



STATE OF ARKANSAS  
**Department of Finance  
and Administration**

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January 30, 2019

Dr. Kaleybra M. Morehead  
P.O. Box 2214  
Pine Bluff, AR 71613

RE: Advisory Opinion No. 2019-01

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Dear Dr. Morehead:

This letter is in response to a written request for an advisory opinion, pursuant to Ark. Code Ann. §19-11-715(b), or alternatively a waiver pursuant to Ark. Code Ann. §19-11-715(c), which was sent to my office in a letter from you dated December 20, 2018, a supporting letter from the University of Arkansas at Pine Bluff ("UAPB") dated December 14, 2018, and a follow up letter from you dated January 14, 2019 (collectively, the "Request Letters"), regarding the circumstances described below involving your employment with Southeast Arkansas College ("SEARK") and your proposed contracting with UAPB. This opinion is based upon the following facts that have been presented to me in the attached documents, which I am relying upon. It should be noted that if one or more of these facts are later shown to be incorrect, that could result in a revised opinion.

1. Dr. Morehead has been an employee of SEARK for over twenty years, and is currently the Vice President of Academic Affairs and Advancement;
2. Dr. Morehead is currently on a sabbatical with SEARK, having taken administrative leave to allow time to replicate her dissertation research and complete a comparative study on UAPB;
3. Dr. Morehead, doing business as Francene LLC, and UAPB are seeking to enter into a consultant contract for \$3,500.00, under which Dr. Morehead will hold interviews with randomly selected students, collecting, compiling and finalizing research and submitting a final report to implement strategies for UAPB;
4. The subject of the study is to identify the factors that influence the decision of admitted first-time freshmen applicants to matriculate or not to matriculate at the UAPB;
5. Dr. Morehead reports all work conducted under the contract will be undertaken while Dr. Morehead is on sabbatical or otherwise outside of her working hours for SEARK;

Ark. Code Ann. §19-11-705 (a)(1)(A) prohibits state employees from participating directly or indirectly in any particular matter pertaining to any state agency contracts in which an employee or an employee's immediate family member has a financial interest. *See* Ark. Code Ann. §19-11-705. Ark. Code Ann. §19-11-705 (a)(2) defines "direct or indirect participation" as including, but not being limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

For purposes of interpreting Ark. Code Ann. §19-11-701 *et seq.*, Ark. Code Ann. §19-11-701 (8) defines “employee,” as an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing personal services for any state agency, before defining “state agency” in Ark. Code Ann. §19-11-701 (16) as meaning any office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state.

Ark. Code Ann. §19-11-709 goes on to state it is a breach of ethical standards for any employee who is involved in procurement to become or be, while such an employee, the employee of any party contracting with the state agency by which the employee is employed.

Based on the above facts, your employment with SEARK certainly classifies you as a state employee, and becoming a contractor, through Francene LLC, with UAPB would statutorily create a financial interest in in that contract. However, there is no reason to believe you participated directly or indirectly in any particular matter pertaining to that contract, as defined by Ark. Code Ann. §19-11-705 (a)(2).

Ark. Code Ann. §19-11-709 is inapplicable due to the fact that you are not involved in procurement as a state employee, nor is the contract at issue with SEARK, your employer.

Accordingly, under the facts as stated above, I opine that there is no conflict of interest, and you may proceed with your proposed work for UAPB pursuant to the contract. This advisory opinion is issued in accordance with Ark. Code Ann. § 19-11-715 (b). Compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Ark. Code Ann. §19-11-701 *et seq.*

Sincerely,



Larry W. Walther  
Director

cc: Edward Armstrong, Office of State Procurement