



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Honorable Jose “Pepe” Diaz
Chairperson and District 12 Commissioner
Miami-Dade Board of County Commissioners

FROM: Jose J. Arrojo
Executive Director

SUBJECT: INQ 2022-126, Section 2-11.1(d), County Ethics Code
Vote to Fund Nonprofit

DATE: August 12, 2022

CC: Isidoro Lopez, Esq.
Chairman’s Chief of Staff

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of the County Ethics Code to a vote regarding the funding of a not-for-profit corporation.

Facts:

Jose “Pepe” Diaz serves as the Chairman of the Miami-Dade Board of County Commissioners and the Commissioner for District 12.

Commissioner Diaz is affiliated with a not-for-profit corporation that supports current and former members of the United States Armed Forces, and their families. He serves the entity as a non-voting director. He does not receive any direct or indirect remuneration from the entity nor is he involved in any manner with its management.

Commissioner Diaz is considering sponsoring, participating, and voting on an agenda item that would provide County funds to the not-for-profit military support entity.

Issue:

Whether the County Commission Chairperson may participate and vote on funding a not-for-profit military support entity, while serving as one of the entity’s non-voting directors, while he receives no remuneration for his service and is not involved in the management of the entity.

Discussion and Opinion:

The County Ethics Code at Section 2-11.1(d) prohibits a County Commissioner from voting or participating in a matter presented to the Board of County Commissioners if he has one of several primary enumerated relationships with an entity which would or might be directly affected by any action of the Board. “Director” is one of the enumerated relationships. ¹

However, the Ethics Commission has not applied that prohibition to elected officials serving as non-voting directors. The Ethics Commission has previously opined that a County Commissioner serving as not-for-profit’s director may vote on and participate in discussion of matters coming before the Board of County Commissioners that might directly or indirectly affect the not-for-profit, if her service is as a non-voting director. ²

Opinion:

Applying the plain language of the Ethics Code and the reasoning supporting the previous opinions issued by the Ethics Commission to the facts here, the Chairperson of the County Commission may participate and vote on funding a not-for-profit military support entity that he serves as a non-voting director.

We hope this opinion is of assistance and we remain available to discuss any matters addressed herein. Also, this opinion is limited to the facts as you presented them to the Commission on Ethics,

¹ “Additionally, no person included in the term defined in subsection (b)(1) [county and municipal elected officials] shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, *director*, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in subsection (b)(1) who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the Commission meeting during the discussion of the subject item and shall not vote on or participate in any way in said matter.” (*emphasis added*)

² RQO 19-04; RQO 13-06 (County Commissioner serving as a non-voting ex officio Director of the non-profit Miami Children's Initiative, Inc. could vote on matters that might directly or indirectly affect that entity)

is limited to an interpretation of the County Ethics Code and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

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