



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 · Miami, Florida 33130
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Jessica Landestoy
Statistics and Research Specialist
Juvenile Services Department

FROM: Martha D. Perez,
Staff Attorney

SUBJECT: INQ 19- 100

DATE: October 17, 2019

CC: COE Legal Staff and Mary Caraballo, Clerk IV, MDC Juvenile Services
Department

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding a County employee applying to become County vendor.

Facts

On October 15, 2019, you asked, on behalf of Mary Caraballo, about her limitations in doing business with the County through her private Zumba class services. Ms. Caraballo is employed as a Clerk IV in the Juvenile Services Department. She intends to provide Zumba exercise classes at the MDC Library and other possible County-owned venues. The dates and times may vary but the classes will take place after County work hours. Ms. Caraballo will be self-employed and compensated for her services.

Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (County Ethics Code) would prevent Ms. Caraballo from contracting with the County to provide Zumba exercises classes at the MDC Library and/or various County-owned locations.

Discussion and Conclusion

- Outside Employment

Any non-County employment or business arrangement in which a County employee provides a personal service that is compensated or customarily eligible to be constitutes outside employment. See INQ 17-75

- Exploitation of Official Position

The County Ethics Code prohibits a County employee from exploiting his or her official position. This means that, Ms. Caraballo may not use her County position to secure special privileges or exemptions with respect to any County contract or agreement she is seeking or applying for. *See* Section 2-11.1(g), County Ethics Code

Consequently, Ms. Caraballo's prospective outside employment does not appear to be in conflict with her County duties and responsibilities. Furthermore, she may enter into contracts with Miami-Dade County but not with the Miami-Dade County Juvenile Services Department (JSD)/JAC.

This opinion is limited to the facts as presented to the Ethics Commission.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.

INQ 16-104 Caraballo

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, April 01, 2016 2:37 PM
To: Caraballo, Mary (JAC) <JAC0013@miamidade.gov>
Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Murawski, Michael P. (COE) <MURAWSK@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Molina, Cristina M. (JAC) <JAC0044@miamidade.gov>
Subject: Mary Caraballo, Clerk IV, Mami-Dade Juvenile Services Department (Outside Employment) INQ 16-104

Dear Ms. Caraballo:

You have inquired about possible conflicts of interest between you County employment and your proposed outside employment.

You are employed at the Miami-Dade Juvenile Services Department as a Clerk IV. Your job duties include serving as a coordinator for the GPS program, fixing and resolving data integrity issues and, running monthly reports and co-administration of the Quest and BI systems. You are seeking outside employment as a "Zumba" exercise instructor with Aquila Limited Health and fitness (Aquila), a County vendor. Although Aquila is a County vendor, your supervisor confirms that Aquila does not have any contracts with the Juvenile Services Department which employs you.

Section 2-11.1(j) of the County Ethics Code prohibits County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his or her official duties. Based on the facts presented here, we find that your proposed outside employment as a Zumba instructor is not likely to create conflicting employment because: your public duties as a Clerk IV and you job duties as Zumba instructor are not closely related; the employment would occur outside of you County hours of employment; and your department does not contract with, oversee, or administer Aquila's contract with the County because Aquila does not contract with the Juvenile Services Department.

However, we caution that County employees cannot use County time or resources in the furtherance of their outside employment (Miami-Dade Code § 2-11.1(g)); they are prohibited from using any confidential information acquired as a result of their County employment to derive a personal benefit (Miami-Dade Code § 2-11.1(h)); and they cannot represent their outside employer in any matter before the County (Miami-Dade Code § 2-11.1(m)).

Furthermore, we remind you that all County employees engaged in outside employment must obtain permission to engage in that employment on a yearly basis. Miami-Dade Code §2-11, Administrative Procedure 7-1, and Procedure 403. In addition, County employees employed by County vendors must file an Affidavit with the Miami-Dade Clerk of the Courts disclosing employment with that vendor (Miami-Dade Code §2-11.1(f)). This affidavit can be found on the COE's website at http://ethics.miamidade.gov/library/2016-publications/affidavit_of_no_controlling_interest.pdf.

Finally, all **full-time** County Employees who engage in outside employment are required to file an Outside Employment Statement reporting the annual income they received from their outside employment on a yearly basis with the Miami-Dade County Elections Department by noon on July 1. (Miami-Dade Code §2-11.1(k)(2)).

This opinion is limited to the facts as you presented them to the Commission on Ethics. Please contact us if these facts change. Other conflicts, based on directives from your Department or under state law, may apply. If you have additional questions regarding possible conflicts based on Department directives, contact your Department supervisor or the Mayor's Office. Questions regarding the state ethics laws should be addressed to the State of Florida Commission on Ethics.

Please contact us if you have any further questions.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
gdiazgr@miamidade.gov
www.facebook.com/MiamiDadeEthics

From: Molina, Cristina M. (JAC)
Sent: Wednesday, March 30, 2016 4:30 PM
To: Diaz-Greco, Gilma M. (COE)
Cc: Caraballo, Mary (JAC)
Subject: RE: Outside Employment Request

Good afternoon Ms. Diaz-Greco. The Juvenile Services Department does not contract with Aquila Limited Health and Fitness Solutions.

Please feel free to contact me if you have any questions.

Thanks!

Cristina Molina, Manager JSD Fiscal and Human Resources
Miami-Dade County Juvenile Services Department
305-755-6204 (Phone) 305-755-6146 (Fax)
www.miamidade.gov/jsd
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 please do not print this e-mail unless absolutely necessary

From: Caraballo, Mary (JAC)
Sent: Tuesday, March 29, 2016 12:16 PM

To: Molina, Cristina M. (JAC)
Subject: FW: Outside Employment Request

Hi Cris,

This is the question I got back from Ethics. I'm not sure, but I don't think our Department has a contract with them. How can I find out to make sure my paperwork is correct?

From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, March 22, 2016 2:25 PM
To: Caraballo, Mary (JAC)
Subject: RE: Outside Employment Request

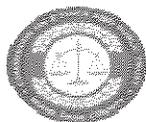
Ms. Caraballo:

Does Aquila Limited Health and Fitness Solutions contract with the Juvenile Services Department?

Please advise.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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www.facebook.com/MiamiDadeEthics

From: Caraballo, Mary (JAC)
Sent: Monday, March 21, 2016 1:07 PM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: Outside Employment Request

Good afternoon Gilma,

I spoke with you a couple of weeks ago regarding outside employment. I completed the Request for Outside Employment form, but my manager is stating that I need to request an Ethics Opinion due to the job being with a County vendor. Can you provide me with an Ethics Opinion on this matter? I would greatly appreciate your assistance.

Thank you,

Mary Caraballo, Clerk IV
Miami-Dade County Juvenile Services Department
275 NW 2nd Street, 2nd Floor Miami, FL 33128
305-755-6276 Phone 305-755-6146 Fax
www.miamidade.gov/jsd
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COUNTY EMPLOYEES WISHING to REGISTER as COUNTY VENDORS

Please submit the following information by mail, fax, or email to:

The Commission on Ethics & Public Trust
19 West Flagler St., Suite 820
Miami, FL 33130

Phone: (305) 579-2594
Fax: (305) 579-0273
Email: ethics@miamidade.gov

Employee's Name Mary Caraballo
Employee's Dept. Juvenile Services Dept.
Business Name Mary Caraballo
Type of Business Zumba
Employee's Mailing Address 7002 NW 169th Street
Employee's Daytime Phone 786-973-5813
Employee's Preferred Email MC5294@AOL.COM

Immediate Family
Members

(Please list the names, titles, and departments of any immediate family members currently employed by Miami-Dade County)

The Miami-Dade County Conflict of Interest & Code of Ethics at §2-11.1(c)(2) allows County employees to contract with the County in certain circumstances and if the following criteria are met. Please confirm that you will be able to meet all of these criteria:

1. Entering into a contract with the County will not interfere with the full and faithful discharge of my duties to the County.
2. I will not participate in determining the contract requirements.
3. I will not participate in awarding the contract.
4. My job responsibilities and job description will not require me to be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination, or forbearance.
5. I will not be working in the County department that enforces, oversees, or administers the contract.

I have read these requirements and pledge to abide by them.

Mary Caraballo
Signature

10/16/19
Date

Your ethics opinion will be sent to you by first class mail & email, unless you request another type of delivery.