



Conflicts of Interest Board (COIB) Implies Mayor de Blasio Will Not Be Penalized for Apparent CONY Fundraising Violations

Mayor Off The Hook Because COIB Never Published Rules

2018 Law Now Requires Rules for Advisory Opinions

The New York City Conflicts of Interest Board (COIB) issued a statement yesterday that indirectly explains why the ethics board cannot penalize Mayor de Blasio for apparent ethics violations regarding fundraising for the Campaign for One New York (CONY). [The statement follows a letter from Reinvent and the New York Public Interest Research Group \(NYPIRG\) calling on COIB to make known its determination.](#)

Based on COIB's statement, Reinvent Albany believes Mayor de Blasio will not be penalized for fundraising from donors with business before the city and failing to inform donors that their contributions would not impact city decision-making. These activities were recently revealed in a Department of Investigation report.

COIB's statement notes they issued two Advisory Opinions in 2003 and 2008 regarding ethical guidelines for raising donations from city-affiliated and unaffiliated nonprofits, long before the Mayor was elected or CONY was created. However, because the COIB never promulgated these Advisory Opinions as official rules of the Board, the Advisory Opinions and guidelines issued to de Blasio referencing the Advisory Opinions cannot be used to penalize the Mayor for wrongdoing.

COIB statement reads: *Without any "rule of the Board" governing official fundraising, the Board is prohibited by the Charter from imposing a penalty on a public servant who violated the Charter provision cited in those Opinions: Charter Section 2604(b)(2).*

COIB determination relies on Conflicts of Interest Law section 2606(d), which states, "no penalties shall be imposed for a violation of paragraph two of subdivision b of

section twenty-six hundred four unless such violation involved conduct identified by rule of the board as prohibited by such paragraph.”

COIB cannot legally disclose an enforcement action unless it finds a violation, and deserves credit for adroitly clarifying a matter of significant public concern. But COIB should have promulgated rules regarding fundraising from nonprofits years ago so that the Mayor would have been held accountable. [It has now promulgated these rules](#), though it is too late for the rules to apply to the Mayor.

The failure of COIB to promulgate rules regarding Advisory Opinions so public servants can be held accountable was recognized by the City Council last year, which on its own recognized a major flaw in the city’s ethics laws. [Reinvent Albany supported](#) and the Council passed with little fanfare [Local Law 177 of 2018](#), which requires COIB to issue rules for Advisory Opinions every year by May 1st for Advisory Opinions issued in the prior year that establish an ethical standard or will likely be requested by other public servants in the future. The Board is required by May of 2020 to promulgate rules for any Advisory Opinions it has issued since 1990, which will make ethical standards binding on public servants and greatly strengthen the city’s ethics laws.

The newly promulgated rules covering hundreds of Advisory Opinions will not, however, apply to the Mayor’s past apparent violations. But the Council law is important regardless. During the 2019 and 2018 City Charter Revision Commission hearings, members of the public have testified about conflicts of interest of sitting members of community boards and commissions like the City Planning Commission. It is difficult to determine if these board and commission members are indeed violating city ethics laws. It is not clear what the ethics policies are for these members because of the maze of Advisory Opinions that may or may not apply, and it is not known if the members have waivers from COIB. Promulgating rules should make these ethical standards clearer to public servants and the public alike.