

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY COMMISSION

WAIVER REQUEST # W-17-02¹

SUBJECT: CODE OF ETHICS § 3-2, RESTRICTIONS ON OTHER EMPLOYMENT AND FINANCIAL INTERESTS

By request dated January 5, 2017, a Washington Suburban Sanitary Commission (“WSSC”) employee (“Requestor”) has asked the Board of Ethics (“Board”) to issue a Waiver of Code of Ethics § 3-2, which would allow the employee to obtain secondary employment as a consultant with a company doing business with WSSC.

Requestor works as a Group Leader with the Engineering and Construction (“E&C”) team. This team is responsible for providing engineering and regulatory expertise to plan, design, and build necessary infrastructure within the Sanitary District. Additionally, the E&C team provides operational support for delivering safe water and wastewater services in a timely, cost-effective, and environmentally sound manner. This team has an integral role in all construction projects within WSSC’s jurisdiction. Requestor’s job duties include leading the effort to prevent contamination of the water delivery and sewer systems within the Sanitary District and overseeing the review of plumbing plans.

Section 3-2(a) of the Code of Ethics (“Code”) generally restricts an employee from engaging in outside employment “if the hours of such employment conflict with the employee’s normal work shift at WSSC or where the outside employment is of such a nature which does or may create a conflict of interest or appearance of a conflict of interest.” Additionally, §§ 3-2(b)(1)(B) and (C) of the Code specifically prohibits employees from being employed by, or having a financial interest in, a business that “negotiates or has entered into a contract with WSSC” or “is a subcontractor for any business that has a contract with WSSC.”

In order to be able to grant a waiver request, the Board must find that all three sub-provisions of Code § 2-3(a) have been met. Generally, Code § 2-3(a) imposes the requirement that the best interests of WSSC or the public must outweigh any potential conflict of interest. Additionally, for waiver requests related to secondary employment, the Board must find that at least one of the three sub-provisions of § 2-3(b) applies. This Code section requires consideration of the availability of competent services to WSSC or the public, impact on WSSC’s ability to hire or retain highly-qualified employees, and whether the outside employment is likely to create an actual conflict of interest.

Given that the proposed employer is an entity that does business with WSSC and assuming that Requestor’s secondary employment would be performed outside of the

¹ See also Advisory Opinion # A-17-01.

employee's work hours at WSSC, the issue to be determined is whether Requestor satisfies the conditions for receiving a waiver.

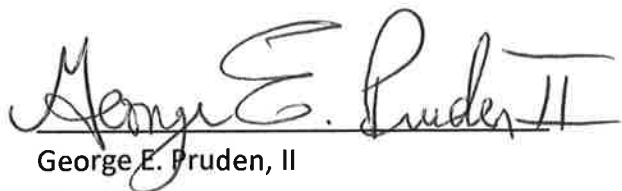
Under the circumstances presented here, the Board finds that the criteria outlined in Code §§ 2-3(a) and (b) for granting a waiver have not been met and, therefore, denies the request for a waiver.

Requestor is a Group Leader in the E&C team. The contracts that the potential employer has held with WSSC are managed by a different Group Leader in the E&C team. Even though Requestor's duties at WSSC do not require direct involvement with the potential employer's WSSC projects, Requestor's duties at the company would be to assist it in another jurisdiction with the same subject areas Requestor oversees at WSSC. Additionally, the Group Leader position is a high-level one within WSSC. In fact, it is common practice in the E&C team (and throughout the Commission) for the Team Chief to delegate authority to one of the team's group leaders in his/her absence. Requestor has been delegated such authority in the past and it is anticipated that this practice would continue in the future. These facts create the appearance that Requestor could influence the administration of the potential employer's current and future contracts managed by the E&C team, even if Requestor does not or cannot exert such influence. The Board therefore concludes that granting a waiver of this conflict is not in the best interest of WSSC or the public.

The Board recognizes Requestor's declaration that Requestor would not participate in, or become involved with, any WSSC-related matters involving the proposed employer. However, this is not enough to overcome the appearance that Requestor could use the information or influence gained from being a Group Leader with the E&C team at WSSC to assist the proposed employer.

Given the facts presented, the employment would violate the Code. Based on the foregoing, the Board will not grant a waiver for Requestor to accept outside employment with the proposed employer.

On motion by Moore, seconded by Hausman, the Board agreed at its meeting held on March 9, 2017 to deny the Waiver Request by a vote of 3-0.


George E. Pruden, II
Chair

4/13/17
Date