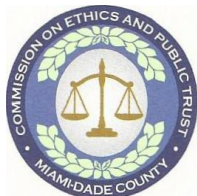


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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July 9, 2021

Dr. Zerry Ihekwaba, P.E.
Deputy City Manager
City of Miami Riverside Center
444 Southwest 2nd Avenue
Miami, Florida 33130

Re: INQ 2021-102, Section 2-11.1(g), Exploitation, County Ethics Code
Political Campaign Activities

Dear Dr. Ihekwaba:

Thank you so much for speaking to me and for seeking ethics guidance regarding your prospective political campaign activities.

Facts:

The City of Miami is the largest municipality within Miami-Dade County. You are the City of Miami's Deputy City Manager and a direct report to the Manager. In your official capacity, you have direct and indirect supervisory authority over significant numbers of municipal employee subordinates. You also participate in decision making that impacts private citizens and businesses.

You are married to the Honorable Chiaka Ihekwaba, County Court Judge. Judge Ihekwaba, who was appointed to the bench by the Governor of the State of Florida, is seeking to retain her seat through election.

You desire to support your spouse's candidacy and have specifically identified organizing, hosting, or otherwise engaging in campaign fundraising activities in support of Judge Ihekwaba as prospective actions.

Issue:

Whether a Deputy City Manager may engage in political campaign activities in support of his spouse's judicial election campaign, to specifically include fundraising.

Discussion:

You are a covered party under the County Ethics Code and qualify as “departmental personnel” as defined in Section 2-11.1(b)(5) of the Code. Departmental personnel include the County and Municipal City Managers, department heads, the County and Municipal Attorneys and their Assistants. References in the County Ethics Code to County personnel are applicable to Municipal personnel that serve in comparable capacities in the cities.

Political activity in support or opposition of a candidate or cause is protected by the First Amendment and as such the County Ethics Code does not prohibit County or Municipal employees from engaging in political activities outside the workplace. However, they must adhere to restrictions placed on government workers under County policy and State law. *See* Fla. Stat. §§ 104.31 (“Little Hatch Act”) and 106.15; and the attached COE memorandum *Limitations on Political Activities of County and Municipal Officers and Employees* (Amended July 2021).

Also, Section 2-11.1(g) of the Ethics Code. Section 2-11.1(g) of the County Code of Ethics, *Exploitation of Official Position Prohibited*, prohibits use of one’s public position to secure special privileges or exemptions for one’s self or others. The State Ethics Code has a similar provision titled Misuse of Public Position. Fla. Stat. §112.313(6). In addition, section 104.31, *Florida Statutes, Political Activities of State, County, and Municipal Officers and Employees*, prohibits public officers or employees from using their official authority or influence “for the purpose of interfering with an election or a nomination of office or coercing or influencing another person’s vote or affecting the result thereof.”

The COE has clarified in previous opinions and in its attached Political Activities memorandum, that while Municipal employees are not prohibited from engaging in political activities they must abide by certain limitations. Employees engaged in political activities must do so during their own time, not during working hours; and they are prohibited from using their Municipal position or the resources of the Municipality which employs them, in any way to further a political campaign. Furthermore, they are prohibited from directly or indirectly using their Municipal positions to intimidate or coerce others into supporting either their own candidacy; a chosen candidate; or to make political contributions. *See e.g.*, RQO 05-06; INQ 18-232; and INQ 17-49.¹

¹ *See also*, Letter of Instruction, Ethics Complaint C13-038, Grossman, City of Miami Parking Authority. (COE precedent clearly establishes that the use of government resources for political campaigns constitutes an exploitation of official position. In INQ 10-133, the COE advised that West Miami official could not use official city letterhead to endorse a candidate for state office. In INQ 11-26, the COE advised a County official that he could not use the resources of the office to announce a candidate’s intention to run for re-election. In INQ 12-175, the COE advised the City of Miami that City Commissioners who wished to endorse a candidate for office could not use any City resources to do so. Further, in 2008 the COE advised the County Mayor that the County e-mail system could not be used to disseminate a political endorsement from the PBA and Firefighters Union. Also, in 2008, the COE issued a letter to the City of Homestead advising its officials that they could not use the City’s e-mail system to disseminate invitations to a political fundraiser for a congressional candidate.)

The latter prohibition is particularly important for someone like you that is the deputy chief executive of the largest city in Miami-Dade County.

Opinion:

Based on the facts you have presented to us at this time, it does not appear that prohibited conflicts of interest would occur under the County Ethics Code regarding your political campaign activities in support of your spouse's judicial election campaign, to specifically include fundraising.

Political campaigning should follow the limitations imposed by Florida Statutes, Miami-Dade Conflict of Interest and Code of Ethics Ordinance, and any other applicable regulations.

This opinion is based on the facts presented to the COE. If these facts change, please contact us.

Thank you again for engaging with the Miami-Dade Commission on Ethics and Public Trust.

Sincerely,



Jose J. Arrojo, Esq.
Executive Director

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.

cc: All COE Counsel