



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Jorge Herrera
Consumer Protection Enforcement Supervisor
Regulatory and Economic Resources Department (RER)

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-145, Section 2-11.1(k), Outside employment

DATE: November 17, 2021

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding outside employment requirements for your potential service with the Auxiliary Florida Highway Patrol.

Background:

You are the Enforcement Supervisor for Miami-Dade County Office of Consumer Protection (OCP) in the Regulatory and Economic Resources Department (RER). You have been with Miami-Dade County for 23 years. Your office is the regulatory authority for the locksmith, moving, towing, motor vehicle repair, and water re-metering industries. OCP also oversees grocery store inspections, related to uniform trade standards, as well as general consumer complaints filed by aggrieved consumers. You are responsible the oversight of all above-mentioned areas apart from motor vehicle repair.

You also oversee four enforcement officers that enforce the County Code related to the aforementioned industries. You write citations for violations of the County Code and enter into voluntary compliance agreements with business that have been found to be in violation. In the past, you have assisted the OCP as the Interim Public Information Officer. You have participated in public outreach opportunities to educate the public on consumer protection matters and attend administrative hearings assisting your officers in their presentations and defend your own enforcement actions when an alleged violator files an appeal.

You are considering serving as an Auxiliary Florida Highway Patrol State Trooper. Auxiliary State Troopers are trained law enforcement officers who represent the State of Florida and the Florida Highway Patrol. As such, these members are carefully selected and are held to the highest standards. Certified and non-certified applicants must successfully complete the screening process to be considered. The program requires you to attend training during non-working hours and complete 15 weeks of defense tactics training in Orlando, Florida, on weekends. The State of Florida pays for the training program.

Once you become a Certified Law Enforcement Officer, you would be required to complete a minimum of 8 hours a month of patrol, which you advise will be completed on your own time. This is a volunteer position and there is no pay involved.

You inquire as to whether this position will be considered outside employment as well as any County requirements pertaining to your service.

Analysis and Opinion:

The Ethics Commission has generally defined outside employment as providing personal services, other than to Miami-Dade County, that are compensated or customarily eligible to be compensated. *See* INQ 15-138. However, volunteer work that is not compensated is not considered outside employment. *See* INQ 09-84, INQ 14-148, INQ 15-138, and INQ 18-226.

Further, in INQ 15-138, the Commission on Ethics opined that volunteer service as a County Reserve Police Officer (CRPO) is not considered outside employment, as CRPOs serve in an unpaid volunteer capacity. As Auxiliary Florida Highway Patrol State Trooper, you too will be serving in an unpaid volunteer capacity; therefore, you are not engaging in outside employment. Notwithstanding, it is recommended that you notify your County supervisor of your intended objective.

Furthermore, County employees should be mindful that their voluntary work outside the County may not in any way conflict with their duties to the County. Consequently, you must abide by certain limitations and cautions outlined below to avoid a conflict under the Miami-Dade County Ethics Code:

- You may not use County time or resources for your volunteer service. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- You shall not engage in activities that relate in any way to your volunteer service 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 volunteer service, 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 disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit or for the benefit of FHP. *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 FHP. *See* Section 2-11.1(g), 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.