



## 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](http://ethics.miamidade.gov)

---

---

### MEMORANDUM

---

---

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

FROM: Gilma Diaz-Greco  
Staff Attorney

SUBJECT: INQ 2021 -133, Voting Conflict, §2-11.1(d)

DATE: October 06, 2021

CC: COE Staff

---

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible voting conflicts of interest by a The Children's Trust Board member on Resolution 2022-C-(“TCT 2022-C-Youth Summer Camps”).

#### 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-C-Youth Summer Camps, will be considered at an upcoming meeting of TCT board. This resolution is recommending authorization to negotiate and execute contract renewals with 17 providers,<sup>1</sup> to deliver high-quality summer camp services for 1,532 slots for middle and high school youth, in a total amount not to exceed \$2,597,209.00, each for a term of six months, commencing March 1, 2022, and ending August 31, 2022, with one remaining renewal, subject to annual funding appropriations.

---

<sup>1</sup> The providers are Breakthrough Miami Inc., Centro Campesino Farmworker Center Inc., Fit Kids of America Corp., FIU Board of Trustees College of Engineering and Computing, Honey Shine, Inc., Network for Teaching Entrepreneurship, Inc., Shake-A-Leg Miami, Inc., Teen Up-ward Bound, Inc., The Dave and Mary Alper Jewish Community Center, Inc., The District Board of Trustees of Miami Dade College, FL, The Miami Lighthouse for the Blind & Visually Impaired, Inc., The New Jerusalem Community Development Corporation, Town of Cutler Bay Trinity Church, Incorporated, University of Miami - Children & Youth Law Clinic Law School, University of Miami - Frost School of Music, University of Miami - Kinesiology & Sport Sciences

The Resolution seeks to waive the formal competitive procurement process and negotiate and execute contract renewals with 17 Youth Summer Camp providers (“YSCP”). The YSCPs in this resolution offer summer camps for middle and high school youth (grades 6-12) in inclusive and specialty disability programs. Programs follow a structured schedule of activities to support social-emotional learning and skills-building in one or more specialized areas, such as arts, STEM (science, technology, engineering, math), civic engagement, sports, entrepreneurship, or college readiness.

On May 29, 2018, The Children’s Trust board approved the funding recommendations from the competitive request for proposals, RFP# 2018-02, for a five-year funding cycle. The 17 YSCPs demonstrated their capacity, expertise, and qualifications to provide high-quality summer programming for middle and high school youth. The recommendation in this Resolution is for an additional six-month term , commencing March 1, 2022, and ending August 31, 2022, with one remaining renewal.

You inquire on behalf of two TCT board members listed below regarding whether they would have a voting conflict of interest under Section 2-11.1(d) of the County Ethics Code or the TCT Conflict of Interest and Code of Ethics Policy/Bylaws, in voting or otherwise participating in TCT 2022-C-Youth Summer Camps. You make this inquiry in light of the relationship formed between the entities that employ the TCT board members and the YSCPs funded by this Resolution.

- 1) Daniel Bagner works for Florida International University’s (“FIU”) Psychology Department and FIU’s Children and Family Center. The funding to FIU under Resolution TCT 2022-C-Youth Summer Camps is provided to FIU’s School of Engineering for engineering related Summer Camps. However, neither Dr. Bagner nor any Department he works for at FIU receive funding through this Resolution; and he does not have any financial or other relationship with any of the YSCP’s funded by this Resolution.
- 1) Malou C Harrison, PhD is an Executive Vice President and Provost at Miami-Dade College’s North Campus. Funding to Miami Dade College under (“MDC”) TCT 2022-C-Youth Summer Camps is provided to MDC’s School of Continuing Education and Professional Development at MDC’s North Campus. However, neither Dr. Harrison nor any Department she works for at MDC receive funding through this Resolution; and she does not have any financial or other relationship with any of the YSCP’s funded by this Resolution.

### Analysis and Opinion

The COE 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, in relevant part, that a board member shall not vote on any matter presented to the TCT Board if the member will receive a *direct*

financial benefit from the board action.<sup>2</sup> The policy also provides that board members will act in such a manner to avoid the appearance of impropriety.<sup>3</sup> TCT bylaws state that 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".<sup>4</sup>

The COE has not been advised of any facts indicating that either of the board members listed here will be receiving a direct financial benefit from the board action, therefore, a conflict analysis under TCT rules is not applicable.

TCT is also subject to the County Ethics Code. *See* RQO 19-06) The County Ethics Code 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>5</sup> *See* RQO15-04.

As stated above, an automatic voting conflict arises when the board member has an enumerated relationship with the entity *affected* by the Resolution. In this instance, Dr. Bagner is an employee of FIU' Psychology Department and FIU's Children and Family Center. However, TCT 2022-C-Youth Summer Camps funds summer camps only at FIU's School of Engineering. Consequently, Dr. Bagner would not have a voting conflict under Section 2-11.1(d) of the County Ethics Code because the FIU departments which employ him are not recipients of funding from this TCT resolution. Furthermore, we have not been advised of any other facts suggesting that Dr. Bagner will benefit or be enhanced or receive any special benefit from this vote. *See* RQO 19-04, and INQ 2021-38.

Regarding the application of Section 2-11.1(d) of the County Ethics Code to Dr. Harrison, she is an employed as Vice President and Provost of MDC's North Campus. However, her department does not receive any funding form TCT 2022-C-Youth Summer Camps. Consequently, Dr, Harrison would not have a voting conflict because her department is not a recipient of funding from this TCT resolution. Furthermore, we have not been advised of any other facts suggesting that Dr. Harrison will benefit or be enhanced or receive any special benefit from this vote.

---

<sup>2</sup> TCT Conflict of Interest and Code of Ethics Policy Section III (A)(1).

<sup>3</sup> TCT Conflict of Interest and Code of Ethics Policy Section III (D).

<sup>4</sup> TCT Bylaws, Article VI.

<sup>5</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.

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.