



Testimony to the New York City Conflicts of Interest Board (COIB) on Proposed Rules Regarding Community Board Service

September 27, 2019

Good afternoon Chair Briffault and members of the Conflicts of Interest Board. My name is Alex Camarda, and I am the Senior Policy Advisor for Reinvent Albany. Reinvent Albany is a government watchdog organization that advocates for open and accountable government. While we largely focus on Albany, we have an interest in strengthening ethics in New York City because the City serves as a model for better ethics laws and practices. We appreciate COIB's interest in improving community board ethics and thank COIB for the concise and well-targeted [Top 9 Things Community Boards Need to Know](#) web page.

Our testimony today has 7 major points:

- 1. COIB's promulgating rules on community boards is essential to make ethical standards clear**
- 2. Most of COIB's proposed rules for community boards are reasonable**
- 3. Community board members with conflicts should only discuss those matters during public meetings**
- 4. Community board members should be required to record conflicts and recusals from voting in their meeting minutes**
- 5. COIB should codify in its rules that community board members are barred from appearing before their own community board on behalf of a private business or private client**
- 6. COIB should address in its community board rules the omitted Advisory Opinions 1993-3 and 2010-1**
- 7. Beyond rules, COIB should consider:**
 - monitoring community boards more and investigating noncompliance**

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- **increasing ethics training of board members and district managers**
- **creating a database of conflicts and recusals from voting that all boards report information to**

Promulgating Rules on Community Boards is Essential

Reinvent Albany supported [Local Law 177 of 2018](#), which requires COIB promulgate rules for advisory opinions that are binding on public servants generally and have interpretative value.

Over the years, COIB has issued 18 Advisory Opinions, totaling 116 pages, related to community board members. During the 2018 Charter Revision Commission hearings, individuals raised community board members' conflicts. This revealed the difficulty of deciphering what the ethics requirements for boards were and whether they were being followed.

We therefore strongly support COIB promulgating its many Advisory Opinions on community board conflicts of interest as rules. Land use decisions that impact our urban landscape begin with consideration by the city's 59 community boards. Community boards also provide input on the city's budget. It is important that the public believes community boards are making determinations on the merits and are not conflicted in providing advice on development and budgetary matters. Greater clarity will help the boards and the public better understand what qualifies as a conflict of interest.

Reinvent Albany Supports Most of the Proposed Rules for Community Boards

COIB has promulgated rules for 10 of the 18 Advisory Opinions it has issued related to community boards. The Board has largely achieved a reasonable balance between recognizing that community board members are part-time public servants with advisory roles and maintaining high ethical standards.

In particular, we support COIB's rules that community board members:

- may not appear on behalf of a government entity they serve before the member's community board or vote on any matter involving such entity;
- shall not chair any community board, committee or subcommittee meeting:
 - when any matter particularly affecting the member's private employer, financial interest or other private interest is being considered; or

- that considers any matter involving a governmental entity served by the community board member as an official, officer or employee.
- shall not regularly chair any community board, committee or subcommittee:
 - that regularly reviews any matters involving the member's private employer, financial interest or other private interest; or
 - that regularly reviews any matters involving a governmental entity served by the community board member as an official, officer or employee.
- do not have substantial policy discretion because community board opinions are advisory.

Reinvent Albany Recommended Changes to Proposed Rules

Under COIB rules, community board members are not able to vote at a meeting on matters that may result in a personal and direct economic gain (or mitigation of a loss) to them or any person or firm they are associated with, nor vote at a meeting on a matter involving the agency they serve.

We agree with the prohibition on voting, but COIB rules allow these same conflicted individuals to participate in discussions about matters they are barred from voting on if they disclose the conflict first at a public meeting. The conflicted members can therefore attempt to persuade other community board members to vote on a matter that personally favors them or the agency they serve, and can also do so formally at a public meeting or informally behind closed doors, where the disclosure of the conflict is not likely to be monitored or enforced.

Reinvent Albany believes the following amendments should be made to COIB's proposed rules:

- In addition to recusal from voting, community board members should be prohibited from communicating or seeking to communicate, directly or indirectly, with any other member on the community board they serve on regarding a matter in which they have a conflict *except* at a public meeting where they first disclose their conflict one time before making any statements on the matter.
- Community boards should be required to record in their meeting minutes any conflicts members recused themselves from voting on, disclosing the name of the member with the conflict, a description of the conflict, and the name of the firm or person or relative or government entity the conflict involves.

- COIB should codify in its rules that community board members are barred from appearing before their own community board on behalf of a private business or private client. Community board members who serve a government entity are barred from appearing before their own community board on behalf of their agency in the proposed rules.

Address Two Community Board Advisory Opinions Not in the Draft Rules

COIB did not promulgate rules for eight Advisory Opinions related to community boards because, according to COIB, the ethics standards are already clear in the charter, in other rules or because COIB believes the circumstances presented in the Advisory Opinion were unusual or special. We believe it should promulgate as part of these rules ethics standards for two of these Advisory Opinions.

[Advisory Opinion 1993-3](#) allows community board members who serve on a local development corporation to vote on matters that impact the local development corporation, like a community board recommendation regarding a budgetary allocation to the local development corporation. We think these conflicted members should not be able to vote and should follow the same disclosure procedure we recommend for conflicted members who serve a governmental entity. In fact, COIB's list of governmental entities in Rule 1-08 includes New York local public authorities, meaning they are seemingly already barred. A local development corporation is a "local authority" in New York State Public Authorities Law. We do not believe it matters that a local development corporation is not considered a "firm" as described in the Advisory Opinion. We call on COIB to address the issues raised in AO 1993-3 in these rules it is promulgating.

We also think [Advisory Opinion 2010-1](#) concludes a member of both a community board and a Community Education Council (CEC) can fully participate in both since they are both advisory bodies, and that no conflict exists. We agree with the conclusion that voting should be allowed for a member of a community board and a Community Education Council (CEC) since they are both advisory bodies, but believe the member should be required to disclose their CEC membership in any education-related discussion by board members. We also believe they should be able to participate but *not* chair an education-related community board committee at any time. The community board is a distinct entity from the CEC, which consists of parents of school children, and may have a different perspective on educational issues. Allowing a CEC member to chair an education-related community board committee does not ensure that the distinction is preserved.

Actions COIB Should Take Regarding Community Boards Apart from Rulemaking

It appears to Reinvent Albany from news reports and testimony by the public that community boards are not always following ethics laws and are unaware of what the rules are.

We think this lack of awareness and compliance needs to be addressed. COIB should consider the following approaches:

1. COIB could monitor community boards more to determine if they are complying with ethics laws and, if not, train and investigate as appropriate.
2. COIB could conduct additional trainings of community board members and district managers on conflicts of interest law. We have read pamphlets COIB has issued that provide simple explanations of the ethics laws. The [Top 9 Things Community Boards Need to Know](#) on COIB's website is a good starting point.
3. COIB proposes in its rules that community board members disclose their conflicts of interest and recuse themselves from voting on those matters. COIB could additionally require community boards report recusals from voting and associated conflicts to COIB, and create an online database listing these. This would reveal how frequently conflicts are occurring, what the conflicts are, and help COIB monitor whether boards are abiding by disclose and recuse requirements.

Thank you for the opportunity to testify today. I welcome any questions you may have.