

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



OUTSIDE EMPLOYMENT GUIDELINES

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The purpose of these guidelines is to clarify and inform County and Municipal employees regarding:

- A) Outside employment and the Miami-Dade Ethics Code
- B) What types of activities are considered “outside employment”
- C) Outside employment approval requirements
- D) Requirements for annual disclosure of money earned in outside employment
- E) Providing guidelines to avoid conflicting outside employment

A) OUTSIDE EMPLOYMENT AND THE MIAMI-DADE ETHICS CODE

Several sections of Miami-Dade Code 2-11.1 (“County Ethics Code”) are applicable to outside employment of County and Municipal 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 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 and Municipal employees must file an Outside Employment Statement annually by noon, July 1st, 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) 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.
- Section 2-11.1(h) states that County and Municipal employees are prohibited from accepting employment or engaging 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 County or Municipal official position.

B) WHAT CONSTITUTES OUTSIDE EMPLOYMENT

The list below provides examples of activities that are considered outside employment:

1- Compensated Employment

- Compensated employment with any person, firm, corporation or entity (including non-profit entities) 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).

2- Business Activity

- Any consulting firm or business owned by the employee, including web-based businesses, regardless of whether the firm/business is officially incorporated or whether the firm/business is not yet generating revenue or 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.
 - Section 2-11.1(b)(9) of the County Ethics Code defines “Immediate family” as, “spouse, domestic partner, parents, stepparents, children and stepchildren.”

3- Business ownership

- Being listed as an officer in a spouse’s corporation where the employee performs no services for that corporation and from which the employee receives no payment or income 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).

4- 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).

5- Internet Sales

- Running a web-based business is considered outside employment regardless of whether the business is officially incorporated or whether the business is not yet generating revenue or income.
- **Occasionally** selling items on internet sales sites such as EBay is **not** considered outside employment (INQ 05-19).

6- 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 as outside employment 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.

7- Non-Profit Corporations

- Not Outside Employment
 - Unpaid service on a traditional non-profit entity’s board is not considered outside employment (INQ 13-236, INQ 16-215).
 - 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, and INQ 15-71).
- Outside Employment
 - Any paid employment with a nonprofit organization. For example, 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).

8 Military Service

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

9- Foster Parenting

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

C- PERMISSION TO ENGAGE IN OUTSIDE EMPLOYMENT

County Employees

Pursuant to Miami Dade Code Section 2-11, a County employee may accept outside employment provided that it is not contrary, detrimental or adverse to the interests of the County; that the employee does not use County time, materials, or resources to perform the outside employment; and that the employee first obtain 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.

Starting in 2019, the County’s outside employment process will be moved online to the [Epars](#) system. Every County employee will disclose annually on [Epars](#) “Miami Dade Outside Employment” section whether he or she is engaged in outside employment. Employees who indicate that they are engaged in outside employment will be directed to the outside employment permission process for department approval or denial **before** accepting the outside employment. Instructions on this new online permission process will

be provided by the County DPRs and the County HR department. The County department where the employee works will refer questions regarding possible conflicting employment under the County Ethics Code 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.

Municipal employees

Municipal employees must follow **Municipal** ordinances and procedures regarding permission to engage in outside employment.

D) DISCLOSURE OF INCOME EARNED IN OUTSIDE EMPLOYMENT VS. FINANCIAL DISCLOSURE

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 that disclosing the total amount of money received/earned by the employee for that outside employment. Miami-Dade Code § 2-11.1(k)(2). If the outside employment is with a business owned by an employee, report all of the money received by the business, not the profit or loss. For example, if the business received/earned \$20,000 and the total expenses of the business were \$20,500, the amount to be disclosed on the Outside Employment disclosure would be the \$20,000 received/earned.

The disclosure of the money or compensation received from outside employment is filed on an [Outside Employment Statement](#). Full-time **County** employees file the [Outside Employment Statement](#) with the County Elections Department by July 1st of each year.¹ Full-time **Municipal** employees must file the [Outside Employment Statement](#) annually with their respective Municipal Clerks.

Please note that 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.

E)- CONFLICTING EMPLOYMENT

The following factors may be indicative of potential conflicts between an employee's duties to the public and duties to his/her outside employer:

- 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.

¹ For example, County and Municipal employees who engaged in outside employment during 2018 must file an Outside Employment Statement by July 1st, 2019, disclosing both the source of the outside employment and the total amount of money or compensation received.

- 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 or could be 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.

Please contact the Commission on Ethics if there are questions regarding possible conflicting employment.