



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Dayron Sanabria Caceres
Animal Care Specialist Coordinator
Animal Services Department

Savannah Alcerro Urbina
Kennel Manager
Animal Services Department

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-76 Conflicting /Outside employment, Sections 2-11.1(k)(2) and (j),
County Ethics Code

DATE: May 3, 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 an Animal Care Specialist Coordinator for the Animal Services Department (ASD). You would like to engage in outside employment as a janitor for Professional Cleaning Solution (PCS), a County vendor.

As an Animal Care Specialist Coordinator, you have oversight and management of operational activities including planning, assigning, and reviewing the work of all subordinates Animal Care Specialist on an assigned shift. You supervise the cleaning, disinfecting, impounding and handling of domestic and sometimes wild animals, and train subordinates in appropriate animal care and control techniques. You are responsible for managing, developing training protocols, and establishing procedures to improve delivery of services through staff performance assessments. You also develop and provide continuous on the job training (i.e. appropriate animal restrain/handling, euthanasia, disinfesting protocols, feeding, disease management, etc.); responsible for preparing plans, conducts, documents and reinforce training. You ensure all animals' needs are appropriately met and that they are cared for, fed, watered, maintained and housed in a humane manner. You are also responsible for revising and developing related standards of operation procedures for the kennel section.

PCS is a professional office and commercial cleaning company. PCS is a County vendor which provides services to the County including ASD, your County department. In your proposed outside employment with PCS, you will be employed as a janitor responsible for cleaning and disinfecting designated areas at the South-Miami Dade Cultural Arts Center. The Center is located at 10950 SW 211 Street, Cutler Bay, Florida 33189 and is a venue of the Miami-Dade County Department of Cultural Affairs.

In your County position, while you do not have the authority to approve or disapprove any agreements for services between the County and PCS and no involvement in the selection, oversight, or administration of the County contract with PCS, your supervisor has indicated that **your County duties include direct supervision and oversight over the work of PCS employees working within your County department.**

Issue: Whether any prohibited conflicts of interest may exist between your County employment and your outside employment as a janitor for PCS, 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.

The Commission on Ethics has previously held that conflicting employment would likely occur where the County employee is employed by a County vendor that services the facilities where the employee performs his or her County duties. *See* RQO 16-02; INQ 17-162; and INQ 19-31. Similarly, in this instance, your outside employment would be with PCS, a County vendor, which services ASD, the department where you perform your County duties.

Other factors may be indicative of potential conflicts between an employee's County duties and his or her outside employer duties. Some of these factors include whether the County employee will come in contact with the same or similar people or entities in both his or her outside

employment and in his or her County position (e.g., similar personnel, clients, suppliers, or subcontractors) and whether the employee would perform similar duties in his or her County employment and his or her outside employment. Here, your duties between the two positions do not have any overlap. However, your County duties would require you to direct, monitor, and oversee the work performed by PCS employees providing services to your County department.

Based on the facts presented here and after consultation with your supervisor, we find a conflict exists between your County employment and your potential outside employment with PCS because your County duties as an Animal Care Specialist Coordinator at ASD would include routine direct interaction and oversight of your outside employer's employees.

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.