



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
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Executive Director

Alan S. Johnson

April 21, 2011

Ms. Audrey R. Norman, Director
PBC Cooperative Extension Service
559 North Military Trail
West Palm Beach, Florida 33415

Re: RQO 11-018
Gift Law

Dear Ms. Norman,

Your request for an 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 April 7, 2011 whether one of your employees could accept a gift card on behalf of the Cooperative Extension and if so, whether you are required to report this gift.

IN SUM, although an employee may not accept a gift of any value in exchange for the performance or non-performance of his or her official duties, based on the facts and circumstances you have given, since the gift card will not be accepted or used by the individual employee for his personal benefit, but rather on behalf of the county department for use, "solely by the county in conducting its official business," it is not considered to be a personal gift under the code of ethics. Therefore, gift prohibitions and reporting requirements do not apply.

THE FACTS as we understand them are as follows. A Palm Beach County Cooperative Extension Service (PBCCES) agent, Ron Rice, conducted a program at Syngenta Corporation. The PBCCES is a county department, whose function is to provide access to technology and research regarding more than 2,000 subjects of interest. Syngenta is a chemical company that specializes in fertilizer and pesticides. Syngenta does not contract with the county, nor is it a principle or employer of a lobbyist registered with Palm Beach County. After the program, Syngenta sent Mr. Rice a thank you card containing a \$50.00 gift card. You have indicated that the money was intended to be used by your department for county purposes, specifically to purchase program supplies.

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

The Palm Beach County Code of Ethics Section 2-444, *Gift Law*, provides that gifts in excess of \$100.00, not otherwise excluded, must be reported by the official or employee who receives the gift. Since the gift card is for \$50.00, there is no reporting requirement.



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Section 2-444(c) states in pertinent part:

(c) ...no official or employee shall accept or agree to accept a gift from a person or entity, because of:

- (1) An official public action taken or to be taken, or which could be taken;
- (2) A legal duty performed or to be performed or which could be performed; or
- (3) A legal duty violated or to be violated, or which could be violated by any official or employee.

Mr. Rice may not accept a gift in return for the performance of his official duties.¹

However, Section 2-444(e)(1)(f), states as follows:

(1) Exceptions. The provisions of subsection (e) *shall not apply* to:

- e. Gifts solicited by county employees *on behalf of the county in performance of their official duties for use solely by the county in conducting official business.* (emphasis added)

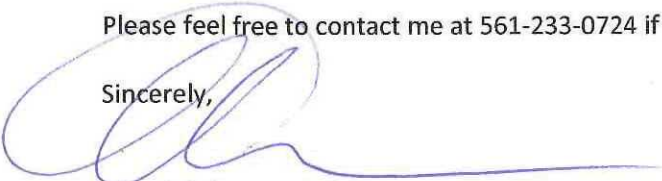
Mr. Rice may accept the \$50.00 gift card on behalf of the county for use solely by the county in conducting official business, because it is not a personal gift under the definition as provided by the code of ethics.

IN SUMMARY, based upon the information provided, the code of ethics allows county employees to solicit donations on behalf of Palm Beach County, in the performance of their official duties, so long as these funds are used solely for a county purpose. Moreover, while this would have been a prohibited gift if given to Mr. Rice for his personal benefit, it would not have been a reportable gift because it is not in excess of \$100.00.

This opinion construes the Palm Beach County Code of Ethics ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflict 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/mcr/gal

¹ RQO 10-031