



MONTGOMERY COUNTY ETHICS COMMISSION

**Waiver 23-12-017
December 18, 2023**

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.

Jason Davila is a Recreation Coordinator at the Montgomery County Department of Recreation (REC). He would like to engage in outside employment as a part-time Head Soccer Coach with Impact Silver Spring. Impact Silver Spring is an entity which has contracts with REC.

As a Recreation Coordinator at the Wheaton Community Recreation Center with REC, Mr. Davila's responsibilities are assisting with center-based programs, activities and events. Also, he helps to facilitate scheduling rentals of recreation facilities to community groups. And he has a role in the financial reporting for the Recreation Center. Any direct contact he has with clients is for the youth programs that are for ages 11-17, and general programs for adults and seniors, all located at the Wheaton Community Recreation Center. Additionally, in his role at REC, Mr. Davila holds no contract monitoring or procurement responsibilities and is not involved in matters affecting Impact Silver Spring.

As a part-time Head Soccer Coach with Impact Silver Spring, Mr. Davila is a head coach of youth teams ages 12 and under. He runs practices during the week and coaches gamedays on weekends. In his capacity as a soccer coach, Mr. Davila would not work on matters related to REC contracts with Impact Silver Spring. His position at Impact Silver Spring would be paid through non-County derived funds.

Section 19A-8(b)(3) of the Public Ethics Law states that the Ethics Commission may grant a waiver of the § 19A-12(b)(1)(B) prohibition if the Commission concludes that the outside employment will not be likely to create an actual conflict of interest. While there is some minor overlap in the age of the clients Mr. Davila would work with at both jobs, they are geographically separated. For the County, Mr. Davila would work with children in Wheaton, while for his proposed outside employer, he would work with children in Silver Spring.

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 Commission concludes that the proposed outside 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

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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 Mr. Davila not making referrals as a County employee to the Impact Silver Spring 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 Mr. Davila.

For the Commission:



Susan Beard, Acting Chair