



Palm Beach County Commission on Ethics

Commissioners

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

Executive Director

Alan S. Johnson

May 6, 2011

Gary Hines
Business Development Board of Palm Beach County, Inc.
310 Evernia Street
West Palm Beach, FL 33401

Re: RQO 11-015
Gift law

Dear Mr. Hines,

The Commission on Ethics considered your request and rendered its opinion at a public meeting held on May 5, 2011. The opinion rendered is as follows:

YOU ASKED in your e-mail of March 24, 2011, whether any member of the Royal Palm Beach Community High School Medical Science Academy Citizens Advisory Board (Academy Board), is prohibited under the Palm Beach County Code of Ethics from soliciting sponsors and participants for a fundraising golf tournament to be held at a local golf course. You advised that all proceeds from this event will go directly to the Royal Palm Beach Community High School Medical Science Academy (the Academy).

IN SUM, those members of the Academy Board that are officials or employees of Palm Beach County, or specific municipalities currently under the jurisdiction of the Commission on Ethics (Boynton Beach, Lantana and Lake Worth) have restrictions under the Palm Beach County Code of Ethics on such fundraising efforts and are prohibited, directly or indirectly, from soliciting any sponsorship or participant donation, valued at greater than \$100.00, from a person or entity they know to be a lobbyist, principal, or employer of a lobbyist, if that lobbyist, principal or employer lobbies the government entity for whom they serve as an official, or employee.

THE FACTS as we understand them are as follows:

The Academy is a "magnet program" located at Royal Palm Beach Community High School, a public school under the authority and supervision of the Palm Beach County School District. You serve as Chairman of the Academy Board, which is an advisory board made up entirely of volunteers who advise the faculty and staff of the Academy and assist in fundraising efforts. The Academy Board has no actual authority over the Academy, and fills only an advisory role. Each member of the Academy Board was invited to join by an advisor, faculty member or administrator of the Academy.

In order to financially assist the Academy, members of the Academy Board have scheduled a golf tournament for April 30, 2011 at The Links Madison Green, a private golf course. All proceeds from this tournament will go to the Academy. As part of your fundraising efforts, you ask local businesses to act as "sponsors" for this event for a donation. You also solicit individuals and businesses to register to play golf in this tournament, charging an admission fee, which varies depending on the number of players and date of registration.

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According to the flyer for this event, a single player may register for a cost of \$100.00, and a sponsor may pay a fee of up to \$5,000.00 for special signage and advertising at the event, along with registration for up to eight (8) players. You advised that some of the members of the Academy Board are officials or employees of either Palm Beach County or local municipalities within Palm Beach County.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

Sec. 2-442. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Official or employee means any official or employee of the county, whether paid or unpaid, and includes all members of an office, board, body, advisory board, council, commission, agency, department, district, division, committee, or subcommittee of the county. The term "official" shall mean members of the board of county commissioners, and members appointed by the board of county commissioners to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.

Sec. 2-444. Gift law.

- (a) No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept *directly or indirectly*, any gift with a value of greater than one hundred dollars (\$100.00) from any person or business entity that the recipient knows is a *lobbyist or any principal or employer of a lobbyist*. (Emphasis added)
- (b) No advisory board member, or any other person on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100.00) from any lobbyist, or any principal or employer of a lobbyist, who lobbies the recipient's advisory board, or any county department that is subject in any way to the advisory board's authority.
- (e) For the purposes of this section, "gift" shall refer to the *transfer of anything of economic value*, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. (Emphasis added)

Currently, no members of the Academy Board fall under the jurisdiction of the Code of Ethics based solely on their membership in the Academy Board because none were appointed by the Palm Beach County Board of County Commissioners (BCC) or the governing body of any of the municipalities currently under the Commission on Ethics jurisdiction (Boynton Beach, Lantana and Lake Worth).



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However, any member of the Academy Board that is also an official or employee of Palm Beach County or the specific named municipalities, does fall within the jurisdiction of the Code of Ethics based upon their public employment. Those members are prohibited under the Code of Ethics from soliciting any donation valued at greater than \$100.00 from anyone they know to be a lobbyist, principal, or employer of a lobbyist, who lobbies their governmental employer, or in the case of a county official, lobbies their county "advisory board, or any county department that is subject in any way to the advisory board's authority." This prohibition applies to the solicitation of prohibited gifts directly or indirectly for the benefit of religious, charitable or other non-profit organizations.¹


Other board or organization members may not use a public employee or official's name or title in soliciting prohibited donations from lobbyists, principals or employers of lobbyists. Nor may any other director, officer or member of an organization solicit such donations on behalf of an employee or an official. Essentially, a covered employee or official should have no involvement with an organization's solicitation of donations in excess of \$100.00 from a lobbyist, principal or employer of a lobbyist, including creating potential donor lists or other similar activities. That said, as individuals, public employees or officials are not prohibited under the Code of Ethics from volunteering their time at a charitable event, or from directly or indirectly soliciting funds in excess of \$100.00 from persons or entities who are not lobbyists, their principals or employers.

IN SUMMARY, the Commission on Ethics has no jurisdiction over members of the Academy Board who are not officials or employees of Palm Beach County or the specific municipalities named above. For those members of the Academy Board who do fall under the Code of Ethics, they are prohibited from directly or indirectly soliciting or accepting donations of a value greater than \$100.00 from any lobbyist, principal or employer of a lobbyist who lobbies their governmental entity. Indirect solicitation includes allowing one's name or title to be used in the solicitation, delegating or assisting others, creating donor lists or similar activities.

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 should you have any further questions in this matter.

Sincerely,


Alan S. Johnson
Executive Director
Commission on Ethics

ASJ/gal

¹ RQO 10-012, RQO 10-019