



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 · Miami, Florida 33130

Phone: (305) 579-2594 · Facsimile: (305) 579-0273

Website: ethics.miamidade.gov

MEMORANDUM

TO: Steven John Alexander
Former South Miami City Manager

FROM: Jose Arrojo, Executive Director
Commission on Ethics

SUBJECT: INQ 20-63, Sections 2-11.1 (q) & (s) (1) (b), Prohibitions on Lobbying by former City Employees

DATE: June 25, 2020

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding limitations on employment by former County employees within two years of separation.

Facts:

Steven Alexander was previously employed as the South Miami (SM) City Manager. As the SM Manager, Mr. Alexander served as SM's Chief Administrative Officer and was ultimately responsible for all operations of the municipal corporation.

Mr. Alexander has recently separated from his position as SM City Manager and in a new professional capacity as a compensated consultant, may be engaged in contacts with SM staff and elected officials.

Issue:

Does the County Ethics Code prohibit the former South Miami City Manager from accepting employment or engagement that will require contacts with SM staff or elected officials within two years of his separation from employment with that city?

Legal Analysis & Discussion:

The County Ethics Code at Sec. 2-11.1 (q) (1) prohibits former municipal employees from “lobbying” their former cities for a period of two years following separation.¹ Moreover, the post-employment lobbying activity prohibitions contained in subsection (q) of the Ethics Code are the more expansive than those found under the general lobbying ordinance.

Whereas the general lobbying ordinance characterizes lobbying as advocating for items that will foreseeably be decided or recommended by elected officials, chief administrative officers, boards or committees, the post-employment subsection contains no such limiting language.

Consequently, advocating for decisions that may be made at the sole discretion of any municipal employee, not necessarily those that will progress to the city’s elected body, chief administrative officer, board, or committee, are prohibited. (*See* RQO 12-09; RQO 13-07)

Former city employees are however allowed under subsection (q) of the Ethics Code to share institutional knowledge regarding their former municipal employer’s procedures with their new clients, and to provide guidance to their clients or employers regarding interactions with the city.

Direct meetings and contacts by the former employee with city personnel are permissible as long as there is no *advocacy* involved in the interactions and the former city employee is not seeking to *influence* city personnel.

The County Ethics Code at Sec. 2-11.1 (s) (1) (b), provides additional allowances for former city employees that are also attorneys. The quasi-judicial exception contained in subsection (s) (1) (b) of the Ethics Code, allows former city employees that are also attorneys to represent clients or employers in quasi-judicial matters that may involve interaction with city personnel or boards. (*See* RQO 11-26, issued to former Assistant County Attorney Thomas Goldstein)

Conclusion:

The County Ethics Code does not prohibit your acceptance of employment that will require contacts with SM elected officials or staff within two years of your separation from that city, but your contacts are limited.

While Sec. 2-11.1 (q) of the County Ethics Code prohibits former municipal employees from lobbying, broadly defined to include advocacy and attempts to influence city elected officials, administrative officers, employees, boards, and committees, there is no *blanket* prohibition on accepting engagement or employment that may require interaction or contact with the city.

Therefore, as long as you are cautious in avoiding advocacy or seeking to influence SM elected officials or personnel in your interactions with that city, there is no prohibition in the County Ethics Code that would preclude these activities.

¹ Section 8A-1.(p)(4), of the South Miami Code, contains a similar post-employment bar on lobbying SM officials.

Finally, the County Ethics Code represents the minimal standard of conduct for those who have served in local government and remain subject to the two-year rule prohibiting lobbying by former employees. As such, and again, former employees are encouraged to act cautiously in their interactions with their former employer.

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

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.