

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



Office of Government Ethics

In Re: J. [REDACTED] Niles
Case No.: 1031-017

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, J. Niles. Respondent agrees that the resulting disposition is a settlement of the above-titled action, detailed as follows:

I. FINDINGS OF FACT

Respondent was the Deputy Mayor of Education ("DME") of the District of Columbia from January 2, 2015 until February 16, 2018. As the DME, Respondent was responsible for developing and implementing the Mayor's vision for academic excellence and creating a high quality education continuum from childhood to post-secondary and the workforce. Respondent's office had three major functions: overseeing a District-wide education strategy; managing interagency and cross-sector coordination; and providing oversight and/or support for the following education-related agencies: D.C. Public Schools ("DCPS"), Office of the State Superintendent of Education ("OSSE"), Department of Parks and Recreation ("DPR"), D.C. Public Library ("DCPL"), Public Charter School Board ("PCSB"), and University of the District of Columbia ("UDC"). By virtue of the position, Respondent also served as the Chair of the Common Lottery Board.

On May 12, 2017, Mayor's Order 2017-125, Creation of a Policy Regarding Out-of-Boundary Transfers, was issued. The Order halted the granting of discretionary transfers and required DCPS Chancellor [REDACTED] Wilson to publish a policy clarifying the criteria under which discretionary transfers would be granted. It also required the Chancellor and any public official appointed by the Mayor to consult with the Board of Ethics and Government Accountability ("BEGA") prior to granting a discretionary transfer or requesting such a transfer, respectively. In response, Chancellor Wilson issued Chancellor's Directive #103, Discretionary Out-of-Boundary Transfers Policy, which provides standards for the discretionary transfer decisions and created an advisory committee to evaluate discretionary transfer requests and provide recommendations to the Chancellor. The Directive also made discretionary transfers unavailable for students whose parent or guardian is a current or former public official. Specifically, it states, "[t]his discretionary transfer process is not available for current or former public officials." On July 12, 2017, Chancellor's Directive #103 was adopted by Mayor's Order 2017-158.

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."

At the beginning of the 2017/2018 school year, Chancellor Wilson informed Respondent that his daughter was having trouble at her school, Duke Ellington School of the Arts, and that his wife was considering removing her from the school. Chancellor Wilson stated that because of his official position within the school system, his wife was responsible for handling educational matters for their children. Respondent then called [REDACTED] Spence, DCPS Chief of Secondary Schools, told her that Duke Ellington's leadership had not been responsive to Mrs. Wilson's concerns, and asked her to contact Mrs. Wilson to discuss the concerns, outline the options available to Mrs. Wilson given the new rules and regulations, and direct Mrs. Wilson in the appropriate next steps in accordance with the new rules and regulations. Respondent informed Dr. Spence that Chancellor Wilson would not get involved in the process as a means to avoid undue influence, and emphasized that it was imperative that Dr. Spence follow all new rules, regulations, and protocols in any actions taken on behalf of the daughter so there would be no favoritism or impropriety afforded the Chancellor or his family. Respondent testified that she believed Dr. Spence was the correct DCPS employee to contact because she was the head of secondary schools with oversight of high school principals, would address Mrs. Wilson's primary concern with the unresponsiveness of Duke Ellington's school leadership, could provide Mrs. Wilson with programmatic information about her educational options within DCPS such as transferring her daughter to her in-boundary school or pursuing a different selective school, if available, and ensure appropriate rules and regulations were followed with any actions taken by DCPS staff. Respondent stated that she believed Mrs. Wilson would consider enrolling her daughter in a private school if needed. Dr. Spence testified that her division was responsible for providing leadership and training to middle and high school principals, administrators, and teachers, but her duties did not include facilitating school transfers. However, Dr. Spence did not tell Respondent that she was not the appropriate person within DCPS to address Mrs. Wilson's concerns about Duke Ellington, nor indicate that she could not direct Mrs. Wilson to the appropriate person within DCPS. Respondent also contacted Mrs. Wilson and informed her that Dr. Spence would contact her to discuss Mrs. Wilson's concerns at Duke Ellington, and guide Mrs. Wilson in appropriate next steps within DCPS, if any, in daughter's transfer from Duke Ellington to another school.

According to Dr. Spence, the telephone conversation with Respondent left her with the impression that Chancellor Wilson's daughter needed to be transferred immediately. With the assistance of Dr. Spence, Chancellor Wilson's daughter was transferred to Woodrow Wilson High School ("Wilson High School"). At that time, Wilson High School had a waitlist of 639 students, and did not offer any seats to students who applied through the lottery. There were 116 students waitlisted for the same grade level that Chancellor Wilson's daughter was enrolled in.

About one month after the transfer, Respondent asked Chancellor Wilson about his daughter's wellbeing, and he informed Respondent that his daughter was doing better at Wilson High School. On February 12, 2018, Respondent became aware that Chancellor Wilson's daughter had not been transferred using the proper channels even after explicitly directing Dr. Spence to follow all rules and regulations regarding Chancellor Wilson's daughter. Shortly thereafter, Respondent submitted her resignation to the Mayor.

II. NATURE OF VIOLATIONS

According to OGE, Respondent violated two sections of the District's Code of Conduct, as set forth below:²

- **One:** District Personnel Manual ("DPM") § 1800.3(h), which states, "[e]mployees shall act impartially and not give preferential treatment to any private organization or individual;"
- **Two:** DPM § 1800.3(n), which states, "[a]n employee shall not take actions creating the appearance that they are violating the law or the ethical standards set forth in this chapter."

Respondent failed to act impartially and gave preferential treatment to Chancellor Wilson when she asked Dr. Spence to assist Mrs. Wilson in addressing Mrs. Wilson's concerns with Duke Ellington and the subsequent transfer of their daughter to another DCPS school. Respondent was aware of Chancellor's Directive #103 and Mayor's Order 2017-158 when she contacted Dr. Spence, and explicitly directed Dr. Spence to follow all relevant rules and regulations with Mrs. Wilson. Respondent should have allowed Mrs. Wilson to independently contact the DCPS Student Placement Office or Planning and Enrollment Office to discuss options regarding her daughter's situation. Respondent's conduct gave the appearance that she violated the ethics standards by giving the Chancellor preferential treatment.

III. TERMS OF THE NEGOTIATED DISPOSITION

Respondent acknowledges that her conduct, by creating the appearance that she violated the law or the ethical standards set forth in Chapter 18 of the DPM, violated DPM §1800.3(n) and the District's Code of Conduct.

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 "**Publicly Censured.**"


² 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).

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.

[Redacted]

[Redacted] Niles

2/1/19
Date

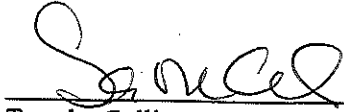


Brent Wolfingbarger
Director of Government Ethics

2-4-2019
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:



Tameka Collier
Chairperson, Board of Ethics and Government

2-7-19
Date

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



J [REDACTED] Niles,
Respondent

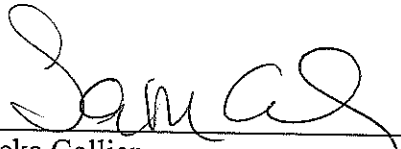
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ORDER

Based upon the mutual representations and promises contained in the Negotiated Disposition approved by the Board herein on the 7th day of February, 2019, and upon the entire record in this case; it is, therefore

ORDERED that Respondent is **Publicly Censured**.

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



Tameka Collier
Chairperson, Board of Ethics and Government Accountability

2-7-19
Date