



Palm Beach County Commission on Ethics

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October 24, 2011

Henry Esformes, Family Therapist
Palm Beach County Public Safety
4200 North Australian Avenue
West Palm Beach, FL 33407

Re: RQO 11-098
Acceptance of gifts

Dear Mr. Esformes,

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 October 20, 2011, whether you could accept a \$15 gift card from a client of the Highridge Family Center, a division of the Palm Beach County Public Safety Department, in appreciation of the therapy you provided in the course of your public employment.

IN SUM, Section 2-444(c) of the Palm Beach County Code of Ethics specifically prohibits an employee from accepting a gift because of "an official action taken" or "duty performed". The assistance you provided was in your official capacity as a Palm Beach County employee, therefore you are prohibited from accepting the gift.

THE FACTS as we understand them are as follows:

You are a Palm Beach County employee working as a therapist at the Highridge Family Center (HFC) in the Public Safety Department. A client recently gave you a \$15 gift card for a local vendor. You attempted to give back the card explaining that you are not allowed to take any gifts, however, the client was insistent. As you described in your email, "he was quite insistent...it got to the point that I felt he would be insulted if I insisted anymore in him taking back the gift." You subsequently went to your supervisor for direction and she suggested you contact the ethics commission.

According to your submission, this situation arises regularly at HFC as clients routinely seek to show their appreciation for the work done by you and your colleagues.

THE LEGAL BASIS for this opinion relies on the following section of the Palm Beach County Code of Ethics.

Article XIII, Sec. 2-444. Gift Law.

- (c) No person or entity shall offer, give, or agree to give an official or employee a gift, and 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.

The Code of Ethics specifically prohibits an employee from accepting a gift because of "an official act taken" or "duty performed". Regardless of whether or not the gift is a gesture of thanks from a satisfied client or one given with ulterior motive or intent, it is still a gratuity tied to your official act in doing your job of providing physical therapy to a specific HFC client. The COE has previously opined on this issue and has concluded that accepting personal "thank you" gifts for the performance of your job as a public employee is discouraged and specifically prohibited under the code.¹ This includes a gift of any value.

IN SUMMARY, you may not accept a \$15 gift certificate as a thank you for providing physical therapy to a client in the performance of your official duties.

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 10-031 (tickets to a play), RQO 11-008 (two \$25 gift certificates as appreciation for work on a discrimination case)