

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, July 07, 2017 9:40 AM
To: Sanchez, Rodzandra (COE)
Subject: Lakeisha Brown, Manager, WASD Training and Development (MDC) (Exploitation) INQ 17-167

Importance: High

INQ 17-167 Brown

From: Ethics (COE)
Sent: Thursday, July 06, 2017 4:08 PM
To: Brown, Lakeisha G. (WASD) <Lakeisha.Brown@miamidade.gov>; Yoder, L. Douglas (WASD) <Douglas.Yoder@miamidade.gov>; Brewer-McDuffie, Cecilia (WASD) <Cecilia.Brewer-McDuffie@miamidade.gov>
Cc: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Sanchez, Gerald (CAO) <Gerald.Sanchez@miamidade.gov>; Kirtley, Eddie (CAO) <Eddie.Kirtley@miamidade.gov>
Subject: INQ 17-167 Lakeisha Brown, Manager, WASD Training and Development (MDC) (Exploitation)
Importance: High

Ms. Brown,

You have requested an opinion from us regarding the use of WASD training rooms by outside entities, including non-profit providers of water and wastewater industry-related educational and professional services. The department has a policy restricting such facilities for WASD staff and staff presentations or other purposes related to the department's functions, although it appears that the department is considering use of its facilities by outside entities who are not WASD staff. This opinion will provide only some general guidelines in connection with this issue. If there is any doubt about whether a particular use would be permissible, then it would be prudent to seek an ethics opinion concerning the specific circumstances involved in that use.

In general, WASD has the discretion to set its own policy for the use of its facilities, as long as that policy serves a public purpose and comports with County ethics regulations. If a particular request is non-compliant with the policy set by the department, it should either be denied, or, if there are compelling reasons to make an exception to the policy, it should be done with care to avoid the possibility that a specially-arranged use of the facilities could be considered an Exploitation of Official Position, in violation of Section 2-11.1(g) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. The reasons for such an exception should be carefully documented. An exploitation may occur where any public official or employee of the County uses his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions adopted by the Board of County Commissioners.

Any policy permitting the use of public facilities by outside entities should be scrutinized in view of this ordinance, as well as whether the use serves a recognizable public purpose. Public resources or facilities should not be used for purely private purposes, unless there is a fee, service charge or other compensation provided to the public entity. It is generally permissible to lease to, or permit the use of a public facility by, a private person or entity for private purposes where a fee is charged for the use, and the policy setting the fee and terms of the permitted use is broadly applicable to the private entities permitted use of the facility, i.e., there is no favoritism granted to any individual or entity that may amount to an exploitation.

There may be circumstances in which use of a County facility by a private entity at no charge may be construed as serving a legitimate public purpose, e.g., the provision of training or educational or other relevant information to public employees that will benefit the County. I would be concerned, however, if the primary purpose of the use is for the private profit of the private entity rather than for the public benefit. If the entity involved in using public facilities is a non-profit entity, and its purposes are deemed consistent with the public mission of the agency permitting the use, then there may be some leeway granted in permitting such a use. If a private business entity that is a County contractor or vendor were to use a County facility for other than a public purpose, e.g., training County personnel, it would be best that such use be permitted and regulated by the terms of the contract or other written agreement with the County.

It is not impermissible for a County department to permit its employees to accept free registration at an event that is conducted by a private vendor, subject to the following caveat: the complimentary registrations must serve a public purpose AND the complimentary registrations must be sufficient consideration for the use of the facility by the private business entity. Permitting any private business entity to use a public facility for its own profit, where the value of the complimentary benefit bestowed on County employees is a mere token in comparison to the profit gained by the entity, should not occur. If the benefit to the County employees does not benefit the County, but only provides the employees with a purely personal benefit, that would not constitute a legitimate public purpose. More, importantly, it could result in an ethics violation for acceptance by a County employee of an improper gift under Section 2-11.1(e) of the Ethics Ordinance, and would require disclosure under Section 2-11.1(e)(4) if the value of the benefit exceeded \$100.

If you have any further questions, or require guidance in connection with a specific event, please contact us.

Sincerely,

Joe Centorino

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
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From: Brown, Lakeisha G. (WASD)

Sent: Wednesday, June 28, 2017 6:16 PM

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

Cc: Yoder, L. Douglas (WASD) <Douglas.Yoder@miamidade.gov>; Brewer-McDuffie, Cecilia (WASD) <Cecilia.Brewer-

McDuffie@miamidade.gov>

Subject: (WASD) Request for Ethics Opinion re: Use of Training and Conference Rooms by Outside Entities

Importance: High

Good afternoon,

Provided below is the Miami-Dade Water & Sewer Department's internal policy re: the use of training and conference rooms located at our Douglas Road, Administration Building.

"The use of training and conference rooms at Douglas is to restricted for WASD staff use exclusively. Any meeting scheduled must be for the benefit of, attended by, and/or hosted by WASD staff. This includes WASD management meetings, health and fitness seminars for WASD staff, presentations by consultants for WASD staff, as well as, certain RFP-related meetings. All requests to reserve a training room must be submitted to the Chief of Human Resources & Support Services Division. Any requests from other County departments or outside entities, which include non-WASD staff, will be sent to the Director's Office for final approval."

Recently, we've received requests to reserve training rooms for outside entities, including non-profit providers of water and wastewater industry-related educational and professional services. The department does not charge a fee for the use of our facility. However, providers may charge event registration fees that range from \$15.00 to \$30.00 per attendee. On occasion, these providers may offer complimentary registration, at a free or reduced rate, for WASD employees.

At this time, the department would like to request an Ethics Commission Opinion on whether (1) the use of the room by outside entities, (2) the registration fees assessed by the outside entity, and/or (3) the complimentary registration for WASD employees, constitute a violation of the County Ethics Code.

Please advise.

LaKeisha G. Brown, MS, PHR, SHRM-CP
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