
INQ 16-89 Munoz

From: Perez, Martha D. (COE)

Sent: Wednesday, March 23, 2016 11:42 AM

To: Vargas, Alba (ASD) <vargasa@miamidade.gov>; Muñoz, Alex (ASD) <AM13@miamidade.gov>

Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>;

Turay, Radia (COE) <Radia.Turay@miamidade.gov>

Subject: Alex Munoz, Director, Animal Services Division, Conflicting employment, INQ 16-89

Dear Mr. Munoz,

Your inquiry is two-fold:

- I. You inquire whether there is possible conflicting employment for the County's Veterinarian and Veterinary Technicians to engage in outside employment with the Humane Society of Greater Miami (HSGM) and/or veterinary clinics throughout Miami-Dade County, which are participants in the County's Partner-Program Agreement with the South Florida Veterinary Foundation (SFVF). Both of these entities are non-profit organizations and County vendors/service providers.
- II. You also inquire whether the County's Veterinarian, Veterinary Technicians and Chief of Veterinary Services may engage in outside employment at private veterinary clinics in Miami-Dade County that are not County vendors.

Background

The County's Animal Services Department (ASD) is an open-admission shelter which provides the following services to County residents (the list is not exclusive): animal ordinances regulation and enforcement; pet adoptions, record-keeping, licensing, reunification of lost pets, establishment of a "No Kill" pet community and *spay and neuter services* to County residents at a reduced price. ASD employs staff and per diem veterinarians and veterinary technicians who perform a number of services, including *surgical services*, in the County's clinic(s). Dr. Serrano is the Chief of Veterinary Services. She has a leadership position in the Department and has daily interaction with County residents regarding the care and treatment of their animals. Additionally, she supervises all staff, including the per diem Veterinarians, and develops medical protocols related to the care of shelter animals. None of these employees have any control or oversight of the contracts with the County's veterinary service providers.

In order to meet the high demand for spay and neuter services available to qualified County residents and animals of qualified rescue organizations, Miami-Dade County has entered into agreements with not-for-profit organizations, to wit: Humane Society of Greater Miami (HSGM) and South Florida Veterinary Foundation (SFVF). Specifically, the County's agreement with HSGM involves the operation and management of the South Dade Animal Services Clinic to provide *surgical services (spay and neutering)* for the County's qualified residents. This agreement has a yearly fiscal impact of \$600,000. The County's Partner-Program Agreement with SFVF provides \$600,000 in funding (over 2 years) for utilization of local veterinarian participants to also assist in the high demand for *neuter/spaying services* for income-qualified County residents.

Analysis

Permission to engage in outside employment initially requires approval from the department's director. See §2-11, Miami-Dade County Code; County Admin. Order 7-1; INQ 15-22. When determining whether to grant permission to engage in outside employment, a supervisor may ask the Ethics Commission for an opinion regarding potential conflicts of interest regarding the outside employment. See INQ 13-28.

The Miami-Dade County Ethics Code at Section 2-11.1(j), prohibits *conflicting* outside employment: "No [County employee] shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties." See also AO 7-1 (County's administrative order reiterates that, "under no circumstances shall a County employee accept outside employment....where a real or apparent conflict of interest with one's official or public duties is possible"). The Ethics Ordinance is intended to prevent both corrupt behavior and an appearance of corruption where a public employee may be perceived as having conflicting loyalties that interfere with his or her independence of judgment in making a decision or recommendation connected to his or her official duties. See INQ 15-49. Additionally, State law prohibits an employee of an agency from having or holding any employment or contractual relationship that will create continuing or frequently recurring conflicts between his private interests and the performance of his public duties. §112.313(7)(a), Fla. Stat. With respect to County employees, approval to engage in outside employment is at the discretion of the employee's supervisor, who may consider whether an appearance of impropriety exists. See INQ 15-22.

In general, if an employee's outside employment is totally unrelated to his/her County employment, conflicts would generally not arise. In previous opinions, the Ethics Commission has found that outside employment conflicts with government employment *when the two pursuits overlap or are closely related*. See RQO 12-11, INQ 12-159. For example, in RQO 15-03, the Commission found that an IT Senior Analyst should not be permitted to engage in outside employment as an IT consultant for a private client because the outside employment was closely related to the work he performed for the County, and divided loyalties were likely to develop between his County employment and his private employment.

Conflicting outside employment has also been found in the following situations:

- *when the County employee works in a position where he/she has the opportunity to recruit members of the public to use his/her outside employment; the County employee has access to non-public information which may become relevant to his/her private employer*. For example, in RQO 99-50, the Ethics Commission opined that an Airport employee should not be allowed to engage in outside employment with an Airport contractor because the outside employment might improperly affect his relationships with his County co-workers and might induce him to use confidential information to benefit his private employer;
- *when the County employee's private outside employment may place him/her in a situation where his/ her private economic considerations may override the faithful discharge of his/her County duties*. See RQO 15-03
- *if the County employee provides services for County residents in his/her County department and then provides services for the same County residents in his/her outside employment ;*
- *if the County employee were to solicit business for his/her outside employment while working at the County department*. Of equal concern would be if other County personnel refer County residents to the County employee . See §2-11.1(p), County Ethics Code; INQ 07-94.

I have attached the Ethics Commission "Outside Employment Guidelines" Memorandum (September 2014), which outlines a number of additional fact patterns that may create conflicting employment. These are examples of situations which indicate a conflict between the County and the outside employment. However, A County department may also impose stricter guidelines on outside employment than are found in the County Ethics Code, Ethics Commission guidelines or opinions.

In this case, there are many factors that present conflicting situations between the work of the ASD employees and their proposed outside employment. For example, in the case of the Veterinarian and Vet Technicians, the outside employment , ie., providing veterinary services, would be closely related or similar to the work to be performed in the County; it appears that the outside employment with HSGM would occur in the same County facility in which the employees work as ASD employees; the outside employment with the County vendors requires interaction with ASD staff; the County employees use similar resources in the outside employment as they use in their County work; in the case of outside

employment with County vendors, the ASD employees work in the department that funds HSGM and/or SFVF participants; the ASD employees work in positions where they have the opportunity to refer the public to County vendors or private veterinary services where the County employee does business; the ASD employees have access to information that is not available to the public, which may be relevant to their outside employer. Consequently, frequent and recurring conflicts would probably occur.

Should you ultimately approve outside employment for any or all of the aforementioned employees, we strongly recommend that they be informed of the following Ethics Code provisions:

Section 2-11.1(g) prohibits a County employee from using his/her official position to secure special privileges or exemptions for himself/herself or others;

Section 2-11.1(h) prohibits a County employee from disclosing confidential information acquired by reason of his/her County position or using that information for personal gain;

Section 2-11.1(m) prohibits a County employee from lobbying County staff on behalf of his/her employer/business;

Section 2-11.1(n) prohibits a County employee from taking any action which would affect the employee's financial interest;

Section 2-11.1(c) prohibits a County employee from contracting with his or her department through his/her employee's private business or entity;

Section 2-11.1(p) prohibits a County employee from recommending services to assist in any transaction involving his or her department unless the recommendation is made when required by the duties of office and in advance at a public meeting.

As a reminder, employees who engage in outside employment must complete a Request for Outside Employment with their supervisor on a yearly basis. See §2-11, Miami-Dade County Code; Admin. Order 7-1. Also, full-time employees engaged in outside employment must complete a financial disclosure form on a yearly basis. See § 2-11.1(k)(2), County Ethics Code. Additionally, a County employee who is engaged in outside employment with a business entity which has a substantial business commitment with the County (for example, HSGM and/or SFVF veterinary participants), must file a sworn statement disclosing such employment and interest with the County Clerk. See §2-11.1(f), County Ethics Code. All these forms may be found at <http://ethics.miamidade.gov/outside-employment>.

This opinion is based on the facts and circumstances you have submitted. If any of these facts or circumstances change, please contact us. Please note, inquiries regarding possible conflicts under state law should be directed to the Florida Commission on Ethics.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

(305)350-0656

PEREZMD@miamidade.gov

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Good Morning Ms. Perez,

I apologize for the delay. Below please find the responses. Please advise if there is any additional information we can provide. Thank you.

Per our conversation yesterday, I would appreciate answers to the following questions so that I am better able to respond to this inquiry:

1) Please describe Dr. Serrano's duties and responsibilities at ASD. What does her "leadership" position consist of? Does she manage other employees? Does she oversee or manage the services performed by HSGM and the private vet clinics which participate as County service providers through SFVF?

Dr. Serrano is the Chief of Veterinary Services, she supervises all staff and per diem veterinarians and develops medical protocols related to the care of shelter animals. Dr. Serrano does not oversee or manage contracts with other veterinary providers to include SFVF and HSGM.

2) Pursuant to the agreements with HSGM and SFVF (via private clinics), both entities perform additional spay and neuter services. It appears that they also work out of the County Clinic, is that accurate?

HSGM operates out of the County owned clinic which they lease from the Department.

3) The Vet, Vet Techs and Chief Vet all interact with HSGM and the private clinics participating thru SFVF correct?

There is no direct interaction by the vets, Dr. Serrano or the technicians with providers on either contract.

Alba Vargas, Senior Assistant to Department Director
Miami-Dade County Animal Services Department
7401 NW 74 Street, Miami, FL 33166
305-418-7188 Phone 305-805-1619 Fax
www.miamidade.gov/animals
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From: Perez, Martha D. (COE)
Sent: Tuesday, March 22, 2016 8:47 AM
To: Vargas, Alba (ASD) <vargasa@miamidade.gov>
Cc: Muñoz, Alex (ASD) <AM13@miamidade.gov>
Subject: Request for opinion regarding conflicting employment

Good morning Alba,

I emailed your office two weeks ago and followed up with a phone message last week regarding a request for more information in order to assist Mr. Munoz with this inquiry. I have not heard back. If I don't get any responses by Thursday, should I assume that your office has withdrawn this request? Please advise.
Thank you.

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

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PEREZMD@miamidade.gov

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-----Original Message-----

From: Labrada, Kathleen R. (ASD)

Sent: Wednesday, March 16, 2016 1:46 PM

To: Vargas, Alba (ASD) <vargasa@miamidade.gov>; Diaz, Virginia C. (ASD) <VCDIAZ@miamidade.gov>

Subject: RE: Request for Ethics Opinion - Miami-Dade Animal Services

Hello Martha,

The outside employment may be within the County but will not be with a provider through the SFVF.

-----Original Message-----

From: Vargas, Alba (ASD)

Sent: Wednesday, March 16, 2016 12:22 PM

To: Labrada, Kathleen R. (ASD) <KLBRAD@miamidade.gov>; Diaz, Virginia C. (ASD) <VCDIAZ@miamidade.gov>

Subject: FW: Request for Ethics Opinion - Miami-Dade Animal Services

Hi Kathy and Virginia,

Please see additional questions from COE below. Thanks.

Alba Vargas, Senior Assistant to Department Director Miami-Dade County Animal Services Department

7401 NW 74 Street, Miami, FL 33166

305-418-7188 Phone 305-805-1619 Fax www.miamidade.gov/animals Connect With Us Twitter | Facebook |

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-----Original Message-----

From: Perez, Martha D. (COE)
Sent: Wednesday, March 16, 2016 12:18 PM
To: Vargas, Alba (ASD) <vargasa@miamidade.gov>
Subject: RE: Request for Ethics Opinion - Miami-Dade Animal Services

Thank you Alba.

As I read these voluminous agreements, I also would like to know whether Dr. Serrano is planning to conduct her private veterinary employment in this County; and, is her proposed outside employment with one of the private clinics which have partnered with the County through SFVF?

Thanking you again for your assistance. Any questions, please contact me at (305) 579-2594.

-----Original Message-----

From: Vargas, Alba (ASD)
Sent: Wednesday, March 09, 2016 3:57 PM
To: Perez, Martha D. (COE)
Subject: RE: Request for Ethics Opinion - Miami-Dade Animal Services

Good Afternoon Martha,

I have forwarded the questions for response. We will provide answers soon. Thank you.

Alba Vargas, Senior Assistant to Department Director Miami-Dade County Animal Services Department
7401 NW 74 Street, Miami, FL 33166
305-418-7188 Phone 305-805-1619 Fax www.miamidade.gov/animals Connect With Us Twitter | Facebook | Instagram

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-----Original Message-----

From: Perez, Martha D. (COE)
Sent: Wednesday, March 09, 2016 11:57 AM
To: Vargas, Alba (ASD) <vargasa@miamidade.gov>
Subject: RE: Request for Ethics Opinion - Miami-Dade Animal Services

Hello Alba,

Per our conversation yesterday, I would appreciate answers to the following questions so that I am better able to respond to this inquiry:

1) Please describe Dr. Serrano's duties and responsibilities at ASD. What does her "leadership" position consist of? Does she manage other employees? Does she oversee or manage the services performed by HSGM and the private vet clinics which participate as County service providers through SFVF?

- 2) Pursuant to the agreements with HSGM and SFVF (via private clinics), both entities perform additional spay and neuter services . It appears that they also work out of the County Clinic, is that accurate?
- 3) The Vet, Vet Techs and Chief Vet all interact with HSGM and the private clinics participating thru SFVF correct?

Thank you for your anticipated responses.
Sincerely,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
19 West Flagler St. Suite 820
Miami, FL 33130
(305)350-0656
PEREZMD@miamidade.gov

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-----Original Message-----

From: Centorino, Joseph (COE)
Sent: Monday, March 07, 2016 3:53 PM
To: Perez, Martha D. (COE)
Subject: FW: Request for Ethics Opinion - Miami-Dade Animal Services

Please respond with an INQ on this. Thanks.

-----Original Message-----

From: Vargas, Alba (ASD)
Sent: Friday, February 26, 2016 11:03 AM
To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Cc: Muñoz, Alex (ASD) <AM13@miamidade.gov>; Labrada, Kathleen R. (ASD) <KLABRAD@miamidade.gov>; Diaz, Virginia C. (ASD) <VCDIAZ@miamidade.gov>
Subject: Request for Ethics Opinion - Miami-Dade Animal Services

Good Morning Mr. Centorino,

Attached please find a memo sent on behalf of Alex Muñoz. Thank you.

Alba Vargas, Senior Assistant to Department Director Miami-Dade County Animal Services Department
7401 NW 74 Street, Miami, FL 33166
305-418-7188 Phone 305-805-1619 Fax www.miamidade.gov/animals Connect With Us Twitter | Facebook | Instagram

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