

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, December 23, 2016 11:43 AM
To: Sanchez, Rodzandra (COE)
Subject: Xavier Alban, Assistant City Attorney, City of Miami (Gift Disclosure) INQ 16-290

INQ 16-290 Alban

From: Centorino, Joseph (COE)
Sent: Friday, December 23, 2016 11:37 AM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: INQ 16-290 Xavier Alban, Assistant City Attorney, City of Miami (Gift Disclosure)

Xavier Alban, Assistant City Attorney for the City of Miami, inquired concerning whether a City Commissioner needed to report on a quarterly gift disclosure the acceptance of a trip to Boston, paid for by Boston College, for the purpose appearing at the school to make a presentation on some legislation that had been passed by the City. The Commissioner in question would not be receiving any payment for the presentation, but the expenses of the trip would be paid by Boston College.

I advised Mr. Alban that, based on the fact that the trip and presentation was entirely connected to the Commissioner's public position with the City and could be considered part of the city's official business, and because Boston College is not a City vendor, contractor, or service provider (which would make the expenses prohibited under Section 2-11.1(w) or a lobbyist, which would make expenses provided in excess of \$100 in value prohibited under Section 112.3148, Florida Statutes), the expense would not be considered a reportable gift under County Ordinance, Section 2-11.1(e)(2)(f).

We also discussed the state law requirements for gift disclosure under Sections 112.3148 and 112.3149, Florida Statutes. I advised Mr. Alban, that, while this office cannot provide a binding opinion on these statutes, he should be aware of the unusual and confusing requirements regarding paid trips for governmental purposes or as expenses for honorarium-related events, which are treated separately from the gift provisions of Chapter 112.. CEO 90-72 requires reporting of expenses paid for a trip even when the trip has a governmental purpose. However, CEO 91-57 deals with honorarium events, i.e. events at which one makes a speech or presentation, which is what is involved in this situation. It provides that, although one is required to report acceptance of paid travel and travel-expenses from an entity that is prohibited from paying an actual honorarium, e.g. a lobbyist, vendor or political committee, one is not required to report payment of expenses provided for an honorarium event received from an entity not so prohibited. Since Boston College is not a vendor or lobbyist or political committee prohibited under Section 112.3149 from providing an honorarium to the Commissioner, its provision of expenses related to the honorarium event need not be disclosed under State law.

I suggested that Mr. Alban use his own judgement in advising the Commissioner regarding the necessity or advisability of reporting the trip as a gift.

Joseph M. Centorino

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