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February 6, 2002

ADVISORY OPINION NO. 2002-10

M. A. Morrison, MS, ALC
Executive Director
Child Advocacy Center
Gadsden-Etowah County
P.O. Box 713
Gadsden, Alabama 35902-0713

Conflict Of Interest/Executive Director Of
Child Advocacy Center Of Gadsden-Etowah
County Being Certified To Provide
Rehabilitative Services Through The
Calhoun County Department Of Human
Resources.

The Executive Director of the Child
Advocacy Center for the Gadsden-Etowah
County area may be certified to provide
rehabilitative services with the Calhoun
County Department of Human Resources, as
his jurisdiction and duties with the Gadsden-
Etowah County Child Advocacy Center do
not extend into Calhoun County.

Dear Mr. Morrison:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May the Executive Director of the Child Advocacy Center of Gadsden-Etowah County, a private, non-profit organization, be certified to provide rehabilitative services through the Calhoun County Department of Human Resources?

FACTS AND ANALYSIS

The facts as have been provided to this Commission are as follows:

Michael A. Morrison is a licensed therapist and currently serves as the Executive Director of the Child Advocacy Center of Gadsden-Etowah County. The Child Advocacy Center is a private, non-profit organization which serves to ease the trauma for children reported as victims of sexual and severe physical abuse. This is done by providing a home-like atmosphere and reducing the number of interviews during the investigative and referral process.

The Child Advocacy Center collaborates with local law enforcement and the Etowah County Department of Human Resources to provide services such as forensic interviews, forensic evaluations, and counseling to the children and families who have been sexually or severely physically abused.

Mr. Morrison possesses a Masters of Science Degree in Counseling; however, his duties with the Child Advocacy Center are strictly administrative.

The Alabama Network of Child Advocacy Centers is made up of 23 independent Centers in Alabama. Although some Centers have jurisdiction in multiple counties, the Gadsden Center's jurisdiction ends in Etowah County. It is a private, non-profit organization.

Mr. Morrison has recently applied with the Calhoun County Department of Human Resources to be certified in rehabilitative services. The Calhoun County Department of Human Resources, before granting a certification, requested that Mr. Morrison determine whether or not a conflict of interest exists between his current employment and his certification with the Calhoun County Department of Human Resources.

If certified with the Calhoun County Department of Human Resources, he will be compensated on a per-case basis.

Mr. Morrison further states that there is no interaction between the Child Advocacy Center of Gadsden-Etowah County and the Calhoun County Department of Human Resources.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(23) defines a public employee as:

"(23) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

Section 36-25-1(8) defines a conflict of interest as:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

Section 36-25-5(a) states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-5(c) states:

"(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the

public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy.”

A conflict of interest does not exist in the facts as presented as, firstly, there is no interaction between the Calhoun County Department of Human Resources and the Child Advocacy Center of Gadsden-Etowah County and, secondly, because Mr. Morrison provides no services and has no jurisdiction through the Child Advocacy Center in Calhoun County.


Based on the facts as provided and the above law, the Executive Director of the Child Advocacy Center for the Gadsden-Etowah County area may be certified to provide rehabilitative services with the Calhoun County Department of Human Resources, as his jurisdiction and duties with the Gadsden-Etowah County Child Advocacy Center do not extend into Calhoun County.

CONCLUSION

The Executive Director of the Child Advocacy Center for the Gadsden-Etowah County area may be certified to provide rehabilitative services with the Calhoun County Department of Human Resources, as his jurisdiction and duties with the Gadsden-Etowah County Child Advocacy Center do not extend into Calhoun County.

AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on February 6, 2002.



Lewis G. Odom, Jr., Esq.
Chair
Alabama Ethics Commission