



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Dario Figueroa
Disability Programs Specialist
Miami-Dade Parks and Recreation

Christina Perez
Recreation Therapist 2
Miami-Dade Parks and Recreation

Gisel Prado
Therapeutic Recreation and Inclusion Manager
Miami-Dade Parks and Recreation

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-155, Conflicting /Outside employment, Sections 2-11.1(k)(2) and (j),
County Ethics Code

DATE: December 16, 2021

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 as a Disability Programs Specialist for Miami-Dade Parks and Recreation (MDPR). You would like to engage in outside employment as a soccer coach for Soccer 5 USA Foundation, Inc. (Soccer 5), a County vendor.

As a Disability Programs Specialist, you supervise the coordination and instruction of specific recreational programs for individuals with disabilities. You are also responsible for planning, directing, and instructing specialized recreational activities for individuals with disabilities. You generally manage and supervise adult programs for disabled participants ages 21-40 and afterschool programs for disabled children ages 14-21.

Soccer 5 is a Florida non-profit organization offering small-sided soccer fields and state of the art facilities for social, recreational, or competitive soccer. The organization's services include adult,

co-ed, Soccer5 Kids Academy, corporate events, and Kids Zone parties. Per your supervisors, Soccer 5 is a County vendor which occasionally rents space from MDPR and acts as one of the community-based organizations offering services at MDPR facilities/parks.

You will be working for Soccer 5 as a soccer coach. Your duties will include coaching and implementing soccer techniques for children ages 3-12.

In your County position, your supervisors have confirmed that you do not have the authority to approve or disapprove any agreements for services between the County and Soccer 5 and no involvement in the selection, oversight, or administration of any County contract with Soccer 5. You further advise will not be required to come into contact with the same people, clients, or entities in your position with the County and Soccer 5. You will not utilize the same or similar resources for your outside employment. Your outside employment would not require interactions with County employees. You also do not work in a position that requires you to recruit vendors, contractors, bidders, or members of the public that could use your outside employment services. Your work for Soccer 5 would be performed outside of your County hours. Lastly, you do not use the services of Soccer 5 in any programs that you administer in your position with the County.

Issue: Whether any prohibited conflicts of interest may exist between your County employment and your outside employment as a soccer coach for Soccer 5, a County vendor.

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 their department directors/supervisors 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.

Generally, the Miami-Dade County Ethics Code does not prevent an employee from being employed by a County vendor, as long as the employee does not have any involvement with the vendor's contract. *See* RQO 16-02 and INQ 11-67. However, the Ethics Code does prohibit County employees from engaging in outside employment that is likely to create conflicts of interest between the employee's County responsibilities and their outside job duties.

After reviewing the facts presented here, we find that your outside employment with Soccer 5, a County vendor, is not likely to cause conflicts of interest between your private interest and your public duties. There are several factors which have been considered in support of finding no conflict with your outside employment:

- There is no overlap between your public duties as a Disability Programs Specialist with MDPR and your perspective work with Soccer 5;
- You will not assist the same clients in both positions;
- You will not use the same resources in both positions;
- Your work for Soccer 5 would be performed outside of your County hours;
- You do not oversee or have any involvement with Soccer 5's contract with the County including its administration or oversight;
- Soccer 5 does not offer services as part of any programs that you administer in your position with the County;
- You have no authority over Soccer 5 employees in your current County position; and
- Your outside employment does not require you to interact with other County employees.

Consequently, your outside employment is not likely to impair your independence of judgment in the performance of your County duties. However, the Ethics Commission strongly recommends that the following limitations be imposed on your permission to engage in the aforementioned outside employment:

- You should not be supervised by any County official or staff assigned to oversee, negotiate, enforce, or otherwise have any involvement with the County contract/agreement with Soccer 5. *See* RQO 16-02.
- You may not use County time or resources in your outside employment. *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 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 disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit, for the benefit of Soccer 5, or for the benefit of Soccer 5 clients. *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, Soccer 5, or Soccer 5 clients. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.

- You may not represent Soccer 5 or Soccer 5 clients before any County board or agency. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code; RQO 04-173. Notably, while it does not appear that lobbying activities are a part of your potential duties for Soccer 5, it is important to note that you would be prohibited from doing any such activities on behalf of Soccer 5 or its clients.
- 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.¹

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.

¹ You may wish to review Section 112.313(7)(a), Florida Statutes, which provides that no public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee.