



April 15, 2010

FILE COPY

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Julie Edwards
Executive Director
Community Action Agency
701 N.W. First Court
Miami, FL 33136

RE: REQUEST FOR ADVISORY OPINION-RQO 10-7

Dear Mrs. Edwards:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 14, 2010 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Head Staff members may employ families members in agencies funded by the agency. The agreement between Miami-Dade County and the delegate agencies requires delegate agencies to comply with pertinent sections of the Conflict of Interest ordinance.

In your request, you advised the Commission that the Community Action Agency is responsible for administering the Head Start program for Miami-Dade County. CAA contracts with other head start providers, called delegate agencies, to provide services throughout the community. CAA is responsible for funding, providing technical assistance and monitoring for compliance with applicable rules and regulations.

I. O'FARRILL LEARNING CENTER

One of the delegate agencies, O'Farrill Learning Center was cited during a recent federal review for violating the section

regarding family relationships.¹ O'Farrill's Executive Director had employed her daughter despite the fact that the center's personnel policy provided that "no person shall hold a job where a member of his or her immediate family has exercises supervisory authority." After the federal review, the Executive Director resigned. However, in 2009, the niece and nephew of the Executive Director were disclosed as being employed as a fiscal clerk and early childhood coordinator respectively.

The Ethics Commission found the Conflict of Interest and Code of Ethics ordinance permits the agency to employ the niece and nephew of the Executive Director as long as the employment was secured as a result of a competitive process. Under the ordinance, as under the federal law, a director may not use his or her official position to favor immediate family members or secure their employment. However, the Conflict of Interest ordinance does not prohibit employment. Therefore, O'Farill may employ the niece and nephew of the Executive Director as long as the employment is a result of a competitive process and the Executive Director is not involved in the selection.

II. LANDOW YESHIVA

Landow Yeshiva is a delegate agency that is operated by a temple. The rabbi serves as Executive Director. Several of the rabbi's relatives serve on the Board of Directors including the vice-president, secretary and one of the officers. The rabbi's sister-in-law is employed by the center. In 1993, the County Attorney's office opined that Landow was "in substantial compliance" with federal regulations despite the organizational chart. The County Attorney's opinion noted that "the

¹ Head start regulations provide that " Head Start agencies and delegate agencies shall conduct the Head Start program in an effective and efficient manner, free or political bias or family favoritism. 45 C.F. R. 1301.30(2009)

unique characteristics and requirements of employees result in a very limited pool of potential staff."

The Ethics Commission found the Conflict of Interest and Code of Ethics ordinance permits Landow Yeshiva to employ the sister-in-law of the Executive Director and any board members as long as the sister in law was selected during a competitive process. As the County Attorney noted and Head Start regulations permit, Landow Yeshiva may require that employees be knowledgeable about the heritage and culture of their students. Although such requirements may reduce the potential pool of employees, Landow must use a competitive process to select employees. Further, the Executive Director and the board members may not use their position to secure employment for a family member. However, if the rabbi's sister-in-law is chosen as a result of a competitive process, the Conflict of Interest ordinance permits Landow to employ her.

The Conflict of Interest ordinance permits delegate agencies to employ family members as long any hiring is done through a competitive process and the family members are not involved in the hiring process.

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 the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS
Executive Director