

POLICY REVIEW AND COMPLIANCE MEMORANDUM



Honesty - Integrity - Character

To: Mark E. Bannon, Executive Director
From: Gina A. Levesque, Intake and Compliance Manager
Re: A16-009 – Delray Beach Ethics Policy Review and Training Compliance Employees and Elected Officials

- **Background**

The Code of Ethics (Code) states in part under Section 2-446(a) that the county or municipal administrator shall establish by policy a mandatory training schedule for all employees and elected/appointed officials, which shall include mandatory periodic follow-up sessions. Section 2-446(b) states in part that the COE shall develop and deliver training programs and ensure that the training is delivered in a timely manner.

- **Objectives and Scope**

The objectives are:

- To provide assurance that the agency has a training policy.
- To provide assurance that the training policy includes enough specific information to officials and employees that they can determine clear parameters, including initial training with deadline and grace period defined, and retraining cycle timeline with deadlines and grace periods defined.
- To provide reasonable assurance the municipality is requiring its officials and employees to comply with the training policy.

The scope of this review focused on the policy and acknowledgement forms for elected officials and full-time employees within the City of Delray Beach (City). The delivery method of the ethics training and internal tracking method of compliance was not part of the scope. It should be noted that a separate review will be completed regarding appointed officials.

- **Approach and Methodology**

The approach included an on-site review of a proof of training and a request for a list of the elected officials and employees. A review of the training policy, a review of elected officials and employees, and a review of all signed training receipts on file was performed.

- **Findings**

The training policy for the City was issued and became effective on August 2, 2012. The policy requires the completion and submission of a training acknowledgement form to the Human Resources Department subsequent to completion of training.

The policy requires that officials and employees undergo initial training and read the Code within sixty (60) days of employment or taking office for elected officials. The training policy also requires rereading the Code and mandatory follow-up training every two (2) years. There is no differentiation between elected officials and employees for the two (2) year mandatory follow-up training.

The policy does not include a training deadline date for the two (2) year follow-up cycle nor does it include a grace period. However, when I met with the City Attorney, Noel Pfeffer, he provided a training deadline date for this review of October 1, 2015 with a 90-day grace period. During that discussion, he agreed with my understanding of the deadline date and grace period to mean that anyone trained between June 1 and December 31 would fall within the training compliance timeframe for the training cycle period.

At the time of the training cycle, the City consisted of 852 full-time employees and elected officials. Of the 852, there was one (1) person that did not take the initial training required within sixty (60) days of employment. Furthermore, the training was not taken until nearly nine (9) months after being hired.

It should be noted that the mayor and the four (4) City commissioners are elected for three (3) year terms with alternating term dates. It should also be noted that all elected officials are under the jurisdiction of the State Commission on Ethics and are required to take four (4) hours of ethics training yearly to be in compliance with State rules.

The City policy states in item 5 that the Human Resources Department is designated to coordinate all mandated training and compliance audits with the COE. However, when I contacted the City to arrange the on-site review, all arrangements were made through the City Attorney's Office. At the conclusion of the on-site review, the City Attorney informed me that future reviews would be handled through the Human Resources Department. He went on to say that switching to the Human Resources Department is logical because the training forms are maintained by that department.

Item 6 of the City policy states that the Results of training compliance reviews will be submitted to the City for necessary action prior to the issuance of a compliance report. The policy further states that the City shall have an opportunity to cure any deficiency within a reasonable time not to exceed 45 days and that reviews will be performed on an as needed or biennial basis.

- **Recommendations**

After reviewing the policy and completing the compliance review, implementing the following five (5) recommendations should provide clarification regarding the training cycle and deadlines. It should also make the tracking process easier to maintain.

1. Although state law requires that elected officials undergo four (4) hours of ethics training each year, that ethics training does not necessarily contain training provided by the Commission on Ethics for the Palm Beach County Code. Furthermore, City policy requires participation in county ethics retraining every two (2) years. However, City officials are elected every three (3) years with alternative term dates. Currently, the policy dates render tracking for compliance too arduous for both elected officials and employees. Therefore, it is recommended that the language in the policy regarding mandatory follow-up training for officials be removed from the follow-up language for employees and instead be included in the language regarding initial training.
2. For clarity, we recommend the policy concerning initial training for officials be changed to include the following language: **"Officials (elected and appointed) must participate in training within ninety (90) days of taking office upon election, reelection, appointment or reappointment."** Further, we recommend the mandatory follow-up language for employees be changed to read as follows: **"After initial training, periodic mandatory follow-up training is required for all employees every two (2) years."**
3. Additionally, pursuant to the verbal commitment of a specific training deadline, the policy should include language providing the deadline date of October 1 with a ninety (90) day grace period. Specifically, the dates of June 1 – December 31 as the grace period compliance timeframe for employees should be listed so that employees will understand that if they read the Code of Ethics and participate in training anytime from June 1 – December 31 during the cycle year, they will be in compliance with the training policy.
4. Although all contact and review for this training cycle was made through the County Attorney's Office, City Attorney Joel Pfeffer said that all future and additional coordination for training or audits will be handled through the Human Resources Department. Therefore, we recommend that the Human Resources Director "or designee" is included in the policy for training coordination and compliance reviews.

5. Finally, we request that the City remove Item 6 of the City Policy. During the COE's initial compliance reviews in 2012, a grace period of up to 45 days was allowed to cure any deficiencies in required ethics training. The allowances were given because the ordinance was new. However, since this process is now in its fifth year, the 45 day grace period is no longer applicable and training deficiencies will be noted in the compliance review reports after the ethics training compliance review has been conducted by COE staff.

- **Conclusions**

The Mayor and all of the City Commissioners took retraining. However, as one (1) person did not take initial training until nearly nine (9) months after beginning employment, the City of Delray Beach is not in compliance with the ethics training requirement.

Further, five (5) policy change recommendations are being submitted to the City for review. The recommendations are being made for practicality purposes and so that the requirements are clear.

Submitted by:



Gina A. Levesque, Intake and Compliance Manager
Palm Beach County Commission on Ethics

9.22.2016
Date