



FILE COPY

April 15, 2010

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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 10-11

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 a Commissioner's sibling may serve as an employee of Head Start. The Board of County Commissioners (BCC) serves as governing body for the Head Start program. You are also seeking an opinion regarding whether a member of the CAA board may have a daughter employed by Head Start. The CAA Board also has authority regarding the Head Start program.

In your request, you advised the Commission that the Community Action Agency is responsible for operating the Head Start program. Miami-Dade County is a Head Start grantee and operates several centers throughout Miami-Dade County. Under the federal agreements, the Board of County Commissioners serves as the governing board for the Head Start program. As the governing body, the BCC has legal and fiscal responsibility for administering and overseeing all programs; is responsible for signing all grant agreements between Miami-Dade County and the federal government; is required to approve all contracts with delegate agencies and is responsible for

ensuring that all programs are in compliance with Head Start rules and regulations.

Last year, the BCC delegated certain oversight functions to the CAA Board. Pursuant to the ordinance, the CAA board is responsible for collecting and accessing information regarding Head Start policies and operations; approving and reviewing the budget and financial expenditures subject to BCC final approval; reviewing and approving the implementation of any corrective plans resulting from federal monitoring and providing information regarding selection and recruitment of children for Head Start Centers. The CAA Board participates in personnel decisions including hiring and dismissal.

A sibling of a county commissioner serves as a teacher at one of the Head Start centers. The sibling's employment predates the commissioner's election to the Board of County Commissioners. The commissioner was not involved in any way in the hiring or retention of the family member.¹

A member of the CAA board has a daughter that serves as a teacher for Head Start. The board member serves as a member of the Community Advisory Committee (CAC) for the Brownsville area. Pursuant to federal law, at least one third of the members of the full CAA board must be representatives from community advisory committees.

Federal law contains an exemption from the requirement that family members of immediate family may not be employed where the members of the governing board serve in an ex-officio capacity. The applicable regulation only requires disclosure by the grantee to the Office of Head Start.

¹ A sibling is not immediate family under the Conflict of Interest ordinance. Section 2-11.1 (b)(9) defines immediate family as spouse, parents and children.

The Ethics Commission found the Conflict of Interest and Code of Ethics ordinance permits the Commissioner's sibling to serve as a teacher for a Head Start program. Further, the Commissioner does not have a voting conflict in regard to the sibling's service as a Head Start teacher.

Section 2-11.1(d) of the Code of Miami-Dade County prohibits county commissioners from voting or participating in any way in any matter presented to the Board of County Commissioner if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee fiduciary or beneficiary or (ii) stockholder, bondholder, debtor or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any commissioner who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the commission meeting during the discussion of the subject item and shall not vote on or participate in any way in said manner.

The Commissioner would not profit or be enhanced in any way, directly or indirectly, by the sibling's service as a teacher for a Head Start program. Further, the Commissioner will not be affected in a unique way from any decision regarding the program. Therefore, the Commissioner does not have a voting conflict regarding the program.

The Conflict of Interest and Code of Ethics ordinance further permits an immediate family member of the CAA Board Member to serve as a teacher for the agency. However, Section 2-

11.1(n) (actions prohibited when financial interests involved) would prohibit the member from voting on the budget for the agency that employs an immediate family member (spouse, parents and children) or on any personnel decisions that would directly or indirectly affect an immediate family member. Finally, the board member is prohibited from using his or her official position for the benefit of himself or herself or a third party.

Therefore, the Conflict of Interest ordinance permits the employment of family members of the Board of County Commissioners and the CAA Board. The Commissioner is also permitted to vote on matters related to the Head Start program but the CAA board member is prohibited from making decisions directly or indirectly affecting the financial interests of an immediate family member.

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