



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST


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### MEMORANDUM

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**TO:** Jimmy Morales  
Chief Operations Officer

**FROM:** Jose J. Arrojo   
Executive Director

**SUBJECT:** INQ 2022-89, Section 2-11.1(g), Dual Assignment of Spouses

**TDATE:** May 24, 2022

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest arising from the dual assignment of spouses within the same department.

Facts:

The Miami-Dade Water and Sewer Department (WASD) is headed by Department Director Roy Coley. The WASD Director is assisted by several Deputy Directors and a Chief of Staff. WASD is one of the County Departments assigned to Chief Operations Officer Jimmy Morales.

The Deputy Directors are broadly tasked as follows: 1) the Deputy Director for Internal and Administrative Services is charged with the WASD procurement function including public bids on design and construction projects; and 2) the Deputy Director for Finance or Chief Financial Officer is charged with the WASD invoice and payment function; and 3) the Deputy Director for Planning, Regulatory Compliance, and Capital Infrastructure is charged with planning, design, construction of water and sewer infrastructure, and 4) the Deputy Director for Operations is charged with operation, maintenance and repairs of water and sewer infrastructure.<sup>1</sup>

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<sup>1</sup> Table of Organization is attached.

Ms. Marisela Aranguiz and Mr. Josenrique Cueto are married, and both are WASD employees. Ms. Aranguiz is the Deputy Director of Capital Improvements for the Miami-Dade Water and Sewer Department (WASD). Mr. Cueto is the newly assigned Deputy Director of Operations for the Miami-Dade Water and Sewer Department.

In the current organizational model used in WASD, Ms. Aranguiz's and Mr. Cueto's job responsibilities should not overlap. Neither will be responsible for overseeing or evaluating the other's work product. Each report directly to the WASD Director.

Mr. Cueto provided a very basic example of their two respective work functions: Ms. Aranguiz and her staff may be involved in the planning, design and construction of water and sewer infrastructure and Mr. Cueto and his staff may be involved in maintaining and repairing the infrastructure.

#### Discussion:

Like all County employees, both Ms. Aranguiz and Mr. Cueto are bound by Section 2-11.1(g) of the County Ethics Code which prohibits a County employee from using his or her official position to secure special privileges or exemptions for himself or others. In prior ethics opinions this section has been interpreted to mean that a County employee must avoid any action to hire, promote, or advocate for the advancement of an immediate family member.<sup>2</sup>

Also, while it is not anticipated given their different assignments, a prohibited conflict of interest could arise if either become involved in a work transaction where one might be called to directly or indirectly evaluate or supervise the other's work product. At a minimum, the suggestion that either could have exercised authority to afford special treatment or attention to the other's projects could create an appearance of impropriety and should be avoided.

It should also be noted that while the County Ethics Code does not contain a nepotism provision, there is an established County administrative policy regarding nepotism that generally tracks the state's statutory anti-nepotism provisions regarding public employment. The County nepotism policy more specifically provides that Deputy Director level staff that have, by department policy or practice, the delegated the authority to make employment or promotion decisions, should not be employed in the same department.<sup>3</sup>

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<sup>2</sup> RQO 99-24 (Risk Management Division was allowed to hire a relative of a current employee *because* the current employee had no input in the selection process)

<sup>3</sup> County Manager's Memorandum of June 11, 2007 (Relatives of the following cannot be appointed, employed nor promoted within their departments: a. Department Directors, regardless of who else is delegated employment authority; b. Assistant Directors, Division Directors and all Managers who, by department policy or practice, are delegated the authority to make employment or promotion decisions; c. Managers, Supervisors and others who, because of their position or customary involvement in personnel decisions, would normally be expected to make an

Opinion:

Based on the facts that have been provided, it does not appear that a conflict of interest would exist under Section 2-11.1(g) of the Ethics Code, because Ms. Aranguiz and Mr. Cueto have different work assignments that should not overlap, and neither should be in a position to supervise or evaluate the other's work product.

Guidance regarding the application of the County's administrative policies regarding nepotism should be referred to the Human Resources Department.

This opinion is based on the facts presented and is limited to an interpretation of the County Ethics Code. It does not address other state and or local laws or policies that may be applicable.

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.

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employment or promotion recommendation to others within their departments, regarding a particular appointment or promotion.

Sec. 112.3135, Fla. Stat. (A public official is prohibited from seeking for a relative any appointment, employment, promotion, or advancement in the agency in which he or she is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies.)