



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Vivianne Bohorques, COO
The Children's Trust

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 20-92

DATE: September 18, 2020

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding a possible voting conflict of interest by a Children's Trust board member on Resolution 2020-Early Head Start.¹

Background:

The Children's Trust Board (TCT) is an independent special district established by Miami-Dade County in Art. CIII, Sections 2-1521 through 2-1531 of the Miami-Dade County Code (TCT ordinance).

You have advised that Resolution of TCT 2020-Early Head Start, entitled, "Authorization to negotiate and execute a contract amendment with Miami-Dade County, Community Action and Human Services Department (CAHSD), for a contract extension for match funding for the federal Early Head Start-Child Care Partnership (EHS-CCP) grant, in a total amount not to exceed \$637,500.00, for a term of nine months, commencing November

¹ The federal Head Start program provides comprehensive early education and support services to low-income three and four-year-old children and their families. In recognition of the mounting evidence that the earliest years in a child's development make a difference in children's growth and development, the Early Head Start (EHS) program was established in 1994 to serve children from birth to three years of age. In March 2019, the federal government awarded Miami-Dade County an expansion grant of 7,967,936.00 annually over a five-year funding period for 552 additional EHS-CCP slots. The federal match requirement for this grant is \$1,991,984.00. the Children's Trust local match of \$850,000.00 per 12-month period contributes to Miami-Dade County's ability to retain these funds.

1, 2020, and ending July 31, 2021,” will be considered at an upcoming meeting of TCT board.²

You inquire on behalf of TCT board member, Barbara Jordan, regarding whether she would have a voting conflict of interest under Section 2-11.1(d) of the County Ethics Code or TCT Conflict of Interest and Code of Ethics Policy/Bylaws, in voting or otherwise participating in Resolution 2020-Early Head Start.

You make this inquiry in light of Barbara Jordan’s relationship with Miami-Dade County. She is a Miami-Dade County Commissioner who serves on The Children’s Trust Board. This funding is to provide a match to Miami-Dade County’s Early Head Start program.

Discussion:

This office may consider and opine on whether a TCT board member has a conflict of interest, pursuant to the County Ethics Code, affecting his or her vote or participation in a funding allocation from TCT. *See* RQO 19-06

TCT’s Conflict of Interest and Code of Ethics Policy states, *inter alia*, that a board member shall not vote on any matter presented to the CT Board if the member will receive a *direct* financial benefit from the board action. TCT’s Bylaws also provides that, “Board members will act in such a manner to avoid the appearance of impropriety.”

There are no facts indicating that Commissioner Jordan will be receiving a direct financial benefit from the board action on Resolution 2020-Early Head Start, therefore, a conflict analysis under TCT rules is not applicable.

The Ethics Code at Section 2-11.1(d), establishes a voting conflict if:

- 1) The board member has an enumerated relationship (officer, director, partner, of counsel, consultant, employee, fiduciary, etc.) with any entity affected by the vote;
- 2) The board member has an enumerated relationship with an entity affected and the matter would affect him or her in a manner distinct in which it would affect the public generally; and,
- 3) The board member might, directly or indirectly, profit or be enhanced by the board action.

See RQO15-04.

As noted above, an automatic voting conflict arises under Section (d) of the Ethics Code, when the board member has a prohibited relationship with the entity *affected* by the

² This authorization will allow The Children’s Trust to extend the current contract for nine months with Miami-Dade County for a pro-rated amount of \$637,500.00 to align the contract with three other EHS-CCP match contracts.

Resolution. In this case, although Commissioner Jordan is an officer/official of Miami-Dade County, she is not automatically disqualified from participating in an item that would affect the governmental entity [because she would not] personally profit or be enhanced personally in any way in the event that [the] resolution is passed and the program it promotes becomes a reality.” See “Government Agency Employment Relationship Exception” in Memorandum to RQO 19-04, *quoting* INQ 18-68.

Additionally, Commissioner Jordan would not be affected by this vote in a manner distinct from the public generally.

Further, there are no facts indicating that Commissioner Jordan might profit or be enhanced by the board action authorizing the negotiation and execution of a contract amendment with the County’s CAHSD for a contract extension for match funding which would be used to leverage federal funding for high-quality early care and education learning slots for infants and toddlers through the Early Head Start-Child Care Partnership (EHS-CCP) grant.³

Opinion:

Under the details provided concerning this Resolution authorizing TCT to negotiate and execute a contract amendment with Miami-Dade County, Community Action and Human Services Department (CAHSD), for a contract extension for match funding for the federal Early Head Start-Child Care Partnership (EHS-CCP) grant, it does not appear that Commissioner Jordan will profit or be enhanced by this vote; nor will a special benefit come to her in her capacity as an officer/official of Miami-Dade County.

Also, Commissioner Jordan’s vote and participation on this Resolution would not raise the perception of an appearance of impropriety.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

³ The children served shall be Miami-Dade County residents who meet the eligibility requirements of the EHS-CCP grant. They will receive comprehensive services, including health, mental health, nutrition, and family support services.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.