



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Julia Villamizar
Juvenile Assessment Counselor
Juvenile Services Department

Ronald Donehue
Juvenile Assessment Supervisor
Juvenile Services Department

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2020-102, Outside employment, Sections 2-11.1(j) and (k)(2), County Ethics Code

DATE: October 8, 2020

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in your proposed outside employment.

Facts:

You are employed with the Juvenile Services Department as a Juvenile Assessment Counselor. You would like to engage in outside employment as a Youth Advisory Committee Facilitator with the Children's Trust.

Your current job duties as a Juvenile Assessment Counselor include case management for the Miami-Dade County Juvenile Services Department diversion program. You provide intake services (including academic, risk assessment, program assessment, and other general guidance) for arrested high school aged children for a period of 3-5 months to ensure successful program completion. You monitor case progress and completion of program requirements and/or sanctions. In furtherance of your responsibilities you have monthly contact with children, parents, community agencies, program providers, and schools.

The Children's Trust Youth Advisory Committee (YAC) is a leadership development program focused on service and advocacy. The YAC is comprised of high school students in grades 9-12

from across Miami-Dade County and serves as the youth voice of The Children's Trust. The group meets monthly at separate sites in addition to developing and executing service-learning projects and participating in field trips. YAC also travels to the Capitol in Tallahassee for Children's Week to experience the political process, meet with legislators, and host a townhall for youth across the state to bring to light the issues affecting their communities.

Your duties as a YAC facilitator would include working with the students in the YAC group, attending and contributing to monthly YAC facilitator and youth member meetings, supporting students in implementing regular meetings and activities, communicating with the Children's Trust advisors, and helping chaperone YAC members during trips and events.

You advise that you will not assist the same clients in both positions nor will you refer clients involved with the Juvenile Services Program to the YAC. However, you admit that you may encounter the same County clients in your employment as a YAC facilitator, as you have no way of identifying such clients in advance. You further advise that you do not and will not utilize any County resources to conduct your outside employment.

You have indicated that your current work hours as a Juvenile Assessment Counselor are Monday through Friday, 8am to 5pm, due to COVID-19 conditions. Prior to COVID-19, your hours were 10am to 7pm, Monday through Friday, in order to accommodate family schedules afterhours. Your outside employment with the Children's Trust would be 4:30pm to 5:30pm in person, once a month at the Miami Gardens Public Library or, during COVID-19, online via Zoom. Further, you advised that the YAC meeting hours are determined by the YAC members/students and will likely be around the same timeframe for approximately 1 to 1.5 hours. You have indicated a willingness to work out any time conflicts so as not to interfere with your position as a Juvenile Assessment Counselor.

Issue:

Whether any prohibited conflict of interest may exist between your employment as a Juvenile Assessment Counselor and your prospective outside employment as Youth Advisory Committee Facilitator with the Children's Trust.

Analysis and Opinion:

Sections 2-11.1(j) and (k) of the Miami-Dade County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his/her official duties thereby creating a conflict between the employee's public duties and private interests. The County's Administrative Order 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties: "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."

Miami-Dade County employees are required to obtain approval from his or her department director/supervisor prior to engaging in outside employment. *See* County's Administrative Order

7-1. Directors/Supervisors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28.

The County's Administrative Order No. 7-1 gives a County department director/supervisor the discretion to deny outside employment if he or she finds that it is contrary, detrimental or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 12-49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

In consideration of your inquiry we must look to several factors, the first of which is whether there is similarity in your duties as a Juvenile Assessment Counselor and your prospective position as a YAC facilitator. It appears that your County duties and your duties for your prospective employer may have some overlap. Additionally, you may encounter the same clients and you will be providing similar supervision and direction to high school- aged children. However, a similarity between an employee's County duties and his or her outside employment duties does not indicate, by itself, the existence of a conflict of interest. *See* INQ 18-54 (citing RQO 00-10; RQO 04-168; RQO 12-07 which note that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations). Therefore, the similarities in the two positions does not preclude you from engaging in outside employment provided any necessary limitations are imposed.

It is important to note that, although there are no ethical considerations, there are clear conflicts in your County work schedule and the prospective schedule/hours provided for your outside employment. You have advised as to your willingness to remedy any such conflict so as not to interfere with your County employment. However, the ultimate approval for your request for outside employment resides within the discretion of your department director/supervisor. *See* County's Administrative Order 7-1.

Please note, that while there are no ethics conflicts regarding your County employment and your activities at YAC/Children's Trust, 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* Sections 2-11.1 (j) and (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.
- You are prohibited from using any confidential information acquired as a result of your County employment to derive a personal benefit or for the benefit of YAC/Children's Trust. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.
- You may not exploit your County position to secure special privileges or exemptions for yourself or YAC/Children's Trust. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.

- You shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director and shall file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.