
From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, June 02, 2015 12:12 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: Xavier Suarez, Miami-Dade County Commissioner, District 7 (Sunshine Law) INQ 15-102

INQ 15-102 Suarez

From: Centorino, Joseph (COE)
Sent: Tuesday, June 02, 2015 12:09 PM
To: Trueba, Valerie L. (DIST7)
Cc: Sanchez, Gerald (CAO); Rosenthal, Oren (CAO); Diaz-Greco, Gilma M. (COE)
Subject: INQ 15-102 Xavier Suarez, Miami-Dade County Commissioner, District 7 (Sunshine Law)

Ms. Trueba,

You have inquired on behalf of Commissioner Xavier Suarez regarding the requirements of the Sunshine Law in connection with tweets or other written or electronic communications that the Commissioner may send out regarding certain County matters, including potential responses to or comments on communications already made public by other members of the County Commission.

The Sunshine Law applies to all two-way written or electronic communications between members of a public board that involve an issue that will foreseeably come before the board. Therefore, if the communication sent out by Commissioner Suarez does not relate to any matter that will foreseeably come before the County Commission, then there is no Sunshine Law issue involved. If it does involve a matter that will foreseeably come before the board, then the requirements of the Sunshine Law do apply, i.e., the requirements of public notice, public meeting and minutes for a two-way communication between board member. A two-way communication is one that involves both an initial communication from one board member and a response to it by another board member.

The general rule is that a member of the board is permitted to put out a one-way written communication regarding his or her views on a matter coming before the board, provided that the communication is made publicly and is retained as a public record by the Clerk of the Board. This exception to the Sunshine law, however, is applicable only to one-way communications by board members, not to communications which are responded to by other board members. Therefore, if a board member initiates such a communication that will be received by other board members, it is advisable to include with the communication a statement that no other board member should reply to it.

Based on the foregoing, Commissioner Suarez is not bound by the Sunshine Law in any communication that involves a matter that he knows will not be considered by the Board of County Commissioners, However, should Commissioner Suarez issue a communication that will be received by other board members regarding a matter that will foreseeably come before the board, it should explicitly state that no other board member should reply to it. In the event that Commissioner should receive a communication in writing or electronically from another board member concerning a matter foreseeably coming before the board, he should not respond to it because the response would make it a two-way communication with a board member that may only be done in the context of a meeting held in accordance with the Sunshine Law.

As a matter of general advice, due to the appearance of impropriety generated by non-public communications between board members, I think it advisable for board members not to include other board members in tweets, emails, facebook or other postings on the internet.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust