

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, June 06, 2018 9:45 AM
To: Sanchez, Rodzandra (COE)
Subject: INQ 18-132, Corporal Byrd, MDCR (outside employment)

INQ 18-132 Byrd

From: Turay, Radia (COE)
Sent: Friday, June 01, 2018 5:15 PM
To: Byrd, Anthonio (MDCR) <Anthonio.Byrd@miamidade.gov>; Kirkland, Tina (MDCR) <Tina.Kirkland@miamidade.gov>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Subject: INQ 18-132, Corporal Byrd, MDCR (outside employment)

Dear Corporal Byrd,

You have inquired whether a conflict of interest exists under the Ethics Code where you, a Corporal for Miami-Dade Corrections and Rehabilitation Bureau (MDCR), has requested permission to engage in outside employment as vice-president/co-founder of Fallen Heroes United, Inc.

Background

You are a Corporal at the Metro-West Detention Center for MDCR. Your current job responsibilities include care, custody and control of inmates. You also supervise other Corrections officers under your charge.

You are seeking to engage in outside employment as the vice-president/co-founder of Fallen Heroes United, Inc (FHU). FHU is a 501(c)(3) nonprofit organization. Its primary mission is to raise funds and awareness for the children of every hero who has sacrificed to protect, preserve, or defend fellow citizens of the community and the entire nation. FHU's promise is to restore the lives of individuals and their families who have suffered a tragic loss due to the untimely death of a loved one in the line of duty. It serves the families of fallen police, corrections, military, and fire department personnel. The organization is not a County vendor, contractor, or service provider. It has not applied for any County grants. It is not seeking to do business with the County.

Legal Analysis

In RQO 17-03, the Ethics Commission opined that employees who establish a nonprofit and serve as the Executive, Director, President, or Manager of that nonprofit on a compensated or uncompensated basis and are actively involved in the administration of that entity are engaged in outside employment requiring completion of the outside employment paperwork on a yearly basis.

Sections 2-11.1(j) and (k) of the County Ethics Code and Miami-Dade Code Section 2-11 prohibit 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. These ordinances also prohibit County employees from using County time or resources in furtherance of their outside employment.

Based on the information that you have provided to us at this time, it appears that you are seeking to engage in outside employment requiring the completion of the outside employment paperwork on a yearly basis, as a result of your position,

activities, and involvement with FHU. However, it appears to be unlikely that the type of outside employment that you are seeking to engage in would impair your independence of judgment in the performance of your duties as a Corporal at the Metro-West Detention Center for MDCR.

Please note, that while there are no ethics conflicts regarding your County employment and your activities at FHU, certain limitations will apply:

- You shall not engage in activities that relate in any way to your outside employment during regular business hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County vehicles, in connection with your outside employment, even after work). *See* § 2-11.1 (j) and (g), County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.
- You may not direct, targeted solicitations at any MDCR and/or County vendor or lobbyists for any special cause, even when such solicitations are not prohibited, so as to avoid an appearance of impropriety where you may appear to be applying pressure to one of the County/MDCR's vendors or contractors to accede to a request for a contribution to FHU in exchange for its continued business relationship with the County/MDCR.
- You shall not lobby the County on behalf of FHU; nor may you appear before any County Board or agency and make a presentation on behalf of FHU with respect to any contract, certificate, ruling, decision, opinion, application for grant funding or other benefit sought by FHU. *See* §2-11.1(s); §2-11.1(m)(1), County Ethics Code. Please note, that this prohibition has been interpreted very broadly by the Ethics Commission as it relates to current county or municipal officers and employees. In RQO 12-10, the Ethics Commission stated that "individuals serving in County positions may *not engage in any discussions whatsoever* with officials, directors or staff of County government on behalf of third parties." *See* RQO 12-10. Further, various opinions from the Ethics Commission have stated, that a county employee may not engage in any interaction with County staff on behalf of third parties, even if the interaction is for a perfunctory meeting involving ministerial/clerical issues, or information requests. *See* RQO 12-10; INQ 15-240. Therefore, in order to avoid the prohibition against appearances and presentation, you may not participate in *any face-to-face meeting*, or *any discussion whatsoever* with County staff regarding FHU. *See* RQO 04-168; RQO 08-29; RQO 08-45; RQO 12-10.
- You are prohibited from using any confidential information acquired as a result of your County employment to derive a personal benefit. *See* Miami-Dade Code § 2-11.1(h).
- You may not exploit your County position to secure special privileges or exemptions for yourself or FHU. *See* §2-11.1(g).

Further, we recommend that, in order to avoid the appearance of impropriety, you refrain from any involvement regarding your office/department and FHU. Although you may not appear before any County board or agency to seek any benefit on behalf of FHU, *it is also advisable*, in your role as vice-president/co-founder of FHU, to recuse yourself from voting or participating in discussions and/or votes relating to County applications for funding, contracts, or any other FHU initiatives involving the County.

FHU may accept grants from the County or enter into contracts with the County *as long as* you have not attempted to influence an official decision by the County to benefit the nonprofit organization in any way. Please be advised that the County Ethics Commission has interpreted this prohibition very expansively to include any communications, in any form, intended to influence an individual within the County to take an official action. *See* INQ 16-22, INQ 12-13, INQ 11-01, INQ 10-201.

As a reminder, pursuant to the Miami-Dade County Code at Section 2-11, government employees are required to request permission to engage in outside employment from their supervisor on a yearly basis. In addition, Sec. 2-11.1(k)(2) of the Code requires filing an outside employment disclosure form on a yearly basis. Government employees are also cautioned that they may not engage in any activity which would require them to disclose confidential information acquired by reason of their official position, nor use such information directly or indirectly for their personal gain or benefit. *See* Sec. 2-11.1(h), Ethics Code. Lastly, a government employee may not use his or her official position to secure privileges or exemptions for themselves or others. *See* Sec.2-11.1(g), Ethics Code.

This opinion is based on the facts presented. If any of the facts presented here change, or if you have any further questions, please contact us.

Sincerely,

Radia Turay.

From: Byrd, Anthonio (MDCR)
Sent: Wednesday, May 23, 2018 5:39 PM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Re: Ethics Opinion for Antonio Byrd

1. Good afternoon, Fallen Heroes United, Inc. provides scholarship opportunities to children of fallen heroes killed in the line of duty. We are planning to cover; Police, Corrections, Military & Fire Fighters.
2. Our website www.Fallenheroesunited.org

[Fallen Heroes United - FallenHeroesUnited.org](http://www.Fallenheroesunited.org)

www.fallenheroesunited.org

Fallen Heroes United's mission and goals are to raise funds and awareness for the children of every hero who has made the ultimate sacrifice for our nation.

- 3.
4. We are self sufficient and don't plan to seek business with the County or MDCR.
5. The only grants that we will be applying for are Federal Grants. Thanks.

Corporal A. Byrd

2230 x 0630

Miami-Dade Corrections & Rehabilitation

Metro West Detention Center

13850 NW 41st Street, Miami, FL. 33178

786-263-5110 Office

AB7819@miamidade.gov

"Delivering Excellence Everyday"

From: Turay, Radia (COE)
Sent: Wednesday, May 23, 2018 4:32:32 PM
To: Byrd, Anthonio (MDCR)
Subject: RE: Ethics Opinion for Antonio Byrd

It was a pleasure speaking with you a few minutes ago. As we discussed, please provide responses to the few questions listed below:

- 1) Please provide a brief description of your non-profit organization
- 2) Please provide the domain name of your organization's website?
- 3) Will your non-profit seek to do business with the County? MDCR?
- 4) Will your non-profit apply for any grants at the County?

Thanks,
Radia.

From: Turay, Radia (COE)
Sent: Wednesday, May 23, 2018 10:42 AM
To: Byrd, Antonio (MDCR) <Antonio.Byrd@miamidade.gov>
Subject: FW: Ethics Opinion for Antonio Byrd

Hello:

My name is Radia Turay. I am a staff attorney at the Miami-Dade Commission on Ethics and Public Trust. I have been assigned to assist you with your request for outside employment. Please give me a call at 305-350-0601 when you get a chance.

Thanks,
Radia.

RADIA TURAY

Staff Attorney
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 350-0601
Fax: (305) 579-0273
Ethics.miamidade.gov

From: Ethics (COE)
Sent: Friday, May 18, 2018 4:07 PM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: FW: Ethics Opinion for Antonio Byrd

Please handle. Thank you.

From: Kirkland, Tina (MDCR)
Sent: Friday, May 18, 2018 3:37 PM
To: Ethics (COE) <ethics@miamidade.gov>
Subject: Ethics Opinion for Antonio Byrd

Greetings,

The attached is being submitted on behalf of Antonio Byrd for an Ethics Opinion.

Should you require additional information, please feel free to contact me at the number below.

Thanks

Shawntia Kirkland, Personnel Specialist 2

Personnel Management Bureau, Employee Relations

Miami-Dade Corrections & Rehabilitation Department

2525 NW 62nd Street, Suite 2000

Miami, Florida 33147

(Office) 786-263-6196 (Fax) 786-263-6127

kirkls@miamidade.gov



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