

# City of Memphis Board of Ethics

December 20, 2023

## Formal Ethics Opinion 2023-04

This opinion responds to a specific question presented, particularly whether certain behavior is permissible pursuant to the City of Memphis Code of Ethics, Ordinance 5206, as amended. This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation. Failure to disclose relevant information may void the opinion.

### Question

Is it permissible for a City Council member to provide grant funding from his/her district's designated community funds to a non-profit organization who is a recipient of a grant from the City of Memphis through its City Council Community Grant program if the City Council member is also either a Board member of the non-profit organization or an active member of the non-organization.

### Opinion

The Code of Ethics, in pertinent part, defines a "personal interest" in a matter as "any financial, ownership, or employment interest in the subject of a vote by a board or commission of the city not otherwise regulated by state statutes on conflicts of interest..." At a minimum, the Code requires an officer with the responsibility to vote on a measure to disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the officer's vote on the measure. In addition, the officer may recuse himself from voting on the measure.

### Facts

Two City Council Community Grant programs recipients, Leadership Memphis and The Links, Inc. have been allocated funds from City Council members who are also members of the organizations. Specifically, Leadership Memphis was allocated 88% in recent funding from two City Council members who are also board members. Likewise 86% of The Links, Inc recent

funding was allocated from a City Council member who is also an active member of the organization.

### Analysis

Sec. 2-10-2 of the City of Memphis Code of Ethics for City Officials (hereinafter "City Code of Ethics") defines a "personal interest" as "any financial, ownership, or employment interest in the subject of a vote by a board or commission of the city not otherwise regulated by state statutes on conflicts of interest..." Sec. 2-10-4 of the City Code of Ethics further provides that:

*An officer or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose ... the interest.*

Although it does not appear that the City Council members have a financial or ownership interest in the non-profit organization, serving on the Board of Directors or being an active member of the organization could lead a reasonable person to infer that it may affect the City Council member's judgment.

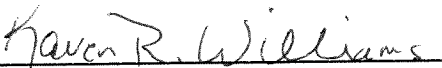
Accordingly, it is the opinion of this Board, that at a minimum, the City Council member should disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the officer's vote on the measure. In addition, the City Council member may also recuse himself/herself from voting on the measure.

Sec. 2-10-6 of the City Code of Ethics, prohibits an officer from the use of information obtained in his/her position with the intent to result in financial gain for himself/herself or any other person or entity. Therefore, the City Council member shall not use any information derived from the office that is not readily available to the public in an effort to secure a benefit for the City Council member or the non-profit organizations.

### Conclusion

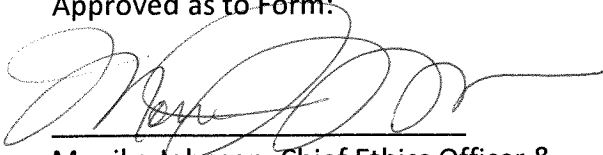
Based on the foregoing, it is the opinion of this Board that the proposed conduct is permissible but cautions the City Council member to properly disclose the relationship prior to the vote. The City Council member may also recuse himself/herself.

Board of Ethics, City of Memphis

  
Chairman, Judge Karen R. Williams

(By Unanimous Vote of the Board of Ethics on December 20, 2023)

Approved as to Form:

A handwritten signature in black ink, appearing to read 'Monika Johnson', written over a horizontal line.

Monika Johnson, Chief Ethics Officer &  
Secretary, Board of Ethics

Requested by:

Latrena Jones

Crystal Givens