



MONTGOMERY COUNTY ETHICS COMMISSION

Susan Beard
Chair

Bruce Romer
Vice Chair

October 18, 2021

Advisory Opinion 21-10-017

Before the Ethics Commission is the question of whether a County Councilmember's spouse's economic interests in a pharmaceutical company ("the company") are affected by the Councilmember's involvement in a matter that would likely result in the use of a COVID-19 vaccine manufactured by the company. Notably, the County would not be purchasing the product and the number of doses that would be used as a result of the matter would be miniscule in relation to the administration of the company's vaccines world-wide, in the United States, or in Maryland alone.

The Councilmember's spouse has worked as a government relations professional for the company for several years. Over that time, the spouse has served in several roles of rising seniority. The spouse was promoted to Vice President for Government Relations in 2021. The Councilmember has disclosed the fact of the spouse's employment and compensatory grants of company stock on the Councilmember's financial disclosure form each year. To the best of the Councilmember's knowledge, Montgomery County does not have any direct relationship with the company. The County does not have contracts with the company or purchase COVID-19 vaccinations, nor is the company located in Montgomery County.

On September 28, 2021, the Councilmember joined with two colleagues to introduce Bill 34-21E, which would mandate that employees of Montgomery County Government be vaccinated against COVID-19. The bill requires that employees either prove to the County that they are fully vaccinated or apply for and receive medical accommodation. It allows the use of any vaccine approved by the Food and Drug Administration. In theory, a bill requiring vaccines would benefit the company because its vaccines would be one of the three vaccines that can be utilized in fulfilling the requirement. On October 13, 2021, the Councilmember requested an advisory opinion as to the applicability of the County's ethics law regarding the Councilmember's participation in matters relating to the COVID-19 vaccine and, particularly, Bill 34-21E.

Councilmembers are governed by the County's ethics law like other public employees of the County. Section 19A-11 of the County's Public Ethics Law prohibits public employees from

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participating in “any matter that affects, in a manner distinct from its effect on the public generally . . . any property or business in which a relative has an economic interest, if the public employee knows about the relative’s interest” unless the employee has a waiver from the Ethics Commission.

The company is one of the largest pharmaceutical companies in the world. The Federal government has purchased from the company and two other vaccine manufacturers hundreds of millions of vaccine doses for vaccinations and boosters for all Americans, including County employees. The County does not purchase these doses; they flow from the federal government through the State of Maryland to public and private providers for free. Some private providers get doses directly from the federal government. Assuming Bill 34-21E becomes County law and that some number of doses of company vaccines are administered to County employees as a consequence of the bill mandating that County employees be vaccinated, the question remains as to whether there is an “effect” on the company.

The Commission recognizes that the number of company doses that might be administered as a result of a County employee vaccination requirement is infinitesimally small when compared to the 3 billion doses that the company will manufacture just this year (4 billion projected in 2022). There are fewer than 700 employees who have reported as not having had the vaccine as of October 7, 2021, and fewer than 1300 employees who have not reported on their vaccine status. The total number of employees who would likely receive the company’s vaccine as a result of a mandate for County employees to be vaccinated would likely be in the hundreds. Because the United States government is supplying the vaccines, the cost for the company’s vaccine to Montgomery County is zero. Further, the amount the company will receive from Montgomery County as a result of a vaccine mandate for County employees would also be zero. Consequently, the effect on the company would likewise be zero.

It could be claimed that while the County spends no money purchasing vaccines, County policy regarding vaccines could impact the State’s allocation of vaccines or the national interest in mandating government employees to receive vaccines and in turn the United States’ or others’ disposition towards purchasing additional vaccines from the vaccine manufacturers. The Commission concludes that any of these theoretical impacts of Bill 34-21E on economic interests in the company are so speculative that there cannot be said to be an “effect”.

The Commission concludes that the County’s vaccine policy does not impact the company. As a consequence, the bar of 19A-11 does not prohibit the Councilmember from participating in matters relating to whether the County should impose a COVID-19 vaccine mandate. This advisory opinion does not extend to a circumstance where the company’s vaccines are being directly purchased by Montgomery County; where the company is a party to a matter in Montgomery County; or whereby action taken by the County Council will result in the purchase of vaccines from the company.

For the Commission:

A handwritten signature in cursive script that reads "Susan Beard".

Susan Beard, Chair