



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

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

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

SUBJECT: INQ 2021-153, Voting Conflict, §2-11.1(d)

DATE: December 9, 2021

CC: COE Legal 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 a The Children's Trust board member on Resolution 2022-18 (Help the Helpers Initiative)

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 2022-18, entitled, "Authorization to negotiate and execute a funder collaboration agreement with The Miami Foundation, as the fiscal agent for Help the Helpers, in a total amount not to exceed \$150,000.00 for a term of 9 months, commencing December 15, 2021, and ending September 15, 2022," will be considered at an upcoming meeting of TCT board.

This Resolution seeks funding collaboration with The Miami Foundation, as the fiscal agent for the Help the Helpers Initiative in Miami-Dade County (hereinafter, the Initiative). This Initiative aims to support community-based organization front-line workers who have provided children and families ongoing support during the COVID-19 pandemic.

The Fredrick A. DeLuca Foundation, one of the collaborative partners of the Initiative's funding pool, has invited the following entities to align their efforts and resources for the implementation of this Initiative: Miami Foundation, Perez Family Foundation, Allegany Franciscan Ministries, Health Foundation of South Florida, *United Way* and The Children's Trust (TCT).

You inquire on behalf of TCT board member Mary Donworth 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 2022-18.

You make this inquiry in light of the relationship between this board member and the United Way. Specifically, Mary Donworth works for the United Way, one of the collaboration entities/contributors on this project. The United Way is not receiving funding through this Resolution but will provide in-kind resources and/or grant funding in support of the Initiative.

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 Ms. Donworth 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.¹ *See* RQO15-04

Mary Donworth is an employee of United Way. Unlike the usual fact pattern where a board member is employed or serves in the entity *seeking* the funding, in this instance, the TCT board member is an employee of a non-profit entity which is a funding contributor to the Help the Helpers Initiative and will provide in-kind resources and/or grant funding in support of the project. United

¹ 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.

Way is not receiving any funding through this Resolution so there is no unique impact which would create a voting conflict as Ms. Donworth would not be affected by this vote in a matter distinct from the public generally. Further, there are no facts indicating that Ms. Donworth might profit or be enhanced by the board action authorizing funding to the recipient, The Miami Foundation, for the Initiative: The United Way is a funding collaborator/partner supporting a program with a common objective and any benefit or enhancement is not attributed to any individual board member; United Way Miami will benefit in this Resolution by way of its contribution to the overall purpose, i.e., funding partnerships to invest in the implementation of this Initiative aimed at helping those who have helped so many during this pandemic. Hence, any possible indirect benefit to Ms. Donworth is too remote to create a voting conflict. *See* INQ 2021-78

Conclusion:

Consequently, we do not find that Ms. Donworth has a conflict prohibiting her participation and vote 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.