



*Honesty - Integrity - Character*

**Palm Beach County**

**Commission on Ethics**

300 North Dixie Highway  
West Palm Beach, FL 33401

561.355.1915

FAX: 561.355.1904

**Hotline: 877.766.5920**

**E-mail: [ethics@pbcgov.org](mailto:ethics@pbcgov.org)**

**Commissioners**

Vacant, Chair

Bryan Kummerlen, Vice Chair

Michael S. Kridel

Rodney G. Romano

Peter L. Cruise

**Executive Director**

Mark E. Bannon

**Intake and Compliance Manager**

Gina A. Levesque

**General Counsel**

Christie E. Kelley

**Investigator**

Abigail Irizarry

**Investigator**

Mark A. Higgs

# *Agenda*

February 6, 2020 – 1:30 p.m.

Governmental Center,

301 North Olive Avenue, 6<sup>th</sup> Floor

Commissioners Chambers

**Meeting will begin at 1:30pm**  
**Executive Session will begin at 1:45pm**  
**Regular Agenda will resume at 2:15pm**

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from December 12, 2019
- V. Executive Session for C19-003
- VI. Processed Advisory Opinions (Consent Agenda)
  - a. RQO 20-001
  - b. RQO 20-002
  - c. RQO 20-003
- VII. Items Pulled from Consent Agenda
  - a.
- VIII. Presentation of 2019 Annual Report
- IX. Executive Director Comments
- X. Commission Comments
- XI. Public Comments
- XII. Adjournment

If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting or hearing, (s)he will need a record of the proceedings, and that, for such purpose, (s)he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**OFFICIAL MEETING MINUTES  
OF THE  
PALM BEACH COUNTY COMMISSION ON ETHICS  
PALM BEACH COUNTY, FLORIDA**

**DECEMBER 12, 2019**

**THURSDAY  
1:30 P.M.**

**COMMISSION CHAMBERS  
GOVERNMENTAL CENTER**

**I. CALL TO ORDER**

**II. ROLL CALL**

MEMBERS:

Sarah L. Shullman, Chair  
Bryan Kummerlen, Vice Chair  
Peter L. Cruise  
Michael S. Kridel  
Rodney G. Romano – Arrived later

STAFF:

Mark E. Bannon, Commission on Ethics (COE) Executive Director  
Mark A. Higgs, COE Investigator  
Abigail Irizarry, COE Investigator I  
Christie E. Kelley, Esq., COE General Counsel  
Gina A. Levesque, COE Intake and Compliance Manager

ADMINISTRATIVE STAFF:

Julie Burns, Deputy Clerk, Clerk & Comptroller's Office

**III. INTRODUCTORY REMARKS – None**

**IV. APPROVAL OF MINUTES FROM NOVEMBER 7, 2019**

**MOTION to approve the November 7, 2019 minutes. Motion by Peter Cruise, seconded by Michael Kridel, and carried 4-0. Rodney Romano absent.**

## RECESS

**At 1:31 p.m., the chair declared the meeting recessed for an executive session.**

(CLERK'S NOTE: Commissioner Romano joined the meeting.)

## V. EXECUTIVE SESSION FOR C19-004

### RECONVENE

**At 2:15 p.m., the meeting reconvened, and at Chair Shullman's request for a roll call, Vice Mayor Kummerlen and Commissioners Cruise, Kridel and Romano were present.**

Vice Chair Kummerlen read the following Public Report and Final Order of Dismissal:

Complainant, Christopher Davey, filed the above referenced complaint on May 21, 2019, alleging Respondent, Ryan Boylston, violated §2-443(a), *Misuse of public office or employment*, §2-443(b), *Corrupt misuse of official position*, and §2-443(c), *Disclosure of voting conflicts*, of the Palm Beach County Code of Ethics while serving as a Delray Beach Downtown Development (DDA) board member by voting on the annual budget for the DDA, which included funding for advertisements with a newspaper in which Respondent had an ownership interest.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics (COE) Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On December 12, 2019, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After an oral statement by the Advocate and Respondent, the COE concluded that probable cause does not exist to believe any violations occurred. The evidence showed that Respondent was not a member of the DDA at the time of the 2017/2018 DDA budget meeting and the vote on the 2016/2017 DDA budget occurred outside the COE's 2-year statute of limitations.

Therefore it is:

**ORDERED AND ADJUDGED** that the complaint against Respondent, Ryan Boylston, is hereby DISMISSED.

**DONE AND ORDERED** by the Palm Beach County Commission on Ethics in public session on December 12, 2019.

By: Sara L. Shullman, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

**VI. PROCESS ADVISORY OPINIONS (CONSENT AGENDA)**

**VI.a. Request for Opinion (RQO) 19-021**

**VI.b. RQO 19-022**

**MOTION to approve the consent agenda. Motion by Rodney Romano, and seconded by Peter Cruise.**

Mark Bannon, Coe Executive Director, said that public comment on RQO 19-022 could be presented at this time.

**PUBLIC COMMENT:** Norman Ostrow.

Responding to Mr. Bannon, Mr. Ostrow said that it would be difficult for the Town of Lake Clarke Shores (Town) manager to hold outside employment or have an outside business because the position was considered to be held 7 days a week, 24 hours a day. He added that if the Town manager did hold outside employment or have an outside business, it would have to be conducted while on leave time.

Mr. Bannon stated that:

- The matter was more of a policy issue, and the opinion letter did not did not reflect or state Mr. Ostrow's beliefs.
- Town managers with steady working schedules may need to be available for emergencies that took priority over their outside businesses.

- It was within the Town's right to have a policy regarding outside employment or business ownership for its employees or Town manager.

Mr. Ostrow said that he wanted to address the exception because the COE's opinion could be binding.

Mr. Bannon clarified that it would be binding unless a Town policy overrode the previously mentioned work hours.

Chair Shullman said that the last sentence before the legal basis in the opinion letter reminded the requester that as a Town employee, he must comply with the Town's rules regarding outside employment or business ownership.

**UPON CALL FOR A VOTE, the motion carried 5-0.**

**VII. ITEMS PULLED FROM CONSENT AGENDA – None**

**VIII. EXECUTIVE DIRECTOR COMMENTS**

**VIII.a.**

**DISCUSSED:** Happy Holidays and Proposed Changes to the COE Ordinance.

Mr. Bannon wished everyone a happy and safe holiday season, and he added that:

- Proposed changes to the COE ordinance, the Code of Ethics, and the lobbyist registration ordinance were almost completed.
- Staff discussed the changes with the County Attorney's Office and the Palm Beach County League of Cities.
- The County Administrator's Office was reviewing the changes for any fiscal impact that the changes may cause.
- The changes should be back to the COE by early January 2020.
- Once the COE discussed the changes and voted to send them to the Board of County Commissioners (BCC), the item would be placed on a BCC agenda for approval to form a drafting committee.

- After draft committee review, the changes would be sent back to the COE and subsequently to the BCC for finalization.
- The changes were the most significant since 2011, when municipalities were included in the ordinance.

**VIII.b.**

**DISCUSSED:** Council on Government Ethics Law Conference.

He and Investigator Mark Higgs would be attending the Council on Government Ethics Law Conference in the City of Chicago this weekend until Wednesday, December 18, 2019.

**IX. COMMISSION COMMENTS**

**IX.a.**

**DISCUSSED:** 2020 Regional High School Ethics Bowl.

Commissioner Cruise said that the 2020 Regional High School Ethics Bowl would be held at Florida Atlantic University on Saturday, January 18, 2020. He added that judges were needed for the competition, and increased scholarship money would be awarded.

**X. PUBLIC COMMENTS – None**

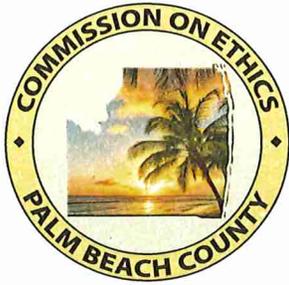
**XI. ADJOURNMENT**

**At 2:24 p.m., the chair declared the meeting adjourned.**

APPROVED:

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Chair/Vice Chair



# Palm Beach County Commission on Ethics

*Honesty - Integrity - Character*

## Commissioners

Sarah L. Shullman, Chair  
Bryan Kummerlen, Vice Chair  
Rodney G. Romano  
Michael S. Kridel  
Peter L. Cruise

## Executive Director

Mark E. Bannon

January 28, 2020

Mr. Len Rodriguez, Lifeguard (Retired)  
Palm Beach County Ocean Rescue  
14775 US Highway 1  
Juno Beach, FL 33408

Re: RQO 20-001  
Post-Employment Ordinance

Dear Mr. Rodriguez,

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

### **QUESTION:**

What restrictions does the Palm Beach County Post Employment Ordinance (Post Employment Ordinance) place on you, as a recently retired Palm Beach County (County) employee, seeking employment with an entity that is a vendor of the County?

### **FACTS:**

You have recently retired from County employment after 27 years where you served as an Ocean Lifeguard EMT for the Aquatics Division of the County's Parks and Recreation Department. You have the opportunity to become a masters swim coach with Palm Beach Master, who is the County vendor that handles the masters swim program for the County.

While working as a County employee, you were not a department head, an assistant department head, a division head, or in any management-level position. Your position with the County also did not meet the definition of a Level 1 or a Level 2 employee under the Post Employment Ordinance.

### **ANSWER:**

Based on the facts submitted, the Post Employment Ordinance, which would apply certain employment restrictions on some former county officials and employees, would not apply to you because you were not a County commissioner, a Level 1 employee, or a Level 2 employee. As such, the Post Employment Ordinance would not place any restrictions on you when seeking employment or contracting with another entity after leaving County employment, and you would not be prohibited from accepting the employment with Palm Beach Master. In addition, even if the Post Employment Ordinance did apply to you, you would not be prohibited from accepting this type of employment because it would not involve representing anyone at a proceeding before the board of county commissioners or any personal communications made with officials or employees of the County.

The Post Employment Ordinance prohibits individuals who work in County administration and in management-level positions, specifically County Commissioners, Level 1 employees, and Level 2 employees, from representing anyone other than the county or another public entity for certain time periods.<sup>1</sup> The Post Employment Ordinance defines Level 1 employees as those employed as the County Administrator, the County Attorney, the Internal Auditor, the Fire Rescue Administrator, the County Engineer, the Deputy County Administrator, the Chief Deputy County

<sup>1</sup> §2-143

Attorney, the Deputy County Engineer, and the Director of Planning, Zoning, and Development.<sup>2</sup> Level 2 employees are assistant county administrators, assistant county attorneys, department heads, assistant department heads, division heads, auditors within the Internal Audit department, and deputy fire chiefs.<sup>3</sup> Representation means appearing on behalf of an individual or entity, for compensation, before the Palm Beach County Board of County Commissioners in any of their official capacities or before an advisory body of the BCC or personal communications made with any officials, employees, or advisory board members of the County in their official capacity, on behalf of an individual or entity.<sup>4</sup>

Under the Post Employment Ordinance, former County commissioners are prohibited from representing anyone besides the County or another public entity for two years after the end of their term of office with the County.<sup>5</sup> Former Level 1 employees are prohibited from representing anyone besides the County or another public entity for six months after leaving County employment; however, an additional 18-month restriction applies for issues where the County is a party.<sup>6</sup> Former Level 2 employees are prohibited from representing anyone besides the County or another public entity for six months after leaving County employment; however an additional six-month restriction applies for issues where County is a party.<sup>7</sup>

**LEGAL BASIS:**

The legal basis for this opinion is found in the §2-142 and §2-143 of the Post-Employment Ordinance:

**Sec. 2-142. Definitions.**

- (1) *County commissioner* means any county commissioner of Palm Beach County.
- (2) *Level 1 employee* means all individuals employed by the board of county commissioners in the position of:
  - a. County administrator;
  - b. County attorney;
  - c. Internal auditor;
  - d. Fire rescue administrator;
  - e. County engineer;
  - f. Deputy county administrator;
  - g. Chief deputy county attorney;
  - h. Deputy county engineer; and
  - i. Director of planning, building and zoning.
- (3) *Level 2 employee* means:
  - a. Assistant county administrators;
  - b. Assistant county attorneys;
  - c. Department heads;
  - d. Assistant department heads;
  - e. Division heads;
  - f. Auditors (within internal audit department; and
  - g. Deputy fire chiefs.
- (4) *Represent or representation* means actual physical attendance on behalf of an individual or entity, for compensation, at a proceeding before the board of county commissioners in any of their official capacities or before an advisory body of the board of county commissioners or personal communications made with any officials, employees, or advisory board members of the county in

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<sup>2</sup> §2-142

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> §2-143(a)

<sup>6</sup> §2-143(b)

<sup>7</sup> §2-143(c)

their official capacity, on behalf of an individual or entity, including the filing of documents or the writing of letters on behalf of said individual or entity.

**Sec. 2-143. Prohibited conduct after termination of employment or office with the county.**

- (a) No former county commissioner shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of two (2) years after the cessation of his or her term of office with the county.
- (b) No former level 1 employee shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of six (6) months after the cessation of his or her employment with the county; additionally no level 1 employee shall knowingly represent anyone other than the county or another public entity in connection with any particular matter involving common issues of law and fact in which the county is a party or has an interest and in which the former employee participated personally, substantially and directly for the county for an additional period of eighteen (18) months (for a total of two (2) years) after the cessation of his or her employment with the county.
- (c) No former level 2 employee shall knowingly represent anyone other than the county or another public entity in connection with any matter for a period of six (6) months after the cessation of his or her employment with the county; additionally no former level 2 employee shall knowingly represent anyone other than the county or another public entity in connection with any particular matter involving common issues of laws and fact in which the county is a party or has an interest and in which the employee participated personally, substantially and directly for the county for an additional period of six (6) months (for a total of one (1) year) after the cessation of his or her employment with the county.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted, but assume they are true for purposes of this advisory opinion. It 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 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Mark E. Bannon  
Executive Director

CEK/gal



# Palm Beach County Commission on Ethics

*Honesty - Integrity - Character*

Bryan Kummerlen, Vice Chair  
Rodney G. Romano  
Michael S. Kridel  
Peter L. Cruise

**Executive Director**  
Mark E. Bannon

January 28, 2020

Ms. Lynn Gelin, Esquire  
Delray Beach City Attorney  
200 N.W. 1<sup>st</sup> Avenue  
Delray Beach, FL 33444

Re: RQO 20-002  
Gift law

Dear Ms. Gelin,

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

**QUESTION:**

Does the Palm Beach County Code of Ethics (Code) prohibit City of Delray Beach (City) officials and employees from accepting tickets to the Delray Beach Open Tennis Tournament (Tournament) from the City? If not, must the tickets be reported, may the officials or employees give the tickets to someone else, and must there be a declared public purpose before the City can distribute the tickets?

**FACTS:**

You are the City Attorney for the City of Delray Beach (City). The City is a co-title sponsor of the Tournament held annually at the City's tennis center. Pursuant to its contractual agreement with Match Point, Inc., the City receives various levels of tickets (box seats, VIP seats, reserved seats, grandstand seats, etc.) for all of the sessions held as part of the Tournament. The tickets are distributed to the City's elected officials as well as City staff on a first-come first-served basis. Pursuant to the contract, the City contributes funds annually to the Tournament.

**ANSWER:**

Sec. 2-444(a)(1) prohibits officials and employees of the City from accepting any gift valued at over \$100 in the aggregate per calendar year from a vendor of the City. Here, Match Point, Inc. is a vendor of the City because it has an ongoing contract with the City for the tennis tournament. However, the officials and employees are not accepting the tickets from Match Point, Inc., but from the City. The tickets were included in the contract between Match Point, Inc. and the City and are an inseparable part of that contract. In exchange for the tickets and other goods and services, the City will pay funds to Match Point, Inc. and allow Match Point, Inc. to use the City's tennis center and stadium court, among other things. Thus, the City is paying for these tickets through the contract and is not prohibited from distributing the tickets to its officials or employees. Further, based on this scenario, the tickets given to City officials and employees are gifts from the City of Delray Beach, not gifts from Match Point, Inc.

Further, the City does not have to declare a public purpose before distributing the tickets to the officials and employees because the tickets are a part of the City's contract with Match Point, Inc. Under the Code, there is a gift exception for gifts solicited or accepted by officials or employees on behalf of their public employer for use solely by the municipality for a public purpose.<sup>1</sup> Based on the facts submitted, the public purpose exception would not apply to this situation and the City does not have to declare a public purpose before the distributing the tickets.

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<sup>1</sup> §2-444(g)(1)e.

The next issue that must be addressed is whether these tickets must be reported as gifts. The Code requires that gifts with a value over \$100 must be reported.<sup>2</sup> Thus, City officials and employees who receive these tickets from the City must report any tickets received from the City if the value exceeds \$100, and they must indicate on their gift forms that the tickets are gifts from the City. Although state law controls the gift reporting requirements for state reporting individuals, under the Code, any City official or employee who is a state reporting individual and who files a State of Florida Quarterly Gift Disclosure Form (Form 9) with the state must also file a copy of the Form 9 with the COE.<sup>3</sup> City employees who are not state reporting individuals must report gifts with a value over \$100 on their annual PBC Gift Form, which must be reported to the COE by November 1 for the previous reporting year.<sup>4</sup>

In a situation where the official or employee chooses to pass the "gift" to another person or entity, it is termed a "pass through gift." Here, if a City official or employees choose to pass his or her ticket to someone else, that is a pass through gift, and he or she must still report the ticket on a gift form.

**LEGAL BASIS:**

The legal basis for this opinion is found in the §2-444(a)(1) and §2-444(f) of the Code:

**Sec. 2-444. Gift law.**

- (a) (1) No county commissioner, member of a local governing body, mayor or chief executive when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable.
- (f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section.
- (1) *Gift reports for officials and employees identified by state law as reporting individuals.* Those persons required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, §112.3148, as may be amended. When a state reporting individual files a gift report with the state, a copy of each report shall also be filed contemporaneously with the county commission on ethics.
- (2) *All other officials and employees who are not reporting individuals under state law.*
- b. *All other gifts.* All officials or employees who are not reporting individuals under state law and who receive any gift in excess of one hundred dollars (\$100), which is not otherwise excluded or prohibited pursuant to this subsection, shall complete and submit an annual gift disclosure report with the county commission on ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30 of each year.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted, but assume they are true for purposes of this advisory opinion. It 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 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



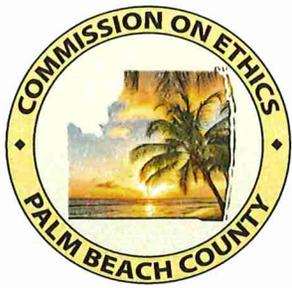
Mark E. Bannon  
Executive Director

CEK/gal

<sup>2</sup> §2-444(f)

<sup>3</sup> §2-444(f)(1)

<sup>4</sup> §2-444(f)(2)b.



# Palm Beach County Commission on Ethics

*Honesty - Integrity - Character*

**Commissioners**

Sarah L. Shullman, Chair  
Bryan Kummerlen, Vice Chair  
Rodney G. Romano  
Michael S. Kridel  
Peter L. Cruise

**Executive Director**

Mark E. Bannon

January 30, 2020

Ms. Allison Golden  
511 SE 5th Ave  
Fort Lauderdale, FL 33301

Re: RQO 20-003  
Outside Employment

Dear Ms. Golden,

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

**QUESTION:**

What restrictions would the Palm Beach County Code of Ethics (Code) place on you regarding outside employment if you accept a position with Palm Beach County?

**FACTS:**

You were recently offered a psychologist position within the Palm Beach County Youth Services Division (YSD), and before accepting, you wanted to clarify what would be allowable with regards to work that you currently do and would like to continue to do outside of your employment with the county.

In general, you would not be entitled to an advisory opinion because you are not currently under the jurisdiction of the Code. COE Rule of Procedure 2.2 states, in relevant part, that only persons who are under the jurisdiction of the Code may request an advisory opinion regarding the interpretation or application of the Code. However, if you accepted employment with the county's Youth Services division, you would be a county employee and would be subject to the Code. Because you are seeking an opinion proactively to avoid any potential issues, the COE will make an exception and provide an opinion.

You currently provide trainings, consultations, and therapy services to a variety of entities throughout South Florida. It is your understanding that you would be able to provide these services to any entity so long as the entities are not community-based agencies (CBA) that receive funding from YSD, or are not vendors of the county and that the work occurs during non-working hours. CBAs are organizations that receive funding from the Palm Beach County Board of County Commissioners through the YSD to be used on programs that fill service gaps. The Outreach and Community Programming Division of the YSD monitors funded organizations for strict program compliance and service integrity. You would be working in the Highridge Family Center Division of the YSD.

In reviewing the County's CBA list and vendor database, you noticed that a couple of the organizations that you contract with to provide trainings, consultations, and therapy services are listed as vendors. You were wondering if you would be able to continue to work for these organizations once hired by the County as these relationships and services would have been in place prior to your employment with the County. In addition, two of the entities you currently have a contract with also provide services to other entities throughout South Florida, and there is potential that you would be asked to provide services through that contract to an entity that is a CBA or a County vendor.

**ANSWER:**

The Code prohibits public employees and their outside businesses from entering into any contract or other transaction to provide goods or services, either directly or indirectly, with their public employer.<sup>1</sup> Public employees, and their outside businesses, are also prohibited from entering into any contractual relationships with an entity where they would be providing services to their public employer or where their public employer would be pay for the employee's services through the employee's contract with that entity. The COE has previously held that these situations create indirect contracts which would violate Sec. 2-443(d) of the Code.<sup>2</sup>

As a County employee, you would be prohibited from entering into any contract with a County-funded CBA or entity where the County funding pays for the services you provide because it would create an indirect contract with the County. You are also prohibited from entering into any contract with County vendors if you would be providing services to the County through that contract. Further, although you may have already entered into contracts with these County-funded CBAs or County vendors prior to your employment with the County, the Code would prohibit you from continuing to work for such a CBA or entity, even where the contract existed before you started employment with the County.

In addition, the Code prohibits you, as a public employee, from using your official position with the County to give a special financial benefit to specified persons or entities, including yourself or your outside business.<sup>3</sup> Therefore, you must also take great care not to misuse your governmental employment in any way to give a special financial benefit to yourself or your outside business. This would include using your position with the County to influence another person to take some action which would give a special financial benefit to you or your outside business, soliciting business during your County work hours, and identifying yourself as a County employee on any written or verbal communication to attempt to obtain a customer or client.

It should be noted that Section 112.313(7)(a), Florida Statutes, precludes a public official or employee from having any employment or contractual relationship with any business entity which is subject to the regulation of the agency of which he or she is an employee. Because the Youth Services Department may have regulation over the agencies it provides funding to, you should also seek clarification from the Florida Commission on Ethics on this issue before accepting employment with the County.

**LEGAL BASIS:**

The legal basis for this opinion is found in the §2-443(a) and §2-443(d) of the Code:

**Sec. 2-443. Prohibited conduct.**

- (a) **Misuse of public office or employment.** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows 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 any of the following persons or entities:
- (1) Himself or herself;
  - (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
- (d) **Contractual relationships.** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation

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<sup>1</sup> §2-443(d), *Contractual relationships*.

<sup>2</sup> RQO 10-038; RQO 11-012

<sup>3</sup> §2-443(a), *Misuse of public office or employment*.

of this subsection may be rescinded or declared void by the board of county commissioners pursuant to section 2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted, but assume they are true for purposes of this advisory opinion. It 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 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Mark E. Bannon  
Executive Director

CEK/gal



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# 2019 ANNUAL REPORT

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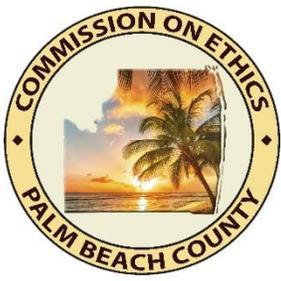


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# 2019 ANNUAL REPORT

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Honesty - Integrity - Character

# Palm Beach County Commission on Ethics

## Commissioners

Sarah L. Shullman, Chair  
Bryan Kummerlen, Vice Chair  
Rodney G. Romano  
Michael S. Kridel  
Peter L. Cruise

## Executive Director

Mark E. Bannon

January 1, 2020

Palm Beach County Commission on Ethics  
300 N. Dixie Highway, Suite 450  
West Palm Beach, FL 33401

Dear Commissioners,

It is an honor and a privilege to present the 2019 Annual Report of the Palm Beach County Commission on Ethics (Commission).

Calendar year 2019 marked the ninth year of operation for the Commission. We are very proud to be entering our tenth year of operation. The agency's mission to *"foster integrity in public service, to promote the public's trust and confidence in that service, and to prevent conflicts between private interests and public duties"* remains important to those who live, work, or even visit Palm Beach County. We complete our mission as an independent watchdog agency by acting to review, interpret, render advisory opinions, and enforce the countywide Code of Ethics (Code), as well as the Lobbyist Registration Ordinance and the county Post Employment Ordinance. Commission staff is responsible for conducting ongoing ethics training for municipal and county elected officials, advisory board members, and local government employees, as well as making limited training available for municipal and county vendors, lobbyists and their principals and employers. As we have in the past, Commission staff completed in-person and on-site ethics training sessions and outreach programs for our various stakeholders during 2019. In addition to training, staff performed ethics training compliance reviews. As a part of the compliance reviews, staff worked with municipal administrators to recommend changes to ethics training policies where indicated, and to ensure that ethics training and re-training was completed as required by the Code. Additionally, municipal and county officials and employees continue to show that they are living by our mission statement by contacting staff with questions to ensure that their actions comply with the Code.

This year Commission staff, with input from the county and municipal representatives, completed the process of reviewing the Code as well as the Commission on Ethics and the Lobbyist Registration Ordinances for proposed changes so they will be more effective and efficient. These proposals will be available to present to you in early 2020 for your input and approval after county administration provides their fiscal impact evaluation.

The Commission lost Chief Investigator Anthony Bennett, when he accepted a supervisory position with the Office of Inspector General in September 2019. Commission staff will miss Anthony, but we wish him the best in his new assignment and are sure he will provide the same level of excellence for the Office of Inspector General as he provided for the Commission since 2013. With Anthony's departure, staff welcomed a new investigator. Investigator Mark Higgs joins the team with over 30 years investigative experience with the Chicago Police Department, and is an excellent addition to Commission staff, and to our investigative unit.

Commission Chair Sarah L. Shullman and Vice Chair Bryan Kummerlen led the Commission on Ethics in 2019, as they did in 2018. Joining them in furtherance of Commission goals and objectives during 2019 were Commissioners Michael S. Kridel, Rodney G. Romano, and Peter L. Cruise. Vice-Chair Kummerlen has decided to become a part-time resident of Florida and will not be seeking reappointment when he relinquishes his seat and ends his term as Vice Chair at the end of February 2020. As a long time police officer and community leader, he will enjoy his retirement splitting time between Florida and North Carolina. Chair Shullman resigned her position and relinquished her seat on the Commission on December 31, 2019 as she has been appointed as a County Court Judge in and for the 15<sup>th</sup> Judicial Circuit, in and for Palm Beach County by Governor Ron DeSantis. We wish her well in her new position, and based on her work with the Commission we are confident she will make an outstanding judge. We, as staff, want to wish both of them all the best in their new adventures. We contacted the three local bar associations, and the Chief of Police Association in December to begin the process of appointing two new Commissioners when their respective seats are vacant.

The Palm Beach County Board of County Commissioners declared May 2019 as Ethics Awareness Month. Along with the commissioners and staff, various community stakeholders attended the presentation of the Ethics Proclamation, and many within the local ethics movement were recognized for their contributions to the Palm Beach County communities. Investigator Higgs and I attended the 2019 Council on Governmental Ethics Laws (COGEL) conference in Chicago in December. This international conference always allows for positive interactions between various ethics related organizations throughout the U.S and Canada.

Our social media presence on Facebook ([www.facebook.com/pbccoe](http://www.facebook.com/pbccoe)) and Twitter ([@pbccoe](https://twitter.com/pbccoe)) continues, and we will continue to work to increase our social media outreach in 2020. In addition to providing revised web-based training modules for public officials, employees, vendors, and lobbyists, we will continue to maintain and improve our public database for annual and quarterly gift reports, voting conflict of interest disclosures, and outside employment waivers. We also continue to maintain links to Palm Beach County maintained databases, including lists of active registered vendors, registered lobbyists and their principals, as well as annual lobbyist expenditure reports. Additionally, all sworn complaints, related documents, and hearings are posted to our website once the cases become public record. Lastly, our website remains fully searchable, including all processed complaints and advisory opinions with the enhancements mentioned previously. As we have always done, we will continue to enhance and upgrade the site throughout 2020 as needed.

Fiscally, Palm Beach County budgeted \$681,533 for the Commission during fiscal year 2019. Staff continues to maintain careful stewardship of staff, operations, and procurement costs, expending \$680,598.71 of the allotted funding, returning \$934.29 to the County General Fund. This makes the ninth consecutive year the Commission has completed its work within the allocated budget with no overages. Detailed budget information is available from Palm Beach County Office of Financial Management and Budget.

With the close of calendar year 2019, it remains clear that the operations, output, and missions of the Commission are sound. Staff intends to continue the hard work in 2020 with our commissioners, public officials, public employees, and other community stakeholders to continue to make improvements to our level of service.

On behalf of Commission Staff, I would like to thank each of you for your support as we promote Palm Beach County's high standard of public service together and continue our overall mission of increasing public trust in local government.

Sincerely,



Mark E. Bannon,  
Executive Director

MEB/gal



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## MISSION STATEMENT

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The mission of the Palm Beach County Commission on Ethics (Commission) is to foster integrity in public service, to promote the public's trust and confidence in that service, and to prevent conflicts between private interests and public duties.

We accomplish this mission by conducting ongoing educational programs, community outreach, providing clear and timely advice, and fairly and impartially interpreting and enforcing the conflict of interest and financial disclosure laws. In doing so, the commission is guided by principles of fairness, clarity, and common sense. We encourage you to spend time learning about our efforts by going to our website at [www.palmbeachcountyethics.com](http://www.palmbeachcountyethics.com) and to contact our office with any questions or comments.

## HISTORY

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Now in its ninth year, the commission is an independent organization that administers and enforces the Palm Beach County Code of Ethics, Lobbyist Registration Ordinance and Post Employment Ordinance. In 2010, a grand jury convened to monitor the progress of the new ethics measures and recommended a county-wide referendum be placed on the November 2010 ballot. Voters overwhelmingly supported that measure to place the Commission on Ethics provisions into the county charter, expanding the jurisdiction of the commission to all local municipal governments. In addition, 35 of the 38 municipalities in which the commission has jurisdiction have adopted the Lobbyist Registration Ordinance.

The Code of Ethics is designed to help ensure that public officials and employees perform their public responsibilities impartially, do not use their public positions for private gain, and to foster public confidence in the integrity of local government. The Lobbyist Registration Ordinance was enacted to regulate certain lobbying activity and enhance lobbying transparency by establishing a central lobbyist registration and expenditure reporting system. While the Commission has statutory license to punish offenders, staff strives to educate public employees, public officials, vendors, and lobbyists on how the rules affect governance and implementation of policy throughout the county. Staff stands ready to inform citizen groups and county and municipal governments alike about the services and benefits of the Commission on Ethics and Code of Ethics initiatives.

Palm Beach County has a current estimated population of 1.443 million residents and has grown significantly in the past decade in terms of size and diversity. The county has over 6,000 full and part-time employees and approximately 1,000 volunteer officials staffing 95 committees and boards. The 38 municipalities within Palm Beach County over which the Commission has jurisdiction have over 9,000 full and part-time employees, 258 municipal boards and committees with more than 1,800 volunteer advisory board members and 203 elected officials.

## AN INDEPENDENT ETHICS INSTITUTION

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The commission oversees, administers, and enforces local governmental ethics laws; receives and investigates complaints; provides formal advice to persons who fall within the jurisdiction of the commission; conducts training sessions for the community, municipal and county employees, lobbyists and vendors; and proposes governmental ethics law reform.

Governmental ethics laws include the Ethics Ordinance, the Lobbyist Registration Ordinance, and the Post Employment Ordinance. The commission accepts sworn complaints regarding alleged violations of these laws and protects individuals from retaliation for reporting violations.

Persons who fall within the jurisdiction of the commission include:

- County and Municipal Elected Officials
- County and Municipal Advisory Board Members and other non-elected officials
- County and Municipal staff and contract employees
- Lobbyists and their principals
- Vendors
- Entities subject to jurisdiction pursuant to contract or Memoranda of Understanding

Our specific statutory authority is derived from Palm Beach County Code §2-254. This ordinance grants the COE the power to review, interpret, enforce, and render opinions regarding the above-mentioned County ordinances.

The key to the commission is independence, and, by definition, the commission is an independent office. The Palm Beach County Board of County Commissioners Organizational Structure chart reflects this independence by designating the Executive Director as an “Independent Official.” Ethics commissioners cannot be removed or otherwise influenced by the County Commission and are appointed by various non-political civic, educational, and professional organizations. The position of commissioner is non-partisan and non-political. Appointees may not participate in, or contribute to a candidate for state or local office or allow his or her name to be used in support of or against a candidate or ballot issue. Appointees may not participate in or contribute to political action committees, campaign for office or referenda, and may not hold office in a political party or committee.

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## COMMISSION ON ETHICS ORGANIZATIONAL CHART

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## ABOUT THE COMMISSION

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The commission is composed of five volunteer members who serve staggered terms of four years each. Each member of the commission must also have an outstanding reputation for integrity, responsibility, and commitment to serving the community. Moreover, as representatives of Palm Beach County, appointments are made with an eye towards the racial, gender, and ethnic make-up of the community.

Members are appointed by the following individuals or institutions:

- **President of the Palm Beach County Association of Chiefs of Police**- one appointment with the following qualifications: A former law enforcement official with experience in investigating white-collar crime or public corruption. **(Vice Chair, Commissioner Bryan Kummerlen)**
- **President of the F. Malcolm Cunningham, Sr. Bar Association, the President of the Hispanic Bar Association of Palm Beach County and the President of the Palm Beach County Bar Association** – one shared appointment with the following qualifications: An attorney with experience in ethics regulation of public officials and employees. **(Chair, Commissioner Sarah L. Shullman)**
- **President of Florida Atlantic University (FAU)** - one appointment with the following qualifications: A faculty member who teaches at an institution of higher education with a campus located in the county and who has taught a course in professional legal ethics or has published or performed services in the field of professional legal ethics. **(Commissioner Peter L. Cruise)**
- **President of the Palm Beach Chapter of the Florida Institute of Certified Public Accountants (CPA)** – one appointment with the following qualifications: A member with at least five (5) years of experience as a CPA with forensic audit experience. **(Commissioner Michael S. Kridel)**
- **Palm Beach County League of Cities** - one appointment with the following qualifications: A former elected official for a governmental entity within the county. **(Commissioner Rodney G. Romano)**

## COMMISSIONERS

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### **SARAH L. SHULLMAN, ESQ., CHAIR**

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Sarah Shullman is an assistant attorney general with the Florida Office of the Attorney General, where she conducts investigations and civil prosecutions of persons and companies engaged in deceptive trade practices. As a result of her work to shut down fraudulent scams that victimized Florida consumers and homeowners, Ms. Shullman was named Consumer Protection Division Attorney of the Year.



Previously, Ms. Shullman served Palm Beach County as a civil traffic-hearing officer for the Fifteenth Judicial Circuit and practiced in business and consumer finance litigation at Steel Hector & Davis and Squire, Sanders & Dempsey LLP. She was named a "Top Government Lawyer" in *Florida Trend* magazine's Legal Elite and was selected as a "Leader in the Law" by the Florida Association for Women Lawyers.

Ms. Shullman earned her law degree *magna cum laude* from Georgetown University and her business degree with honors from the University of Florida. Upon graduation, she published "The Illusion of Devil's Advocacy: How the Justices of the Supreme Court Foreshadow Their Decisions During Oral Argument" in *The Journal of Appellate Practice and Process*.

Dedicated to her local community, Ms. Shullman serves on the Board of Managers for the Boys & Girls Club of Wellington, is a founding member of the Young Professionals of Wellington, and is an honorary trustee of the Jewish Women's Foundation. She is also active in the legal community, serving on the Board of Directors of the Florida Association for Women Lawyers, Palm Beach County Chapter, various committees of the Palm Beach County Bar Association, and the Consumer Protection and Grievance Committees of The Florida Bar. Ms. Shullman frequently speaks at consumer protection seminars and prior to her appointment, served as a volunteer advocate for the Commission on Ethics.

### **BRYAN KUMMERLEN, MPA, VICE CHAIR**

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Bryan Kummerlen was hired as a patrol officer by the West Palm Beach Police Department in 1987. During his 30-year career, he held a variety of assignments and was appointed as Chief of Police in 2014. Mr. Kummerlen was recognized as Palm Beach County Police Chief of the Year in 2016, and retired in the spring of 2017. Mr. Kummerlen is currently an independent security and risk consultant.



Mr. Kummerlen was raised in Palm Beach County. He attended Florida State University where he earned a bachelor's degree in criminology and earned a master's degree in public administration from Florida Atlantic University. Mr. Kummerlen also attended the Southern Police Institute Executive Leadership Program, Senior Management Institute for Policing, and the Florida Atlantic University Criminal Justice Executive Leadership Program.

He is a member of the Police Executive Research Forum, the International Association of Chiefs of Police, and the Palm Beach County Chiefs of Police Association. Mr. Kummerlen has served on the Palm Beach County Law Enforcement Planning Council, the Palm Beach County Criminal Justice Commission, the 15th Circuit Juvenile Justice Advisory Board, and as an Adjunct Professor of Criminal Justice at Florida Atlantic University.

## **MICHAEL S. KRIDEL, CPA, CFF, CITP, CFC**

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Michael Kridel is a Certified Public Accountant and Shareholder in Michael S. Kridel, C.P.A., P.A., in Delray Beach. Mr. Kridel has practiced public accounting in South Florida since graduation from The George Washington University. Prior to reestablishing his named practice in 2018, he was a Partner in Daszkal Bolton for 17 years and a Principal in Rehmann Robson for nearly 5 years. Mr. Kridel has provided accounting, tax and litigation services in a broad range of matters including family law, stockholder actions, financial damages, fraud detection, criminal and civil tax matters, wrongful discharge and professional malpractice defense.



Mr. Kridel is a frequent speaker and author, garnering numerous awards, at national and local conferences for accountants and attorneys on topics such as litigation services, professional ethics, eDiscovery, practice management, information technology and human resources. He is a certified ethics instructor for CPAs in Florida, an online instructor in forensic accounting courses for the University of North Carolina at Charlotte, and a guest instructor at Florida Atlantic University and other institutions. He is a longtime member of the Editorial Review Panels of the Journal of Accountancy and Florida CPA Today. Mr. Kridel has been a Rotarian since 1986 and is a board member of multiple not-for-profit organizations. For over 25 years, Mr. Kridel has facilitated an award-winning seminar, Ethical Decision Making in the Workplace and Society, for Broward County high schools.

## **RODNEY G. ROMANO, ESQ.**

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Rodney Romano is a Florida Licensed Attorney and Supreme Court Certified Circuit Civil Mediator. He founded Matrix Mediation in 2006 to bring a next level of excellence and consistency to the mediation profession. Mr. Romano has conducted more than 22,000 hours of circuit civil mediations and has been a member of the Florida Supreme Court appointed Mediator Qualifications and Disciplinary Review Board since 2009. He is a former Board Certified Civil Trial Attorney and served 4 terms as Mayor of the City of Lake Worth, Florida.



Mr. Romano earned his law degree from Nova Southeastern University and his Bachelor of Arts degree from Emory University. Prior to admission to the Florida Bar, Mr. Romano was a Florida Licensed Nursing Home Administrator and a Florida Certified General Contractor. He is a licensed (non-current) private pilot, a Nitrox-certified scuba diver, and a lifelong resident of Palm Beach County. Mr. Romano is married to Lynnette and has five children and three grandchildren.

## **PETER L. CRUISE, PH.D.**

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Peter Cruise is Executive Director of the LeRoy Collins Public Ethics Academy and Affiliate Associate Professor at Florida Atlantic University. Since graduating with his Ph.D. in Public Administration from FAU in 1995, Dr. Cruise taught ethics and organizational behavior in both undergraduate and graduate students in universities such as California State University-Chico, Golden Gate University, Louisiana State University and Mary Baldwin University. Before beginning his academic life, his professional career started in West Palm Beach in the early 1980s, working at St. Mary's Hospital, and the Palm Beach Blood Bank, and later at Martin Memorial Hospital in Stuart. In addition to many published articles, he is the co-editor of the Handbook of Organization Theory and Management: The Philosophical Approach (2nd Edition, 2006). In April 2015, Dr. Cruise was selected as a Distinguished Alumnus by the faculty of the College of Design and Social Inquiry at Florida Atlantic University.



## COMMISSION STAFF

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### **MARK E. BANNON, EXECUTIVE DIRECTOR**

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Mark Bannon became the third executive director of the Palm Beach County Commission on Ethics (COE) in December 2015, having been a COE staff member since 2010. Prior to becoming executive director, he served the COE as an investigator, senior investigator, interim staff counsel and interim executive director.



Mr. Bannon is a former assistant state attorney, where he prosecuted criminal cases in the Fifteenth Judicial Circuit in and for Palm Beach County. A United States Army veteran, Mr. Bannon spent nearly 25 years serving as a deputy sheriff, supervisor and commander with the Palm Beach County Sheriff's Office working in patrol and on investigative and community support assignments before retiring from policing in 2005.

Mr. Bannon has a bachelor's degree in social psychology from Florida Atlantic University and a master's degree in public administration from Nova Southeastern University. He graduated from the University of Miami School of Law and was admitted to the Florida Bar in 2005.

Mr. Bannon authored a book titled *Criminal Procedure for Law Enforcement Officers*, which was published in 2003. He has taught criminal justice courses to graduate and undergraduate students at both Palm Beach State College and South University. He brings a unique blend of law enforcement and legal education and experience to the role of executive director of the Commission on Ethics.

### **GINA A. LEVESQUE, INTAKE AND COMPLIANCE MANAGER**

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Gina Levesque has been employed with the Palm Beach County Commission on Ethics since its inception in 2010. She began as an administrative assistant and is currently the Intake and Compliance manager. In addition to her role with the commission, Ms. Levesque is part of the Florida Region 7 All Hazards Incident Management Team.



Ms. Levesque attended college at Southern Illinois University at Edwardsville on a softball scholarship and still holds several team records. She graduated with a bachelor's degree in education in 1988 and taught K-12 in Missouri and Illinois.

A former certified law enforcement officer and corrections officer, Ms. Levesque worked for the Broward County Sheriff's Office and the Lauderhill Police Department for several years. In addition to her law enforcement experience, she served as a legal assistant in the Office of the State Attorney, Fifteenth Judicial Circuit in and for Palm Beach County from 1999-2010.

### **CHRISTIE E. KELLEY, GENERAL COUNSEL**

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Christie Kelley began her legal career as an assistant state attorney in Florida’s Fifth Judicial Circuit in Marion County. She later served as assistant director in the Center for Career Development at the University of Florida Levin College of Law where she advised students interested in government or public interest careers and oversaw the pro bono, public interest, and community service programs.



Ms. Kelley is a member of the Florida Bar and graduated summa cum laude from the University of Florida with a bachelor’s degree in business administration. She also earned her law degree from the University of Florida Levin College of Law, graduating cum laude.

### **ABIGAIL IRIZARRY, INVESTIGATOR**

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Abigail Irizarry began her public service career with the Better Business Bureau and quickly moved to the Florida Department of Children and Families (DCF). Initially, Ms. Irizarry was the lead DCF investigator for court cases in Lee County, Florida, specializing in human trafficking cases. In 2013, she was promoted to the Office of Inspector General (OIG) for DCF. In 2015, she became a certified inspector general investigator and was named the OIG Investigative Star of the Year, the first female investigator to receive the statewide award.



Ms. Irizarry graduated from Florida State University with a bachelor’s degree in criminology. In addition to her status as a certified inspector general investigator, she has completed training to become a certified fraud examiner.

### **MARK A. HIGGS, INVESTIGATOR**

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Mr. Higgs is a U.S. Air Force veteran who spent nearly 30 years in law enforcement with the Chicago Police Department as a patrol officer and sergeant. He received specialized training through the Department of Homeland Security, the Bureau of Justice Assistance, the Office of the Director of National Intelligence, and the Federal Bureau of Investigation.



Based on his extensive background in intelligence writing and analysis, Mr. Higgs became the supervisor of the Counter Terrorism Section and served as a Senior Watch Officer in the Crime Prevention and Information Center for the Chicago Police Department. He later became a supervisor in the department’s Intelligence Section of the Organized Crime Division, and served on the Joint Terrorism Task Force for the Federal Bureau of Investigation. Mr. Higgs finished his law enforcement career as an investigator and case management supervisor in Internal Affairs for the Chicago Police Department.

Mr. Higgs earned a bachelor’s degree in Law Enforcement Management and a master’s degree in Public Safety Administration from Calumet College of St. Joseph (Whiting, Indiana).

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## **EDUCATION**

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One of the commission's critical responsibilities is to teach and empower county and municipal employees, officials, local government vendors, persons seeking government contracts, lobbyists, and the public with knowledge of the ethical standards expected by the Code and related ordinances. Staff also endeavors to keep the commissioners educated as to their particular duties and responsibilities under the Ordinances.

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### **COMMISSIONER TRAINING**

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Upon appointment, commissioners receive six hours of training, which include a comprehensive review of all ordinances, rules and procedures, investigative overview, advisory opinions, quasi-judicial functions, best practices during final hearings, and the Sunshine Law. Staff is continually available to answer questions and provide resource materials.

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### **EMPLOYEE AND OFFICIAL TRAINING**

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The commission and its staff seek to be proactive at all times in its outreach efforts and its relationship with the community in order to increase citizen understanding and participation in government accountability efforts. Ethics training is required for all county and municipal elected officials, employees, contract employees, volunteer officials, and advisory board members. Each municipality and agency under the commission's jurisdiction determines the timeframe for re-training and the method of training.

In 2019, staff conducted 43 in-person, on-site trainings to county and municipal employees, officials, and advisory board members. Training was also available on DVD, through internet streaming from the commissions' website, and on YouTube.

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### **WEB-BASED TRAINING**

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In addition to the employee and official training programs provided by commission staff, the website has links to miscellaneous training videos, sunshine law materials, and an interactive online quiz. In 2019, staff created and presented a training, which is also available on the website, on navigating the lobbyist registry database and the Palm Beach County vendor database to help employees and officials identify whether someone is a vendor, lobbyist, or principal or employer of a lobbyist.

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### **TRAINING COMPLIANCE REVIEWS**

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Nine training compliance reviews were performed in 2019. Staff continues to work with the county and the municipalities to assist administrators with their training schedule policies for all public officials and employees.

## OTHER OUTREACH EFFORTS AND SOCIAL MEDIA

Staff endeavors to issue a quarterly newsletter. The newsletter is posted online and sent to the county and the municipalities for distribution to employees and officials. The newsletter contains various topics of interest and current information about recent advisory opinion and complaints.

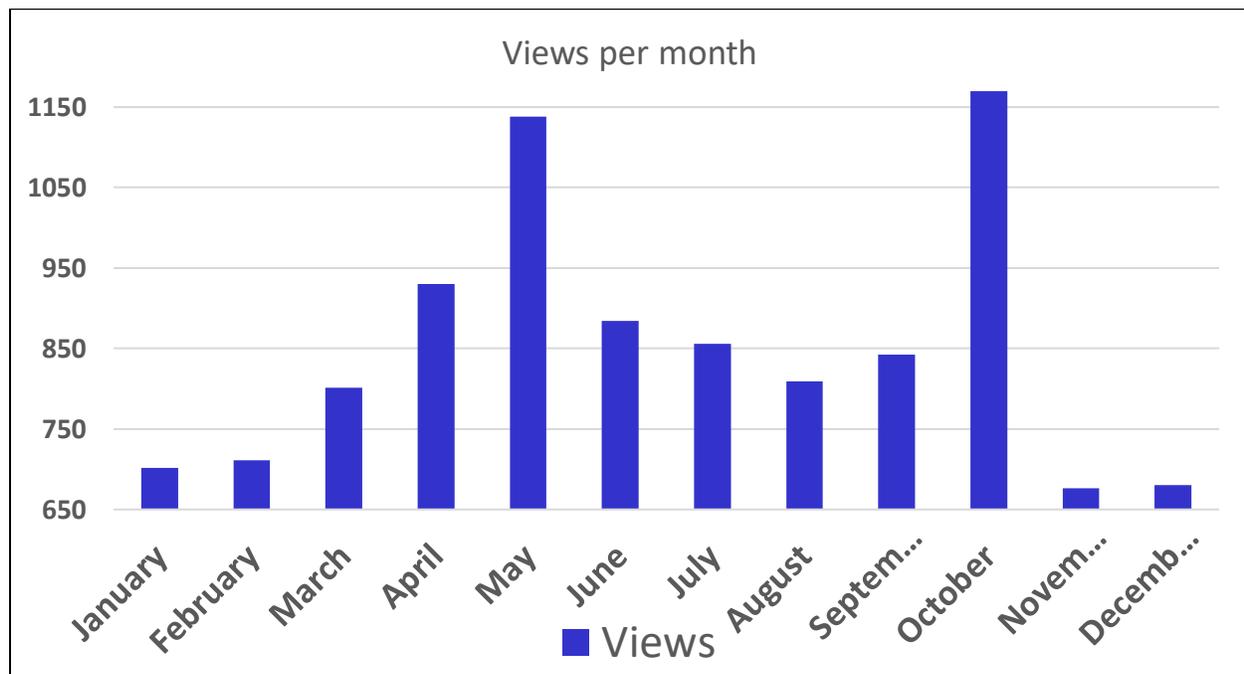
With pages on Facebook and Twitter, the public can access the commission through familiar media sites. In this way, the public can stay up to date with recent commission decisions, meeting dates, and related reporting on ethics within the county, state, and nationwide. You can contact the commission on Twitter at @PBCCOE or visit us on Facebook at [www.facebook.com/PBCCOE](http://www.facebook.com/PBCCOE).

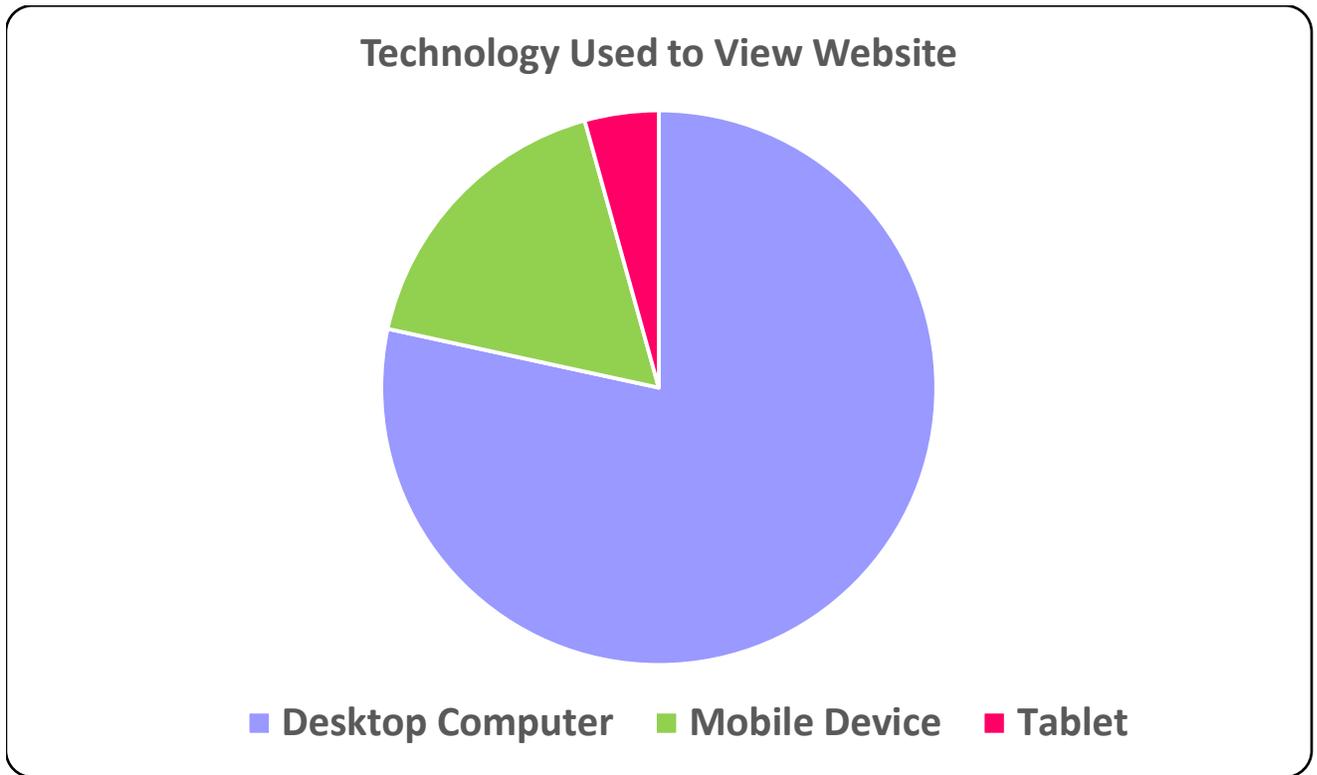
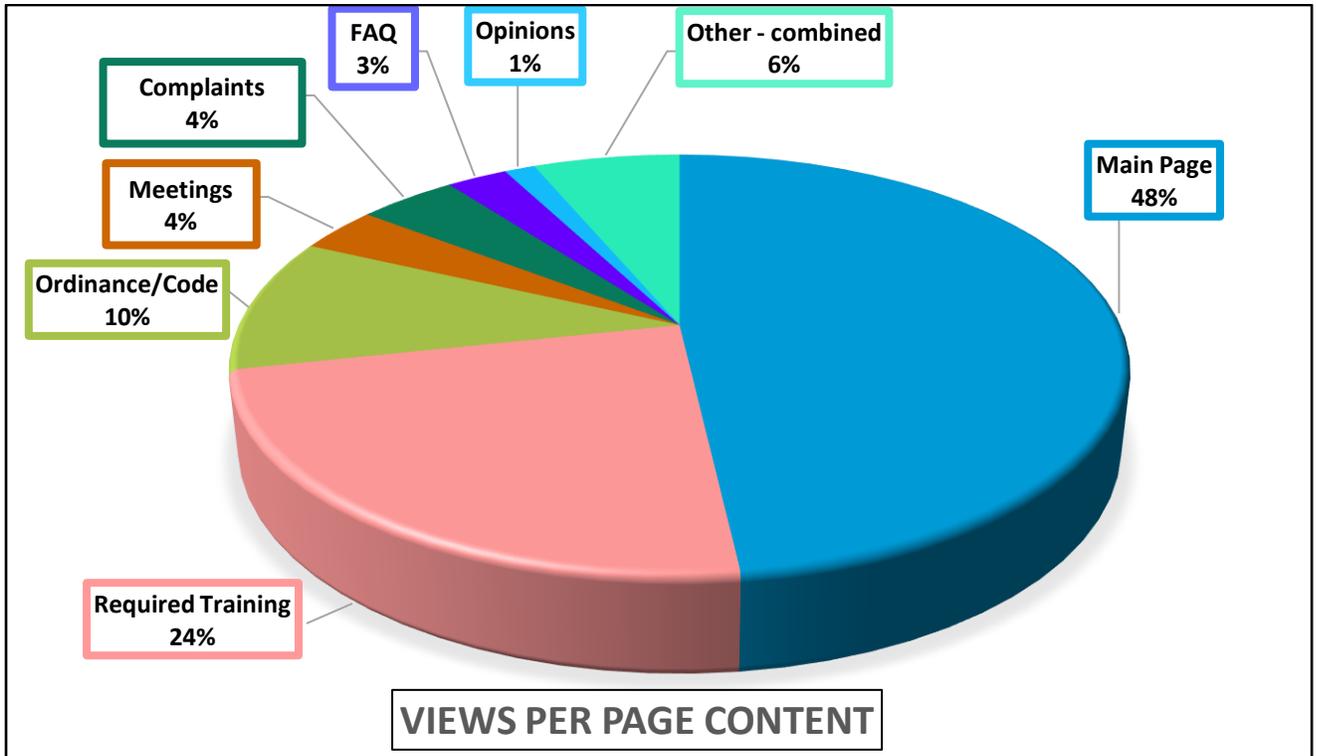
In 2019, staff members attended at least one of the commission or council meetings of each of the 38 Palm Beach County municipalities under the commission's jurisdiction, the Palm Beach County Board of County Commissioners meetings, and several municipal community redevelopment agency meetings, as well as attending meetings of the city of Westlake, which has not yet signed an interlocal agreement to come under the commission's jurisdiction. Staff also participated in the Ethical Governance Day event for high school students in the county, as well as volunteering as moderators or judges for the annual regional high school ethics bowl, which is a national competition for high school students debating ethics issues in a scenario-based forum.

## WEBSITE

The commission website continues to employ a user-friendly format with improved capabilities and graphics, including a Most Requested Links tab. The site continues to enhance transparency, outreach efforts, and provide public access to all relevant forms, documents, databases, advisory opinions, and investigations. An e-book, designed to provide an interactive guide to the functions of the commission is prominently placed on the main page. The website format is compatible with wireless technology, tablets, and mobile devices.

In 2019, the commission website had approximately 23,500 page views and 8,700 unique users.





Users in the United States, France, South Korea, Canada, Germany, China, Argentina, India, Philippines, and the United Kingdom were the top viewers of the commission website. In the United States, the website was most viewed by users in the municipalities of West Palm Beach, Miami, Riviera Beach, Boca Raton, Greenacres, Palm Beach Gardens, Boynton Beach, Wellington, Orlando, and Delray Beach.

## MULTIMEDIA

Videos of all commission meetings are available on the Meetings page.



**2019** ➤ [Click to compress/expand](#) ◀

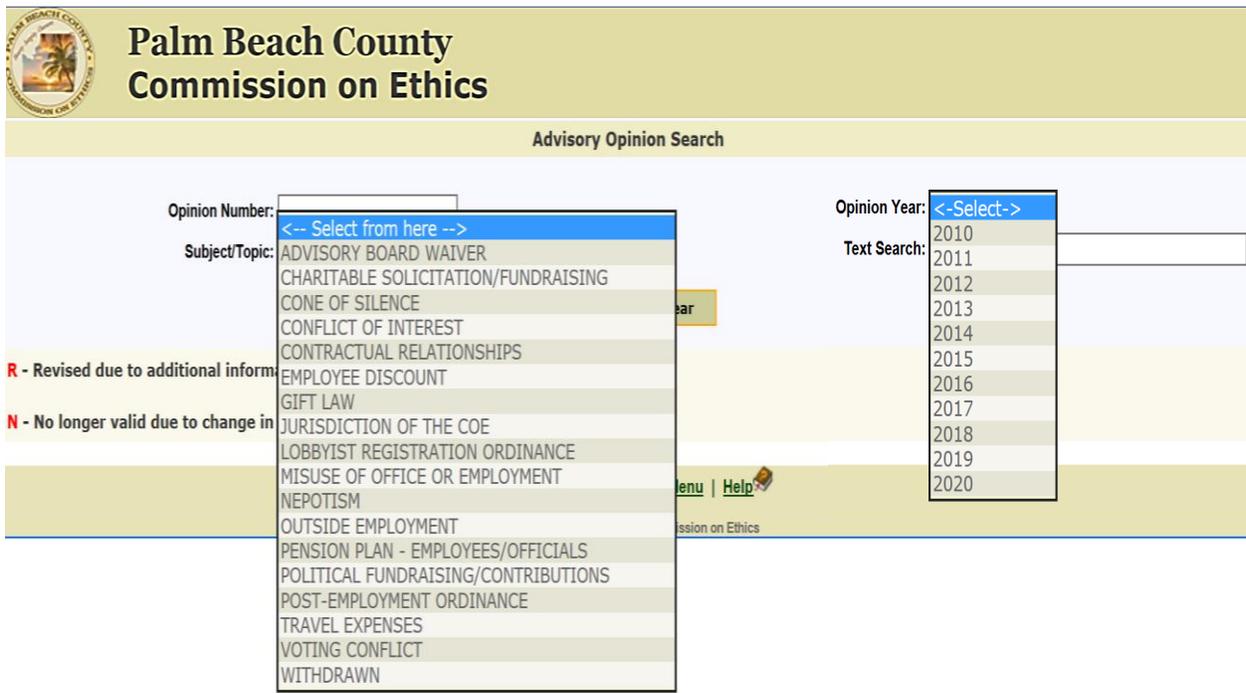
Date	Time	Location	Agenda & Attachments	Minutes	Video
1/10/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>
2/7/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>
3/7/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	CANCELLED		
4/4/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>
5/2/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>
6/6/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>
7/11/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	CANCELLED - NO QUORUM		
8/1/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>
9/5/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>
10/3/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Video A / Video B</a>
11/7/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>
12/12/19	1:30 p.m.	Gov Ctr-6th floor BCC Chambers	<a href="#">Agenda &amp; Attachments</a>	<a href="#">Minutes</a>	<a href="#">Meeting Video</a>

**2018** ➤ [Click to compress/expand](#) ◀

**2017** ➤ [Click to compress/expand](#) ◀

## ADVISORY OPINIONS

Advisory opinions are searchable by year, subject matter, and text search. All of the existing advisory opinions include a brief synopsis of the issue and the commission's decision for each opinion. The commission actively searches for ways to make the database as user friendly as possible.



**Palm Beach County Commission on Ethics**

**Advisory Opinion Search**

Opinion Number:

Subject/Topic:

- ADVISORY BOARD WAIVER
- CHARITABLE SOLICITATION/FUNDRAISING
- CONE OF SILENCE
- CONFLICT OF INTEREST
- CONTRACTUAL RELATIONSHIPS
- EMPLOYEE DISCOUNT
- GIFT LAW
- JURISDICTION OF THE COE
- LOBBYIST REGISTRATION ORDINANCE
- MISUSE OF OFFICE OR EMPLOYMENT
- NEPOTISM
- OUTSIDE EMPLOYMENT
- PENSION PLAN - EMPLOYEES/OFFICIALS
- POLITICAL FUNDRAISING/CONTRIBUTIONS
- POST-EMPLOYMENT ORDINANCE
- TRAVEL EXPENSES
- VOTING CONFLICT
- WITHDRAWN

Opinion Year:

Text Search:

2010

2011

2012

2013

2014

2015

2016

2017

2018

2019

2020

[Menu](#) | [Help](#)

Commission on Ethics

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## COMPLAINTS

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Once they become public record, all investigative materials, reports, and audio files of sworn complaints are available for review under the Databases tab on the left side of the main page of the website.



### Palm Beach County Commission on Ethics

#### Complaint Database Search

Complaint Year:

Complaint Number:

Respondent Name:

[Complaints Home](#) | [Application Menu](#) | [Help](#)

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## SEARCHABLE DATABASES

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The commission's website currently maintains gift reporting, outside employment, and voting conflicts databases. This feature allows the public to view employee and official filings with the commission.



### Palm Beach County Commission on Ethics

#### Gifts / OEW / Voting Conflicts document Search

Political Subdivision:  Dept/Unit:  Year:

Employee Last Name:  First Name:  Middle:

Private Employer Name:

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## TRAINING

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Staff allows municipal and county employees and officials to complete their training in-person, on a DVD, or via streaming video on a mobile device or on a computer.

Under the Training & Education tab on the commission's website, there is a full text copy of the Code and plain language guides for public employees and advisory board members. These trainings and guides are available to officials, employees, and members of the public who are interested in learning more about the Code and its real world application. Ongoing training is mandatory for all public officials and employees, and most jurisdictions require ethics training every one, two, or three years.



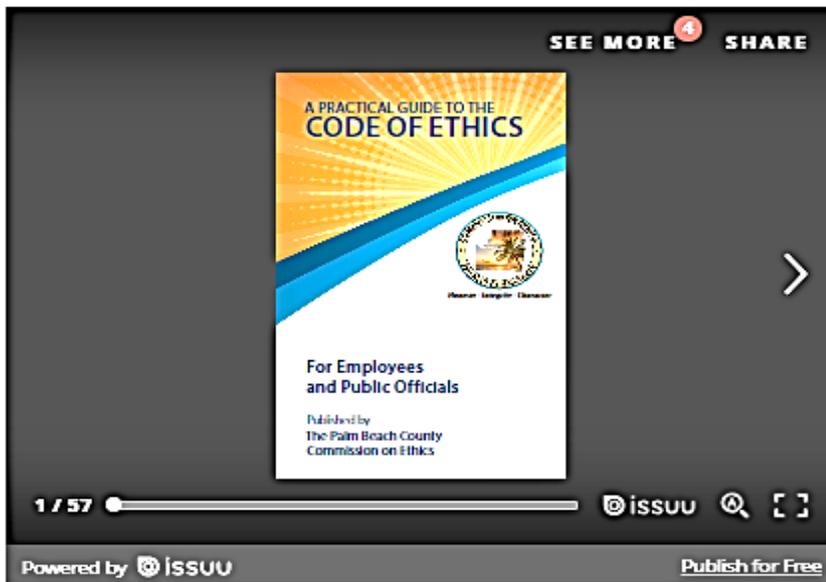
### Training Video

- [Code of Ethics Training Video\\*](#) (Updated 12-29-2016)
- [Printable version of Power Point Presentation](#)

\* If you are having trouble streaming the video through the above link, please try the YouTube link below.

- [Code of Ethics Training Video](#) (YouTube)

### A Practical Guide to the Code of Ethics (2016 Publication) (flip book)



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## OTHER INFORMATION

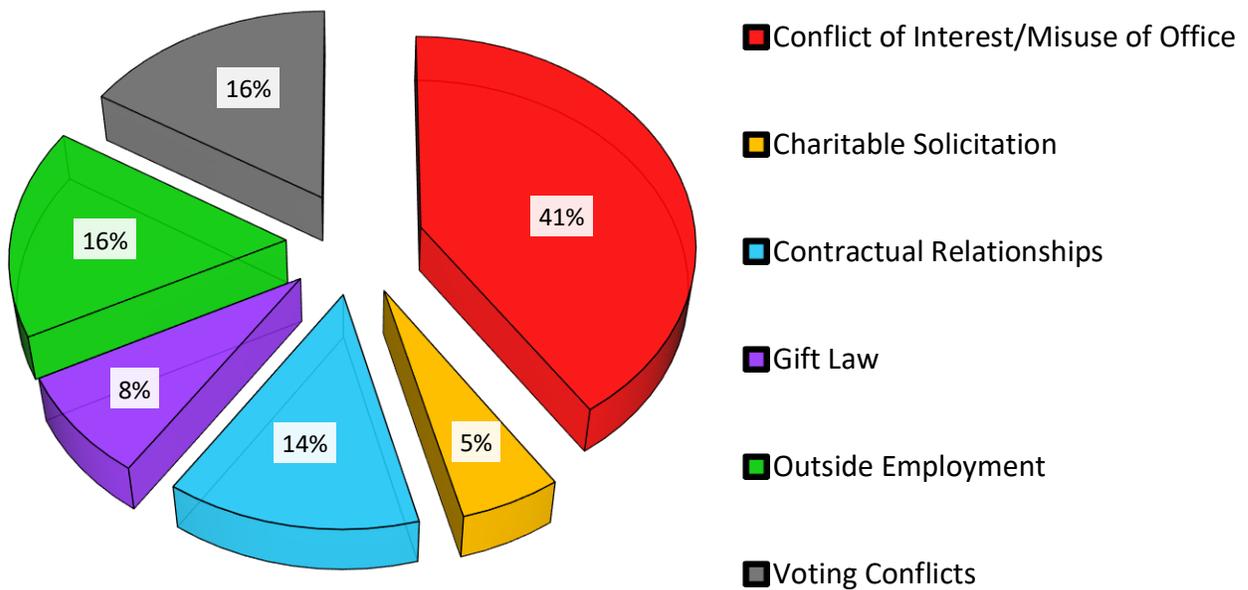
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Serving as a gateway to information on ethics both locally and nationwide, the commission's website provides users with access and links to the Palm Beach County Inspector General, the State Attorney's Office, the Advisory Opinion database, and county vendor database. The Commission's website also provides a link to the lobbyist registration database utilized by the county and 35 of the 39 municipalities within the county. Employees, officials, and the public will always be able to access up to date information on the Code, applicable forms, and other resources on our site, including frequently asked questions.

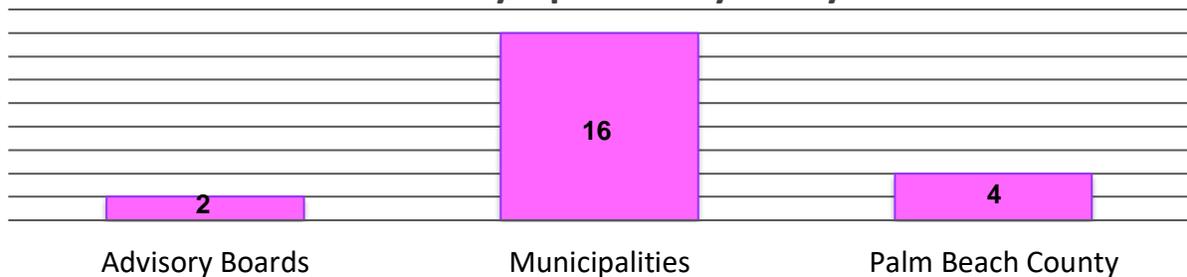
## ADVISORY OPINIONS: ASK FIRST, ACT LATER

In 2019, the commission issued 22 advisory opinions regarding voting conflicts, conflicts of interest, and gift law questions as the most common subject matters. The average turn-around time from the request of an advisory opinion to the completion of a proposal advisory opinion by staff was 13 days. Staff submitted the completed proposed advisory opinions for final approval at the Commission’s next regularly scheduled monthly meeting. Advisory opinions assist employees, officials and advisory board members and any other persons or entities subject to the Code, Lobbyist Registration Ordinance, or Post-Employment Ordinance to understand their obligations. When in doubt about the applicability or interpretation of the Code, employees, officials, and advisory board members may submit the facts of their particular situation to the commission in writing to request an advisory opinion. Each opinion is based upon the facts and circumstances submitted with the request. If you have a question, please ask commission staff to prepare an advisory opinion. As long as the facts submitted are complete and accurate, the requesting party may rely on the commission’s response. All of the advisory opinions are available in PDF format through the website in the advisory opinion database. The link for the database is in the menu on the left side of the website titled “[Published Advisory Opinions](#)”.

### ADVISORY OPINIONS BY SUBJECT MATTER



### Advisory Opinions by Entity



## SUMMARIES OF NOTABLE 2019 ADVISORY OPINIONS

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The Code is published in a 12-page document that does not account for every possible scenario or situation but provides overall guidance to employees, officials, government vendors, lobbyists, and their principals. Accordingly, the commission must interpret the words of the Code and offer common sense advice to those subject to its jurisdiction. The following summaries are based upon actual advice given in the form of advisory opinions issued by the commission during 2019. They are included here for educational purposes only. These summaries are not intended as legal advice.<sup>1</sup> Each opinion is based upon the facts and circumstances submitted with the request. Staff routinely refers local officials, employees, vendors, lobbyists, members of the public, and the media to referrals to prior opinions when the issues involve settled general interpretation of the Code. In 2019, staff managed 32 advisory opinion requests by referring the requesting party to prior opinions.

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### VOTING CONFLICTS

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Section 2-443(c), voting conflicts, addresses the scenario where, by participating or voting on an issue, an elected official would violate the misuse of office section of the code by giving a special benefit to one of the prohibited persons or entities listed under §2-443(a). In such a scenario, officials, and advisory board members must 1) disclose the nature of his or her conflict before their board discusses the issue; 2) abstain from any discussion or vote or otherwise participate in the matter; and 3) file a state voting conflict form (8B), submitting a copy to the recording clerk and to the Commission.

**Question:** The attorney for the city of Lake Worth Beach asked if a voting conflict would arise for two Electric Utility Advisory Board (EUAB) members if they participate in discussions and vote on the city of Lake Worth Beach Electric Utility's Net Metering Program (Program) policy when they are both participants in the Program and one of them owns a solar energy systems installation business. *RQO 19-009*

**Answer:** Whether these two EUAB members' participation in the Program creates a voting conflict for them turns on whether the financial benefit involved is shared with similarly situated members of the general public. Here, only the solar customers are considered "similarly situated members of the general public" for purposes of determining whether a voting conflict exists regarding the Program. Because the class affected is limited to the 86 solar customers, both of their interests in the affected class currently exceed 1%. Therefore, the benefit is considered "special," and they are prohibited from voting on or participating in this matter at this time. They must publicly disclose the nature of their conflict, abstain from voting, not participate in discussion on the matter, file a state voting conflict form (Form 8B), and submit a copy of the form to the COE.

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<sup>1</sup> To the extent that these summaries differ from the language of the original advisory opinion or ordinance, the language in the ordinance and opinion controls.

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## MISUSE OF OFFICE

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The Code prohibits employees, officials, and advisory board members from using their position to give a *special financial benefit*, not shared with *similarly situated members of the general public*, to 1) themselves; 2) a household member, spouse or domestic partner or their outside business or employer; 3) certain relatives or their outside business or employer; 4) their outside employer or business or someone who they know works for that business; 5) a customer or client of their outside employer or business (\$10,000 in goods or services over the preceding 24 months); 6) a debtor or creditor of an employee or official (at least \$10,000, not including financial institutions); 7) a non-profit organization where the employee or official serves as an officer or director. A *financial benefit* is anything of value. *Similarly situated* means that everyone in the class of persons or entities affected by a decision benefits in the same way.

**Question:** The attorney for the village of Tequesta (village) asked if any of the Code provisions are implicated if elected officials of the village serve on the college scholarship selection committee for a nonprofit organization where scholarships are awarded to children of village employees and where one or more of the nonprofit organization's board members own commercial property within the village and may appear before the Village Council.

**RQO 19-018**

**Answer:** The Code would not prohibit a local business owner from establishing a nonprofit organization for the purpose of awarding college scholarship funds to the children of village employees even where he may appear before the Village Council on occasion. It would also not prohibit the elected officials from serving on the selection committee for award of these funds, so long as neither the officials nor the employees of the village use their official positions improperly, and the business owner receives no improper "special benefit" from the Village based on the establishment of this scholarship fund.

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## CONTRACTUAL RELATIONSHIPS

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The contractual relationships provisions control contracts that a public employee or official may have in their private capacity, which could conflict with their public duties. Generally, the Code of Ethics prohibits an employee or official from entering into any contract or other transaction to provide goods or services to the public entity they serve. This includes any contract between a municipality or the county and an employee or official, the outside business or employer of an employee or official or any business an employee or an official may own (minimum 5 percent of the business' assets). Several exceptions may apply.

**Question** A city of Boynton Beach employee asked if she is prohibited from submitting her photographs for the city's New City Hall Arts Project and receiving compensation if her work is selected. **RQO 19-015**

**Answer:** A violation will not occur as long as the total amount of the contracts or transactions for the art commissions do not exceed \$500 per calendar year, or she donates her photographs to the city without receiving any compensation, and she does not use her position with the city, in any way, to have her work selected over the work of another applicant.

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## GIFTS

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The Code prohibits employees, officials and advisory board members from accepting anything of value in exchange for the past, present, or future performance of their job. This includes thank you gifts or tips for an official public action or legal duty performed, withheld, or violated. Employees and officials are prohibited from soliciting gifts of any value from someone they know to be a vendor, lobbyist, or principal of a lobbyist who sells, leases or lobbies their governmental entity for their personal financial benefit, the benefit of a relative or household member, or another employee. Over the course of the calendar year, employees and officials may not solicit or accept gifts worth more than \$100 in the aggregate from a person they know or reasonably should know to be a vendor or lobbyist of their public employer. Gifts in excess of \$100 that are not prohibited are reportable unless one of several exceptions applies.

**Question:** May the employees of the Village of Tequesta accept a discounted gym membership rate being offered by a local business?

*RQO 19-002*

**Answer:** As long as the local business is offering the discounted rate to all village employees and it is not offered as a quid pro quo for an official public action or for the past, present or future performance of any legal duty, village employees would not be prohibited from accepting the discount unless the provider was a lobbyist, principal, or employer of a lobbyist who lobbies the village and the discount value exceeds \$100 annually in the aggregate.

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## OUTSIDE EMPLOYMENT

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The Code defines an outside employer as any “entity, other than the county, the state, or any other federal, regional, local or municipal government entity, of which the official or employee is a member, official, director, proprietor, partner, or employee, and from which he or she receives compensation for services rendered or goods sold or produced.” The Code defines an outside business as any “entity located in the county or which does business with or is regulated by the county or municipality as applicable, in which the official or employee has an ownership interest.”

**Question** A Palm Beach County employee asked if the Code prohibits her from working as a consultant in her private capacity during non-work hours where none of her consulting work would involve applications that would need approval from the county. *RQO 19-019*

**Answer:** As long as she and her outside business do not enter into any contract or other transaction for goods or services with the county, directly or indirectly, and she operates her business outside her county work hours, she will not be in violation of the prohibited contractual relationships provision of the code. She is also prohibited from using her position with the county to influence another person to take some action that would give a special financial benefit to her customers or clients, soliciting business during her county work hours, or identifying herself as a county employee on any written or verbal communication to attempt to obtain a customer.

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## COMPLAINTS

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### THE COMPLAINT PROCESS

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Any person may file a complaint with the commission by submitting a written notarized complaint executed on an approved form available by mail or on our website. The complaint must allege a violation of the code of ethics, lobbyist registration or post-employment ordinance that is **based substantially upon personal knowledge, and is signed under oath or affirmation by the complaining person.** The commission maintains a searchable library of all of the reports and documents regarding of all sworn complaints once a probable cause determination has been made.

In addition, citizens can leave information and tips anonymously on the commission's hotline at 877-766-5920 or by email to [ethics@palmbeachcountyethics.com](mailto:ethics@palmbeachcountyethics.com). If you chose to remain anonymous, you must be sure to provide specific, detailed information that will allow investigators to determine the identity of persons who may have personal knowledge of the alleged violation, as well as any available documentary evidence of a violation, or where such documents may be located.

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### STATISTICAL SUMMARY

#### JANUARY 1, 2019 THROUGH DECEMBER 31, 2019

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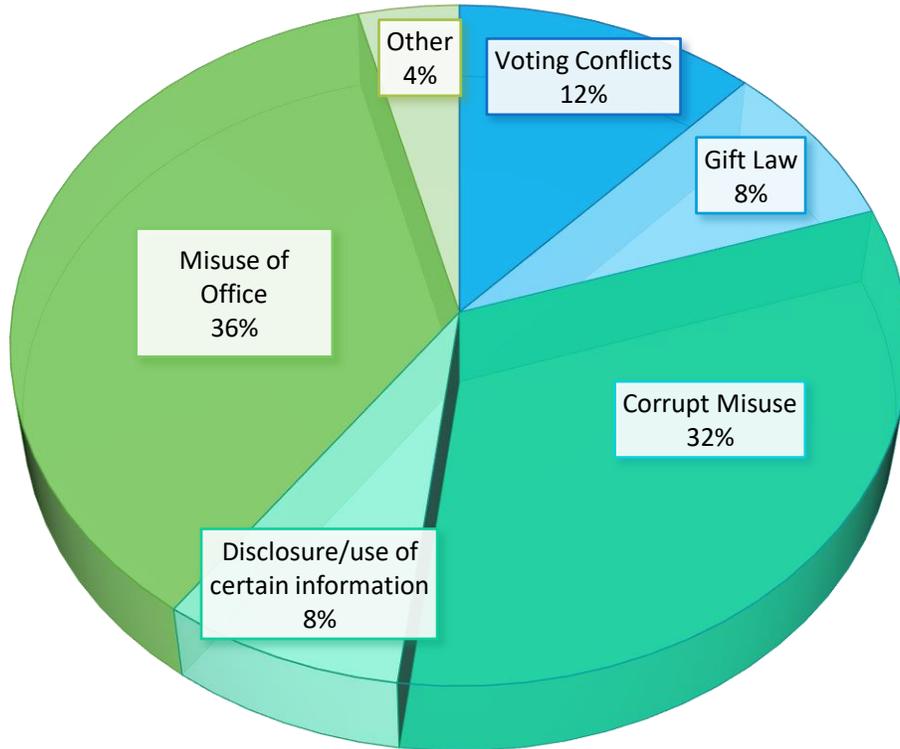
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In 2019, there were 12 filed complaints, consisting of six self-initiated complaints and six sworn complaints from individuals. Of those 12 complaints, eight are still pending, three were administratively dismissed, and one was dismissed after a finding of no probable cause. In addition, commission staff investigated and the commission heard 5 complaints that were initially filed in 2018. Probable cause was found in one complaint and has been set for a final hearing in 2020. The remaining four complaints were dismissed after a finding of no probable cause.

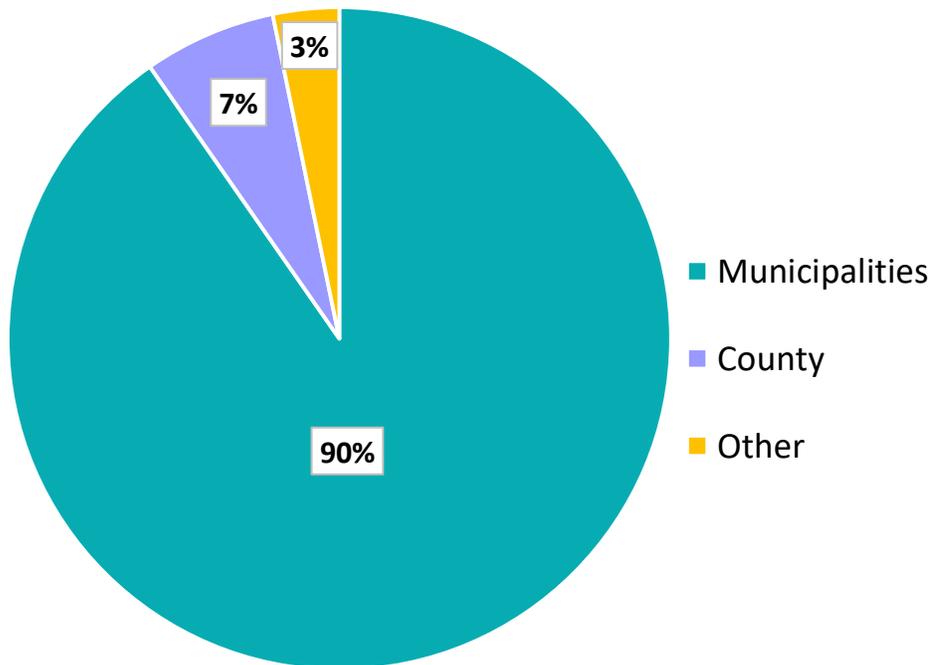
In addition, staff opened inquiries into 19 matters based upon information received other than by formal complaint. Of the inquiries, eight were not legally sufficient, three became the basis for the self-initiated complaints, one was found not legally sufficient but information obtained in the initial inquiry lead to two additional self-initiated complaints, and seven inquiries are ongoing.

In 2019, COE staff fielded approximately 970 calls requesting assistance from the COE, of which approximately 200 calls were referred to another agency and 8 calls resulted in an inquiry or investigation. Staff responded to approximately 125 emails requesting assistance from the COE, of which approximately 44 were sent prior advisory opinions or sections of the Code as assistance, 24 requests were referred to another agency, and seven of those emails resulted in an inquiry or investigation.

### COMPLAINT SUBJECT MATTER



### Complaints & Inquiries by Entity



## COMPLAINT PROCESS DIAGRAM



## FISCAL REPORT

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Pursuant to Commission on Ethics Ordinance §2-259, Palm Beach County provides financial support for commission operations. For fiscal year 2019, the budget came out of the county’s general fund account.

**By continuing our careful stewardship in regards to staff, operational, and procurement costs, the COE has come in under budget for the ninth consecutive year.** The commission’s operating budget was \$681,533 for fiscal year 2019. The commission expended \$680,598.71 of those funds. Detailed budget information is available from the Palm Beach County Office of Financial Management and Budget at [www.pbcgov.org/ofmb](http://www.pbcgov.org/ofmb).

## 2020 PROJECTS

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Anticipated		Description	Expected Results
Start	Finish		
1 <sup>st</sup> Quarter	4 <sup>th</sup> Quarter	Create five-minute video clips on the most frequently asked questions about sections of the Code	Deliver the most effective training
1 <sup>st</sup> Quarter	4 <sup>th</sup> Quarter	Gather and analyze data from existing performance metrics. Establish a formal performance measurement plan	Use results to improve operations
1 <sup>st</sup> Quarter	4 <sup>th</sup> Quarter	Continue to update and improve the Commission’s website	Maintain best possible information portal for public use



[PalmBeachCountyEthics.com](http://PalmBeachCountyEthics.com)  
Hotline: (877) 766-5920

