



Department of Transformation and Shared Services
Governor Asa Hutchinson
Secretary Amy Fecher

April 11, 2022

Dr. Susan Okroglic
President/CEO
Community Service, Inc.
100 S. Cherokee Street
Post Office Box 679
Morrilton, Arkansas 72110

RE: Advisory Opinion No. 2022-05

Dear Dr. Okroglic:

This letter is in response to a written request for an advisory opinion and a waiver pursuant to Ark. Code Ann. §19-11-715(b) and (c), which was sent to me electronically in a letter received on April 7, 2022, and supplemented on April 11, 2022, regarding the circumstances described below involving Community Service, Inc. (CSI) continuing to provide community-based youth and family services through Contract No. 4600046568 to the Arkansas Department of Human Services (DHS).

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

1. You have been employed at CSI for approximately 19 years, and your most recent position is President/CEO;
2. CSI is a community-based youth service provider and provides services to youth and families, including mental and behavioral health, juvenile justice services, mentoring and tutoring, rehabilitative day treatment services, life skills, vocational and career support, alcohol, tobacco, and other drug prevention services, and therapeutic foster care;
3. CSI provides services to DHS through Contract No. 4600046568, which annual contract was awarded on July 1, 2020, with the option to renew for six additional annual terms;
4. Since January 2022, you have also been employed as adjunct faculty at the University of Arkansas at Little Rock (UALR);
5. As an adjunct faculty member, you teach one section of the Practice III course in the Bachelor of Social Work Program (SOWK 4333-9U2);
6. The course is taught through asynchronous methods including on-line lectures, posted materials, and other written assignments;
7. Your work at UALR is performed separately from your work at CSI and is usually accomplished on weekends or during evening hours; and
8. You have submitted disclosure forms to both DHS and UALR since beginning your UALR adjunct position.

I. Relevant Law

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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.”

Ark. 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) 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;

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 interest. *See* Ark. Code Ann. §19-11-705. Ark. 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.”

II. Analysis

Based on the above representations, your employment at UALR classifies you as a state employee, and your role as President/CEO of CSI establishes that you have a financial interest in the proposed amendment to a state agency contract.

However, your representations that 1) the initial CSI contract with DHS began prior to your employment as adjunct faculty at UALR, 2) the two roles at CSI and UALR are maintained separately, and 3) there is no cross-over in time or responsibilities between the two roles demonstrate that a conflict does not exist at this time or is insubstantial or remote so as not to taint the procurement process.

III. Decision

Thank you for seeking my counsel and approaching the issue with transparency. I am persuaded that under the representations 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 Ark. Code Ann. § 19-11-715 (c) and, to the extent that the underlying circumstances do not change, you may continue to perform adjunct faculty services to UALR beyond the Spring 2022 semester with proper disclosure in regard to the existing DHS contract. 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.*

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Sincerely,



Amy Fecher
Secretary

cc: Mitch Rouse, Office of State Procurement