



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Janie Salane
Stewardship Manager
Miami-Dade Parks, Recreation and Open Spaces

Kotkenya Cullins
Park Manager 4
Miami-Dade Parks, Recreation and Open Spaces

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-07, Outside employment, Sections 2-11.1(j) and (k)(2), County Ethics Code

DATE: February 1, 2022

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 Stewardship Manager for the Miami-Dade Parks, Recreation and Open Spaces Department (MDPROS). You would like to engage in outside employment for the City of Miami Gardens.

Your current job duties as a Stewardship Manager include coordinating diversified events and activities in community service zones and providing the best recreational experience to the public while focusing on conservation. You are also responsible for assisting and planning events, managing employees, managing unmanned sites, and assisting customers.

You inquire as to your potential outside employment as a Recreation Aide for the City of Miami Gardens (City). Your duties and responsibilities include assisting with events taking place at the parks, cleaning restrooms, and answering phones. Your work for the City will take place exclusively at municipal parks i.e. not County-owned parks.

You advise that your work with the City would occur outside of your County hours. Your work would not require the use of any equipment or resources which you use in your County employment nor would you work with the same clients. Lastly, you advise that in your County

duties you have no supervision, authority, enforcement, or management over City or municipal parks.

Issue: Whether any prohibited conflicts of interest may exist between your employment as a Stewardship Manager for MDPROS and your prospective outside employment for the City of Miami Gardens.

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 Miami-Dade County Ethics Code prohibits 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. Consequently, inquiries concerning conflicting outside employment require consideration of a myriad of factors, one of which is, whether there is a similarity between the employee's County duties and her duties to the outside employer.

The Ethics Commission has previously opined that a similarity between an employee's County duties and his or her outside employment duties does not indicate, *by itself*, the existence of a conflict of interest. *See* INQ 18-54 (citing RQO 00-10; RQO 04-168; RQO 12-07 which note that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations) (emphasis added). Accordingly, the fact that your duties with MDPROS and your work with the City are similar does not preclude you from engaging in outside employment with the City, especially in light of the following factors:

- You will not assist the same clients in both positions;
- You will not use the same resources in both positions;
- Your work for the City would be performed outside of your County hours; and

- You do not have any involvement, oversight, supervision, or authority over City or municipal parks in your County position.

Consequently, your outside employment is not likely to impair your independence of judgment in the performance of your County duties. However, you must abide by certain limitations and cautions outlined below to avoid a conflict:

- 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; INQ 19-123; INQ 20-43.
- 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 the City or City 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, the City, or City clients. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- 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.

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.