



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Brandy Ramirez, Executive Secretary, Miami Dade County Public Housing and Community Development Department

FROM: Etta Akoni, Staff Attorney
Miami Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2023-63 Section 2-11.1(g), County Ethics Code, Exploitation of Official Position, Candidacy for Public Office

DATE: May 30, 2023

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust (“Commission on Ethics”) and requesting our guidance regarding potential conflicts of interest relating to your County employment and candidacy for public office.

Facts:

You are an Executive Secretary in the Public Housing Division of the Miami Dade County Public Housing and Community Development Department. (Hereinafter referred to as “PHCD”). Your job responsibilities include answering telephone calls, maintaining the calendar for the Public Housing Division Director, scheduling hotels stays for families who receive assistance from PHCD during emergencies, processing internal documentation, assisting residents with concerns and complaints resolve issues related to their housing unit provided by PHCD, and provide coverage for the PHCD Director’s Secretary. You have informed the staff of the Miami-Dade County Commission on Ethics and Public Trust, for the purpose of obtaining this opinion, that you intend to run for the office of District 6 Councilperson for the City of Homestead, Florida in the 2023 election cycle. Once the qualification period for this election starts on August 28, 2023¹, you plan to file the appropriate documents for your candidacy and you plan to actively engage in fundraising and campaigning, to include seeking endorsements of your candidacy.²

¹ The pre-qualification period for the 2023 City of Homestead elections is from August 28, 2023 – September 1, 2023. <https://www.cityofhomestead.com/119/Election-Information>

² Prior to accepting contributions, spending funds, or collecting petition signatures, a candidate must file an “Appointment of Campaign Treasurer and Designation of Campaign Depository” form (Form DS-DE 6) with the with the elections

The 2023 primary election for official positions within the City of Homestead, including the District 6 Councilperson position, will be held on October 3, 2023, and will be followed by a 2023 general election on November 7, 2023. The successful candidate will presumably assume office after November 7, 2023.

You have asked what the parameters for you, an employee of the Miami Dade County Public Housing and Community Development Department, while you campaign and run for the City of Homestead District 6 Councilperson position. You would also like to understand your political rights and any limitations imposed by the County Ethics Code.

Issue:

Whether a conflict of interest exists regarding your County employment as an Executive Secretary in the Public Housing Division of the Miami Dade County Public Housing and Community Development Department and your potential candidacy for City of Homestead Councilperson for District 6. Also, what, if any, limitations upon you are imposed by the County Ethics Code as a candidate for office.

Discussion:

1. Prohibitions on Running for Public Office

The Ethics Commission may consider and opine on the political activities of a County employee. The County Ethics Codes does not prohibit a County employee or appointed official from engaging in political activities outside the workplace or from running for elected office.³ However, there are provisions of local and state law that apply to County employees or appointed officials who are contemplating elected public office.

The Miami-Dade Charter Section 1.05(c) requires a County employee or appointed official who qualifies as a candidate for certain Miami-Dade County elected offices to take a leave of absence from his public position.⁴ This Charter provision does not appear to apply to persons seeking election to municipal office. However, the County Administrative Order 7-2 expands the language of Miami-Dade Charter Section 1.05(c) and applies the leave of absence requirement to employees who are candidates for municipal office.⁵ This agency does not have the authority to interpret that provision, as it is not contained in the County Ethics Code.

qualifying officer. *See* Section 106.021(1), F.S. Thereafter, the candidate must file a “Statement of Candidate” form (DS-DE-84), again, with the qualifying officer. *See* Section 106.023, F.S.

³ *See generally* Section 2-11.1, Miami-Dade Code.

⁴ Section 1.05 (c), Miami-Dade Charter (Any appointed official or employee of Miami Dade County who qualifies as a candidate for election to the office of Miami-Dade County Commissioner, Miami-Dade County Mayor, Miami-Dade County Clerk of Circuit Court, or Miami-Dade County Property Appraiser shall immediately take a leave of absence from his or her county position until the date of the election and shall, if elected, immediately forfeit his or her county position. If the candidate is not elected, he or shall immediately be reinstated to his or her former position.)

⁵ County Administrative Order 7- states: Any employee of Miami-Dade County who qualifies as a candidate for election to any federal, state, or municipal office shall immediately take a leave of absence from his or her County position until the date of the election and shall, if elected, immediately forfeit his or her County position.)

While a County employee is on leave of absence from their County position, he or she remains an employee of the County and is covered by the provisions of the Miami-Dade County Code of Ethics. INQ 16-126 (The Assistant to the Deputy Mayor of Miami Dade county was temporarily appointed to the role of interim Manager of the Village of El Portal and took a leave of absence to fulfil said appointment. While on leave, the county employee must file a declaration of and request approval for outside employment and must adhere to the requirements of the Ethics Code, which may require that he delegate his decision-making authority to another Village employee where an action in said appointment could result in a conflict of interest with his county employment.)

Florida's *resign-to-run* law imposes restrictions on elected or appointed local county officers who have authority to exercise sovereign power who are qualifying for one or more offices, if the terms of office or any part thereof run concurrently with each other.⁶ Again, while this law does not appear to apply to you, this agency does not have the authority to interpret that provision, as it is not contained in the County Ethics Code.

2. Limitations on Use of Official Position

Section 2-11.1(g) of the County Ethics Code, Exploitation of Official Position, prohibits local government employees from using their public positions to secure special privileges or exemptions for themselves or others. *See also* Florida Statutes Section 104.31, entitled "Political activities of state, county, and municipal officers and employees." The Commission on Ethics has clarified this section of the County Ethics Code in previous opinions, and the Commission on Ethics Political Activities memorandum further elaborates⁷, that while County employees are not prohibited from engaging in political activities they must abide by certain limitations. *See* INQ 2023-28 and INQ 2020-91.

Specifically, County employees engaged in political activities must do so during their own time, not during working hours; and they are prohibited from using their County position or the resources of the County, in any way to further a political campaign. Furthermore, they are prohibited from directly or indirectly using their County positions to intimidate or coerce others into supporting either their own candidacy, a chosen candidate, or to make political contributions. *See* RQO 05-06; INQ 18-232; and INQ 17-49. Lastly, As a political candidate in Miami-Dade County, you and your campaign staff are also bound by the Ethical Campaign Practices Ordinance. *See* Section 2-11.1.1, Miami-Dade County Code.

Conclusion:

Applying the plain language of the Ethics Code and the rationale underlying the Ethics Commission's conclusions in the opinions cited herein, there is no conflict of interest that would prohibit you from running for municipal elected office while employed by the County, provided you meet the qualification requirements.

⁶ *See generally* Section 99.012, Florida Statutes

⁷ A copy of the Commission on Ethics Political Activities Memorandum will be provided at the same time and in the same manner as this ethics opinion.

You should exercise caution regarding the limitations placed on County employees engaging in political campaign activities as referenced. Political campaigning should follow the limitations imposed by Florida Statutes, Miami-Dade Conflict of Interest and Code of Ethics Ordinance, and other state laws, local ordinances and County administrative orders. You should also be vigilant that when seeking support, including campaign endorsements or contributions, that you avoid even the appearance that you are using your authority and position to influence County employees. Finally, I defer to your departmental personnel representative (DPR) and/or the County's Human Resources for any requirements on the notification of your candidacy to your supervisors and its implications.

We appreciate your consulting with the Commission in order to avoid a possible prohibited conflict of interest. This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. If the facts associated with your inquiry change, please contact us for additional guidance. While other County ordinances, administrative orders, and state statutes are referenced, including those relating to leave of absence from public position upon qualifying for office, any comment or citation regarding local or state laws is included for informational purposes only. You may wish to consult with the County Attorney's Office regarding interpretation of those sections of the Miami-Dade Code that are not contained in the Ethics Code. Questions relating to restrictions on running for public office may be referred to Attorney General of Florida who may opine regarding the application of Florida's resign-to-run law. Based on directives from state law, other conflicts may apply. 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.