



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 20-93

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-Injury Prevention.

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-Injury Prevention, entitled, "Authorization to negotiate and execute a retroactive contract with the Public Health Trust of Miami-Dade County, d/b/a Jackson Health System, in partnership with the University of Miami Miller School of Medicine, to implement Miami's Injury Free Coalition for Kids, in a total amount not to exceed \$408,000.00 for a term of 12 months, commencing October 1, 2020, and ending September 30, 2021," will be considered at an upcoming meeting of TCT board.¹

¹ The Injury Free Coalition for Kids is among the country's most effective injury prevention models. It is a national program developed with funding from the Robert Wood Johnson Foundation comprised of hospital-based, community-oriented programs whose efforts are anchored in research, education and advocacy. Locally, Holtz Children's Hospital, Jackson Health Systems, and University of Miami Miller School of Medicine work in partnership as the Injury Free Coalition for Kids site in Miami. The Children's Trust has funded the coalition since 2006. The Coalition aims to reduce unintentional child and youth injuries through multi-lingual, interactive services.

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-Injury Prevention.

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 support a program led by the Public Health Trust of Miami-Dade County, d/b/a Jackson Health System.

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-Injury Prevention, 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 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 TCT to negotiate and execute a retroactive contract with the Public Health Trust of Miami-Dade County, d/b/a Jackson Health System, in partnership with the University of Miami Miller School of Medicine, to implement Miami’s Injury Free Coalition for Kids.

Opinion:

Under the details provided concerning this Resolution authorizing TCT to negotiate and execute a retroactive contract with the Public Health Trust of Miami-Dade County, d/b/a Jackson Health System, in partnership with the University of Miami Miller School of Medicine, to implement Miami’s Injury Free Coalition for Kids, 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.

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.