



ETHICS COMMISSIONERS April 29, 2009

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Via First Class Mail and e-mail at crisobal1225@aol.com

Re: RQO 09-16
Outside Employment, § 2-11.1 (j)
Prohibition against exploiting official position, § 2-11.1 (g)
Prohibition against doing business with your department, § 2-11.1 (d)

Dear Lieutenant Aguirre:

In correspondence to our office dated March 30, 2009, you asked if any ethics conflicts were created when you engaged in outside employment as a hazardous materials (HazMat) instructor through your privately owned company. You stated that you are employed as a fire lieutenant with the Miami-Dade County Fire Rescue Department and that some of your private HazMat students are Miami-Dade County firefighters. You also asked if a conflict of interest would be created if county firefighters who attend your private classes receive tuition reimbursement from the county.

Outside Employment, Co. Code at § 2-11.1 (j)

The Miami-Dade Commission on Ethics found that you have no conflicts of interest when you engage in outside employment as a trainer through your privately owned company because, in your capacity as a Miami-Dade County firefighter, you do not currently train county employees, you do not use county equipment or county time to engage in private training, and you do not compete with the county for training dollars.

Prohibition against exploiting official position, Co. Code at § 2-11.1 (g)

The Ethics Commission found that you do not exploited your official position to have information about your private courses distributed to county employees because the Chief of Training in the County Fire Rescue Department, who customarily distributes information about privately

sponsored courses that may be of interest to firefighters, creates no special privilege for you.

Prohibition against doing business with your department, Co. Code at § 2-11.1 (d)

The Ethics Commission observed that because you enter into contracts with individual firefighters in all jurisdictions, not with your own county department, your individual contracts do not create ethics conflicts relevant to the issue of county tuition reimbursement.

The facts most pertinent to this opinion are as follows:

1. Miami-Dade County does not currently provide training in hazardous materials and weapons of mass destruction to county employees.
2. Although you received training and experience in managing hazardous materials through your county employment, you are not currently an instructor with the Miami-Dade County Fire Rescue Training Department in any subject.
3. You have developed a unique teaching method to assist students master the technical information necessary to pass the State Hazardous Materials Technician Certification Exam. You did not develop this unique teaching method as part of your county duties.
4. Your private company owns or rents all of the equipment necessary to conduct classes in handling hazardous materials. You provide instruction only on your days off, when you do not work for the county.
5. You do not exploit your official position to have information about your private courses distributed through the county e-mail system. The Division Chief of Training in the Miami-Dade County Fire Rescue Department customarily distributes information through the county e-mail system about privately sponsored courses that may be of interest to firefighters. In these e-mails, the Chief routinely states, "The attached training opportunity is provided for your information only. The distribution of this information is not intended to imply that the department endorses this training or will incur any cost for attendance."
6. You have not entered into any contracts with the county; rather contracts are between your private company and individual students in all jurisdictions who pay tuition costs with personal checks or personal credit cards. If the county were to reimburse the firefighters for some of their tuition costs, that arrangement would not make the county a third party, in privity, to the contract. Your company owes no duty to the county, and the county is only an incidental beneficiary

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Miami-Dade County Fire Lieutenant

of the contract, with no right under contract law against your company for some performance

This opinion construes the Miami-Dade Conflict of Interest & Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics. **Irrespective of this opinion, permission to engage in outside employment is at the complete discretion of your supervisors, and the decision to reimburse tuition is outside the authority of the Ethics Commission.**

Please feel free to contact Victoria Frigo, Staff Attorney, at 305 350.0601, or Robert Meyers at 305 579.2594, if we can be of further assistance in this matter.

Sincerely,



ROBERT MEYERS
Executive Director

copies: Tarlesha Smith (MDFR) at tsmith@miamidade.gov
Madeline Clodfelter (MDFR) at MNB@miamidade.gov

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Miami-Dade County Fire Lieutenant