



Department of Transformation and Shared Services  
Governor Sarah Huckabee Sanders  
Secretary Leslie Fiskens

March 4, 2024

Samantha Bolton  
14669 HWY 38  
Hughes, AR 72348  
samanthadbolton@outlook.com

RE: Advisory Opinion No. 2024-02

Dear Ms. Bolton,

This letter is in response to your written request for an advisory opinion pursuant to Arkansas Code Annotated § 19-11-715(b) regarding the appropriateness of a contract award for you to serve as court-appointed counsel for parents in the First Judicial District, which is comprised of six counties: Cross, Lee, Monroe, Phillips, St. Francis, and Woodruff. In your request you state that you are a former employee of the State of Arkansas. You previously worked in the Office of Child Support Enforcement (OCSE) as an attorney.

**I. Representations of Fact**

In your request you write:

I was formally employed at the State of Arkansas with the Office of Child Support Enforcement as an attorney. My previous position was in the First Judicial District, and I primarily worked in St. Francis, Cross, and Monroe Counties.

I am seeking a contract with [sic] parent counsel for the First Judicial District beginning March 1, 2024. As parent counsel, I would represent indigent parents whose children have been removed by the Arkansas Department of Human Services, Division of Children and Family Services.

My employment with the Office of Child Support Enforcement in no way has any involvement in the procurement of a contract as parent counsel. I can see no foreseeable conflicts regarding my previous employment with the Office of Child Support Enforcement and representation of parents pursuant to a parent counsel contract.

## II. Relevant Law

Arkansas Code Annotated § 19-11-709(b) sets forth ethical standards that apply to former state employees. It provides:

### (b) RESTRICTIONS ON FORMER EMPLOYEES IN MATTERS CONNECTED WITH THEIR FORMER DUTIES.

- (1) PERMANENT DISQUALIFICATION OF FORMER EMPLOYEE PERSONALLY INVOLVED IN A PARTICULAR MATTER. It shall be a breach of ethical standards for any former employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:

- (A) Judicial or other proceeding, application, request for a ruling, or other determination;
- (B) Contract;
- (C) Claim; or
- (D) Charge or controversy,

in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the state is a party or has a direct and substantial interest.

- (2) ONE-YEAR REPRESENTATION RESTRICTION REGARDING MATTERS FOR WHICH A FORMER EMPLOYEE WAS OFFICIALLY RESPONSIBLE. It shall be a breach of ethical standards for any former employee, within one (1) year after cessation of the former employee's official responsibility in connection with any:

- (A) Judicial or other proceeding, application, request for a ruling, or other determination;
- (B) Contract;
- (C) Claim; or
- (D) Charge or controversy,

knowingly to act as a principal or as an agent for anyone other than the state in matters which were within the former employee's official responsibility, where the state is a party or has a direct or substantial interest.

Arkansas Code Annotated § 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." The term "former" is not given any special statutory definition, so I understand it to have its usual and ordinary meaning. See *L.H. v. State*, 333 Ark. 613, 973 S.W.2d 477 (1998).

### III. Analysis

Based on the law and representations of fact above, your prior employment at the OCSE classifies you as a former state employee. However, nothing in the facts presented indicate that, as an employee of the OCSE, you were involved in any particular matter that should temporarily or permanently prevent you from working as parent counsel for the First Judicial District. Instead, the facts indicate that, although you will be representing the interests of parents, you will be doing so as an agent of the state to ensure that due process is afforded to its citizens.

### IV. Opinion

Given the forgoing, it is my opinion that, despite your former employment at the OCSE, your contract to work as parent counsel for the First Judicial District does not violate the ethical standards provided in Arkansas Procurement Law. Please note that my opinion relies on the facts that you have presented to me. If these facts turn out to be materially incorrect or incomplete, then this opinion may not reasonably be relied upon as evidence of compliance with the ethical standards.

This opinion is issued in accordance with Ark. Code Ann. § 19-11-715(b). Compliance with its requirements is deemed to constitute compliance with the ethical standards of Arkansas Code Annotated § 19-11- 701, *et seq.*

Sincerely,



Leslie Fisk  
Secretary

