

**PROPOSED**

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RESOLUTION NO. 2017-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE CONFLICTS OF INTEREST POLICY FOR OUTSIDE LEGAL COUNSEL; AMENDING SECTION 18.88 OF THE BROWARD COUNTY ADMINISTRATIVE CODE ("ADMINISTRATIVE CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

WHEREAS, Section 18.88 of the Administrative Code sets forth the Board's current conflicts of interest policy for outside legal counsel; and

WHEREAS, the current policy is potentially both underinclusive in the types of potential conflicts of interest it prohibits and overly restrictive in the representations that it allows outside legal counsel, and may hinder the County's ability to seek the most appropriate outside legal counsel; and

WHEREAS, the Board of County Commissioners of Broward County, Florida, finds that it would be in the best interest of the County to allow certain representations of other parties and to make clear that additional potentially conflicting representations are not permitted, NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 18.88 of the Broward County Administrative Code is hereby amended to read as follows:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in underscored type are additions.

1           **18.88. Conflicts of Interest Policy for Outside Legal Counsel.**

2           ~~It shall be the policy of the Board of County Commissioners that each of its~~  
3 ~~outside legal counsel shall not act as counsel in any lawsuit, or other adversarial~~  
4 ~~proceeding in which Broward County, any of its departments, divisions and boards, or~~  
5 ~~any Broward County Commissioner is named as an adverse party; or undertake any~~  
6 ~~private representation of any party before the Board of County Commissioners or any~~  
7 ~~other board of the County, in reference to any judicial or quasi-judicial hearing,~~  
8 ~~proceeding or any application, request for ruling or other determination, contract, claim,~~  
9 ~~controversy, petition or other matter, including lobbying, wWhile so retained as by~~  
10 Broward County, outside legal counsel to Broward County shall not act as counsel for  
11 any other party whose interests in a matter are adverse or contrary to the interests of  
12 Broward County, including, but not limited to, any lawsuit, adversarial proceeding,  
13 negotiation, lobbying, or other matter. If the County Attorney, in his or her sole  
14 discretion, determines that no material conflict of interest contrary to the County's  
15 interest will result, outside legal counsel may represent other parties in negotiations that  
16 are ongoing at the time of retention.

17           Outside legal counsel shall not represent any party before the Board of County  
18 Commissioners on any matter, whether or not adversarial. When otherwise permitted  
19 by the professional rules and applicable laws and regulations, outside legal counsel  
20 may represent another party before Broward County staff and boards to request a  
21 determination or ruling, and to negotiate settlements, under applicable ordinances,  
22 rules, regulations, resolutions, contracts, procedures, or other governing provisions; but  
23 in no event shall outside legal counsel challenge or seek to overturn any Broward  
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Coding:           Words in struck-through type are deletions from existing text. Words in  
                  underscoring type are additions.

1 County ordinance, rule, regulation, contract, procedure, or other governing provision  
2 under which a determination or ruling is sought.

3 In the event outside legal counsel represents a ~~pre-existing~~ preexisting client, or  
4 has a question regarding whether a proposed future representation may constitute a  
5 conflict of interest, counsel shall immediately bring such matter to the attention of the  
6 County Attorney for the purpose of having the County Attorney determine, in his/~~her~~ or  
7 her sole discretion, whether such representation is acceptable to Broward County. All  
8 such determinations will be made on a case-by-case basis.

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10 Section 2. SEVERABILITY.

11 If any portion of this Resolution is determined by any Court to be invalid, the  
12 invalid portion shall be stricken, and such striking shall not affect the validity of the  
13 remainder of this Resolution. If any Court determines that this Resolution, or any  
14 portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies),  
15 property(ies), or circumstance(s), such determination shall not affect the applicability  
16 hereof to any other individual, group, entity, property, or circumstance.

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18 Section 3. INCLUSION IN THE ADMINISTRATIVE CODE.

19 It is the intention of the Board of County Commissioners that the provisions of  
20 this Resolution shall become and be made a part of the Broward County Administrative  
21 Code; and that the sections of this Resolution be renumbered or relettered and the word  
22 "resolution" may be changed to "section," "article," or such other appropriate word or  
23 phrase in order to accomplish such intentions.

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1 Section 4. EFFECTIVE DATE.

2 This Resolution shall become effective upon adoption.

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4 ADOPTED this day of , 2017.

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8 Approved as to form and legal sufficiency:  
9 Joni Armstrong Coffey, County Attorney

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11 By /s/ Annika E. Ashton 08/17/17  
12 Annika E. Ashton (date)  
13 Assistant County Attorney

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22 AEA/dnt  
23 08/17/17  
24 AdminCodeReso-OutsideLegalCounsel.doc  
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