

# MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



## **OUTSIDE EMPLOYMENT GUIDELINES**

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The purpose of these guidelines is to clarify and educate County and Municipal employees regarding what types of activities are considered “outside employment” requiring prior approval and disclosure and to provide guidelines to avoid conflicting outside employment.

### **MIAMI-DADE ETHICS CODE AND OUTSIDE EMPLOYMENT**

Several sections of Miami-Dade Code 2-11.1 (“County Ethics Code”) are applicable to outside employment of local governmental employees. Section 2-11.1(j) of the County Ethics Code prohibits local governmental personnel from engaging in other employment (outside employment) that would create conflicts of interest between employees’ private interests and public responsibilities which would be likely to impair the public employee’s independence of judgement in the performance of their public duties.

Sec. 2-11.1(k)(2) of the County Ethics Code provides that full-time County or Municipal employees must file an Outside Employment Statement by noon, July 1<sup>st</sup> annually disclosing the source of the outside employment; the nature of the work being done; and the amount of money or earned.

Section 2-11.1(g) must also be considered. This Section prohibits County and Municipal employees from using their governmental positions to secure special privileges or exemptions for themselves or others. This means for example, that governmental employees may not use their official positions to secure benefits for their private businesses or outside employers.

### **PERMISSION TO ENGAGE IN OUTSIDE EMPLOYMENT**

#### **County Employees**

Pursuant to Miami Dade Code Section 2-11, a County employee may accept outside employment as long as it is not contrary, detrimental or adverse to the interest of the County and as long as the employee first obtains written approval from the department head of the department where the employee is assigned. [Administrative Order 7-1](#), and [Procedure 403](#), provide that all full-time and part-time Miami-Dade County employees who engage in any outside employment must request permission from their department before engaging in outside employment.

Permission for outside employment must be requested annually, even in cases where the type of outside employment has not changed. This process can be completed online through INFORMS by completing the outside employment declaration. Every County employee will disclose annually on INFORMS whether he or she is engaged in outside employment. Employees that indicate that they are engaged in outside employment will be directed to the outside employment permission process department approval or denial **before** accepting the outside employment. Instructions on the online permission process can be obtained through the County HR department or by contacting the Commission on Ethics.

The County department where the employee works will refer questions regarding possible conflicting employment to the Commission on Ethics. Additional paperwork must be completed if a County employee is engaged in outside employment with a County vendor. Assuming that there is no prohibited conflict of interest, a County employee working for a County vendor must disclose that employment on an [Affidavit](#) and file it with the County Clerk of the Board at [Clerk.Board@miamidade.gov](mailto:Clerk.Board@miamidade.gov).

### **Municipal employees**

Follow **Municipal** ordinances and procedures regarding permission to engage in outside employment.

### **DISCLOSURE OF INCOME EARNED IN OUTSIDE EMPLOYMENT**

After obtaining permission to engage in outside employment, all **full-time County and Municipal employees** who engaged in any outside employment during the preceding year for any person, firm, corporation, or entity other than Miami-Dade County or their respective Municipality **must** file a statement regarding their outside employment **income**. Miami-Dade Code § 2-11.1(k)(2). Full-time County employees file the [Outside Employment Statement](#) with the County Elections Department by July 1st of each year.<sup>1</sup> Full-time Municipal employees must file the [Outside Employment Statement](#) annually with their respective Municipal Clerks. This filing is **in addition** to any other financial disclosure requirements under County ordinances and State law. (See Financial Disclosure Section below).

### **CONFLICTING EMPLOYMENT**

**County** and **Municipal** employees and their supervisors must also be aware of Section 2-11.1(j) of the County Ethics Code, which states that no County or Municipal employee<sup>2</sup>, may “accept other employment which would impair his or her independence of judgment in the performance of his or her duties.” The following factors may be indicative of potential conflicts between an employee’s duties to the public and duties to his/her outside employer:

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<sup>1</sup> For example, an employee who engaged in outside employment during 2016 must file an Outside Employment Statement by July 1st, 2017, disclosing both the source of his or her outside income and the total amount earned.

<sup>2</sup> Miami-Dade Code 2-11.1(b)(6) states that: “The term “employees” shall refer to all other personnel employed by the County.” In RQO 04-48, The County Ethics Commission clarified that the term “employees” as defined under in 2-11.1(b)(6) included “all individuals hired directly by the County or a Municipality on a **part-time or full-time** basis regardless of the terms of compensation”.

- The outside employment is with a governmental vendor that currently transacts business with the employee's department.
- The outside employment is with the employee's privately-owned entity and that entity is seeking to transact business with the governmental entity that employs him or her.
- The outside employment is related to the employee's public position.
- The outside employment consists of work that is similar to work done by the public employee.
- The public employee will come in contact with the same or similar people or entities in both his/her outside employment and in his/her public position, *e.g.*, similar clients, suppliers, or subcontractors.
- The public employee uses the same or similar resources in his/her outside employment as he/she uses in his public position, *e.g.*, similar tools, similar materials, or similar databases.
- At least a portion of the outside employment can only be accomplished during the same business hours in which the employee is required to work for the public.
- The employee works in a public position in which he/she has the opportunity to refer vendors, contractors, bidders, or members of the public to his/her outside employer or related private business entities.
- The public employee works in a public position in which he/she has the opportunity to recruit vendors, contractors, bidders, or members of the public to use his/her outside employment products or services.
- The outside employment requires that the public employee interact with employees or boards of the same government entity in which he/she is employed, even for routine matters.
- The public employee has access through his public position to non-public information that is relevant to his/her outside employment.
- The public employee works in a department that funds or has a contract with his/her outside employer.
- The outside employment is likely to place the public employee in situations in which private economic considerations may override the faithful discharge of his/her public responsibilities.

It is also important for County and Municipal employees to be aware of Section 2-11.1(h), which states that no County or Municipal employee may "accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position...with the County [or Municipality]."

### **FINANCIAL DISCLOSURE**

As indicated above, filing an Outside Employment Statement is separate from financial disclosure under State statutes and County ordinances. Depending on the circumstances, a County or Municipal employee may have to file both an Outside Employment Statement **and** either a County Source of Income Statement or State Form 1. Employees who are required to file a financial disclosure form (County [Source of Income Statement](#) or [State Form 1](#)) should note that their outside employment must also be disclosed on these forms.

## **EXPLOITATION OF OFFICIAL POSITION**

It is important for employees to know that the use of the public's time and/or resources in the performance of outside employment or using their official position to obtain special privileges or exemptions for themselves or their outside employers may constitute an "exploitation of official position" in violation of Section 2-11.1(g) of the County Ethics Code.

## **WHAT CONSTITUTES OUTSIDE EMPLOYMENT**

The list below addresses activities that may be considered outside employment.

### **Paid Employment**

- Compensated employment with any person, firm, corporation or entity (including a non-profit entity) is considered outside employment. (RQO 08-36, RQO 07-24, RQO 98-17 and INQ 12-131, INQ 11-161)
- Serving as an off-duty police officer (whether or not coordinated by the local government entity) is considered outside employment if the officer is paid directly by the third party. (INQ 03-25). If the officer is paid through the police department, it is not considered outside employment. (INQ 03-16)

### **Business Activity**

- Any consulting firm or business owned by the employee regardless of whether the firm/business is officially incorporated or whether the firm/business is generating income for the employee is considered outside employment. (INQ 13-34, 12-131)
- Providing either paid or unpaid services to any firm/business including, but not limited to, those owned by an immediate family member is considered outside employment.
  - Examples of "providing services" include, but are not limited to: bookkeeping, legal services, marketing services, servicing clients, among others.
  - Section 2-11.1(b)(9) of the County Ethics Code defines "Immediate family" as, "spouse, domestic partner, parents, stepparents, children and stepchildren..."
- Running a web-based business is considered outside employment regardless of whether the employee generates any income.

### **Business ownership**

- Being listed as an officer in a spouse's corporation where the employee performs no services for that corporation and receives no income from it is **not** considered outside employment. (INQ 05-37)
- Passive investment in a corporation is not considered outside employment. (RQO 08-36)
- Setting up an S-Corporation to protect personal assets is **not** considered outside employment. (INQ 06-136)

### **Rental Properties**

- Ownership of 3 or more rental units is considered outside employment unless a management company is hired to manage the units for the owner. (RQO 06-48, INQ 07-83)

### **Internet Sales**

- Running a web-based business is considered outside employment regardless of whether the employee generates any income.
- Occasionally selling items on eBay (or other internet sales sites) is not considered outside employment. (INQ 05-19)

### **Board Membership (For-Profit Corporations)**

- Compensated board membership on a for-profit board is considered outside employment.
- Uncompensated board membership on a for-profit board if the employee is actively involved in the management of the for-profit entity is considered outside employment.
- Membership on an inactive board does not require disclosure if the corporation has been inactive for a period of two (2) years and the corporation is listed as inactive in the State's records.

### **Non-Profit Corporations**

- Uncompensated service on a traditional non-profit entity's board is not considered outside employment.
- Unpaid volunteer work for a traditional non-profit corporation (for example, the United Way, American Cancer Association, etc.), is not considered outside employment. (INQ 09-184)
- Paid volunteer work: serving as a volunteer Associate Pastor at a church, which occasionally collects "love offerings" on his/her behalf is considered outside employment. (INQ 05-30)
- Research for a nonprofit organization compensated through a grant: performing research for a non-profit foundation that is compensated through a grant is outside employment. (RQO 17-01)
- Nonprofit entity **established by employee**: employees who establish a nonprofit and serve as the Executive, Director, President or Manager of that nonprofit on a compensated or uncompensated basis and are actively involved in the administration of that entity, are engaged in outside employment. (RQO 17-03)

### **Military Service**

- Active or reserve military service is not considered outside employment. (RQO 14-03).

## **Foster Parenting**

- A County employee who serves as a family foster home provider for a foster child does not engage in outside employment. (RQO 15-01).