County Employee Ethics Training

Outside Employment, Earnings & Benefits

- Contracting with the County
- Outside Employment
- Financial Disclosure

1. Contracting with the County

CONTRACTING WITH THE COUNTY

- The County Ethics Code sets out limitations for County Employees and their immediate family members in contracting with the County

- Immediate Family Members Sec. 2-11.1(b)(9)

  - Spouse/domestic partner
  - Parents/stepparents
  - Children/stepchildren
  - Doesn't include brothers a

What does it mean?

- Selling products or services to the County through a business owned by a County employee or by an immediate family member of the employee.
- Obtaining any benefit from the County that requires application and contract. (Grants)
- Includes contracting as a Section 8 Landlord or applying for Housing Assistance Programs with the County.

May a County employee or immediate family member contract with the County?

A County employee or immediate family member may contract with the County if:

- required vendor processes are followed
- the contract is not with the employee's department
- neither the employee nor the immediate family member administers or oversees the contract
- the employee does not lobby for the contract
- an Ethics Opinion is obtained in advance
- the employee files an annual Outside Employment Statement if he or she is the contractor

What about Housing Assistance?
Sec.2-11.1(c)(5)(5)

A County employee or his or her immediate family member may apply for housing assistance programs administered by the County if the employee or his or her immediate family member:

- is eligible for the assistance
- the employee or his or her immediate family member does not work in the Division that administers the program for the entire period of time that housing assistance is received
- obtains an opinion from Ethics Commission

Examples of County Housing Programs

Section 8 Programs

Housing Choice Voucher (HCV)
Project-Based Voucher (PBV)
Veterans Affair Supportive Voucher (VASH)
Moderate Rehabilitation
Substantial Rehabilitation
Shelter Plus Care (S+C)

Other Rental (not Section 8 related) and Mortgage Programs

Public Housing Rental
Emergency Relief Rental Assistance program
Tenant-Based Rental Assistance (TBRA-maximum 2years)
Home-ownership Second Mortgages
Home-owner Rehabilitation Program
Home-owner Beautification Program

2. Outside Employment

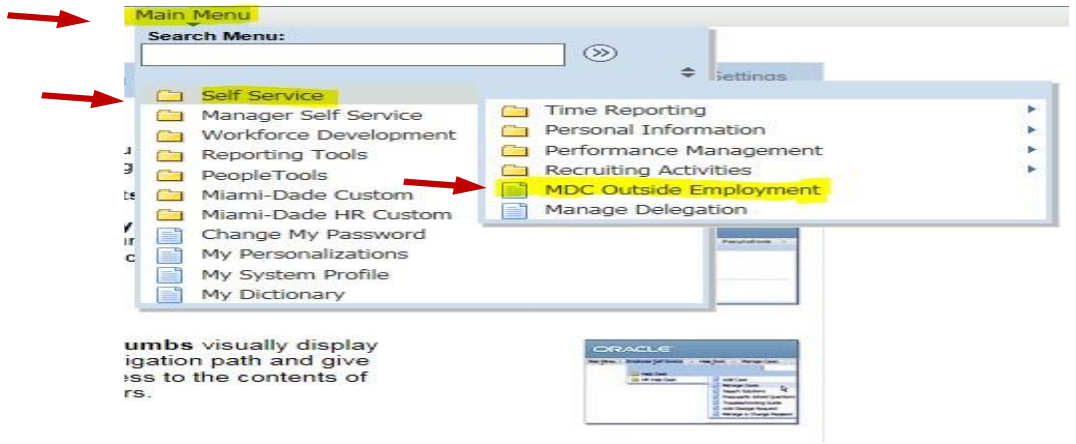
Permission First

- County employees must first obtain permission to engage in outside employment from their department director.

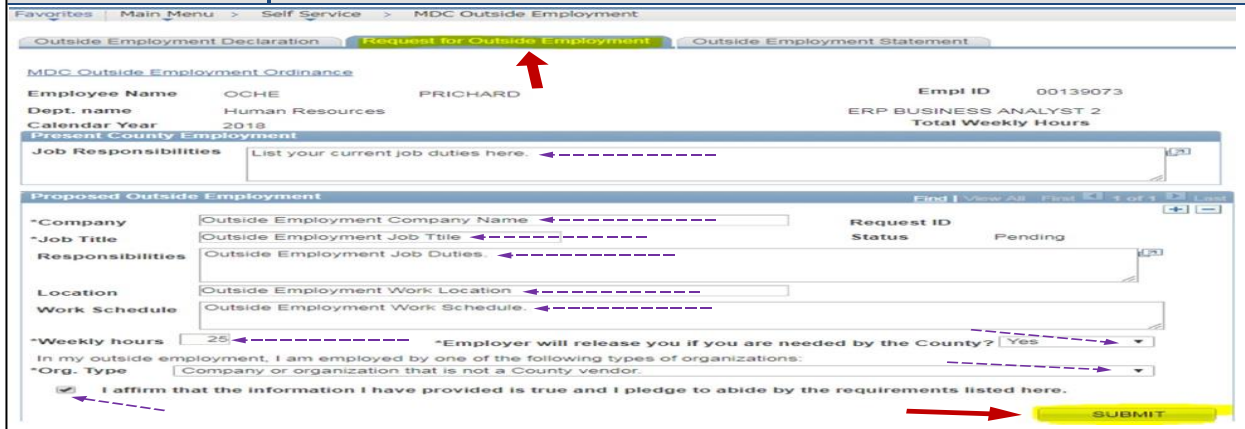
- The Department Director may grant or deny the outside employment request, even if the outside employment request does not otherwise conflict with County employment.

- Employees should contact their department's personnel representative.

Request for Outside Employment Through ePar System

Step	Action
	
1.	Click the **Main Menu** button. Main Menu
2.	Click the **Self Service** menu. Self Service
3.	Click the **MDC Outside Employment** menu. MDC Outside Employment

Description of County Job & Proposed Outside Employment

Step	Action
	
9.	Enter the desired information into the **Job Responsibilities** field.
10.	Enter the desired information into the **Company** field.
11.	Enter the desired information into the **Job Title** field.
12.	Enter the desired information into the **Responsibilities** field.
13.	Enter the desired information into the **Location** field.
14.	Enter the desired information into the **Work Schedule** field.
15.	Enter the desired information into the **Weekly hours** field.
16.	Click the **Employer will release you if you are needed by the County?** Click **Yes** or **No**
17.	Click the **Org. Type** list.
18.	Click the **Company or organization that is not a County vendor.** list item.
19.	Click the **I affirm that the information I have provided is true and I pledge** option.
20.	Click the **SUBMIT** button.
21.	**End of Procedure.**

Ethics Commission
Opinions re: Conflicting Employment

- Section 2-11.1 (j) of the Ethics Code prohibits County employees from engaging in outside employment that would impair his or her "independence of judgment in the performance of his or her public duties" or otherwise constitute conflicting outside employment.

Outside Employment: Types of Activities Considered

Paid Employment

- Working for any person, firm, corporation or entity, including a non-profit entity.
- Working as an independent contractor.
- Working as an agent (for example, insurance agent).

Business Owned by County Employee

- Self-employed.
- Operating a business, whether or not it is incorporated or is making money.

OUTSIDE EMPLOYMENT:
Types of Activities Considered

Internet Sales

- Running a web-based business, regardless of whether the employee generates any income.

Rental Properties

- Ownership of 3 or more rental units, unless a management company is hired to manage the units for the owner.

OUTSIDE EMPLOYMENT:
Types of Activities Considered

Providing services to a business owned by an immediate family member

- Immediate family member: spouse, domestic partner, parents, stepparents, children and stepchildren.
- Helping to run the business, whether paid or unpaid.
- Includes bookkeeping legal services, marketing services, servicing clients, among others.

OUTSIDE EMPLOYMENT:
Types of Activities Considered

Board Membership (For-Profit Corporations)

- Compensated board membership
- Uncompensated board membership if the employee is actively involved in the management of the organization

However…

Board Membership (Non-Profit Corporations)

- Uncompensated service on a non-profit entity's board is not considered outside employment.

Outside Employment: Prohibitions

- No use of County time, resources or equipment.
- No disclosure of confidential information.
- No representing private employer, company, or clients before the County.
- No use of County position to secure special benefits for yourself, your employer, or clients.

Outside Employment: Case Study

Mr. Smith is a County employee who engages in outside employment as an insurance agent. He is paid on a commission basis. He wants to take every opportunity he can to sell insurance policies and earn a commission, so during his workday at the County he speaks with his fellow employees about the policies he sells. He has access in his County position to confidential customer and employee lists. He uses them to sell insurance policies by sending marketing emails to the people on the list.

Outside Employment: Case Study

Does Mr. Smith's outside employment constitute a prohibited conflict of interest?

Yes.

- Mr. Smith is selling insurance during his County work hours, and he is using his County email.

- Mr. Smith is using confidential County customer and employee lists to sell insurance policies for personal profit.

- Mr. Smith's desire to sell insurance policies to County employees and customers places his personal interests in conflict with his County job responsibilities.

Source of Outside Employment Income Statement

- Section 2-11.1(k)(2) of the Ethics Code requires all County employees engaged in any outside employment to file, under oath, an annual report indicating:
  - The source of the outside employment.
  - The nature of the work being done.
  - Any amount or types of money or other consideration received by the employee from the outside employment.
  - Reports shall be filed by noon on July 1st of each year with the Supervisor of Elections.

3. Financial Disclosure and Source of Income Statements

Financial Disclosure State Filers
(Sec. 112.3145, Fla. Stat. State Form 1)
Section 2-11.1 (i), County Ethics Code

Which County Officials File?

- Chief of Police/Fire Chief
- Chief Code Inspector
- County Attorney
- County water resources coordinator
- County administrator with power to grant or deny a land development permit
- Purchasing agent with authority to make any purchase exceeding $20K
- Pension/retirement board members with power to invest

Financial Disclosure
State Filers (State Form 1)

Where?

Miami-Dade Elections Dept.

2700 N.W. 87th Avenue

Miami, FL 33172

or

P.O. Box 521550

Miami, FL 33152-1550

Or Elections Department in the County where the filer resides

When?

Within 30 days of appointment or employment, then annually by July 1st of each year.

Financial Disclosure County Filers
Source of Income Statement

(For those not required to file State Form 1)
Section 2-11.1 (i), County Ethics Code

Which County Officials File?

- Deputy Mayors
- Assistant County Attorneys
- County Departments heads
- Assistant or Deputy Department Heads
- MDPD Major or Captain

Financial Disclosure
County Filers

Where?

Miami-Dade Elections Dept.

2700 N.W. 87th Avenue

Miami, FL 33172

or

email to: financialdisclosures@miamidade.gov

When?

Within 30 days of appointment or employment,
then annually by July 1st of each year.

Thank you for your attention to this section of employee ethics training.

Miami-Dade Commission on Ethics and Public Trust

GIFTS

Miami-Dade County Ethics Code, Section 2-11.1(e)

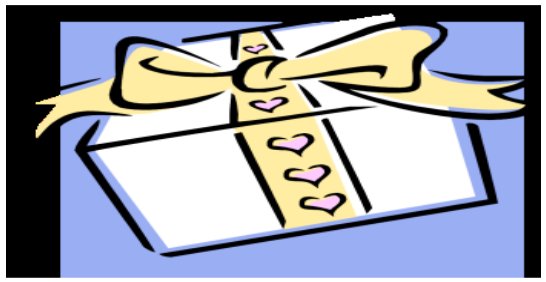
GIFTS: Definition

What is a "gift" under the County Ethics Code?

The transfer of anything of economic value without adequate and lawful consideration.

What forms may a gift take?

Money, service, loan, travel, entertainment and hospitality.



GIFTS: Exceptions

What are the major exceptions?

1) Political contributions

2) Gifts from relatives or household members

3) Professional or civic awards

4) Materials of an informative or advertising nature

GIFTS: Solicitation Exemptions

Gifts solicited by County employees or officials on behalf of the County in performance of their official duties for use solely by the County in conducting its official business.

GIFTS: Solicitation Exemptions

Gifts solicited by elected officials or their staff members on behalf of any nonprofit organization where neither the official nor his or her staff receives any compensation as a result of the solicitation.

GIFTS: Solicitation

When soliciting for charitable or professional organizations, officials should not:

- Target County vendors, contractors or lobbyists;
- Coerce employees or citizens to contribute;
- Solicit during public meetings.

PROHIBITED GIFTS: Acceptance

No elected official or employee may accept any gift for or because of:

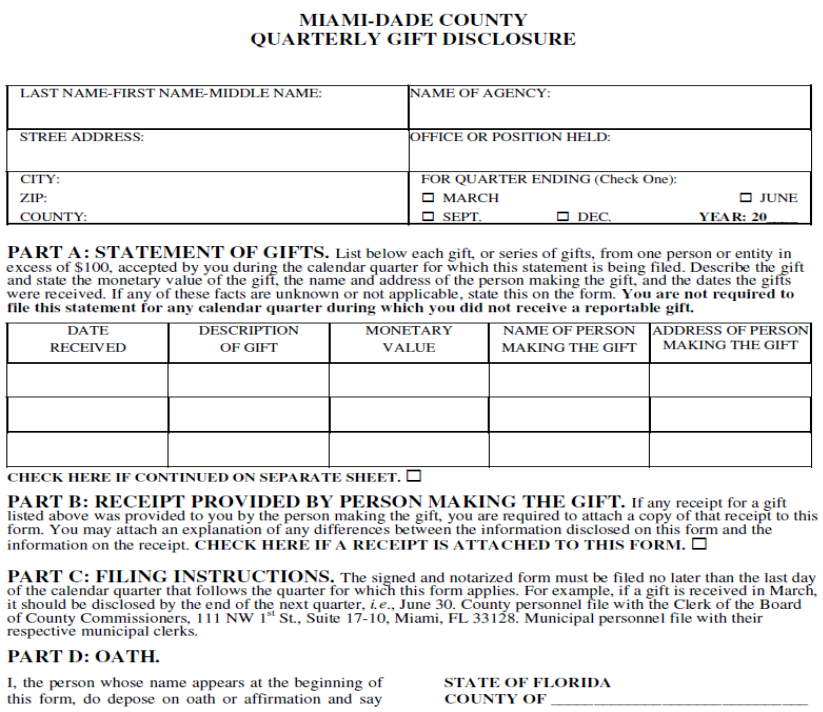
1) official public action;

2) A legal duty performed; or

3) A legal duty violated.

- It is also a violation to offer the gift in exchange for the above.
- If there is a ***quid pro quo*** it may be prosecuted as Bribery, a 2nd Degree Felony Crime.

GIFTS: Disclosure



MIAMI-DADE COUNTY
QUARTERLY GIFT DISCLOSURE

LAST NAME-FIRST NAME-MIDDLE NAME:	NAME OF AGENCY:
STREE ADDRESS:	OFFICE OR POSITION HELD:
CITY: ZIP: COUNTY:	FOR QUARTER ENDING (Check One): ☐ MARCH ☐ JUNE ☐ SEPT. ☐ DEC. YEAR: 20___

PART A: STATEMENT OF GIFTS. List below each gift, or series of gifts, from one person or entity in excess of $100, accepted by you during the calendar quarter for which this statement is being filed. Describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the dates the gifts were received. If any of these facts are unknown or not applicable, state this on the form. **You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.**

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT

CHECK HERE IF CONTINUED ON SEPARATE SHEET. ☐

PART B: RECEIPT PROVIDED BY PERSON MAKING THE GIFT. If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt. **CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM.** ☐

PART C: FILING INSTRUCTIONS. The signed and notarized form must be filed no later than the last day of the calendar quarter that follows the quarter for which this form applies. For example, if a gift is received in March, it should be disclosed by the end of the next quarter, *i.e.*, June 30. County personnel file with the Clerk of the Board of County Commissioners, 111 NW 1st St., Suite 17-10, Miami, FL 33128. Municipal personnel file with their respective municipal clerks.

PART D: OATH.

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say

STATE OF FLORIDA
COUNTY OF _____

County officials and employees are required to disclose any gift or series of gifts from any one person or entity having a value in excess of one hundred dollars ($100).

PROHIBITED TRAVEL EXPENSES: County Vendors

No County official or employee shall accept, directly or indirectly, any travel expenses, including transportation, lodging, meals, registration fees and incidentals from any County contractor, vendor, service provider, bidder or proposer.

PROHIBITED TRAVEL EXPENSES

County Commission may waive the requirements of this subsection by a majority vote.

The provisions of this subsection shall not apply to travel expenses paid by other governmental entities or by organizations of which the County is a member if the travel is related to that membership.

Contact the Ethics Commission

Call: 305-579-2594

Visit: ethics.miamidade.gov

Email: ethics@miamidade.gov

EXPLOITATION OF OFFICIAL POSITION

Miami-Dade County Ethics Code, Section 2-11.1(g)

EXPLOITATION OF OFFICIAL POSITION

County officials and employees may not use their official positions to secure special privileges or exemptions to which they are not entitled.

EXPLOITATION OF OFFICIAL POSITION Examples

- Use of publicly-owned facilities or equipment to operate private business.

- A public employee working on government time to perform home repairs, personal services, or political activities.

EXPLOITATION OF OFFICIAL POSITION Examples

- Demanding an upgrade of airline seat based upon one's position as a public official.

- Sexual harassment of a subordinate public employee.

RECOMMENDING PROFESSIONAL SERVICES

Miami-Dade County Code, Section 2-11.1(p)

RECOMMENDING PROFESSIONAL SERVICES

A County official or employee may not recommend the services of:

- a lawyer or lawyer's firm
- an architect or architectural firm
- a public relations firm, or
- any other firm

to assist in any transaction which involves the County or any of its agencies.

WHEN MAY YOU RECOMMEND PROFESSIONAL SERVICES?

A County official or employee may recommend professional services when:

- it is required by his or her County duties; **and**

- it is done in advance at a public meeting attended by other County officials or employees.

Recommending Professional Services QUESTION 1?

An employee of the County's Regulatory Economic Resources Department's Planning Division has been asked by his neighbor for the name of a lawyer to help him with a historic preservation appeal. May the County employee recommend an attorney to his neighbor?

ANSWER 1:

No!

A County employee may not recommend the services of a lawyer to any person or entity who is appearing before the Board of County Commissioners or a County agency, board or committee.

QUESTION 2:

May a County employee ask another employee if he can recommend the services of a family law attorney to represent her on her divorce?

ANSWER 2:

Yes!

In this instance, the County employee is asking for a personal recommendation which does not pertain to any transaction or business involving the County or any of its agencies.

QUESTION 3:

True or False - A County employee may recommend an architectural firm to his neighbor who will be appearing before the County's Zoning Appeals Board.

ANSWER 3:

False!

A County employee may not recommend the services of an architect or an architectural firm to any person or entity who is appearing before the Board of County Commissioners or a County agency, board or committee.

MODULE 4

- Two-Year Rule
- Reverse Two –Year Rule
- Lobbying
- Cone of Silence

Presenter: Martha Diaz Perez
General Counsel

TWO-YEAR RULE
SEC. 2-11.1(Q)

- no former County elected official, personnel or employee
- employed by the County within the past two years
- may lobby any County officer, departmental personnel or employee
- on any matter in which the County, or its agencies, is a party or has any direct or indirect interest

WHEN DOES THE TWO-YEAR RULE BEGIN?

The two years begin running when the County official or employee has officially separated from County employment.

EXCEPTIONS TO THE TWO-YEAR RULE

A former County official or employee does not have to wait two years before he or she may engage in the following activities with the County :

- Representing a 501(c)(3) non-profit organization
- Representing other government agencies.
- Representing educational institutions.

OTHER EXCEPTIONS TO THE TWO-YEAR RULE

- Performing routine duties, such as submitting administrative requests or applications to a board;
- Performing ministerial duties, such as, obtaining information about procurement procedures;
- Providing management or oversight of existing County projects.
- Meeting with County staff on a matter related to an awarded contract.
- Representing clients at quasi-judicial proceedings.

FORMER COUNTY EMPLOYEE CONTRACTING WITH THE COUNTY

A former County official or employee does not have to wait two years before transacting business with the County or working for County contractors AS LONG AS he or she does not lobby the County.

QUESTION

True or False – A former County employee, who left the County 6 months prior, may meet with County personnel on behalf of his/her new private employer to discuss the purchase of a product.

ANSWER

False – A County employee may not lobby any County official or employee, for 2 years after leaving County employment, in connection with any matter in which the County is a party or has any interest, direct or indirect.

REVERSE TWO-YEAR RULE
2-11.1(X)

- No employee who
- in the 2 years prior to his or her County employment
- was employed by **or** held a controlling financial interest (10%) in a for-profit business entity
- may perform any County "**contract-related duties**" regarding that previous employer
- where the previous employer is <u>presently</u> a County bidder, proposer, service provider, contractor or vendor.

WHAT CONSTITUTES " CONTRACT-RELATED DUTIES" ?

- A County employee may not serve on a County certification, evaluation, selection, technical review or negotiation committee where his or her former employer is the applicant.

- A County employee may not be involved in any approval, recommendation, modification, termination, enforcement, oversight or administration of a contract between the County and his or her former employer.

QUESTION

True or False – A County employee must wait 2 years before performing "contract-related duties" involving his/her former employer.

ANSWER

True – The reverse 2-year rule prohibits a County employee from performing "contract related duties" involving his/her former employee for a period of 2 years.

LOBBYING 2-11.1(S)

Who is a Lobbyist?

Any person, firm or corporation employed, designated or retained by a principal (whether paid or not), or that contracts with a third party to perform lobbying activities on behalf of a principal seeking the passage, defeat or modification of:

- Any action/decision/recommendation of the Mayor/County Commission or any County board or committee, or County personnel
- Any action/decision/recommendation which will foreseeably be heard or reviewed by County personnel

WHO IS NOT A LOBBYIST?

- A public officer, employee or appointee appearing in his or her official capacity as a government representative;
- Attorneys or other representatives solely appearing at quasi-judicial proceedings;
- Expert witnesses at public meetings, who provide only scientific, technical or specialized information;
- Unpaid neighborhood association representatives;
- Unpaid representatives of a non-profit community-based organization only when requesting a grant;
- Any person who appears representing himself or herself;

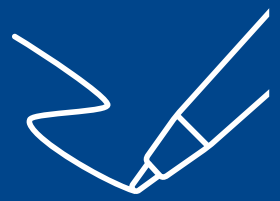
WHO IS NOT A LOBBYIST? (CONT.)

- Persons engaged in specified procurement matters:

- Pre-bid conferences, submitting bid only, responding to question, providing technical experts to explain or demonstrate without advocacy, post-award contract management, market research, piggybacks, emergency purchases.

PROCUREMENT REGISTRATION REQUIREMENTS

Any person who appears only as a technical expert or employed by the principal but not as a lobbyist, during a recorded oral presentation before a County selection committee or recorded negotiation meeting, is not required to register as a lobbyist but must be listed on the Affidavit(s) included in the Procurement Packet.



RESPONSIBILITIES OF COUNTY OFFICIALS AND PERSONNEL: DILIGENCE!

- County Commissioners and County personnel shall be diligent in ascertaining whether a lobbyist is registered with the Clerk of the Board before permitting that individual to lobby him/her about a County issue: Maintain Written Log

- Commissioners and County personnel may not knowingly permit themselves to be lobbied by a person who is not registered.

QUESTION

True or False – A County employee does not have to worry about lobbyists, only an elected official does.

ANSWER

False – A County employee may be lobbied about an action, decision or recommendation he/she will be making, and which may be reviewed by a County board or Committee or in a procurement setting. A County employee has a responsibility to ascertain whether an individual who is going to lobby him/her is registered as a lobbyist.

CONE OF SILENCE
2-11.1(T)

Prohibits communications between and among bidders, proposers, lobbyists and specified County officials, officers and employees during the pendency of a competitive solicitation.

WHEN DOES THE CONE APPLY?

Starts at the time that the Bid is advertised.

Ends when award recommendation is made to the final awarding authority.

PROHIBITED COMMUNICATIONS

Proposer cannot communicate with the Client County Dept./staff, selection committee, Mayor/staff , Commissioners /staff & vice-versa;

Commissioners/staff cannot communicate with Client Dept./staff, selection committee, Proposers & vice-versa;

Client Dept./staff cannot communicate with selection committee, Commissioners/staff and Proposers & vice-versa

EXCEPTIONS: OK TO CHAT!

- County Attorney, Inspector General, Ethics Commission
- Housing grants
- Emergency procurements
- Duly-noticed meetings, presentations, site visits
- Recorded negotiations
- Unsolicited proposals
- Post-recommendation submittals
- Written communications with a copy to the Clerk of the Board **unless** prohibited by the bid.

QUESTION

Yes or No: During a competitive solicitation, may the Selection Committee Coordinator communicate with Ethics Commission staff ?

ANSWER

Yes- Communications with staff from the Ethics Commission are exempt from the restricted communications under the Cone of Silence.

The Selection Committee Coordinator may request guidance from the Ethics Commission on the interpretation of an ordinance in the County Ethics Code and its application to a particular issue in a competitive solicitation.

THANK YOU

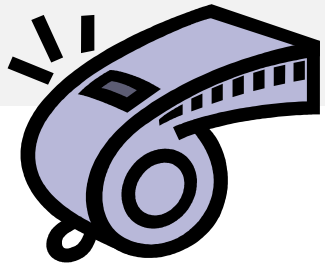
Miami-Dade Commission on Ethics and Public Trust

Module 4

- EMPLOYEE PROTECTION ORDINANCE
- CITIZENS' BILL OF RIGHTS
- ETHICS COMMISSION POWERS AND PENALTIES

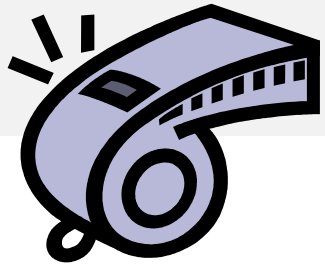
EMPLOYEE PROTECTION OR “WHISTLEBLOWER” ORDINANCE

WHISTLEBLOWER PROTECTION



MIAMI-DADE COUNTY WHISTLEBLOWER ORDINANCE AND FLORIDA STATE LAW PROTECT COUNTY EMPLOYEES FROM ADVERSE PERSONNEL ACTION TAKEN IN RETALIATION FOR REPORTING SPECIFIED MISCONDUCT OR WRONGDOING IN COUNTY GOVERNMENT.

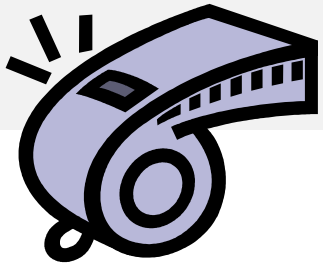
WHISTLEBLOWER PROTECTION



WHY?

To ensure that County employees having knowledge of unlawful activity or serious wrongdoing will report it to the County for investigation without fear of reprisal.

WHISTLEBLOWER PROTECTION



WHO IS A WHISTLEBLOWER?

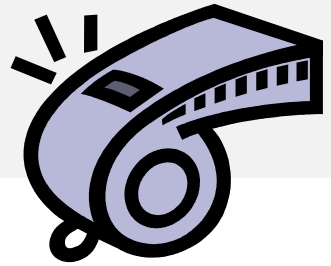
A County Employee who is subjected to adverse personnel action in retaliation for one or more of the following actions:

1) The employee discloses serious wrongful conduct in County government in a signed and written complaint.

2) The employee is requested to participate in any investigation or hearing conducted by a local, state or federal agency with authority to investigate or remedy the violation.

3) The employee refuses to participate in the prohibited adverse personnel action.

WHISTLEBLOWER PROTECTION



WHO IS NOT A WHISTLEBLOWER

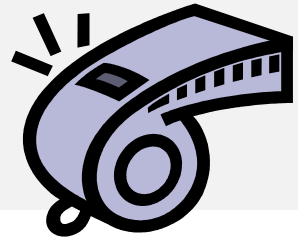
EXCLUSIONS

1) The employee has committed or intentionally participated in the wrongful conduct.

2) The employee has been the subject of an adverse personnel action predicated upon grounds unrelated to the employee's disclosure of wrongful conduct.

3) The employee has disclosed information known by the employee to be false.

WHISTLEBLOWER PROTECTION



WHAT INFORMATION MUST BE DISCLOSED IN THE COMPLAINT?

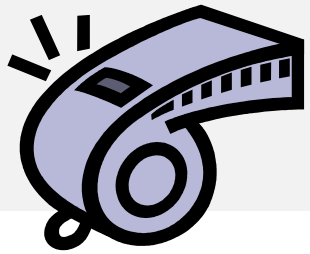
MISCONDUCT by a County employee, agent or contractor that:

1) is a violation or suspected violation of a federal, state or local law, rule or regulation and which creates a substantial and specific danger to the public's health, safety or welfare;

or

2) is an act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds or gross neglect of duty.

WHISTLEBLOWER PROTECTION

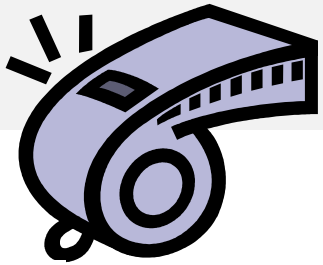


WITH WHOM MUST WRITTEN COMPLAINT BE FILED?

Any Department		The County Mayor or someone designated by the Mayor to receive such information
Any Department		The Miami-Dade Office of Inspector General
Any Department		The Miami-Dade Commission on Ethics

Note: No protection if information is reported anonymously, e.g., over the Ethics Commission or Inspector General's hotlines.

WHISTLEBLOWER PROTECTION



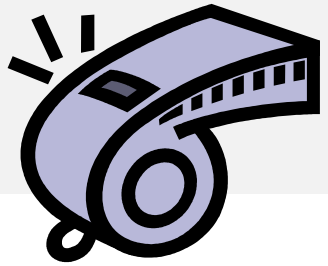
WHAT IS ADVERSE ACTION?

- SUSPENSION
- DEMOTION
- TERMINATION
- TRANSFER
- REDUCTION IN SALARY OR BENEFITS

OTHER ADVERSE ACTION AGAINST AN EMPLOYEE IN RETALIATION FOR DISCLOSING WRONGFUL CONDUCT

NOTE: The adverse personnel action must occur **AFTER** the employee has participated in the protected activity.

WHISTLEBLOWER PROTECTION



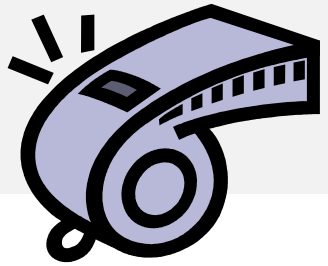
HOW MAY A WHISTLEBLOWER FILE A COMPLAINT TO GET RELIEF FROM ADVERSE PERSONNEL ACTION?

- File a complaint with Human Resources within 60 days of the adverse personnel action;

OR

- File a complaint with the Ethics Commission in lieu of (or in addition to) Human Resources within 60 days of the adverse personnel action.

WHISTLEBLOWER PROTECTION



WHAT RELIEF IS A WHISTLEBLOWER ENTITLED TO IF FOUND TO HAVE BEEN SUBJECTED TO ADVERSE PERSONNEL ACTION IN VIOLATION OF THE LAW?

- Reinstatement to the employee's prior position or an equivalent position, or as alternative relief, award of reasonable front pay.
- Reinstatement of the employee's fringe benefits and seniority rights.
- Compensation for lost wages, or lost benefits caused by the adverse action.

THE MIAMI-DADE COUNTY CITIZENS' BILL OF RIGHTS

CITIZENS' BILL OF RIGHTS

- Contained in Miami-Dade Home Rule Charter adopted May 21, 1957.

- Commission on Ethics and Public Trust is empowered to review, interpret, render advisory opinions, and enforce the Citizens' Bill of Rights.

CITIZENS' BILL OF RIGHTS: BASIC GUARANTEES

- Prompt and convenient service from local government.
- Transparency in public records, budgeting and auditing.
- Proper notice of and opportunity to participate in public meetings.

CITIZENS' BILL OF RIGHTS:
Truth in Government

No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

- Section (A)(2)

ETHICS COMMISSION POWERS AND JURISDICTION

ETHICS COMMISSION POWERS AND JURISDICTION

Miami Dade County Code 2-11.1 (y)

- The Ethics Commission shall be empowered to:

- Review

- Interpret

- Render advisory opinions and Letters of Instruction

- Enforce the Conflict of Interest and Code of Ethics ordinance, Ethical Campaign Practices Ordinance and Citizens' Bill of Rights.

PENALTIES
Miami Dade County Code 2-11.1 (cc)

A finding by the Ethics Commission that a person has violated the Ethics Code may result in:

1) An admonition, letter of instruction, or public reprimand;
2) Investigative costs up to $500 per violation may be assessed; and/or
3) Fines - ($500.00) for the first such violation and one thousand dollars ($1,000.00) for each subsequent violation; and/or

➢ **Fines Double When Intentional**

➢ If the Ethics Commission finds that a person has *intentionally* violated the Code:

- subject to a fine of One Thousand dollars ($1,000.00) for the first offense and Two Thousand dollars ($2,000.00) for each subsequent violation.

➢ **Restitution**

- The Ethics Commission may also order you to pay **restitution.**
- **Restitution -** paying back the value of the benefit wrongly received by the ethics violator or a third party as a result of the violation.
- It is NOT necessary for the Ethics Commission to find that the violation was intentional for them to order the payment of restitution.

PENALTIES (cont.)
Prosecution by State Attorney

- The State Attorney's Office has *concurrent jurisdiction* over the Conflict of Interest and Code of Ethics.
- Every person who is convicted of a criminal misdemeanor violation of the ethics code in State court shall be punished by a fine not to exceed to <u>$500.00 PER VIOLATION</u>
- Or imprisonment in the County Jail for not more than thirty (30) days, or by BOTH such fine and imprisonment!

Miami-Dade Commission on Ethics and Public Trust

MODULE 5

- PUBLIC RECORDS LAW
- THE SUNSHINE LAW

STATE OF FLORIDA
PUBLIC RECORDS LAW
CHAPTER 119, FLORIDA STATUTES

PUBLIC RECORDS LAW:
Policy

All state, county, and municipal records are open for personal inspection and copying by any person.

- Section 119.01(1), Florida Statutes

PUBLIC RECORDS: DEFINED

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or characteristics, made in connection with the transaction of official business.

-Section 119.011(12), Florida Statutes

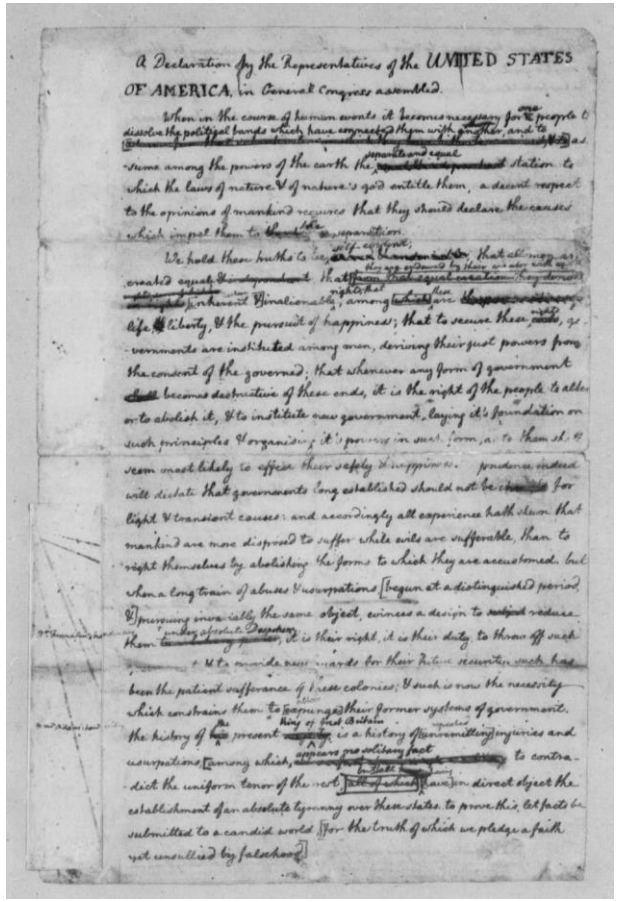
PUBLIC RECORDS LAW:
Custodian

Every person who has custody of a public record shall permit the record to be inspected and copied by anyone, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records, or his or her designee.

-Section 119.07(1)(a)-(b), Florida Statutes

PUBLIC RECORDS LAW:
Special Situations

Notes and Drafts


A Declaration by the Representatives of the UNITED STATES OF AMERICA, in General Congress assembled.

When in the course of human events it becomes necessary for a people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature & of nature's god entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal & independent, that from that equal creation they derive rights inherent & inalienable, among which are the preservation of life & liberty, & the pursuit of happiness; that to secure these ends, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, & to institute a new government, laying it's foundation on such principles & organising it's powers in such form, as to them shall seem most likely to effect their safety & happiness. prudence indeed will dictate that governments long established should not be changed for light & transient causes: and accordingly all experience hath shewn that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. but when a long train of abuses & usurpations [begun at a distinguished period] & pursuing invariably the same object, evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such government, & to provide new guards for their future security. such has been the patient sufferance of these colonies; & such is now the necessity which constrains them to expunge their former systems of government. the history of the present king of Great Britain is a history of unremitting injuries and usurpations, among which, [N] appears no solitary fact to contradict the uniform tenor of the rest, but all have in direct object the establishment of an absolute tyranny over these states. to prove this, let facts be submitted to a candid world. [for the truth of which we pledge a faith yet unsullied by falsehood.]

PUBLIC RECORDS LAW:
Special Situations

Written vs. Oral Requests

PUBLIC RECORDS LAW:
Special Situations

E-Mail/Texting/Social Media

PUBLIC RECORDS LAW:
Special Situations

Transitory Messages

PUBLIC RECORDS LAW:
Special Situations

Retention and Disposal issues are governed by the Florida Department of State, Division of Library and Information Services.

-Section 257.36, Florida Statutes

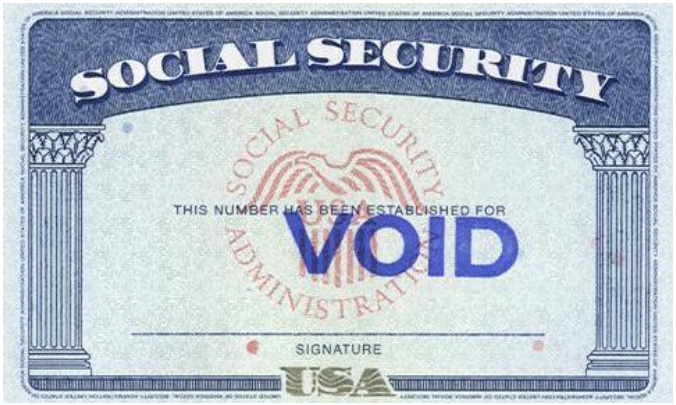
PUBLIC RECORDS LAW:
Exemptions Narrowly Construed

"The public records act is to be construed liberally in favor of openness, and all exemptions from disclosure are to be construed narrowly and limited in their designated purpose."

Lightbourne v. McCollum, 969 So. 2d 326, 332-33 (Fla. 2007) (quotation omitted)

PUBLIC RECORDS LAW:
Categories of Exemptions

- Active criminal investigations
- Medical records
- Student records
- Social Security numbers
- Bank/Credit/Debit account numbers
- Personal information of specified categories of public officials and employees



See generally Chapter 119 & Section 1002.221, Florida Statutes

PUBLIC RECORDS LAW:
Violations & Consequences

Criminal Penalties:

A public officer who "knowingly" violates the Public Records Law is subject to:

- suspension and removal or impeachment;

- conviction of a misdemeanor of the first degree, punishable by up to one year in jail, or $1,000 fine, or both.

PUBLIC RECORDS LAW:
Violations & Consequences

Civil Actions:

- A petitioner who claims to have been denied the right to inspect and/or copy public records is entitled to an immediate hearing.

- Attorney's fees are recoverable by the petitioner who prevails, but not if the records request is intended to harass or cause a violation.

Ethics Violations:

- A County officer/employee found by the Miami-Dade Commission on Ethics to have intentionally violated the Citizens' Bill of Rights' public records provisions can be fined up to $2,000 and assessed costs of investigations.

QUESTION 1:
PUBLIC RECORDS LAW

TRUE or FALSE:

Citizen is seeking public records from County Department. Citizen must fill out the public records request form from County Department before County Department must respond to Citizen's request.

QUESTION 1:
PUBLIC RECORDS LAW

ANSWER: **FALSE**

Nothing in the Public Records Law permits a public entity or agency to withhold a public record because the person requesting the record did not fill out a specific request form drafted by that entity or agency. An oral request for a public record is just as valid and legally enforceable as a written request.

STATE OF FLORIDA
GOVERNMENT-IN-THE-SUNSHINE LAW

Section 286.011, Florida Statutes

THE SUNSHINE LAW
Basic Requirements

- Meetings/boards of state or municipal government or political subdivisions must be open to the public.

- No formal action of public boards shall be binding unless taken at such a meeting.

THE SUNSHINE LAW

Basic Requirements

- Reasonable notice must be provided to the public of all such meetings.
- Minutes of such meetings must be recorded promptly and shall be open to public inspection.
- Two or more members of the board may not privately discuss board business.

THE SUNSHINE LAW:
"Liaison" Communications

- A board member may not intentionally communicate to another board member through a third party.

- The factual circumstances around the communication and the intent of the communicator are considered when determining if a violation occurred.

THE SUNSHINE LAW: Violations

Criminal Penalties: a “knowing” violation of the Sunshine Law is a second-degree misdemeanor and punishable by:

◊ up to 60 days in jail; and/or

◊ a $500 fine.

Non-Criminal Penalties: up to $500 fine.

Suspension from Office: the Governor may suspend from office both County and municipal officials.

QUESTION 2:
THE SUNSHINE LAW

TRUE or FALSE:

While at a Miami Heat game, two members of a public board run into one another. They may very briefly discuss a matter that is set before their board the following day.

QUESTION 2:
THE SUNSHINE LAW

ANSWER: **FALSE**

Any conversation between two or more members of a public board about matters that will foreseeably come before that board must be conducted in public in conformance with the Sunshine Law.