



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 21-56 [Voting Conflict, §2-11.1(d)]

DATE: March 30, 2021

CC: COE 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 The Children's Trust (TCT) board member.

Background

Resolution 2021-F entitled, "Authorization to negotiate and execute a single source contract with Jewish Community Services for the 211 Helpline call center for children and families in our community, for a term of 12 months, commencing October 1, 2021, and ending September 30, 2022, in a total amount not to exceed \$1,174,176.00" will be considered at an upcoming meeting of TCT board.

You inquire on behalf of TCT board member, Dr. Daniel Bagner, regarding whether he 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 2021-F- 211 Helpline.¹

¹ TCT contracts with various agencies, including Florida International University's Center for Children and Families, which delivers state-of-the-art clinical services to more than 3,000 families each year and provides training through academic programs and continuing education opportunities. Its clinical services and research programs include early childhood services, individual and group programs for parents, group and home-based therapy for children, nationally acclaimed summer camps and video teleconferencing therapy. <https://ccf.fiu.edu/about/index.html>

Dr. Bagner works for FIU in the *Center for Children and Families*, and JCS, the recipient of this contract, contracts with FIU's *Metropolitan Center* for professional services. Specifically, FIU "conducts external 'secret shopping' of the 211 Helpline call to *assess the quality of services* and to provide regular continuous learning and improvement feedback to JCS." Dr. Bagner is not related to or involved with the contract between FIU's Metropolitan Center and JCS. Further, FIU is not receiving funding from this Resolution.

Analysis

This office may consider and opine on whether a TCT board member has a conflict of interest 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 prohibits a board member from voting if he or she will receive a direct financial benefit from the board action or if the vote would be contrary to the Florida Ethics Code at Section 112.3143 (Section III (A)(1) of the Policy). Additionally, "...board members ... will avoid an appearance of impropriety." (Section III (D) of the Policy)² There are no facts indicating that Dr. Bagner will be receiving a direct financial benefit from the board action, therefore, a conflict analysis under that provision of TCT rules is not applicable.

TCT is also bound by the Ethics Code (*See* RQO 19-06). 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; or, 3) the board member might, directly or indirectly, profit or be enhanced by the board action.³ *See* RQO15-04

Unlike the usual factual pattern where a board member is employed or serves in the entity seeking the funding, in this instance, Dr. Bagner is an employee of an educational institution which has a partnership with JCS- the recipient and beneficiary of the funds. Although Dr. Bagner has an enumerated relationship with JCS' partner, FIU, there is no unique impact which would create a voting conflict. Notably, there are no facts indicating that Dr. Bagner might profit or be enhanced by the board action authorizing the execution of this single source contract with JCS; TCT is not providing direct funding to Dr. Bagner's Center for Children and Families team or to FIU rather, the funding is allocated to support a common objective- providing comprehensive information referrals and crisis counseling services to children and families throughout the County.

² *See also* TCT Bylaws at Art. VI: Board members will act to avoid the appearance of impropriety.

³ 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.

Conclusion

Based on the information provided herein, it does not appear that Dr. Bagner has a voting conflict. He does not have an enumerated relationship with the recipient of the funds under this Resolution. He will not profit (directly or indirectly) or be enhanced by this vote nor will a special benefit come to him in his capacity as employee of an institutional entity which partners with the vendor for professional services. Further, his voting and participation with regard to 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 COE 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.