



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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

**FROM:** Gilma Diaz-Greco, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2021-77, Voting Conflict, §2-11.1(d), The Children's Trust  
Resolution 2021-xx-Family and Neighborhood Supports

**DATE:** May 5, 2021

**CC:** All COE Legal 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 for The Children's Trust Board members on "Resolution 2021-xx-Family and Neighborhood Supports" (Family and Neighborhood Supports).

Facts and issue:

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 TCT 2021-xx-Family and Neighborhood Supports, will be considered at an upcoming meeting of TCT board. This Resolution is entitled "Authorization to waive the formal competitive procurement process and negotiate and execute contracts with 14 Family and Neighborhood Support Partnerships providers, identified herein, in a total amount not to exceed \$8,914,814.00, for a term of 12 months, commencing October 1, 2021, and ending September 30, 2022."

The Resolution seeks to waive the formal competitive procurement process and negotiate and execute contracts with 14 Family and Neighborhood Support Partnerships providers

(FNSPs).<sup>1</sup> FNSPs offer comprehensive and individualized supports for children, youth and their families who are experiencing challenges that limit them from realizing their full health, social, educational and economic potential. Supports aim to amplify strengths in an effort to counter the effects of adverse childhood experiences, such as child abuse or neglect, exposure to family and community trauma and violence, family mental health and legal issues, and extreme and/or inter-generational poverty.

On May 22, 2017, the Board of The Children’s Trust approved the funding recommendations from the competitive request for proposals, RFP# 2017-04, for a four-year FNSP funding cycle, following a comprehensive review process. The 14 FNSP providers include community-based health and social service organizations, governmental agencies, educational entities, private sector businesses, nonprofit organizations, law enforcement agencies, juvenile justice agencies, faith-based organizations, and other funding agencies that work together to strengthen the system of care. TCT is currently in the fourth year of the funding cycle (2020-2021). The recommendation in this Resolution is for an additional 12-month term (2021-2022) contracts with the current FNSPs.

You inquire on behalf of several 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 Resolution 2021-xx – Family and Neighbors Supports. You make this inquiry in light of the relationship formed between the entities that employ the TCT board members and the FNSPs funded by this Resolution.

- **Tiombe Bisa Kendrick-Dunn** works for Miami-Dade County Public Schools (M-DCPS). M-DCPS is not receiving funding through this Resolution; and he does not have any financial or other relationship with any of the FNSPs funded by this Resolution. MDCPS provides referrals for students in need.
- **Magaly Abrahante** works for Miami-Dade County Public Schools (M-DCPS). M-DCPS is not receiving funding through this Resolution; and she does not have any

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<sup>1</sup> The providers are: Advocate Program, Inc., Americans for Immigrant Justice, CCDH, Inc. dba Advocacy Network Children with Disabilities, Children of Inmates, City of Homestead, Community Health of South Florida, Inc., Concerned African Women, Inc., Connect Familias, Inc., Educate Tomorrow, Gang Alternative, Inc., New Horizons Community Mental Health Center, Inc., Opa-Locka Community Development Corp., and The Alliance for GLBTQ Youth. The funding in this Resolution also flows to agencies that subcontract with the 14 FNSPs enumerated here. These subcontracting agencies are listed in the Resolution.

financial or other relationship with any of the FNSPs funded by this Resolution. MDCPS provides referrals for students in need.

- **Richard Dunn** works for Miami-Dade County Public Schools (M-DCPS). M-DCPS is not receiving funding through this Resolution; and he does not have any financial or other relationship with any of the FNSPs funded by this Resolution. MDCPS provides referrals for students in need of support.
- **Dorothy Bendross-Mindingall** is a Miami-Dade County Public Schools (M-DCPS) board member. M-DCPS is not receiving funding through this Resolution; and she does not have any financial or other relationship with any of the FNSPs funded by this Resolution. MDCPS provides referrals for students in need.
- **Daniel Bagner** works for Florida International University's (FIU) Psychology Department and FIU's Children and Family Center. FIU School of Law receives funding through American Immigrant Justice, one of the FNSP providers in this Resolution. However, neither he 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 FNSPs funded by this Resolution.
- **Gilda Ferradaz** works for the Department of Children and Families (DCF). DCF is not receiving funding through this Resolution; and she does not have any financial or other relationship with any of the FNSPs funded by this Resolution. DCF is a referral partner.
- **Pamela Hollingsworth** works for the Early Learning Coalition (ELC). ELC is not receiving funding through this Resolution and she does not have any financial or other relationship with any of the FNSPs funded by this Resolution. ELCC provides referrals for families in need of support.
- **Valrose Graham** works for the Department of Juvenile Justice (DJJ). DJJ is not receiving funding through this Resolution; and she does not have any financial or other relationship with any of the FNSPs funded by this Resolution. DJJ provides referrals for students in need of support.
- **Judge Orlando Prescott**- works for the Eleventh Judicial Circuit Court of Florida, Miami-Dade County. The Eleventh Judicial Circuit does not receive any funding through this Resolution; and he does not have any financial or other relationship with any of the FNSPs funded by this Resolution. The Eleventh Judicial Circuit Court sends Advocate Program referrals for families going through divorce and high conflict.

- **Susan Neimand, PhD**, is the Dean of the School of Education at Miami Dade College (MDC). MDC is not receiving funding through this Resolution; and she does not have any financial or other relationship with any of the FNSPs funded by this Resolution. Educate Tomorrow, an FNSP provider under this Resolution, provides educational counseling to children aged out of foster care. MDC provides a workspace (at no cost) at the MDC One Stop Office for the Educate Tomorrow staff member but receives no funding from Educate Tomorrow or this Resolution.
- **Monique Jiménez-Herrera**, PhD is the Chair of Miami Dade College's (MDC) Department of Social Services and conducts professional development trainings on topics that address cultural and individual diversity. MDC is not receiving funding through this Resolution; and she does not have any financial or other relationship with any of the FNSPs funded by this Resolution. Educate Tomorrow, an FNSP provider under this Resolution, provides educational counseling to children aged out of foster care. MDC provides a workspace (at no cost) at the MDC One Stop Office for the Educate Tomorrow staff member but receives no funding from Educate Tomorrow or this Resolution
- **Lourdes Gimenez** serves as volunteer member of the Agape Network (Agape) Board of Directors in addition to serving as a TCT board member. Agape receives funding from this Resolution via its contract with Children of Inmates, a primary FNPS provider funded by this Resolution. Ms. Gimenez does not have any financial or other relationship with any of the FNSPs funded by this Resolution.
- **Annie Neasman** is a founding officer and is employed as the President & CEO of Jessie Trice Community Health Systems (JTCHS), a not-for-profit health care center.<sup>2</sup> While this Resolution does not provide direct funding to JTCHS, the health center does receive patient referrals from some of the FNSP's funded in this Resolution<sup>3</sup>; these referrals impact JTCH's revenues.

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<sup>2</sup> Jessie Trice Community Health System, Inc is a Florida 501 I 3, not-for-profit organization that has been serving Miami-Dade County since 1967. It is one of Miami-Dade County's federally qualified community healthcare centers, governed by a Board of Directors (51% of which are users of the medical and dental services) and health providers and staff.  
<https://www.jtchs.org/about-us/> site reviewed on May 5, 2021.

<sup>3</sup> The referring FNSPs are Gang Alternatives, New Horizons Community Mental Health Center and Opa-Locka Community Development Corp.

Discussion 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>4</sup> The policy also provides that board members will act in such a manner to avoid the appearance of impropriety.<sup>5</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>6</sup>

After reviewing the information provided, there are no facts indicating that any of the TCT Board members listed in this opinion would receive any direct financial benefit from the board's action. Consequently, a conflict analysis under the 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 from 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>7</sup> See RQO15-04.

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<sup>4</sup> TCT Conflict of Interest and Code of Ethics Policy Section III (A)(1).

<sup>5</sup> TCT Conflict of Interest and Code of Ethics Policy Section III (D).

<sup>6</sup> TCT Bylaws, Article VI.

<sup>7</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.

After reviewing the facts provided to the COE for each of these TCT Board members regarding Resolution 2021-xx - Family and Neighborhood Supports, the COE opines as follows:

- TCT board members **Tiombe Bisa Kendrick-Dunn, Magaly Abrahante, Richard Dunn, and Dorothy Bendross-Mindingall** who are employees or officers of MDCPS, do not have a voting conflict to vote on this Resolution. MDCPS is not receiving any funding through this Resolution; these board members do not have any financial or other relationship with any of the FNSPs funded by this Resolution; and no other facts provided to the COE would indicate that any of these board members would be impacted by this vote in a manner distinct from the general public or that they would directly or indirectly benefit from a vote on this Resolution.
- TCT board member **Daniel Bagner** does not have a conflict to vote on this Resolution. 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 employed by FIU, and FIU’s Law School would receive some funding from this Resolution through the Law School’s agreement with American Immigrant Justice. However, the FIU departments which employ Dr. Bagner are not affected by this vote because they do not receive funding through this Resolution, and he does not have any financial or other relationship with any of the FNSPs funded by this Resolution. Furthermore, we have not been advised of any other facts suggesting that Dr. Bagner would be affected or will benefit, be enhanced, or receive any unique or special benefit from this vote. See RQO 19-04<sup>8</sup>, and See e.g., INQ 21-56 and INQ 20-52.
- TCT board members **Gilda Ferradaz (DCC), Pamela Hollingsworth (ELC), Valrose Graham (DJJ), Judge Orlando Prescott (11th Judicial Circuit)** do not have a conflict voting on this Resolution. The entities which employ them only serve as referral agencies to the FNSPs funded by this Resolution. None of the entities which employ them receive any funding from this Resolution; none of these board members have any financial or other relationship with any of the FNSPs

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<sup>8</sup> Memorandum re RQO 19-04 sets forth a “minor allocation” exception to the voting conflict in Section 2-11.1(d) of the Ethics Code: “a [TCT member] that serves in a primary enumerated position with an entity, may vote on an overall budget item when the budget provides funding to [the]entity, if the funding allocation is very minor compared to the overall budget... However, this Resolution is not part of an overall budget item as contemplated by this exception.

funded by this Resolution; and no facts provided to the COE indicate that any of these board members would be impacted by this vote in a manner distinct from the general public or that they would directly or indirectly benefit from a vote on this Resolution. See INQ 2021-36

- TCT board members **Susan Neimand, PhD and Monique Jiménez-Herrera, PhD** employed by MDC do not have a voting conflict to vote on this Resolution. MDC is not receiving funding through this Resolution. and neither of these board members have any financial or other relationship with any of the FNSPs funded by this Resolution. MDC provides a workspace (at no cost) to Educate Tomorrow, an FNSP contractor under this Resolution, at the MDC One Stop Office, but MDC receives no funding from Educate Tomorrow or this Resolution. In addition, no other facts provided to the COE would indicate that any of these board members would be impacted by this vote in a matter distinct from the general public or that they would directly or indirectly benefit from a vote on this Resolution.
- TCT board member **Lourdes Gimenez** would have a voting conflict and should recuse herself from voting on this Resolution because she has an enumerated relationship as a Director of the Agape Board of Directors, an entity whose funding is impacted by this vote. See, RQO 19-06 and INQ 20-50.
- Finally, **Annie Neasman** would have a voting conflict and should recuse herself from voting on this Resolution because she has an enumerated relationship as a founding officer, President, and CEO of JTCHS, an entity whose revenue is impacted by this vote. See RQO 19-06 and INQ 20-50.

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.