



Palm Beach County Commission on Ethics

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February 3, 2012

Norm Ostrau, Ethics Officer
401 Clematis St. 5th Floor
West Palm Beach, FL 33401

Re: RQO 12-002
Scholarships/Gift Law

Dear Mr. Ostrau,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion and rendered its opinion at a public meeting held on February 2, 2012.

YOU ASKED in your email dated January 9, 2012, whether City of West Palm Beach employees may accept scholarship dollars from a local non-profit to attend professional certification programs at Palm Beach State College.

IN SUM, public employees and officials are not prohibited from accepting scholarship dollars, provided that there is no quid pro quo or special treatment or privilege given to the non-profit organization in exchange for offering these scholarships. If awarded, the scholarships are educational training costs related to an employee's duties and responsibilities to their government employer. Accordingly, these scholarships are not reportable gifts.

THE FACTS as we understand them are as follows:

You are the ethics officer for the City of West Palm Beach (the City). Palm Beach State College (PBSC) is offering an educational program that provides "school age professional certification" and after school educator certificates for eligible members of the public. The certification program prepares enrollees to work with children 5 years and up in licensed afterschool programs. Prerequisites for the program include prior certification or other training, employment in a licensed childcare setting or after school program for children 5 to 12 years of age and mastery of the English language. Applicants must be at least 18 years old and have a high school diploma or GED. The program consists of two learning modules and costs \$222.40 for Florida residents.

The City offers after school programs for City residents. Eligible employees will benefit from the additional certification offered by the PBSC course, while students will benefit from educators with more training and experience.

Scholarship opportunities are available for this program to all applicants through Prime Time Palm Beach County, Inc. (PTPBC). All PBSC applicants are eligible for the scholarships whether they work for municipal, county, non-profit or for-profit after school programs. PTPBC is a non-profit organization that serves afterschool programs and practitioners by providing support and resources that increase program quality. Among other resources, PTPBC receives funding from Palm Beach County Children's Services Council and United Way. City employees eligible for the PTPBC scholarship dollars have not and do not intend to solicit donations on behalf of the non-profit. Based upon the information you provided, PTPBC does not vend, lease or lobby the City.

2633 Vista Parkway, West Palm Beach, FL 33411 561.233.0724 FAX: 561.233.0735

Hotline: 877.766.5920 E-mail: ethics@palmbeachcountyethics.com

Website: palmbeachcountyethics.com

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

Sec. 2-444. Gift law.

(g) 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...

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

h. Registration fees and other related costs associated with educational or governmental conferences or seminars and travel expenses either properly waived or inapplicable pursuant to section 2-443(f), provided that attendance is for governmental purposes, and attendance is related to their duties and responsibilities as an official or employee of the county or municipality;

County and municipal employees subject to the Code of Ethics are prohibited from soliciting or accepting gifts in excess of \$100 from vendors and lobbyists who vend, lease or lobby their government employer.¹ Moreover, employees may not solicit a gift of any value from a vendor or lobbyist of their government employer for their personal benefit, the benefit of a relative or the benefit of another public employee.² If an employee receives an allowable gift in excess of \$100, it is reportable unless one of several exceptions applies.³

PTPBC does not vend, lease or lobby the City. Accordingly, City employees, if eligible, may apply for and accept the non-profit scholarship dollars. If awarded, these scholarships are not reportable because they are an educational cost related to City employees' duties and responsibilities as afterschool educators.

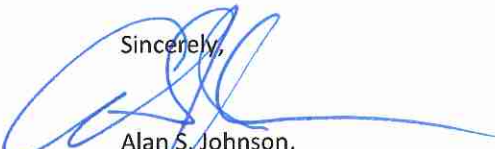
Based on the facts you have submitted, the scholarships are neither prohibited nor reportable. However, City employees may not accept a personal financial benefit as a quid pro quo for an official action or performance of a legal duty or otherwise use their office corruptly to obtain any benefit from PTPBC.

IN SUMMARY, county and municipal employees are not prohibited from accepting scholarship dollars from an entity that does not vend, lease or lobby their governmental employer. Educational fees and costs related to an employee's governmental duties and responsibilities are not gifts as defined by the Code of Ethics and thus are neither prohibited nor reportable.

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/mcr/gal

¹ 2-444(a)(1)

² 2-444(c)

³ 2-444(f)(2)