

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Thursday, April 05, 2012 5:10 PM
To: Kim, Inson (Office of the Mayor)
Cc: Centorino, Joseph (COE)
Subject: MDCPS contracting with County (INQ 12-63)

The Mayor has asked if he has any ethics conflicts related to the Miami-Dade County Public Schools (MDCPS) based on the employment of his wife, Lourdes Gimenez, at the MDCPS. It is our understanding that Mrs. Gimenez has no connection to the Head Start or Early Head Start programs that might receive funding through County grants or to any other contracts currently in effect between the MDCPS and the County.

Overall, Mrs. Gimenez's employment with the MDCPS does not prohibit the MDCPS from contracting with the County. The Mayor may participate in actions affecting MDCPS without violating the County Ethics Code. However, if the Mayor were required to take official actions specifically involving his wife's school programs, he may wish to avoid possible appearances of impropriety by delegating this authority regarding such specific actions to another County employee.

The legal basis for our opinion is as follows:

Re: Transactions with the County

Sections 2-11.1(c) and (d) of the County Code prohibit the Mayor from transacting business with the County if he or an immediate family member owns a controlling financial interest in the entity contracting with the County. Because it is not possible to own a financial interest in a public entity such as MDCPS, Mrs. Gimenez's employment does not bar transactions between the County and MDCPS.

Re: Official Actions Affecting Personal Financial Interests

Sec. 2-11.1(n) prohibits the Mayor from participating in any official actions directly or indirectly affecting a *business* in which he or his immediate family has a financial interest. Again, because it is not possible to own a financial interest in a public entity such as MDCPS, neither the Mayor nor Mrs. Gimenez has financial interests in the MDCPS. Sec. 2-11.1 (n) of the Code defines a financial interest as "something in the nature of an *investment*."

Re: Exploitation of Official Position

Section 2-11.1 (g) prohibits the Mayor from using his official position to secure special privileges or exemptions for himself or others, except as permitted by law.

If the Mayor were to take an official action that specifically benefitted a program associated with his spouse, the action could be perceived as a form of exploitation. In order to avoid an appearance of exploitation, the Mayor may wish to delegate authority relating specifically to Mrs. Gimenez's school programs to another County employee.

Finally, the County Ethics Code represents a minimal standard of conduct for those in government service. Public officials should carefully consider the totality of the circumstances before taking any official action that could possibly erode the public's trust.

Please feel free to contact our office if we can be of further assistance.

Sincerely,

VICTORIA FRIGO, STAFF ATTORNEY

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From: Kim, Inson (Office of the Mayor)
Sent: Wednesday, April 04, 2012 3:54 PM
To: Centorino, Joseph (COE)
Subject: Inquiry

As a follow-up to our conversation this afternoon, Mayor Gimenez's wife, Lourdes Gimenez, works for Miami-Dade County Public Schools (MDCPS). She is the Personnel/Technology Operations Administrative Director (Coral Gables Feeder Pattern & Miami Coral Park Feeder Pattern) at the South Central Regional Center. Miami-Dade County currently has contracts with Miami-Dade County Public Schools and MDCPS may submit proposals to County solicitations. For example, MDCPS has submitted a proposal for a current solicitation for Head Start/Early Head Start providers. However, Mrs. Gimenez is not involved in these programs for MDCPS. We would appreciate your guidance as to whether the Mayor needs to recuse himself from these solicitations.

If you need any additional information, please do not hesitate to call me.
Thank you very much

Inson Kim
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