

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 7q**

SUBJECT: Consideration of Updates to Flagler County's Personnel Policies and Procedures Manual Section 2.07, Outside Employment to include a Title Change for Section 2.07 to Conflicts of Commitment and Conflicts of Interest.

DATE OF MEETING: February 15, 2021

OVERVIEW/SUMMARY: Staff is seeking approval to update its Personnel Policies and Procedures to address conflicts of commitment and conflicts of interest that may interfere in the performance of County Business. This policy broadens and clarifies the County's expectations and reporting requirements.

FUNDING INFORMATION: No financial impact.

DEPARTMENT CONTACT: Pamela Wu, Human Resources Director (386) 313-4033

RECOMMENDATIONS: Request the Board approve the replacement of Personnel Policy and Procedure Manual Section 2.07 from Outside Employment to Conflicts of Commitment and Conflicts of Interest.

ATTACHMENTS:

1. Personnel Policies & Procedures Manual Section 2.07 Conflicts of Commitment and Conflicts of Interest
 - a. Policy language to be removed
 - b. Replacement policy language

2.07 OUTSIDE EMPLOYMENT

1. ~~Full-time employees are discouraged but not restricted from engaging in other employment during their off-duty hours. However, County employment shall be considered the primary employment and no employee may engage in outside employment which would interfere with the interest of the County service.~~
2. ~~No employee(s) shall hold any other position in governmental or private employment or as an independent contractor when such other position may have the effect of reducing the efficiency of such employment in the County service. Employees holding other positions cannot solicit or advertise or take calls concerning their other employment during employment hours at the County.~~
3. ~~Employees sustaining injuries while engaged in outside employment are ineligible to receive benefits under the County's Worker's Compensation as a result of disability resulting from the outside employment.~~
4. ~~No employee shall begin any outside employment prior to making his/her department director/manager aware of their intent and where they will be employed.~~
5. ~~Equipment, facilities, vehicles, or property of the County shall not be used by employees for outside employment, nor for travel to such employment.~~
6. ~~Employees cannot hold two paid County jobs.~~

2.07 Conflicts of Commitment and Conflicts of Interest

I. Policy Statement and Purpose

While the County encourages its employees to engage in activities supporting their professional growth and creating knowledge and ideas, County employment shall be considered the primary employment. No employee may engage in outside employment which would interfere with the interest of County service. Likewise, it is an employee's obligation to act in the best interest of the County and to maintain the highest ethical and professional standards. A County employee's outside activities or interests must not conflict, or appear to conflict, with their professional obligations to the County. Accordingly, this Policy establishes standards and requirements to protect the County's interests, and provides a procedure for identifying, reporting, and managing real or apparent conflicts.

II. Applicability

This Policy applies to all County employees. To the extent this Policy conflicts with other County policies or procedures, this Policy shall control.

III. Definitions

Conflict of Commitment: occurs when a County employee engages in an Outside Activity, either paid or unpaid, that could interfere with their professional obligations to the County.

Conflict of Interest: occurs when a County employee's financial, professional, commercial or personal interests or activities outside of the County affects, or appears to affect, their professional judgment or obligations to the County.

Employee: any employee of the County

Entity: any business, company, or other organization, whether public or private, including without limitation any other governmental entity, partnership, corporation, limited liability corporation, unincorporated association, or other institution or organization, whether for-profit or not-for-profit.

Outside Activity(ies): any paid or unpaid activity undertaken by an Employee of the County which could create an actual or apparent Conflict of Commitment or Conflict of Interest. Outside Activities may include consulting, participating in civic or charitable organizations, working as a technical or professional advisor or practitioner, or holding a job with another employer.

IV. Conflicts

A. Guiding Principles

County employees must adhere to the highest ethical and professional standards. Good judgment is essential and no set of rules can adequately address all potential conflicts. If employees have questions concerning a potential conflict of commitment or conflict of interest, they should discuss these with their supervisor. Real or apparent conflicts must be managed and disclosed as set forth in Section V below.

B. Conflict of Commitment

County employment shall be considered the primary employment and no employee may engage in outside employment which would interfere with the interest of County service. A Conflict of Commitment occurs when an Employee's time and energy is devoted to Outside Activities adversely affecting their capacity to satisfy their obligations of employment to the County.

Conflicts of Commitment usually involve time allocation. For instance, when an Employee attempts to balance their County responsibilities with Outside Activities such as a part-time job, they may be left with inadequate time to fulfill their County responsibilities adequately. No County employee shall hold any position in governmental or private employment, or as an independent contractor, when such other position may have the effect of reducing the efficiency of the employee's County service or otherwise interfere with the County's administration of its business affairs or its intergovernmental activities.

If the County determines that an Outside Activity will result in a Conflict of Commitment, the County may, in its sole discretion, prohibit the individual from engaging in the activity, require the individual to take personal time off or a leave of absence to participate in the activity, or implement other measures the County deems reasonably necessary.

C. Conflict of Interest

Employees must avoid situations which interfere with – or reasonably appear to interfere with – their professional obligations to the County. Such situations might create an appearance of impropriety and, therefore, must be disclosed.

Employees shall not accept employment or engage in any business or Outside Activity which they might reasonably expect would require or induce them to disclose confidential information acquired by them by reason of their position with the County. Likewise, no employee shall hold any position outside of County employment which would create a continuing or frequently recurring conflict of interest between the employee's private interests and County employment or that would impede the full and faithful discharge of the employee's public duties to the County.

If the County determines that a Conflict of Interest may exist, the County may, in its sole discretion, prohibit the employee from engaging in the activity presenting the actual or potential conflict, take actions to limit the individual's activity, or implement other measures the County deems reasonably necessary to eliminate the potential or actual conflict.

V. Reporting Requirements and Process

A. Procedure for Disclosure

In order to avoid possible conflicts with the interests of the County, an Employee must notify the County, and obtain the County's approval, **prior to** (i) engaging in any Outside Activity that could present a Conflict of Commitment and/or a Conflict of Interest, (ii) engaging in outside employment or consulting, or (iii) running for public office. Such notification shall be provided

to the Human Resources Director **in writing**. The County will review the employee's request and respond as promptly as possible. Failure to obtain approval from the County before engaging in an Outside Activity or engaging in an Outside Activity when prohibited by the County may lead to disciplinary action, up to and including termination of County employment.

B. Standards for Evaluating Outside Activities

The County will decide in its discretion whether an Outside Activity should be approved or disapproved based on the following factors:

-A County employee plans to become an officer, director, agent or member of, or owns controlling interest of any corporation, firm, partnership, or other business Entity which is subject to the regulation of, which has substantial business commitments with, the County, or which enters into agreements or contracts with the County.

-A County employee intends to apply to run for public office, the duties of which office would require the employee to interface with the County in a way that presents real or apparent Conflicts of Interest or which would interfere with the County's administration of its intergovernmental activities.

-A County employee intends to begin any outside employment or consulting and which outside employer or firm is subject to the regulation of the County or which transacts business with the County.

-A County employee plans to hold a senior management, administrative or leadership role, whether paid or unpaid, with an outside Entity, related to the employee's area of expertise with the County, for which the employee will make executive business and/or financial decisions on behalf of the outside Entity.

-A County employee intends to accept a position which reasonably could require or induce the employee to disclose or use confidential information acquired by them by reason of their position with the County.

-A County employee intends to serve on a board or council of an Entity that is governed by the County.

-Any other activity which can reasonably be considered to present a Conflict of Commitment or Conflict of Interest.

C. Timing of Disclosures

As set forth above, County employees are required to disclose any Outside Activities before engaging in, or committing to engage in, them, to obtain County approval. In addition, upon initial hire by the County, any Outside Activities must be disclosed. Employees also must annually disclose any Outside Activities by January 15 of each calendar year, even if there is no change from previous disclosures.