



# Palm Beach County Commission on Ethics

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Alan S. Johnson

September 13, 2011

Peter B. Elwell, Town Manager  
Town of Palm Beach  
360 South County Road  
Palm Beach, Florida 33480

Re: RQO 11-057  
Gift Law

Dear Mr. Elwell,

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 submission dated July 12, 2011 whether the children of Town of Palm Beach (the Town) employees may accept college scholarships provided by Neiman Marcus and the Palm Beach Chamber of Commerce.<sup>1</sup>

IN SUM, the children of Town employees are not prohibited from accepting scholarship dollars provided by the Palm Beach Chamber of Commerce and Neiman Marcus. These scholarships are available to any college-bound Town resident or any child whose parent is employed by a business within the Town of Palm Beach and neither the Chamber of Commerce nor Neiman Marcus is a vendor, lobbyist, principal or employer of a lobbyist of the Town.

THE FACTS as we understand them are as follows, Neiman Marcus, a private business, and the Palm Beach Chamber of Commerce present an annual scholarship to graduating seniors who are full or part time Town residents or who have a parent who is employed by a business within the Town of Palm Beach. Scholarships are funded through in-house contributions from Neiman Marcus and the Chamber; no fundraising is performed to subsidize these scholarships. Neither the company nor the chamber is a vendor or lobbyist who sells, leases to, or lobbies the Town. While the Town publicizes the scholarship opportunity, it is not involved with the selection of candidates in any way.

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

Section 2-444(g) defines a gift as *"the transfer of anything of economic value,"* and §2-444(f)(2)b requires employees to complete an annual gift disclosure form, reporting any gift in excess of \$100 unless one of several exceptions apply. While scholarship dollars are a thing of value, the question remains whether giving a scholarship to a child of a public employee is an indirect gift to the employee and thus a reportable gift. In addressing

<sup>1</sup> This request contained separate issues requiring individual advisory opinions. Additional related opinions will reference RQO 11-057.


valuation, the Commission on Ethics adheres to Florida state standards outlined in §112.3148, Florida Statutes, and Chapter 34 of the Florida Administrative Code. The Florida Administrative Code suggests that a gift may be considered an indirect gift where the gift is provided with the intent to benefit the employee. Here where the scholarship is offered to all town residents and the children of *any* person who is employed by a business within Palm Beach, there is no evidence that the scholarships are targeted to ultimately benefit the employee as compared to their child. Accordingly, should a child of a Town employee receive one of these scholarships, it is not a reportable gift.

IN SUMMARY, based on the information that you have provided, the children of Town employees are not prohibited from accepting scholarships from Neiman Marcus and the Palm Beach Chamber of Commerce. Neither organization sells, leases or lobbies the Town and the scholarship funds are available to any resident of Palm Beach or children of any person who is employed by a business within the Town. The employee's public status bears no relationship to eligibility for the scholarships and therefore any scholarship received by their child is not a reportable gift.

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

ASJ/mr/gal