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February 14, 2002

Dean Taylor, Sr.
Director
Department of Human Services
111 N.W. First Street
Suite 2210
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION 02-06

Dear Mr. Taylor:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on February 13, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any conflicts created by an employee's spouse receiving voucher payments for childcare services by the Department of Human Services.

In your letter, you advised the Commission that Robert Woodson, operates Rainbow World Learning Center. The Center provides services to some parents who receive subsidized childcare through the county. Under the voucher program, the county certifies that the parent is eligible for assistance for childcare. The parent is then issued a voucher for childcare services and may use any facility or person willing to provide the service. The county does not provide any oversight of the person or facility selected. Moreover, the county does not contract with either the parent or the center regarding the childcare. On a monthly basis, the childcare facility is

paid directly by the Department of Human Services for the voucher amount.

Marie Woodson has recently been promoted to an administrative position with the Director of the Child Development Services Division of the Department of Human Services. In this capacity, Marie Woodson will provide administrative support related to personnel, budget, policy and other administrative issues. Marie Woodson will have no involvement with the voucher program.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits Rainbow Learning Center to receive voucher payments from the Department of Human Services. Section 2-11.1(d) of the Code of Miami-Dade County provides that a county employee may not "enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he has a controlling financial interest, direct or indirect with Dade County or any person or agency acting for Dade County and any such contract, agreement or business engagement entered in violation of this subsection shall enter the transaction voidable." The ordinance defines "transact any business" as purchase or sale by the County of specific goods or services for a consideration. Rainbow World Learning Center is not contracting with the county or transacting business with the county defined in the ordinance. Since the business arrangement is between the parent and the center rather than the center and the county, the center is not contracting or transacting business.

Since there is no contract between the Center and the county, the provision of Section 2-11.1 (c) creating limited exclusions for contracting by employees do not apply. Section 2-11.1 (c) provides that "Notwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee...from

entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County as long as 1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, 2) the employee has not participated in determining the subject contract awards or awarding the contract, and 3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including but not limited to its enforcement, oversight, administration." Even though the owner's wife works for the department that issues the payment, the provisions do not apply because the company is not contracting with the county.

Therefore, the Conflict of Interest and Code of Ethics ordinance permits Rainbow World Learning Center to receive voucher payments from the county. Since the center does not contract or transact business with the county, the provisions of 2-11.1 (d) do not apply and it may receive payment.

This opinion construes the Miami-Dade 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 if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Ardyth Walker, Staff General Counsel at (305) 350-0616 or the undersigned at (305) 579-2594.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director