

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, May 03, 2018 9:26 AM
To: Sanchez, Rodzandra (COE)
Subject: Carol Zeiner, Commissioner, Miami-Dade Commission on Ethics and Public Trust (COE) INQ 18-112

INQ 18-112 Zeiner

From: Centorino, Joseph (COE)
Sent: Wednesday, May 02, 2018 4:23 PM
To: 'czeiner@stu.edu' <czeiner@stu.edu>
Cc: Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>
Subject: INQ 18-112, Carol Zeiner, Commissioner, Miami-Dade Commission on Ethics and Public Trust (COE)

Commissioner Zeiner:

This will serve to memorialize our recent conversation in which we discussed your inquiry concerning whether your acceptance of a discounted admission to a Florida Bar Training Session that you attended could be considered a reportable gift under Section 2-11.1(d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance or under Section 112(a), Florida Statutes. The program in question involved was the Sunshine Law, Public Records & Ethics for Public Officers and Public Employees held on April 13, 2018 in Orlando. The program was sponsored by The Florida Bar Continuing Legal Education Committee, of which you are a member, and The City, County and Local Government Law Section of the Bar. The program was relevant to your service on the Bar Committee, which requires its members to attend at least one such program each year. It also relates to your employment on the faculty at St. Thomas University School of Law, which is entitled to appoint a person to the Florida Bar Committee that sponsored the section. As a professor at St. Thomas, you are that designated committee member. The program is also relevant to your service on the COE.

I understand that the Florida Bar charged admission to the training program in the amount of \$240 per person. However, due to your position on the Bar Committee, you were charged a fee less than \$100, a courtesy that is afforded to similarly situated Committee members who are appearing on behalf of the Bar at such programs. The discounted rate provided you with a savings in excess of \$100. The specific question you have asked is whether the amount involved would need to be reported as a gift in excess of \$100 under Subsection 2-11.1(e)(4) or under Chapter 112.

In order to be considered a gift under Section 2-11.1(g)(1) of the County Ethics Code a gift could be the transfer of anything of economic value "without adequate and lawful consideration." It is my opinion that the discounted rate provided to would not be considered a gift under Section 2-11.1(e) due to the fact that it is directly related to your service on a Bar Committee and a duty performed by you in pursuance of that service. The performance of those duties is adequate and lawful consideration for the discounted rate.

Although we are not able to provide legally binding opinions regarding Chapter 112, Florida Statutes, I did review the Florida statute on gifts and conferred with the General Counsel at the Florida Commission on Ethics (FCOE) regarding this matter. Section 112.312(a) has a provision similar to that in Section 2-11.1(e) in that its definition of a gift is limited to a benefit "for which equal of greater consideration is not given within 90 days..." Your attendance at the session itself in connection with your Bar duties would seem to satisfy this provision. In addition, Section 112.312(12)(a)(5) excludes from the definition of a gift, "A preferential rate of terms on a debt, loan, goods, or services which rate is ... available to

similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.” I think that the fact that you were accorded the same rate as other similarly situated individuals affiliated with a Florida Bar Committee would exclude the special rate you received from the definition of a gift under this section. Further, Section 112.312(b)(1) explicitly excludes from the definition of a gift, “Salary, benefits, services, fees, commissions, gifts, or expenses associated with the donee’s employment, business or service as an officer or director of a corporation or organization.” It is my opinion that, due to the fact that you were fulfilling not only a duty required by your membership on a Bar Committee, but also one that was assigned to you in the course of your employment by your employer, this provision would also serve to exclude the discounted rate from the definition of a gift. This interpretation appears consistent with CEO 91-45 in which the FCOE found that travel expenses provided to a Mayor by the Florida League of Cities to attend one of its meetings did not constitute a gift where the Mayor involved served as a Director of the organization and was expected to travel to the meetings in the course of his duties.

Sincerely,

Joe

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
ethics.miamidade.gov

