

## Sanchez, Rodzandra (COE)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Friday, September 01, 2017 2:12 PM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** FW: Lynnette A. Chiverton, Paratransit Operations Administrator , Miami-Dade Department of Transportation and Public Works (Outside Employment) INQ 17-221

[INQ 17-221 Chiverton](#)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Friday, September 01, 2017 2:11 PM  
**To:** Chiverton, Lynnette (DTPW) <Lynnette.Chiverton@miamidade.gov>  
**Cc:** Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>  
**Subject:** Lynnette A. Chiverton, Paratransit Operations Administrator , Miami-Dade Department of Transportation and Public Works (Outside Employment) INQ 17-221

Dear Ms. Chiverton:

You have inquired on behalf of Shawanda Colbert-Coffie, a County employee, about possible conflicts of interest between her County employment and her proposed outside employment.

### Background

Ms. Colbert-Coffie is employed at the Miami-Dade Department of Transportation and Public Works in the Passenger Transportation Division ("PTRD") as a Special Transportation Services ("STS") Eligibility Interviewer. PTRD administers and oversees the Special Transportation Service which provides door to door automobile transportation services, for a minimal fee per transport, to elderly and disabled individuals who are unable to use public transit. Currently, the County contracts with a private entity, Transportation America to deliver transportation services under the STS program.

Ms. Colbert-Coffie's County job duties require her significant involvement in the determination of whether an applicant will be eligible for the subsidized transportation services of the STS program.

Her duties include but are not limited to:

- Reviewing medical documentation provided by individuals applying for Special Transportation Services
- Verifying information on the application during the interview and determining the nature and degree of disability based on ADA guidelines to decide whether an individual is eligible to participate in the County administered STS program.
- Ensuring the eligibility determination is established within the 21 day time frame allowed by ADA.
- Providing an overview of the service to eligible applicants including but not limited to instructions on how to make reservations.
- Preparing correspondence notifying applicant of certification status.
- Scheduling appointments with applicants for certification interviews and coordinating transportation if needed.

Ms. Colbert-Coffie is seeking outside employment as a driver with Uber Technologies, Inc. ("Uber") and Lyft, Inc. ("Lyft"). Uber and Lyft are online transportation network companies that operate ride sharing services in

the United States and abroad. Uber and Lyft develop, market, and operate mobile "apps," which allow individuals with smartphones to submit a trip request, which the software program then automatically sends to the Uber or Lyft driver nearest to the consumer, alerting the driver to the location of the customer. Uber and Lyft drivers are generally considered independent contractors who use their personal cars to provide transportation services. The Uber and Lyft apps automatically calculate the fare, and transfer the payment to the driver. Neither Uber nor Lyft are currently County vendors.

### Legal Analysis

Sections 2-11.1(j) and (k) of the County Ethics Code prohibit County employees from engaging in outside employment which would impair County employees' independence of judgment in the performance of their official duties or creates a conflict between County employees' public duties and their private interests. The County's Administrative Order AO 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties. It states that "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."

Based on the facts presented here, we concur with Ms. Colbert-Coffie's supervisor that Ms. Colbert-Coffie's outside employment as an Uber or Lyft driver is likely to create conflicts between her public duties and private interests based on the following factors:

- The County Ethics Commission has previously determined that conflicting employment can exist where the outside employment involves providing services that compete with Miami-Dade County. See RQO 09-16 (No conflicting outside employment as a trainer through County employee's privately owned company because employee's company does not compete with the county for training dollars), RQO 10-01 (Conflicting employment exists if a County employee's privately owned company competes with County vendors that he supervises as part of his County job duties), and INQ 15-192 (Conflicting employment may exist where PHT Board member duties and outside employment duties involve competing for same patients). In this instance, Ms. Colbert-Coffie's County job responsibilities include significant duties related to the determination of eligibility for STS. Given that her proposed outside employment as an Uber or Lyft driver would involve transporting individuals from location to location, this activity would compete with the County's STS program which also provides door to door transportation.
- The Ethics Commission has determined that an indication of potential conflicts between an employee's duties to the public and duties to his/her outside employer is whether the public employee works in a public position in which he/she has the opportunity to recruit members of the public to use his/her outside employment products or services. Outside Employment Guidelines (August 2017). In this case, a conflict is likely between Ms. Colbert Coffie's public duties and her private interests because her County position requires her to frequently interact with the members of the public that require for-hire transportation services which are the same category of persons that she would transport as an Uber or Lyft driver.

In conclusion, Ms. Colbert-Coffie's proposed outside employment as an Uber/Lyft driver would be barred by the County Ethics Code. This opinion is based on the facts presented. If these facts change or if you have any further questions, please contact me.

Cordially,

Gilma (Mimi) Diaz-Greco  
Staff Attorney



Miami-Dade Commission on Ethics and Public Trust  
19 W. Flagler Street, Suite 820

Miami, FL 33130  
Tel: (305) 579-2594  
Fax: (305) 579-0273  
[gdiazgr@miamidade.gov](mailto:gdiazgr@miamidade.gov)  
[www.facebook.com/MiamiDadeEthics](http://www.facebook.com/MiamiDadeEthics)

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**From:** Chiverton, Lynnette (DTPW)  
**Sent:** Wednesday, August 09, 2017 5:01 PM  
**To:** Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>  
**Subject:** RE: Outside employment - Ethics Opinion requested

Good afternoon Ms. Greco,

My apologies for the delay in responding. Attached please find Ms. Colbert's request for outside employment and a description of the duties her classification. The Passenger Transportation Regulatory Division (PTRD) is the County Division that manages For-Hire Transportation. Raul Gonzalez is the Acting Chief and will be able to provide detailed information on agreements between Uber/Lyft and MDC.

Thank you,

Lynnette A. Chiverton  
Paratransit Operations Administrator

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Tuesday, August 08, 2017 3:40 PM  
**To:** Chiverton, Lynnette (DTPW) <[Lynnette.Chiverton@miamidade.gov](mailto:Lynnette.Chiverton@miamidade.gov)>  
**Subject:** RE: Outside employment - Ethics Opinion requested

Ms. Chiverton:

I have been assigned this matter. Please send me the employee's Outside Employment Request form. Also please provide a description of the employee's County duties, whether Uber is a County Vendor or whether any Agreements exist between the County and Uber. I addition, please describe what the employee's job duties would be for Uber.

Thank you,

Gilma (Mimi) Diaz-Greco  
Staff Attorney



Miami-Dade Commission on Ethics and Public Trust  
19 W. Flagler Street, Suite 820  
Miami, FL 33130  
Tel: (305) 579-2594  
Fax: (305) 579-0273  
[gdiazgr@miamidade.gov](mailto:gdiazgr@miamidade.gov)

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**From:** Ethics (COE)  
**Sent:** Tuesday, August 08, 2017 3:16 PM  
**To:** Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>  
**Subject:** FW: Outside employment - Ethics Opinion requested

Please handle.

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**From:** Chiverton, Lynnette (DTPW)  
**Sent:** Tuesday, August 08, 2017 12:01 PM  
**To:** Ethics (COE) <[ethics@miamidade.gov](mailto:ethics@miamidade.gov)>  
**Subject:** Outside employment - Ethics Opinion requested

Good morning,

We have an employee from the Department of Transportation and Public Works who has requested permission for outside employment with Uber & Lyft Transportation. Before routing to my superiors for approval, I am requesting the Ethics Department opinion to see if this will present a conflict of interest. Below are the specifics for this employee:

**Department of Transportation and Public Works**  
**Division:** Paratransit Operations (Certification Unit)  
**Classification:** Eligibility Interviewer  
**OCC:** 3001

Thank you,

Lynnette A. Chiverton  
Paratransit Operations Administrator  
786-469-5430