

ST. MARY'S COUNTY GOVERNMENT
ETHICS COMMISSION

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Board of County Commissioners

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July 1, 2013

[REDACTED]

Dear [REDACTED],

You have requested an advisory opinion to address the question whether the St. Mary's County Public Ethics Ordinance permits an employee of the St. Mary's County Department of Public Works & Transportation to provide compensated services as a non-public school bus operator.

You are a Fiscal Specialist IV (Grade 6). A copy of the description for that position is available for inspection by the public. Non-public school bus contractors contract with St. Mary's County to provide transportation to students at non-public schools under the Department of Public Works & Transportation. Representatives of an informal association of contractors communicate directly with the Board of County Commissioners, and rates of compensation are set by the Board of County Commissioners as part of the annual budget process. A uniform contract is offered to contractors.

The applicable provision of the St. Mary's County Public Ethics Ordinance is §158-5, which provides:

- ...
- (b) *Employment and financial interest restrictions.*
- (1) Except as permitted by regulation of the Commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:
- (i) Be employed by or have a financial interest in any entity:
- (A) Subject to the authority of the official or employee or the St. Mary's County Government agency, board, or commission with which the official or employee is affiliated; or
- (B) That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or
- (ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.
- (2) The prohibitions of paragraph (1) of this subsection do not apply to:
- ...
- (iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

You describe yourself as a "Contractor" and your request is written on the letterhead of a limited liability company, the name of which includes your surname. The Commission infers that you have a financial interest in an entity (1) subject to the authority of the department with which you are affiliated and (2) which contracts with the County through the department with which you are affiliated. Such employment is not permitted as a matter of course. However, since the financial interest is disclosed, it is within the discretion of the Commission in certain circumstances to allow an employee of the Department

to have a financial interest in an entity that contracts with St. Mary's County to provide school bus services for non-public school students.

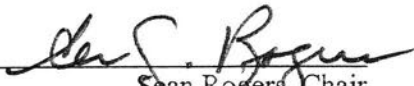
The description of the duties of a Fiscal Specialist IV do not indicate that you exercise influence or discretion over the administration by the Department of the matter in question, or the negotiation of contracts with non-public school bus drivers. Thus, there is no apparent conflict of interest in fact. If you participated in the administration of the non-public school bus program, or the process of establishing rates or contract terms as either a contractor or an employee of the Department of Public Works & Transportation, a different conclusion would follow.

The Commission is of the opinion that you may provide compensated services as a non- public school bus operator upon the following conditions: (1) all facts which form the basis of this opinion are complete, true and correct, now and in the future; and (2) you do not process invoices, vouchers, payments or any documents related to compensation of any non- public school bus operator.

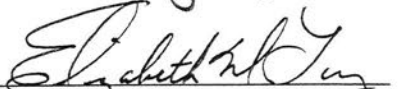
This opinion is limited to your specific request. Any other St. Mary's County employee who is (or intends to be) employed by, or who has (or intends to have) a financial interest in, an entity (1) subject to the authority of the department with which the employee is affiliated and (2) which contracts with the County through the department with which the employee is affiliated, is required to request to seek an advisory opinion concerning that employee.

Very truly yours,

ST. MARY'S COUNTY ETHICS COMMISSION




Sean Rogers, Chair



Elizabeth Long, Vice Chair

Absent

Karin Bailey, Member



Daniel Carney, Member



Kathy Lee Suite, Member