
INQ 16-05 Walker

From: Perez, Martha D. (COE)

Sent: Tuesday, January 12, 2016 1:47 PM

To: Walker, Jennifer (MDT) <JJW@miamidade.gov>

Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>

Subject: Jennifer Walker, Chief, MDT Human Resources (Outside employment) INQ 16-05

Dear Ms. Walker,

It was a pleasure speaking with you. You inquired whether a part-time Miami-Dade Transit (MDT) employee may hold a second position in the County's Elections Department through a temporary agency which contracts with the County. As background, Mr. Hunt works as a part-time bus operator for MDT. He is seeking outside employment with a temp agency which is a County vendor, to work in the County's Elections Department. He would be working in the warehouse, possibly driving the rental trucks delivering the voting machines to the polling stations throughout the County. He would be working 8am to 5pm, Monday through Friday as the election nears and his shift may run up to 12 hours per day, to include weekends. He would be averaging 40 to 56 hours per pay period. You advise that this is a temporary work position starting late January through the end of March with recurring assignments in June through September or November, depending on the presidential election.

The Miami-Dade County Code at Section 2-11 requires all full-time employees to seek permission before engaging in outside employment. *See also* AO 7-1. Additionally, Section 2-11.1(k) requires the employee to complete a financial disclosure form on a yearly basis. Part-time County employees, although not required to obtain permission to engage in outside employment, must abide by other sections of the Ethics Code. *See* **INQ 14-146**.

Section 2-11.1(j) of the County Ethics Code, which applies to all County employees, provides that no such employee "shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties." *See* **INQ 05-144**. Generally, as long as the temporary position does not create any conflicting duties for the part-time employee, there is nothing in the County Ethics Code that would prohibit him from holding a second position with the County. *See* **INQ 08-118; INQ 09-48**. I am attaching the Ethics Commission's "Outside Employment Memo (2014)" for additional information on outside/conflicting employment guidelines.

Based on the facts presented, it appears Mr. Hunt's temporary outside employment with a County vendor to work for the County's Elections Department would not impair his independence of judgment in the performance of his public duties at MDT:

- 1) Mr. Hunt's duties as a bus operator for MDT do not appear to be related to or in conflict with his duties at the Elections Department delivering voting machines to polling stations.
- 2) **Although the ultimate determination lies with Mr. Hunt's supervisor**, it is assumed for purposes of this opinion that Mr. Hunt's hours of employment in the Elections Department will not conflict with his hours of employment at MDT.
- 3) Mr. Hunt's outside employment involves a County vendor, however, he has no enforcement or authority over the County vendor's contract with the County.

As a reminder, all County employees are cautioned that the use of their departmental time and/or resources in the performance of their outside employment may constitute an “exploitation of official position”, in violation of §§ 2-11 and 2-11.1(g) of the County Ethics Code and AO 7-1. Also, all County employees may not engage in any activity which would require them to disclose confidential information acquired by reason of their official position, nor use such information directly or indirectly for their personal gain or benefit. See § 2-11.1(h), County Ethics Code. Also, directives from a County employee’s department may have limitations beyond the ones established by the Ethics Code. Mr. Hunt should check with his supervisor to see if other restrictions apply in his case. See **INQ 08-03**.

Lastly, any County employee who becomes employed by a business entity with substantial business commitments with the County or subject to direct regulation by the County shall file a sworn statement with the Clerk disclosing such employment. See §2-11.1(f), County Ethics Code.

This opinion is based on the facts presented. If any of these facts change, please contact us.

Sincerely,

Martha D. Perez

Staff Attorney

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From: Walker, Jennifer (MDT)
Sent: Thursday, January 07, 2016 12:41 PM
To: Perez, Martha D. (COE)
Cc: Walker, Jennifer (MDT)
Subject: Conflict of Interest (Bus Operator)

Hi Martha and Happy New Year. Can you advise if there would be a conflict of interest if one of our part-time bus operators also works with the Elections Department through a temporary agency which is a vendor of the County.

Jennifer Walker, PHR, SHRM-CP
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