

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

Office of Government Ethics



In Re: M. Foster
Case No. 20-0002-F

NEGOTIATED DISPOSITION:

Pursuant to section 221 (a)(4)(E)¹ of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012, D.C. Law 19-124, D.C. Code § 1-1161.01 *et seq.*, (“Ethics Act”), the Office of Government Ethics (the “Office” or “OGE”) hereby enters into this public negotiated settlement agreement with the Respondent, M. Foster. Respondent agrees that the resulting disposition is a settlement of the above-titled action, detailed as follows:

FINDINGS OF FACT:

Respondent serves as a District government employee with the Department of General Services (“DGS”) Protective Services Division (“Protective Services”). Respondent began working for the agency in 2006 and Respondent’s current supervisor is Morena Lyde-Lancaster. Respondent’s only direct report is Willie Whitehead. Respondent oversees several areas of Protective Services, including training, fleet, licensing, and overtime coordination.

Respondent’s daughter began working at DGS in Protective Services in 2018. At some point, Respondent’s daughter resigned her position. Respondent’s daughter was subsequently rehired by the agency in July 2020. Respondent did not participate in either of her daughter’s hiring panels and stated that she was out of the office on extended leave during her daughter’s first hire.

During an interview with our office, Respondent stated that, although she does not have authority to approve leave, she is responsible for coordinating overtime for Protective Services and that she includes her daughter on group emails regarding overtime. Respondent also stated that, in the course of her duties, she interacts with her daughter and also serves as the shift supervisor in charge.

When asked whether she recused herself upon becoming aware that DGS contemplated making a hiring decision concerning her daughter, Respondent stated that she verbally communicated the fact to two individuals in her agency and did not participate in the hiring process. Respondent did not submit a written recusal at that time. However, Respondent recently filed a written recusal which states that she will continue to refrain from participating in her daughter’s employment, including work assignments, or advocating a personnel action on her behalf. Respondent requested that she be separated from any information and communications related to her daughter in the recusal.

NATURE OF MISCONDUCT

¹ Section 221(a)(4)(E) of the Ethics Act provides, “[i]n addition to any civil penalty imposed under this title, a violation of the Code of Conduct may result in the following: ... [a] negotiated disposition of a matter offered by the Director of Government Ethics, and accepted by the respondent, subject to approval by the Ethics Board.”

Respondent violated the following provision of the District Personnel Manual ("DPM"):

- ❖ Failing to file a written recusal, which shall be included in the relative's official personnel file along with the subject personnel action...in violation of DPM § 1806.6.²
 - Respondent stated that she verbally spoke to her agency colleagues regarding her daughter's hire but that she did not submit a written recusal regarding the hire.

None of the above-referenced incidents were authorized by the District of Columbia.

Respondent accepted full responsibility for her actions and has since filed a written recusal. Respondent identified the following factors as mitigating circumstances to be considered by OGE in deciding upon an appropriate remedy in this matter. OGE took these factors into consideration and gave such weight as OGE believed was warranted:

Moreover, by agreeing to settle this matter via a negotiated disposition, Respondent will allow OGE to avoid expending significant time and resources to litigate this matter through a contested hearing, and to focus its finite resources on other investigations.

TERMS OF THE NEGOTIATED SETTLEMENT

Respondent acknowledges that her conduct violated the District Code of Conduct. Respondent agrees to be publicly REPRIMANDED. Additionally, Respondent agrees not to engage in such conduct in the future, and to attend a full ethics training within six months of date of this disposition. In consideration of Respondent's acknowledgement and agreement, OGE will seek no further remedy and will take no further action related to the above misconduct. Accordingly, Respondent is hereby "REPRIMANDED".

Respondent acknowledges and understands that this Negotiated Disposition is only binding upon herself and OGE in resolution of her alleged violations of the Code of Conduct that applies to District government employees and public officials.

Nonetheless, the Respondent knowingly and willingly waives her right to appeal the accompanying Board Order imposing a public reprimand in this matter in exchange for the concessions made by this Office in this Negotiated Disposition.

Respondent further understands that if she fails to adhere to this agreement, OGE may instead, at its sole option, recommend that the Ethics Board nullify this settlement and hold an open and adversarial hearing on this matter, after which the Ethics Board may impose sanctions up to the full statutory amount (\$5,000.00 per violation) as provided in the Ethics Act for each violation.³ Because the Office is, at this time, foregoing requesting that the Ethics Board hold an open and adversarial hearing on this matter, Respondent waives any statute of limitation defenses should the Ethics Board decide to proceed in that matter as a result of Respondent's breach of this agreement.

The mutual promises outlined herein constitute the entire agreement in this case. Failure to adhere to any provision of this agreement is a breach rendering the entire agreement void. By our signatures, we agree to the terms outlined therein.

² DPM 1806.6 requires that "[w]hen the agency contemplates making a hiring decision concerning a relative of a public official within the same agency, the public official must file a written recusal, which shall be included in the relative's official personnel file along with the subject personnel action."

³ Section 221(a)(1) (D.C. Official Code § 1-1162.21(a)(1)).



6/29/2021
Date

Ashley D. Cooks
Acting Director of Government Ethics

6/29/2021
Date

This agreement shall not be deemed effective unless and until it is approved by the Board of Ethics and Government Accountability, as demonstrated by the signature of the Chairperson below.

APPROVED:

Norma Hutcheson
Chairperson, Board of Ethics and Government Accountability
#20-0002-F
AC/ASM/IC

7/1/2021
Date

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY



Office of Government Ethics

IN RE: M. Foster

Respondent

CASE No.: 20-0002-F

ORDER

Based upon the mutual representations and promises contained in the Negotiated Disposition approved by the Board herein on July 1, 2021, and upon the entire record in this case; it is, therefore

ORDERED that Respondent is officially REPRIMANDED by the Board of Ethics and Government Accountability.

This Order is effective upon approval by the Board of Ethics and Government Accountability, as demonstrated by the signature of the Chairperson below.

A handwritten signature in black ink that reads "Norma B. Hutcheson". The signature is written in a cursive style.

NORMA HUTCHESON
Chair, Board of Ethics and Government Accountability

7/1/2021
Date