

**Meyers, Robert (COE)**

INQ 07-34

**From:** Meyers, Robert (COE)  
**Sent:** Friday, March 02, 2007 3:26 PM  
**To:** 'Charles Auslander'  
**Cc:** Arista-Volsky, Maria (CAO)  
**Subject:** RE: Youth Ethics Initiative

Dear Charles,

Thank you for your request for opinion. I have reviewed the facts you have provided me and the four questions you presented at the end of your request. Before I respond, I will identify the relevant facts. As I understand it, the Youth Ethics Initiative (YEI) receives funding from The Children's Trust and one of your Board members is involved in the activities of YEI. Based on the Board member's interest in YEI, the member abstained from discussing and voting on the Trust's consideration of the YEI grant. YEI was funded by The Children's Trust and it appears from your letter that greater than 10% of its budget comes from The Children's Trust funding.

In order to provide guidance with respect to this matter, it is necessary to define several terms. After reviewing Article VI of the Trust's Bylaws, which you included in your request for opinion, the critical issues are whether the Board member serves as a staff member for an agency receiving funding from the Trust and whether the payments the Board member will receive as a result of the member's activities with YEI amounts to a salary. Finally, I am also relying on the fact that The Children's Trust has incorporated an Appearance of Impropriety standard in its Conflict of Interest Policy.

I am more than willing to answer each of the four questions you presented one-by-one, but I would prefer to give you my overall assessment of the arrangement. It seems to me that an individual working for an agency and engaged in general office administration, project coordination and grant development (albeit as a volunteer) is performing staff functions for that agency. Secondly, the funding to YEI is for purposes of preparing ethics education modules and training educators to utilize these modules as part of class instruction in ethics and the Board member will receive the same author's costs honorarium for the preparation of any ethics module. Moreover, the Board member will receive \$5000 for administrative costs and another \$2500 in project coordination oversight; presumably this compensation is directly tied to the grant funding from The Children's Trust as well.

The remaining question, then, is whether such payments would be considered salary. A salary is typically defined as periodic payments from one party to another in an employment setting, and the abovementioned relationship between the Board member and YEI indicates to me that the Board member is being paid a salary by YEI. Therefore, the Board member is in violation of Article VI, Conflict of Interest Section C for two reasons: 1) The Board member is a staff member of an agency receiving more than 10% of its budget from Trust funding and 2) The Board member's salary is being paid by the Trust's funds. The fact that YEI may in the future increase its budget to the point where the Trust's percentage of the overall budget is diluted to less than 10% does not cure the present conflict.

Lastly, and probably most significantly, assuming that the above facts did not create an actual conflict, an appearance of impropriety is created because the Board member financially benefits from the decision of The Children's Trust to fund YEI. The fact that the Board did not participate in the discussion or the vote does not lessen the conflict.

If you would like me to tackle the four questions at the end of your letter, please let me know. Additionally, if you would like the Ethics Commission to take up your request for opinion at its next-regularly scheduled meeting, we can arrange that as well.

If you wish to discuss this opinion with me, feel free to contact me at your convenience.

Sincerely,

Robert Meyers, Executive Director  
Miami-Dade Commission on Ethics and Public Trust  
(305) 350-0613

-----Original Message-----

From: Charles Auslander [mailto:charles.auslander@thechildrenstrust.org]  
Sent: Monday, February 26, 2007 10:29 AM  
To: Meyers, Robert (COE)  
Subject: Re: Youth Ethics Initiative

Thanks Robert. Please excuse the informality of the attached e-mail opinion "letter" request. The Trust is in the midst of a move and we are pending a temporary certificate of occupancy in order to unpack. I will follow up with a properly addressed version of this email and a hard copy in letter form, however, the substance of the request will not likely change from the attached.

Thanks for your consideration,  
Charles

Charles M. Auslander  
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<<http://www.thechildrenstrust.org/>>

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Meyers, Robert (COE) wrote:

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> Charles,  
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> I received your e-mail on Friday, but I must have accidentally deleted  
> it. I did, however, print out a copy. For the record, I have no  
> intention of serving on the advisory council of the Youth Ethics  
> Initiative. They do good work and we have some areas of common  
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> Please feel free to forward any requests for opinion to my office.  
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