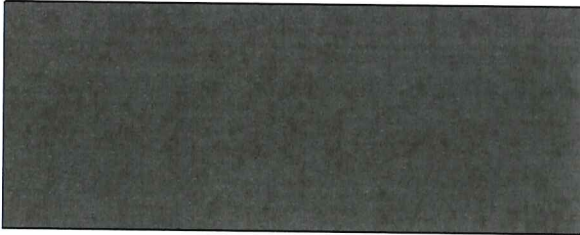


GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

Office of Government Ethics



July 2, 2019



Dear [REDACTED],

This responds to your request for advice regarding whether your child's admission to the selective high school the School Without Walls ("SWW") for the 2019-2020 school year raises any ethical concerns. Based upon your representations and the evidence we reviewed from staff at SWW and My School DC – the program that administers the My School DC Common Lottery ("Lottery") – we found no evidence that your child's enrollment in the program at SWW resulted from any preferential treatment owing to your position as the [REDACTED] and it appears that your child was admitted according the school's standard admissions process.

Background

You state that you are employed at [REDACTED] following your nomination for that position by Mayor Muriel Bowser on [REDACTED] and confirmation by the District of Columbia Council on [REDACTED]. You also state you are the father of a child ("the Student") who participated in the Lottery for the 2019-2020 school year and has been offered a position in SWW's [REDACTED] grade class for the upcoming school year in full accordance with both the Lottery's policies and procedures and SWW's Admissions Handbook. You further state that you did not request any preferential treatment for the Student in connection with either the Student's participation in the Lottery or the Student's application for enrollment at SWW, and that you do not believe that the Student received any preferential treatment in connection with the same.

Ethical Standards

As a District government employee, you are subject to Chapter 18 of Title 6B of the District of Columbia Municipal Regulations (also referred to as the District Personnel Manual ("DPM")), and the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act"), effective April 27, 2012, District Law 19-124, District Official Code § 1-1161.01 *et seq.* In assessing your assertion that you did not seek any favoritism in the application process for your child's enrollment at SWW, I analyzed the ethical standards discussed

below. Please bear in mind that the examples listed herein are listed for reference and do not represent an exhaustive list of possible restrictions of the DPM and Ethics Act.

Misuse of Position

Any allegations of favoritism would require us to determine if you misused your position in order to gain admission to SWW for your child. Under Section 1800.3(g) of the DPM, employees shall not use public office or position for private gain.

Conflicts of Interest

In addition, you may not use your title as a District government employee for personal gain, i.e., securing your child's enrollment in a school to which they otherwise is not entitled to attend or for your financial gain, in general. Section 223(a) of the Ethics Act (D.C. Official Code § 1-1162.23) also addresses the essence of your inquiry with our office. Pursuant to section 223(a) of the Ethics Act:

No employee shall use his or her official position or title, or personally and substantially participate, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter, or attempt to influence the outcome of a particular matter, in a manner that the employee knows is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee.

Appearance Concerns

It is also important to note that you are prohibited from acting in a manner that creates the appearance of a violation of the District's ethical standards. In other words, you could possibly violate the DPM without explicitly violating a particular rule, if, after consideration of the circumstances in the aggregate, there is the appearance of a violation.¹

Discussion

Based on the evidence presented, we determined that SWW had 10 available seats in its [REDACTED] grade class for the 2019-2020 school year. We further determined that the Student satisfied SWW's minimum admissions criteria and was qualified to apply for one of those 10 available seats. The Student submitted the required application on February 1, 2019, which was SWW's application deadline for the 2019-2020 school year, and the Student took SWW's admission test on February 19, 2019, which was the same day that other out-of-state applicants took that test. Because the Student was living in [REDACTED] on that day, the Student's admission test was administered by the school they attended at that time in accordance with SWW procedure, and it consisted of two components: Math and English. Based on the evidence presented, the Student scored high enough on the test to qualify for an interview.

According to SWW's Director of Admissions, LaToya Grant, all student applicants who score at or above a certain threshold on the admission test were invited to participate in an interview with one SWW staff member and two SWW students in the second part of SWW's admission process. Based on the evidence presented, SWW staff and students interviewed 22 students and their parents; however, the parent interviews were not scored or taken into consideration by SWW in determining what applicants were subsequently offered enrollment at the school. The Student and your spouse

¹ Pursuant to DPM § 1800.3(n), "[e]mployees shall not take actions creating the appearance that they are violating the law or the ethical standards set forth in...[chapter 18 of the DPM]. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts."

participated in these interviews on March 18, 2019. You did not participate in these interviews. According to Ms. Grant, none of the interviewers knew that the Student was your child.

According to SWW's Admissions Handbook, each applicant's admission test score was combined with their interview score to yield the final score by which his/her application would be evaluated. The highest possible score an applicant could receive through SWW's admission process was 76 points. The Student's combined final score was the [REDACTED] highest score among the 22 rising [REDACTED] grade students who were invited to participate in the interview round of the application process. The top-ranked applicant's final score was [REDACTED] points, while the applicant who ranked [REDACTED] received a total score of [REDACTED]. SWW extended admission offers to the top ten applicants and placed the remaining twelve applicants on its wait list.

Lastly, Ms. Grant stated that she only received two communications from you during the Student's application process – one involved scheduling the Student's interview and the other related to contact information for the Student's school in [REDACTED]. SWW staff also stated that you did not seek any preferential treatment for the Student, and that they did not believe there was any indication the Student received any preferential treatment during the admissions process.

Conclusion

In light of the evidence presented, assuming your representations to be complete and accurate as to pertinent facts and further assuming that you abided by the restrictions outlined above, I conclude that your child's enrollment at SWW does not violate the DPM. I encourage you to contact BEGA should you have any uncertainty about a specific action you would like to take regarding your [REDACTED] enrollment at SWW or any other DCPS-affiliated school.

Please be advised that this advice is provided to you pursuant to section 219 of the Ethics Act (D.C. Official Code § 1-1162.19), which empowers me to provide such guidance. As a result, no enforcement action for violation of the District's Code of Conduct may be taken against you in this context, provided that you have made full and accurate disclosure of all relevant circumstances and information in seeking this advisory opinion.

Finally, you are advised that the Ethics Act requires this opinion to be published in the District of Columbia Register within 30 days of its issuance, but that identifying information will not be disclosed unless and until you consent to such disclosure in writing, should you wish to do so.

Please let me know if you have any questions or wish to discuss this matter further. I may be reached at 202-481-3411, or by email at brentton.wolfingbarger2@dc.gov.

Sincerely,



BRENT WOLFINGBARGER
Director of Government Ethics
Board of Ethics and Government Accountability

BWW/RWF/AC
19-0077-C