



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Nancy Mesa-Adams, Administrative Secretary
Miami-Dade Aviation Department

FROM: Susannah Nesmith, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2024-130, Section 2-11.1(e), Gifts.

DATE: July 22, 2024

CC: All COE Legal Staff; Toni Thomas-Stacey, MDAD; Evelyn Campos, MDAD

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the gift disclosure requirement under Section 2-11.1 (e)(5) as it pertains to special leave time donated to you by your fellow employees at the Miami-Dade Aviation Department (“MDAD”).

Facts

You are employed by MDAD as an administrative secretary in the Finance Division. After exhausting your allotted leave time, you requested special leave time. After our consultations, you advised that you are requesting this opinion because you believe other employees of MDAD are not being required to file a gift disclosure when they receive donated leave.

We also consulted with Toni Thomas-Stacey, Director of the Human Resources Division at MDAD. She provided the Ethics Commission with the requests that were sent to all MDAD employees via an internal messaging system and email from May 9, 2024 to June 24, 2024. These requests asked that MDAD employees consider donating leave time to you specifically.

Ms. Thomas-Stacey also provided the list of three employees who donated leave to you, included two who each donated more than \$100 worth of their accrued leave.

Finally, Ms. Thomas-Stacey provided payroll records showing that you had been paid during a time when you had to be off work for a personal matter from the accrued leave that was donated to you. She also advised that the other MDAD employee who received donated leave around the same time has already filed the gift disclosure, as required.

Issue

Whether Section 2-11.1(e)(5) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (“Ethics Code”) requires you to file a gift disclosure with the Clerk of the Board, disclosing the donated leave that you received that exceeded \$100.

Analysis

Section 2-11.1(e) 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 and lawful consideration. Food and beverages consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

Section 2-11.1(e)(1), Ethics Code.

The Ethics Code requires County employees to disclose “any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars.” Section 2-11.1(e)(5), Ethics Code.

For example, the Ethics Commission has found that MDAD employees who accepted \$15,000 in down payment assistance from a local developer if they purchased a condominium in a building the developer had built had to disclose the money as a gift. *See* RQO 07-28. Similarly, the Commission found that County employees who received frequent flyer miles on their personal accounts when they traveled on behalf of the County had to report the miles as a gift if the cash value of the miles received in any quarter was \$100 or more. *See* RQO 04-165; *see also* INQ 14-188 (clarifying that frequent flyer miles earned by County employees for County travel should be disclosed when they are earned if their cash value exceeds \$100, or when they are redeemed if their cumulative cash value exceeds \$100).

Significantly, MDAD was informed in 2016 by Ethics Commission staff that donated leave time is considered a gift because it is donated to a specific person and was not given in exchange for any consideration. *See* INQ 16-282. Any leave donations valued at \$100 or more must be disclosed. *Id.*

While opinions of the Florida Ethics Commission are not binding on the Miami-Dade Ethics Commission, they are often instructive. For example, in CEO 98-08, the Florida Ethics Commission found that donations made to a legislator’s legal defense fund were gifts under state law, because they were being made to the fund on behalf of the legislator. *See* CEO 98-08.

Opinion

Based on the facts presented here and discussed above, you are required to file a gift disclosure form for the quarter you received the leave donations that exceeded \$100 by the end of the following quarter.¹

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <https://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 this is an informal opinion, 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.

¹ The required form can be found here: https://ethics.miamidade.gov/library/forms/gift_form.pdf (last accessed on July 18, 2024).