

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



Office of Government Ethics

In Re: K. Crosswhite
Case No.: 19-0003-F

PUBLIC NEGOTIATED DISPOSITION

Pursuant to section 221(a)(4)(A)(v)¹ of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 et seq.), the Office of Government Ethics (“OGE”) hereby enters into this Public Negotiated Disposition with the Respondent, K. Crosswhite. Respondent agrees that the resulting disposition is a settlement of the above-titled action, detailed as follows:

I. FINDINGS OF FACT

Respondent served as the Deputy Fire Chief of the Office of Risk Management for the D.C. Fire and Emergency Medical Services Department (“FEMS”) until November 10, 2018.

According to the evidence obtained by OGE and FEMS, Respondent engaged in conduct, as explained below.²

In September 2017, Respondent tasked a subordinate to assemble a team of firefighters to assist the Office of Risk Management with obtaining, sizing, decommissioning, cleaning and distributing Personal Protective Equipment (“PPE”). The chosen firefighters worked on the team on an overtime basis, in addition to their regular tour of duty and assignments. Respondent’s son was chosen by a team leader to participate in the program. Respondent was aware that his son joined the team, but did not report it to his superior. Respondent entered and approved overtime hours for many of the firefighters, including his son. In total, Respondent entered and approved 251 hours of overtime for his son.

Respondent testified that he did not believe that entering and approving overtime for his son was an ethics violation because he did it for other firefighters on the team. Respondent asserted that since he did not hire his son to participate on the team, he did not think that there was an issue with supervising him.

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

² On February 14, 2019, FEMS issued a Final Agency Decision concluding that Respondent committed nepotism, preferential treatment, and provided misleading statements. FEMS fined Respondent in the amount of \$3,000.00. Respondent has appealed this determination to the Office of Employee Appeals.

II. NATURE OF VIOLATIONS

According to OGE, Respondent violated one section of the District's Code of Conduct, as set forth below:³

- District Personnel Manual ("DPM") § 1800.3(n), which states, employees shall not take actions creating the appearance that they are violating the law or the ethical standards set forth in this chapter.

DPM 1806.3 provides that a public official may not directly or indirectly make a hiring decision regarding a position within his or her own agency with respect to a relative. DPM 1806.2(b) defines "hiring decision" as selecting, appointing, employing, promoting, reassigning, advancing, or advocating a personnel action. Respondent's conduct of allowing his son to serve under his supervision, and entering and approving overtime for his son, at the very least, created the appearance that he violated the District's nepotism rule.

III. TERMS OF THE NEGOTIATED DISPOSITION

Respondent states that he did not intend to engage in any act that violated the District Code of Conduct. Respondent now recognizes that his conduct of allowing his son to serve under his supervision and entering and approving overtime for his son gave the appearance that he engaged in nepotism, in violation of DPM § 1800.3(n). If this matter were to proceed to an adversarial hearing pursuant to D.C. Official Code § 1-1162.14 and 3 DPM § 5401 *et seq.*, OGE believes it would present substantial evidence to demonstrate that Respondent advocated a personnel action involving his son by approving his son's overtime hours in PeopleSoft in violation of DPM 1806.3. In order to resolve this matter without further proceedings, Respondent enters into this Negotiated Disposition with OGE. Respondent hereby agrees to pay a total fine in the amount of **\$3,000.00** to resolve this matter, in accordance with the following terms and conditions:

1. Respondent agrees to satisfy his fine (\$3,000.00) by tendering twelve (12) monthly payments of \$250.00 to OGE, beginning November 1, 2019 and continuing on the 1st day of each month thereafter;
2. Respondent agrees to submit all payments by certified check or money order made out to the D.C. Treasurer, delivered to and received by OGE at 441 4th Street NW, Suite 830 South, Washington, DC 20001; and
3. All outstanding amounts not paid against the fine will be due in full on or before October 3, 2020 (the "Maturity Date").

³ According to D.C. Official Code § 1-1162.01a, the Ethics Act and "the Code of Conduct shall apply to all employees and public officials serving the District of Columbia, its instrumentalities, subordinate and independent agencies, the Council of the District of Columbia, boards and commissions, and Advisory Neighborhood Commissions, but excluding the courts." The DPM is a part of the Code of Conduct. *See*, D.C. Official Code § 1-1161.01(7)(E).

In consideration of Respondent's acknowledgement and agreement, OGE will seek no further remedy and will take no further action related to the above violation.

Respondent acknowledges and understands that this Negotiated Disposition is only binding upon himself and OGE in resolution of his alleged violations of the Code of Conduct that applies to District government employees and public officials. Respondent acknowledges and understands that OGE does not have the authority to bind any other District or federal government agency to this agreement, including but not limited to the D.C. Fire and Emergency Medical Services Department ("FEMS"). Respondent further acknowledges and understands that notwithstanding the terms of this Negotiated Settlement, his conduct described hereinabove may also subject him to the imposition of penalties by other government agencies who are not bound by the terms of this agreement whatsoever.



9-30-2019

Crosswhite
Respondent

Date

Respondent also understands that if he fails to pay the full \$3,000.00 in accordance with the terms set forth hereinabove, pursuant to Section 221 (a)(5)(A) of the Ethics Act (D.C. Official Code § 1-1162.21 (a)(5)(A)), the Ethics Board may file a petition in the Superior Court of the District of Columbia for enforcement of this settlement and the accompanying Board Order assessing the fine. Respondent agrees that this Negotiated Disposition constitutes various factual admissions by him that may be used in any subsequent enforcement or judicial proceeding that may result from his failure to comply with this agreement.

Respondent further understands that if he 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 Board may impose sanctions up to the full statutory amount (\$5,000.00 per violation) as provided in the Ethics Act for each violation.⁴ Because OGE is, at this time, foregoing requesting that the Ethics Board hold an open and adversarial hearing on this matter, Respondent agrees to waive any statute of limitation defenses should the Board decide to proceed in that manner 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 herein.

⁴ Section 221 (a)(1) (D.C. Official Code § 1-1162.21 (a)(1)).



 Crosswhite

9-30-2019

Date

Brent Wolfingbarger

Brent Wolfingbarger
Director of Government Ethics

10-3-2019

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 Chairman below.

APPROVED:

Norma B. Hutcheson

Norma B. Hutcheson
Chairperson, Board of Ethics and Government

October 3, 2019

Date

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



IN RE: [REDACTED] Crosswhite
Respondent

CASE No.: 19-0003-F

ORDER

Based upon the mutual representations and promises contained in the Negotiated Disposition approved by the Board herein on October 3, 2019, and upon the entire record in this case; it is, therefore

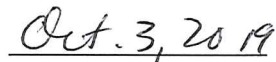
ORDERED that Respondent pay a civil penalty in the amount of THREE THOUSAND DOLLARS (\$3,000.00).

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

The Board commends the work of its staff members who investigated this case, including Attorney Advisor Ashley Cooks and Investigator Ronald Cook.



Norma B. Hutcheson



Date

Chair, Board of Ethics and Government Accountability