



MONTGOMERY COUNTY ETHICS COMMISSION

June 16, 2022

Waiver 22-06-009

William Jawando is a Montgomery County Councilmember who has written a book, My Seven Black Fathers: A Young Activist's Memoir of Race, Family, and the Mentors Who Made Him Whole. The book concerns Mr. Jawando's personal history unrelated to his role as an elected County Council member. Mr. Jawando received an unsolicited request to speak about his book as an author at a Juneteenth event at the Blackrock Center for the Arts (Blackrock), a facility that is in part funded by the Montgomery County Government. The event is sponsored by, among others, the County's Human Rights Office and Human Rights Commission. Mr. Jawando believes that the invitation from Blackrock to speak at the event arises from the subject matter of his book, black fatherhood, and its relevance to the Juneteenth event rather than his status as a public official. Both the agency sponsoring the event and Blackrock are subject to budget approval or oversight of the County Council.

Mr. Jawando had an outside employment request approved by the Commission in connection with his being an author. Recent amendments to the ethics law make clear that "active sale or promotion for sale of intellectual property produced by [a] public employee, such as books . . ." constitutes employment. (See 19A-4(g).) With respect to Mr. Jawando's speaking event at Blackrock, he has indicated that he will receive no compensation for the appearance and books will not be sold at the event.

Mr. Jawando's speaking appearance to talk about his book could be viewed as a promotional activity constituting "employment" pursuant to 19A-4(g). The ethics law prohibits certain employment, including being employed by any business that is regulated by or negotiates or contracts with the County agency with which the public employee is affiliated.

19A-12(b) provides:

Unless the Commission grants a waiver under subsection 19A-8(b), a public employee must not:

- (1) be employed by, or own more than one percent of, any business that:

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- (A) is regulated by the County agency with which the public employee is affiliated; or
 - (B) negotiates or contracts with the County agency with which the public employee is affiliated; or
- (2) hold any employment relationship that could reasonably be expected to impair the impartiality and independence of judgment of the public employee.

The statutory mandate of the Commission includes liberally interpreting the provisions to fulfill the intent of the law.

The "employment" could be viewed as falling within the prohibition. As the County Council exercises jurisdiction over County agencies and exercises budget and other authority over the Human Rights Office and Human Rights Commission, these agencies can be viewed as "County agenc[ies] with which the public employee is affiliated." The Ethics Commission has previously held, "[g]iven the broad authority a councilmember holds over all governmental operations, the Commission feels it appropriate to require the councilmember to seek a waiver if the firm negotiates or contracts with any County agency while he is employed by the firm, not just the County agency with which he is affiliated (the Council)". (*See Montgomery County Ethics Commission Advisory Opinion 09-07-007.*) In the current instance, Mr. Jawando's private enterprise as an author could be viewed as contracting with these County agencies to engage in the "employment" activity of promoting his book.

At the recommendation of Ethics Commission staff, and out of an abundance of caution, Mr. Jawando has submitted the request for a waiver of the prohibition of 19A-12(b) so that he can participate in the Juneteenth event at Blackrock without fear of violation of the outside employment prohibition.

19A-8 of the ethics law provides that the Commission may waive the prohibitions of subsection 19A-12(b) if it finds that:

- (1) the waiver is needed to ensure that competent services to the County are timely and available;
- (2) failing to grant the waiver may reduce the ability of the County to hire or retain highly qualified public employees; or
- (3) the proposed employment is not likely to create an actual conflict of interest.

The Commission reached out to the Director of the Human Rights Office who confirmed that Mr. Jawando was not invited to the 25th Annual Juneteenth County Celebration because of his status as a councilmember. Various activities involving books by black authors have been implemented at Juneteenth events. Mr. Jawando's book is viewed by the sponsors of the event

as clearly appropriate for the Juneteenth audience, particularly as Sunday June 19, the actual holiday, is also Father's Day.

The Executive Director of the County Council concurred in the request for the waiver.

The Ethics Commission, by unanimous vote, one member abstaining, grants the request for a waiver on the basis that the proposed activity is not likely to create an actual conflict of interest. The waiver is contingent on Mr. Jawando's book not being made available for sale at the Blackrock event where he will be speaking about the book.

For the Commission:

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

Susan Beard, Chair