

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Monday, December 10, 2012 4:32 PM
To: Jablonowski, Steve (MDPR)
Cc: Centorino, Joseph (COE)
Subject: Outside Employment (INQ 12-218)
Attachments: AO7-1 Outs Emp Gratuities.pdf

Mr. Jablonowsky,

The questions you posed relate to County employees engaging in outside employment. In general, a full-time County employee must not engage in outside employment that would conflict with his duties to the County or impair his independence of judgment in the performance of his public duties. *See* Administrative Order 7-1, attached, and the Miami-Dade County Ethics Code, Secs. 2-11.1 (j) and (k) at www.MiamiDadeEthics.com.

Conflicting employment frequently occurs when the outside work is closely related to the government work or when the outside employment results in contacts with the same people dealt with in the government work.

It is a clear conflict for a full-time County golf professional to work as a part-time golf instructor at County facilities when he is employed in his part-time capacity by a company that contracts with the County to provide golf lessons.

The laws governing this conflict are numerous. Under the County Code at Sec. 2-11.1 (j), the golf professional's private work would likely impair his independence of judgment in the performance of his public duties.

Furthermore, Administrative Order 7-1 states, "County business must be conducted free of the influence of employees' personal and private financial interests, both *in appearance* and in fact." The same order reads, "Under no circumstances shall a County employee accept outside employment or render other than official services to a private interest where County time, equipment or material is to be used, or where *a real or apparent conflict of interest with one's official or public duties is possible*." (Emphasis added.)

County employees are also subject to the State ethics law, which states, "[N]or shall an ... employee of an agency have or hold any employment or contractual relationship that will create a *continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties* or that would impede the full and faithful discharge of his or her public duties. (Fla. Stat. 112.313(7)(a) (2012) (emphasis added).)

State law is intended to prevent situations in which private economic considerations may override the faithful discharge of public responsibilities.

Although the restrictions on outside employment do not specifically apply to part-time County employees, other County and state ethics provisions do. The part-time County employee who works privately for a County contractor as a banquet server or a security guard at a County facility where he is also employed by the County runs the risk of exploiting his official position. In this case, the part-time County employee might use County resources to benefit his private employer, which is a violation of Sec. 2-11.1 (g) of the County Code. Additionally, as stated above, state law prohibits outside employment that creates a continuing or frequently recurring conflict between one's private interests and the performance of one's public duties. (Fla. Stat. 112.313(7)(a) (2012).)

Note further that an employee's supervisor or department director has complete discretion to grant or deny permission to the employee to engage in outside employment. If the employee is granted permission to engage in outside employment, he must file an outside employment statement each year with the Elections Department disclosing the income earned from outside employment.

Please feel free to contact me if you have further questions about outside employment. Additionally, the Ethics Commission would be happy to provide your staff with general ethics training or specific training on outside employment at your convenience.

Sincerely,

VICTORIA FRIGO, STAFF ATTORNEY

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From: Jablonowski, Steve (MDPR)
Sent: Thursday, December 06, 2012 1:03 PM
To: Ethics (COE)
Subject: Requesting Opinion

Greetings:

The Context

The County Parks, Recreation, and Open Spaces Department operate six golf courses located regionally throughout Miami-Dade County. Employees perform a variety of functions at each golf course including collection of fees, selling of merchandise, booking tournaments and special events, making tee-time reservations, maintaining equipment, cutting grass, applying fertilizer and chemicals, and the supervision of all personnel delivering these services. The facilities are open seven days a week from sunrise to past sunset.

All Restaurant functions are contracted out to private companies through the RFP process. All Golf Instruction is contracted out to private companies through the "RFP" process. The "Permit to Conduct Business" vehicle has been used on occasion while the RFP's are in development stage.

A new organizational structure of the Golf Enterprise was initiated in FY12/13. Staffing includes Members and Apprentices of the Golf Course Superintendents Association of America and the Professional Golfers Association of America.

The Question Requiring Opinion

Can an employee of the Golf Enterprise work Part Time for a company that does business with the Golf Enterprise? Specifically:

- 1) Can a county-employed golf professional provide part-time work for the contractor that provides golf instruction and provide golf lessons on his/her time? (The employee has no authority for contract renewal, supervision, or evaluation of the contract or contractor. Time spent with contractor would be outside the employee's scheduled hours)
- 2) Can a county-employed Part-Time PSA (Parks Service Aid) work for the contractor who provides restaurant services in a capacity for banquet servers, security, or set up for special events on a Part Time basis? (The employee has no authority for contract renewal, supervision, or evaluation of the contract or contractor and would provide this work outside their normal work schedule)

I would add that these circumstances do not exist presently nor has an employee inquired. I do, however, see more connection and "team" proficiency with all of our stakeholders in the new Golf Enterprise and want to be clear when these questions require consistency in response.

If additional information is required, please contact me directly via email or at the contact numbers below.

Kindest Regards,

Steve Jablonowski

Manager, Golf Operations

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