



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Steven Gilbert, Jr., Social Worker 1, Miami-Dade County Community Action and Human Services Department

**FROM:** Nolen Andrew Bunker, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2024-86

**DATE:** May 9, 2024

**CC:** COE Legal Staff; Letah Parrish, Family and Community Services Division Director, Miami-Dade Community Action and Human Services Department; Chamarr West, Self-Help Team Manager, Miami-Dade Community Action and Human Services Department; Sean Gilbert, Lead Site Supervisor, Miami-Dade Community Action and Human Services Department

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) to request our guidance regarding your ability to participate in a program administered by the Miami-Dade Community Action and Human Services Department (“CAHSD”).

#### Facts

You are employed by CAHSD as a Social Worker 1. Your job duties generally include screening incoming clients for services and programs offered by CAHSD. You advised that you are currently specially assigned to work at CAHSD’s Culmer Resource Center doing intake and fielding questions related to the Mortgage Relief Program (“MRP”).<sup>1</sup> Specifically, you advised that you work with applicants to ensure that they have all of the required documents that they need to apply to the MRP and that they meet the income requirements to participate in the program. You then forward the application to the finance

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<sup>1</sup> The MRP provides assistance to homeowners in Miami-Dade County who are experiencing hardship with payment of their mortgage and/or utility bills and provides up to \$3,500.00 to qualified households to pay late mortgage payments, late homeowner association fees, homeowners insurance and/or late utility bills. See *Mortgage Relief Program*, [https://www.miamidade.gov/global/service.page?Mduid\\_service=ser166861447049056](https://www.miamidade.gov/global/service.page?Mduid_service=ser166861447049056) (last visited May 7, 2024).

section, which completes review of the application and notifies you if the applicant is approved, which you, in turn, enter into CAHSD's computer system so that an electronic notice of their approval is generated and sent. You stated that the finance section further advises you when the funds are delivered, and you follow the same procedure to generate a notice to the client of the payment of the funds. You advised that the payments are sent directly to the bank, homeowners' association, home insurance company, or utility provider.

Additionally, your brother, Sean Gilbert, is employed by CAHSD as a Lead Site Supervisor. His job duties primarily involve visiting different daycare and summer camp sites to ensure that they are complying with Head Start program requirements.

You are seeking to participate in the MRP. Your CAHSD job duties, as described above, include administration of the MRP.

### Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance ("County Ethics Code") would prevent you from contracting or otherwise doing business with CAHSD to participate in the Mortgage Relief Program.

### Discussion

Generally, sections 2-11.1 (c) and (d) of the County Ethics Code permit County employees and their immediate family members<sup>2</sup> to transact business with the County, so long as the contract does not interfere with the full and faithful discharge of the County employee's duties, the County employee does not participate in negotiating or awarding the contract, and the County employee's job duties will not require him or her to be involved with enforcing or overseeing the contract. *See, e.g.*, RQO 00-13 (an employee of the Public Health Trust/Jackson Health System could contract with the then-extant Miami-Dade Housing Agency to provide Section 8 housing without giving rise to a prohibited conflict of interest).

However, the County Ethics Code generally prohibits a County employee and his or her immediate family members from transacting business with the County department for which the County employee works. *See* County Ethics Code § 2-11.1(c)(2). Specifically,

except as provided in subsection (c)(6) below, . . . [the limited exclusion from the general prohibition on County employees contracting with the County] shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County, if the employee works in the county department

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<sup>2</sup> The definition of "immediate family" includes siblings. *See* County Ethics Code § 2-11.1(b)(9).

which will enforce, oversee or administer the subject contract.

*Id.*

Nevertheless, section 2-11.1(c)(5)(5) of the County Ethics Code provides that County employees and their immediate family members who are otherwise eligible for assistance through the Miami-Dade Public Housing and Community Development Department should be permitted to seek such assistance, so long as they do not administer the program, except as provided for in the ordinance. Similarly, section 2-11.1(c)(5)(7) of the County Ethics Code provides that County employees and their immediate family members who are otherwise eligible for assistance with costs associated with housing, childcare, utilities, public transit, healthcare, or other basic or essential human or social services through any County department or agency should be permitted to seek such assistance, so long as they do not administer the program, except as provided for in the ordinance.

Section 2-11.1(c)(6) of the County Ethics Code provides that, when a County employee administers a housing or other assistance program to which he or she wishes to apply, then appropriate mitigation measures by the employing County department must be delineated and implemented before said employee can receive the benefit of the program. Employees in this situation may proceed with an application for assistance **only after** the Ethics Commission has found the employing County department’s mitigation plan “sufficient to abate the potential conflict of interest” and said plan must include the removal of the employee “from participation in the administration of the program as regards his or her application.” County Ethics Code § 2-11.1(c)(6).

CAHSD has crafted and implemented a Procedural Memorandum entitled “Serving Employees and Family Members – Section XVI” that establishes specific mitigation measures to abate potential conflicts of interest related to eligible CAHSD staff and their family members applying to participate in a program administered by CAHSD. Specifically, CAHSD’s policy provides that, in addition to complying with all established intake and assessment processes:

2. . . . **A client case file shall be established in every instance that an individual staff person requests services from and/or participation in CAHSD programs.**

. . . .

5. In the event that the services requested require the disbursement of program funds . . . either directly to or on behalf of the individual/staff person, the unit supervisor must arrange a face-to-face staffing with the appropriate division director to staff the case within one (1) working day.

6. The Division Director shall be responsible for reviewing the case to ensure eligibility; compliance with funding

and/or program mandates; and for documenting in the case file his/her review and subsequent approval/disapproval.

(emphasis in original).

*a. Your employment with CAHSD.*

Your employment as a Social Worker 1 with CAHSD normally involves your participation in the administration of the MRP. However, CAHSD had delineated and implemented a conflict of interest mitigation policy to screen you from participation in the administration of your own application for assistance. Furthermore, in discussion with your direct supervisor, Mr. Chamarr West, he advised that the application for the MRP is digital and occurs through an online portal. He further advised that he digitally screens all incoming applications and then assigns them to staff as needed. Thus, he advised that, when you submit your application for the MRP through the online portal, he can lock the application/case file, such that only he and the Division Director, Ms. Letah Parrish, will have access to it. Mr. West then advised that, per CAHSD policy, he will print the application and staff it with Division Director Parrish, who will ultimately make the eligibility determination. Accordingly, in light of CAHSD's policy screening employees from participating in the processing and administration of their own applications for assistance, and Mr. West's explanation of how that policy will be implemented in your specific case, **we find that the mitigation plan is sufficient to abate the potential conflict of interest.** See County Ethics Code § 2-11.1(c)(6).

*b. Your brother, Mr. Sean Gilbert's, employment with CAHSD.*

Your brother, Mr. Sean Gilbert's, employment as a Lead Site Supervisor with CAHSD will not require him to be involved in awarding or approving your participation in the MRP, nor will your brother's employment require him to be involved in the administration of the program. Furthermore, although he works for CAHSD, your participation in the MRP will not interfere with your brother's ability to discharge his County duties fully and faithfully because he does not participate in the administration of the program. Therefore, provided that your brother's current or future job responsibilities with CAHSD, or any other County department that may employ him, do not require his involvement in any aspect of the MRP and your application to participate in the program, you may apply for the MRP. See County Ethics Code § 2-11.1(c)(5)(7).

Opinion

After reviewing the facts presented to us, for the reasons discussed above we conclude that **you, Mr. Steven Gilbert, Jr., may apply and contract or otherwise do business with CAHSD to participate in the Mortgage Relief Program**, provided that both you and CAHSD abide by the conflict mitigation plan adopted by CAHSD and that you are otherwise removed from participation in the administration of the program as to your application.

Additionally, the County Ethics Code prohibits County employees from the exploitation of their official position. This means that neither you nor your brother may use your County

positions to secure special privileges or exemptions with respect to your participation in the MRP or any other County program to which you are applying. *See* County Ethics Code § 2-11.1(g).

This opinion is limited to the facts as you presented them to the Commission on Ethics regarding conflicts under Sections 2-11.1(c) and (d) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. Based on directives from the department that employs you or under state law, other conflicts may apply. If you have additional questions regarding possible conflicts based on your County department directives, contact your department supervisor 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/>.

***You must submit this opinion to the Community Action and Human Services Department for inclusion in your application file. The Commission on Ethics does not submit this memorandum on your behalf.***

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.