



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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TO: Vivianne Bohorques, COO  
The Children's Trust

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

SUBJECT: INQ 20- 46 [Voting Conflict, §2-11.1(d)]

DATE: June 1, 2020

CC: COE Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible voting conflicts of interest by The Children's Trust board members on Resolution 2020-A.

#### 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-A, entitled, "Authorization to renew services and execute related agreements with multiple IT vendors in a total amount not to exceed \$1,921,101.00, for a term of 12 or 14 months, with two agreements commencing on August 1, 2020 and all others commencing on October 1, 2020, and ending September 30, 2021; and request a waiver of the procurement policy," will be considered at an upcoming meeting of TCT board.

This Resolution seeks, *inter alia*, funding to renew the leases of software services utilized for the daily operations of The Children's Trust's staff activities and to enter into related agreements with vendors such as University of Miami (UM) and/or TCT partners such as Miami IDEAS.<sup>1</sup>

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<sup>1</sup> Miami IDEAS (Integrating Data for Effectiveness Across Systems) Consortium for Children is one of the services identified in the Resolution and the vendor is the University of Miami. The requested amount for this particular item is \$150,000.00, to be funded from the Research and Evaluation budget line.

Regarding the software service sought, this software was initially created through a partnership with the University of Miami, Miami-Dade County Public Schools, The Children's Trust, Early Learning Coalition of Miami-Dade/Monroe,

You inquire on behalf of several TCT board members regarding whether they 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-A. You make this inquiry in light of the partnership formed between the members' entities (including TCT) and the Miami IDEAS Consortium (IDEAS) <sup>2</sup>:

- 1) Pamela Hollingsworth is the Senior Vice-President of Strategic Initiatives and Program Development at Early Learning Coalition (ELC).<sup>3</sup> The ELC is a member of IDEAS. The ELC is not receiving funding through this Resolution.
- 2) Magaly Abrahante is an employee of Miami-Dade County Public Schools (M-DCPS), the largest school district in Florida with over 40,000 employees. M-DCPS' Office of Early Learning is a member of IDEAS.<sup>4</sup> M-DCPS is not receiving funding through this Resolution.
- 3) Tiombe Bisa Kendrick-Dunn is employed by M-DCPS as a school psychologist and is the Chairperson for Professional Growth & Development at M-DCPS.
- 4) Richard Dunn works for M-DCPS. <sup>5</sup> Pastor Dunn is the Senior Pastor at the First Community Baptist Church. (Based on the information provided, the Church is not receiving funding through this Resolution).
- 5) Dr. Dorothy Bendross-Mindingall is a M-DCPS Board member.

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and the Miami-Dade County Community Action and Human Services Department Head Start/Early Head Start program, which was funded since August 2014 by the U.S. Department of Education's Institute of Education Sciences (IES). The Children's Trust funding began in March 2018 (Resolution #2018-41) to sustain the continuation of the software created by the federal funding.

<sup>2</sup> Miami IDEAS Consortium for Children was organized by the University of Miami and four leading systems that impact early learning outcomes: *Miami-Dade County Public Schools, The Early Learning Coalition of Miami-Dade/Monroe Counties, The Children's Trust, and the Miami-Dade County Head Start/Early Head Start Program*. Collectively, these agencies provide early childhood services to more than 80 percent of young children residing in the County prior to kindergarten. The IDEAS partnership provides a virtual common space to achieve data sharing targeted to consensus goals. <https://ideas.psy.miami.edu/>

<sup>3</sup> The ELC is a not-for-profit organization dedicated to ensuring high quality early care and education for children in Florida counties, including Miami-Dade County (and Monroe) through a variety of affordable educational programs.

<sup>4</sup> The Early Learning Office is responsible for the supervision of early childhood programs and various family support programs.

<sup>5</sup> You have indicated in your request for opinion email that Mr. Dunn is employed by the MDCPS. We have not been able to confirm this information. Pastor Dunn is the Sr. Pastor at Faith Community Baptist Church. His resumé, which was included in the nominations for TCT members submitted to the BCC on June 4, 2019, does not show current employment with MDCPS.

- 6) Barbara Jordan is the Miami-Dade County Commissioner for District 1. Miami-Dade County's Head Start/Early Head Start Program is a member of IDEAS.<sup>6</sup> Miami-Dade County is not receiving funding through this Resolution.
  
- 7) Nelson Hincapié is the Miami-Dade County Mayor's appointee to The Children's Trust Board. He is the President and CEO of Voices for Children Foundation, Inc. (Voices), a not-for-profit organization which raises funds to support the Guardian Ad Litem Program and develops innovative strategies and partnerships with persons and organizations to "help break the cycle of abuse, abandonment and neglect" in low-income communities.<sup>7</sup> (Based on the information provided, Voices is not receiving funding through this Resolution).

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. No member shall serve as a staff member of any agency when The Children's Trust provides more than fifty (50) percent of the agency's budget, and The Children's Trust's funds may pay no portion of a Board member's salary".

There are no facts indicating that any of the board members will be receiving a direct financial benefit from the board action, 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.<sup>8</sup>  
*See* RQO15-04

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<sup>6</sup> MDC's Early Head Start Program, provided through MDC's CAHS, provides services to the County's low-income children and families; it partners with UM's Dept. of Psychology for the provision and coordination of services.

<sup>7</sup> [beavoice.org](http://beavoice.org)

<sup>8</sup> 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.

- 1) An automatic voting conflict arises when the board member has a prohibited relationship with the entity *affected* by the Resolution:

Unlike the usual factual pattern where a board member is employed or serves in the entity seeking the funding, in this instance, TCT board members are either employees, officers or members of governmental entities and/or non-profit entities which, *along with TCT*, form a partnership with UM's IDEAS Consortium- the recipient and beneficiary of the funds.

Although the board members have enumerated relationships with IDEAS' government and non-profit partners which stand to benefit from the continuous agreement to provide software services, there is no unique impact which would create a voting conflict for those members who are employees or officers of government entities. *See Memorandum to RQO 19-04*. Likewise, there is no funding being provided to the non-profit entities of which several members hold official positions.

It is noted that, none of the board members work for Vendor UM and none comprise IDEAS' Steering Committee.

- 2) None of the board members referenced herein would be affected by this vote in a matter distinct from the public generally:

In this partnership, TCT, ELC, M-DCPS and Miami-Dade County will benefit in the funding allocation by way of their contribution to the overall purpose of the consortium- to "create a formal research partnership among early childhood educational providers and the school district [and]... build a research-practice partnership to improve coordinated early childhood research, practice, and policy..."

- 3) Finally, there are no facts indicating that any of the board members referenced herein might profit or be enhanced by the board action authorizing software service agreements:

TCT is not providing direct funding to any of the members' governmental or non-profit entities; rather, the funding is allocated to support a partnership amongst agencies with a common objective and any benefit or enhancement may be attributed to the consortium, not the individual board members. Any possible indirect benefit to any of the board members, as employees or members of IDEAS' partners, is too remote to create a voting conflict.

To hold that the board members, by virtue of their employment or membership with partnering entities in IDEAS might profit or be enhanced, directly or indirectly, by the renewal of a software service agreement would result in the dissolution of IDEAS.

Opinion:

Under the details provided concerning this Resolution of TCT authorizing the renewal for the lease of software services with IDEAS, it does not appear that any of the board members referenced herein will profit or be enhanced by this vote nor will a special benefit come to any of them in their capacities as employees, officers or members of governmental/ non-profit entities which partner with the vendor for the provision of services under a consortium relationship.

Also, based on the purpose and goal of IDEAS and the participation objectives of the non-profit organization and governmental entities involved, the members' voting and participation would not raise the perception of an appearance of impropriety in this Resolution.

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.

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.