

Honesty - Integrity - Character

Palm Beach County

Commission on Ethics

300 North Dixie Highway, Ste 450

West Palm Beach, FL 33401

561.355.1915

Hotline: 877.766.5920

E-mail: ethics@pbcgov.org

Commissioners

Michael H. Kugler
Kristin A. Vara-Garcia
Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

Executive Director

Christie Kelley

General Counsel

Rhonda Giger

Intake & Compliance Manager

Gina A. Levesque

Education & Communications Manager

S. Lizabeth Martin

Investigator

Mark A. Higgs

Investigator

Abigail Irizarry

Agenda

January 11, 2024 – 1:30 p.m.

Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Meeting will begin at 1:30pm
Executive Session will begin at 1:40pm
Regular Agenda will resume immediately
following Executive Session

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Introductory Remarks
- V. Approval of Minutes from December 14, 2023
- VI. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 23-030
 - b. RQO 24-001
- VII. Items Pulled from Consent Agenda
 - a.
- VIII. 2023 Annual Report presentation
- IX. Executive Session
 - a. C23-032
- X. Executive Director Comments
- XI. Commission Comments
- XII. Public Comments
- XIII. 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 (COE)
PALM BEACH COUNTY, FLORIDA**

DECEMBER 14, 2023

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

**COMMISSION CHAMBERS
WEISMAN GOVERNMENTAL CENTER**

MEMBERS:

Michael H. Kugler, Chair
Kristin A. Vara-Garcia, Vice Chair
Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

COUNTY STAFF PRESENT:

Rhonda Giger, General Counsel
Mark. A. Higgs, COE Investigator II
Abigail Irizarry, COE Investigator II
Christie E. Kelley, COE Director III
Gina A. Levesque, COE Intake and Compliance Manager
S. Lizabeth Martin, COE Communication and Education Manager

CLERK OF THE CIRCUIT COURT & COMPROLLER'S OFFICE STAFF PRESENT:

Danielle Freeman, Deputy Clerk
Jillian Zalewska, Deputy Clerk

I. CALL TO ORDER

(CLERK'S NOTE: Vice Chair Vara-Garcia served as chair in Chair Kugler's absence.)

The vice chair called the meeting to order at 1:30 p.m.

II. PLEDGE OF ALLEGIANCE

Commissioner Cruise led the Pledge of Allegiance.

III. INTRODUCTORY REMARKS

No introductory remarks were made.

IV. ROLL CALL

Present: Vice Chair Vara-Garcia, Commissioner Peter L. Cruise, Commissioner Michael S. Kridel, and Commissioner Rodney G. Romano

Absent: Chair Michael H. Kugler

V. APPROVAL OF MINUTES FROM OCTOBER 5, 2023, & NOVEMBER 2, 2023

MOTION to approve the October 5, 2023, and November 2, 2023, meeting minutes. Motion by Commissioner Cruise, seconded by Commissioner Romano, and carried 4-0.

VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)

- a. RQO 23-028
- b. RQO 23-029

MOTION to approve the consent agenda. Motion by Commissioner Romano, Commissioner Cruise, second 4-0.

VII. ITEMS PULLED FROM CONSENT AGENDA

- a. No items were pulled from consent.

VIII. EXECUTIVE SESSION

RECESS

At 1:32 p.m., the chair declared the meeting recessed for an executive session.

RECONVENE

At 3:46 p.m., the meeting reconvened with Vice Chair Vara-Garcia, Commissioner Cruise, Commissioner Kridel, and Commissioner Romano present.

- a. C23-003
- b. C23-010
- c. C22-004
- d. C23-006

Commissioner Romano read the following Public Reports and Final Orders:

In Re: Robert Long
COMMISSION ON ETHICS

2

C23-003
DECEMBER 14, 2023

Complainant, Christopher Davey, filed the above referenced complaint, alleging that Respondent, Robert Long, used his position on the City of Delray Beach Planning and Zoning Board to bring about a special financial benefit to prohibited entity, in violation of Section 2-443(a), *Misuse of public office or employment*, and/or Section 2-443 (b), *Corrupt misuse of official position*, and/or Section 2-443(c), Disclosure of voting conflicts, of the Palm Beach County Code of Ethics.

Pursuant to 2-258(a)^[1] of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. On December 14, 2023, the Commission conducted a probable cause hearing and reviewed the Report of Investigation and the Probable Cause Recommendation submitted by COE staff. After an oral statement by the Advocate, the Commission concluded that probable cause does not exist because there was no evidence that Respondent took any action that violated the Palm Beach County Code of Ethics.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Robert Long, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on December 14, 2023.

By: _____
Kristin Vara-Garcia, Vice Chair

Commissioner Cruise read the following Public Reports and Final Orders:

In Re: Robert Shorr

C23-004

Christie Kelley, Executive Director of the Palm Beach County Commission on Ethics (COE), filed the above-referenced complaint against Respondent, Robert Shorr, former Mayor of the Town of Loxahatchee Groves. In Counts 1 and 2, the complaint alleges that Respondent used his official position or office, or any property or resource which may have been within his trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself or others, in violation of Section 2-443(b), *Corrupt misuse of official position*, of the Palm Beach County Code of Ethics.¹

¹ For the purposes of this subsection, "corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.

Pursuant to Section 2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. On December 14, 2023, the Commission conducted a probable cause hearing and reviewed the Report of Investigation, the Probable Cause Recommendation submitted by the Advocate, and the Response to the Advocate's Recommendation submitted by Respondent. After an oral statement by the Advocate and Respondent's attorney, the Commission determined that probable cause exists to believe that the Respondent may have violated Section 2-443(b) of the Palm Beach County Code of Ethics.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Robert Shorr, will be set for final hearing within 120 days to be coordinated between the parties.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on December 14, 2023.

By: _____
Kristin Vara-Garcia, Vice Chair

Vice Chair Vara-Garcia read the following Public Reports and Final Orders:

In Re: Robert Shorr

C23-006

Christie Kelley, Executive Director of the Palm Beach County Commission on Ethics (COE), filed the above-referenced complaint against Respondent, Robert Shorr, former Mayor of the Town of Loxahatchee Groves. In Count 1, the complaint alleges that Respondent used or attempted to use his official position or office in a manner that may have resulted in a special financial benefit to a prohibited entity in violation of Section 2-443(a) of the Palm Beach County Code of Ethics, *Misuse of public office or employment*. In Count 2, the complaint alleges Respondent violated Section 2-443(c) of the Palm Beach County Code of Ethics, Disclosure of voting conflicts, by voting on or participating in matters that may have resulted in a special benefit to a prohibited entity.

Pursuant to Section 2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics.

On December 14, 2023, the Commission conducted a probable cause hearing and reviewed the Report of Investigation, the Probable Cause of Recommendation submitted by the Advocate, and the Response to the Advocate's Recommendation submitted by Respondent. After an oral statement by the Advocate and Respondent's attorney, the Commission determined that, pursuant to Section 2-260.3, of the Palm Beach County

Commented [ZJ1]: I can't tell if this is a one or not

Commission on Ethics Ordinance, public interest would not be served by proceeding further and dismissed the complaint.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Robert Shorr, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on December 14, 2023.

By: _____
Kristin Vara-Garcia, Vice Chair

Commissioner Kridel read the following Public Reports and Final Orders.

In Re: Keith James

C23-010

Complainant, Rodney Mayo, filed the above referenced complaint alleging that Respondent, Keith James, Mayor of West Palm Beach, engaged in retaliatory behavior directed at Complainant and/or his business in violation of Section 2-443(a), Misuse of public office or employment, or Section 2-443(b), Corrupt misuse of official position, of the Palm Beach County Code of Ethics.

Pursuant to Section 2-258(a)¹ of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. On December 14, 2023, the Commission conducted a probable cause hearing. After reviewing the Report of Investigation and the Probable Cause Recommendation and listening to statements by the Advocate and Respondent, the Commission concluded that probable cause does not exist because there was no evidence that Respondent took any action that violated the Palm Beach County Code of Ethics.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Keith James, is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on December 14, 2023.

By: _____
Kristin Vara-Garcia, Vice Chair

IX. EXECUTIVE DIRECTOR

1.

Ms. Kelley stated that the COE community bulletin PSAs were being aired on Channel 20, and she provided the airtimes. She thanked Channel 20 for working with Ms. Martin, who oversaw the project.

2.

Ms. Martin represented the COE office at the Junior Achievement Career Fair. Ms. Martin and Commissioner Cruise had presented to the Palm Beach Rotary Club. Additionally, Ms. Martin and Ms. Levesque attended the Mangonia Park Mayors Luncheon.

3.

Ms. Kelley reminded everyone that the next COE meeting would be held on January 11, 2023, and she wished everyone a happy new year.

X. COMMISSION COMMENTS

1.

Commissioner Romano expressed gratitude for being a part of the COE, and he thanked Ms. Kelley and her team for their efforts.

2.

Commissioner Cruise echoed Commissioner Romano's sentiments regarding the staff. He also shared remarks on his experience at the event, thanked Ms. Martin for her attendance, and invited everyone to attend future events.

3.

Commissioner Kridel and Vice Chair Vara-Garcia wished everyone a happy and safe holiday.

XI. Public Comments

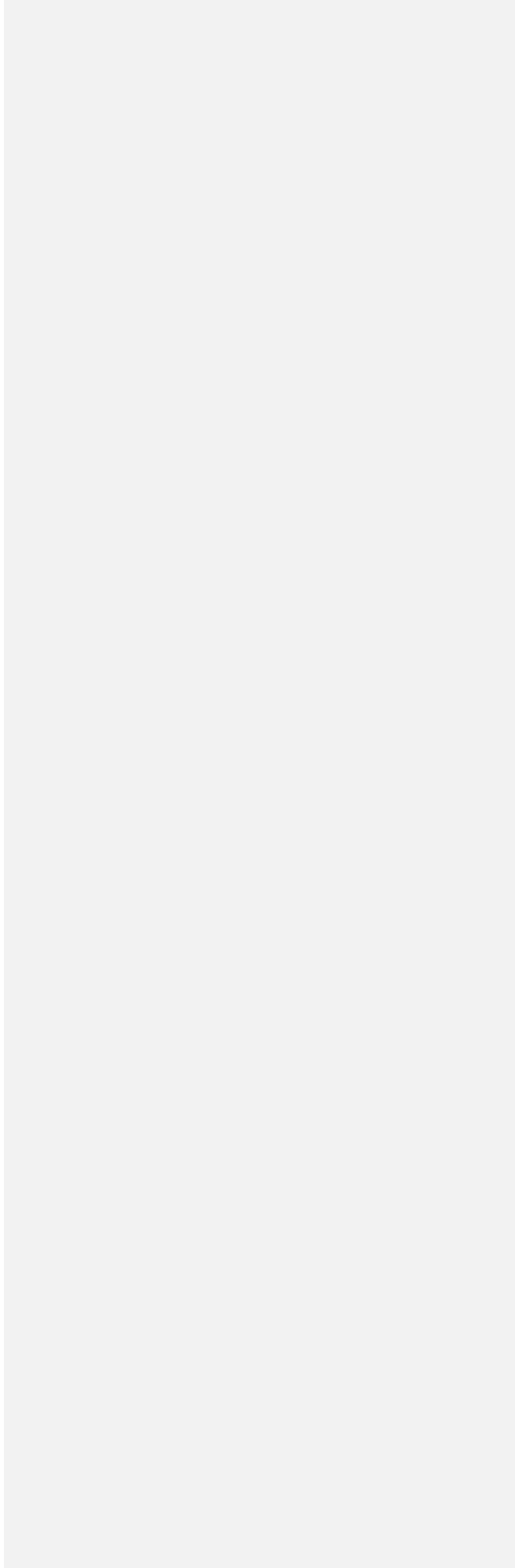
There were no public comments.

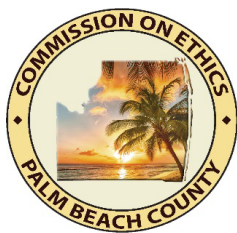
X. Adjournment

At 3:58 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair





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Palm Beach County Commission on Ethics

Commissioners
Michael H. Kugler, Chair
Kristin A. Vara-Garcia, Vice Chair
Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

Executive Director
Christie Kelley

January 2, 2024

Arya Gonzalez, Fiscal Manager
Palm Beach County Department of Housing and Economic Development
100 Australian Avenue – 5th Floor
West Palm Beach, FL 33406

Re: RQO 23-030
Outside Employment/Conflict of Interest

Dear Ms. Gonzalez:

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:

As an employee of Palm Beach County (County), does the Palm Beach County Code of Ethics (Code) prohibit your outside employment as a licensed realtor?

BRIEF ANSWER:

Generally, the Code would only restrict outside employment if that employment would result in you or your outside employer receiving a special financial benefit; thus, as long as that does not occur and you carefully follow the guidance in this opinion, the Code does not prohibit your continued work as a licensed realtor.

FACTS:

You are a Fiscal Manager for the County's Department of Housing and Economic Development. As part of your duties, you review documents prior to issuance of payment by the Clerk's office. This document review covers a variety of areas including home rehabilitation, foreclosure prevention, and items related to first-time homebuyers.

Outside of your employment with the County, you are a licensed realtor. You would like to continue working as a realtor in your private capacity, and you provided the appropriate notification of outside employment documentation to the head of your department. You also reached out to the COE for a formal opinion.

ANSWER:

As a County employee, the Code prohibits you or your outside business from entering into any contract or other transaction for goods or services with the County.¹ The Code defines an outside business as any

¹ Sec. 2-443(d)

entity in which you or specified relatives have an ownership interest of at least five percent.² Thus, your work as a licensed realtor would be your outside business under the Code. The Code also prohibits you from entering into contracts or providing services to any person or entity who is a current vendor of the County unless the part-time employment exception applies.³ The part-time employment exception applies when a public employee's outside employer has a contract for goods or services with his or her public employer and certain conditions are met. The Code defines an "outside employer" as any entity of which the public employee is an employee.⁴ However, realtors are typically considered to be "self-employed" and are generally classified as independent contractors, thus are not considered "employees" as defined by the Code.⁵ Therefore, the part-time employment exception most likely does not apply to your situation, unless you are a formal employee of the entity for which you are performing real estate services.

Based on the facts provided here, you will not be in violation of the prohibited contractual relationships provision of the Code if you work as a licensed realtor in your private capacity as long as your client is not a vendor of the County; you or your outside business do not enter, directly or indirectly, into any contract or other transaction for goods or services with the County; and you perform any work as a realtor outside of your County work hours using your personal computer, software, equipment, and supplies.

In addition, as a County employee, the Code prohibits you from using your official position with the County to give a special financial benefit to specified persons or entities, including yourself, your outside business, or a customer or client of your outside business.⁶ The Code defines a customer or client as a person or entity to which your outside business has supplied goods or services during the previous 24 months in excess of \$10,000.⁷ Therefore, you must also take great care not to misuse your employment with the County in any way to give a special financial benefit to yourself, your outside business as a realtor, or any customer or client of 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 your customers or clients, 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.

As a reminder, you must also be mindful that whether a conflict of interest exists depends on the facts and circumstances of each situation. Because the fields of both jobs are related, there is the possibility of informational overlap. Because of this potential overlap, best practices dictate that you carefully review any action that you take as a County employee to ensure a special financial benefit is not being given to a prohibited person or entity. If there is ever any doubt about whether some action would give a special financial benefit to you, your outside business, or a customer or client of your outside business, we recommend you either decline to participate in the process or seek an additional advisory opinion. Additionally, the Code also prohibits the disclosure or use of certain information. In your capacity as a County employee, should you become privy to information not yet available to the public, you may not disclose or use the information for your personal gain or benefit or for the personal gain or benefit of any other person.⁸

² Sec. 2-442

³ Sec. 2-443(e)(5); RQO 15-035

⁴ Sec. 2-442

⁵ RQO 11-020

⁶ Sec. 2-443(a)

⁷ Sec. 2-442

⁸ Sec. 2-443(i)

Lastly, you are reminded that you must also comply with the County's merit rules regarding outside employment.

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-442, Sec. 2-443(a)(1), (4), (5), Sec. 2-443(d), Sec. 2-443(e)(5), and Sec. 2-443(i) of the Code:

Sec. 2-442. Definitions.

Customer or client means any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000).

Outside employer or business includes:

- (2) Any entity located in the county ... in which the official or employee has an ownership interest. For purposes of this definition, an "ownership interest" shall mean at least five (5) percent of the total assets or common stock owned by the official or employee...

Vendor means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property, or who currently sells goods or services, or sells or leases real or personal property, to the county or municipality involved in the subject contract or transaction as applicable. For the purposes of this definition a vendor entity includes an owner, director, manager or employee.

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, or attempt to do any of these things, 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;
 - (5) A customer or client of the official or employee's 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.
- (e) **Exceptions and waiver.** In addition, no official or employee shall be held in violation of subsection (d) if:
- (5) Notwithstanding any provision to the contrary, subsection (d) shall not be construed to prevent an employee from seeking part-time employment with an outside employer who has entered into a contract for goods or services with the county or municipality as applicable provided that:

- a. The employee or relative of the employee does not work in the county or municipal department as applicable which will enforce, oversee or administer the subject contract; and
- b. The outside employment would not interfere with or otherwise impair his or her independence of judgment or otherwise interfere with the full and faithful performance of his or her public duties to the county or municipality as applicable; and
- c. The employee or relative of the employee has not participated in determining the subject contract requirements or awarding the contract; and
- d. The employee's job responsibilities and job description will not require him or her to be involved in the outside employer's contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance; and
- e. The employee demonstrates compliance with applicable merit rules regarding outside employment and obtains written permission from his or her supervisor; and
- f. The employee has obtained a conflict of interest waiver from the chief administrative officer and the employee's department head of the county or municipality based on a finding that no conflict exists. The employee shall submit the request for waiver in writing and under oath. The request for the waiver shall be signed by the employee under oath or affirmation on an approved form provided by the commission on ethics. The document shall contain written acknowledgment of compliance with the provisions of subsection (5)a. through (5)e. of this subsection, together with such pertinent facts and relevant documents that support such waiver. A waiver under this subsection must be approved by both the employee's supervisor and chief administrative officer of the county or municipality.

- (i) ***Disclosure or use of certain information.*** A current or former official or employee shall not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person.

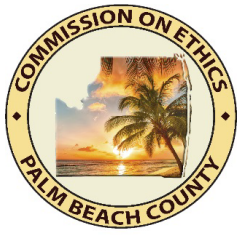
This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted but assume they are true for purposes of this advisory opinion. It is not applicable to any conflict 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,


Christie Kelley
Executive Director

RG/gal



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Palm Beach County Commission on Ethics

Commissioners
Michael H. Kugler, Chair
Kristin A. Vara-Garcia, Vice Chair
Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

Executive Director
Christie Kelley

January 5, 2024

Twila D. Taylor, PsyD
Division Director III
Palm Beach County Youth Services Department
4200 N. Australian Avenue
West Palm Beach, FL 33407

Re: RQO 24-001
Volunteer Activities/Conflict of Interest

Dear Ms. Taylor:

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:

As an employee of Palm Beach County (County), does the Palm Beach County Code of Ethics (Code) prohibit you from working as a peer reviewer for a County vendor in a volunteer capacity?

BRIEF ANSWER:

Generally, the Code would only restrict relationships with vendors if that relationship resulted in the vendor becoming your outside employer. Here, because the position is uncompensated, the work is akin to a volunteer position. Additionally, because the training for the position is offered at no cost to any qualified individual, it is not considered a gift from a prohibited source. Thus, as long as the guidance in this opinion is carefully followed, the Code does not prohibit you from taking the training and serving as a peer reviewer in a volunteer capacity.

FACTS:

You are a Division Director for Palm Beach County Youth Services Department (YSD). Your department contracts with Andrus Sanctuary Institute (ASI) for re-certification in the Sanctuary Model of Trauma-Informed Care. ASI is seeking peer reviewers for programs throughout the country who are seeking certification or re-certification in the model. You would like to complete the necessary training and become a peer reviewer. The training to become a certified peer reviewer is offered at no cost to any qualified County employee who is actively involved in maintaining the County's certification in the model.

After you finish the required training, your work as a peer reviewer would be completed on a volunteer basis, and would require you to participate in at least one certification visit per year. To qualify as a peer reviewer, you must work for an agency who has a current contract with ASI and you must be actively involved in maintaining their certification in the model. Were your peer review certification visit to take you out of town, the travel costs would be paid by the program/agency requesting certification. Your certification is desirable to the County because YSD would then receive a 25% discount on future re-certification with ASI. An additional benefit is that during your certification visits, you would be further immersed in the model and its empirical applications, thereby increasing your ability to share your additional knowledge and expertise with YSD.

ANSWER:

As a County employee, the Code prohibits you from accepting, directly or indirectly, any gift valued at over \$100 in the aggregate per calendar from any person or business entity that the employee knows or should know with the exercise of reasonable care is a vendor, lobbyist, or principal or employer of a lobbyist who lobbies, sells or lease to the county.¹ The Code defines gifts as “the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.”² The Code also prohibits a public employee from soliciting gifts of any value from someone known to be a vendor, lobbyist, principal or employer of lobbyists of their public employer if the gift is for the personal benefit of the employee or for the benefit of a relative, household member, or another employee.³ However, the Code specifically exempts gifts solicited or accepted by public employees on behalf of their public employer for a public purpose.⁴ Whether a training or certification meets the definition of a public purpose must be determined by the administration or the governing body of the County.⁵

Here, because the training to become a certified peer reviewer is offered to any qualified County employee and after receiving the training you are required to participate in at least one certification visit per year, it is reasonable to reach the conclusion that the training is not a gift and, thus, it would not implicate the Code. However, because this is a unique factual scenario, in an abundance of caution and to ensure transparency, the COE has undergone a further analysis of the facts as applied to this specific situation in the event an argument were made that the training is a gift to you from ASI.

For the sake of this analysis only, even if your attendance at the training is considered a gift, it appears that the resulting certification with ASI will be used solely in the performance of your official duties and will ultimately provide a significant benefit the County.⁶ Once you are certified,

¹ Sec. 2-444(a)(1)

² Sec. 2-442

³ Sec. 2-444(c)

⁴ Sec. 2-444(g)(5)

⁵ RQO 12-062; RQO 12-044; RQO 11-084

⁶ Because of the contractual relationship between ASI and YSD, ASI is considered a County vendor.

you will not only be able to share your knowledge of a highly desired certification process, it will also mean the County receives a significant financial discount when it enters into its next certification renewal process. Because of this, even if the training *is* a gift from ASI, as long as it is officially determined to have a public purpose, it would fall into the public purpose exception of the Code as outlined above.

In addition, as a County employee, the Code also prohibits you or your outside employer from entering into any contract or other transaction for goods or services with the County.⁷ Here, because your work for ASI will be done on a volunteer basis, ASI is not considered your outside employer; thus, this provision of the Code also does not apply and will not preclude you from attending this training and serving as a peer reviewer.

Lastly, you are reminded that the Code prohibits any person or entity from offering or giving any gift to any public official or employee in return for any public action or legal duty as a quid pro quo for the gift.⁸

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-442, Sec. 2-443(d), and Sec. 2-444 of the Code:

Sec. 2-442. Definitions.

Outside employer or business includes:

- (1) 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. For purposes of this definition, "compensation" does not include reimbursement for necessary expenses, including travel expenses;

Vendor means any person or entity who has a pending bid proposal, an offer or request to sell goods or services, sell or lease real or personal property, or who currently sells goods or services, or sells or leases real or personal property, to the county or municipality involved in the subject contract or transaction as applicable. For the purposes of this definition a vendor entity includes an owner, director, manager or employee.

Sec. 2-443. Prohibited Conduct.

- (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

⁷ Sec. 2-443(d)

⁸ Sec. 2-444(e)(1, 2 & 3)

official or employee, directly or indirectly, or the official or employee's outside employer or business.

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.
- (c) No county commissioner, member of a local governing body, mayor or chief executive officer 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 a gift of any value 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, where the gift is for the personal benefit of the official or employee, another official or employee, or any relative or household member of the official or employee.
- (g) Exceptions. For the purposes of this section, the following shall not be considered a gift:
- (5) Gifts solicited or accepted by county or municipal officials or employees as applicable on behalf of the county or municipality in performance of their official duties for use solely by the county or municipality for a public purpose.

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,



Christie Kelley
Executive Director

RG/gal