



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Jorge Ugan, Traffic Engineer 2  
Miami-Dade Department of Transportation and Public Works

**FROM:** Nardia Haye, Staff Attorney  
Miami-Dade County Commission on Ethics and Public Trust

**SUBJECT:** INQ 2025-30 - Section 2-11.1 (j) Conflicting Employment Prohibited, Section 2-11.1 (k) Prohibition on Outside Employment

**DATE:** April 4, 2025

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest that may occur as a result of your proposed outside employment as an adjunct lecturer for Florida International University (“FIU”).

Facts:

You, Jorge Ugan, are employed by the Miami-Dade Department of Transportation and Public Works (“DTPW”) as a Traffic Engineer 2. In that position, your primary responsibilities include assisting and supervising the planning, designing, installation, and improvement of traffic and transportation highway systems and control devices.

You are seeking to engage in outside employment as an adjunct lecturer for FIU. The course you would be teaching at FIU explores the connections between transportation systems and other components of society, focusing on basic planning methods and their real-world applications. As an adjunct lecturer, you would be responsible for introducing students to the fundamental concepts, theory, and history of transportation planning. Specifically, you would prepare course materials, deliver engaging lectures, and facilitate discussions that deepen students' understanding of the subject.

You indicated that your working hours at FIU would not occur during your assigned hours at DTPW<sup>1</sup>; your work for FIU would not require contact with the same or similar people as your DTPW position requires; you would not use the same resources at FIU as you do at DTPW; and your work for FIU would not require contact with County employees, departments, or County boards, even for routine matters. Moreover, you do not have access to non-public information through your County position that is or could be relevant to your role at FIU, and your work for DTPW does not include recruiting vendors, contractors, bidders, or members of the public who could use your outside employment services.

We confirmed with the Miami-Dade County Strategic Procurement Department that FIU has previously been a Miami-Dade County vendor. However, you advised that you are not aware of any services provided or contracts between FIU and your department, DTPW. We consulted with your DTPW supervisor, Eric Vazquez, who confirmed the same. Notably, you do not have any involvement, authority, or oversight over FIU, its staff, and/or any contracts or agreements it may have with the County.

Issue:

Whether any prohibited conflict of interest may exist, pursuant to the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”), between your County employment with DTPW and your proposed outside employment with FIU.

Analysis and Discussion:

Outside employment is considered “any non-County employment or business relationship in which the County employee provides a personal service to the non-County employer that is compensated or customarily compensated.” RQO 17-03. The County Ethics Code prohibits County employees from accepting outside employment, “which would impair his or her independence of judgment in the performance of his or her public duties” or is likely to create conflicts of interest between the employee’s County responsibilities and their outside job duties. Section 2-11.1(j); *see also* Section 2-11.1(k). Additionally, Miami-Dade County Administrative Order 7-1 provides that, “[u]nder 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.”<sup>2</sup>

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<sup>1</sup> INFORMS reflects that your hours at DTPW are from 8 am to 5 pm, and your schedule at FIU would be Thursdays only from 6 pm to 8:40 pm. Further, INFORMS delineates that FIU will release you if DTPW needs your services.

<sup>2</sup> Additionally, State law prohibits an employee of an agency from having or holding any employment or contractual relationship that will create continuing or frequently recurring conflicts between his private interests and the performance of his public duties. §112.313(7)(a), Fla. Stat. (2021).

Conflicting employment can occur when outside employment is closely related to the employee's public duties and/or where the County employee deals with the same people or entities in both his or her outside employment and in his or her public position, e.g., similar clients, suppliers, or subcontractors. *See* RQO 15-03. Several factors are considered to determine whether a potential conflict of interest exists between an individual's County position and his or her outside employment, including: the nexus between the public duties and the outside employment; whether the employee has decision-making authority over the same subject matter that the outside employment concerns; whether the employee solicits business or customers in the same area over which he or she has jurisdiction; whether the employee will come into contact with the same or similar people or entities in both his or her public position and outside employment; and whether the employee's public entity funds or has a contract with his or her outside employer. *See* RQO 17-01; INQ 21-66.

Outside employment is more likely to conflict with County employment "when the two pursuits overlap or are closely related." INQ 16-89 (citing RQO 12-11; INQ 12-159). However, "a similarity between an employee's County duties and his or her outside employment duties does not indicate, *by itself*, the existence of a conflict of interest." INQ 22-07; *see also* INQ 18-54 (citing RQO 00-10; RQO 04-168; RQO 12-07) (concluding that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations).

Finally, County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Department directors and their subordinate supervisors may request an opinion from the Miami-Dade County Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 19-101; INQ 21-111. Department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* RQO 00-10; RQO 16-02; INQ 13-28. Additionally, the County Ethics Code provides that, "[a]ll full-time County and municipal employees engaged in any outside employment . . . shall file, under oath, an annual report indicating the source of the outside employment ..." County Ethics Code § 2-11.1(k)(2).

In this case, your direct supervisor, Mr. Vazquez, expressed that he has no concerns regarding your outside employment request. Indeed, both you and Mr. Vazquez confirmed that neither of you are aware of any services provided or contracts between FIU and DTPW, and you indicated that you do not have any involvement, authority, or oversight over FIU, its staff, and/or any contracts or agreements it may have with the County. Further, your work for FIU will be performed outside of your DTPW hours, and FIU will release you if DTPW needs your services.

Moreover, your potential role as an adjunct lecturer preparing course materials, delivering lectures, and facilitating discussions surrounding transportation planning is distinct from your duties as a Traffic Engineer 2 assisting and supervising the planning, designing, installation, and improvement of traffic and transportation highway systems and control devices. While the subject that you would be teaching at FIU is arguably related to the type of work that you perform for DTPW, it would not require you to use the same resources at FIU that you use at DTPW; your work at FIU would not require contact with County employees, departments, or County boards,

even for routine matters; and you would not have access to non-public information through DTPW that is or could be relevant to your role at FIU. *See* INQ 21-135 (The Vice President and Chief Marketing Officer of Jackson Health System (“JHS”) did not have a conflict of interest regarding his outside employment as a part-time lecturer with the University of Miami (“UM”), a JMH business affiliate, because his teaching position would be with the Herbert School of Business, and his outside employment would be limited to teaching, with no oversight or authority in either position over hiring, contracting, purchasing, or other business matters) and 24-146 (An officer at Miami-Dade Corrections and Rehabilitation Department (“MDCR”) may engage in outside employment as an adjunct professor for the University of Nebraska, without giving rise to a conflict of interest because the University does not contract with MDCR nor would the outside employment impair his independence of judgment in the performance of his County duties).

Accordingly, based on the information provided to us at this time, **it appears to be unlikely that the type of outside employment you are seeking to engage in would impair your independence of judgment as a Traffic Engineer 2 at DTPW.** This is because you do not have any contract-related duties regarding any FIU contracts or agreements with the County; your outside employment will be performed outside of your County hours; there is no overlap between your public duties and your outside employment; you will not use the same resources in your outside employment as used in your County work; you will not come into contact with the same persons or entities involved in your County work; and you will not have access to non-public information through your County work that is or could be relevant to your outside employment.

#### Opinion:

Based on the facts presented here and discussed above, you would not have a conflict of interest in your outside employment as an adjunct lecturer for FIU. However, you must adhere to the following sections of the County Ethics Code to avoid any future conflicts of interest:

- You may not engage in activities that relate in any way to your outside employment during regular business hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, or County vehicles, in connection with your outside employment, even after work). *See* County Ethics Code §§ 2-11.1(g) and (j); AO 5-5; AO 7-1; INQ 05-29; INQ 15-240; INQ 19-123; INQ 20-43.
- You may not appear before any County board or agency to make a presentation on behalf of or seek any benefit for FIU. *See* County Ethics Code § 2-11.1(m)(1).
- You may not exploit your County position to secure special privileges or exemptions for yourself, FIU, and/or any of its parent or subsidiary organizations. *See* County Ethics Code § 2-11.1(g).
- You may not disclose and/or use any confidential and/or proprietary information acquired because of your County employment and/or position to derive a personal benefit, or for the benefit of FIU and/or any of its parent or subsidiary organizations. *See* County Ethics Code § 2-11.1(h).

- You must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director and must file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. *See* County Ethics Code § 2-11.1(k)(2).

This opinion is limited to the facts as you presented them to the Miami-Dade County Commission on Ethics and Public Trust 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.

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*INQs are informal opinions provided by the legal staff after review and approval by the Executive Director and/or General Counsel. INQs deal with opinions previously addressed in public session by the Miami-Dade Commission on Ethics and Public Trust or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Ethics Commission when the subject matter is of great public importance or where there is insufficient precedent. While this is an informal opinion, covered parties that act contrary to this opinion may be subject to investigation and a formal Complaint filed with the Ethics Commission.*