



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

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

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-78

DATE: May 5, 2021

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 The Children's Trust board members on Resolution 2021-HERO Program.

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 2021-HERO Program entitled, "Authorization to negotiate and execute a contract with Miami-Dade County for the HERO Truancy Prevention Program, a component of the Case Management Referral Program, in a total amount not to exceed \$880,000.00, for a term of 12 months, commencing August 1, 2021, and ending July 31, 2022," will be considered at an upcoming meeting of the TCT board.

The HERO (Here Everyday Ready On-time) Truancy Prevention Program is a component of the Case Management Referral Program, an innovative countywide collaboration that identifies and assists youth and families who are at the highest risk of being victims or perpetrators of violence. The Case Management Referral Program works to align services for said youth and their families, supports neighborhood programs and providers, and measures the progress of students who receive said services and supports.

The HERO Truancy Prevention Program is part of the Together for Children *strategy*, a neighborhood-driven community coalition working to address the root causes of youth violence by strengthening families and empowering and protecting youth with necessary

prevention and intervention services. The HERO Truancy Prevention Program serves three geographic regions in Miami-Dade County (North, Central, and South), spanning 20 ZIP codes.¹

You inquire on behalf of several TCT board members regarding whether they 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-B. You make this inquiry in light of the members' relationships with various entities that will receive funding through this Resolution:

- 1) Magaly Abrahante works for Miami-Dade County Public Schools (M-DCPS). She serves as an Assistant Superintendent responsible for early childhood programs, exceptional student education (ESE), and Title 1 programs. M-DCPS is receiving funding through this Resolution. M-DCPS is also a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project.
- 2) Tiombe Bisa Kendrick-Dunn is employed by M-DCPS as a school psychologist and is the Chairperson for Professional Growth & Development at M-DCPS. M-DCPS is receiving funding through this resolution. M-DCPS is also a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project.
- 3) Richard Dunn works part-time for Miami-Dade County Public Schools (M-DCPS). M-DCPS is receiving funding through this Resolution. M-DCPS is also a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project.
- 4) Dorothy Bendross-Mindingall is a Miami-Dade County Public Schools (M-DCPS) board member. M-DCPS is receiving funding through this Resolution. M-DCPS is also a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project.
- 5) Commissioner Danielle Higgins is a Miami-Dade Commissioner. Miami-Dade County is receiving funding through this Resolution. The County is also a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project. Additionally, Commissioner Higgins serves as a Together for Children advisory board member.

¹ On September 13, 2016, through Resolution #2016-92, the Board approved a formal partnership between The Children's Trust, Miami-Dade County, Miami-Dade County Public Schools (M-DCPS), and the Foundation for New Education Initiatives, Inc. (The Foundation), to implement the HERO Truancy Prevention Program. Under the Resolution that is the subject of this opinion, The Children's Trust will invest \$880,000.00 for this match contract, while Miami-Dade County contributes \$167,898.00, and M-DCPS provides in-kind services and supports valued at \$1,056,153.00. As a result of this collaborative effort, for every dollar The Children's Trust invests, \$1.40 are invested by the funding partners collectively.

- 6) Nelson Hincapie is the Miami-Dade County Mayor's appointee to The Children's Trust Board. Miami-Dade County is receiving funding through this Resolution. The County is also a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project. Additionally, Mr. Hincapie serves as a Together for Children advisory board member.
- 7) Mary Donworth works for the United Way. The United Way has a representative on The Children's Trust Board. The United Way is not receiving funding through this Resolution. The United Way is a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project.
- 8) Sandra West, is the appointee for the Miami-Dade County PTA/PTSA. Miami-Dade County Public School system is receiving funding through this Resolution. MDCPS is also a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project.
- 9) Emily Rosendo, is the representative for the Student Government Association (SGA). Miami-Dade County Public School System (M-DCPS) is receiving funding through this resolution. M-DCPS is also a funding contributor to this project. It will provide in-kind resources and/or grant funding in support of the project.
- 10) Gilda Ferradaz, Department of Children and Families (DCF), represents DCF on the Together for Children advisory board. DCF collaborates with Together for Children. DCF does not receive any funds from the HERO Truancy Prevention Program.
- 11) Laura Adams, State Attorney's Office, represents the SAO on the Together For Children advisory board. The SAO collaborates with Together for Children. The SAO does not receive any funds from the HERO Truancy Prevention Program.
- 12) Valrose Graham, Department of Juvenile Justice, represents DJJ on the Together For Children advisory board. DJJ collaborates with Together for Children. DJJ does not receive any funds from the HERO Truancy Prevention Program.

Analysis

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 any of the board members will be receiving a direct financial benefit from 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.

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.

As to TCT board members Magaly Abrahante, Tiombe Bisa Kendrick-Dunn, Richard Dunn, Dorothy Bendross-Mindingall- they are employees or officers of M-DCPS. M-DCPS is receiving funding through this Resolution.

However, even though Tiombe Bisa Kendrick-Dunn, Richard Dunn, Dorothy Bendross-Mindingall, are employees or officers of M-DCPS, which will receive funding through this Resolution, they are “not automatically disqualified from participating in an item that would affect the governmental entity [because they 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 INQ 20-47, quoting “Government Agency Employment Relationship Exception” in Memorandum to RQO 19-04, and INQ 18-68.

Additionally, it does not appear that they oversee the HERO Truancy Prevention Program at M-DCPS, nor do they have any supervision or control over employees of the M-DCPS who work with the HERO Truancy Prevention Program and would therefore have no voting conflicts.² Further, it also does not appear that any special benefit will come to them by virtue of their relationship with M-DCPS.

As to TCT board members Sandra West and Emily Rosendo, they are officers of entities affiliated with M-DCPS. While M-DCPS will receive funding through this Resolution, the PTA/PTSA and SGA, for which they respectively serve as officers, will not receive any funding through this Resolution. They do not have a prohibited enumerated relationship

² It is our understanding from TCT staff that the HERO Truancy Prevention Program is overseen by the operations section of M-DCPS. None of the TCT members that are employed by M-DCPS have any oversight or supervision over the operations section of M-DCPS and/or the HERO Truancy Prevention Program.

with Miami-Dade County; therefore, no voting conflict arises under this principle. It also does not appear that any special benefit will come to them by virtue of their relationship with M-DCPS.

As to Commissioner Cohen Higgins, although she is an official of Miami-Dade County, which will receive funding through this Resolution, 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 18-68.³

Additionally, TCT is not providing direct funding to the Board of County Commissioners on which she serves. Therefore, there is no unique impact which would create a voting conflict as Commissioner Cohen Higgins would not be affected by this vote in a matter distinct from the public generally.

Further, any possible indirect benefit to her as a Miami-Dade County Commissioner, is too remote to create a voting conflict. *See* INQ 20-46; INQ 20-47; and INQ 20-48.

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 HERO program and will provide in-kind resources and/or grant funding in support of the project.

United 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 for the HERO Truancy Prevention Program. TCT is not providing direct funding to United Way; rather, the United Way is providing funding to support a program with a common objective and any benefit or enhancement is not attributed to any individual board member. Any possible indirect benefit to Ms. Donworth is too remote to create a voting conflict.

Together for Children

As to TCT Members Commissioner Higgins, Nelson Hincapie, Giralda Ferradaz, Laura Adams, and Valrose Graham: unlike the usual factual pattern where a board member is employed or serves in the entity seeking the funding, in this instance, these TCT board members are either employees, officers or members of governmental entities and/or non-

³ Mr. Hincapié does not have a prohibited enumerated relationship with Miami-Dade County; therefore, no voting conflict arises under this principle.

profit entities which, along with TCT, form a community coalition named – Together for Children.

The HERO Truancy Prevention Program is part of the Together for Children strategy, i.e., to address the root causes of youth violence by strengthening families and empowering and protecting youth with necessary prevention and intervention services. **However, Together for Children is not receiving any funding through this Resolution. It also does not oversee or administer the HERO Truancy Prevention Program.**

Although these TCT board members may also serve as board members of Together for Children, which may generally benefit from the continuous agreement to fund the HERO Truancy Prevention Program, there is no unique impact which would create a voting conflict for these members who are employees or officers of non-profit entities and/or government entities which, along with TCT, form the community coalition – Together for Children. *See* Memorandum to RQO 19-04; and INQ 20-46.⁴

Additionally, none of the board members referenced herein would be affected by this vote in a matter distinct from the public generally.

Finally, there are no facts indicating that any of the board members referenced herein might profit or be enhanced by the board action authorizing the negotiation and execution of contracts with Miami-Dade County and Miami-Dade Public Schools for the HERO Truancy Prevention Program.

Conclusion

Under the details provided concerning this Resolution of TCT, authorizing negotiation and execution of a contract with Miami-Dade County for the HERO Truancy Prevention Program, it does not appear that any of the board members referenced herein will profit or be enhanced by this vote nor will a special benefit come to any of them in their capacities as employees, appointees, officers or members of their respective governmental/ non-profit entities.

Also, based on the overall purpose and goal of the HERO Truancy Prevention Program, and the participation objectives of the nonprofit organization and governmental entities involved, the members' voting and participation would not raise the perception of an appearance of impropriety in this Resolution.

⁴ This opinion is distinguishable from INQ 20-62, where we opined that TCT members that served on The Children's Trust Book Club Advisory Community (CAC)may not vote on that Resolution. In that case, CAC was to receive direct payment from Miami-Dade Family Learning Partnership, Inc., one of the recipient entities of the funding, for content development services for the content guide that they created. In this case, Together for Children receives no funding through this Resolution, nor does it oversee or administer the HERO Truancy Prevention Program.

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.