



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:**           Kassandra Timothe, Public Information Officer, City of North Miami

**FROM:**       Gilma Diaz-Greco, Staff Attorney  
                  Commission on Ethics

**SUBJECT:**    INQ 20-95

**DATE:**       9-25-20

**CC:**           COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest with your candidacy for the 2021 City of North Miami City Council Seat 2.

#### **FACTS**

You are employed at the City of North Miami as the Public Information Officer for the City of North Miami. You are seeking to run as a candidate for the City of North Miami Council Seat 2 during the city's municipal election in May of 2021.

#### **ISSUES**

You have asked the COE about several issues related to your candidacy:

##### **Ethics**

Whether any prohibited conflict of interest would exist between your City of North Miami employment and your running for election for the City of North Miami Council Seat 2.

### Resign to Run

Whether you would have to either take a leave of absence or resign your current Position as Public Information Officer in order to run for the City Council Position.

### Campaign Finance

Whether Campaign Finance Laws or the City of North Miami Ordinance allowing candidates to qualify by petition would require you to submit your statement to run first and open a campaign account subsequent to the announcement of your candidacy or whether you could begin the process without announcing your candidacy and using your personal funds. You also inquire about the sale of campaign merchandise such as t-shirts and masks and whether those funds may be deposited into a personal business account or whether they must be deposited in the campaign bank account.

## **DISCUSSION AND OPINION**

### Ethics

The County Ethics Code does not prohibit County or Municipal employees from engaging in political activities outside the workplace, however they must adhere to some restrictions placed on government workers under County policy and State law. *See* Fla. Stat. § 104.31; and the attached COE memorandum *Limitations on Political Activities of County and Municipal Officers and Employees* (Amended October 2019).

Section 2-11.1(g) of the Ethics Code. Section 2-11.1(g) of the County Code of Ethics, *Exploitation of Official Position Prohibited*, prohibits use of one's public position to secure special privileges or exemptions for one's self or others. The State Ethics Code has a similar provision titled Misuse of Public Position. Fla. Stat. §112.313(6). In addition, section 104.31, *Florida Statutes, Political Activities of State, County, and Municipal Officers and Employees*, prohibits public officers or employees from using their official authority or influence "for the purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof."

The COE has clarified in previous opinions and in its Political Activities memorandum, cited above, that while Municipal employees are not prohibited from engaging in political activities they must abide by certain limitations. Employees engaged in political activities must do so during their own time, not during Municipal working hours; and they are prohibited from using their Municipal position or the resources of the Municipality which employs them, in any way to further a political campaign. Furthermore, they are prohibited from directly or indirectly using their Municipal positions to intimidate or coerce others

into supporting either their own candidacy; a chosen candidate; or to make political contributions. *See e.g.*, RQO 05-06; INQ 18-232; and INQ 17-49.

As a political candidate in Miami-Dade County, you and your campaign staff are also bound by the [Ethical Campaign Practices Ordinance](#). See Section 2-11.1.1, Miami-Dade County Code.

### Resign to Run

Certain state laws govern the circumstances when a State or local government Officer must resign to run for another office, including, but not limited to section 99.012, and Florida Statutes (resign to run law); Article II, section 5(a), Florida Constitution (prohibition of dual office holding). It does not appear to us that your candidacy for Council Seat 2 of the City of North Miami would be impacted by these laws because your City employment working in a Public Information role would not appear to fall within the classification of a local Officer.<sup>1</sup> For an opinion on these matters, which are beyond the scope of the County Ethics Code, we refer you to the Office of the Attorney General and the Florida Commission on Ethics.

With respect to whether any other City of North Miami ordinances, policies, or restrictions may apply to your City position as a Public Information Officer at the City of North Miami and your candidacy for City Council Seat 2, we refer you to the City Attorney and to the City's Human Resources Department.

### Campaign Finance

With respect to your questions regarding campaign finance and the timing of opening campaign accounts, this matter is under the jurisdiction of the Florida Division of Elections. Consequently, we refer you below to resources provided by this division to candidates running for office in Florida:

-Florida Division of Elections Candidate Resources:

<https://dos.myflorida.com/elections/candidates-committees/>

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<sup>1</sup> Florida Division of Elections Resign to Run Law Guide at <https://soe.dos.state.fl.us/pdf/DE-Guide0016-Resign-to-RunLawFinal.pdf> defines a Municipal Officer as "a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the State Constitution, state laws, or municipal charter."

-Florida Candidate Qualifying Handbook:

<https://www.miamidade.gov/global/elections/candidate-qualifying-handbook.page>

The Miami-Dade Elections Department also provides comprehensive resources for candidates:

[https://www.miamidade.gov/global/service.page?Mduid\\_service=ser1511970139487347](https://www.miamidade.gov/global/service.page?Mduid_service=ser1511970139487347)

Consequently, based on the facts you have presented to us at this time, it does not appear that prohibited conflicts of interest would occur under the County Ethics Code for you to run as a candidate for the City of North Miami Council Seat 2 provided you meet the qualification requirements. Political campaigning should follow the limitations imposed by Florida Statutes, Miami-Dade Conflict of Interest and Code of Ethics Ordinance, and any other applicable regulations. Finally, we refer you to the City Attorney and to the City's Human Resources Department for any requirements on the notification of your candidacy to your supervisors as well as any City ordinances or policies that may affect or restrict your candidacy.

This opinion is based on the facts presented to the COE. If these facts change, please contact us.

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.