



STATE OF ARKANSAS
**Department of Finance
and Administration**

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July 13, 2021

Mr. James Caton
Superintendent
Arkansas School for the Blind and Visually Impaired
2600 W. Markham Street
Little Rock, Arkansas 72205

Re: Advisory Opinion No. 2021-07

Dear Superintendent Caton:

This letter is in response to a written request for an advisory opinion pursuant to Arkansas Code Annotated § 19-11-715(c), which was sent to my office in a letter dated June 16, 2021, and received via email on June 24, 2021, pertaining to the circumstances described below in regard to Craig Nordman, who provides specialized repair services for braillewriter machines at the Arkansas School for the Blind and Visually Impaired (ASB).

This opinion is based upon the following facts that have been presented to me and upon which I am relying. It should be noted that if one or more of these facts are later shown to be incorrect, then that could result in a revised opinion.

1. Mr. Nordman has been repairing ASB's braillewriter machines since September 2018;
2. ASB hired Mildred Nordman, Mr. Nordman's wife, as an Education Paraprofessional in August 2019;
3. Ms. Nordman is not a decision-maker in ASB's procurement process;
4. ASB's Superintendent makes agency procurement decisions;
5. ASB paid Mr. Nordman \$6,392.79 from Fiscal Year 2019 through Fiscal Year 2021 for his contracted services;
6. Braillewriter repair is a specialized type of repair that is not readily available locally, and ASB's utilization of Mr. Nordman's services is more economical and efficient than sending the braillewriter machines out of state for repair.

I. Relevant Law

The ethical strictures set forth in Ark. Code Ann. § 19-11-705(a)(1)(A) prohibit state employees from participating directly or indirectly in any particular matter pertaining to any state agency contracts in which an employee or an employee's immediate family member has a financial

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interest. Arkansas Code Ann. § 19-11-705(a)(2) defines “direct or indirect participation” as including, but not being limited to, “involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.”

For purposes of interpreting Ark. Code Ann. § 19-11-701, *et seq.*, Ark. Code Ann. § 19-11-701(8) defines “employee,” as “an individual drawing a salary from a state agency, whether elected or not, and any non-salaried individual performing personal services for any state agency.” “State agency” is defined in Ark. Code Ann. § 19-11-701(16) as meaning “any office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state.”

Arkansas Code Ann. § 19-11-701(2) defines “business” to mean “any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity.” The term “financial interest” is defined in Ark. Code Ann. § 19-11-701(9)(C) as meaning:

- (A) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than one thousand dollars (\$1,000) per year, or its equivalent;
- (B) Ownership of more than a five percent (5%) interest in any business; or
- (C) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

II. Analysis

Based on the above facts, Ms. Nordman’s ASB employment qualifies her as an employee subject to the ethics statutory provisions, and Mr. Nordman’s provision of contracted repair services to ASB serves as the basis for the application of the ethics statutory provisions.

In this case, Mr. Nordman’s provision of contracted repair services to ASB precedes Ms. Nordman’s employment at ASB. Therefore, ASB’s initial selection of Mr. Nordman for the provision of his services cannot likely be attributed to any inappropriate influence exerted by Ms. Nordman on her husband’s behalf. Furthermore, Ms. Nordman’s employment role is an Education Paraprofessional with no decision-making authority in ASB’s procurement process, which fact is supported by the ASB’s Superintendent acknowledgement that he made agency procurement decisions. Consequently, as Ms. Nordman has no apparent procurement authority or responsibility, I conclude that the conflict is insubstantial and remote.

III. Decision


Thank you for seeking my counsel and approaching the issue with evident transparency. I am persuaded that, under the facts as stated above, any ethical conflict that might exist is insubstantial or remote, and I grant permission to proceed to such extent and upon such terms and conditions as specified in this letter. This decision grants a waiver in accordance with Arkansas Code Ann. § 19-11-715(c) regarding ASB contracting with Mr. Nordman for

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braillewriter machine repair as long as Ms. Nordman continues to have no procurement authority or responsibility at ASB.

Compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Ark. Code Ann. §19-11-701 *et seq.*

Sincerely,


Larry W. Walther
Secretary

cc: Edward Armstrong, Office of State Procurement
Amy Fecher, Secretary