



MI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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**MEMORANDUM**

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**TO:** Patricia Hill Kohn  
Contract Certification Specialist 1, Internal Services

**FROM:** Martha D. Perez, Temporary Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 2024-91; Outside Employment §2-11.1(j)

**DATE:** May 17, 2024

**CC:** All COE Legal Staff, Jeanise Cummings Labossiere

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding your requested outside employment with Kelly Education for Miami-Dade County Public Schools (hereinafter “MDCPS”) as a Substitute Teacher.

**Facts:**

You are a Contract Certification Specialist 1 at the County’s Internal Services Department. In general, your responsibility is to process certification applications for small business firms in Miami-Dade County.

Your proposed outside employment is as Substitute Teacher for MDCPS. Your responsibilities would include assuming the duties of a teacher in accordance with school district lesson plans and school rules while empowering students to learn and encourage classroom participation.

You advise that in order to remain active and not lose your Substitute Teacher certification, you are required to serve MDCPS at least one school day every five (5) months. In the event you accept a substitute work assignment, you indicate it would be fulfilled pursuant to approved leave from the County. Finally, your county work does not involve any transactions with Kelly Education and/or MDCPS.

**Issue:**

Whether a prohibited conflict of interest may exist between your County employment as a Contract Certification Specialist for Internal Services and your outside employment with MDCPS as a Substitute Teacher.

**Analysis:**

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 Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28. The County's Administrative Order No. 7-1 gives a county department director the ultimate discretion to deny outside employment if he or she finds that it is contrary, detrimental, or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 12-07; RQO 00-10; INQ 12-49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

The Conflict of Interest and Code of Ethics ordinance (County Ethics Code), addresses outside employment in **§ 2-11.1 (j) - Outside Employment**: "Conflicting employment prohibited. No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties."

This section of the County Ethics Code prohibits 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 in order to prevent the creation of a conflict between the employee's public duties and private interests. 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: "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.*" (Emphasis Added)

Inquiries concerning conflicting outside employment require consideration of a multiple factors. In our review of your request and the facts presented, we found that your specified work responsibilities with MDCPS does not overlap with your work responsibilities for Internal Services.

**Opinion:**

After reviewing the facts you have provided to us and pertinent sections of the County Ethics Code, there does not appear to be a conflict of interest for you as a Contract Certification Specialist for Internal Services to conduct outside employment with MDCPS Kelly Education Substitute Teacher program, as long as you abide by the limitations and conditions addressed herein. However, ultimate approval of outside employment resides with your department supervisors. *See* INQ 14-103 (A County Pollution Control Inspector does not have conflicting employment to work as a substitute

teacher in MDCPS because the school system is separate from the County, and it is unlikely that this type of work would impair his independence of judgment in the performance of his duties in the County position).

Based on past COE opinions, your outside employment with MDCPS must adhere to the following conditions to avoid the creation of a conflict of interest:

- You cannot be authorized to approve or disapprove any agreements between ISD and MDCPS.
- You may not use County time or resources for your outside employment. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- You shall not engage in activities that relate in any way to your outside employment during your scheduled work hours (including phone calls, text messages, e-mails, or other communications) and may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with this outside employment, even after work. *See* County Ethics Code Section 2-11.1(g); AO 5-5, AO 7-1, INQ 05-29, and INQ 15-240.
- You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your county employment to derive a personal benefit, for the benefit of MDCPS. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.
- You will not use your official position to secure special benefits or privileges for MDCPS. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- You must file, under oath, an annual “Outside Employment Statement” with the Miami Dade Elections Department no later than 12 Noon on July 1<sup>st</sup> of each year, including the July 1<sup>st</sup> following the last year the person held such employment. Said statement should include the source of the outside employment, the nature of the work being done pursuant to the same and any amount or types of money or other consideration received by the employee from said outside employment. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.
- You may not represent MDCPS or lobby the County on behalf of MDCPS, or contact anyone employed by a Miami Dade County or on a County board in an attempt to influence a decision about any contract or other services related to MDCPS. Miami-Dade Code 2-11.1(m)(1), RQO 04-173, INQ 19-32.

*Please note that this memorandum does not grant you permission to engage in outside employment. You must obtain permission to engage in outside employment yearly from your department Director.*

This opinion is limited to the facts as you presented them to the Commission on Ethics 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, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 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.