



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
Manuel Farach, *Vice Chair*
Robin N. Fiore
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Bruce E. Reinhart

Executive Director

Alan S. Johnson

September 30, 2010

Mr. Angelo DiPierro
Mgr. Office of Management and Budget
Division, Fixed Assets Management Office
301 N. Dixie Highway
West Palm Beach, FL 33401

Re: RQO 10-016
Outside Employment

Dear Mr. DiPierro,

Your request for advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows.

YOU ASKED, in your e-mail of August 26, 2010, whether you, as a manager in the financial management division of the county Office of Financial Management and Budget (OFMB), could seek outside employment as an adjunct professor teaching macro and microeconomics at Palm Beach State College beginning January, 2011. Your schedule would involve evening courses at the college, approximately three (3) hours between 6:30 p.m. and 9:15 p.m. Additionally, you have received merit rule approval from your county supervisor.

IN SUM, your outside employment as an adjunct professor with Palm Beach State College does not violate the Palm Beach County Code of Ethics prohibited contracts provision. This opinion is based upon the facts and circumstances that you have provided.

THE LEGAL BASIS for this opinion involves sec. 2-443(c) of the code of ethics. Employees of the county are prohibited from entering into transactions with the county, directly or indirectly, through themselves or their outside employer of business. Palm Beach State College has several contracts with county departments and therefore subjects you to the prohibition of this section.

Sec. 2-443(d)(5) establishes a process by which the prohibition is waived for employees. This waiver provision reads as follows:

(5) Notwithstanding any provision to the contrary, subsection (c) shall not be construed to prevent an employee from seeking part-time employment with an outside employer who has entered into a contract for goods or services with the county provided that:

(a) The employee or relative of the employee does not work in the county department which will enforce, oversee or administer the subject contract; and

(b) The outside employment would not interfere with or otherwise impair his or her independence of judgment or otherwise interfere with the full and faithful performance of his or her public duties to the contrary; and



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(c) The employee or relative of the employee has not participated in determining the subject contract requirements or awarding the contract; and

(d) The employee's job responsibilities and job description will not require him or her to be involved in the outside employer's contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance; and

(e) The employee demonstrates compliance with applicable merit rules regarding outside employment and obtains written permission from his or her supervisor; and

(f) The employee has obtained a conflict of interest opinion from the Commission on Ethics finding no conflict exists regarding the subject contract. The request for advisory opinion must be made in writing and set forth and include all pertinent facts and relevant documents.


According to the information you provided to the Ethics Commission, Palm Beach State College has five active contracts with Palm Beach County, none of which are administered by the OFMB. Current contracts exist with Parks & Recreation, Facilities, Airports and the Office of Small Business Administration. You do not enforce, oversee or administer any of the contracts nor have you participated in determining the award or requirements therein. Your county job responsibilities do not require that you be involved in any of these contracts. You do not have a relative involved in any of the above mentioned facets of these contracts. Lastly, you have complied with applicable merit rules by obtaining written permission from your supervisor.

IN CONCLUSION, you have complied with the part-time employment requirements of s. 2-443 and therefore may teach evening courses at Palm Beach State College for the semester beginning January, 2011.

This opinion construes the Palm Beach County Code of Ethics ordinance and is based on the facts and circumstances you have provided. It is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,


Alan S. Johnson
Executive Director

ASJ/gal