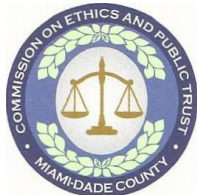


## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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Jose J. Arrojo  
EXECUTIVE DIRECTOR  
Martha Diaz Perez  
GENERAL COUNSEL  
Radia Turay  
ADVOCATE

October 11, 2022

Via Facsimile Transmittal Only:  
JPDIAZ@miamidade.gov

Honorable Jose “Pepe” Diaz  
District Commissioner and Chair  
Board of County Commissioners  
111 Northwest First Street  
Miami, Florida 33128

Re: INQ 2022-142, Post-County Service Prohibitions, Section 2-11.1(q), County Ethics Code

Dear Chairman Diaz:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and requesting our guidance regarding limitations on your interaction with Miami-Dade County, within two years of the end of your term as a County Commissioner.

### Facts:

You will soon complete your term as an elected County Commissioner. You are considering employment with a firm that advises clients on matters of governance including policy, legislation, and procurement matters. Your prospective employer is expected to advise and represent clients engaged with Miami-Dade County.

### Analysis and Opinion:

Section 2-11.1(q), the “Two-Year Rule” found in the Miami-Dade County Ethics Code, prohibits a person who has served as an elected County official from “lobbying” the County for a period of two years following separation.

Specifically, the relevant section of that rule prohibits a former elected official, for a period of two years after his or her County service has ceased from:

...lobby[ing] any county officer, department personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid request for ruling, or other determination, contract, claim, controversy, charge accusation, arrest or other particular subject matter in which Miami-Dade County or one of its agencies or instrumentalities is a part or has any interest whatever, direct or indirect.

The post-service lobbying activity prohibitions contained in Subsection (q) of the Ethics Code are more expansive than those found under the general lobbying registration ordinance in Section 2-11.1(s) of the Ethics Code.<sup>1</sup>

Whereas the County's lobbying ordinance at Subsection (s) has previously been interpreted by the Ethics Commission as prohibiting "lobbying" on matters that will foreseeably be acted upon by the County Commission, the Mayor, any County board or committee, or specifically defined County personnel, the Two-Year Rule prohibits the intent to influence official action or decisions, regardless of whether they may foreseeably be heard or considered by commission board or committee, that may be made at the sole discretion of *any* County personnel. See RQO 12-09; RQO 13-07.

Consequently, you may not attempt to persuade any County elected official, departmental personnel, or employee, whether in person or by written communication, to take a particular course of action in any transaction as defined in Subsection (q). These actions are considered lobbying and are prohibited. See RQO 02-139.

Also, this prohibition applies to any activity where you would be publicly identified as part of lobbying team. *Mere attendance* as part of a lobbying team may run afoul of the prohibition. See RQO 04-34 (citing RQO 01-38, where the Ethics Commission opined that a former County employee could not engage in such activities but was not prohibited from attending quasi-judicial hearings and County Commission meetings and from providing administrative support as long as he was not publicly identified as a member of the lobbying team).

You are however allowed under Subsection (q) of the Ethics Code to share institutional knowledge regarding County procedures with your employer or other clients, and to provide guidance regarding interactions with the County. See INQ 20-63. Direct meetings and contacts between you and County personnel are also permissible as long as there is no advocacy involved in the interactions, you are not seeking to influence County personnel, and again, you are not part of a lobbying team. See INQ 20-63.

You are simply cautioned against engaging in any action that might be perceived as advocating or seeking to influence County elected officials, board members, or personnel as this this would be a violation of the County's Two-Year rule.

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<sup>1</sup> The provisions of Subsection (q) do not apply to officials, departmental personnel or employees who become employed by governmental entities, 501(c)(3) non-profit entities or educational institutions or entities, and who lobby on behalf of such entities in their official capacities.

While the Ethics Commission is without jurisdiction to interpret state law, there are similar two-year prohibitions on local officials from representing another for compensation before their former government body for a period of two years following vacation of office. <sup>2</sup>

Also worth noting, and again outside of this agency's authority to interpret or opine on, if you should be elected to another local government position in a municipality, then effective December 31, 2022, as a result of a 2018 amendment to the state constitution, you would be prohibited from lobbying both *during* public service and for a *six-year period following* vacation of public office. The prohibitions are very expansive and address lobbying on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision.

Guidance regarding the interpretation of the constitutional amendment or the enabling legislation in Section 112.3121, Florida Statutes, should be provided by the Florida Commission on Ethics. Upon recent inquiry, the Florida Commission on Ethics has not yet provided interpretation of these new provisions contained in Chapter 112, Florida Statutes, but may do so after the effective date of December 31, 2022.

This opinion is limited to the facts as you presented them to the Commission on Ethics, 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. If the facts associated with your inquiry change, please contact us for additional guidance.

Sincerely,



Jose J. Arrojo  
Executive Director

Copies: Isidoro Lopez, Esq., Chief of Staff for the Chairperson  
COE Legal Staff  
Onaivys Diaz, Executive Assistant

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<sup>2</sup> See Section 112.313(14), F.S. (A person who has been elected to any county office may not personally represent another person or entity for compensation before the government body of which the person was an officer for a period of 2 years after vacating that office. For purposes of this subsection, "government body or agency" of a member of a board of county commissioners consists of the commission, the chief administrative officer or employee of the county, and their immediate support staff.)

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.