



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Gina Green
Pre-trial Services Officer 2
Miami-Dade County Corrections and Rehabilitation Department

Felicia Falowo
Correctional Commander
Miami-Dade County Corrections and Rehabilitation Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-42, Section 2-11.1(j) & (k), Conflicting employment prohibited.

DATE: March 17, 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 Officer Gina Green's proposed outside employment.

Facts

An inquiry has been submitted concerning whether a conflict of interest would exist were Officer Gina Green, an employee of Miami-Dade County Corrections and Rehabilitation Department ("MDCR"), to engage in outside employment as an Instructor for Metro Traffic School ("MTS").

Officer Green is currently employed by MDCR as a Pre-trial Services Officer 2. Her job duties are primarily supervising the professional and paraprofessional staff of MDCR's Pre-trial Services Programs.

Officer Green would like to engage in outside employment as an Instructor for MTS. MTS is a fictitious name registered to Metro Traffic Safety Institute, Inc., a Florida not-for-profit corporation. Officer Green's duties with MTS would include teaching the four-hour Florida Basic Driver Improvement course to improve safe-driving skills for first-time and experienced drivers.

A records search indicates that neither MTS nor the Metro Traffic Safety Institute, Inc., are County vendors. Officer Green also stated that, to her knowledge, MTS is not a County vendor.

Officer Green advises that her outside employment would only occur outside of the times/hours that she will be expected to perform her duties as a Pre-trial Services Officer 2 for MDCR. She further advises that, as part of her proposed outside employment, she will not be required to encounter the same or similar people or entities as in her County position. Officer Green advises that her position with MDCR does not involve the recruitment or management of County vendors or contractors. She also advises that no County resources will be used for her proposed outside employment. Finally, Officer Green advises that, as part of her County position, she does not have access to non-public information that is, or could be, relevant to her proposed outside employment.

Issue

Whether any prohibited conflict of interest may exist between Officer Green's County employment and her proposed outside employment as an Instructor for MTS.

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics ("County Ethics Code") prohibits County employees from accepting outside employment, "which would impair his or her independence of judgment in the performance of his or her public duties." Section 2-11.1(j); *see also* section 2-11.1(k). Additionally, Miami-Dade County Administrative Order 7-1 provides that, "[u]nder 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."

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Miami-Dade Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; INQ 19-101. Department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 13-28.

Based on the information provided to us at this time it appears to be unlikely that the type of outside employment that Officer Green is seeking to engage in would impair her independence of judgment in the performance of her County duties as a Pre-trial Services Officer 2. This is because there is no overlap between her public duties and her outside employment: her outside employment will be performed outside of her County hours; she will not come into contact with the same persons or entities involved in her County work; she will not use the same resources in her outside employment as used in her County work; and, she will not have access to non-public information as part of her County employment that is, or could be, relevant to her outside employment. *See* RQO 17-01; RQO 16-02.

Opinion

Based on the facts presented here and discussed above, Officer Green would not have a conflict of interest in her proposed outside employment as an Instructor for MTS.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Officer Green's permission to engage in her proposed outside employment:

- She may not engage in activities that relate in any way to her outside employment during her scheduled work hours (including phone calls, text messages, e-mails, or other communications) and she may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with her outside employment, even after work. *See* County Ethics Code Section 2-11.1(g); AO 5-5, AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- She may not exploit her County position to secure special privileges or exemptions for herself and/or MTS. *See* County Ethics Code 2-11.1(g). **Specifically, she may not use sick leave to engage in her outside employment.** *See* INQ 18-222; INQ 09-194.
- She may not disclose and/or use any confidential and/or proprietary information acquired because of her County employment to derive a personal benefit, or for the benefit of MTS. *See* County Ethics Code Section 2-11.1(h).
- She may not represent MTS before any County board or agency. *See* County Ethics Code Section 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of her potential activities as an Instructor for MTS, it is important to note that she would be prohibited from doing any such activities on behalf of MTS or its clients.
- She must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with her department director, and she must file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. *See* County Ethics Code Section 2-11.1(k)(2).

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts may apply based on directives from MDCR or under state law. Questions regarding possible conflicts based on MDCR directives should be directed to MDCR or the Mayor's Office. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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.