



Palm Beach County Commission on Ethics

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Alan S. Johnson

October 8, 2010

Ms. Theresa Miller
Information System Services
301 N. Olive Avenue – 8th Floor
West Palm Beach, FL 33401

Re: RQO 10-018
Condolence Gifts from Employees

Dear Ms. Miller,

The Commission on Ethics considered your request and rendered its opinion at a public meeting held on October 7, 2010.

YOU ASKED, in your e-mail of September 2, 2010, whether county employees who receive congratulatory or condolence gifts from a voluntary employee fund are subject to gift law reporting requirements.

IN SUM, depending on the amount of the gift, recipients may be required to complete and include the gift in an annual gift disclosure report submitted to the Palm Beach County Commission on Ethics.

The facts as we understand them are as follows:

The Palm Beach County Information Systems Services (ISS) employees participate in a voluntary contribution fund established within the department to "show support for and share thoughts of encouragement and caring for" fellow employees during "pivotal events that may occur at some time while here in ISS". Participation is voluntary and contributions are given monthly (or annually) in a dollar amount ranging from \$1.00 to \$5.00 monthly with a \$60.00 annual maximum per individual.

Recently, these funds have been distributed for two births (\$60.00), floral arrangements for two deaths (\$213.00), and one, "in honor of", donation of \$75.00 to a hospice. The maximum gift in any circumstance is \$150.00.

THE LEGAL BASIS for this opinion relies on the following relevant sections of the Palm Beach County Code of Ethics:

Section 2-444. Gift Law.

(d) Gift Reports. Any official or employee who receives a gift in excess of One Hundred Dollars (\$100.00) shall report that gift.

(1) *Gift reports for officials and employees identified by state law as reporting individuals.* Those persons required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, s. 112.3148, as may be amended. A copy of each report shall be filed with the county Commission on Ethics.

(2) *All other officials and employees.* All other officials or employees who receive any gift in excess of One Hundred Dollars (\$100.00) shall complete and submit an annual gift disclosure report with



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the county Commission on Ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30th of each year.

For those employees who receive congratulatory or condolence gifts in an amount less than One Hundred Dollars (\$100.00) there is no gift law reporting requirement.

Any employee who receives a gift not exempted under sec. 2-244(e)(1), and in excess of one hundred dollars (\$100.00), must complete and submit an annual gift disclosure report with the Palm Beach County Commission on Ethics no later than November 1st of each year, beginning in 2011 for the period ending September 30th of that year. Employees who are required to submit quarterly gift reports under s. 112.3148, Florida Statutes, must comply with state law and send a copy of the reports to the Palm Beach County Commission on Ethics.


One additional issue must be considered in this context. Section 2-444 (c) prohibits the offer or acceptance of a gift in exchange for an official public action, legal duty performed or legal duty violated by an employee. This prohibition applies to any gift no matter the amount. While unlikely than an internal departmental congratulatory or condolence gift to a fellow employee would involve such a violation, employees must be mindful of this prohibition, especially when supervisory personnel are involved.

IN SUMMARY, congratulatory or condolence gifts given to an employee with a value in excess of One Hundred Dollars (\$100.00) must be reported in an annual gift disclosure report filed with the Palm Beach County Commission on Ethics. Those individuals identified by state law as "reporting individuals" will need to comply with s 112.3148, Florida Statutes, in this regard.

This opinion construes the Palm Beach County Code of Ethics ordinance, but 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. In addition, your request was general in nature, and this opinion is therefore not specific to any one detailed scenario.

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