



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

December 30, 2021

Mr. Jeff Stearns
Assistant Director
Disability Determination for Social Security Administration
701 South Pulaski Street
Little Rock, Arkansas 72201

Re: Advisory Opinion No. 2021-14

Dear Mr. Stearns:

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 an email dated December 2, 2021, regarding Goldie LeCompt and your request that she be permitted to continue working as a contractor at Disability Determination for Social Security Administration (DDSSA).

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. On October 6, 2011, Ms. LeCompt began employment as a contractor with DDSSA as the result of an RFP solicitation process;
2. Ms. LeCompt's job responsibilities pertain only to maintaining and processing a caseload of disability claimants. She requests and reviews medical documentation and makes decisions based on that evidence to determine a claimant's disability;
3. Ms. LeCompt continues to perform these job responsibilities to this date;
4. DDSSA hired Ms. LeCompt's daughter, Bethanie Nickols (who is now referred to as Bethanie LeCompt), as an employee in August 2014 performing call center duties and addressing generic questions regarding the status of claims and scheduling;
5. On May 31, 2019, Advisory Opinion No. 2019-08 was issued that addressed the ethical restrictions involving the employment of the LeCompts;
6. Advisory Opinion No. 2019-08 determined that there was no conflict of interest in the circumstances underlying that opinion as it related to the LeCompts, and permitted DDSSA to proceed in contracting with Ms. Goldie LeCompt to process disability claims;
7. On December 12, 2019, Ms. Bethanie LeCompt changed positions within DDSSA to the Consultative Exam department as an Adjudicative Assistant. In that role, she addresses the scheduling of exams for claimants who do not have existing medical documentation to make a determination of their disability case; and
8. Ms. Bethanie LeCompt continues to have no responsibilities pertaining to procurement or the awarding of contracts.

I. Relevant Law

The ethical strictures set forth in Arkansas Code Annotated § 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. Arkansas Code Annotated § 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 Arkansas Code Annotated § 19-11-701, *et seq.*, 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." "State agency" is defined in Arkansas Code Annotated § 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 Annotated § 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 Arkansas Code Annotated § 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. Bethanie LeCompt's DDSSA employment qualifies her as an employee subject to the ethics statutory provisions, and Ms. Goldie LeCompt's provision of contracted services to DDSSA serves as the basis for the application of the ethics statutory provisions.

Advisory Opinion No. 2019-08 provided in pertinent part as follows:

Next, in looking at the DDSSA contract with Ms. LeCompt, based on the above facts, Ms. Nickols' employment with DDSSA clearly classifies her as a state employee. Furthermore, the contract with her mother, Ms. LeCompt, creates a financial interest her immediate family member in that contract. However, there is no reason to believe Ms. Nickols participated directly or indirectly in any particular matter pertaining to the contract, as defined by Arkansas Code Annotated § 19-11-705(a)(2).

In this case, Ms. Goldie LeCompt's employment as a DDSSA contractor precedes her daughter's employment with DDSSA. Although Ms. Bethanie LeCompt's employment position within the department has changed since the previous advisory opinion was issued, I am persuaded by your representation that she has no responsibilities relating to procurement and the awarding of contracts in concluding that Ms. Goldie LeCompt's selection to provide contracted services to DDSSA is not due to inappropriate influence or conduct.

Consequently, as Ms. Bethanie LeCompt has no apparent procurement authority or responsibility in selecting or supervising contracted services or participating in their hiring by DDSSA, I conclude that any 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 Annotated § 19-11-715(c) regarding Ms. Goldie LeCompt working and providing contracted services to DDSSA as long as Ms. Bethanie LeCompt continues to have no procurement authority or responsibility at DDSSA and is not involved with the selection, supervision, or hiring of contracted services.

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

Sincerely,



Amy Fecher
Secretary

cc: Edward Armstrong, Office of State Procurement