



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Patricia Leal,
Program Manager, The Children's Trust Read to Learn Book Club

FROM: Etta Akoni, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022 – 34 Gift §2-11.1(e)

DATE: March 9, 2022

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding an unsolicited items received by you from Stichiz, a children's book author.

Jurisdiction

The Children's Trust Board (TCT) is an independent special district established by Miami-Dade County in Art. CIII, Sections 2-1521 through 2-1531 of the Miami-Dade County Code (TCT ordinance), adopted in 2002 pursuant to Section 125.901, Florida Statutes. The purpose of The Children's Trust is to fund improvements for the children of Miami-Dade County in the areas of health, development, safety, parental responsibility, community responsibility and other necessary and important children's services. Section 2-1529, of the Code of Miami-Dade County, provides that the Children's Trust shall be regulated by Section 2-11.1 of Miami-Dade County Code ("County Ethics Code")¹. RQO 19-06.

Facts

¹Sec. 2-1529. - Applicability of State and County Laws. The Children's Trust shall be regulated by: Chapter 286 of Florida Statutes, ("Sunshine Law") including but not limited to the notice requirements; Chapter 119 of Florida Statutes ("Public Records Act"); Chapter 112, Part III of Florida Statutes ("Code of Ethics for Public Officers and Employees"); *Section 2-11.1 of Miami-Dade County Code ("Conflict of Interest and Code of Ethics Ordinance")*, including but limited to the gift disclosure and financial disclosure requirements; and Article IB of Miami-Dade County Code ("Standards for Creation and Review of Boards Generally") to the extent that the requirements of this article do not conflict with the requirements of Sec. 125.901 of Florida Statutes ("Children's Services"). *(emphasis added)*

The Children’s Trust Read to Learn (RTL) Book Club is free for all 5-year-olds in Miami-Dade County. The RTL Book Club delivers an age-appropriate books – either in English or Spanish – to every 5-year-old who is a registered member, for every month of their fifth year. The Read to Learn Book Club is funded by The Children’s Trust and made available through a partnership with the Miami-Dade Family Learning Partnership and the Early Learning Coalition of Miami-Dade/Monroe. You, Patricia Leal, are the RTL Book Club Program Manager with The Children’s Trust. Your name and title are publicly listed on the RTL Book Club website, and you are the only Children’s Trust employee listed on said website.²

You have advised that you received a package in the mail at The Children’s Trust that contained a book entitled “You Are Beautiful” by Stichiz, as well as a sweater and a mask depicting the images and characters from the “You Are Beautiful” book. You indicate that the package was delivered by the United States Postal Service via Priority Mail on February 17, 2022. You also indicate that the package and its contents were not solicited from the author and sender, Stichiz, as you have not had any recent communication with Stichiz prior to the arrival of the package. Moreover, you indicate that the delivery of the package is unrelated to any official action taken or legal duty performed by you. The package was reported to your agency’s Human Resources Department. Lastly, you indicate that the Children’s Trust staff do not pick the books for the Children’s Trust Book Club, rather the Miami Dade Learning Partnership, Inc. picks the books for the Children’s Trust Book Club.

Issue

Whether receipt and retention of the book, sweater, and mask are permissible pursuant to Section 2-11.1(e) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (Gifts) (“County Ethics Code”).

Discussion

The term “gift” is defined as, “the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.” County Ethics Code § 2-11.1(e)(1). However, “Materials such as books, reports, periodicals, or pamphlets, which are solely informational or of an advertising nature,” are excluded from the definition of a gift. County Ethics Code § 2-11.1(e)(2). The prohibited gifts section of the Ethics Code contained in Section 2-11.1(e)(3) provides that covered persons may not accept a gift given because of an official public action taken or to be taken, a legal duty performed or to be performed, or for a legal duty violated or to be violated. *See* County Ethics Code § 2-11.1(e)(3)(a).

First, the book itself is not a gift, but is an advertisement for the sale of the book to the book club. INQ 2004-65. Although The Children’s Trust only funds, and does not administer, the RTL Book Club, their significant role in the existence and function of the

² <https://www.thechildrenstrust.org/content/give-your-kids-academic-edge>

program is clear from the official name (The Children’s Trust Read to Learn Book Club). Moreover, the prominence of your name and title within RTL Book Club website would make you a logical person to send a copy of a book to in an effort to hopefully have said book be selected for the book club. It would stand to reason that the book was sent to you to entice you to select the book for the club. As such, the book itself is an advertisement exclusion to the gift term pursuant to County Ethics Code § 2-11.1(e)(2).

Second, the custom sweater and mask which were received without solicitation or adequate and lawful consideration are gifts. However, according to you, you did not communicate with Stichiz in advance of the receipt of the book, no Children’s Trust staff participate in the book selection process, and thus no quid pro quo exchange has occurred in relation to this gift. If you choose to accept the sweater and mask, then you may be required to publicly disclose the gifts under the gift disclosure subsection of the County Ethics Code § 2-11.1(e)(4). That section requires covered persons to publicly disclose the receipt of a gift, or a series of gifts from any one person or entity having a value of \$100 or more. INQ 2012-110, INQ 2014-171, INQ 2020-04.

This opinion is limited to the facts as you presented them 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. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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.