



# Palm Beach County Commission on Ethics

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Alan S. Johnson

May 4, 2012

Anna Stewart, Coordinator  
Drowning Prevention Coalition of Palm Beach County  
405 Pike Road  
West Palm Beach, FL 33411

Re: RQO 12-030  
Gift Law Exclusions

Dear Ms. Stewart,

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 May 3, 2012.

YOU ASKED in your e-mail of April 18, 2012, whether the Drowning Prevention Coalition of Palm Beach County (DPC), a county governmental entity, may accept booth space donated by a local swim school, at a public event. The DPC purpose in sharing the booth space is to distribute drowning prevention literature and otherwise inform the public about this issue.

IN SUM, an official may not use his or her official position to obtain a special financial benefit for him or herself, a spouse or domestic partner or their outside business or employer, as well as a number of additional persons or entities with whom the official has some financial or fiduciary relationship. No member of your staff has such a relationship with Small Fish, Big Fish Swim School (SFBF), which is the local swimming school that is donating the booth space.

Additionally, since the donated booth space will be used on behalf of DPC, a county department, for use solely by the county in conducting its official business, the donation is not considered a gift under the Code of Ethics. Therefore, the gift prohibitions and reporting requirements of the Code do not apply.

THE FACTS as we understand them are as follows:

You are the Manager of the Drowning Prevention Coalition of Palm Beach County (DPC). The DPC is funded in part by Palm Beach County and The Children's Services Council of Palm Beach County, a non-profit organization. Notwithstanding the funding source, DPC is an entity of Palm Beach County government within the Palm Beach County Fire Rescue Department.<sup>1</sup>

Small Fish, Big Fish Swim School (SFBF) is a for-profit company located in West Palm Beach and provides swimming lessons for students of all ages. SFBF has offered to share its booth space with DPC at Sunfest, a waterfront music and art festival held annually in downtown West Palm Beach. SFBF is not a vendor or lobbyist of the county, nor is SFBF an outside employer or business of anyone on the DPC staff. While DPC provides information to the public about swimming lessons, it does not list or endorse SFBF on its county website. DPC would like to bring its own water safety and drowning prevention literature to disseminate at Sunfest.

<sup>1</sup> RQO 10-040

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

Section 2-443(a) prohibits employees from using their official position or office in a manner which they know or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for themselves, a relative, spouse or domestic partner or their outside business or employer, or other persons or entities with whom they may have a financial or fiduciary relationship. No member of DPC staff or their spouse, relative or household members work for or are owners of SFBF, or otherwise have the type of economic or fiduciary relationship with SFBF prohibited by the Code of Ethics, thus section 2-443(a) is not implicated.

The COE cannot opine as to any potential benefit that may flow to a private entity appearing in common with a government department at an event unless the facts and circumstances indicate a potential violation of the Code of Ethics. Where there is no financial or fiduciary conflict or a corrupt misuse of office, the Code does not prohibit such public/private appearances.

Sec. 2-444(g) – For the purposes of this section, “gift” shall refer to the transfer of anything of value...

(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.

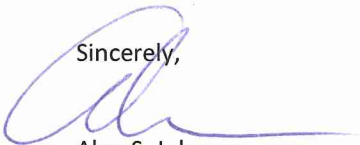
Since the donation of the booth space is accepted by DPC on behalf of the county for use solely by the county for county purposes, the donation is not a gift as defined by the Code of Ethics. Any gift received in conjunction with this event *not used exclusively for county purposes* would be considered a gift and subject to the prohibitions and reporting requirements within the Code.

IN SUMMARY, the Code of Ethics does not prohibit you from accepting the donation of booth space from SFBF so long as you are doing so on behalf of the county in your official capacity and solely for a county purpose.

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