



Miami-Dade County's

Ethics

Awareness

Training

PHASE V

**AN EMPLOYEE'S GUIDE TO
MIAMI-DADE COUNTY GOVERNMENT**

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PROGRAM OVERVIEW

After a number of highly publicized events by County employees involving charges of corruption, misfeasance, malfeasance, and wrongdoing, Miami-Dade County embarked on an ambitious goal in 1998 to train all 28,000 employees in Ethics Awareness. When Mayor Alex Penelas took office, he promised the citizens of Miami-Dade County that he would take aggressive steps to eliminate corruption and fraud and restore confidence in County government. One of Mayor Penelas' mandates was to ensure that all county employees complete Ethics Awareness Training.

The training kicked-off with Phase I. Included in Phase I were all County executive level employees including the staff of the Mayor and County Commissioners. Phase II was known as "Train-the-Trainer." Trainers from various departments were invited to attend a "Train-the-Trainer" session. The trainers were provided the necessary tools, methods and materials to implement Phase III, which resulted in training all 28,000 County employees.

Miami-Dade County Ethics Awareness Training Program Phase IV has been on-going for the last few years. This training has been conducted by the Employee Relations Department's Career Development Division.

Phase V will provide updates and changes to the Conflict of Interest Ordinance, Outside Employment, Conflicting Employment, Gifts, Political Activities, Reverse two-year Rule, Lobbying, Cone of Silence, and the Mendelson Law, as well as additional miscellaneous changes to various ordinances and administrative orders. Phase V of the Ethics Training will include an on-line version as well as a classroom version, which will be taken by all new hires at the time of employment.

In 2000, Miami-Dade County was awarded the prestigious National Association of Counties (NACo) Award for our Ethics Awareness Training Program. In addition, Miami-Dade County was also awarded a NACo Award for an Ethics Officer Program launched in 2004.

COURSE OBJECTIVES

Upon completion of the Ethics Training, you will be able to:

- Recognize the benefits of learning how to identify and respond to ethical dilemmas.
- Understand the importance of fostering character in the workplace.
- Have a basic understanding of the Mendelson Law.
- Understand changes in the Conflict of Interest and Code of Ethics Ordinance.
- Recognize goodness as an important value in the workplace.
- Discuss and resolve ethical differences in the workplace.
- Understand the importance of enhancing and maintaining the trust of the public and upholding the values of Miami-Dade County.
- Know how and when to use the Ethics Hotline to report unethical behavior by employees, contractors and vendors.
- Understand the prohibition on Exploitation of Official Position.
- Understand the role of the Office of the Inspector General.

DIRECTORY OF RESOURCES

Office of the Mayor

Stephen P. Clark Center
111 NW 1st Street, Suite 2910
Miami, Florida 33128

Voice (305) 375-5311
Fax (305) 375-1262

Office of the County Attorney

R. A. Cuevas, Jr.

County Attorney

Stephen P. Clark Center
111 NW 1st Street, Suite 2810
Miami, Florida 33128

Voice (305) 375-5151
Fax (305) 375-5634

Miami-Dade Police Department

James K. Loftus, Director

9105 NW 25 Street
Miami, Florida 33172

Voice (305) 471-2100
Fax (305) 471-2163

Commission on Ethics and Public Trust

Joseph M. Centorino, Executive Director

19 W. Flagler Street, Suite 820
Miami, Florida 33130

Voice (305) 579-2594
Fax (305) 579-2656
Hotline (786)-314-9560

Office of the Inspector General
Christopher R. Mazzella, Inspector General

19 W. Flagler Street, Suite 220
Miami, Florida 33130

Voice (305) 375-1946
Fax (305) 579-2656
Hotline (305) 579-2593

Miami-Dade County State Attorney's Office
Katherine Fernandez-Rundle, State Attorney

1350 NW 12th Avenue
Miami, Florida 33136

Voice (305) 547-0664
Fax (305) 547-0772

Florida Commission on Ethics

Post Office Drawer 15709
Tallahassee, FL 32317-5709

Voice (850) 488-7864
Fax (850) 488-3077

COMPARISON OF COUNTY ETHICS RESOURCES

COMMISSION ON ETHICS AND PUBLIC TRUST

Legislative Intent/Purpose

Serves as a guardian of the public trust, educates the public, candidates for public office, elected and appointed officials and other public servants regarding required standards of ethical conduct and enforcing those standards of conduct.

Areas of Jurisdiction

- ◆ Conflict of Interest Ordinances
- ◆ Code of Ethics Ordinances
- ◆ Lobbyist Registration and Reporting Ordinances
- ◆ Citizens' Bill of Rights

Procedures

- ◆ Quasi-judicial proceedings
- ◆ Subpoena powers
- ◆ Advisory Opinions

OFFICE OF THE INSPECTOR GENERAL

Mission

Detect and prevent fraud, waste, abuse, and corruption within Miami-Dade County government, including the Public Health Trust. Investigate, when appropriate, any public official, employee, or entity doing business with the County.

Powers

- ◆ To Subpoena Documents and Testimony
- ◆ To Conduct Random Audits
- ◆ Designated as a "Criminal Justice Agency"
- ◆ Holds Autonomous and Independent Status

RECENT CHANGES IN ETHICS AWARENESS

<p>October 28, 2005</p>	<p>Ethics Awareness Programs: Administrative Order 7-42</p> <p>It is a guiding principle of Miami-Dade County to provide a government that is “honest, ethical and fair to all.” The purpose of this Administrative Order is to codify existing procedures relating to ethics awareness and training of County employees.</p>
<p>June 21, 2004</p>	<p>Gifts – the Board of County Commissioners raised the gift disclosure amount to one hundred dollars (\$100). Accordingly, all employees must report any gift or series of gifts (excluding meals) in a three-month period that equal one hundred dollars or more. The gift(s) must be reported in the quarter following receipt of the gift. Any employee may obtain a copy of the gift disclosure form from the Ethics Commission’s website.</p>
<p>2004</p>	<p>The Code prohibits County bidders, vendors, and proposers from paying, directly or indirectly, for employee travel, which includes transportation, lodging, meals, and registration fees. This Code provides for a waiver. This prohibition does not apply to travel expenses paid for by other governmental entities or organizations of which the County is a member.</p>
<p>2004</p>	<p>Employees who were previously employed or held a controlling financial interest in a for-profit firm or business entity are prohibited from performing County contract-related duties regarding that business entity for a period of two years following termination of that prior relationship. This is known as the “Reverse Two-year Rule.”</p>
<p>June 17, 2003</p>	<p>The Mendelson Law was signed by Gov. Jeb Bush on June 17, 2003. The law guarantees prison time for public employees (state, county, municipal, legislators, legislative employees and political candidates) who commit serious ethical offenses such as:</p> <p>Tampering with the competitive bid process.</p> <p>Falsifying, concealing, destroying or altering official records.</p> <p>Disclosing information on bids or the bidding process unless the information is public record.</p> <p>The Mendelson Law raises the offense of bribery from a third-degree to a second-degree felony, and increases the maximum punishment from 5 to 15 years in state prison. It creates a new felony for tampering with the competitive bid process and carries a 5-year prison term.</p>
<p>January 13, 2000</p>	<p>The Board of County Commissioners votes to provide a new limited exclusion from the Conflict of Interest Ordinance for certain County employees and their immediate family members who seek to enter into County contracts. Such contracts may now be permitted where 1.) the contract will not interfere with the employee's duties; 2.) the employee did not participate in determining the contract requirements or awarding the contract; and 3.) the employee's job will not require him or her to be involved with the contract in any way.</p> <p>This limited exclusion does not allow an employee or immediate family member to enter into a County contract where the employee works in the County department which will enforce, oversee, or administer the contract. To use this exclusion, the employee must first seek a conflict of interest opinion from the Ethics Commission before the employee or immediate family member submits a bid, response, or contract application.</p>

ETHICS HOTLINE ANNOUNCEMENT



MIAMI-DADE COUNTY
**ETHICS
COMMISSION**

Independence. Truth. Fairness.

24 Hour Hotline

The Commission on Ethics and Public Trust has added a **24 hour hotline: 786-314-9560.**

The Purpose of the Commission

The Ethics Commission was created in 1996 as a result of a citizens' vote to amend the Home Rule charter. It is an independent agency with advisory and quasi-judicial powers. It is composed of five members, each serving staggered terms of four years at a time. The Chief Judge of the Eleventh Judicial Circuit appoints two of the members; the Dean of the University of Miami School of Law and the Dean of St. Thomas University School of Law share in the appointment of one member; the Director of Florida International University's Center for Labor Research and Studies and the Miami-Dade League of Cities each appoints one member.

Government employees and officials have a special duty to serve the public in a fair and just manner. The Ethics Commission is dedicated to bolstering public trust in the administration of government by informing the public and private sectors about the laws and seeking strict compliance with them. It is empowered to subpoena, audit, and investigate all facts and persons materially related to a complaint at issue.

The Commission's jurisdiction extends to the municipalities of Miami-Dade County provided the subject is covered by one of the ordinances under its authority:

- **The Conflict of Interest and Code of Ethics Ordinance**
- **The Citizen's Bill of Rights**
- **The Ethical Campaign Practices Ordinance**
- **The Election Campaign Financing Trust Fund Ordinance**

Another important area of responsibility involves advice-giving. Each year several hundred local government officials and employees seek legal opinions from the Ethics Commission to establish the standard of public duty they should exercise. All of these opinions are posted on the Ethics Commission's website at <http://www.miamidade.gov/ethics/>.

ETHICAL PROBLEM-SOLVING: A TEN-STEP METHOD

To assist you in evaluating and resolving most ethical situations or problems, use the following Ten-Step Ethical Problem-Solving Method in assessing what direction should be taken to resolve the issue at hand.

STEP ONE - Identify the Issue or Problem - Clarify the real issue. The real problem may be masked by apparent problems. You cannot resolve that which you cannot identify.

STEP TWO - Analyze the Kind of Problem It Really Is - If the issue is about moral duties, ethics code interpretation, or your own sense of justice, your problem may be an ethical issue.

STEP THREE - Break the Problem Down to Workable Elements - Who, what, why, where, and when. If the problem is complex or confusing, try to isolate separate issues.

STEP FOUR - Determine What Kind of Ethical Problem It Is - To resolve the problem, it must be determined which set of standards the problem potentially violates - Federal, State, or County laws, regulations, statutes, or ordinances, or your own or your supervisor's ethics standards.

STEP FIVE - Determine Whose Problem It Is - Decide whom the problem affects and who is responsible for it. Turn the problem over to the person in a fair and reasonable manner.

STEP SIX - Determine If More Than One Option Is Available - Most problems have more than one solution. Develop all possible solutions.

STEP SEVEN - Evaluate the Options - Evaluate each potential resolution. Consider the impact and effect of each decision on you, your colleagues, and the general public.

STEP EIGHT - Select the Best Workable Solution - The solution selected should be effective and workable. To test for workability, ask yourself if the proposed resolution is morally proper, likely to succeed, and the choice most likely to resolve the problem.

STEP NINE - Seek Outside Help When It Is Necessary - You cannot be the expert on everything. In ethics, it is very important in public service to know that there are many resources available to assist you. Use the Directory of Resources in this manual.

STEP TEN - Trust Your Instincts - Your own sense of what is right and what is wrong is the best judge of what is appropriate under the circumstances. Remember – if a situation feels wrong, it probably is wrong.

When necessary, implement this ethical problem-solving method to assess what direction should be taken to resolve issues with which you may be confronted.

ETHICS WEB LINKS DIRECTORY

MIAMI-DADE COUNTY

Miami-Dade Citizens' Bill of Rights

http://www.miamidade.gov/ethics/bill_of_rights.asp

Miami-Dade Ethical Campaign Practices Ordinance

<http://www.miamidade.gov/ethics/campaign.asp>

Miami-Dade Ethics Commission Ordinance

http://www.miamidade.gov/ethics/ord_coept.asp

Miami-Dade Conflict of Interest and Code of Ethics Ordinance (Sec. 2-11.1):

<http://www.miamidade.gov/ethics/plain.asp>

Sec. (s) Lobbyist Registration and Reporting Ordinance

<http://www.miamidade.gov/govaction/matter.asp?matter=031490&file=false&yearFolder=Y2003>

Sec. (t) Cone of Silence

<http://www.miamidade.gov/dpm/cone-silence-summary.asp>

Miami-Dade County Commission on Ethics and Public Trust

<http://www.miamidade.gov/ethics/>

Miami-Dade County Independent Review Panel

<http://www.miamidade.gov/irp/>

Miami-Dade County Government

www.miamidade.gov

Miami-Dade County MetroNet (accessible only on County government computers)

<http://intra>

STATE OF FLORIDA

Florida Ethics Commission

<http://www.ethics.state.fl.us>

State of Florida Code of Ethics for Public Officers and Employees

Chapter 112, Part III, Florida Statutes

<http://www.ethics.state.fl.us/>

Overview of State of Florida "Gifts Law"

<http://www.ethics.state.fl.us/>

Florida Statutes and Constitution

<http://www.leg.state.fl.us/statutes>

THE MENDELSON LAW

STATE LAW – HB 847

The Mendelson Law was signed by Gov. Jeb Bush on June 17, 2003. The law guarantees prison time for public employees (state, county, municipal, legislators, legislative employees and political candidates) who commit serious ethical offenses such as:

- Tampering with the competitive bid process.
- Falsifying, concealing, destroying or altering official records.
- Disclosing information on bids or the bidding process unless the information is public record.

The Mendelson Law raises the offense of bribery from a third-degree to a second-degree felony, and increases the maximum punishment from 5 to 15 years in state prison. It creates a new felony for tampering with the competitive bid process and carries a 5-year prison term.

ETHICS QUESTIONS

1. How was the Commission on Ethics and Public Trust created?
2. What is the mission of the Ethics Commission?
3. Who created the Office of Inspector General?
4. What is the authority of the Inspector General?
5. What is the relationship between the Ethics Commission and the Office of the Inspector General?
6. Can I request an investigation and maintain my anonymity?
7. When would it be appropriate to file a complaint?
8. What is the purpose of a request for an opinion?
9. Who actually issues the opinions?
10. What is the difference between a request for an opinion and a complaint?
11. If the Ethics Commission holds a public hearing resulting from a complaint I have filed, what is my role at the hearing?
12. Is there anything unique about filing a complaint?
13. What is the effect of a “probable cause” determination?
14. As an alleged violator of an ordinance, what rights do I have in the event the Ethics Commission finds probable cause to believe a violation has been committed?
15. What are the examples of perceived conflicts of interests?

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16. True or False: The ordinance that bans bidders, lobbyists, and elected officials from contacting County staff during the contract bidding process is termed the “Code of Silence Ordinance.”
 17. Under the Cone of Silence Ordinance, when does the “Cone Of Silence” terminate?
 18. What County records are open to inspection by the general public?
 19. Are the home addresses, phone numbers, and social security numbers of County employees exempt from public disclosure?
 20. True or False: Employees who have access to confidential information and use the information inappropriately may be in violation of criminal law.
 21. Is there a prohibited conflict of interest when County employees, who are privy to specific real estate information that is not available to the general public, have outside employment in the real estate profession?
 22. What constitutes conflict of interest in acceptance of gifts?
 23. What is the County’s position on receiving gifts?
 24. What should an employee do if they are given a gift less than \$100?
 25. Who determines whether an employee is granted outside employment?
 26. True or False: A spouse of a County employee is generally prohibited from transacting business with the County through a corporation.
 27. True or False: When a corporation submits a bid, the corporation is considered to be transacting business with the County.

CITIZENS' BILL OF RIGHTS

(from Miami-Dade County's Home Rule Charter)

(A). This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

1. **Convenient Access.** Every person has the right to transact business with the County and the municipalities with a minimum of personal inconvenience. It shall be the duty of the County Manager and the Commission to provide, within the County's budget limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the County.
2. **Truth in Government.** No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
3. **Public Records.** All audits, reports, minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.
4. **Minutes and Ordinance Register.** The Clerk of the Commission and of each municipal council shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than 30 days after the conclusion of the meeting.
5. **Right to be Heard.** So far as the orderly conduct of public business permits, any interested person has the right to appear before the Commission or any municipal council or any County or municipal agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits for the presentation of a matter.
6. **Right to Notice.** Persons entitled to notice of a County or municipal hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.
7. **No Unreasonable Postponements.** No matter once having been placed on a formal agenda by the County or any municipality shall be postponed to another day except for good cause shown in the opinion of the County Commission, the municipal council or other governmental entity or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of

any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

8. **Right to Public Hearing.** Upon a timely request of any interested party a public hearing shall be held by any County or municipal agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Law Department of the County or of any municipality, not to any body whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

9. **Notice of Actions and Reasons.** Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any County or municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.
10. **Managers' and Attorneys' Reports.** The County Manager and County Attorney and each City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
11. **Budgeting.** In addition to any budget required by state statute, the County Manager shall prepare a budget showing the cost of each program for each budget year. Prior to the County Commission's first public hearing on the proposed budget required by state law, the County Manager shall make public a budget summary setting forth the proposed cost of each individual program and reflecting all major proposed increases and decreases in funds and personnel for each program, the purposes therefore, the estimated millage cost of each program and the amount of any contingency and carryover funds for each program.
12. **Quarterly Budget Comparisons.** The County Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.
13. **Adequate Audits.** An annual audit of the County and each municipality shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. A summary of the results, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy.
14. **Regional Offices.** Regional offices of the County's administrative services shall be maintained at locations in the County for the convenience of the residents.

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15. **Financial Disclosure.** The Commission shall by ordinance make provision for the filing under oath or affirmation by all County and municipal elective officials, candidates for County and municipal elective offices, such employees as may be designated by ordinance, and such other public officials, and outside consultants who receive funds from the County or municipalities, within the County and who may legally be included, of personal financial statements, copies of personal Federal income tax returns, or itemized source of income statements. Provision shall be made for preparing and keeping such reports current from time to time, and for public disclosure.

The Commission shall also make provision for the filing annually under oath of a report by full-time County and municipal employees of all outside employment and amounts received therefrom. The County Manager or any City Manager may require monthly reports from individual employees or groups of employees for good cause.

16. **Representation of Public.** The Commission shall endeavor to provide representation at all proceedings significantly affecting the County and its residents before State and Federal regulatory bodies.
17. **Commission on Ethics and Public Trust.** The County shall, by ordinance, establish an independent Commission on Ethics and Public Trust comprised of five members, not appointed by County Commission, with the authority to review, interpret, render advisory opinions and enforce the county and municipal code of ethics ordinances, conflict of interest ordinances, lobbyist registration and reporting ordinances, ethical campaign practices ordinances, when enacted, and citizens' bill of rights.
- (B). The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of Dade County. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the County. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.
- (C). **Remedies for Violations.** In any suit by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. Any public official or employee who is found by the Court to have willfully violated this Article shall forthwith forfeit his office or employment.
- (D). **Construction.** All provisions of this Article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Article shall be declared invalid, it shall not affect the validity of the remaining provisions.

SUMMARY OF ETHICS PROVISIONS

I. Gifts

- A County employee is prohibited from soliciting or accepting any gift because of:
 - 1) An official action taken;
 - 2) To be taken; or
 - 3) Which could be taken.
- A gift is defined under the Code as anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise without adequate and lawful consideration.
- The following items are exempted from the definition of gift under the ordinance:
 - 1) Political contributions;
 - 2) Gifts from relatives and members of one's household;
 - 3) Awards for civic and professional achievement;
 - 4) Informational books and pamphlets;
 - 5) Gifts solicited by employees for official use by the county or municipality; and
 - 6) Gifts solicited by commissioners on behalf of the county or municipality in conducting their official business.
- All gifts or series of gifts which exceed one-hundred dollars (\$100) in value must be reported.
- Administrative Order 7-1 prohibits employees from accepting tips or gratuities for the discharge of their public duties. The Code of Ethics prohibits employees from soliciting or demanding gifts in exchange for an official action taken or to be taken.
- Although in some circumstances there may be no legal prohibition for the acceptance of certain gifts from County vendors, these can create an appearance of impropriety and are strongly discouraged.

II. Outside Employment/Conflicting Employment

- The director has discretion to grant written permission for outside employment. Even if an employee has obtained an advisory opinion from the Ethics Commission whereby the Commission finds no conflicts of interest, the director may still refuse to grant the employee permission.
- Employees and departmental personnel may not receive compensation for his or her services as an officer or employee of the County or city from any other source except as may be permitted.
- Employees and other departmental personnel may not accept outside employment which would impair the performance of his or her public duties.
- The Code of Ethics prohibits employees from engaging in conflicting employment. Before obtaining permission to engage in outside employment, the employee should ensure that the outside employment does not conflict with his/her County employment. The Ethics Commission reviews requests for advisory opinions pertaining to outside employment on a case-by-case basis. Once an employee has obtained permission from his/her department director, he/she is required to file the outside employment forms each year and disclose the nature of the work, the source of the employment, and how much income was earned.
- If an employee is earning income from a source other than the County, excluding stocks, bonds, IRAs, and other financial investments, that is considered outside employment and it must be reported. The Code of Ethics requires all employees engaged in any outside employment (regardless of how much is earned) to file the appropriate outside employment disclosure statements by July 1st with the Supervisor of Elections.

III. Political Activities

- County employees are free to express their opinions on political issues but must be careful to avoid using their official authority to improperly influence others.
- Certain limitations exist regarding an employee's political activities. For example, an employee is permitted to engage in political activities off-duty, but this prohibition of on-duty political activity doesn't prohibit casual political discussions at work as long as the speech doesn't interfere with the proper functioning of the workplace. For instance, while employees can casually mention to fellow co-workers that they have a petition that they support; they shouldn't do it during on-duty hours or demand, order, coerce, or aggressively pursue other employees to sign the petition.
- The County has an email policy governing the reasonable use of the County email and Internet services by employees, which states in part that a prohibited activity includes: "Any use of e-mail and the Internet for partisan political or religious activities." There may be some political events that are non-partisan in nature and therefore permissible.
- Any employee of Miami-Dade County who qualifies as a candidate for election to any federal, state or municipal office is required to immediately take a leave of absence from his or her County position until the date of the election. If elected, he or she immediately forfeits his or her County position. If the candidate is not elected, he or she shall immediately be reinstated to his or her former position.

IV. Two-year Lobbying Rule/ Reverse Two-year Rule /Cone of Silence

- No elected official may for a period of two years after they leave office lobby any county or municipal official or employee in connection with any proceeding, application, bid, RFP, RFQ, request for ruling or other determination, contract, claim, controversy, charge, arrest in which the county or the municipality or any of its agencies has any interest.
- The provisions of this section do not apply to persons who are employed by government entities, 501(c)(3) non-profit or educational entities who lobby on behalf of said organization.
- Any elected official who left elective office in the two years prior to February 1, 1999 must submit an affidavit certifying that they were not directly or indirectly involved in the matter on which they are lobbying during their county or municipal service.
- Employees who were previously employed or held a controlling financial interest in a for-profit firm or business entity are prohibited from performing County contract-related duties regarding that business entity for a period of two years following termination of that prior relationship. This is known as the “Reverse Two-year Rule.”
- The Cone of Silence prohibits oral communication between vendors, bidders, lobbyists and the county or municipality's professional staff including the manager and his or her staff between the time that the bid, RFP or RFQ is being drafted by the Department of Procurement Management or the issuing department and the written recommendation of the city or county manager to the county or city commission or council.
- The Cone of Silence also prohibits oral communication regarding the bid, RFP or RFQ between the Mayor, County or City Commissioners and their respective staff and any member of the county or city's professional staff between advertisement of the bid, RFP and RFQ and the manager's written recommendation.
- The Cone of Silence does not apply to communications with the county or city attorney and his or her staff, communications with the technical assistance unit of the Department of Business Development regarding CSBE or minority business programs, duly noticed site visits and emergency procurement of goods or services.
- The Cone of Silence also does not apply to pre-bid conferences, selection committee presentations, contract negotiations or presentations before the Board of County Commissioners or a municipal commission or council.
- The Cone of Silence does not prohibit communications between a vendor, service provider, bidder lobbyist or consultant and the Vendor Information Center staff, the procurement agent or the contracting officer as long as the communication is limited to matters of process or procedure.

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- The Code of Silence does not prohibit the communications between the procurement officer or the contracting officer and a member of the selection committee as long as the communication is limited to matters of process or procedure.

V. Miscellaneous

- The Code prohibits County bidders, vendors, and proposers from paying, directly or indirectly, for employee travel, which includes transportation, lodging, meals, and registration fees. This Code provides for a waiver. This prohibition does not apply to travel expenses paid for by other governmental entities or organizations of which the County is a member.
- Employees are prohibited from appearing before any County board or agency to make a presentation on behalf of a third party with respect to contracts, opinions, decisions, or any other benefit. Also, employees may not receive compensation, directly or indirectly, for services performed on behalf of a third party and in connection to a particular benefit sought from the County by that third party.
- Employees may serve on non-profit boards and civic organizations as long as they are not making appearances before any County board or agency on behalf of the board. The Ethics Commission interprets appearances broadly to include such things as filing permits on behalf of third parties and signing funding application documents or final contracts related to funding.
- The Code of Ethics prohibits employees from recommending services, such as legal services, to assist in any transaction involving the County, unless your County duties and position require you to make such a recommendation.
- The Code of Ethics permits employees and their immediate family (spouses, parents, children) to contract with County as long as:
 - 1) the contract will not interfere with the employee's duties
 - 2) the employee has not participated in drafting the requirements or subject of the contract
 - 3) the employee will not be involved in the oversight, enforcement, administration, extension, or termination of the contract
 - 4) the contract is not with the department or agency where the employee works
- The Code of Ethics prohibits exploitation of official position. Employees are prohibited from using their official position, which includes County resources, to secure special benefits or privileges for themselves or others.

-
- The Ethics Commission has jurisdiction to enforce the Conflict of Interest and Code of Ethics Ordinance. For example, if an employee witnesses a co-worker engaged in behavior that he or she thinks is a Code of Ethics violation, that employee may notify the Ethics Commission as to the possible violation. The employee can provide the information in the following manner: call the Ethics Hotline and leave a tip, speak to an ethics investigator either over the phone or in person, or file a formal complaint on an appropriate notarized form. When an employee files a formal complaint, his or her name will be identified as the complaining party. An individual may not request an advisory opinion about third party conduct.
 - The Ethics Commission does not have the authority to enforce County Administrative Orders. If the Ethics Commission received such a call, it would refer the caller to either the County Manager or department director.

GLOSSARY OF TERMS

(As defined in the Miami-Dade Conflict of Interest and Code of Ethics Ordinance and the Cone of Silence Ordinance)

Advisory personnel:

Members of those County advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the Board of County Commissioners.

Autonomous personnel:

Members of semi-autonomous authorities, boards, and agencies as are entrusted with the day-to-day policy setting, operation and management of certain defined County functions or areas of responsibility, even though the ultimate responsibility for such functions or areas rests with the Board of County Commissioners.

Compensation:

Any money, gift, favor, thing of value or financial benefit conferred in return for services rendered or to be rendered.

Cone of Silence:

A prohibition on: (a) any communication regarding a particular Request for Proposals (RFP), Request for Qualifications (RFQ), or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff; and (b) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff.

Controlling financial interest:

Ownership, directly or indirectly, to ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten (10) percent or more in a firm, partnership, or other business entity.

Departmental personnel:

The County Manager, his department heads, the County Attorney and all the Assistant County Attorneys (*see Employees*).

Direct violation:

A violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer.

Employees:

All other salaried personnel employed by the County (*see Departmental personnel*).

Gifts:

The transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.

Immediate Family:

The spouse, parents and children of the person involved.

Lobbyist:

All persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission, (2) any action, decision, recommendation of any County board or committee; or (3) any action, decision or recommendations of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee.

Prohibition on transacting business within the County:

No person included in the terms defined in subsection (b)(1) through (6) and in subsection (b)(9) of the Conflict of Interest and Code of Ethics Ordinance shall enter into any contract or transact any business in which he/she or a member of his immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Willful violation of this subsection shall constitute malfeasance in office and shall effect forfeiture of office or position.

Quasi-judicial personnel:

Members of the Community Zoning Appeals Board and such other boards and agencies of the County who perform quasi-judicial functions.

Transact any business

The purchase or sale by the County of specific goods or services for a consideration.

GUIDELINES FOR MANAGING ETHICS IN THE WORKPLACE

The County's commitment to ethics is here to stay. The message remains "Zero Tolerance" for unethical behavior. Below are six guidelines to help executives manage ethics in the workplace.

1. *Recognize that managing ethics is a process.*

- ◆ Ethics is a matter of values and associated behaviors.
- ◆ Ethics programs do produce deliverables, e.g., codes, policies and procedures, budget items, meeting minutes, authorization forms, newsletters, etc.
- ◆ The most important aspect from an ethics management program is the process of reflection and dialogue that produces these deliverables.

2. *The bottom line of an ethics program is accomplishing preferred behaviors in the workplace.*

- ◆ The most important outcome is behaviors preferred by the organization.
- ◆ The best ethical values and intentions are relatively meaningless unless they generate fair and just behaviors in the workplace.
- ◆ Practices that generate lists of ethical values, or codes of ethics, must also generate policies, procedures, and training that translate those values into appropriate behaviors.

3. *The best way to handle ethical dilemmas is to avoid their occurrence in the first place.*

- ◆ Practices such as developing codes of ethics and codes of conduct are important.
- ◆ Their development sensitizes employees to ethical considerations and minimizes the chances of unethical behavior occurring in the first place.

4. *Make ethics decisions in groups and make decisions public as appropriate.*

- ◆ Produces better quality decisions by including diverse interests and perspectives, and increases the credibility of the decision-making process while reducing suspicion of unfair bias.

5. *Integrate ethics management with other management practices.*

- ◆ When developing personnel policies, reflect on what ethical values you'd like to be most prominent in the organization's culture and then design policies to produce these behaviors.

6. *Use cross-functional teams when developing and implementing the ethics management program.*

- ◆ It's vital that employees feel a sense of participation and ownership in the program if they are to adhere to its ethical values.
- ◆ Include employees in developing and operating the program.

ADMINISTRATIVE ORDER NO.: 7-42

Title: Ethics Awareness Programs

Ordered: 10/18/05 **Effective:** 10/28/05

AUTHORITY:

Sections 4.02 and 4.05(b) of the Miami-Dade County Home Rule Amendment and Charter.

POLICY:

It is a guiding principle of Miami-Dade County to provide a government that is “honest, ethical and fair to all.” The purpose of this Administrative Order is to codify existing procedures relating to ethics awareness and training of County employees.

ETHICS TRAINING:

All newly-hired County employees reporting to the County Manager are required to participate in ethics awareness training within 30 days of employment. All existing County employees reporting to the County Manager are required to participate in ethics awareness refresher training no less than every five years. The Employee Relations Department (ERD) shall work with the Commission on Ethics and Public Trust to develop and establish appropriate countywide ethics training standards and curricula. ERD shall coordinate and implement countywide ethics awareness programs for County employees subject to this Administrative Order. Each County department and office is ultimately responsible for the scheduling and training of its respective employees. Each County department and office shall maintain accurate records relating to the ethics awareness training of its respective employees.

DEPARTMENTAL ETHICS OFFICERS:

The Employee Relations Department, in cooperation with the Commission on Ethics and Public Trust, shall coordinate the Miami-Dade Departmental Ethics Officer Program. Each Department Director shall annually appoint (or reappoint) at least one individual to serve as a Departmental Ethics Officer. Departments and offices may have more than one Departmental Ethics Officer.

The Departmental Ethics Officer is responsible for:

- a.) Acting as a departmental resource and liaison on ethics matters;
- b.) Disseminating ethics information to department staff;
- c.) Requesting Commission on Ethics and Public Trust opinions, as necessary and appropriate;
- d.) Assisting with the coordination and implementation of countywide ethics programs at the department level;
- e.) Maintaining accurate ethics training records for all employees within the department, including new hires; and,
- f.) Attending regular meetings of Departmental Ethics Officers.

Departmental Ethics Officer duties are ancillary to regular County job duties.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

George M. Burgess
County Manager

ETHICS CASE STUDIES

CASE STUDY A

John Doe, department director, refused to grant permission for outside employment to one of his employees, Mary Smith. Mary is an accountant for the County and she would be doing bookkeeping work for a relative's flower shop during her off-hours. John feels that it would conflict with Mary's current job duties. Mary disagrees and asked for an opinion from the Ethics Commission. The Ethics Commission found no conflict. Does this opinion override John Doe's decision? Explain.

- a. No, it's the director's discretion.
- b. Yes, the Ethics Commission always has the last word.

CASE STUDY B

A major technology vendor, ABC Inc., that is submitting a bid for a technology contract with the County has offered to pay travel expenses for several County technology employees to attend a conference and educational seminar at which this vendor, ABC Inc., will be demonstrating its products and services. May these County technology employees accept these expenses? Explain.

- a. Of course, the County is always looking for ways to save costs.
- b. No, bidders are prohibited from paying for employee travel.
- c. Yes, but only if the bidder gives the money to the department director and not to the employees directly.

CASE STUDY C

A client, XYZ Corp., of your spouse's firm, ACME Corp., has offered to take the members of that firm on an all expenses paid week cruise to the Caribbean. Spouses are invited. XYZ Corp. is a large business entity contracting with your County department. As a marketing representative, you are required to work with XYZ Corp. on occasion. May you accept this cruise offer? Explain.

- a. Yes, it's really a gift to your spouse, not to you.
- b. No, because the value of the gift is probably more than \$100 and you have a business relationship with the company.
- c. No, because employees may not accept travel expenses from County vendors.

CASE STUDY D

Tom Smith, a County employee, has a real estate license. As part of his County job, Tom is required to do community outreach and public presentations on behalf of his County department. Tom frequently attends community-based luncheons and meetings. Can Tom provide the people he meets through these County activities with his business card and promote his real estate business? Explain.

- a. Yes, since the outside business is not related to Tom's County work.
- b. No, because Tom could be exploiting his official position.
- c. Yes, this is considered one of the fringe benefits of Tom's County employment.



REQUEST FOR OUTSIDE EMPLOYMENT

MIAMI-DADE COUNTY CODE STATES THAT ANY FULL-TIME AND PART-TIME COUNTY EMPLOYEE INTENDING TO HAVE OUTSIDE EMPLOYMENT MUST FIRST SUBMIT A REQUEST TO THE DEPARTMENT DIRECTOR FOR HIS/HER APPROVAL.

Employee Name: _____

Present County Classification: _____

Employee Social Security Number: _____

Name of Company/Organization for Proposed Outside Employment: _____

Job Title/Responsibilities for Proposed Outside Employment: _____

Location of Proposed Outside Employment: _____

Work Schedule for Proposed Outside Employment: _____

Total Hours Per Week for Proposed Outside Employment: _____

Will Your Proposed Outside Employer Release You If And When You Are Called for Emergency Service by the County? _____

Employee's Signature Date

Immediate Supervisor's Approval Date

Division Director's Approval Date

Department Director's Approval Date

Yes No

Yes No

Yes No

NOTE: IN ADDITION TO OBTAINING THE DEPARTMENT DIRECTOR'S APPROVAL, COUNTY EMPLOYEES ENGAGING IN OUTSIDE EMPLOYMENT MUST ALSO FILE AN ANNUAL FINANCIAL REPORT WITH THE ELECTIONS DEPARTMENT BY JULY 1ST OF EACH YEAR IN ACCORDANCE WITH SECTION 2-11.1(K)(2) OF THE MIAMI-DADE COUNTY CODE.



OUTSIDE EMPLOYMENT STATEMENT

For Full-time County and Municipal Employees

FULL-TIME AND PART-TIME COUNTY AND MUNICIPAL EMPLOYEES ENGAGING IN OUTSIDE EMPLOYMENT MUST FILE AN ANNUAL DISCLOSURE REPORT BY JULY 1ST OF EACH YEAR IN ACCORDANCE WITH SECTION 2-11.1(K)(2) OF THE MIAMI-DADE COUNTY CODE.

Disclosure for
Tax Year Ending: _____

Name: Last	First	Middle
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Filing as a (check one):
 Miami-Dade County Employee
 Municipal Employee of: _____

Position Title:

County/Municipal Department:	County/Municipal Division:
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<i>If your home address is exempt from public records pursuant to Florida Statutes § 119.07, please check here:</i> <input type="checkbox"/>	Work Telephone:
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Mailing Address (Street Name and Number)	Apt. #
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City	State	Zip Code
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Please list the sources of outside employment, the nature of the work and the amounts of money or other compensation you received. *If continued on a separate sheet, please check here:*

Name and Address of the Source of Outside Income	Nature of the Work Performed	Amount of Money or Compensation Received

I hereby swear (or affirm) that the aforesaid information is a true and correct statement.

Signature of Person Disclosing	Date Signed
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OUTSIDE EMPLOYMENT INFORMATION

(Required by the Miami-Dade County Code, Section 2-11.1(k)(2), as amended)

OUTSIDE EMPLOYMENT means the providing of services or capital, other than to Miami-Dade County, or to the respective municipality, with the intent of earning a profit or income, including but not limited to, being an employee, an independent contractor, an agent, or by self-employment.

FILING INSTRUCTIONS

This form must be filed by July 1st of each year. The form should only be filed by employees who have outside employment to disclose.

Miami-Dade County personnel shall file completed forms with:

**Supervisor of Elections
Miami-Dade Elections Department
2700 NW 87th Ave
Miami, Florida 33172
305-499-VOTE**

Municipal personnel shall file completed forms with:

Their respective Municipal Clerk

For further information contact the Miami-Dade Elections Department at (305) 375-4382 or Municipal Clerk's Office.

Note: The role of our office is to receive and maintain the forms filed as public record. If your home address appears on the form and you are exempt from public records and you do not wish it to be made public, you should use your office or other address. The following persons should not use their home addresses: active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; firefighters; justices and judges; current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; county and municipal code inspectors and code enforcement officers.

ANSWER KEY

Ethics Questions

Ethics Case Studies

ANSWERS TO ETHICS QUESTIONS

1. How was the Commission on Ethics and Public Trust created?

Miami-Dade County voters approved an amendment to the County's Home Rule Charter in March 1996 to provide for an ethics commission. The Miami-Dade Board of County Commissioners implemented this change by establishing the Commission on Ethics and Public Trust, an independent agency with advisory and quasi-judicial powers, through Ordinance 97-105.

2. What is the mission of the Ethics Commission?

The Ethics Commission was created to ensure the integrity of the governmental decision-making and electoral processes, and to restore confidence in government. The purpose of the Commission is to serve as the guardian of the public trust by educating the public, candidates for elective office, and elected and appointed officials regarding the required standards of ethical conduct and enforcing those standards.

3. Who created the Office of Inspector General?

By a separate ordinance, Ordinance 97-215, the Board of County Commissioners created the Office of Inspector General.

4. What is the authority of the Inspector General?

The Inspector General is vested with broad powers to review past, present, and proposed contracts, records, agreements and other transactions entered into by Miami-Dade County and the Public Health Trust. The Inspector General's authority includes monitoring County transactions to assess their cost effectiveness, requiring reports from the offices of the County's elected officials, departments, agencies and instrumentalities, and subpoenaing witnesses. The Inspector General also has the authority to require the production of records in furtherance of an investigation, analyze change orders, conduct mandatory random audits, investigate citizen complaints, and file Ethics Commission complaints without personal knowledge.

5. What is the relationship between the Ethics Commission and the Office of the Inspector General?

Both agencies are autonomous but share resources. The Inspector General is appointed by the Ethics Commission and assists the Ethics Commission through investigations of alleged violations within the jurisdiction of the Ethics Commission.

6. Can I request an investigation and maintain my anonymity?

Yes, a person requesting an investigation may do so without revealing his/her identity. The Inspector General is willing to consider tips from anonymous sources. If the employee wishes to meet confidentially with the Inspector General or a member of the investigative staff, that can be arranged as well.

7. When would it be appropriate to file a complaint?

If a person has reason to believe that one or more of the ordinances under the purview of the Ethics Commission has been violated by another County official or employee, initiating a complaint may be the most appropriate mechanism to bring the matter to the attention of the Ethics Commission.

8. What is the purpose of a request for an opinion?

County employees and officials are occasionally faced with situations where they are unsure of how to proceed. If the official or employee believes that taking a certain course of action could create a conflict of interest, then that person may ask the Ethics Commission for a written opinion.

9. Who actually issues the opinions?

Once the request is submitted, it will be analyzed by the staff and presented to the Ethics Commission for an official determination. Once that occurs, the requestor will receive a written opinion signed by the Executive Director stating the Commission's opinion and the reason(s) for that opinion.

10. What is the difference between a request for an opinion and a complaint?

The salient difference is the request for opinion involves the requestor's own conduct, whereas the complaint process is designed for individuals who allege that others are in violation of an ordinance within the Commission's jurisdiction.

11. If the Ethics Commission holds a public hearing resulting from a complaint I have filed, what is my role at the hearing?

In most cases, the complainant will be a witness at the hearing and will be subject to cross-examination by the other side. The complainant is not an actual party to the proceeding and has no burden of proving that a violation was committed.

12. Is there anything unique about filing a complaint?

The person filing the complaint must have personal knowledge of the violation and should supply the Commission with as much evidence as possible. This complaint form must be signed and notarized. Once the complaint is filed with the Commission, the complaint will be forwarded to the alleged violator within five days. The Inspector General, Ethics Commission Advocate, and State Attorney are exempt from the personal knowledge requirement.

13. What is the effect of a "probable cause" determination?

Assuming the Commission finds probable cause, a public hearing, if requested by the alleged violator, will be scheduled. The full Commission on Ethics is impaneled to hear the case. The hearing is scheduled no later than sixty (60) days after the probable cause determination. An attorney will present the case on behalf of the Commission, the alleged violator most likely will hire legal counsel, witnesses will testify, evidence will be introduced, and the Ethics Commission will render a ruling. If a violation is found, penalties can be imposed against the violator.

14. As an alleged violator of an ordinance, what rights do I have in the event the Ethics Commission finds probable cause to believe a violation has been committed?

All the respondents are entitled to a public hearing in front of the Ethics Commission. The request for a public hearing must be made within twenty-one (21) days following the mailing of the probable cause notification.

15. What are the examples of perceived conflicts of interests?

Questions about accepting gifts, working a second job, and doing business with one's agency are some of the potential conflicts the Ethics Commission can address.

16. True or False: The ordinance that bans bidders, lobbyists, and elected officials from engaging in oral communication with County staff during the contract bidding process is termed the "Code of Silence Ordinance."

False. It's the Cone (*not Code*) of Silence Ordinance. Written communication is permitted providing the bidder or proposer files a copy of the written communication with the Clerk of the Board.

17. Under the Cone of Silence Ordinance, when does the "Cone Of Silence" terminate?

The "Cone of Silence" terminates at the time the County Manager makes his or her written recommendation to the County Commission. However, if the Commission refers the County Manager's recommendation back to the County Manager or staff for further review, the Cone of Silence is re-imposed until such time as the County Manager makes a subsequent written recommendation.

18. What County records are open to inspection by the general public?

The County is subject to the Public Records Act (Ch. 119, Fla. Stat.) which requires that public records be open to inspection. Generally, public records encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge. All such materials, regardless of whether they are in final form, are open for public inspection unless the Florida legislature has exempted them from disclosure. Computer records, including e-mail messages, made or received by County employees in connection with official business, are public records unless otherwise exempted. Medical records are generally exempt and confidential, but may be released if the person or the person's legal representative provides written permission.

19. Are the home addresses, phone numbers, and social security numbers of County employees exempt from public disclosure?

Personnel records are open to inspection unless exempted by law. This includes applications for employment, resumes, communications from third parties, grievance records, and salary information. Social security numbers of all current and former County employees which are contained in County employment records are exempt from disclosure. As a rule, home addresses and telephone numbers of County employees are open to inspection. Home addresses and telephone numbers of specified categories of employees, including active and former law enforcement personnel, firefighters, correctional officers, and judges, are exempt from disclosure requirements. The home addresses, telephone numbers, and places of employment of the spouses and children of such officers and personnel and the names and locations of the schools and day care facilities attended by their children are also exempt. With the exception of the judges, the photographs of such officers, personnel, spouses, and children are exempt. Home addresses and home telephone numbers of code inspectors and code enforcement officers are confidential and exempt.

20. True or False: Employees who have access to confidential information and use the information inappropriately may be in violation of criminal law.

True. Any person willfully and knowingly violating any of the provisions of the Public Records Act may be guilty of a misdemeanor of the first degree.

21. Is there a prohibited conflict of interest when County employees, who are privy to specific real estate information that is not available to the general public, have outside employment in the real estate profession?

Maybe. It is a violation of the County's Code of Ethics and Conflict of Interest Ordinance for County employees to reveal confidential information. As far as the specific question is concerned, an employee must ask the Ethics Commission directly for an opinion. A supervisor may not ask the Ethics Commission for an opinion on behalf of a third party. The decision to grant outside employment rests with the department head. The Ethics Commission can issue opinions on this subject, but the department which employs the individual is not bound by the opinion. Assuming the department director approves the outside employment, the County employee must also file an annual disclosure report with the Elections Department by July 1st of each year.

22. What constitutes conflict of interest in acceptance of gifts?

For the most part, gifts given by those outside County government should not be accepted, particularly from outsiders who are doing business or seeking to do business with the County. Gifts given out of friendship or between co-workers are treated differently.

23. What is the County's position on receiving gifts?

The County Attorney's Office has taken the position that all perishable items given as gifts should not be accepted, rather such gifts should be donated. The Ethics Commission has never been asked to comment on this practice. Accepting flowers from a claimant who received assistance from a County employee would be a violation of the gift rule. County employees are not permitted to accept gifts for legal duties the employees are expected to perform as part of their job responsibilities.

24. What should an employee do if they are given a gift less than \$100?

If a gift is accepted and it is worth less than \$100, it does not have to be reported. The reporting requirement takes effect when the value of the gift equals or exceeds \$100. If a gift is donated and it is worth less than \$100 it does not have to be disclosed. If it is worth more than \$100, it is probably a good idea to keep some record of the fact that it was not kept by the employee.

Generally, gifts having a value in excess of \$100.00 must be reported to the Clerk of the Board of County Commissioners no later than the last day of each calendar quarter for the previous quarter. (For example, if a gift is received in March, it should be disclosed by June 30th.) Generally, gifts having a value in excess of one hundred dollars (\$100.00) must also be reported to the Secretary of State.

25. Who determines whether an employee is granted outside employment?

The respective department director determines authorization for outside employment. The Ethics Commission can determine whether the outside activities create a conflicting employment situation. Ultimately, it is up to the department to decide the matter. The department director has the discretion to grant or deny the outside employment, regardless of the findings of the Ethics Commission.

26. True or False: A spouse of a County employee is generally prohibited from transacting business with the County through a corporation.

True. If the spouse holds a "controlling financial interest" of ten (10) percent or more of the shares of the corporation, the spouse is generally prohibited from entering into a contract or transacting business with the County. However, the spouse or corporation may be permitted to enter into County contracts under a newly created limited exclusion. To use this exclusion, the employee must first seek a conflict of interest opinion from the Ethics Commission before the spouse or corporation submits a bid, response, or contract application. A spouse of an employee may not enter into a County contract where the employee works in the department which will enforce, oversee, or administer the subject contract.

27. True or False: When a corporation submits a bid, the corporation is considered to be transacting business with the County.

True. The Commission on Ethics and Public Trust has determined that transacting business includes the event of submitting a bid, since a bid is a legally binding offer by the corporation.

Case Study A

John Doe, department director, refused to grant permission for outside employment to one of his employees, Mary Smith. Mary is an accountant for the County and she would be doing bookkeeping work for a relative's flower shop during her off-hours. John feels that it would conflict with Mary's current job duties. Mary disagrees and asked for an opinion from the Ethics Commission. The Ethics Commission found no conflict. Does this opinion override John Doe's decision? Explain.

- a. No, it's the director's discretion.
- b. Yes, the Ethics Commission always has the last word.

ANSWER

- A is correct. The director has discretion to grant permission for outside employment. Even if an employee has obtained an advisory opinion from the Ethics Commission whereby the Commission finds no conflicts of interest, the director may still refuse to grant the employee permission.
- B is incorrect. The Ethics Commission does not have the last word. In fact, even though all final ethics opinions are legally binding, the requester may appeal those advisory opinions to the 3rd District Court of Appeals if unsatisfied with the conclusion.

Case Study B

A major technology vendor, ABC Inc., that is submitting a bid for a technology contract with the County has offered to pay travel expenses for several County technology employees to attend a conference and educational seminar at which this vendor, ABC Inc., will be demonstrating its products and services. May these County technology employees accept these expenses? Explain.

- a. Of course, the County is always looking for ways to save costs.
- b. No, bidders are prohibited from paying for employee travel.
- c. Yes, but only if the bidder gives the money to the department director and not to the employees directly.

ANSWER

- B is correct. Section 2-11.1(w) of the Code prohibits County bidders, vendors, and proposers from paying, directly or indirectly, for employee travel, which includes transportation, lodging, meals, and registration fees. This section provides for a waiver. This section does not apply to travel expenses paid for by other governmental entities or organizations of which the County is a member. For example, another city is permitted pay for County employees to travel to a conference.
- A is incorrect. While the County may be looking for ways to save costs, under the Code of Ethics, vendors are not permitted to pay for travel.
- C is incorrect. The Ethics Commission has issued an opinion that this would be an indirect travel expense which is prohibited by this section of the Code of Ethics. The fact remains that the proposer is paying for the employee travel by giving the money to the department director.

Case Study C

A client, XYZ Corp., of your spouse's firm, ACME Corp., has offered to take the members of that firm on an all expenses paid week cruise to the Caribbean. Spouses are invited. XYZ Corp. is a large business entity contracting with your County department. As a marketing representative, you are required to work with XYZ Corp. on occasion. May you accept this cruise offer? Explain.

- a. Yes, it's really a gift to your spouse, not to you.
- b. No, because the value of the gift is probably more than \$100 and you have a business relationship with the company.
- c. No, because employees may not accept travel expenses from County vendors.

ANSWER

- C is correct. Section 2-11.1 (w) prohibits employees from accepting, directly or indirectly, any travel expenses from any County vendor, contractor, service provider, bidder, or proposer. In this case, the client is a County contractor and indirectly paying for your travel as a result of your spouse's work. This provision of the Code permits the Board of County Commissioners to waive the requirements of this section in order to permit the employee to accept this cruise offer. With that BCC waiver, the employee would be permitted to attend if he/she paid his/her portion of the trip, or the spouse's firm paid for that portion of the travel. If the spouse's firm pays for the trip, the employee is required to disclose the value of the gift pursuant to the disclosure requirements under section 2-11.1(e).
- A is incorrect. Even though the gift is a result of your spouse's firm's work with the County contractor, the fact remains that a County contractor with whom you work is paying for the employee travel.
- B is incorrect. The fact that the gift is most likely more than \$100 is not relevant given the fact the company offering to pay for the trip is a County contractor.

Case Study D

Tom Smith, a County employee, has a real estate license. As part of his County job, Tom is required to do community outreach and public presentations on behalf of his County department. Tom frequently attends community-based luncheons and meetings. Can Tom provide the people he meets through these County activities with his business card and promote his real estate business? Explain.

- a. Yes, since the outside business is not related to Tom's County work.
- b. No, because Tom could be exploiting his official position.
- c. Yes, this is considered one of the fringe benefits of Tom's County employment.

ANSWER

- B is correct. Engaging in this type of activity during County time may constitute a possible violation of the provision in the Code of Ethics which prohibits exploitation of official position. Employees are prohibited from using their official position, which includes County resources, to secure special benefits or privileges for themselves or others. Promoting your real estate business and passing out your business card while on County time and while performing your County duties is not permissible.
- A is incorrect. An employee may not perform activities connected to his or her outside employment during County time. Even though the real estate business is not related to your County position, using County time and your business card, furthering your outside employment, is prohibited.
- C is incorrect. This cannot be construed as a legal fringe benefit.