



CITY OF NEW YORK CONFLICTS OF INTEREST BOARD

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Community Boards

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Charter Sections: 2604(b)(2) and (b)(3), 1135, 2700, 2800

Angela Mariana Freyre
Board Member

Opinions Cited: 93-21

Bruce A. Green
Board Member

Advisory Opinion No. 2003-3

Jane W. Parver
Board Member

Benito Romano
Board Member

The Conflicts of Interest Board (the "Board") has received two requests that relate to the circumstances under which staff of members of the City Council or their families may serve as members of community boards. In the first case, a member of the Council wishes to recommend the husband of a member of his staff for appointment to a community board. In the second, a community board member wishes to remain a member of his community board while working for a member of the Council whose Council district includes substantially all of the district of that community board.

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For the reasons discussed below, the Board determines that it **would not violate** Chapter 68 for a Council Member to nominate his staff member's spouse to serve on a community board, but that it **would violate** Chapter 68 for a community board member to simultaneously work for a member of the Council whose district substantially overlaps that community board district.

Background

Community Boards

The City Charter provides for the establishment of community districts, to facilitate City planning at the community level, encourage participation in City government, and allow City agencies to more efficiently organize the delivery of municipal services to the five boroughs.

See Charter Section 2700.

The Charter also establishes a community board for each community district, consisting of not more than fifty members appointed by the Borough President for staggered terms of two years, at least one-half of whom are to be appointed from nominees of City Council members whose Council districts include any part of the community district. See Charter Section 2800(a).

The Instant Cases

Request #1: A Council Member wishes to support an applicant for community board membership who was recommended by the Council Member's predecessor and whose application was pending at the Borough President's Office before the Council Member took office. The applicant's spouse is employed in the office of the Council Member.

Request #2: An active and long-term member of a community board, who was offered a paid staff position with the Member of the Council whose district includes all, or substantially all, of the district of that community board, asks whether he may accept the Council staff position while remaining a member of the community board.

Relevant Charter Provisions

Charter Section 2604(b)(2) states: “No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.”

Charter Section 2604(b)(3) states: “No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.” A person or firm “associated” with a public servant includes a spouse, domestic partner, child, parent or sibling; a person with whom the public servant has a business or other financial relationship; and each firm in which the public servant has a present or potential interest. See Charter Section 2601(5).

Charter Section 1135 states: “No person who is employed by a borough president or a council member may be appointed to serve on a community board to which such borough president may make appointments or to which such council member may make recommendations for appointment.”

Discussion

In its Advisory Opinion Number 93-21, the Board stated that it would be a violation of Chapter 68 for a member of the Council to nominate his or her family member to the Borough President for appointment to a community board, an unpaid position. The Board stated that Charter Section 2604(b)(3) is “intended, among other things, to prevent City employees from abusing the public trust by exerting official influence to secure financial gain or special treatment for family members.... It is also intended to preserve public confidence in government by

helping to insure that official actions or decisions are motivated solely by the public interest, rather than private relationships or affiliations.” (Emphasis added). The Board further noted that Charter Section 1135, which prohibits a Council member from nominating a member of his or her staff for appointment to a community board, supported its conclusion that a Council member should not be permitted to nominate a member of his or her family.

Request #1: In the first case now before the Board, the applicant for community board membership, unlike the applicant in Advisory Opinion No. 93-21, is not a member of the Council Member’s own family. Nor is the applicant a member of his staff (a nomination proscribed by Charter Section 1135). Rather, the applicant is the spouse of a staff aide to the Council Member. The relationship appears to be sufficiently arm’s-length to permit a determination that such a nomination will not violate Chapter 68, **provided that** the applicant’s spouse recuses herself from any involvement in the appointment of her husband to the community board.

Request #2: In the second case, where a community board member wishes to retain his seat after going to work for the Council member who serves the district of that community board, the Board notes that Charter Section 1135 would forbid the reverse, i.e., the appointment of a Council Member’s employee to serve on a community board. Charter Section 1135 reflects a recognition that there is a close working relationship between the district offices of members of the Council and the community boards that serve their Councilmanic districts, and that the positions of such Council employees and community board members are inherently incompatible. The Board now determines that the holding of such incompatible positions would violate the prohibition contained in Charter Section 2604(b)(2) against having any interest that

conflicts with the proper discharge of one's official duty. Council members therefore may not hire as their employees members of a community board whose district they serve.

Conclusion

It **would not** violate Chapter 68 for a member of the Council to nominate the spouse of a member of his staff for membership on a community board, provided that the Council staff member is recused from the appointment process. It **would** violate Chapter 68 for a member of a community board to be employed in the office of a member of the Council who has appointment power to that community board.



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