

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, March 15, 2017 12:45 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: Informal Advisory Opinion; Robert Fernandez, Esq., Two Year Rule (q), INQ 17-74
Attachments: Lobbying FAQs 2015.pdf; TwoYearRuleGuidelines.pdf

INQ 17-74 Fernandez

From: Perez, Martha D. (COE)
Sent: Wednesday, March 15, 2017 12:21 PM
To: 'Robert Fernandez' <Robert.Fernandez@zumpanocastro.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: RE: Informal Advisory Opinion; Robert Fernandez, Esq., Two Year Rule (q), INQ 17-74

Dear Mr. Fernandez,

You inquire on behalf of your client whether the “Two Year Rule” would preclude him/her from lobbying the County (MDC) on behalf of the University of Miami (UM) or Florida International University (FIU).

Background

I will defer to the facts as you have provided in your emailed request, specifically:

- Your client (Client) if a former MDC employee;
- Client separated from MDC employment within two years;
- Client wishes to enter into a contractual agreement with UM and/or FIU for consulting and/or lobbying services;
- While employed by MDC, Client had no involvement, directly or indirectly, with issues involving UM and/or FIU;
- Provided Client is not barred by the County Ethics Code from lobbying, Client intends to register to lobby with the County; and,
- UM and/or FIU are educational institutions

Analysis

Pursuant to Section 2-11.1(q) of the County Ethics Code, all former County employees are barred from lobbying the County for a period of two years following their separation from County employment. However, this prohibition does not apply to *employees* of other governmental entities, 501(c)(3) non-profit entities and educational institutions who lobby on behalf of such entities in their official capacities. See Section 2-11.1(q)(2); RQO 12-09; INQ 08-82; INQ 12-06. The Ethics Commission has held that entering into a contractual relationship with one of these “exempt” entities meets the definition of being employed by them. See INQ 05-42; INQ 15-140. Consequently, Client may lobby the County on behalf of UM and/or FIU provided he/she complies with registration requirements. See Section 2-11.1(s), County Ethics Code.

Another important provision of the County Ethics Code which may impact former County employees is Section 2-11.1(h)-*Confidential Information*- which prohibits the disclosure of confidential information gained through one’s official position with the County or the use of such information, directly or indirectly, for personal gain or benefit. Therefore, if the future lobbying on behalf of these educational institutions is related in any way to the work Client performed while working for the County, Client should consider whether he/she has access to confidential information through his/her County service which may give UM or FIU an advantage in their dealings with the County.

Additional information concerning limitations of the “Two-Year Rule” may be found at the “FAQ’s” and “Guidelines” attached herein. This opinion is based on the facts as presented. If any of these facts change, kindly contact us.

Sincerely,

Martha D. Perez
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From: Robert Fernandez [<mailto:Robert.Fernandez@zumpanocastro.com>]
Sent: Monday, March 13, 2017 2:39 PM
To: Perez, Martha D. (COE) <perezmd@miamidade.gov>
Subject: Informal Advisory Opinion
Importance: High

Ms. Perez:

I hope you are well. I have another informal advisory opinion request for you. . Again, I have a former Miami-Dade County employee who is still within his/her two-year cooling off period under **Section 2-11.1.(q)(1)** of the Conflict of Interest and Code of Ethics Ordinance. This person has inquired and wants to confirm whether he/she could potentially lobby on behalf of an educational institution such as University of Miami or Florida International University before the County. Here are the additional facts as presented to me:

- This person would be compensated for services by the university as a lobbyist/consultant –not an employee
- This person had no prior involvement while employed at the County on any issue that would directly or indirectly come up in his/her representation of any university issues at the County
- This person anticipates registering for any lobbyist activities performed as required under the Code

Based on the language of **Section 2-11.1.(q)(2)**, would this person’s lobbying activities before the County on behalf of the educational institution be covered as an exemption to the 2 year cooling off period? Please let me know if you need anything else from me before confirming whether this person can lobby on behalf of an educational institution that fits within **Section 2-11.1.(q)(2)** of the Conflict of Interest and Code of Ethics Ordinance.

Thank you again for your guidance.

Best,

Robert



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