



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami,
Florida 33136 Phone: (305) 579-2594 ·
Facsimile: (305) 579-0273 Website:
ethics.miamidade.gov

MEMORANDUM

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

FROM: Susannah Nesmith, Staff Attorney
Commission on Ethics and Public Trust

SUBJECT: INQ 20223-172, Voting Conflict, §2-11.1(d)

DATE: December 29, 2023

CC: All COE Legal 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 The Children's Trust board members on Resolution 2024-B-Thrive by 5 School Readiness Program Match Grant to be awarded to the Early Learning Coalition.

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 2024-B, recommending, "[a]uthorization to negotiate and execute a contract with the Early Learning Coalition of Miami-Dade/Monroe (ELC) for local match funding for the State of Florida School Readiness Program Match grant, in a total amount not to exceed \$1,230,000.00, for a term of 12 months, commencing October 1, 2024, and ending September 30, 2025," will be considered at an upcoming meeting of TCT board.

This authorization will award ELC up to \$1,230,000 in matching funds for more 375 slots for childcare for working families. The state program matches local dollars provided by charitable organizations, local employers and government agencies. Families earning up to 200 percent of the federal poverty level are eligible for the program while the ELC is able to determine local priorities. The ELC prioritizes assisting families/individuals with younger children, children with disabilities, children of teen parents, and families experiencing other significant life stressors.

You inquire on behalf of 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 2024-B. You make this inquiry in light of the members' relationships with the entity receiving funding through this resolution in order to provide the services required:

- 1) Pamela Hollingsworth is Sr. Vice President for Strategic Partnerships and Program Development for the Early Learning Coalition of Miami-Dade/Monroe (ELC). The ELC will receive funding through Resolution 2024-B.
- 2) Gilda Ferradaz, designee from Florida Department of Children & Families, has been employed with the Department of Children and Families (DCF) for over 35 years and serves as Circuit Administrator and Regional Managing Director for the Southern Region, encompassing Miami-Dade and Monroe Counties. Ms. Ferradaz currently serves as a board member for the Early Learning Coalition. The ELC will receive funding through Resolution 2024-B.

Discussion:

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 TCT Board if the member will receive a direct financial benefit from the board action. TCT's Bylaws also provide 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 either of the above 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 (stockholder, bondholder, debtor, or creditor) 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.¹
See RQO 15-04.

An automatic voting conflict arises when the board member has a prohibited relationship with the entity *affected* by the Resolution.

In this instance, TCT board member Pamela Hollingsworth is employed by ELC and TCT board member Gilda Ferradaz is a board member of ELC. ELC will receive funding through this resolution. Therefore, both TCT board members have an enumerated relationship with an entity *affected* by the Resolution vote, and both board members are barred from participating and voting on this matter. *See* RQO 19-04² and INQ 23-167, INQ 22-01, INQ 21-38, INQ 20-51.

We also cannot ignore the heightened appearance of impropriety standard imposed on all TCT board members pursuant to TCT Policy and Bylaws. This heightened appearance of impropriety ethical standard should be enough to avoid participation and/or vote on an item connected to the entity where the board member is employed or serves. *See* INQ 16-273 (finding that the vice-president of the bank where TCT has account may serve on the board but may have a voting conflict in the future regarding issues connected in any way to TCT's relationship with the bank because, even if there is no financial interest on the part of the board member, the existence of a heightened appearance of impropriety ethical standard should suffice).

Hence, this office recommends that Ms. Hollingsworth and Ms. Ferradaz recuse themselves in this instance, where the Resolution allocating funding directly or indirectly affects the entity of which each of them is either employed or an officer. *See* INQ 22-01 and INQ 14-212.

Opinion:

Consequently, given the details provided concerning this Resolution TCT's board will consider, we recommend that board members Pamela Hollingsworth and Gilda Ferradaz refrain from voting or participating in funding matters affecting the ELC because they have automatic conflicts of interests as officers/employees within ELC; ELC's funding does not meet the "minor allocation" exception in RQO 19-04; and, recusal is in accordance with COE opinions as well as the heightened appearance of impropriety standard in TCT Policy and Bylaws.

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.

¹ 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.

² 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.

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 this is an informal opinion, 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.