



Memorandum No: 23-009

City Attorney's Office

To: Commissioner John C. Herbst
From: D'Wayne M. Spence, Interim City Attorney
Date: February 7, 2023
RE: **MIASF Anchor Member Regional Economic Development Luncheon**

On January 31, 2023, Patience Cohn, on behalf of Marine Industries Association of South Florida, sent an email inviting you to attend an invitation only MIASF Anchor Member Regional Economic Development Luncheon to be held on February 23, 2023. According to its website, Marine Industries Association of South Florida ("MIASF") is a not-for-profit trade organization for the marine industry. The MIASF Anchor Member Regional Economic Development Luncheon includes lectures from speakers Bob Swindell, President and CEO of the Greater Fort Lauderdale Alliance, Fabiola Brumley, Executive Committee Officer of Economic Council of Palm Beach County and William D. Talbert III, CDME, Interim President and CEO of Miami-Dade Beacon Council. Ms. Cohn indicated that the cost of the meal per person is \$40.00 and the cost of parking, which is validated for attendees, is \$4.00.

You have requested an opinion as to whether you may accept an invitation from MIASF to attend MIASF Anchor Member Regional Economic Development Luncheon. For the reasons stated below, it is my opinion that you may accept the invitation to the luncheon as a gift legally permissible to accept from a vendor or lobbyist pursuant to Florida Code of Ethics, and as training and expenses incurred in connection with the training in accordance with Section 1-19(C)(1)(e)2 of the Broward County Code of Ethics for Elected Officials.

Our office analyzes gift questions under both the State of Florida and Broward County ethics codes, as both contain limitations on the acceptance of gifts. No gift may be solicited or accepted based on an understanding that it is given with the intent to influence the actions of an individual subject to Florida's ethics code. See § 112.3148(4), Fla. Stat. (2022). The state code of ethics also prohibits a reporting individual from accepting gifts that value in excess of \$100 from a vendor doing business with his or her governmental entity or from a registered lobbyist. §

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112.3148(4), Fla. Stat. (2022). I have checked our applicable databases and Marine Industries Association of South Florida is a vendor or contractor of the City and a principal or employer of lobbyists registered with the City and, therefore, a gift from MIASF is subject to the \$100 value cap.

A gift, for purposes of ethics in government and financial disclosure required by law, is defined to include entrance fees, admission fees, or tickets to events, performances, or facilities as well as food and beverage. See § 112.312(12)(a) (2022). In accordance with § 112.3148(8), Fla. Stat. (2022), reporting individuals are required to file a statement disclosing gifts he or she believes to be valued in excess of \$100. An invitation to attend the Luncheon at MIASF's expense is legally a gift, however, the costs of attendance does not exceed \$100, therefore, under the Florida Code of Ethics you may accept the gift and are not required to disclose acceptance of the gift.

Please note that the Florida Commission on Ethics is the final authority on issues under the Florida Ethics Code, and this opinion cannot be relied upon vis à vis the Florida Commission on Ethics.

The Broward Ethics Code for Elected Officials, Section 1-19 does not provide a definition for "gift", however, the section provides that operative words are defined as follows:

"All operative words or terms used in this Elected Official Code of Ethics but not defined herein shall be as defined, in order of priority in the event of inconsistency, by Part III of Chapter 112, Florida Statutes, the Broward County Code of Ordinances, and the Broward County Administrative Code."

As previously stated, the definition of "gift" set forth in § 112.312(12)(a), Fla. Stat. (2022), includes entrance fees, admission fees, or tickets to events, performances, or facilities as well as food and beverage," however, §1-19(c)(1)(e) provides:

"e. When not otherwise permitted by this part (c)(1), "Acceptance of Gifts," the following items may be accepted to the full extent permissible under state law:

...

2. Training, including the payment or reimbursement of expenses incurred in connection therewith, provided the training relates to the Elected Official's public service. The receipt of such training is

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deemed to directly benefit the public on whose behalf the Elected Official serves;”

Except for newly elected officials' training and the annual training requirement, “training” is not defined in the Broward Ethics Code for Elected Officials. “A statute or ordinance must be given its plain and obvious meaning.” *Rinker Materials Corporation v. City of North Miami*, 286 So.2d 552 (Fla. 1973). The Merriam-Webster Dictionary defines “training” as “the act, process, or method of one that trains,” and “train” as “to teach so as to make fit, qualified, or proficient.”

It is my opinion that “training” includes attending forums, seminars, and other meetings at which attendees are informed on economic conditions, and that such training relates to your public service as a city commissioner.

The Florida Ethics Code does not prohibit acceptance of an invitation as the gift from a source other than a vendor or lobbyist and does not require reporting of the gift when the value does not exceed \$100. The Broward Ethics Code does not prohibit acceptance of an invitation and related expenses to attend trainings, such as the MIA SF Anchor Member Regional Economic Development Luncheon, related to your public service as a city commissioner.

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

If you have any questions or concerns, please let me know.