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MEMORANDUM

TO: Commissioner Michael Udine

FROM: Rocio Blanco Garcia, Assistant County Attorney

DATE: October 25, 2018

RE: **Attendance at Gubernatorial Debate Held at Broward College**
CAO File: 18-13(E)

On October 24, 2018, you attended a televised debate between the Republican and Democratic candidates to the office of the Florida Governor. You were invited to attend the event by Broward College at no cost. The invitation included free parking. You have inquired whether you have any reimbursement obligations resulting from your attendance at the gubernatorial debate.

Upon receipt of your inquiry, the Office of the County Attorney contacted Broward College and learned that, as the host venue, Broward College received several tickets to distribute to different members of the community. You were one such recipient. Attendance and parking were free to all attendees, regardless of their status in the community.

Under the State and County codes of ethics, there are two primary restrictions on the acceptance of gifts. The first is that no gift may be solicited or accepted if it may reasonably be perceived to have been given to encourage you to take any action in your official capacity. Section 112.313(2), Fla. Stat. The second restriction caps the value of gifts that may be accepted from certain donors.

Florida Law:

Under Section 112.3148(4), Florida Statutes, absent any applicable exception, County Commissioners are "prohibited from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the [County] . . . or [from] a lobbyist who lobbies the [County Commission] or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100 . . .".

Florida law defines a gift as that "which is accepted by a donee . . . for which equal or greater consideration is not given within 90 days." § 112.313(12)(a), Fla. Stat.

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County's Code:

Under the County's Ethics Code, Commissioners cannot accept any gift, directly or indirectly, from a lobbyist, principal of a lobbyist, contractor, or vendor, which gift exceeds \$5. Florida's definition of "gift" applies when interpreting the County's Ethics Code.

Analysis:

A search of our databases has revealed that Broward College is a County vendor. As such, if a ticket to the gubernatorial debate were considered a gift, you would have to reimburse Broward College for the value of the event, minus the \$5 you are allowed to accept under the County's Code. However, it is our opinion that attendance at the debate does not constitute a gift.

The purpose behind the prohibition against gifts is to prevent the improper influence of public officials. In this case, there is no indication whatsoever that the ticket was offered in an attempt to influence your official position on a matter. Moreover, you are not receiving any special benefit but are rather being treated in the same manner as all those attending the debate, regardless of their status in the community. Ethics laws do not require that you be placed at a disadvantage by having to pay for that for which all others would not have to pay. Therefore, it is our opinion that you did not receive a special benefit and the ticket did not constitute a gift.

Even assuming that the ticket constituted a gift, it is our opinion that the value received was within the amounts you may accept under state and local law.

Florida Rule of Administrative Procedure 34-13.500 provides that the value of a gift such as this is determined based on the "actual cost to the donor." Here, it does not appear that Broward College, as the donor, incurred any costs. The venue and the school staff involved in the event were all pre-existing. Therefore, the cost to the donor was nominal, if anything.

In conclusion, it is our opinion that your attendance at the gubernatorial event did not constitute a gift, and, even if it did, the gift was within the amounts you may accept under the state and county ethics rules. As such, you do not have a reimbursement obligation.

Please do not hesitate to contact me (x8640) or the County Attorney (x7601) should you have any additional concerns regarding this matter.



Rocio Blanco Garcia
Assistant County Attorney

cc: Andrew J. Meyers, County Attorney