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July 10, 2003

Gordon Hampden
Jackson Health Systems
Human Resources Division
1611 NW 12th Avenue- PPW L-306
Miami, FL 33136-1094

RE: REQUEST FOR ADVISORY OPINION 03-100

Dear Mr. Hampden:

You requested an advisory opinion regarding the application of the County's gift policy to certain JMH employees.

In your letter, you advised the Ethics Commission that each year JMH hosts an employee picnic, whereby it issues a Request for Proposal for the catering services. Employees are not required to attend, but those who do pay a nominal fee. This year, Shorty's Barbecue was awarded the bid. Upon arrival, Shorty's realized that it was understaffed; therefore, several JMH employees spent the afternoon helping Shorty's serve the food and beverages. In order to thank those employees, Shorty's would like to provide them with a catered lunch at the restaurant.

The Conflict of Interest and Code of Ethics Ordinance does not prohibit those JMH employees who helped Shorty's during the picnic from accepting the lunch. Section 2-11.1 (e), defines the term "gift" and sets forth the exceptions to the definition and other prohibitions. Section 2-11.1 (e) (3) states,

"A person described in subsection (b)(1) through (b)(6) shall neither solicit nor demand any gift. It is also unlawful for any person...to offer, give, or agree to give to any person included in the term defined in subsection (b)(1) through (b)(6) or for any person included in the term defined in subsection (b) (1) through (b)(6) to accept or

agree to accept from another person or entity, any gift for or because of: (a) an official public action taken, or to be taken, or which could be taken; (b) a legal duty performed or to be performed, or which could be performed; or (c) a legal duty violated or to be violated, or which could be violated by any person included in the term defined in subsection (b) (1).”

Additionally, under the County’s Administrative Order 7-1, “No County employee shall accept any tip or gratuity in the discharge of his or her public duties.” However, the employees who assisted Shorty’s during the picnic did so as volunteers, neither in any official capacity nor in any relationship to their public duties. The employees volunteered at their own volition, not at the direction of any supervisor or departmental directive.

Pursuant to the disclosure requirements under 2-11.1 (e) (4), the employees would be required to file a gift disclosure form with the Clerk of the Board should the lunch have a value in excess of twenty-five dollars (\$25.00).

This opinion construes the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

Sincerely Yours,



ROBERT MEYERS
Executive Director