



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North  
701 Northwest 1<sup>st</sup> Court · 8<sup>th</sup> Floor · Miami, Florida 33136  
Phone: (305) 579-2594 · Facsimile: (305) 579-0273  
Website: [ethics.miamidade.gov](http://ethics.miamidade.gov)

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### MEMORANDUM

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**TO:** Jonathan Quijano  
Correctional Sergeant  
Miami-Dade Corrections and Rehabilitation Department

Anthony Yeber  
Correctional Captain  
Miami-Dade Corrections and Rehabilitation Department

**FROM:** Nolen Andrew Bunker, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2021-142, Section 2-11.1(j) & (k), Conflicting employment prohibited.

**DATE:** November 9, 2021

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in Sergeant Jonathan Quijano's proposed outside employment.

#### Facts

An inquiry has been submitted concerning whether a conflict of interest would exist were Sergeant Quijano, an employee of the Miami-Dade County Corrections and Rehabilitation Department ("MDCR"), to engage in outside employment as a self-employed content creator on YouTube.

Sergeant Quijano is currently employed by MDCR as a Correctional Sergeant. His job duties are primarily safety and security related; specifically, maintaining security in the correctional facility to which he is assigned, detecting potential security breaches, scheduling duty rosters, and generating and reviewing reports.

Sergeant Quijano would like to engage in outside employment as a self-employed content creator on YouTube. YouTube is an online video-sharing platform owned and operated by Google LLC.<sup>1</sup> Income as a self-employed content creator is derived directly from Google, which bases the pay to content creators on ads viewed by content viewers and from individuals who pay for a “super chat.”<sup>2</sup> The primary subject of the content generated by Sergeant Quijano concerns crypto currency, non-fungible tokens, and lifestyle.

Sergeant Quijano advises that he is not a County vendor. Based on a records search, Google does not appear to be a County vendor.

Sergeant Quijano advises that his outside employment would only occur outside of the times/hours that he will be expected to perform his duties as a Correctional Sergeant. He further advises that, as part of his proposed outside employment, he will not be required to encounter the same or similar people or entities as in his County position. He also advises that no County resources will be used for his proposed outside employment. Finally, Sergeant Quijano advises that, as part of his County position, he does not have access to non-public information that is, or could be, relevant to his proposed outside employment.

#### Issue

Whether any prohibited conflict of interest may exist between Sergeant Quijano’s County employment and his proposed outside self-employment as a YouTube content creator.

#### Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics (“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.” 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.”

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Miami-Dade Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; INQ 19-101. 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

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<sup>1</sup> *See Terms of Service*, YOUTUBE, <https://www.youtube.com/t/terms> (last visited Nov. 3, 2021).

<sup>2</sup> Super chat is a feature that lets “viewers purchase chat messages that stand out and sometimes pin them to the top of a chat feed.” *Manage Super Chat & Super Stickers*, YOUTUBE HELP, [https://support.google.com/youtube/answer/7288782?hl=en&ref\\_topic=9257792#zippy=](https://support.google.com/youtube/answer/7288782?hl=en&ref_topic=9257792#zippy=) (last visited Nov. 3, 2021).

employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 13-28.

Based on the information provided to us at this time, and after speaking with Captain Anthony Yeber – Sergeant Quijano's supervisor – it appears to be unlikely that the type of outside employment that Sergeant Quijano is seeking to engage in would impair his independence of judgment in the performance of his County duties as a Correctional Sergeant. This is because there is no overlap between his public duties and his outside employment: his outside employment will be performed outside of his County hours; he will not come into contact with the same persons or entities involved in his County work; he will not use the same resources in his outside employment as used in his County work; and, he will not have access to non-public information as part of his County employment that is, or could be, relevant to his outside employment.

### Opinion

Based on the facts presented here and discussed above, Sergeant Quijano would not have a conflict of interest in his proposed outside employment as a self-employed content creator for YouTube.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Sergeant Quijano's permission to engage in his proposed outside employment:

- He may not engage in activities that relate in any way to his outside employment during his scheduled work hours (including phone calls, text messages, e-mails, or other communications) and he may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with his outside employment, even after work. *See* County Ethics Code Section 2-11.1(g); AO 5-5, AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- He may not exploit his County position to secure special privileges or exemptions for himself, YouTube and/or Google. *See* County Ethics Code 2-11.1(g).
- He may not disclose and/or use any confidential and/or proprietary information acquired because of his County employment to derive a personal benefit, or for the benefit of YouTube and/or Google. *See* County Ethics Code Section 2-11.1(h).
- He may not represent YouTube and/or Google before any County board or agency. *See* County Ethics Code Section 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of his potential activities as a self-employed YouTube content creator, it is important to note that he would be prohibited from doing any such activities on behalf of YouTube and/or Google or its clients.
- He must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his department director, and he must file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. *See* County Ethics Code Section 2-11.1(k)(2).

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts may apply based on directives from MDCR or under state law. Questions regarding possible conflicts based on MDCR directives should be directed to MDCR or the Mayor's Office. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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