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**GOREN CHEROF  
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ATTORNEYS AT LAW

## **ETHICS ADVISORY OPINION**

To: Vice Mayor Debra Placko

From: Samuel S. Goren, City Attorney *SSG*  
Jacob G. Horowitz, Assistant City Attorney *JGH*

Date: August 10, 2019

Re: City of Tamarac (“City”) / Code of Ethics – Advisory Opinion

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You have provided the City Attorney’s Office with the facts set forth in Section I, below, and requested a “safe harbor” advisory opinion under the Broward County Code of Ethics for Elected Officials (“Code of Ethics” or “Code”).

### **I. ISSUE AND FACTS PRESENTED**

You have asked whether the Code of Ethics permits you to raise funds for Boyd Anderson High School (“BAHS”). It is our understanding that BAHS is a public high school, and is not a charitable organization, as defined by the Internal Revenue Code (“IRC”).

After reviewing this inquiry, it is our opinion that you are legally permitted to fundraise for BAHS without a disclosure requirement, subject to the analysis set forth herein.

### **II. ANALYSIS**

The Code of Ethics contemplates charitable contribution fundraising. *See Section 1-19(c)(5)(a), Broward County Code of Ordinances.*

This provision states that solicitation of funds by an elected official for a nonprofit charitable organization, as defined under the IRC, is permissible so long as there is no quid pro quo or other special consideration, including any direct or indirect benefit between the parties to the solicitation. Further, to promote complete transparency, elected officials who raise funds for

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nonprofit charitable organizations are required to disclose such activity on a form created by the County Attorney's Office. Public resources may not be used in furtherance of such solicitation. Note, however, that these disclosure requirements and prohibitions do not apply when the charity or fundraising event has been formally approved by the city commission.

The Code of Ethics does not contemplate charitable fundraising for individuals or entities that are not charitable organizations as defined by the IRC. Since the Code only references disclosure for nonprofit charitable organizations as defined by the IRC, it is our legal opinion that you may legally fundraise for other individuals or entities, including BAHS, without a disclosure requirement.

Note, however, that many public schools in Broward County have affiliated nonprofit organizations, such as parent-teacher associations, which may be designated under the IRC. In the event that your fundraising efforts went to support a BAHS-affiliated nonprofit, it will be necessary to disclose such fundraising activity.

Additionally, Section 1001.43, F.S. contemplates the school board adopting fiscal management policies which may include a fundraising component. The law does not address fundraising activities by individual schools. The City Attorney's Office recommends that you determine whether the Broward County School Board has adopted such a policy and/or whether BAHS has a specific policy that pertains to fundraising.

### III. CONCLUSION

Based on the foregoing, it is the opinion of the City Attorney's Office that the Code of Ethics **does not** prohibit you from raising funds for BAHS. If BAHS is not a nonprofit charitable organization as defined by the IRC, there is **no disclosure requirement** associated with such fundraising activity. If BAHS is a nonprofit charitable organization, as defined by the IRC, or if your fundraising activity supports an affiliated charitable organization that has such a designation, you are legally required to disclose such fundraising activity in accordance with the Code.

Please be advised that this opinion is limited to the Broward County Code of Ethics for Elected Officials. This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Code of Ethics, and may be relied upon by the individual who made the request. This analysis is limited solely to the facts presented. Within fifteen (15) days of receiving this opinion, a copy must be sent in a searchable "pdf" format to [ethicsadvisoryopinions@broward.org](mailto:ethicsadvisoryopinions@broward.org) for inclusion in the searchable database of advisory opinions maintained by the County.

Please contact our office if there is any additional information that we can provide.