



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 · Miami, Florida 33130

Phone: (305) 579-2594 · Facsimile: (305) 579-0273

Website: ethics.miamidade.gov

MEMORANDUM

TO: Juana León, Administrative Services Manager
The Children's Trust

FROM: Martha D. Perez, General Counsel
Commission on Ethics & Public Trust

SUBJECT: INQ 21-74 [Voting Conflict, §2-11.1(d)]

DATE: April 30, 2021

CC: COE Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible voting conflict of interest by The Children's Trust (TCT) board members.

Background

Resolution 2021- Books for Free MDC entitled, "Authorization to negotiate and execute a contract renewal with Miami Dade College for The Children's Trust Books for Free program, in a total amount not to exceed \$400,000.00, for a term of 12 months, commencing October 1, 2021, and ending September 30, 2021, with one remaining 12-month renewal, subject to annual funding appropriations" will be considered at an upcoming meeting of TCT board.¹

You inquire on behalf of the below-listed TCT board members, regarding whether she would have a voting conflict of interest under Section 2-11.1(d) of the County Ethics Code or TCT

¹ The Children's Trust Books for Free program ensures young children (through age 8) have access to books to take home and keep at no cost from bookshelves placed in public spaces throughout Miami-Dade County. To administer the program, Miami Dade College (MDC) engages communities, businesses, volunteers, and the public sector to collect, sort, and categorize donated gently used and newly purchased books. MDC then distributes the books through 65 bookshelves maintained in public places where parents and children frequent, such as Women, Infant and Children offices and community organizations in under-resourced neighborhoods. This program has a minimum annual 15 percent match requirement in cash or in-kind resources from MDC. This year the program was rebranded from its former name, Read to Learn Books for Free, to The Children's Trust Books for Free.

Conflict of Interest and Code of Ethics Policy/Bylaws, in voting or otherwise participating in Resolution 2021-Books for Free MDC ²

1. Susan Neimand, Dean of the School of Education at Miami Dade College.
2. Dr. Monique Jimenez-Herrera currently leads the Department of Social Sciences at Miami Dade College and conducts professional development trainings on topics that address cultural and individual diversity.

Analysis

This office may consider and opine on whether a TCT board member has a conflict of interest 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 prohibits a board member from voting if he or she will receive a direct financial benefit from the board action or if the vote would be contrary to the Florida Ethics Code at Section 112.3143 (Section III (A)(1) of the Policy). Additionally, "...board members ... will avoid an appearance of impropriety." (Section III (D) of the Policy) ³ There are no facts indicating that Dr. Neimand or Dr. Jimenez-Herrera will be receiving a direct financial benefit from the board action, therefore, a conflict analysis under that provision of TCT rules is not applicable.

TCT is also bound by the Ethics Code (*See* RQO 19-06). 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; or, 3) the board member might, directly or indirectly, profit or be enhanced by the board action.⁴ *See* RQO15-04

² The program is operated within a different department that either of these two board members are part of. The Department of the contract is Department of Cultural Affairs, Miami Book Fair, and funding is through this department of MDC.

TCT partners with MDC's Miami Book Fair, a cultural institutional initiative overseen by the MDC Department of Cultural Affairs, to get more (free) books in the hands of children.

³ *See also* TCT Bylaws at Art. VI: Board members will act to avoid the appearance of impropriety.

⁴ This section of the County Ethics Code applies to the Mayor and members of the Board of County Commissioners (BCC); however, by implication, members of The Children's Trust board may be included for purpose of analysis because, as an independent special district, the role and authority of TCT members mimics the role of the BCC, as ultimate decision-makers of contracts allocating funds such as the ones described herein.

Dr. Neimand and Dr. Jimenez-Herrera are employed by an educational institution which has partnered with TCT for the Miami Book Fair's Books for Free MDC program. However, neither member is employed by the College's Department of Cultural Affairs- the entity *affected* by this Resolution and recipient of the funding. *See* INQ 2021-38⁵

Furthermore, there is no unique impact which would create a voting conflict. Notably, there are no facts indicating that either member might profit or be enhanced by the board action authorizing the execution of this contract with MDC; neither board member works in the specific departmental entity that will receive funding nor do they have any supervisory authority over employees of the MDC Department of Cultural Affairs program to be funded under this Resolution. *See* INQ 2020-107

Conclusion

Based on the information provided herein, it does not appear that Dr. Neimand or Dr. Jimenez-Herrera has a voting conflict. They do not have an enumerated relationship with the departmental recipient of the funds under this Resolution. They will not profit (directly or indirectly) or be enhanced by this vote nor will a special benefit come to them in their capacities as employees of MDC. Further, their voting and participation with regard to 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 COE 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.

<p>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.</p>
--

⁵ TCT is not providing direct funding to Dr. Neimand's School of Education or to Dr. Jimenez-Herrera's Social Science Department.