries, the Library Board and the Library Advisory Committees, providing program support, matching funds and specific materials and equipment to augment public monies and maintain a quality public library system

The Friends of the Library has a memorandum of understanding and other arrangements with the Montgomery County Public Library to carry out its mission.

Mr. Fleeman has submitted a request for outside employment to work as the manager of the Friends of the Library Wheaton Book Store, which is located in the County's Wheaton Public Library. Because of the arrangements between the Friends of the Library and Mr. Fleeman's

[Montgomery County Ethics Commission](#)

government employer, the Montgomery County Public Library, Mr. Fleeman would be prohibited by 19A-12(b) from working for Friends of the Library without a waiver.

Pursuant to 19A-8 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.

Mr. Fleeman submits that there is no conflict of interest.

Mr. Fleeman states his duties as a Substitute Librarian I for Montgomery County include working:

at the Information Desks at various library branches including Virtual Services (formerly known as Telephone Reference). Occasionally I am assigned to special library projects.

At the branches and Virtual Services, I provide information to the public as a reference librarian. I assist customers with selecting, locating and using library materials, databases and Internet sources to meet their needs. I work with all library users: children, students, adults, seniors, people with special needs and people of any and every ethnic group and interest. I do not perform any reference services for the Friends of the Library as an organization or relative to their mission.

At times, I do handle money from library customers when they pay to print library materials, purchase bags for their library books, and pay library fines. I never solicit or accept money for the Friends of the Library nor do I sell Friends' memberships as part of my library work. Library staff is forbidden from doing this as a matter of library policy. Library customers seeking information about the Friends are referred to the Friends' webpage.

In the branches, and occasionally in Virtual Services, I also act as a reader's advisor helping people select and locate books (paper, eBooks, and multimedia) that meet their reading interests.

At times, I am asked to work on special projects. Two years ago I was responsible for sorting and helping store Olney Library materials while that branch is closed for renovations. Currently, I am regularly stocking a Lending Library and DVD vending machines at the Longwood Community Center in Olney until the Olney Library reopens in 2014. None of these activities is in any way connected with my responsibilities for the Friends' book store.

For the Friends of the Library at the Wheaton Bookstore, Mr. Fleeman:

Montgomery County Ethics Commission

Make[s] personnel decisions regarding the employment, supervision, training, scheduling and evaluation of . . . the staff and volunteers of the store. None of the store staff and volunteers works for Montgomery County. I do not handle personnel matters regarding any Montgomery County Staff.

I help receive, price, shelve and sell donations to the book store. Friends' book stores never pay for or purchase materials that are sold. All of the stores rely solely on donations for materials that are sold in the stores. We do not handle any books that are currently owned by Montgomery County Libraries. However, books that are weeded from County Library collections become the property of the Friends of the Library and are sold at the Wheaton book store. I do not weed library materials as a Substitute Librarian.

I reconcile all of the money that is received from daily sales with the cash register and credit card receipts and deposit the funds in the Friends' account at the bank. I do not handle any financial records for Montgomery County Libraries.

The Friends of the Library pays an annual fee to the Library for the space that the store occupies on the lower level. I am responsible for managing only this part of the facility. I report facility problems to County Facilities, ensure that the store is clean and accessible and that book store activities do not intrude on Library activities. I have no responsibilities for the Wheaton Library. Neither I nor the staff has access to the Library Staff Room or staff restroom.

In response to an inquiry from Commission staff on whether Mr. Fleeman has ever worked as a County employee at the Wheaton Library, Mr. Fleeman responded that he had not.

B. Parker Hamilton, the Director of the Montgomery County Public Libraries sent a Memorandum dated August 20, 2012, to the Montgomery County Ethics Commission indicating that the Director concurs with the request as Mr. Fleeman's employment with Friends of the Library "is not likely to create an actual conflict of interest with his work for MCPL."

Given Mr. Fleeman's presentation of the facts, the Ethics Commission concludes that there currently is no relationship between any work performed by Mr. Fleeman in his official capacity that conflicts or even relates to his outside employment with Friends of the Library. Accordingly, finding that there is no actual conflict of interest, under the standard of 19A-8, the Commission grants the waiver from the prohibition of 19A-12(b).

Pursuant to 19A-8(e), the Commission may impose appropriate conditions to fulfill the purpose of the ethics law when it grants a waiver. Pursuant to this authority, the Commission imposes the following conditions:

1. Mr. Fleeman may not accept any assignments to work as a Montgomery County employee at the Wheaton library.

Montgomery County Ethics Commission

2. Mr. Fleeman may not in his County position exercise any County authority over arrangements made by the County with the Friends of the Library or any of its Chapters.

In reaching this decision, the Commission has relied upon the facts as presented by Mr. Fleeman.

For the Commission:



Nina A. Weisbroth, Chair