
INQ 16-179 Hodge

From: Ethics (COE)

Sent: Monday, July 11, 2016 8:34 AM

To: Hodge, Warren S. (ISD) <warrenh@miamidade.gov>

Cc: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>; Sanchez, Gerald (CAO) <gks@miamidade.gov>; Kirtley, Eddie (CAO) <kirtley@miamidade.gov>

Subject: INQ 16-179 Warren Hodge, Console Security Specialist, ISD/FUMD (Outside Employment)

Mr. Hodge:

The ordinance requiring County employees to seek and receive approval for outside employment, Section 2-11, is not part of the ethics code. Any department director has the discretion to approve or deny outside employment, depending on whether it is deemed appropriate, not necessarily because it creates a conflict of interest. This Commission on Ethics is limited to determining whether particular outside employment by a County employee violates conflict of interest rules, regardless of whether the employment has been approved by departmental supervisors. The Commission on Ethics may deny a request for outside employment based upon provisions of the Ethics Code, but it does not review administrative decisions that deny permission for outside employment.

Joseph M. Centorino

Executive Director and General Counsel

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

ethics.miamidade.gov



From: Hodge, Warren S. (ISD)

Sent: Friday, July 08, 2016 4:11 PM

To: Ethics (COE) <ethics@miamidade.gov>

Subject: FW: OTV Copier Attached Image

From: Hodge, Warren S. (ISD)
Sent: Friday, July 08, 2016 3:50 PM
To: 'ethic@miamidade.gov'
Cc: Seadoreia@Gmail.com; Bennett, Derek (ISD)
Subject: FW: OTV Copier Attached Image

Please Ethics Council could you look to see if I'm in violation of any county rules regarding outside employment, I've been approved for 17 years and this year I was denied based upon the use of my sick leave do to a medical condition I've been dealing with. My outside employment is not a conflict with Miami Dade county schedule and I feel I've been wrongfully punished for it check it for me.

From: OVT@miamidade.gov [<mailto:OVT@miamidade.gov>]
Sent: Thursday, July 07, 2016 4:54 PM
To: Smith, Tara C. (ISD)
Cc: Bennett, Derek (ISD); Hodge, Warren S. (ISD); seadoreia@gmail.com
Subject: OTV Copier Attached Image

Rodzandra:

Please add this to both the digital and paper file for INQ 16-179.

Thanks,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: Ethics (COE)
Sent: Monday, July 11, 2016 8:36 AM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: INQ 16-179 Warren Hodge, ISD

From: Hodge, Warren S. (ISD)
Sent: Friday, July 08, 2016 4:13 PM
To: Ethics (COE) <ethics@miamidade.gov>
Subject: FW: OTV Copier Attached Image

From: Hodge, Warren S. (ISD)
Sent: Friday, July 08, 2016 3:51 PM
To: Ethics (COE)
Subject: FW: OTV Copier Attached Image

From: Hall, Beverly (ISD)
Sent: Friday, July 08, 2016 9:37 AM
To: Hodge, Warren S. (ISD)
Cc: Regula, Pamela (ISD); Singer, Miriam (ISD); Silva, Juan C. (ISD); Schweiger, Joseph (ISD)
Subject: FW: OTV Copier Attached Image

Warren,

The Department Director's response to your grievance is attached.

From: Hall, Beverly (ISD)
Sent: Friday, July 08, 2016 9:26 AM
To: SeAdoreia Brown (seadoreia@gmail.com) <seadoreia@gmail.com>
Cc: Regula, Pamela (ISD) <regula@miamidade.gov>; Edwards, Michael (HR) <MXX@miamidade.gov>; Silva, Juan C. (ISD) <silvaj@miamidade.gov>; Horne, Charlotte (ISD) <DENISE2@miamidade.gov>
Subject: FW: OTV Copier Attached Image

Ceecee,

The Department Director's response to the grievance filed on behalf of Warren Hodge is attached.

Department Director's Response
Grievance filed by Mr. Warren S. Hodge
Disapproval of Outside Employment Request

I am upholding my decision to deny Mr. Hodge's outside employment. I have reviewed the facts, and what is in the best interest of this Department in making this decision. I have discussed with FUMD management that these communications about excessive leave should occur during the course of the year, not just during a performance evaluation.

I wish Mr. Hodge improved health.

METROPOLITAN DADE COUNTY
5. EMPLOYEE STANDARD GRIEVANCE FORM

Before completing this written grievance, carefully read the instructions on the back page.

*** PLEASE TYPE OR PRINT CLEARLY ***

Name of Employee: Console Security Specialist 1 300 06 011
Job Title: Department and Division:
Warren S Hodge 6/22/2016
Immediate Supervisor with whom grievance discussed: Date(s) discussed:
Name: Joseph Schweiger Title: Building Manager

Below, select the grievance procedure to be followed for processing this grievance. You will be bound by your choice of a grievance procedure. (Check one)

Career Service Grievance Procedure (Administrative Order No. 7-18)

Collective Bargaining Grievance Procedure

AFSCME local 199
Name of employee association or union that represents you.

A.

In this section provide a complete statement of the grievance, the basis for the grievance and the remedy requested. (See Instructions)

See Attachment;

Employee's Signature and Date presented to Supervisor:

Warren S Hodge 6/23/2016

Signature of Supervisor to whom presented:

Title: _____

SUPERVISOR'S REPLY TO WRITTEN GRIEVANCE
(Photocopy to Labor Relations)

[Large empty rectangular box for supervisor's reply]

Supervisor's Signature and Date presented to Employee:

Signature of Employee:

B. If grievance is not resolved, the employee may comment below then appeal grievance to Division Director.

Employee's Comment:

[Large empty rectangular box for employee's comment]

Employee's Signature indicating appeal to Division Director:

Date appeal submitted

Signature of Division Director:

DIVISION DIRECTOR'S REPLY TO GRIEVANCE
(Photocopy to Labor Relations)

See attached.

Division Director's Signature and Date presented to employee: *[Signature]* 6/30/16 Signature of Employee:

C. If grievance is not resolved, the employee may comment below then appeal grievance to Dept. Director.
Employee's Comment:

see attachment

Employee's signature indicating appeal to Dept. Director: Warren S Hodge Date appeal submitted: 7/7/2016 Signature of Department Director:

DEPARTMENT DIRECTOR'S REPLY TO GRIEVANCE
(Photocopy to Labor Relations)

See Attached

Department Director's Signature and Date presented to Employee: *[Signature]* 7/7/16 Signature of Employee:

The Miami-Dade Internal Services Department is in violation of the following Articles of the AFSCME local 199 Collective Bargaining Agreement:

Article 1, Agreement: The Miami-Dade Internal Services Department has failed to comply with this agreement which is in place from October 1, 2014 until September 30, 2017, by failing to abide by the terms and conditions of this agreement.

Article 6, Non-Discrimination: The Miami Dade County Internal Services Department is violating terms and conditions of the agreement by retaliating against employee and union member Warren Hodge.

Article 65, Prevailing Benefits: The Miami Dade Internal Services Department has violated the rights of bargaining unit member Warren Hodge by refusing Mr. Hodge's outside employment after over 10 years of approval.

Any and all other applicable articles

Facts: My supervisor Joseph Schweiger recommended that my outside employment be disapproved. Mr. Schweiger stated that the disapproval was due to my call outs over a two year period. He stated that my sick leave was in conjunction with my days off. I was never informed, verbally or written, that my attendance had become a problem. This was noted on my evaluation; however I never received any type of discipline or corrective measures for my absences. To my knowledge I was in good standing and well within my rights. My sick leave was due to my medical condition and not my outside employment. I have been approved for approximately 10 years with this company's contract and 7 years with previous companies. Those are years of approved outside employment that I have worked without any issues that is not being taken into consideration. My outside employment does not conflict with my schedule with Miami-Dade County. I've always arrived and left the job on time. My supervisor always approved my e-par without any disapproval, so I could only come to the conclusion that my attendance is in good standing. I need my outside employment to support my family.

Remedy: The Miami Dade Internal Services Department adheres and abides to all the provisions of the AFSCME Local 199 Collective Bargaining Agreement. Joseph Schweiger stops retaliating against Mr. Hodge and his request for outside employment is reconsidered and approved. Mr. Hodge is made whole.

Hodge grievance 6/22/16

In response the grievance file by Mr. Hodge dated 6/22/23:

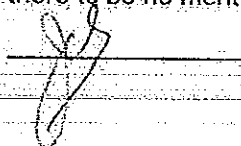
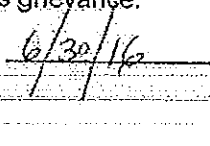
- 1) **Article 1, Agreement:** The County is in compliance.
- 2) **Article 6, Non-Discrimination:** Mr. Hodges alleges that that he is being discriminated against as an employee and member of the Union. It should be noted that his co-worker Mr. Derek Bennet is a black Afro-American and a Union Steward who's application for outside employment was approved.
- 3) **Article 65, Prevailing Benefits:** Outside employment is privilege and not a right or benefit of employment. In fact outside employment must be applied for and approved for each year if is requested and said approval only covers the current year's request.

Facts: Prior to Mr. Hodges's evaluation in July 2015 the issue of his attendance was informally discussed with him on several occasions by his supervisor. His evaluation noted that he had been absent 25 times during the evaluation period resulting in his "work habits" being rated as an area that "needs improvement." In addition to the high degree of absenteeism it was noted that 76% of the time his absence corresponded with scheduled days off of Friday and Saturday. It was noted in his evaluation that "his absences created a burden for other staff members who are called upon to cover his shift." It was also stated in his evaluation that Mr. Hodge was performing at essentially the minimal level acceptable to achieve a satisfactory rating.

In May of 2015 the CSS staff bid for shifts and Mr. Hodge with his seniority received his first choice and now had his weekends off. His attendance from May until January when he applied for outside employment for 2016 did not improve in fact it got worse. He missed as many days during this eight month period as he did in the 12 months of his prior evaluation and additionally had nine occasions where he did not report for his shift on time. During this interval his attendance was once again informally discussed with him by his supervisor. It was also brought to his attention by his supervisor, that when calling out Mr. Hodge needed to speak with his supervisor and that simply leaving messages with coworkers was insufficient. His supervisor could not give full consideration to his situation if all he got was a cryptic message that he was not coming in. In spite of the above circumstances, his supervisor consented to allow Mr. Hodge's use annual time for his late arrivals so he would not have his paycheck docked, as would have been the case if "U" or "UN" had been used.

Mr. Hodge refers to his medical condition as the reason for this absences. He did not disclose his medical condition until a meeting with his supervisor on June 3, 2106. At that meeting he indicated he had submitted paperwork for FMLA and that he was continuing his outside employment even though he had received the denial of outside employment on May 19, 2016. A subsequent meeting was held on June 9, 2016 with Joe Schweiger his supervisor, Mr. Hodge, Derek Bennett (union steward) and SeAdoreia Brown, ASCFME President (who attended by phone). His outside employment issue was discussed, its denial was acknowledged and Mr. Hodge was supposed to give his outside employer a courtesy 2 week notice the next day. FMLA leave usage was also discussed pending its approval and the general concept of setting attendance goals and then re-evaluating his outside employment request based upon achieving those goals.

In conclusion, the denial of outside employment by the County was justified and we further find there to be no merit in this grievance.

 
6/30/16

July 7, 2016

This is my rebuttal to Mr. Silva's response. I want to make it perfectly clear that I was never informed, verbally or written, by my supervisor that my attendance was a problem.

Joe Schweiger stated to shop steward Derek Bennett, and union President Seadoreia Brown that he had never counseled me in any form. He called me into his office and presented me with my evaluation and told me to look at it, and asked me if I had any questions. I said no and signed it and walked out. At no time did Mr. Schweiger tell me I was under any observation or monitoring for attendance.

Mr. Silva also acknowledged to both Mr. Bennett and President Brown that he was aware Joe never counseled me. Joe Schweiger has always had problems when it came to addressing me verbally, which is bad communication as a supervisor. My doctor at that time was scheduled to be on the south Dade side of town only on Wednesdays and Fridays and most of my appointments were scheduled as such. I always called out with enough time so they could get the coverage if needed. Joe told me not to call the desk but call him or Nick if I wanted to call out, so I did and he would answer, "ok thank, you appreciate the call". To my knowledge I was using sick leave in the proper manner. I have always maintained a satisfactory or above satisfactory on my evaluations, so for Mr. Silva to say otherwise is subjective and unfounded. Furthermore, it shows the judgmental actions of my supervisors to deny me the right to support my family by denying me outside employment when there is no conflict with my outside employment and Miami Dade county, and to use it as punishment is unethical and unbecoming of Miami Dade county.

Mr. Silva's response does not resolve the issue to my satisfaction, therefore i would like to advance this to Step 4 of the Grievance Procedure of the AFSCME LOCAL 199 Collective Bargaining Agreement.

Regards,

Warren Hodge