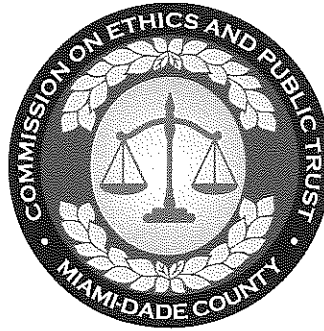


COMMISSIONERS

Judge Lawrence Schwartz, CHAIRMAN
H. Jeffrey Cutler, Esq., VICE CHAIR
Nelson Bellido, Esq.
Dr. Judith Bernier
Marcia Narine, Esq.



EXECUTIVE STAFF

Joseph M. Centorino
EXECUTIVE DIRECTOR
GENERAL COUNSEL
Michael P. Murawski
ADVOCATE

January 22, 2018

Ms. Virginia Diaz
Compliance Officer, Animal Services Department
3599 NW 79th Avenue
Doral, FL 33122

Re: **RQO 18-01** Virginia Diaz/ Exploitation of Official Position/ Miami -Dade County Code
at Section 2-11.1(g), *Exploitation of Official Position*

Dear Ms. Diaz:

At a public meeting on January 17, 2018, the Miami-Dade Commission on Ethics & Public Trust (COE) opined that employees of Miami-Dade County's Animal Services Department (ASD) and their immediate families may not participate in the Pet Retention Veterinary Care Referral Program (the Program). The ASD employees' relationships within ASD and their familiarity with the Program create an unfair advantage to the employees which may result in an exploitation of official position for the following reasons: ASD employees work in the same department which oversees and administers the Program; the Program is not advertised to the general public, resulting in the ASD employees being in a better position than other County employees and the general public to avail themselves of free veterinary care; there are no eligibility or qualification criteria for referral to the Program; referral to the Program is at the sole discretion of ASD personnel; and, ASD employees possess institutional knowledge of the Program and access to some Program information not available to other County employees or the general public.

The Ethics Commission, while acknowledging the good intentions behind the Program, concluded that the above factors create a conflict that precludes the participation of ASD employees in the Program. It is inherently improper for a County employee to have any personal financial interest in any request or application to a program from his or her County department, either personally or through an immediate family member.

Additionally, it was determined that ASD personnel who, at their sole discretion, determine eligibility into the Program, must avoid a situation that could be perceived as giving preferential treatment to other County employees, especially employees within their own County department. Furthermore, in order to avoid a violation of Section 2-11.1(c)(2) of the County Ethics Code, ASD personnel tasked with the administration of the Program are prohibited from participating in the Program.

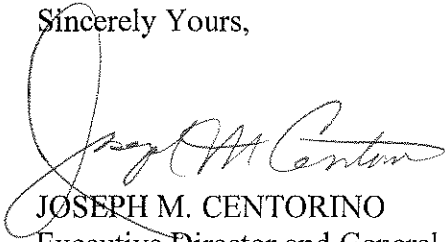
The Ethics Commission dismissed the proposed alternative to allow ASD employees to participate in the Program and subsequently reimburse the County for the discounted veterinary service obtained. There is a general prohibition against the solicitation or demand of a gift by a County employee unless such gift is solicited in the employee's official capacity on behalf of the County for official business. *See* Section 2-11.1(e)(2), (3). Additionally, such an arrangement creates a creditor-debtor relationship between the County and the employee which is prohibited under Section 2-11.1(c)(2) of the County Ethics Code.

Lastly, the Ethics Commission concluded that other non-ASD County employees and their immediate family members may participate in the Program as long as they do not use their official position to obtain the special benefit of free veterinary care for themselves or others and are not the recipients of a special favor from a fellow County employee working in ASD.

The Ethics Commission agrees with the Commission staff's observation that implementation of eligibility criteria for participation in the Program could place all pet owners facing surrender of their pets due to unmet veterinary care in a more equitable and similarly-situated position lessening the potential for exploitation.

If you have any questions regarding this opinion, please contact the undersigned or Staff Attorney Martha D. Perez at (305) 579-2594.

Sincerely Yours,



JOSEPH M. CENTORINO
Executive Director and General Counsel

Cc: Lorna Mejia, Chief Shelter Services, ASD
Michael Leiva, Program Manager, ASD