
MIAMI-DADE COMMISSION ON ETHICS MEMORANDUM

TO: Luisa M. Millan, Director, Design & Construction Services Division, ISD
FROM: Victoria Frigo, Senior Staff Attorney, COE
SUBJECT: Outside Employment Guidelines (INQ 13-28)
DATE: Feb. 7, 2013
CC: Miriam Singer, Assistant Director, ISD

The following is in response to your request for a list of ethics considerations to consult in granting or denying County employees permission to engage in outside employment.¹ This is not a complete or dispositive list but merely one of many tools you may wish to use in your deliberations.

PERSONNEL ISSUES

Outside employment might be denied for personnel reasons, some of which may not relate to the County Ethics Code. For example, a supervisor is responsible for insuring that his/her department functions smoothly, efficiently, and without interruptions. Outside employment might increase employee absenteeism, tardiness, fatigue, or contribute to other personal distractions. Therefore, to insure that the public's interests are protected, a supervisor might make a blanket prohibition denying outside employment to everyone in the department. Alternatively, a supervisor might deny permission in a particular situation, based on an individual employee's classification, past job performance, scheduled work hours, or other related employment history.

Ultimately, supervisors are responsible for managing their departments in a manner that best serves the public. If a supervisor believes that he/she will not be able to adequately monitor the outside employment of department workers within his/her authority, the supervisor must deny outside employment in order to preserve the public's trust.

ETHICS PROVISIONS

The Miami-Dade County Code at Sec. 2-11.1 (j) prohibits *conflicting* outside employment:

No [County employee] shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties.

The Miami-Dade County Code at Sec. 2-11.1 (g) prohibits employees from exploiting their County positions for their personal benefit or the benefit of others:

No [County employee] shall use or attempt to use his or her official position to *secure special privileges or exemptions* for himself or herself or others....

¹ County employees must obtain permission from their supervisors to engage in outside employment *every year* that they are working for non-County employers. Forms verifying the supervisor's approval and the amount of income received from outside employment must be filed annually.

ETHICS CONSIDERATIONS

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

- The outside employment is related to the employee's County position.
- The outside employment consists of work that is similar to work the employee does for the County.
- The County employee will come in contact with the same or similar people or entities in both his/her outside employment and in his/her County job, *e.g.*, similar clients, suppliers, or subcontractors.
- The County employee uses the same or similar resources in his/her outside employment as he/she uses in his County work, *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 County.
- The County employee works in a public position in which he/she has the opportunity to refer County vendors, contractors, bidders, or the public to a private sector in which his/her outside employer does business.
- The County employee works in a public position in which he/she has the opportunity to recruit County vendors, contractors, bidders, or the public to use his/her outside employment products or services.
- The outside employment requires that the County employee interact with County employees or County boards, even for routine matters.
- The County employee has access to County information that is not available to the public, and that information is relevant to his/her outside employment.
- The County employee works in a County department that funds or has a contract with his/her outside employer.
- The outside employment is likely to place the County employee in situations in which private economic considerations may override the faithful discharge of his/her public responsibilities.

APPEARANCE OF IMPROPRIETY

The County's Administrative Order AO 7-1 states, "County business must be conducted free of the influence of employees' personal and private financial interests, both *in appearance* and *in fact*."

The appearance of impropriety standard aims to be preventative in nature—it is not meant to imply that a County employee failed to perform his/her responsibilities appropriately or that the employee is not trustworthy. Rather, by avoiding *even the appearance* of impropriety, we demonstrate to the people of Miami-Dade County that we are committed to transparency, fairness, and integrity in government.