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## Frivolous files? Get ready to pay, ethics board says

Judith Bernier talks about change coming to the ordinance language

Nyamekye Daniel May 15, 2019 Updated 13 hrs ago



Judith Bernier is being sworn in for her second term on the Miami-Dade Commission on Ethics and Public Trust in June 2018.

Filing frivolous complaints with the county ethics commission against opponents and frenemies will bear a cost soon. Miami-Dade Commission on Ethics and Public Trust has taken one of its rules that seemed more of a threat and making it a standard.

It is reviewing and updating the language of its frivolous and groundless complaint ordinance to make fees mandatory – not discretionary.

The Miami-Dade Commission on Ethics is trying to pre-empt what is usually a flurry of ethics complaints and inquires during election season, said Judith Bernier, the lone Black woman on the Miami-Dade Commission on Ethics board.



“During elections time, we tend to get a lot more cases,” said Bernier. “Even if the complaints turn out to be untrue, with the internet, they stay there forever.”

The Commission on Ethics and Public Trust has taken steps that it believes will limit the number of groundless complaints it receives. The Ethics Commission announced this month that it would be modifying the frivolous and groundless complaint ordinance’s language so that anyone who files a frivolous complaint will be responsible for paying the Commission’s attorneys’ fees and or that of the alleged offender.

“We don’t want to stop people from filing complaints, but we just don’t want people to file false claims,” said Bernier. “Investigations take time and money. Investigators could be running around chasing nothing.”

A frivolous or groundless complaint is one that doesn’t violate any law or code and has been deemed not factual, according to the Commission on Ethics and Public Trust’s definition.

The board voted in favor of imposing the penalty on April 10, but they have yet to cite a new complaint as “frivolous,” said Ethics Commission spokesperson, Rhonda Sibilia.

Bernier said the commission has been looking into removing some of the complaints that seem groundless from the entity's website.

Bernier gave *The Miami Times* insight on the board's decision-making process, common concerns brought to it, the Commission's role and diversity.

The five-member board meets every second Wednesday to review and vote on complaints. Three members must always be present to make a decision. The complaints are reviewed by investigators before they are sent to the Commission for a final decision.

Each meeting also has a public forum where Miami-Dade County residents or employees can voice their concerns about ethical issues. Complaints and inquiries can be made through the board's website.

Bernier said the board's role is not just to serve as judge and jury over the complaints, but its main priority is keeping the public informed of their rights. The board also offers training to officials, candidates, vendors, professional organizations and civil groups. It is there to help offer guidance to Miami-Dade County municipalities in their decision making.

The most common inquiry, Bernie said, the board receives is questions on conflicts of interest. Most of the inquiries are workplace-related such as nepotism and marriage or in vendor or lobbyists relationships.

"It is an information streaming entity," said Bernier. "It helps train and teach the public about their civil life."

The Commission also offers support to county and its municipalities.

On May 8, the board announced that it will be backing the County Commission in its May 7 decision to mandate all municipalities in the County to enact whistleblower protection ordinances for employees by October 1, 2020.

Florida's Whistleblower Act makes it illegal for public and private sector employees to be terminated or retaliated against by their employers for reporting illegal or unethical acts.

The board and the Inspector General will help cities in the development of the mandatory policies.

The Ethics Commission does not see many whistleblower complaints, according to Bernier. Still, some Opa-locka employees have sought protection.

Last year, former Opa-locka Finance Director Charmaine Parchment and then-fired City Manager Newall Daughtrey made headlines after Parchment successfully sued the city and Daughtrey followed. Both alleged that they were fired for reporting corruption.

Since her almost five-year tenor on the board, Bernier has reviewed a handful of whistleblower complaints. The board tries to look at the complaints from all perspectives she said: “The whistleblower and the person they are blowing the whistle on, to make sure claims are valid.”

Bernier was appointed to the position in 2014 as the director of the Center for Labor Research and Studies at Florida International University. Based on the bylaws, the director of the research center is one of the appointed members of the Ethics Commission’s board. Bernier is the only non-attorney on the board. Six Black members have served before her, five of them women. UM law professor, Jan Jacobowitz, joins Bernier as the only two women currently on the board.

Bernier, who teaches two diversity courses at FIU, said diversity in all areas is important. Whether it be race, class, gender, common areas of interest, professional level, age or seniority, people should be able to see themselves in every decision-making process.

“I bring a different perspective than the lawyers,” said Bernier.

Prior to being an academic, Bernier worked as a human resources professional. Her expertise in that field goes hand in hand with conflict-of-interests and employees-work matters.

“None of the issues are really far-fetched,” she said, and she likes learning about the elements of the law that are required.

“The ethics board is a good representative of Dade County,” said Bernier.



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