

File 2485A – December 17, 2008

POST-OFFICEHOLDING RESTRICTIONS

**FORMER HOUSE MEMBER SERVING AS COMMUNITY COLLEGE PRESIDENT
AND ON COUNCIL OF PRESIDENTS AND COMMUNICATING WITH
LEGISLATURE**

To: Melissa C. Miller, Executive Vice President/General Counsel, St. Johns River Community College

SUMMARY:

The Sunshine Amendment in Article II, Section 8(e), Florida Constitution, and Section 112.313(9)(a)3, Florida Statutes, prohibit a member of the Legislature from personally representing another person or entity for compensation before the Legislature for a period of two years following vacation of office. These provisions would prohibit a former member of the Florida House of Representatives currently serving as a community college president from engaging, for two years, in lobbying activities before the Legislature in behalf of the Community College. As the provisions prohibit the representation of "another person or entity," they would extend to governmental entities as well as private entities. The provisions would also prohibit the former member from lobbying in behalf of the Council of Presidents.

/

QUESTION 1:

Does the Sunshine Amendment to the State Constitution, Article II, Section 8(e), or Section 112.313(9)(a)3, Florida Statutes, prohibit a former House member serving as a community college president, from engaging in lobbying activities before the Legislature in behalf of the community college?

Your question is answered in the affirmative.

You write on behalf of Joe H. Pickens, a former member of the Florida House of Representatives who has recently been appointed President of the St. Johns River Community College ("College"). You advise that although the College employs a legislative liaison, the former member, as President, will "be expected to communicate with the law makers of the State about issues affecting the College and its ability to serve the citizens in our service area" You describe the former member's responsibilities with respect to legislative matters as "incidental to his other duties" in terms of time commitment and overall job responsibilities. However, you acknowledge that his communications with the Legislature "could involve matters of critical importance to the College."

Article II, Section 8(e), Florida Constitution, provides:

No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and

employees may be established by law. [E.S.]

Section 112.313(9)(a)3, Florida Statutes, enacted in 1991, reiterates this standard, stating:

No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit. [E.S.]

In CEO 81-57, after extensive analysis, we concluded that a former State Senator would be prohibited from accepting employment as Director of the Division of Hotels and Restaurants in the Department of Business Regulation within two years after leaving office, if that employment would require him to engage in lobbying activities before the Legislature in behalf of the Division. We also found there that because the prohibition only precluded the former Senator from "personally" representing the Division, he would not be prohibited from accepting such employment if the lobbying responsibilities were transferred to another person. Finally, we opined that Article II, Section 8(e) would not prohibit the former Senator from appearing before a committee or subcommittee of the Legislature at the request of the chairman as a witness or for informational purposes.¹

In CEO 90-4, we advised that a former member of the Florida House of Representatives who served as General Counsel to the Governor would be prohibited for two years from representing the Governor before the Legislature. Again, we concluded that he would not be prohibited from appearing before legislative committees when requested to do so by the

¹ In CEO 81-57, we also spoke to the issue of whether a former Legislator who was *elected* to another office would be subject to the prohibition. We found that he was not, saying, "We do not believe that an elected official is representing 'another person or entity' when approaching the Legislature in the fulfillment of his public duties."

chairman, where authorized by legislative procedures. We also opined that he would not be prohibited from appearing before an individual member of the Legislature at the member's request, to the extent that he would be providing a bona fide, good faith response to a request for information on a specific subject, and that the request was not directly or indirectly solicited by him.

The heart of the issue in each of these opinions was, as it is here, the question of whether the prohibition of the Sunshine Amendment included governmental entities through its use of the term "another person or entity." In CEO 81-57 we determined that it did, citing a number of reasons. First, we noted that the plain language of the provision itself—"another person or entity"—did not suggest that the provision would apply only to representations of private or nongovernmental entities. Second, we observed that the term "entity" as generally defined "is broad enough to include both private and governmental organizations." We noted,

Webster's Third New International Dictionary (1966) defines 'entity' at p. 758 as 'something that has objective or physical reality and distinctness of being and character [;] something that has a unitary and self-contained character.' An entity may be a corporate entity, a legal entity, a public entity, or a sovereign entity, among others. *See* 14A Words and Phrases, 395.

and we observed that the Legislature had implicitly recognized this by using the term "local or municipal government entity of this state," in its definition of "agency" in Section 112.312(2), Florida Statutes. Finally, we said

It is apparent from the explanatory flyer [to the Constitutional amendment] and from the language of the Constitution that the provision was intended to prevent influence peddling and the use of public office to create opportunities for personal profit through lobbying once an official leaves office. In the context of the Legislature, the provision seeks to preserve the integrity of the legislative process by ensuring that decisions of members of the Legislature will not be made out of regard for possible employment as lobbyists. Since legislative decisions

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affect those in the public sector as well as those in the private sector, it would seem to be equally important that legislative decisions not be colored by regard for future lobbying opportunities in behalf of public entities.

In addition, the provision recognizes that the influence and expertise in legislative matters gained through a legislator's public service would give the legislator a high value and a competitive advantage within the marketplace for lobbyists. These opportunities for personal profit exist within both the private and the public sector.

We reiterated this analysis in CEO 90-4, and added:

we are of the opinion that in the present context the Governor (or the Office of the Governor) constitutes 'another person or entity' within the contemplation of the Sunshine Amendment. In CEO 81-57 we concluded that the Sunshine Amendment's prohibition includes the representation of both public and private sector entities and that there are substantial reasons for not making such a distinction.

Although we recognize that in representing a governmental entity before the Legislature one ultimately is representing the interests of the people whom that governmental unit represents, we also recognize that public agencies represent a variety of interests, some of which compete with the interests of other public entities for the Legislature's attention. While the cities may want a particular bill to include a specific provision, the counties may not feel that such a provision is in their best interests. Although a local taxing authority may want certain powers included in its special act, the city or county in which the authority is located may have a different preference. These competing, but public, interests are represented before the Legislature, with each seeking the best representation available.

As expressed in Article II, Section 8, the overriding purpose of the Sunshine Amendment is to assure the people's right to secure and sustain the public trust exercised by public officials against abuse. We do not believe that the public trust is enhanced by a decision which would permit a legislator to leave the Legislature and set up a lobbying office through which he would personally represent cities, counties, or special taxing districts for a fee. In effect, we would be saying that a former legislator may lobby for whatever compensation he can obtain, so long as he limits his clientele. As noted in CEO 81-57, we believe that there is a market for public sector lobbyists as well as for those who lobby for private sector interests.

Clearly, your position and responsibilities as General Counsel for the Governor are very different from those of a lobbyist in private practice. However, under the criteria provided in the Sunshine Amendment, we do not believe that your situation may be distinguished from that of a former legislator who wishes to open a lobbying firm to represent only governmental agencies, in such a way as to allow you to continuously and personally engage in lobbying activities on behalf of the Governor. [E.S.]

In CEO 00-7, we spoke to the issue of whether Article II, Section 8(e), and Section 112.313(9)(a)3, prohibited the Secretary of the Department of Juvenile Justice, the Secretary of the Department of Health, the Director of the Division of Workers' Compensation, the Deputy Secretary of the Department of Elder Affairs, and the Assistant Secretary for Developmental Services, Department of Children and Families, each of whom had been members of the Legislature within the last two years, from appearing before the Legislature or legislators in the course of carrying out their official duties. We reemphasized our previous interpretation of the terms "person or entity," saying,

We remain persuaded that this is the appropriate interpretation of the terms "person or entity." In addition to the reasons stated in the previous opinions, we note that the same phrase is used in the second sentence of Article II, Section 8(e) – the in-office ban against members of the Legislature representing "another person or entity" before State agencies other than the courts. We can think of no reason why the same phrase should not be interpreted identically when it is used in two adjacent sentences in the Constitution that were drafted by the same persons and were adopted at the same time. Further, we note that we have applied the in-office ban to representing governmental entities before Executive Branch agencies, advising in CEO 85-83 that Article II, Section 8(e), would prohibit a State Representative from personally contacting State agencies other than judicial tribunals in behalf of municipal and county governmental clients that were seeking grants, and advising in CEO 81-12 that a State Representative could not personally represent a municipal housing authority before State agencies other than judicial tribunals.

Notwithstanding our reaffirmation of the principal that the phrase "another person or entity" would include governmental entities, in CEO 00-7 we receded from CEO 81-57 and CEO 90-4, viewing the subject former members of the Legislature as continuing their public service by moving into the Executive Branch of State government, either as public officers or as full-time public employees with substantial administrative responsibilities, for whom appearing before the Legislature was an incidental responsibility of their current public position. Similarly, in CEO 00-18, we advised a member of the Florida Senate that Article II, Section 8(e), and Section 112.313(9)(a)3, did not prohibit him from appearing before or communicating with the Legislature or legislators within two years of leaving the Senate, in the course of carrying out his official duties as Executive Director of the Office of Statewide Public Guardianship.

In both CEO 00-7 and 00-18 we said that certain policy considerations, specifically that the circumstances under review did not involve the use of the officials' public service careers and contacts developed in that capacity to enrich them at the expense of the public and did not present the appearance of influence peddling or the use of public office to create opportunities for personal profit through lobbying after leaving the Legislature, militated in favor of our findings. You have indicated in conversations with our staff that the same policy considerations apply here, and we do not dispute your representation. However, upon reflection, it appears to us that these "policy considerations" are in actuality matters of fact, and that in the context of an opinion, we are ill-equipped to make such factual findings. See generally, CEO 96-21 ("in issuing an advisory opinion, we are hindered by a lack of access to information concerning all the circumstances of the situation as well as to information concerning the credibility of the individuals involved. See CEO 92-19, CEO 91-28, and CEO 82-82") and see CEO 02-3, Questions 2-5. In addition, the very same policy considerations may apply equally to any

number of *private* post-officeholding employments which serve the public. The rationale of CEO 00-7 and CEO 00-18 leads to a slippery slope upon which we do not care to tread.

While we have no doubt that the former member here, like the members at issue in CEO 00-7 and CEO 00-18, is merely furthering a career of service to the public, it is clear to us that neither "opportunities for personal profit through lobbying after leaving the Legislature" nor the *potential* for influence peddling or the appearance thereof, are exclusive to situations where the employment held after legislative service involves lobbying for private entities. In the context of conflicts of interests we have often said that the prohibition does not hinge on the personal integrity of the individual, but is rather is prophylactic in nature. CEO 81-76, CEO 97-15. The same is true here; the prohibitions of Article II, Section 8(e) and Section 112.313(9) are clearly and directly stated, and are designed as preventive measures. As we said in CEO 81-57, "the provision seeks to preserve the integrity of the legislative process by ensuring that decisions of members of the Legislature will not be made out of regard for possible employment as lobbyists. Since legislative decisions affect those in the public sector as well as those in the private sector, it would seem to be equally important that legislative decisions not be colored by regard for future lobbying opportunities in behalf of public entities." For these reasons we recede from our opinions in CEO 00-7 and CEO 00-18, and return to our position, stated in CEO 81-57 and CEO 90-4, that former members are prohibited from representing, for compensation, another person or entity, be it public or private, before the Legislature for a period of two years following their leaving office.

Accordingly, we find that Article II, Section 8(e), Florida Constitution, and Section 112.313(9)(a)3, Florida Statutes, would prohibit the former member from representing the College before the Legislature for a period of two years after leaving office.

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QUESTION 2:

Does the Sunshine Amendment to the State Constitution, Article II, Section 8(e), or Section 112.313(9)(a)3, Florida Statutes, prohibit a former House member serving as a community college president from representing the Council of Presidents?

You write that the Council of Presidents (COP) is a voluntary organization comprised of 28 community college presidents. The organization adopts a legislative agenda and speaks before the Legislature on behalf of the 28 member colleges on matters such as the funding formula and policy. You relate that as President of the College, the former member is expected to participate in the COP, and that given his background, "it is understandable that he could take an active role in communicating with the Legislature on behalf of the system if not prohibited from doing so."

As the President's responsibilities with the COP come as part of his job responsibilities as President, we cannot say they are uncompensated. Therefore, given our answer in Question 1, your question is answered in the affirmative.

cc: Melissa C. Miller

VAD/CEF

[Copies of Commission on Ethics opinions referenced in this opinion may be obtained through the Commission's Internet web site: www.ethics.state.fl.us/ or by contacting the Commission on Ethics directly.]

File 2485B – December 17, 2008

POST-OFFICEHOLDING RESTRICTIONS

**FORMER HOUSE MEMBER SERVING AS COMMUNITY COLLEGE PRESIDENT
AND ON COUNCIL OF PRESIDENTS AND COMMUNICATING WITH
LEGISLATURE**

To: Melissa C. Miller, Executive Vice President/General Counsel, St. Johns River Community College

SUMMARY:

Article II, Section 8(e), Florida Constitution, and Section 112.313(9)(a)3, Florida Statutes, do not prohibit the president of a community college who has been a member of the Legislature within the last two years, from appearing before the Legislature or legislators in the course of carrying out his official duties. The provisions would prohibit the former member from lobbying in behalf of the Council of Presidents.

QUESTION 1:

Does the Sunshine Amendment to the State Constitution, Article II, Section 8(e), or Section 112.313(9)(a)3, Florida Statutes, prohibit a former House member serving as a community college president, from engaging in lobbying activities before the Legislature in behalf of the community college?

Your question is answered in the negative.

You write on behalf of Joe H. Pickens, a former member of the Florida House of Representatives who has recently been appointed President of the St. Johns River Community College ("College"). You advise that although the College employs a legislative liaison, the former member, as President, will "be expected to communicate with the law makers of the State about issues affecting the College and its ability to serve the citizens in our service area" You describe the former member's responsibilities with respect to legislative matters as "incidental to his other duties" in terms of time commitment and overall job responsibilities. However, you acknowledge that his communications with the Legislature "could involve matters of critical importance to the College."

Article II, Section 8(e), Florida Constitution, provides:

No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law. [E.S.]

Section 112.313(9)(a)3, Florida Statutes, enacted in 1991, reiterates this standard, stating:

No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit. [E.S.]

In CEO 00-7, we spoke to the issue of whether Article II, Section 8(e), and Section 112.313(9)(a)3, prohibited the Secretary of the Department of Juvenile Justice, the Secretary of the Department of Health, the Director of the Division of Workers' Compensation, the Deputy Secretary of the Department of Elder Affairs, and the Assistant Secretary for Developmental Services, Department of Children and Families, each of whom had been members of the Legislature within the last two years, from appearing before the Legislature or legislators in the course of carrying out their official duties. We receded from prior opinions CEO 81-57 and CEO 90-4, viewing the subject former members of the Legislature as continuing their public service by moving into the Executive Branch of State government, either as public officers or as full-time public employees with substantial administrative responsibilities, for whom appearing before the Legislature was an incidental responsibility of their current public position. Similarly, in CEO 00-18, we advised a member of the Florida Senate that Article II, Section 8(e), and Section 112.313(9)(a)3 did not prohibit him from appearing before or communicating with the Legislature or legislators within two years of leaving the Senate, in the course of carrying out his official duties as Executive Director of the Office of Statewide Public Guardianship.

In keeping with these prior opinions, we find that Article II, Section 8(e), Florida Constitution, and Section 112.313(9)(a)3, Florida Statutes, do not prohibit the former member from representing the College before the Legislature for a period of two years after leaving office.

QUESTION 2:

Does the Sunshine Amendment to the State Constitution, Article II, Section 8(e), or Section 112.313(9)(a)3, Florida Statutes, prohibit a former House member

serving as a community college president from representing the Council of Presidents?

Your question is answered in the affirmative.

You write that the Council of Presidents (COP) is a voluntary organization comprised of 28 community college presidents, staffed by the Florida Association of Community Colleges. The organization comes together to share information, formulate policies, and develop best practices. You advise that the COP also adopts a legislative agenda and speaks before the Legislature on behalf of the 28 member colleges on matters such as the funding formula and policy. You relate that as President of the College, the former member is expected to participate in the COP, and that given his background, "it is understandable that he could take an active role in communicating with the Legislature on behalf of the system if not prohibited from doing so."

A large part of the rationale of CEO 00-7 and CEO 00-18 was that by serving in another branch of state government, the former Legislators at issue were "continuing their public service." While it might be argued that the Council of Presidents and the FACC work in the public interest by representing the interests of community colleges, it cannot be said efforts on behalf of this independent, private organization constitute public service.

Accordingly, we find that the Sunshine Amendment to the State Constitution, Article II, Section 8(e), and Section 112.313(9)(a)3, Florida Statutes, prohibit a former House member serving as a community college president from representing the Council of Presidents before the Legislature for a period of two years after leaving office.

cc: Melissa C. Miller

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VAD/CEF

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MELISSA C. MILLER
EXECUTIVE VICE PRESIDENT
GENERAL COUNSEL

PALATKA CAMPUS
5001 ST. JOHNS AVENUE
PALATKA, FLORIDA
32177-3897
PHONE: (386) 312-4106
SUNCOM: 890-4106

ORANGE PARK CAMPUS
283 COLLEGE DRIVE
ORANGE PARK, FLORIDA
32065-7650
PHONE: (904) 276-6800

ST. AUGUSTINE CAMPUS
2990 COLLEGE DRIVE
ST. AUGUSTINE, FLORIDA
32084-1197
PHONE: (904) 808-7400

WEBSITE: sjrcc.edu

ST. JOHNS RIVER COMMUNITY COLLEGE
FLORIDA SCHOOL OF THE ARTS
CLAY, PUTNAM AND ST. JOHNS COUNTIES COOPERATING

December 9, 2008

COMMISSION ON ETHICS
DATE RECEIVED
DEC 12 2008

Mr. Phil Claypool
Executive Director and General Counsel
Florida Commission on Ethics
P.O. Drawer 15709
Tallahassee, FL 32317-5709

Dear Mr. Claypool,

I am writing to request an informal ethics opinion on behalf of Joe H. Pickens, who served in the Florida House of Representatives until November 4, 2008, and was appointed President of St. Johns River Community College on November 1, 2008, by the District Board of Trustees. Upon appointment as President of the College, Mr. Pickens became a full time public employee with substantial administrative responsibilities for the operation of the College as set forth in Section 1001.65 Florida Statutes. He also became a member of the Florida College System's Council of Presidents. As part of his duties as President, Mr. Pickens would be expected to communicate with the law makers of the State about issues affecting the College and its ability to serve the citizens in our service area as well as on behalf of the Florida College System and the Council of Presidents. I would add that the College has a current staff member whose duties include acting as legislative liaison, and Mr. Pickens's role in legislative matters will be incidental to his other duties.

The opinion I request relates as to whether the restrictions contained in Article II Section 8(e) Florida Constitution and Section 112.313 (9) (a) 3 Florida Statutes would prohibit Mr. Pickens from appearing before or communicating with the Legislature, individual Legislators or House and Senate staff 1) as part of his duties as College President and 2) on behalf of the Council of Presidents and/or the Florida College System. CEO 00-7 and CEO 00-18 would appear to provide support for an opinion that Mr. Pickens would not be prohibited from appearing before or communicating with the Legislature, and we are also aware that they did not apply to two former members who served with Mr. Pickens and subsequently became public school Superintendents. Currently, Mr. Pickens is adhering strictly to the above-cited restrictions due to his uncertainty as to their application to his position.

If you are unable to handle this as an informal opinion, please consider this as a request for a formal opinion. You can reach me at (386) 312-4106 College, (352) 214-5859 cell or email melissamiller@sjrcc.edu. Thank you for the assistance your office has rendered to me with this request.

Sincerely,

Melissa C. Miller
Executive Vice President/General Counsel

cc: President Pickens

MCM/tm

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DOSS.VIRLINDIA

From: Miller, Melissa [MelissaMiller@sjrcc.edu]
Sent: Thursday, December 18, 2008 9:00 AM
To: DOSS.VIRLINDIA
Subject: RE: Opinion request

Dear Ms. Doss,

I have received your email. I will gather the information you requested and provide it to you as soon as possible. Thanks for your assistance with this matter.

Melissa

Melissa C. Miller

Executive Vice President/General Counsel
St. Johns River Community College
5001 St. Johns Ave.
Palatka, Florida 32177
386-312-4106, 386-312-4229 (fax)
www.sjrcc.edu

From: DOSS.VIRLINDIA [mailto:DOSS.VIRLINDIA@leg.state.fl.us]
Sent: Wednesday, December 17, 2008 5:18 PM
To: Miller, Melissa
Subject: Opinion request

Dear Ms. Miller:

I think when we talked on the phone, we discussed that this request might have to go the formal opinion route, and indeed we are going to do it as a formal. To get that accomplished for the January 23 meeting, all of my work must be completed and signed off on by our Executive Director by January 6. I think we can get it done, but I do need to get more information from you, as follows:

As to representing the College:

-In your letter you state, "CEO 00-7 and 00-18 would appear to provide support for an opinion that Rep. Pickens would not be prohibited from appearing before or communicating with the Legislature, and we are also aware that they did not apply to two former members who served with Rep. Pickens and subsequently became public school Superintendents." I do not understand your reference to the school Superintendents—are you referring to a Commission opinion or complaint? If so, could you please identify it for me?

-When you say that Rep. Pickens' "role in legislative matters will be incidental to his other duties," what do you mean? It seems that such involvement could be "incidental" in the sense that it does not involve a large time commitment or is a small percentage of one's overall duties, but could be very significant in that it could involve matters of critical importance to the College. If there is a position description, it would be helpful.

As to representing the Council of Presidents:

-What is the "Florida College System's Council of Presidents?"

-Does Rep. Pickens hold office in that organization or serve on its Board of Directors?

-Is he expected to participate in that organization as a part of his responsibilities as Community College President?

-What are Rep. Pickens' responsibilities with regard to the Council of Presidents?

-What will Mr. Pickens' responsibilities be in lobbying the Legislature on behalf of the Council of Presidents?

-Does the Council employ lobbyists? If so, are they in-house (employees) or contract?

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Thanks for your help. I will warn you in advance that I may have more questions as I get further into researching and drafting the opinion. I'd appreciate it if you would respond just to let me know you received this e-mail. And of course, call me if you have any questions.

Virlindia Doss
(850) 488-7864

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DOSS.VIRLINDIA

From: Miller, Melissa [MelissaMiller@sjrcc.edu]
Sent: Friday, December 19, 2008 3:35 PM
To: DOSS.VIRLINDIA
Subject: opinion request
Attachments: DOC001.PDF

Dear Ms. Doss,

In response to your request for additional information or clarification, I offer the following:

When I referred to the prohibition not applying to legislators who served with Mr. Pickens and subsequently became elected school superintendents, this information came from Mr. Pickens himself who informed me that two former legislators, then current superintendents, had communicated with him. When Mr. Pickens questioned one of the individuals, he was informed that the prohibition did not apply to elected superintendents. I am unaware of any opinion or complaint related to this matter.

You are correct in your statement that my use of the term incidental is used to indicate that it would not be a large time commitment. It is also meant to indicate that it is only a part of the duties that Mr.

Pickens has assumed as President. We acknowledge that Mr. Pickens' communication with the Legislature could involve matters of critical importance to the College. I am attaching a description of duties for our College President. This description tracks Section 1001.65, Florida Statutes.

The Council of Presidents (COP), is a voluntary organization comprised of 28 community college presidents (some of which have recently changed their names to "College" or "State College"). The COP adopts a legislative agenda and does purport to speak for the 28 member colleges before the Legislature. In furtherance of this communication, the Presidents appoint a member to speak to the Legislature on behalf of the Council. Mr. Pickens does not hold office in the COP but as a member, by virtue of his office, he is expected to participate in COP activities on behalf of SJRCC. Because of Mr. Pickens' legislative background, it is understandable that he could take an active role in communicating with the Legislature on behalf of the system if not prohibited from doing so.

The COP does not employ lobbyists, the Presidents communicate with the Legislature on behalf of their own Colleges and on behalf of the system as a whole. The COP is active in communicating the system's position on matters such as the funding formula and policy.

We are closing for the Holidays this afternoon. If you need anything before our return on January 5, 2009, call me on my cell phone at 352-214-5859. I'll check email periodically during our time off. I hope you have a good Holiday Season.

Melissa C. Miller
Executive Vice President/General Counsel St. Johns River Community College
5001 St. Johns Ave.
Palatka, Florida 32177
386-312-4106, 386-312-4229 (fax)
www.sjrcc.edu

-----Original Message-----

From: ExecutiveOfficeXerox@sjrcc.edu
[mailto:ExecutiveOfficeXerox@sjrcc.edu]
Sent: Friday, December 19, 2008 10:28 AM
To: Miller, Melissa

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Subject: Scan from a Xerox WorkCentre

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The President is the chief executive officer of St. Johns River Community College and shall be Corporate Secretary for the District Board of Trustees. He or she is responsible to the District Board of Trustees for the operation and administration of St. Johns River Community College and, as such, the President shall:

- 1) Recommend the adoption of rules, as appropriate, to the College's Board of Trustees to implement provisions of law governing the operation and administration of the College, which shall include the specific powers and duties enumerated in this section. Such rules shall be consistent with law, the mission of St. Johns River Community College and the rules and policies of the State Board of Education [FS 1001.65 (1)].
- 2) Prepare a budget request and an operating budget pursuant to FS 1011.30 for approval by the Board of Trustees at such time and in such format as the State Board of Education may prescribe [FS 1001.65(2)]
- 3) Establish and implement policies and procedures to recruit, appoint, transfer, promote, compensate, evaluate, reward, demote, discipline, and remove personnel, within law and rules of the State Board of Education and in accordance with rules or policies approved by the Board of Trustees [FS 1001.65 (3)].
- 4) Govern admissions, subject to law and rules or policies of the Board of Trustees and the State Board of Education [FS 1001.65 (4)].
- 5) Approve, execute, and administer contracts for and on behalf of the Board of Trustees for licenses; the acquisition or provision of commodities, goods, equipment, and services; leases of real and personal property; and planning and construction to be rendered to or by the College, provided such contracts are within law and guidelines of the State Board of Education and in conformance with policies of the Board of Trustees, and are for the implementation of approved programs of St. Johns River Community College [FS 1001.65 (5)].
- 6) Act for the Board of Trustees as custodian of all College property and financial resources. The authority vested in the President under this subsection includes the authority to prioritize the use of College space, property, equipment, and resources and the authority to impose charges for the use of those items [FS 1001.65 (6)].
- 7) Establish the internal academic calendar of the College within general guidelines of the State Board of Education [FS 1001.65 (7)].

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- 8) Administer the College's program of intercollegiate athletics [FS 1001.65 (8)].
- 9) Recommend to the Board of Trustees the establishment and termination of programs within the approved role and scope of the College [FS 1001.65 (9)].
- 10) Award degrees [FS 1001.65 (10)].
- 11) Recommend to the Board of Trustees a schedule of tuition and fees to be charged by St. Johns River Community College, within law and rules of the State Board of Education [FS 1001.65 (11)].
- 12) Organize the College to efficiently and effectively achieve the goals of St. Johns River Community College [FS 1001.65 (12)].
- 13) Review periodically the operations of the College in order to determine how effectively and efficiently the College is being administered and whether it is meeting the goals of its strategic plan adopted by the State Board of Education [FS 1001.65 (13)].
- 14) Enter into agreements for student exchange programs that involve students at St. Johns River Community College and students in other institutions of higher learning [FS 1001.65 (14)].
- 15) Approve the internal procedures of student government organizations and provide purchasing, contracting, and budgetary review processes for these organizations [FS 1001.65 (15)].
- 16) Ensure compliance with federal and state laws, rules, regulations, and other requirements that are applicable to the College [FS 1001.65 (16)].
- 17) Maintain all data and information pertaining to the operation of St. Johns River Community College, and report on the attainment by the College of institutional and statewide performance accountability goals [FS 1001.65 (17)].
- 18) Certify to the Florida Department of Education Office of Educational Facilities a project's compliance with the requirements for expenditure of PECO funds prior to release of funds pursuant to the provisions of Chapter 1013, FS [FS 1001.65 (18)].
- 19) Provide to the law enforcement agency and fire department that has jurisdiction over the campuses and centers of St. Johns River Community College a copy of the floor plans and other relevant documents for each educational facility as defined in FS 1013.01(6). After the initial submission of the floor plans and other relevant documents, the President shall submit, by October 1 of each year, revised floor plans and other relevant documents

for each educational facility that was modified or added during the preceding year [FS 1001.65 (19)].

- 20) Establish a committee to consider requests for waivers from the provisions of FS 1008.29 (College-level Academic Skills Test) and approve or disapprove the committee's recommendations [FS 1001.65 (20)].
- 21) Develop and implement jointly with school superintendents a comprehensive articulated acceleration program, including a comprehensive inter-institutional articulation agreement pursuant to the provisions of FS 1007.235 [FS 1001.65 (21)].
- 22) Have authority, after notice to the student of the charges and after a hearing thereon, to expel, suspend, or otherwise discipline any student who is found to have violated any law, ordinance, or rule or regulation of the State Board of Education or of the Board of Trustees of St. Johns River Community College pursuant to the provisions of FS 1006.62 [FS 1001.65 (22)].
- 23) Submit an annual employment accountability plan to the Department of Education pursuant to the provisions of FS 1012.86 [FS 1001.65 (23)].
- 24) Annually evaluate, or have a designee annually evaluate, each department chairperson, dean, provost, and vice president in achieving the annual and long-term goals and objectives of the St. Johns River Community College's employment accountability plan [FS 1001.65 (24)]
- 25) The President (or his designee) is vested with the authority that is vested with St. Johns River Community College [FS 1001.65 (25)].

DOSS.VIRLINDIA

From: Miller, Melissa [MelissaMiller@sjrcc.edu]
Sent: Monday, January 05, 2009 9:08 AM
To: DOSS.VIRLINDIA
Subject: RE: Follow-up

Virlindia,

I'm sorry. I didn't get your message until this morning. Computer issues. I'll try to call you now. Melissa

Melissa C. Miller

Executive Vice President/General Counsel
St. Johns River Community College
5001 St. Johns Ave.
Palatka, Florida 32177
386-312-4106, 386-312-4229 (fax)
www.sjrcc.edu

From: DOSS.VIRLINDIA [mailto:DOSS.VIRLINDIA@leg.state.fl.us]
Sent: Friday, January 02, 2009 3:30 PM
To: Miller, Melissa
Subject: FW: Follow-up

Hi Ms. Miller,

If you've already responded to the questions below, I apologize, they must have caught in our Spam-blocker. If you've already responded, could you please re-send, and if not, could you get back to me as soon as possible? Thanks, and Happy New Year.

Virlindia Doss

From: DOSS.VIRLINDIA
Sent: Monday, December 22, 2008 2:51 PM
To: 'melissamiller@sjrcc.edu'
Subject: Follow-up

Thank you for being so prompt. I hate to bother you over the holiday, but I have a follow-up about the Council of Presidents.

Is this an independent corporate entity? I tried to do some on-line research and the only Council of Presidents I found appears to be part of the Florida Association of Community Colleges. According to its website, the FACC also has a legislative committee, and it looks like this committee and the Chair of the Presidents Council brief the Trustees at their annual Legislative Conference. Here's a quote from the page about that conference:

The Trustees' Legislative Workshop is generally held in January or February in Tallahassee depending on hotel availability. The Conference is designed to brief community college trustees on the Legislative Budget Request and the legislative agenda prior to the opening of the Legislative Session in March. Day one of the conference typically includes presentations by the Chair of the Trustees Commissions, the Chancellor of the Community College System, the Council of Presidents chair, the Policy and Advocacy Chair, the FACC CEO, the chair of the legislative committee and the contract lobbyists. Day two typically includes sessions with the Speaker of the House, the Senate President, and other legislative leadership in the House or Senate Chambers.

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I'm trying to get a sense of how those all work together, and who the contract lobbyists are that the paragraph refers to work for. Is the Council a separate entity from the FACC? How does the Council interact with the FACC's legislative committee? If the FACC has lobbyists, are they working in tandem with the Council of Presidents, or are they dealing with separate issues?

Thanks for your help,

Virlindia

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