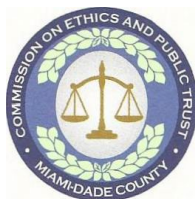


## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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Loressa M. Felix  
GENERAL COUNSEL

February 2, 2024

Via electronic mail only to expedite delivery:  
[michaeljosephpa@gmail.com](mailto:michaeljosephpa@gmail.com)

Honorable Michael Joseph, Commissioner  
City of North Miami Beach  
17011 NE 19th Avenue  
North Miami Beach, FL 33162

Re: INQ 2024-22, Use of City Resources, Section 2-11.1 (g), County Ethics Code

Dear Commissioner Joseph,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (hereinafter “Ethics Commission”) and seeking our guidance regarding the use of City funds to produce and distribute materials to educate your constituents.

### Facts:

You are an elected Commissioner in the City of North Miami Beach, Florida (hereinafter “City”). You are planning to create a two-sided magnetic calendar providing your constituents with new dates of trash and recycling collection within the City in addition to important community contacts. You intend to distribute your calendars by mail with a letter addressed to the constituents.

The calendar would include your photo along with the use of your official title and contact information. You are not currently running for office. You advise that you intend to pay for this correspondence out of pocket but inquire if any ethics rules would prohibit your seeking a reimbursement from the City as the calendar provides a public purpose and/or benefit for the City and its residents.

### Discussion:

The Ethics Commission has interpreted Section 2-11.1(g), Exploitation of official position prohibited, as contained in the County Ethics Code, to prohibit the use of public resources to produce or make publicly available materials depicting an elected official which serves no public purpose. *See* INQ 19-129 (Elected official is prohibited from using public resources to produce

and make publicly available materials depicting elected officials standing for reelection, if there is no clear municipal purpose served by the video, or the video serves to significantly or exclusively highlight the elected official's personal or professional qualifications or accomplishments while in office).

The Ethics Commission has also sought to ensure that public resources are not used for campaign or electioneering purposes by county-wide distribution of an election season memorandum that reminds elected officials of the subsection (g) prohibition, as well as limitations imposed by Florida Statute 104.31 ("Little Hatch Act"), and other state laws, local ordinances and previously issued administrative orders:

Political campaign activities may not involve the use of public resources in support of any political campaign or candidate, including office stationery, telephones, computers, or vehicles. Taxpayers' monies must be used exclusively for public purposes.

Here, it is quite clear that you are not currently seeking re-election and have not registered as a candidate at this time. The materials you are seeking to distribute, therefore, are not for political purposes and strictly adheres to the bright line rule that public resources must be used exclusively for public purposes. The material you seek to produce and distribute involve the very nature of holding public office, which entails communicating with constituents and the general public at times requiring the expenditure of taxpayers' monies or other government resources or funds. *See* INQ 20-89 (Commissioner and Mayoral candidate was permitted to use County resources for 2020 Census education and outreach efforts even during election season, as such did not violate Section 2-11.1 (g) of the County Ethics Code).

Additionally, in an ethics opinion regarding mailings by elected officials, the Ethics Commission has recognized that "there is an inherent right for an elected official to communicate with constituents regarding public issues for the purpose of soliciting their input through such a mailing, where there is no overt political message in the mailing and no pending election or political cause that motivates the mailing." *See* INQ 15-08.

Applying the reasoning underlying these various ethics opinions to the facts presented, it is clear that the use of public resources for education and outreach efforts is an appropriate expenditure related to a legitimate public purpose. As such, it cannot be said that messaging that educates and informs your constituents will serve exclusively to advance your accomplishments while in office or your personal or professional credentials.

We caution that the materials' messaging should not stray from its very legitimate public purpose. As long as the messaging remains faithful to its public purpose, then referencing your name and title or the use of your image in the messaging will not violate the Ethics Code's prohibition.

Opinion:

Accordingly, Section 2-11.1(g) of the County Ethics Code would not prohibit you from seeking reimbursement from the City for funds expended for the production and distribution of calendars

and/or correspondence to constituents for the purpose of disseminating trash and recycling collection dates and/or other useful information for City resources.

This opinion is limited to the facts as you presented them to the Ethics Commission and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

Thank you again for requesting ethics guidance from the Miami-Dade County Commission on Ethics and Public Trust and please do not hesitate to contact us again should you require additional assistance.

Sincerely,



Loressa Felix, Esq.  
General Counsel

cc: All COE Legal Staff

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 Ethics Commission 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.