

Kerry L. Ezrol
Kezrol@gorencherof.com



**GOREN CHEROF
DOODY & EZROL P.A.**
ATTORNEYS AT LAW

ETHICS ADVISORY OPINION

To: Vice Mayor Tom Green

Cc: Faith Lombardo, City Clerk
Patricia Staples, Deputy City Clerk

From: Kerry L. Ezrol, City Attorney *KLE*
Heather Needelman, Assistant City Attorney *HN*

Date: July 8, 2020

Re: City of Wilton Manors (“City”) / Code of Ethics – Advisory Opinion-Ethics Training
Final Year of Office

You have provided the City Attorney’s Office with the facts set forth in Section I, below, and requested a “safe harbor” advisory opinion under the Broward County Code of Ethics for Elected Officials (“Code of Ethics”).

I. ISSUE AND FACTS PRESENTED

You have asked whether the Code of Ethics requires you to complete ethics training for the calendar year in which you leave public office and file the requisite training certification. You have advised that you will be leaving office after your successor takes office following the November 3, 2020 election.

After reviewing this inquiry, it is our opinion that the Code of Ethics does not require that you complete ethics training in 2020 or file the requisite training certification for 2020.

II. ANALYSIS

Section 112.3142, Florida Statutes requires elected municipal officers to complete 4 hours of ethics training each calendar year. In 2014, the Legislature amended section 112.3142 as follows:

{00381698.2 2976-1107760}

Please reply to Fort Lauderdale Office

Fort Lauderdale Office
3099 E. Commercial Blvd., Suite 200, Fort Lauderdale, FL 33308. T 954-771-4500 | F 954-771-4923

Delray Beach Office
76 N.E. Fifth Avenue, Delray Beach, FL 33483. T 561-276-9400

www.cityatty.com

...

(b) Beginning January 1, 2015, all elected municipal officers must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

...

(e) The Legislature intends that a constitutional officer or elected municipal officer who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer or elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer or elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

...

In Commission on Ethics (“Commission”) opinion (“CEO”) 15-5, the Commission concluded that section 112.3142, Florida Statutes, does not require an elected municipal officer to complete ethics training in the calendar year in which the officer leaves public office.

Section 1-19(d) of the Code of Ethics provides in part:

- (1) Newly Elected Officials Training Requirement. In addition to meeting the annual training requirement referenced in paragraph (d)(2) below, Newly Elected Officials shall, between election and one hundred twenty (120) days after taking office, receive a minimum of four (4) hours of training from their governmental entity's attorney (or as directed by that attorney) which addresses ethics topics including Section 8, Article II, of the Florida Constitution, the state's Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes), Florida's public records and public meetings laws, and the ethical standards imposed by the Board pursuant to its authority under Section 112.326, Florida Statutes. Each Newly Elected Official shall certify his or her participation in this training in a form filed for public inspection within fifteen (15) days after the completion of such training or within fifteen (15) days after taking office, whichever is later. At least two (2) hours of this training shall be received in an interactive setting (group or individual). Additional training for Newly Elected Officials offered by the Florida Association of Counties or the Florida League of Cities is strongly encouraged. For purposes of this paragraph, Newly Elected Officials are those Elected Officials who did not occupy an office that was subject to this code at any time within the one-year period prior to their current election to office.
- (2) Annual Training Requirement. Each Elected Official shall, on an annual basis, attend or participate in a minimum of four (4) hours of continuing education training which addresses ethics topics including Section 8, Article II, of the Florida Constitution, the state's Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes), Florida's public records and public meetings laws, and the ethical standards imposed by the Board pursuant to its authority under Section 112.326, Florida Statutes.

Training programs may be available through regional universities, municipal or local government organizations, or through state or regional Bar associations. Commencing January 1, 2017, the four (4) hour annual training requirement shall be met on a calendar-year basis, and at least two (2) hours of annual training during each calendar year shall be received in an interactive setting (group or individual). Each Elected Official shall annually certify that he or she has met this requirement in a form filed for public inspection within thirty (30) days after the end of each calendar year. To facilitate the transition to a calendar-year cycle, Elected Officials shall be deemed to have met the annual training requirement for their term year which commenced in 2016 if they received, during calendar year 2016, at least four (4) hours of ethics training on the topics of Sunshine Law, public records, and public service ethics, with at least two (2) hours of that training occurring in an individual or group interactive setting.

Although the Broward County Code of Ethics is silent on the question presented (as is section 112.3142), CEO 15-5 clearly provides that an elected official is not required to complete ethics training in the calendar year in which the officer leaves public office in accordance with Section 112.3142, Florida Statutes. Likewise, although the Code of Ethics requires Newly Elected Officials to complete 4 hours of ethics training within 120 days after taking office, there is no training requirement in the last year of office.

On June 18, 2020, we spoke with Caroline Klancke, Senior Attorney to the Commission. Ms. Klancke confirmed that the conclusion reached in CEO 15-5 would not change in response to the question presented herein. Ms. Klancke advised that it does not matter how much time is served in office during the last year of office. Further, there is no requirement on Commission Form 1 F or Form 6 F to certify or disclose education hours in the final year of office.

III. CONCLUSION

Based on the foregoing, it is the opinion of the City Attorney's Office that the Code of Ethics **does not** require you to complete ethics training in the calendar year in which you leave public office or to file the required ethics training disclosure.

Please be advised that this opinion is limited to the Code of Ethics. This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Code of Ethics, and may only be relied upon by the individual who made the request. This analysis is limited solely to the facts presented. Within fifteen (15) days of issuing this opinion, we will provide a copy of this opinion in a searchable "pdf" format to ethicsadvisoryopinions@broward.org for inclusion in the searchable database of advisory opinions maintained by the County.

Please contact our office if there is any additional information that we can provide.