



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Arbie Nickerson
Black Affairs Advisory Board Member

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021- 140 (Sections 2-11.1(j), (v), (m), (h), (g), Miami-Dade Conflict of Interest and Code of Ethics Ordinance)

DATE: November 5, 2021

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest with your potential employment with the Florida Legislature or the New Florida Majority.

Facts:

You are a current member of the Black Affairs Advisory Board (“BAAB”). BAAB is responsible for formulating and recommending plans and programs for coordination of the activities of government entities and non-governmental agencies pertaining to the Black community. *See* Article II Section 2, Black Affairs Advisory Board By-Laws. BAAB engages with and assesses the needs and vulnerabilities of the Black community and annually reports its finding to the Board of County Commissioners. This position does not receive compensation. Additionally, you were employed with the County as a Library Media Instructor for the Public Library System, but you recently resigned from your position.

You are considering several employment opportunities. The first is with the New Florida Majority¹, a Florida non-profit organization working to increase the voting and political power of marginalized and excluded constituencies, as a government affairs liaison. Next,

¹ [New Florida Majority](#)

you are considering a district executive secretary position in the Office of State Senator Shevrin D. “Shev” Jones (District 35).² Lastly, the third opportunity is as a legislative assistant for Representative James Bush III (District 109).³ Both districts include constituents that are Miami-Dade County residents. Each of these administrative positions will require you to work with legislators and constituents in your respective district. As part of your duties, you may be asked to meet with representatives on behalf of your employer, attend state and local meetings, coordinate scheduling, contact federal, state, or local agencies, and/or travel to Tallahassee.

Issue:

Whether any prohibited conflict of interest would exist between your position as a Black Affairs Advisory Board Member and your potential employment with the Florida Legislature or the New Florida Majority.

Discussion:

The County Ethics Code does not prohibit a County board member from working in State government or for a non-profit organization. However, Section 2-11.1(j) of the Ethics Code prohibits County board members from engaging in certain activities that would impair their independence of judgment in the performance of their public duties to the County.

As your current board duties have no direct overlap with the job descriptions provided for your anticipated employment, it does not appear that there is a prohibited conflict between your board service and your contemplated employment.

Nevertheless, you should be very mindful of this provision given the fact that you will potentially work on the staff of an elected state official and/or non-profit that may have similar legislative or policy goals to the BAAB. As regards this section of the Ethics Code, you should not deal in your contemplated employment with any issue that could foreseeably come before you as a member of the BAAB and vice versa. *See* INQ 16-03 and 18-67; *see also* INQ 20-01 (While the Commission found no conflict in a Commissioner’s Communications Aide serving on the Miami Beach Planning Board, which may consider applications concerning infrastructure projects, land development regulations, and zoning changes, it cautioned her against handling matters that may involve the Commissioner’s Office with which she is employed).

Moreover, as regards your voting as a member of the BAAB, Section 2-11.1(v) of the Ethics Code prohibits board members from voting on matters involving entities in which they have any of the following relationships (officer, director, partner, of counsel,

² [The Florida Senate](#)

³ [Florida House of Representatives](#)

consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor) if they would be directly affected by the vote. You should be cautious regarding any board vote involving the individual legislators and/or the New Florida Majority and you are encouraged to seek ethics guidance if you are in doubt regarding your vote as a board member.

Section 2-11.1(g) of the Ethics Code prohibits board members from exploiting their official positions to secure special privileges or exemptions for themselves or others. Thus, should you accept employment with a state legislator's office or non-profit, you are prohibited from leveraging your position as a BAAB Member to benefit your new role. Similarly, you may not use your new job title to influence the findings, recommendations, or decisions of BAAB or the County Commissioners to which you report. *See* INQ 11-178 and INQ 21-01.

Likewise, Section 2-11.1(h) of the Ethics Code prohibits board members from disclosing confidential information obtained through their official positions with the County or using such information, directly or indirectly, for personal gain or benefit.

Lastly, Section 2-11.1(m)(2) of the Ethics Code prohibits a board member from appearing before his own board, *either directly or indirectly*, to make a presentation on behalf of a third party with respect to any benefit sought by the third party. *See also* INQ 16-42; INQ 19-12 citing RQO 07-39. This means you must not lobby or try to influence your board for the benefit of your employer. *See* INQ 19-12 citing INQ 13-224. The Ethics Commission has interpreted these prohibited appearances to include signing proposals or submitting documents or correspondence on behalf of the third party. *See* INQ 09-33; INQ 11-178. This section also prohibits a board member from receiving compensation, *directly or indirectly or in any form*, for any services rendered to the third party seeking a benefit from his or her board. *See* RQO 07-12; INQ 15-229.

You should be aware that other provisions in state law also apply to board members, i.e., the Sunshine Law at §286.011, Fla. Stat., which prohibits board members from discussing board business except at duly noticed public meeting where the public is invited and minutes are taken, as well as the Code of Ethics for Public Officers & Employees at Fla. Stat. Chapter 112. The County Ethics Commission is not authorized to interpret or enforce those provisions. We note these statutes herein for informational purposes and recommend that you review them during your application process.

Finally, the County Ethics Code represents a minimal standard of conduct for those in government service. As such, board members are encouraged to act cautiously before taking any official action that could possibly erode the public's trust.

This opinion is limited to the facts as you presented the to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Because you are seeking employment in State government, additional questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

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.