
From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, August 29, 2014 1:31 PM
To: Sanchez, Rodzandra (COE)
Subject: Chairwoman Rebeca Sosa, BCC (Voting Conflict) INQ 14-206
Attachments: DOC082814.pdf

INQ 14-206

From: Centorino, Joseph (COE)
Sent: Friday, August 29, 2014 12:59 PM
To: Hernandez-Arranz, Gil (Office of the Chair)
Cc: Diaz-Greco, Gilma M. (COE); Sanchez, Gerald (CAO)
Subject: INQ - Chairwoman Rebeca Sosa, BCC (Voting Conflict)

Mr. Hernandez-Arranz:

You have inquired on behalf of Chairwoman Rebeca Sosa regarding her ethical responsibilities in connection with a potential voting conflict regarding Legistar #141188, which is a Resolution Authorizing Execution of an Inter-Local Agreement for School Year 2014-2015 and 2015-2016 with the Miami-Dade County Public Schools/Lindsey Hopkins Technical Education Center. The agreement would provide for academic and career/technical education for inmates of the Miami-Dade County Corrections Department. I understand that this question is being asked as a result of Chairwoman Sosa's fulltime employment with the Miami-Dade Public Schools at the Lindsey Hopkins Technical Education Center.

Although it is unclear how Chairwoman Sosa's position could be directly affected by this program, the Miami-Dade County Ethics Code includes a very strict standard for evaluating a potential conflict: Section 2-11.1(d) provides that there is a voting conflict for a board member if he or she "would or might, directly or indirectly, profit or be enhanced by the action of the Board..." While it is my impression that it is unlikely that there would be any significant impact on Chairwoman Sosa's position by virtue of this program, the fact that the program is targeted for the school where she is employed, and the mere possibility that it might somehow enhance the personnel at the school leads me to agree with her that the most prudent course is for her to recuse herself from this matter.

The fact that the matter may be appearing on a consent agenda does not change the responsibility of a board member in connection with a voting conflict. In order to comply with both Miami-Dade County ordinance requirements, as well as the State Code of Ethics for Public Officers and Employees in Chapter 112, Florida Statutes, Chairwoman Sosa should 1) declare publicly at the meeting the nature of the conflict on this matter prior to it being taken up; 2) absent herself from the chambers during the vote on this matter, as well as during any discussion of the issue should that occur; and 3) file Form 8B with the Clerk within 15 days of the vote, disclosing the conflict in writing.

Chairwoman Sosa's attentiveness and sensitivity to ethical concerns is always appreciated.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Hernandez-Arranz, Gil (Office of the Chair)
Sent: Thursday, August 28, 2014 5:01 PM
To: Centorino, Joseph (COE)
Subject: Request for information to Recuse

Good afternoon Mr. Centorino,

As per our conversation today in regards to Legistar # 141188 (see attached) and the process for the Chairwoman to recuse herself. Please advise if Form B (see attached) as well as any additional information and steps are required. Thank you.

All the best,

Gil Hernandez-Arranz
Miami-Dade County Board of Commissioners
Office of the Chair
111 NW 1st Street, STE 220
Miami, FL 33128
305-375-3608 Phone
305-375-4838 Fax

Legistar # 141188

MEMORANDUM

Agenda Item No. 8(B)(2)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 3, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution authorizing execution of an Inter-Local Agreement for school years 2014-2015 and 2015-2016 with the Miami-Dade County Public Schools/Lindsey Hopkins Technical Educational Center for the provision of academic and career/technical education for inmates; in the amount not to exceed \$400,000.00 to be paid from the inmate welfare account

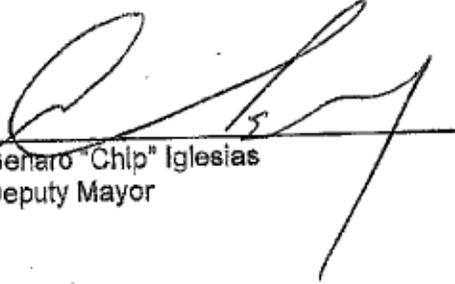
The accompanying resolution was prepared by the Corrections and Rehabilitation Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsor Commissioner Audrey M. Edmonson.

[Redacted]	[Redacted]	[Redacted]
RAC/Imp	[Redacted]	[Redacted]

Background

The Miami-Dade Corrections and Rehabilitation Department and Miami-Dade County Public Schools/Lindsey Hopkins Technical Educational Center are committed to providing career/technical and academic education course work in an effort to rehabilitate inmates, giving them the necessary skills to provide a smooth transition into society and consequently reduce recidivism. Since 1987, the Miami-Dade Corrections and Rehabilitation Department has benefited from a longstanding, cooperative relationship with Miami-Dade County Public Schools for programs in the area of industrial education. Through these programs, inmates throughout the Miami-Dade Corrections and Rehabilitation Department facilities receive specific training in career/technical education courses, adult basic education, or general educational development in accordance with the criteria set by the State of Florida and provided by the Miami-Dade County Public Schools system.

This Agreement has been renewed annually since the 1987-1988 school year. Therefore, this Agreement covers the school years 2014-2015 and 2015-2016, and includes substantially the same provisions as the previous agreement covering the 2012-2013 and 2013-2014 school years which was authorized by R-540-12.



Genaro "Chip" Iglesias
Deputy Mayor

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(B)(2)
9-3-14

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT FOR SCHOOL YEARS 2014-2015 AND 2015-2016 WITH THE MIAMI-DADE COUNTY PUBLIC SCHOOLS/LINDSEY HOPKINS TECHNICAL EDUCATIONAL CENTER FOR THE PROVISION OF ACADEMIC AND CAREER/TECHNICAL EDUCATION FOR INMATES; IN THE AMOUNT NOT TO EXCEED \$400,000.00 TO BE PAID FROM THE INMATE WELFARE ACCOUNT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE THE RENEWAL AND CANCELLATION PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, the Miami-Dade County Public Schools provides career/technical educational courses not to exceed a maximum of 405 contact hours per course per student, per trimester at the rate prescribed by Florida Statutes Title XLVIII, No. 1009.22 for the 2014-2015 and 2015-2016 school years; and

WHEREAS, the Miami-Dade County Public Schools agrees to provide academic education courses to inmates incarcerated in the Miami-Dade Corrections and Rehabilitation Department facilities for the 2014-2015 and 2015-2016 academic years at \$30.00 per student per trimester for Florida residents and \$120.00 for non-Florida residents as prescribed by Florida Statutes Title XLVIII, No. 1009.22 for the 2014/2015 and 2015/2016 school years,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board finds that it is in the best interest of Miami-Dade County to approve an Interlocal Agreement between Miami-Dade County Public Schools/Lindsey Hopkins Technical Educational Center, in an

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of September, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Ben Simon

DESCRIPTION OF WHAT THE CENTER WILL PROVIDE

(See Section 1 of Attachment which is attached hereto and incorporated herein by reference.)

DESCRIPTION OF WHAT THE ORGANIZATION WILL PROVIDE

(See Section 2 of Attachment which is attached hereto and incorporated herein by reference.)

CANCELLATION

This agreement may be terminated by either party by giving thirty (30) days written notice to the other party.

INDEMNIFICATION

Subject to the limitations of Florida Statute 768.28, the School Board of Miami-Dade County, Florida, hereinafter referred to as the School Board, agrees to indemnify and hold harmless the Organization from and against any and all claims, suits, actions, damages, or causes of action arising out of the negligent acts of the School Board arising out of or in connection with the provisions of this agreement.

The Organization agrees to indemnify, hold harmless and defend the School Board from and against any and all claims, suits, actions, damages, or causes of action arising out of the negligent acts of the Organization arising out of or in connection with the provisions of this agreement. If the Organization is a state agency or subdivision as defined in section 768.28, Florida Statutes, nothing herein shall be construed to extend the Organization's liability beyond that provided in section 768.28, Florida Statutes.

GOVERNING LAW & VENUE

This agreement shall be construed in accordance with the laws of the State of Florida. Any dispute with respect to this agreement is subject to the laws of Florida, venue in Miami-Dade County. Each party shall be responsible for its own attorney's fees and costs incurred as a result of any action or proceeding under this agreement.

CONFIDENTIALITY OF STUDENT RECORDS

Organization understands and agrees that it is subject to all School Board policies relating to the confidentiality of student information. Organization acknowledges and agrees to comply with the Family Educational Rights and Privacy Act ("FERPA") and all state and federal laws relating to the confidentiality of student records.

BACKGROUND SCREENING

The parties agree that each of its employees, or representatives who has direct contact with students, must comply with the requirements of Jessica Lunsford Act, 1012.465 F.S.

ADDENDUM # 1

TO

AGREEMENT

BETWEEN

**THE SCHOOL BOARD OF MIAMI-DADE COUNTY FLORIDA
LINDSEY HOPKINS TECHNICAL EDUCATIONAL CENTER**

AND

**MIAMI-DADE COUNTY /
CORRECTIONS AND REHABILITATION DEPARTMENT**

The Miami-Dade County Public Schools/Lindsey Hopkins Technical Educational Center has entered into a contractual agreement with Greater Miami Service Corps.

NOW, therefore, in consideration of the mutual promises and covenants herein contained, it is mutually agreed as follows.

Section 1

The Miami-Dade County School Board/Lindsey Hopkins Technical Educational Center will:

1. Teach inmates Adult General Education (AGE) classes, to include Adult Basic Education (ABE). Provide career/technical and adult general educational courses not to exceed 405 contact hours per course per student (see attached school calendar), per trimester at the rate prescribed by §1009.22, Florida Statutes for the school year, (rates are subject to change when mandated by the school district and/or the State). Adult Basic Education (ABE) and General Educational Development (GED) preparation.
2. Train inmates in career/technical education courses, to include programs in the areas of Industrial Education and any other areas as requested by Miami-Dade County/Corrections and Rehabilitation Department within the scope and regulations set by the Florida Department of Education's curriculum frameworks and the ability of the school to provide them.
3. Provide educational instruction in accordance with §Florida Statutes, title XLVIII for the school year.

For the purpose of compliance with the Jessica Lunsford Act, I hereby attest that no agency personnel will be in attendance during class time assisting any of the students.

Agency Official (Please print) _____

Signature: _____

Miami-Dade County
Commission on Ethics and Public
Trust

Memo

To: All Elected Public Officials of Miami-Dade County or any Municipality within Miami-Dade County

From: Joseph M. Centorino, Executive Director and General Counsel, Miami-Dade Commission on Ethics and Public Trust 

Date: January 16, 2013

Re: Voting Conflict Procedures

This memorandum is intended to provide guidance to all elected public officials serving as members of any elected board or commission in Miami-Dade County government or in the government of any municipality within Miami-Dade County. It addresses the issue of what such an official, who has a conflict of interest preventing him or her from voting on a particular item, must do to comply with the provisions of Section 2-11.1(d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, as well as Section 112.3143(3), Florida Statutes. The memorandum specifically addresses the issue of whether absenting oneself from a meeting during discussion of such an item, in compliance with Section 2-11.1(d) of the County Code, is sufficient to satisfy the provisions of Section 112.3143(3), which requires both public announcement of the conflict and written disclosure of the conflict within 15 days after the vote.

This issue was raised recently in discussions and correspondence between staff at the Miami-Dade Commission on Ethics and Public Trust, which interprets and enforces the County Code provision, and staff at the State of Florida Commission on Ethics, which interprets and enforces Section 112.3143(3), which is included in the Code of Ethics for Public Officers and Employees under Chapter 112, Florida Statutes. While the recommendations contained in this memorandum are not based upon any binding decision or opinion issued by either body, they represent our best assessment of the legal requirements concerning voting conflicts, and should be adhered to in the absence of any definitive ruling from a legally authoritative source having jurisdiction over these issues.

Under Section 2-11.1(d) of the County Code, which applies to all county and municipal elected officials in Miami-Dade County, an elected official with a voting conflict "shall absent himself or herself from [the] meeting during the discussion of the subject item and shall not vote on or participate in any way in said matter." This requires that such an official leave the room during both the discussion and the vote, and not speak, communicate or otherwise participate in the discussion and the vote on the issue that is the subject of the conflict. It does not require any public announcement or written disclosure of the conflict.

Section 112.3143(3), Florida Statutes, applies to all county, municipal, or other local public officers within the State of Florida who vote on matters in an official capacity. It requires that any such officer with a conflict of interest "shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes." It differs from the County Code provision in that the official need not absent himself from the meeting. Instead, it requires the official to provide public oral notice of the conflict prior to the vote, to abstain from the vote, and to make written disclosure of the conflict within 15 days after the vote. A copy of Florida Commission on Ethics Form 8B is attached to this memorandum.

Under Section 112.326, Florida Statutes, the state legislature recognized the right of local governments to enact legislation that creates more stringent standards of conduct and disclosure requirements than those in state law. This validates the County Ordinance, which is more stringent than state law in providing that the official in question must leave the room during the discussion that takes place on the item creating the conflict. I have been advised that in the past some officials in Miami-Dade County have relied in good faith on informal legal opinions provided by County, Municipal or Ethics Commission attorneys suggesting that compliance with the County Ordinance excused them from the notice and disclosure requirements of the state law.

However, this does not appear to be the interpretation that the State of Florida Commission on Ethics would follow in the event that it should consider the issue in the future. Based upon formal and informal opinions I have reviewed from the Commission, I have concluded that local officials who absent themselves from a portion of a meeting to avoid being present during a conflict item, must still state publicly prior to the vote the nature of the conflict as well as make the required written disclosure within 15 days after the vote to be in compliance with Section 112.3143(3).

There is an exception to the foregoing, recognized in an opinion of the State of Florida Commission on Ethics (CEO 88-3), indicating that a board member who is absent from an entire meeting, during which an item arises on which that member would have had a conflict of interest, need not comply with the notice and disclosure requirements of Section 112.3143(3). However, that opinion is limited to situations where the member is absent from the entire meeting during which an item on which that member has a conflict is discussed or voted upon. Presence of the member at a portion of the meeting would still trigger the notice and disclosure requirements, even though the member was not present during either the discussion or the vote on that item.

Therefore, it is my recommendation to all elected officials in the county and in all municipalities within the county, that when they are aware that they have a conflict on an item that is to be discussed and/or voted upon at a meeting and they are present for any portion of that meeting, they should do the following: 1) announce publicly at the meeting the nature of the conflict before the item is heard; 2) absent themselves from that portion of the meeting during which the item is discussed and/or voted upon; and 3) file a written disclosure of the nature of the conflict with the board clerk or whoever may be charged with recording the minutes of the meeting within 15 days after the vote.

Anyone having a question about this issue or any related issue should feel free to contact and speak with me or another attorney at the Miami-Dade Commission on Ethics at 305-579-2594.

cc: Offices of the Miami-Dade County Attorney and all Municipal Attorneys within Miami-Dade County

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY	<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, _____, hereby disclose that on _____, 20 ____;

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- ___ inured to the special gain or loss of my business associate, _____;
- ___ inured to the special gain or loss of my relative, _____;
- ___ inured to the special gain or loss of _____, by whom I am retained; or
- ___ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.