

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, December 15, 2016 12:07 PM
To: Sanchez, Rodzandra (COE)
Subject: F Johnny Farias, Community Council member (Gifts/ Exploitation (e), (g)); INQ 16-277

[INQ 16-277 Farias](#)

From: Perez, Martha D. (COE)
Sent: Thursday, December 15, 2016 11:50 AM
To: 'Johnny Farias' <councilmanjohnnyfarias@gmail.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Johnny Farias, Community Council member; Gifts/ Exploitation (e), (g); INQ 16- 277

Good morning Mr. Farias,

You inquire whether there are ethical limitations on wearing a shirt or providing a business card with your official title as community councilman.

Background

You were recently elected to Community Council District 15. As Community Councilmember, you are tasked with making zoning and land use decisions affecting your district and serving as advisory liaison to the Board of County Commissioners and County staff. As you had mentioned in INQ 16-191, you also own a private electrical company; you are a PTA member at your child's school; and, you are also a volunteer for the Guardian Ad Litem Program.

You have asked about the ethical implications of soliciting gifts for needy children attending public schools in your community. You would also like to know the ethical implications of wearing a shirt which identifies you as community councilmember and/or providing a business card with your name and official title.

Analysis

You specifically inquire whether you may contact a County Commissioner (presumably one assigned to your District) and request that the Commissioner solicit, on your behalf, toys and/or backpacks (gifts) for needy and deserving children in public schools in your district. As stated in the response provided to you in INQ 16-191, you may utilize the services of a Commissioner to solicit donations such as toys and backpacks as long as the solicitation is part of *official* County business **or** is made on behalf of a nonprofit 501(c)(3) organization **and** as long as there's no quid pro quo or personal benefit to you or your family. See §2-11.1(e)(2), County Ethics Code; See *also* RQO 08-25; INQ 03-96; INQ 03-118; INQ 12-57; INQ 12-196; INQ 15-170; INQ 15-255; INQ 16-191. Consequently, in the event that you hold a board position in your children's PTA Board or any other nonprofit organization receiving these gifts, it would be prudent, in order to avoid an appearance of impropriety, to refrain from soliciting donations, via a County commissioner, on behalf of your organization. In the event that you wish to do a toy drive at a school, you may not use your official title in the solicitation or acceptance of the gifts, hence, you should represent yourself as a private citizen. See INQ 16-191 ; §2-11.1(g), County Ethics Code.

The issue is not whether you may have a shirt with your official County title or a card identifying you as a public official, but rather, whether these are used in a manner to promote the personal or business interests of yourself or your family.

The County Ethics Code does not prohibit you from : wearing your “Community Councilman” shirt to PTA meetings or school events within your district or at “Dade Days”; giving your card with your official County title at any public event; knocking at doors and introducing yourself as community councilman and giving out a card with your official title to your constituents; and/or attending an event sponsored by the City of Homestead while you wear a shirt which identifies you as their community councilmember, as long as you are wearing the shirt or providing the card for identification purposes and not as an attempt to gain any special personal gain or benefit.

The use of one’s official title on a shirt or a (business) card that identifies the individual as a public official, is permissible and not a violation of Section 2-11.1(g) of the County Ethics Code (Exploitation of official position), **provided the use of the title is for identification purposes and not for personal gain, benefit or to promote your private business interests.** See INQ 16-220 (the use of one’s official title on a shirt identifying her as a public official is permissible provided the use of the title is to identify and not intimidate); INQ 14-205 (the use of identifying apparel does not constitute exploitation of official position provided it is not used to exert any official authority or pressure and is used merely as a means of identification); See also RQO 05-06 (the use by a councilman of his official title on personal stationery does not violate 2-11.1(g) provided the title is not used to secure special benefits for himself); CEO 75-45 (a public official may send his constituents a business card printed at the official’s own expense and containing his name, public office and phone number).

Consequently, you should not wear your “councilmember” shirt while performing your private personal or business transactions. Also, you should refrain from including your official councilmember title on your private business cards and/or distribute these cards while performing your private personal or business transactions.

This opinion is based on the facts as presented. If any of these facts change, please contact us.

Happy Holidays,

Martha D. Perez
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From: Johnny Farias [<mailto:councilmanjohnnyfarias@gmail.com>]
Sent: Thursday, December 08, 2016 1:10 PM
To: Perez, Martha D. (COE) <perezmd@miamidade.gov>
Subject: Questions

Martha, sorry to bother but you did say that its better to ask than do and get in trouble later.

So with that said I have a few questions.

1. Is it allowable for me to call any Commissioner and ask them for items for example:
(Toys for a toy drive at certain schools), (Bookbags for kids that need in school)
and things of that nature. I know that we CANNOT have any money so I wont ask that.
2. If I do a toy drive in a school and I buy them or they are given to me can I represent myself as Councilman or do I have to do it as a private citizen?
3. Can I wear my shirt identifying me as a Councilman to PTA meetings or School events within my District?
4. Can I give out my business card of the Community Council at these events also? What if someone asks for one?
5. During Dade Days can I wear my Councilman Shirt?
6. When I walk my area, knocking on doors to introduce myself is it safe to tell the resident that I am the Councilman for their area and give them my card?
7. If City of Homestead has an event like their tree lighting ceremony can I wear my shirt their or give my card if someone asks for one?

I think for now that's it....But believe me their will be more later...

Thank You,

Councilman Johnny G Farias
District 15 SubArea 154