



# Palm Beach County Commission on Ethics

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Alan S. Johnson

December 29, 2011

James Hauser, Reference Librarian  
Palm Beach County Library, Gardens Branch  
11301 Campus Drive  
Palm Beach Gardens, FL 33410

Re: RQO 11-122  
Gifts/Holiday gifts

Dear Mr. Hauser,

Your request for advisory opinion to the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

YOU ASKED, in your email dated December 21, 2011, whether you are permitted to accept an unsolicited gift of a box of candy, with a value less than \$100, as a holiday "thank you" gift for assisting a patron in the normal course of your duties as reference librarian over the course of the year.

IN SUM, holiday gifts from non vendors or lobbyists of your public employer, not connected to the past, present or future performance of a legal duty or an official act, are generally permitted.

THE FACTS as we understand them are as follows:

You are a reference librarian employed by the Palm Beach County Library System. As part of your official duty, you assist the public in obtaining information. In your line of work, each reference librarian has certain patrons with whom they have developed a certain rapport. When patrons come in for help, especially for something important, it is not unusual for them to ask for the librarian they know and trust.

Recently, when you returned to work after being out for lunch, you found a wrapped gift at your desk and an envelope. You believe the gift is a box of candy and that the envelope contains a Christmas card. You are aware of the identity of the donor as his name was attached. The donor is a library patron and not a vendor or lobbyist of Palm Beach County Government. It is a gentleman you have assisted on a number of occasions as part of your official duties. While you believe other librarians have assisted this patron as well, you are the only one who has received a gift. While you have helped this gentleman periodically, and you assume that he was generally expressing his gratitude for the help, you did not give him any special treatment in the performance of your job. It is your intention to share the candy with the entire library staff.

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

Section 2-444(c) prohibits the solicitation of any gift from a vendor or lobbyist, if the gift is for the personal benefit of the official or employee, fellow official or employee, or the official or employee's relatives or household members.

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**Website: [palmbeachcountyethics.com](http://palmbeachcountyethics.com)**

Section 2-444(e) states as follows:

- (e) 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.

A gift of any value may not be accepted as a *quid pro quo* for any official action, duty performed or duty violated. Gifts that are not prohibited may be accepted. In most instances, allowable gifts in excess of \$100, not given by personal friends, co-workers or relatives must be reported as required by the Code of Ethics. You have indicated that this gift is not of a value in excess of \$100.

IN SUMMARY, holiday gifts of food are not prohibited so long as the gifts are not given to an individual employee as a "thank you" gift in exchange for a specific service, public action or legal duty performed.<sup>1</sup> Under the facts you have provided, the question then becomes whether a holiday gift is given in exchange for such a public action or duty, performed or to be performed. In addition to past performance, you must take great care to not accept such a gift if it is given in anticipation of future action or service.

Based upon the facts you have provided, the gift is not tied to any specific public act or legal duty performed or to be performed, but is general in nature. As such, it would not be prohibited under the gift law section of the Palm Beach County Code of Ethics. The COE cannot opine regarding any county or department policy or procedure that may be more stringent than the code of ethics.

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/gal

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<sup>1</sup> Tips in exchange for a specific official action or performance of a duty are generally prohibited. See, RQO 10-031, RQO 11-008, RQO 11-082