

FAQs  
Two-Year Rule

- **What is the “two-year rule”?**
  - Section 2-11.1 (q) (“two-year rule”) of the County Ethics Code prohibits former local government employees from lobbying their former County or Municipal employers for two years following the termination of their employment.
  
- **To whom does the two-year rule apply?**
  - Applies to the following County and Municipal personnel:
    - Local elected officials: mayor, commissioner, councilperson
    - Staff members of local elected officials
    - County or city manager
    - All County and Municipal employees
    - **Check with your Municipal employer because certain Municipalities have stricter post-employment restrictions.**
  
- **Which date is used to calculate the two-year rule?**

The two-year period is calculated beginning on the day after the last day that the employee receives benefits or compensation from the County or municipality, such as payments for accrued vacation time, sick time, insurance, etc.
  
- **May a former employee represent third parties at publicly noticed quasi-judicial proceedings?**
  - It depends.
  - Personnel covered by the County Ethics Code and the City of Miami Code
    - Attorneys or other covered employees or public officers, retained or employed solely to represent individuals, corporations or other entities during publicly noticed *quasi-judicial* proceedings where *ex parte* communications are prohibited are excluded from the definition of lobbyists under the County and City of Miami Ethics Code.
  - Other Municipal Codes
    - The exception for representation at *quasi-judicial* proceedings is under the County and City of Miami ethics ordinances. Certain municipalities such as Miami Beach may not have this exception due to the inclusion of such activity within the definitions of lobbying in their respective municipal lobbying ordinances. Therefore, Municipal Codes should be reviewed to determine whether representation at *quasi-judicial* proceedings is included in a particular Municipality’s definition of lobbying.

- **I am a former County or Municipal lawyer, does the two-year rule apply to me?**
  - It depends
  - It is important to recognize that being a lawyer does not insulate one from engaging in lobbying activities prohibited by the “Two-Year Rule.”
  - A former government attorney’s representation of a client **during a procurement process** would generally **be considered lobbying**. For example, the Commission found that a lawyer was lobbying where he was representing a bidder for a County contract and met with the contract administrator and the Assistant County Attorney representing the department to attempt to persuade them that the opposing bidder’s submission was non-responsive.
  - A former government attorney’s representation of a client **seeking changes to County or Municipal ordinances** would generally be considered **lobbying**.
  - A former government attorney who meets with current County attorneys to discuss pending **litigation matters such as settlement negotiations or pending legal actions** would be engaged in the **practice of law**.
  - A former government attorney’s representation of a client in a *quasi-judicial* hearing where *ex parte* communications are prohibited is exempted from lobbyist registration under the County and City of Miami Ethics Code. However, not all municipal codes provide this exception. Municipal Codes should be reviewed to determine whether representation at *quasi-judicial* proceedings is included in a particular Municipality’s definition of lobbying.
  - Given that the lines between legal representation and lobbying can be easily blurred, it may be advisable for a former government attorney under the two-year rule to seek an ethics opinion on the particular facts and circumstances surrounding his or her activity to determine whether it is considered lobbying, prohibited by the “Two-Year Rule.”
  
- **As a former County or municipal employee, may I contract with my former governmental employer, or work for a consultant, vendor, or contractor that does business with my former County or municipal employer?**
  - Yes, former employees may contract with their former governmental employer and/or may obtain work with contractors, consultants, vendors, etc., of their former County or Municipal employer.
  - However, the two-year rule prohibits former employees from **lobbying** their County or municipal employer for two years following the termination of their employment.
  
- **What constitutes prohibited lobbying under the two-year rule?**
  - Lobbying activities are interpreted very broadly under the two-year rule. Unlike the general lobbyist ordinance, the two-year rule **expands** the definition of lobbying to include advocating for decisions that may be made **at the sole discretion of individual County or municipal personnel, not necessarily by a voting body**.
  - Therefore, individuals formerly employed by the County or a municipality within the past two years are prohibited from performing activities intended to influence *any official determination, regardless of whether the determination will foreseeably be decided*

*or recommended* by any of the County's or city's commissions, boards, committees, or the County or city manager.

- What activities are permitted under the two-year rule?
  - Former County or Municipal employees may perform routine administrative tasks such as requests for information or submittal of applications or required paperwork to departments of their former governmental employer. Additional information on activities that are permitted and prohibited under the two-year rule can be found on the Miami-Dade Commission on Ethics website at <http://ethics.miamidade.gov/two-year-rule.asp>.
- **May I lobby a different governmental entity than the one I worked for during the two-year period?**
  - Yes, a former employee is free to lobby any other local, state, or federal government immediately following his or her departure from government service, except for the government entity that employed him or her.
- **Does the two-year rule apply to a former County employee who is now employed with another governmental entity, a 501(c)(3) nonprofit entity, or an educational institution?**
  - No, an exception to the two-year rule allows former employees now employed by governmental entities, 501(c)(3) entities, or educational institutions to lobby their former employers during the two-year post-employment period on behalf of their employing entity.
  - But, if lobbies for those exempt entities, must register as a lobbyist as specified by County Ethics Code.
  - Please check **Municipal ordinances**, because this exemption may not be available under some Municipal codes.