

**IOWA DEPARTMENT OF EDUCATION  
(Cite as 27 D.o.E. App. Dec. 805)**

---

*In re 21<sup>st</sup> Century Grant Funding* :  
The Boys and Girls Club of Cedar Valley, : **DECISION**  
Petitioner, :  
vs. :  
Iowa Department of Education, : [Admin. Doc. #5040]  
Respondent. :

---

The above-captioned matter was heard telephonically on May 3, 2016, before Director Ryan M. Wise. The Petitioner, the Boys and Girls Club of Cedar Valley (“BGCCV”) was represented by Chuck Rowe (“Mr. Rowe”), who is the Chief Executive Officer of BGCCV. Vic Jaras, an Education Program Consultant (“Mr. Jaras”) in the Division of Learning and Results (“DLR”), was represented by Thomas Mayes, an Attorney for DLR. Also present was Dave Tilly, Deputy Director for DLR and Nicole M. Proesch, Legal Counsel for the Office of the Director.

BGCCV collaborates with the Waterloo Community School District (“WCSD”) and other partners to operate a 21<sup>st</sup> Century Community Learning Center Program in Waterloo, Iowa through a competitive grant. The program currently provides afterschool and summer programs for students in grades K-5 from the Cunningham School in WCSD and Sacred Heart Catholic School. The 21<sup>st</sup> Century Grants are a federally funded initiative authorized under No Child Left Behind Act, Public L. 107-110, § 4204 and are awarded through a competitive grant process. Iowa Administrative Code 281 – 7 governs criteria for grants and the grant application process.

At issue in this appeal is the Department’s denial of BGCCV’s application for a new application for the 21<sup>st</sup> Century Community Learning Centers grant (“21<sup>st</sup> Century Grant”) after the competitive grant process. The parties both presented evidence and testimony at the hearing. There were no objections to any exhibits by either side.

**FINDINGS OF FACT**

In September of 2015 a Request for Application (“RFA”) for the 21<sup>st</sup> Century Grant was available on the Iowa Department of Education’s Website and an information letter was issued. The purpose of the grant is to provide opportunities for communities to establish or expand activities in community learning centers that provide enrichment, offer additional services to families, and provide opportunities for educational development. A letter of intent to apply for the grant was due on October 30, 2015, and

new grant applications were due on December 11, 2015. Education Program Consultant Vic Jaras (“Mr. Jaras”) was listed as a point of contact in the RFA for applicants if they have questions. Mr. Jaras has been a consultant in the department since 2008 and he has been working on the 21<sup>st</sup> Century Grant since 2012.

In September and December of 2015 grant technical assistance meetings were held across the state to provide aid to the development of grant applications. During those meetings Mr. Jaras provided information to applicants that there would be no more continuation grants under the new RFA because grantees were under the impression that they were receiving a ten year grant when, in fact, the grant cycle is a five year cycle.<sup>1</sup> The U.S. Department of Education requested the Department to phase out this practice<sup>2</sup> and establish a single grant cycle for all grants. Instead, the new grant cycle would provide three years of funding and then a progress monitoring visit approves an additional two years of funding at 75% with a maximum of five years of funding for the new grant cycle. Previous grantees were asked to provide a new application with new evidence and support for their applications.

In the spring of 2015, Mr. Rowe reached out to Mr. Jaras and asked him how to apply for a continuation of the original grant. BGCCV has been a grantee under its original grant application for a 21<sup>st</sup> Century Grant since 2011. BGCCV received \$75,000.00 during its first year of funding and \$50,000.00 for each additional year for its 21<sup>st</sup> Century Program, however, BGCCV is in its final year of a five year grant cycle. Mr. Jaras advised him not to apply for a continuation of the grant and to make a new application. He encouraged him to serve more students under the grant. Mr. Rowe testified he felt like Mr. Jaras was pushing his own agenda on him and encouraging them to apply for a new grant and not a continuation grant like they requested. Mr. Rowe had several conversations with Mr. Jaras about applying for a new grant instead of a continuation grant. Despite concerns that were raised by BGCCV grant writers about writing a new grant and possible supplanting issues, BGCCV submitted a new grant application on December 10, 2015. Mr. Rowe insists the new application was submitted based on Mr. Jaras’ insistence that they apply for a new grant. The new grant application was to serve 120 students at a cost of \$219,000.00 a year with a total three year funding request of \$657,000.00. Mr. Rowe admitted the application they submitted was essentially a carbon copy of the same application they had submitted in previous years with a few minor adjustments.

On March 24, 2016, BGCCV received a letter notifying them that their grant application had been denied. When BGCCV received grant scores back from the Department, Mr. Rowe was surprised by how many scorers made notations regarding possible supplanting issues in the application. Mr. Rowe believes the issues noted with supplanting were caused because BGCCV was encouraged to submit a new application rather than a continuation of the current grant. Mr. Rowe also believes that this had a negative impact on their overall score and caused them not to receive the grant.

---

<sup>1</sup> Exhibit 3.

<sup>2</sup> The state was cited for this in 2013 as a violation under federal regulations.

Mr. Rowe contacted Mr. Jaras regarding these concerns and Mr. Jaras defended the process and the scoring. Mr. Rowe indicated in previous years Mr. Jaras had commented that their grant application was great and therefore, he could not understand why it did not pass this year. Mr. Jaras advised them to apply again next year. BGCCV argued at the hearing that Mr. Jaras should not have provided them his own personal advice during the grant process and to do so was a conflict of interest under the law rendering the decision unfair.

Mr. Jaras testified at the hearing that he is not currently employed by any of the grant applicants, he has no investments or partnerships with any grant applicant, and he has not received any cash payments, payment of other debts or finances, or gifts from any of the applicants. He also testified that his family is not employed by any of the applicants, nor have they received any gifts. BGCCV did not offer any evidence to the contrary. Mr. Jaras also testified that a consideration that is made in awarding the grant is the number of children that will be served by the applicant. Thus, if an applicant can serve more children they are encouraged to do so.

### CONCLUSIONS OF LAW

BGCCV does not dispute the score provided by the scorers who reviewed the grant application. Nor do they dispute the scoring process so we will not review that as an issue here. However, BGCCV argues that Mr. Jaras should not have pushed his own agenda on them and encouraged them to write a new grant application instead of a continuation grant which resulted in them receiving lower scores due to issues with supplanting. BGCCV argues this is a conflict of interest under Iowa Administrative Code rule 281 – 7.5 which states in pertinent part:

*Appeals must be in writing and received within ten working days of the date of notice of decision and must be based on the contention that the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved a conflict of interest by staff or committee members.*

Iowa Admin. Code r. 281 – 7.5 (emphasis added).

Conflicts of interests for governmental employees are governed by Iowa Code section 68B.2A(1). This section provides that:

1. Any person who serves or is employed by the state or a political subdivision of the state shall not engage in any of the following conduct:
  - a. Outside employment or an activity that involves the use of the state's or the political subdivision's time, facilities, equipment, and supplies or the use of the state or political subdivision badge, uniform, business card, or other evidences of office or employment to give the person or member of the person's immediate family an advantage or pecuniary benefit that is not available to other similarly situated members or classes of members of the general public. This paragraph does not apply

to off-duty peace officers who provide private duty security or fire fighters or emergency medical care providers certified under chapter 147A who provide private duty fire safety or emergency medical services while carrying their badge or wearing their official uniform, provided that the person has secured the prior approval of the agency or political subdivision in which the person is regularly employed to engage in the activity. For purposes of this paragraph, a person is not "similarly situated" merely by being or being related to a person who serves or is employed by the state or a political subdivision of the state.

- b. Outside employment or an activity that involves the receipt of, promise of, or acceptance of money or other consideration by the person, or a member of the person's immediate family, from anyone other than the state or the political subdivision for the performance of any act that the person would be required or expected to perform as a part of the person's regular duties or during the hours during which the person performs service or work for the state or political subdivision of the state.
- c. Outside employment or an activity that is subject to the official control, inspection, review, audit, or enforcement authority of the person, during the performance of the person's duties of office or employment.

Iowa Code § 68B.2(1).

At the hearing, Mr. Jaras testified that he had received no benefit from any applicant. Nor did his family receive any benefit from any applicant. There is no evidence that Mr. Jaras received any financial gain during this process. Furthermore, BGCCV provided no evidence to the contrary. We will not construe the conflicts statute to include an employee's own personal agenda as Mr. Rowe suggests. Nor do we believe that Mr. Jaras was serving a personal agenda here. Mr. Jaras testified that a goal of the grant is to serve as many students as possible. Therefore, he encouraged applicants to do so. Furthermore, Mr. Jaras advised all grant applicants that continuation grants would no longer be approved during technical assistance meetings. Mr. Rowe was given the same information as all other applicants. We fail to see how this advice only adversely affected Mr. Rowe's application. Thus, we find no evidence presented at the hearing that showed Mr. Jaras has a conflict of interest as defined in the statute.

Thus, we find no conflict of interest has occurred as required under the rule. BGCCV's appeal of the denial of its grant application is therefore denied.

**DECISION**

For the foregoing reason, the appeal herein is DENIED. BGCCV is encouraged to re-apply for funding at the next opportunity.

This decision is final agency action from which the Appellant may file a petition for judicial review pursuant to Iowa Code section 17A.19.

6/02/2016

Date

/s/ Ryan M. Wise

Ryan M. Wise, Director

Iowa Department of Education