

## Frigo, Victoria (COE)

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**From:** Ramos, Miriam S. (COE)  
**Sent:** Monday, August 13, 2012 10:01 AM  
**To:** 'Shelley Stanczyk'  
**Cc:** Eve Boutsis (eboutsis@fbm-law.com); Frigo, Victoria (COE); Centorino, Joseph (COE); Cedeno, Rachelle (COE)  
**Subject:** INQ 12-135

Good morning Mayor Stanczyk:

The information that was sent to Ms. Boutsis contemplated a sitting elected official endorsing a candidate at the polls, while wearing a City-issued polo shirt identifying the individual's name, title and municipality. If you were simply at the polls speaking to constituents and making yourself available to them, there is certainly no restriction placed on that behavior by the Miami-Dade Conflict of Interest and Code of Ethics Ordinance.

Sincerely,

*Miriam S. Ramos, Esq.*  
Deputy General Counsel

### Miami-Dade County Commission on Ethics

19 W. Flagler Street, #820  
Miami, FL 33130  
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**From:** Shelley Stanczyk [mailto:ssstanczyk@palmettobay-fl.gov]  
**Sent:** Friday, August 10, 2012 7:48 PM  
**To:** Ramos, Miriam S. (COE)  
**Subject:** Re: FW: Campaign activities

I received your comments regarding wearing my village shirt at the polls. While the allegation of campaigning was made I however was not campaigning. I was there for the sole activity of talking to my constituents. I did give out my card. However at no time did I promote a candidate, pass out their literature, or ask for votes on their behalf. I spoke to residents after they had voted. I am not a current candidate for office. Do these facts change any of your opinions as to the issue presented?

Thank you for your consideration and time spent on this.

Shelley Stanczyk, Mayor

Palmetto Bay  
305-389-3425

Shelley Stanczyk, Mayor  
Palmetto Bay  
305-389-3425

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On Aug 9, 2012 11:48 AM, Eve Boutsis <[eboutsis@fbm-law.com](mailto:eboutsis@fbm-law.com)> wrote:  
Hello everyone:

I spoke with the Commission on Ethics and Public Trust as an inquiry was made about campaigning while wearing a Village official shirt. Employees would be prohibited from doing so. As to Elected officials, the answer is not as clear. I have learned that it would not be a "Hatch Act" violation (not a violation of federal law, a sheriff in Florida campaigned for a presidential candidate while in uniform). However, Attorney General has not addressed the issue. The Miami-Dade County Commission on Ethics and Public Trust believes they have addressed the issue - but can't find the opinion. So, their recollection may be wrong. I went to the Commission in order to provide guidance to the Council as the election period is moving forward and do not want any possible inadvertent violations out there.

Anyway, as I did not provide any direction to Council on this issue previously (it had not come up previously, as far as I am aware), the Commission on Ethics indicated that they would not take action on an acts in past, however, they indicated that I should caution all sitting elected officials against such a practice as it could be a concern under state law. I was advised to look at section 104.31, F.S., which states:

No officer or employee (of a municipality) shall:

(a) Use his or her official authority or influence for the purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof.

Remainder of statute goes on to address "coercion" of employees of government, which is not applicable to this inquiry.

I enclose the two opinions the Commission on Ethics did find during their search. They found that government official letterhead could not be used in endorsing a candidate by an elected official. The second deals with employees of government and inability to wear their uniforms while campaigning for a candidate.

Due to the cautionary tone of their email to me, I recommend against

wearing Village clothing in future, while engaging in campaigning.

Thank you.

Very truly yours,

Eve,

Eve A. Boutsis  
Village Attorney  
Village of Palmetto Bay  
18001 Old Cutler Road, Suite 533  
Palmetto Bay, Florida 33157  
305-235-9344, Telephone  
305-235-9372, Facsimile  
[Eboutsis@fbm-law.com](mailto:Eboutsis@fbm-law.com)

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From: Ramos, Miriam S. (COE) [\[mailto:MSRAMOS@miamidade.gov\]](mailto:MSRAMOS@miamidade.gov)  
To: Eve Boutsis  
Subject: Campaign activities

Eve,

I still feel like we looked at this exact issue before but am still  
unable to find it. Robert M. does not remember it. It may be that it  
was an investigation. I will continue looking. In the meantime, check

out INQ 09-19 which states that a County employee may not wear a uniform when engaging in campaign activities. Also, look at INQ 10-133 which states that a sitting Mayor may, in endorsing a candidate, use his title but not City letterhead.

I discussed it with Joe and our sense is that we would not file a complaint on this but that the elected official should be cautioned against this behavior in the future. You should also look at 104.31, Florida Statutes, which talks about an officer of a municipality using his influence to influence another person's vote. Although the instant behavior, would not be charged criminally, it is still something the elected official should bear in mind.

If I find the mystery case that I'm looking for, I will definitely send it over to you.

Sincerely,

Miriam S. Ramos, Esq.

Deputy General Counsel

Miami-Dade County Commission on Ethics

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