



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

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

FROM: Nolen Andrew "Drew" Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2024-04, Voting Conflict, §2-11.1(d); The Children's Trust Conflict of Interest and Code of Ethics Policy § III(A)

DATE: January 9, 2024

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 board members of The Children's Trust ("TCT") with regard to Resolution 2024-C.

Facts

The Children's Trust is an independent special district established by Miami-Dade County in the Miami-Dade County Code, Chapter 2, Article CIII, Sections 2-1521 through 2-1531.

You have advised that Resolution 2024-C will be considered at an upcoming TCT board meeting. You have further advised that Resolution 2024-C recommends:

Authorization to negotiate and execute contract renewals with six providers, identified herein, for early childhood community research demonstration projects within high-need communities, in a total amount not to exceed \$1,939,358.00, for a term of 12 months, commencing October 1, 2024, and ending September 30, 2025, with one remaining contract renewal.

Resolution 2024-C provides funding "to identify, implement, and evaluate strong early childhood programs and practices that demonstrate equitable outcomes for all young children related to The Trust's headline community results."

Specifically, Resolution 2024-C will provide \$273,387.00 in funding to the Florida International University (“FIU”) Board of Trustees, in partnership with The Gathering Place, to support FIU’s Black Mother’s Care Plan (“BMCP”) Project. The BMCP Project brings together “local doulas, midwives, and Black community members with obstetric care experience to design a toolkit to educate aspiring and current health professionals from across Miami-Dade and to reduce racial bias and disparities in health care, implementing it through in-person workshops.

Additionally, Resolution 2024-C will provide \$423,076.00 in funding to the Sundari Foundation, Inc., in partnership with Lotus Village and FIU, to support the Sundari Foundation’s Prenatal and Early Childhood Development Research (“PECDR”) Project. The PECDR Project is intended to:

- 1) increase understanding of the developmental, social and emotional wellbeing (mental health) and trauma of homeless children (birth-5) and mothers/ expecting mothers; 2) improve child developmental status and social and emotional wellbeing, reduce impacts of trauma, and improve mother-child relationships by providing supportive services to children and mothers; 3) evaluate the effectiveness of service interventions to optimally support sheltered children and mothers, with adaptations needed for those experiencing homelessness and their service providers; and 4) raise public awareness of the needs of sheltered children and mothers and the value of evidence-based practices to support early childhood development, well-being, and school readiness and improve the lives of children and families experiencing homelessness.

Per the resolution, FIU’s role in the PECDR Project is to evaluate program implementation.

Furthermore, Resolution 2024-C will provide the University of Miami (“UM”) Department of Psychology, in partnership with the Overtown Children and Youth Coalition, Connect Familias, and Sant La, to support UM’s Integrated Data for Effectiveness Across Systems (“IDEAS”) to Action Project. The IDEAS to Action Project is intended to “develop and implement a population-based measure that can be mapped geographically to study school readiness and community factors that contribute to resilience over time in Miami-Dade County neighborhoods,” and “implement a data-to-action process that enables communities and schools to access and utilize data for decision-making, allocate funding for at-risk areas, and guide policies to improve children’s school readiness.”

With regard to this project, TCT’s Director of Programs advised that UM has organized the IDEAS Consortium, in which community entities partner with UM to share data. The IDEAS Consortium has stated that its “mission is to improve outcomes for all children, from birth through age eight, by aligning information from multiple Miami-Dade programs that support young children and their families.”¹ TCT’s Director of Programs further advised that the IDEAS Consortium is involved in the IDEAS to Action Project, which is a project that will receive funding under Resolution 2024-C

¹ See *About*, MIAMI-DADE IDEAS CONSORTIUM FOR CHILDREN, <https://ideas.psy.miami.edu/about/index.html> (last visited Jan. 4, 2024).

as described above. She further advised that one of the partner organizations in the IDEAS Consortium is the Early Learning Coalition of Miami-Dade/Monroe (“ELC”). The ELC is a Florida not-for-profit corporation that describes its mission as “promot[ing] high-quality inclusive school readiness, voluntary pre-kindergarten and after school programs, thus increasing all children’s chances of achieving future educational success and becoming productive members of society.”² TCT’s Director of Programs advised that, while the ELC participates in the IDEAS Consortium, only UM will receive money under Resolution 2024-C, and she affirmatively advised that the ELC will not receive any funds under Resolution 2024-C.

You have inquired on behalf of three (3) TCT board members because of their relationships with entities that will receive funding under Resolution 2024-C:

- Pamela Hollingsworth is the Senior Vice President for Strategic Partnership and Program Development for the ELC, which is part of the IDEAS Consortium;³
- Gilda Ferradaz is a board member for the ELC, which is part of the IDEAS Consortium;
- Dr. Daniel Bagner is employed by FIU as a professor of psychology, as well as Director of the Early Childhood Behavior Lab and Director of Clinical Training in the Clinical Science Program in Child and Adolescent Psychology.⁴

Issue

Whether three (3) TCT board members have a conflict of interest in voting or otherwise participating in Resolution 2024-C under section 2-11.1(d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”) and under the TCT Conflict of Interest and Code of Ethics Policy/Bylaws.

Law & Analysis

The Miami-Dade Commission on Ethics and Public Trust may opine regarding whether a TCT board member has a conflict of interest affecting his or her vote or participation in a funding allocation pursuant to the County Ethics Code and the TCT Conflict of Interest and Code of Ethics Policy/Bylaws. *See* RQO 19-06.

The County Ethics Code, at Section 2-11.1(d),⁵ establishes that a voting conflict exists if:

² *See Our Mission*, ABOUT US, <https://www.elcmdm.org/about-us> (last visited Jan. 3, 2024).

³ *Board of Directors*, ABOUT US, <https://www.elcfoundation.net/about-us/> (last visited Jan. 4, 2024).

⁴ *People*, EARLY CHILDHOOD BEHAVIOR LAB, <https://ecbl.fiu.edu/people/index.html> (last visited Jan. 4, 2024).

⁵ This section of the County Ethics Code, by its terms, applies to the Mayor and members of the Board of County Commissioners (“BCC”). However, by implication, members of the TCT board may be included for purposes 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 the dispersal of funds as described herein. *See* INQ 20-46.

- 1) a board member has an enumerated relationship (officer, director, partner, of counsel, consultant, employee, fiduciary, or beneficiary) with any entity affected by the vote;
- 2) a 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 from how it would affect the public generally; and,
- 3) a board member might, directly or indirectly, profit or be enhanced by the board action.

See RQO 15-04. The first category of conflict is an “automatic prohibited voting conflict,” which exists when the public official has an enumerated relationship with a party who will be affected by the official’s board action. *See* INQ 22-93 (finding an automatic prohibited voting conflict where TCT Board Members were also Presidents or Board Members of entities receiving funding from the proposed TCT resolution). “Even in the absence of a financial or economic benefit to the . . . official, if such a relationship exists, the official has a prohibited conflict of interest and is barred from voting.” *Id.* (citing RQO 15-04); *see also* INQ 20-107 (finding that a TCT Board Member who is Executive Director of The Sundari Foundation had a conflict of interest and was prohibited from voting on the proposed TCT resolution because she was Executive Director of an organization receiving funds pursuant to said proposed TCT resolution). However, even when a TCT Board member has an enumerated relationship with an entity, when that entity is a university, a further inquiry to determine whether the employing department at said university will receive funds is determinative. *See* INQ 21-133 (finding that a TCT Board Member employed by FIU did not have an automatic prohibited voting conflict where, even though FIU would receive funding through a TCT resolution, the TCT Board Member did not work in the FIU department that will receive the funding and would not otherwise receive any benefit or enhancement from the resolution); INQ 21-96 (same).

Furthermore, the circumstance where an automatic prohibited voting conflict occurs is distinguished from a circumstance where a TCT Board Member is an officer for a not-for-profit entity that merely benefits from the services contracted with another entity receiving TCT funding, but where there is no enumerated relationship with an entity directly receiving the TCT funds, nor is there a unique impact to that agency that would create a voting conflict. *See* INQ 21-34 (no voting conflict where TCT resolution funded a contract with a not-for-profit organization to provide optical services to financially disadvantaged schoolchildren and The Sundari Foundation operated one of the sites where the vision services were to be provided, *but it did not receive any funding through the resolution*); *but see* INQ 21-37 (potential voting conflict for TCT Board Member and Executive Director of The Sundari Foundation where TCT resolution funded a contract with an entity to provide oral health preventative services to financially disadvantaged schoolchildren, and the entity and The Sundari Foundation specifically partnered to provide these preventative health care services at a Sundari owned property).

Here, with regard to Ms. Hollingsworth and Ms. Ferradaz, they both have an enumerated relationship – either as an officer or an employee – with the ELC. *See* County Ethics Code § 2-11.1(d)(1); RQO 15-04. However, based on the information provided, as discussed above, it does not appear that the ELC is an entity that will be affected by the vote, nor does it appear that the ELC, Ms. Hollingsworth, or Ms. Ferradaz will receive any funds or directly profit from Resolution 2024-C. Rather, ELC merely participates in the IDEAS Consortium as a community

partner with UM, and that while UM and some of the other entities involved in the IDEAS Consortium may receive funding to participate in the IDEAS to Action Project funded by Resolution 2024-C, the ELC will not be directly or indirectly funded or affected. *See* INQ 21-34.

With regard to Dr. Bagner, he has an enumerated relationship – as an employee – with FIU. *See* County Ethics Code § 2-11.1(d)(1); RQO 15-04. Furthermore, FIU is an entity that will be affected by Resolution 2024-C because it will directly receive funding in relation to the BCMP Project and, through its partnership with The Sundari Foundation, it will also be involved in the PEDCR Project. Unlike in past circumstances where a different FIU department received the TCT’s funding, in this circumstance FIU’s Center for Children and Families, which is Dr. Bagner’s employing department, will directly receive funding from Resolution 2024-C. *See* INQ 21-133; INQ 21-96. Consequently, because FIU’s Center for Children and Families, via FIU’s Board of Trustees, will receive funding as a result of Resolution 2024-C, Dr. Bagner has an automatic prohibited voting conflict and would be barred from voting on or participating in any discussion regarding TCT Resolution 2024-C. *See* RQO 15-04; INQ 22-93.

Opinion

Under the facts provided concerning TCT Resolution 2024-C, which will provide funding for early childhood programs and practices that demonstrate equitable outcomes for all young children related to TCT’s mission and goals, **we recommend that Dr. Bagner refrain from voting on or participating in any discussion regarding TCT Resolution 2024-C** because he has an automatic prohibited voting conflict under Section 2-11.1(d) of the County Ethics Code due to his enumerated relationship with FIU. *See* County Ethics Code § 2-11.1(d)(1); RQO 15-04; INQ 22-93. **We further find that Ms. Hollingsworth and Ms. Ferradaz would not have a voting conflict because their employer is not a recipient of funds from Resolution 2024-C and they would not otherwise profit or be enhanced by TCT’s action on Resolution 2024-C.**

This opinion is limited to the facts as presented to the Miami-Dade Commission on Ethics and Public Trust and is limited to an interpretation of the County Conflict of Interest and Code of Ethics and TCT’s Conflict of Interest and Code of Ethics/Bylaws only and is not intended to interpret state laws. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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.