



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Anthony Goordeen
Train Control Supervisor
Miami-Dade County Department of Transportation and Public Works

Scott Nicoll
General Superintendent
Miami-Dade County Department of Transportation and Public Works

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-47, Section 2-11.1(j) & (k), Conflicting employment prohibited.

DATE: March 22, 2022

CC: All COE Legal Staff

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

Facts

An inquiry has been submitted concerning whether a conflict of interest would exist were Mr. Anthony Goordeen, an employee of the Miami-Dade County Department of Transportation and Public Works ("DTPW"), to engage in outside employment as part-time vocational instructor with Broward County Public Schools ("BCPS") and as an Airport Maintenance Repair Technician II for JBT Aerotech Corporation ("JBT").¹

¹ Since submitting his request for approval of his proposed outside employment, Mr. Goordeen has advised that he is no longer seeking prospective employment with JBT. Accordingly, this ethics opinion does not address any prospective employment by Mr. Goordeen with JBT.

Mr. Goordeen is currently employed by DTPW as a Train Control Supervisor. His job duties are primarily supervising the work of skilled technicians in the routine and emergency maintenance of train control equipment in the County's rail transportation system.

Mr. Goordeen would like to engage in outside employment as a part-time vocational instructor with BCPS. BCPS is a public entity created by Florida law responsible for the operation and administration of all public schools within Broward County. *See* Fla. Stat. § 1001.30. Mr. Goordeen's duties with BCPS would include teaching an evening course about electricity at BCPS's Atlantic Technical College and Technical High School.

With regard to the part-time vocational instructor position with BCPS, Mr. Goordeen advises that his outside employment would only occur outside of the times/hours that he will be expected to perform his duties as a Train Control Supervisor for DTPW. 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. Mr. Goordeen advises that his position with DTPW does not involve the recruitment or management of County vendors or contractors. He also advises that no County resources will be used for his proposed outside employment. Finally, Mr. Goordeen 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.

A records search reflects that there does not appear to be contractual relationship between the County and BCPS with reference to the Atlantic Technical College and Technical High School.

Issue

Whether any prohibited conflict of interest may exist between Mr. Goordeen's County employment and his proposed outside employment as a part-time vocational instructor with BCPS and as an Airport Maintenance Repair Technician II with JBT.

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 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 it appears to be unlikely that the type of outside employment that Mr. Goordeen is seeking to engage in would impair his independence of judgment in the performance of his County duties as a Train Control Supervisor. 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. *See* RQO 17-01; RQO 16-02.

Opinion

Based on the facts presented here and discussed above, Mr. Goordeen would not have a conflict of interest in his proposed outside employment as a part-time instructor for BCPS at Atlantic Technical College and Technical High School.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Mr. Goordeen's permission to engage in his proposed outside employment with BCPS:

- 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 and/or for BCPS. *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 BCPS. *See* County Ethics Code Section 2-11.1(h).
- He may not represent BCPS 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 part-time instructor for BCPS, it is important to note that he would be prohibited from doing any such activities on behalf of BCPS.
- 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 DTPW or under state law. Questions regarding possible conflicts based on DTPW directives should be directed to DTPW 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.