



Miami-Dade Commission on Ethics & Public Trust
Report of Inquiry

Investigators: Sylvia Batista and Nilda Olmo

Case: PI16-02	Case Name:	<u>Date Opened:</u>	
Complainant(s): Dunbar Corneille,	Subject(s): Arlene Cuellar, Tuition Refund Appeal Board members, Andrew Millings, Jay Flynn, and Jennifer Walker.	01/06/16 CASE CLOSED Date: 5/5/2016	

Allegation(s):

On or about 01/06/16, the COE received information from county employee Dunbar Corneille (Corneille) alleging a possible Florida Sunshine Law violation by members of the Tuition Refund Appeal Board (“TRAB”) regarding a meeting held on 11/16/15. Corneille is a Contracts Compliance Officer at the Department of Transportation and Public Works. The TRAB makes decisions regarding tuition refund requests made by county employees. The TRAB hearing was organized and attended by Arleene Cuellar (Cuellar), Miami-Dade County Human Resource Director, and attended by TRAB’s three Board members, Virginia Washington, Erin New, and Joy Coldfelter (“Board Members”), and county officials Andrew Mullings, Jay Flynn and Jennifer Walker (the “officials”).

According to Corneille, before the commencement of the meeting, he put Cuellar, the Board Members and the officials on notice that the meeting was being held in violation of the Florida Sunshine Law. Cuellar, Board Members and officials ignored Corneille’s concerns and proceeded with the meeting. According to Corneille, in addition to the meeting being held without public notice, immediately after the meeting, Board Members and the officials went into a secret session. Corneille concluded that the aforementioned individuals, including Cuellar, knew that they were in violation of the Florida Sunshine Law.

Additionally, Corneille alleged that his request for inspection of the meeting file was not acknowledged.

The COE initiated a review of Corneille's allegations.

Relevant Laws:

Florida Statutes, Section 286.011; Florida Statutes, Chapter 119; and Miami-Dade County Citizens' Bill of Rights, Section (A) 3, Public Records.

Investigation:

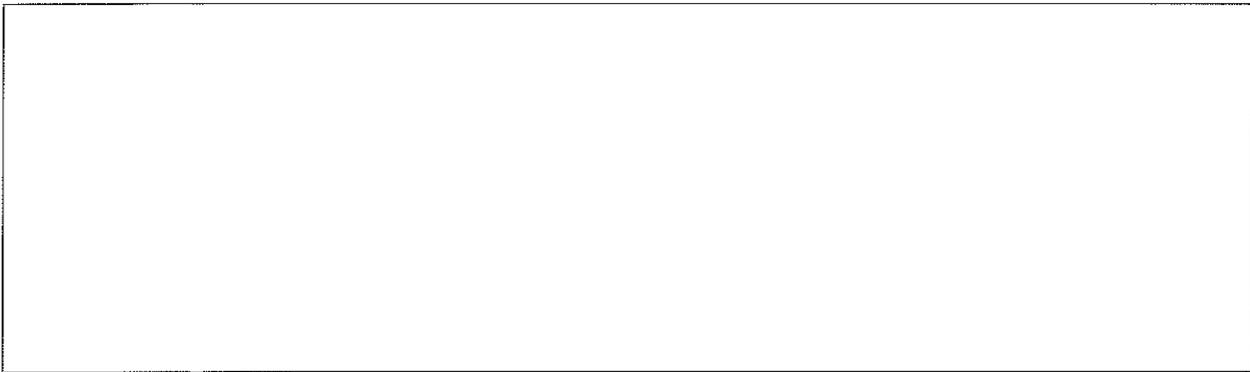
Records Review:

On or about 01/25/16, Cuellar was contacted by this COE investigator and asked to schedule a meeting to discuss the subject matter. Cuellar advised that Assistant County Attorney, William Candela (Candela) was researching the issue and would provide a responsive memorandum.

Candela was contacted and asked to provide his opinion to the COE on the issue brought forth in this inquiry. Candela advised that TRAB meetings had never been publicly noticed on previous occasions.

On or about 03/07/16, Candela provided a copy of his memorandum addressed to Cuellar and Alice Bravo, MDT Director, which addressed Corneille's complaint. In his memorandum, Candela concludes that the question of whether TRAB hearings must be accompanied by a public notice is an unsettled question. However, Candela reasoned that it is preferable to err on the side of greater public access and provide public notice for future TRAB hearings. Candela recommended that the decision to affirm denial of Corneille's appeal at the TRAB hearing of 11/16/15 be rescinded and a new panel convened to hear and decide Corneille's appeal. Candela further recommended that Corneille's TRAB hearing be publicly noticed. A copy of Candela's memorandum is attached hereto as Exhibit A.

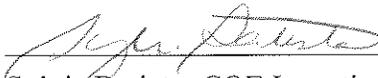
With respect to Corneille's public record request; there is no violation of the Citizens' Bill of Rights. Corneille wanted to see the document that Cuellar sent to the County Attorney requesting an opinion. Investigation determined that Cuellar did not have such a document; she did not request the opinion in writing. Corneille's original request was interpreted as a request to see all documents "possibly related" to his TRAB hearing which staff estimated would cost approximately \$50.00.



Conclusion:

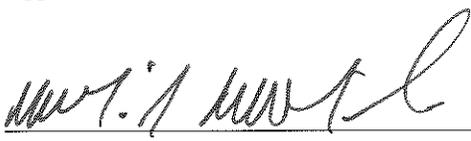
No ethics violation was noted. According to Assistant County Attorney Candela, the question of whether TRAB hearings should be publicly noticed remains unsettled. However, Candela ordered remedial action by advising TRAB to rescind its recommendation concerning Corneille and provide him with a new, publicly noticed hearing to be held on May 4, 2016. Candela also advised that public notice for future TRAB hearings be provided. Investigation determined there was no violation of the Citizens' Bill of Rights.

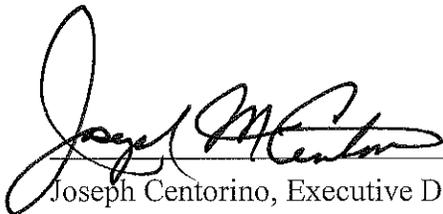
At the May 4, 2016 publicly noticed meeting the TRAB once again denied Corneille's tuition reimbursement request as they had previously done.


Sylvia Batista, COE Investigator

Nilda Olmo, COE Investigator

Approved by:


Michael Murawski, Advocate

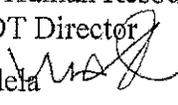

Joseph Centorino, Executive Director

Date: 5/5/16

Date: 5/5/16

Memorandum



Date: March 7, 2016
To: Arleene Cuellar, Human Resources Director
Alice Bravo, MDT Director
From: William X. Candela 
Assistant County Attorney
Subject: Dunbar Corneille Tuition Refund Hearing

You have asked for advice as to whether MDT employee Dunbar Corneille's appeal of the denial of his tuition refund should be rescheduled for a new hearing and publicly-noticed. As I understand it, the procedural background of this matter is as follows.

MDT employee Dunbar Corneille ("Mr. Corneille") applied for tuition refund. Jay Flynn, Chief MDT Human Resources Division, denied Dunbar's request for tuition refund. Mr. Corneille appealed the denial and requested a tuition refund hearing pursuant to Miami-Dade County Administrative Order 7-4 ("A.O. 7-4"). Pursuant to A.O. 7-4, "(t)he Tuition Refund Appeals Board [TRAB] will convene on a monthly basis as necessary to review all appeals."

On November 2, 2015, a notice was issued to Mr. Corneille advising him that a hearing was scheduled to hear his tuition refund appeal on November 16, 2015. Consistent with the notice, the TRAB convened Mr. Corneille's appeal hearing on November 16, 2015. Prior to commencing the hearing, Mr. Corneille was advised that he could invite a representative to the hearing. Additionally, the hearing was open to the public. After considering Mr. Corneille's testimony and other evidence, the TRAB issued findings affirming Mr. Flynn's decision denying Mr. Corneille's tuition refund request.

At the conclusion of the hearing, TRAB orally informed Mr. Corneille of its decision to affirm Mr. Flynn's decision to deny Mr. Corneille's tuition refund request. After being notified of the TRAB's decision denying his appeal, Mr. Corneille alleges that the TRAB did not comply with *Fla. Stat.* § 286.011 because it did not provide public notice of his tuition refund hearing.

The issue of whether Mr. Corneille's tuition refund hearing should have been publicly-noticed in addition to the notice given to Mr. Corneille is an issue of first impression. Because it is an unsettled question as to whether TRAB hearings must be accompanied by a public notice, it is preferable to err on the side of greater public access and provide public notice for future TRAB hearings.

For this reason, I recommend that the TRAB's decision in Mr. Corneille's appeal be rescinded and that a new panel convene to hear and decide Mr. Corneille's appeal. Furthermore, I recommend that Mr. Corneille's TRAB hearing be publicly-noticed in advance on the Miami-Dade County calendar.

cc: Dunbar Corneille