



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Marissa Bezjian, Veterinarian  
Miami-Dade County Department of Parks Recreation and Open Spaces

**FROM:** Susannah Nesmith, Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 2022-117, Section 2-11.1(k), Prohibition on outside employment.

**DATE:** September 6, 2023

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible ethics issues arising from your potential service on the board of a nonprofit organization.

#### Facts

You are employed as a veterinarian at Zoo Miami by the Miami-Dade County Department of Parks Recreation and Open Spaces (“PROS”). Your primary job duties involve scheduling exams for Zoo residents, treating emergency cases, managing outgoing shipments of animals to other institutions, treating sea turtle rehabilitation cases and participating in institutional management.

You advised that veterinarians at the Zoo sometimes serve advisory roles at other institutions. You mentioned specifically that you might volunteer as a member of the board of Pelican Harbor Seabird Station (“Pelican Harbor”), a local nonprofit that rescues wildlife. Pelican Harbor does not have any contracts with the Zoo, though it does sometimes send rescued animals to the Zoo when the animal in question cannot be released to the wild.

You advise that you would do this volunteer work outside of your work hours and would not use County resources or facilities.

#### Issue

Whether the County Ethics Code requires that you annually report as outside employment your work on volunteer advisory boards.

## Analysis

The County Ethics Code provides that, “[a]ll full-time County and municipal employees engaged in any outside employment . . . shall file, under oath, an annual report indicating the source of the outside employment . . .” County Ethics Code § 2-11.1(k)(2). Outside employment is considered “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. Generally, uncompensated work for a traditional nonprofit entity is not considered outside employment. *Id.* However, a County employee who has “significant managerial responsibilities or working time commitments” with a nonprofit entity could be considered to be engaging in outside employment. *Id.*

The Commission on Ethics has opined that County employees who establish a nonprofit and serve as its Executive Director, President, or Manager, whether compensated or not, are engaged in outside employment. *See* RQO 17-03; For example, a County Commissioner’s legislative aide could serve as the volunteer director of a nonprofit because his work with the non-profit did not impair his independence of judgment in his County role, but he did have to request and receive outside employment permission because his role was one that was typically compensated. INQ 21-25. *See also* INQ 17-107 (a County employee who founded a nonprofit for victims of domestic violence and spent in excess of twenty hours per week administering the day-to-day functioning of the nonprofit was engaged in outside employment); and INQ 13-08 (a County employee who served as the executive director of an after-school tutoring nonprofit organization was engaged in outside employment because the type of services that he provided are “*customarily eligible to be compensated.*” [emphasis in original]).

However, in contrast to these opinions, we concluded that the services provided as treasurer of the Wish Foundation Inc. by a County employee did not constitute outside employment because she was not involved in directing the day-to-day operations of the non-profit, did not devote significant time working on behalf of the non-profit and was not compensated by the non-profit. *See* INQ 22-44. Similarly, a County employee serving as treasurer for the Board of Directors of the Greater Miami Service Corps (“GMSC”) was not engaged in outside employment because he was not actively involved in the administration of GMSC. *See* INQ 21-100.

Here, based on the facts presented and discussed above, it does not appear that your service as a volunteer advisory board member at Pelican Harbor constitutes outside employment because: (a) you did not found Pelican Harbor; (b) you would serve as a voluntary board member of Pelican Harbor, not its Executive Director or President; (c) you would not be responsible for Pelican Harbor’s day-to-day functioning or activities; (d) you would not receive any form of compensation for your service to the organization; and, (e) you would not have significant time commitments as part of your service on Pelican Harbor’s board. *See* RQO 17-03; INQ 22-44; INQ 21-100.

## Opinion

Based on the facts presented here and discussed above, you are not engaged in outside employment, as that term is used in the County Ethics Code, by serving as a voluntary board

member at Pelican Harbor, and you do not have to annually report your activities as outside employment as required by Section 2-11.1(k)(2) of the County Ethics Code.<sup>1</sup>

Nevertheless, several sections of the County Ethics Code are worth review:

- You may not appear before any County board or agency to make a presentation on behalf of or seek any benefit for Pelican Harbor. *See* County Ethics Code § 2-11.1(m)(1).
- You may not exploit your County position to secure special privileges or exemptions for yourself and/or Pelican Harbor. *See* County Ethics Code § 2-11.1(g).
- You may not disclose and/or use any confidential and/or proprietary information acquired because of your County employment to derive a personal benefit, or for the benefit of Pelican Harbor. *See* County Ethics Code § 2-11.1(h).

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts may apply based on directives from PROS, Zoo Miami or under state law. Questions regarding possible conflicts based on PROS or Zoo Miami directives should be directed to PROS, Zoo Miami or the Mayor's Office. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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.