



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Brandon Davis Community Education Specialist
Miami-Dade County Police Department

Mavis Cole, Community Education Specialist, Lead Worker
Miami-Dade County Police Department

FROM: Loressa Felix, Staff Attorney
Miami-Dade County Commission on Ethics and Public Trust

SUBJECT: INQ 2023-112, Section 2-11 (j), Conflicting Employment Prohibited

DATE: August 29, 2023

CC: COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding possible conflicts of interest arising from the operation of your anticipated private business and your County employment.

Facts

You are currently employed with Miami-Dade County working as a Community Education Specialist in the Miami-Dade Police Department (MDPD). You are proposing to start a new, for-profit business venture utilizing your knowledge and special certification as a car seat installation specialist.

Your job duties with the County involve teaching a variety of safety topics to school-aged children at many of Miami-Dade County’s public and charter schools, as well as daycares and senior facilities. Topics covered include bullying, internet safety, substance abuse, and car seat safety. You are responsible for checking and installing car seats at community events, as well as documenting, collecting, and organizing car seat check documents on a weekly basis. The County provides car seat checks and installations to the public free of charge. The program also provides

a limited number of car seats to those who qualify.¹ These car seat checks, installations, and giveaways are provided by the County on Wednesdays in Doral by appointment only.

Your proposed business venture would consist of you working with clients to ensure their car seats are installed properly, collecting invoices for the business, contacting potential clients, ordering products, teaching classes, and overall management of the company. You aim to install car seats for patrons and offer training on how to input the car seats and how to remove them. You also anticipate adding a cleaning and detailing component to your business at some point. You plan to provide car seat safety services in the counties of Monroe, Broward, and Miami-Dade. You will have full oversight and handle all responsibilities pertaining to your proposed business. You do not have any intention to contract with Miami-Dade County at this time. Your business will, however, be providing services for a similar clientele in your potential outside employment as you do in your duties with the County. This is because both jobs would include car seat checks and installations for parents of young children or expecting parents. You provide that you will not solicit any business from the individuals you meet while conducting your County duties.

You also indicate that your proposed business venture will require use of the same or similar resources you use in your County job. These resources include using products such as shelf liner and pool noodles in order to properly fit car seats into motor vehicles. Additionally, you advise that your County position gives you access to a binder with names and contact information of individuals your unit has provided car seat checks for in the past. This information is not public knowledge and you stated that you will not use this binder to solicit business for yourself. You also provide that you do community outreach events for the County but advise that you will not use your County position to recruit vendors for your proposed business. Lastly, you advise that since you will be utilizing the National Child Passenger Safety Certification used in your public duties in your private business venture, you will pay to maintain this license in future.

Issue

Whether there are any prohibited conflicts of interest related to your public employment as a Community Education Specialist with the MDPD and your anticipated private company that aims to provide car seat checks and installment services to private parties.

Discussion and Opinion

Miami-Dade County employees are required to obtain approval from their department directors prior to engaging in outside employment. *See* County's Administrative Order 7- 1. Directors may request an opinion from the Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28. Work conducted for your proposed for-profit business venture would constitute outside employment. Outside employment is generally defined as "any non-County employment or business relationship in which the County employee provides a personal service to the non-County employer that is compensated or customarily compensated." RQO 17-03; *see also* INQ 20-20. "County employees are considered to be engaging in outside

¹ *See* https://www.miamidadade.gov/global/service.page?Mduid_service=ser1547672619408923

employment when they are running a business whether incorporated or not and regardless of whether it is generating any income” RQO 16-01.

Sections 2-11.1(j) and (k) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (County Ethics Code) prohibit County employees from engaging in outside employment which would impair the County employee’s independence of judgment in the performance of his/her official duties thereby creating a conflict between the employee’s public duties and private interests. Under no circumstances shall a County employee accept outside employment . . . where a **real or apparent conflict** of interest with one’s official or public duties is possible.” A.O 7-1 (emphasis added). The Ethics Commission has found that outside employment conflicts with government employment when the two pursuits overlap or are closely related. *See* County Ethics Code § 2-11.1(j); RQO 12-11. The County’s Administrative Order 7-1 reiterates the general principle that County employees must conduct the public’s business without even an appearance of conflicting loyalties.

In determining whether your prospective business venture is consistent with the limitations imposed by the County Ethics Code, the Ethics Commission considers whether there is similarity or overlap in your duties as a Community Education Specialist for MDPD, where you will teach proper car seat safety and car seat installation, and your duties in your private for-profit venture, where you will also teach proper car seat safety and car seat installation.

In INQ 11-25, the Ethics Commission found the existence of a prohibited conflict of interest to the extent that the Safety and Professional Development trainer for the Miami-Dade County Water and Sewer Department (WASD) sought to teach the same courses and/or material that she taught as part of her County duties.²

In this instance, you would be teaching the exact same material in your public role as you would for your private business. The purpose of your proposed business venture is nearly identical to the core duties of your County position, as they both involve car seat installation and community outreach to procure potential clients. The instructional information provided by your private business would be so similar that it arguably would compete with the services provided by the County. Your proposed business will also be geared toward assisting a similar client base to the one you currently serve in your County role as a Community Education Specialist. Therefore, due to the overlap in your duties for both positions, the services provided by your private business would constitute conflicting employment in Miami-Dade County. However, that does not preclude you from conducting your private business outside Miami-Dade County, provided that you a) do not use County resources to teach courses offered by your business, (b) do not use the training material developed by the County to teach the courses, and (c) independently create your own course materials.

² However, teaching courses offered by WASD, but taught by other training instructors and unrelated to the employee’s training responsibilities for the County, did not present a prohibited conflict of interest, provided that the employee does not: a) use County resources to teach courses outside the County, (b) does not use the training material developed by the County to teach the courses, and (c) independently creates her own course materials. *See* INQ 11-25.

This opinion is limited to the facts as you presented them to the Ethics Commission and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.