

ORDINANCE NO. 2021-47

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE CODE OF ETHICS FOR ELECTED OFFICIALS AND ALLOWING FOR ELECTED OFFICIALS TO SERVE AS VOTING MEMBERS OF AUDITOR SELECTION COMMITTEES; AMENDING SECTION 1-19(c)(6) OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, Section 218.39, Florida Statutes, requires governmental entities, including cities and counties, to have an annual financial audit performed by an independent certified public accountant ("External Auditor") unless the governmental entity is notified in a particular year that it is subject to an audit by the Florida Auditor General;

WHEREAS, Section 218.391, Florida Statutes, sets out procedural requirements for the selection of the External Auditor, including a requirement that each city and county establishes an auditor selection committee to address selection of an External Auditor to conduct the required audit;

WHEREAS, Section 218.391, Florida statutes, was amended in 2019 to require that a member of the board of county commissioners, or designee, serve as a member of a county's auditor selection committee, and that a member of a municipal governing board serve as a member and chair of the municipality's auditor selection committee;

WHEREAS, Section 1-19(c)(6) of the Broward County Code of Ordinances prohibits elected officials, defined therein, from serving as voting members of selection or

1 evaluation committees in connection with any prospective procurement by the elected
2 officials' respective governmental entities; and

3 WHEREAS, the Board of County Commissioners of Broward County, Florida, finds
4 that it is in the public interest to amend Section 1-19(c)(6) of the Broward County Code of
5 Ordinances to allow for elected officials to serve as voting members of auditor selection
6 committees created pursuant to Section 218.391, Florida Statutes, and further finds that
7 addressing this inconsistency between state law (which allows elected officials to serve
8 on such committees) and Section 1-19(c)(6) strengthens the code of ethics,

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10 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
11 BROWARD COUNTY, FLORIDA:

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13 Section 1. Section 1-19(c)(6) of the Broward County Code of Ordinances is
14 hereby amended to read as follows:

15 **Sec. 1-19. Code of ethics for elected officials.**

16 . . .

17 (c) *Standards of Conduct.* In addition to the provisions of Chapter 112, Part III,
18 Florida Statutes, Code of Ethics for Public Officers and Employees; Chapters 838 and
19 839, Florida Statutes; Title 18, Chapter 63 of the United States Code; and Chapter 26,
20 Article V of the Broward County Code of Ordinances, Section 26-67, et seq., the following
21 Standards of Conduct shall apply to each Elected Official.

22 . . .

23 (6) *Procurement Selection Committees.*

24 . . .

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

b. The prohibitions stated in the preceding paragraph shall not apply to:

1. ~~Strong~~ mayors with a charter-prescribed strong mayor form of government or to Elected Officials who, under their charter, are required to participate in the procurement process in a manner that would be inconsistent with such prohibitions;

2. ~~The prohibitions stated in the preceding paragraph shall also not apply to~~ The hiring (or contractual procurement, in lieu of hiring) of individuals who report directly to a local governing body. ~~Additionally, the prohibitions stated in the preceding paragraph shall not be interpreted as prohibiting any; or~~

3. Elected Officials serving on a Selection/Evaluation Committee established pursuant to Section 218.391, Florida Statutes.

c. Where an Elected Official is prohibited from serving on a Selection/Evaluation Committee under this section, the Elected Official from may attending any Selection/Evaluation Committee meeting provided the Elected Official does not actively participate or otherwise interfere in the meeting.

Section 2. Severability.

If any portion of this Ordinance is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be legally applied to any individual, group, entity, property, or circumstance, such determination will not affect the applicability of this Ordinance to any other individual, group, entity, property, or circumstance.

Section 3. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary in order to accomplish such intention.

Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED this 5th day of October 2021

FILED WITH THE DEPARTMENT OF STATE October 6, 2021

EFFECTIVE October 6, 2021

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By /s/ Kristin M. Carter 09/21/2021
Kristin M. Carter (date)
Assistant County Attorney

By /s/ Annika E. Ashton 09/21/2021
Annika E. Ashton (date)
Deputy County Attorney

KMC/mb
Procurement Selection Committee Amendment
10/05/2021
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