



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North  
701 Northwest 1<sup>st</sup> Court · 8<sup>th</sup> Floor · Miami, Florida 33136  
Phone: (305) 579-2594 · Facsimile: (305) 579-0273  
Website: [ethics.miamidade.gov](http://ethics.miamidade.gov)

---

### MEMORANDUM

---

**TO:** Laura Morilla  
Executive Director  
Office of Community Advocacy, Board of County Commissioners

**FROM:** Martha D. Perez  
Temporary Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 2024-123; Section 2-11.1(e)-Gifts

**DATE:** July 3, 2024

**CC:** All COE Legal Staff

---

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the application of Section 2-11.1(e), Gifts, of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (County Ethics Code) to Office of Community Advocacy staff and members of several County advisory boards.<sup>1</sup>

You are the Executive Director of the Office of Community Advocacy, Board of County Commissioners (“OoCA”). You have several questions regarding the application of Section 2-11.1(e) of the County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”), *Gifts*, to OoCA staff and/or members of the County advisory boards overseen by your office. Pointedly, OoCA works closely with the Board of County Commissioners (BCC) and the Mayor.<sup>2</sup>

---

<sup>1</sup> The County’s Office of Community Advocacy (“OoCA”) provides staff support to the following county boards: Asian American Advisory Board, Black Affairs Advisory Board, Commission for Women, Community Relations Board, Domestic Violence Oversight Board, Elder Affairs Advisory Board, Hispanic Affairs Advisory Board, Interfaith Advisory Board, LGBTQIA+ Advisory Board, Military Affairs Board, Social and Economic Development Council, and South Dade Black History Center Advisory Board.

<sup>2</sup> OoCA was established to meet its unique community needs, through various events and initiatives, while promoting productive community relations and cultural understanding for a better

As stated, Section 2-11.1(e) of the County Ethics Code governs the solicitation *and acceptance* of gifts by local government officials, employees, and board members in Miami-Dade County.<sup>3</sup> That section defines a “gift” as 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 or lawful consideration. For example, **tickets to an event provided at no cost to public officers or public employees are a "gift" as it constitutes an admission to an event.**<sup>4</sup>

Section 2-11.1(e)(3) prohibits the solicitation or demand of a gift, or any gift transaction, when connected to an official action or performance of a legal duty by the official, employee or board member (*quid pro quo* actions). As a broad general rule, there should be no nexus between the gift transaction and County employment or service. *See* RQO 05-119 (Under Section 2-11.1(e)(3), gifts to a municipality for a public purpose are not prohibited, as long as no *quid pro quo* activity takes place or is anticipated in the transaction); *see also* INQ 18-11 (The County Ethics Code does not prohibit County employees from accepting tickets to an upcoming gala fundraising event provided by the sponsor, a not-for-profit organization, as long as the tickets are not provided in connection with any County decision or action that may be taken by the recipient; the gift must be reported if its value exceeds \$100). You ask the following questions with regard to OoCA employees and/or members of OoCA-supported county boards:

**Question 1:** Does Section 2-11.1(e) of the County Ethics Code require county employees and board members who have been invited by a County Commissioner or the Mayor to sit at a table at a luncheon/dinner/other event, to report that event ticket if the value is over \$100?<sup>5</sup>

---

quality of life for all County residents.  
<https://www.miamidade.gov/global/government/commission/community-advocacy/home.page>

<sup>3</sup> A volunteer serving on a Community Advisory Committee is required to comply with County financial disclosure requirements under Section 2-11.1(i) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and gift disclosure requirements under Section 2-11.1(e)(4). *See* INQ 15-124

<sup>4</sup> A gift having a value in excess of \$100 in value received by a board member must be reported in a gift disclosure form filed with the board’s clerk. Section 2-11.1(e)(5), County Ethics Code. INQ 14-236 (Any gift in excess of \$100 must be reported on the Miami-Dade County Quarterly Gift Disclosure Form per Section 2-11.1(e)(4))

<sup>5</sup> You advise that OoCA works closely with the County Commissioners and the Mayor. From time to time, the Commissioners and/or Mayor will invite OoCA staff to sit at a table that they have at a luncheon/dinner/other event. Sometimes they may invite board members to sit at the table too. For example, if it’s a women’s event, they may invite the staff person and members of the Commission for Women to sit at their table.

**Answer:** Generally, yes.

In instances where a county employee or board member attends a function such as a dinner, luncheon, or other event, seated at a table purchased by the County official (a Commissioner or the Mayor), the County official is the “donor”, and the county employee or board member is considered a spectator or invitee for purposes of the “gifts” analysis.

The County Code requires board members to disclose gifts valued at over \$100 that have been transferred to them without adequate consideration. *See* INQ 05-166 (An elected official who attended a League of Cities’ dinner event must disclose the gift of the dinner, valued at approximately \$125 and paid for by the City because he did not provide adequate consideration for the dinner; the official attended the function as mere spectator, seated at a table purchased by the City; he did not actively function in his capacity as city official-participating in the event as presenter or panelist, for example, or serving the city as specific designee.); INQ 13-194 (Without transferring adequate consideration, the seat at a table purchased by a County official is a gift, as defined in Section 2-11.1 (e) of the County Conflict of Interest and Code of Ethics Ordinance.); *See also* INQ 17-125 (The County Ethics Code does not prohibit the Opa-locka City Attorney from donating tickets to the Miami-Dade County League of Cities Gala to members of the City of Opa-locka Commission as long as the gift is not given in consideration for actions taken by the recipients. If the value of the gift exceeds \$100, it must be reported on a quarterly disclosure form).

Consequently, the county employee or board member, as the recipient of the gift, must disclose the gift if its value exceeds \$100.

#### Acting in official capacity exception

Notably, one exception to the gift reporting requirement is if the recipient of the “gift” actively participates in the event (such as presenter or panelist), serving the County in his or her official capacity. In that case, the recipient is not receiving a gift and hence, does not have to report it. *See* INQ 12-151 (Tickets to events purchased by the city and given to elected officials and city employees so that they may attend in their official capacities are not disclosable gifts); *See also* INQ 15-99 (A County Deputy Mayor may accept complimentary admission to an event to present a proclamation from the County because the event serves a public purpose related to her as Deputy Mayor); *But see* INQ 14-98 (Attendance at “official city business” events generally does not require gift disclosure as long as the elected/appointed official is, in fact, performing some bona fide official function at the event. However, it should be noted that mere attendance at an event by an elected official does not transform the event into official city business. “Official functions” can include but are not limited to participating in a ribbon cutting, giving a speech, or leading the pledge of allegiance.)

Consequently, attendance at a table purchased by a County official where a county board member is invited solely because of his or her membership at a county board will not satisfy this exception and the event ticket must be reported if it exceeds \$100.

**Question 2:** Does Section 2-11.1(e) of the County Ethics Code apply to County board members who receive complimentary tickets to events in their personal or non-County advisory board capacities? <sup>6</sup>

**Answer:** Yes.

Section 2-11.1(e) of the County Ethics Code applies to **any** gift received by a county board member or county employee, whether given in their county official capacity or otherwise, therefore a complimentary ticket or other transfer to the County board member of anything of economic value would be considered a reportable gift under Section 2-11.1(e) unless it falls under one of the exceptions in Section 2-11.1 (e)(2) of the County Ethics Code.<sup>7</sup>

For example, in INQ 17-70, this office opined that the County Ethics Code does not prohibit a member of a municipal board from attending a luncheon provided by an outside organization of which she is also a current board member, as long as it was not provided in connection with any official municipal decision that may be taken by the recipient; the luncheon is a gift which must be reported if its value exceeds \$100. *See also* INQ 16-92 (Tickets to a sports tournament provided to a county employee because he was a Lacoste (designer) customer and not because of his county position, was considered a gift reportable if it exceeded \$100)

**Question 3 (a):** Are tickets for an event purchased through a county board's (established) trust fund and given to the board's members a reportable gift under Section 2-11.1(e), County Ethics Code? <sup>8</sup>

---

<sup>6</sup> You advise that some of the board members are prominent citizens in the community; some serve on the boards of non-profits/community organizations; and some are Executive Directors/staff at these organizations, and they receive complimentary invitations to events because of who they are, not because they are members of the County's advisory boards. You inquire whether they have to report these invitations as gifts.

<sup>7</sup> The following are not considered "gifts" under Section 2-11.1(e) of the County Ethics Code: political contributions specifically authorized by state law; gifts from relatives or members of household; awards for professional or civic achievements; informational or advertising material; gifts solicited by county commissioners, Mayor or Mayor's deputies in the performance of their official duties for sole use by the county in conducting its official business; gifts solicited by commissioners or their staff on behalf of non-profit organizations for sole use by that entity.

<sup>8</sup> You state that many of these county boards have trust funds where the board members raise money to be able to host events, etc. Sometimes the boards use the money in the trust funds to buy a table at an event and the board members sit at that table. You inquire whether this is a gift to the individual board members that they have to disclose.

**Answer:** No because there is adequate consideration for the gift. However, **attendance at the event for which the ticket is purchased with Trust Fund monies and given to the board member must serve a public purpose, as defined by the board’s authorized use(s) of the Trust Fund.**

**Question 3 (b):** May a county board use the funds from a non-profit organization, as the county board’s funding arm, to purchase tickets for board members to attend an event? <sup>9</sup>

**Answer:** It will depend on the agreement between the non-profit organization and the county board which designated the non-profit organization as its funding arm. Notwithstanding, the use of the funds must satisfy a public purpose.

The “public purpose” requirement

It is a fundamental concept of the law in Florida and elsewhere that public funds may not be expended for other than public purposes. *See* INQ 23-38 (citing Markham v. State, 298 So. 2d 210 (Fla. 1st DCA 1974)); *See* INQ 14-78 (Expenditure of public funds must be for a legitimate public purpose, otherwise, it could amount to exploitation of official position); *See generally* § 2-11.1(e)(4), County Ethics Code (“The solicitation and acceptance of gifts for use solely by the County in conducting its official business is permissible. It is provided, however, that soliciting or accepting such gifts shall be undertaken or authorized only by Commissioners, the County Mayor, the County Mayor’s chiefs and deputies, or department directors.”)

Therefore, **the County Ethics Code does not prohibit a county board from establishing a trust fund provided the use of the funds satisfies a public purpose.** Thus, the inquiry turns on whether attendance at the event in question, where tickets were purchased with funds from the board’s Trust Fund, serves a public purpose. *See* INQ 18-31 (There is no blanket prohibition that would disallow the establishment of a trust fund for a clearly stated public purpose); INQ 20-55 (The County Ethics Code does not prohibit the Domestic Violence Oversight Board from establishing a trust fund to educate and promote awareness of domestic violence because it serves a public purpose); *see also* §§2-269(f), 2-2384.1 and 2-897, Miami-Dade County Code (establishing Trust Funds for certain advisory boards supported by OoCA and providing that *the funds may be used to fund or support conferences, projects, activities and special events which further the purposes of that board.*)

Similarly, a 501(c)(3) non-profit corporation which enters into an agreement with a Miami-Dade County board, to formalize a partnership for fundraising resources, becomes the funding arm or fiscal agent of that County board. Consequently, the use of the funds held

---

<sup>9</sup> By way of example, the Commission for Women also has a supporting 501c3 “Friends” organization that is used to fundraise to help the Commission for Women. If the Commission for Women uses funds from Friends to buy a table at an event for the members to sit at, you inquire whether this is considered a reportable gift to the individual Commission for Women members.

on behalf of the County (board) must clearly be expended in furtherance of a public purpose.

In considering what constitutes a legitimate and articulable public purpose, the Ethics Commission has provided guidance in past ethics opinions stating, for example, that the use of public funds to purchase tickets to galas may be appropriate if the official's attendance at the function is sufficiently related to his or her public duties. *See* INQ 16-52 (A city official may attend the Miami-Dade County League of Cities Annual Gala using tickets that were purchased with funds from the official's municipal expense account, as the expense is sufficiently related to the official's duties. However, it is still recommended, for the sake of transparency in the usage of municipal funds, the official involved present the matter to the governing body for its approval).

While it is not an absolute rule, attendance at events sponsored by charitable organizations which are associated with the objectives and goals of the specific county department or board has generally been considered to satisfy a legitimate public purpose exempting the recipient official, officer, or board member from reporting requirements under Section 2-11.1(e), County Ethics Code. *See generally*, INQ 14-132 (City officials do not receive a reportable gift when they receive an invitation to a kick-off event for a reputable non-profit organization that receives financial support by the City, where there is no entrance fee to the event and the officials are being invited in their official capacity. Also, there is a clear public purpose and no special benefit to the officials.); INQ 16-239 (A county official may purchase luncheon tickets to a children's advocacy charitable organization, and provide them to her staff to attend the luncheon given the public purpose behind the event); INQ 23-38 (The use public funds by the Director of Animal Services for the purchase of a ticket to a gala is permissible, where the proceeds of the ticket sales will be used to fund a charitable organization that aids fallen police officers and their families given the county department's partnership with law enforcement).

In contrast, where the "public purpose" associated with the recipient's attendance at a specified event is not readily identified, we encourage the recipient to seek guidance from this office and/or present the matter to his or her board for approval.<sup>10</sup>

Finally, one should be particularly attentive to situations where the donor is also a county lobbyist, vendor or contractor, or a person or entity transacting business with your office, agency, or board. Under Section 112.3148(4), Florida Statutes, a person who is considered a "reporting individual" or a "procurement employee" is prohibited from accepting a gift in excess of \$100 from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined in s. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist. *See* INQ 15-195 (The Ethics Commission cautions the department against accepting any

---

<sup>10</sup> *See* INQ 14-78 (Should a question arise on whether attendance of an elected official at a function serves a legitimate public purpose, legitimacy of the expenditure would need to be justified by the municipality in terms of a public purpose served by the expenditure.)

such benefit from any group that may contract with the County to provide goods or services or which is the recipient of County funding, where there is any understanding or implied agreement for the department or any of its employees to take any future public action to benefit the contributor)

Any question regarding the State of Florida ethics provisions is under the jurisdiction of the State of Florida Commission on Ethics. *See* Section 112.148, Fla. Stat.; INQ 13-272 (Under Section 112.3148(4), Florida Statutes, a person who is considered a “reporting individual” or a “procurement employee” is prohibited from accepting a gift in excess of \$100 from a lobbyist who lobbies or a vendor who does business with that individual’s agency, including the employers or principals of such lobbyists or vendors).

Please note, these general guidelines are limited to the specific issues presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. The State Code of Ethics shall apply to officers, employees, and consultants of the agency, and this section shall be enforced by the Commission on Ethics as part of the State Code of Ethics. *See* §348.0305(8), Fla. Stat. For additional information on state law or an opinion regarding Florida ethics law, you may contact the Florida Ethics Commission, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Commission on Ethics or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.