



Palm Beach County Commission on Ethics

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Executive Director

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November 17, 2010

Keith Carson, FPEM
Special Projects Coordinator
Palm Beach County Division of Emergency Management
20 South Military Trail
West Palm Beach, FL 33415

Re: RQO 10-037-OE
Outside employment with Palm Beach State College

Dear Mr. Carson,

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 email of November 15, 2010, whether as a Palm Beach County employee, you would be able to continue to serve as an adjunct instructor at Palm Beach State College.

IN SUM, Palm Beach State College is included in the Florida College System and established by state statute as a part of the executive branch of state government. The code of ethics prohibits contracts between county employees or their outside business or employer and Palm Beach County. Specifically, sec. 2-442 exempts other governmental entities from the definition of outside employer or business. Therefore, there is no prohibition of your employment by Palm Beach State College. Notwithstanding, you cannot use your official position as a county employee to obtain a financial benefit for yourself, a relative, household member or non-profit organization of which you are an officer or director as that would violate sec. 2-443(a) *misuse of public office or employment*.

THE FACTS you submitted are as follows:

You have served as an adjunct instructor at Palm Beach State College since 1989. In this regard, it has been your responsibility to teach the Community Emergency Response Team (CERT) Program. Palm Beach County provides funds to the college for this program. You are currently the Special Projects Coordinator of the Palm Beach County Division of Emergency Management. CERT is a program under the authority of the Division of Emergency Management.

THE LEGAL BASIS for this opinion relies on the statutory designation of Palm Beach State College as a governmental entity as well as the code of ethics definition of "outside employer or business" as contained in s. 2-442, which specifically excludes "...the county, the state, or any other regional, local or municipal government entity."

s. 1001.60, Florida Statutes, establishes the Florida College System, governed by the Department of Education, under the State Board of Education as established in accordance with s. 2, Art. IX of the constitution, s. 20.15(3) and 1001.02, Florida Statutes. There are 28 public colleges in the Florida College System. The Department of Education is part of the executive branch.



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The Palm Beach County code of ethics, sec. 2-442 excludes "the County, the State, or any other regional, local, or municipal government entity, from the definition of outside employer or business.

This issue was addressed previously by the Commission on Ethics regarding Florida Atlantic University.¹

Although Palm Beach State College maintains contracts with Palm Beach County, the provisions of sec. 2-443(c) prohibited contracts do not apply to your employment as an instructor due to the fact that the college is a state governmental entity and is excluded from the definition of outside business or employer.

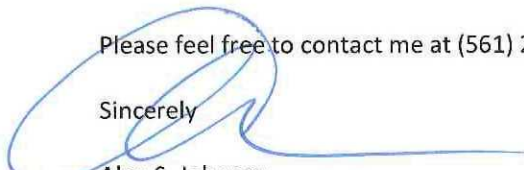
Sec. 2-443(a) does prohibit you from using your official position with the county to benefit yourself, a relative, household member or civic or religious organization if you are an officer or director. You must be mindful of this prohibition against obtaining a financial benefit based on your official position with the county. Based on the facts you have presented, you were an adjunct instructor teaching for the CERT program for approximately 21 years before becoming a Palm Beach County employee. While this would indicate that your status as an instructor was obtained independently of your position, the responsibility is ongoing. Any future use of your official position to financially benefit either yourself or any entity enumerated in Sec. 2-443(a) 1-7 would be a violation of the Palm Beach County Code of Ethics.

IN SUMMARY, you are not prohibited from maintaining part-time employment with another governmental entity under sec. 2-443(c). You have an ongoing responsibility to not use your official position for financial benefit as defined in sec. 2-443(a).

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.

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

¹ RQO 10-028-OE