

COMMUNITY BOARD NO. 8 BRONX

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ETHICAL GUIDANCE A MANUAL FOR MEMBERS OF COMMUNITY BOARD NO. 8 BRONX

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Serving the neighborhoods of Fieldston, Kingsbridge, Kingsbridge Heights,
Marble Hill, Riverdale, Spuyten Duyvil, and Van Cortlandt Village

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Foreword and Introduction

In 2007, Irving Ladimer, the Chair of Community Board 8's Ethics Committee, took on the personal task of creating the Community Board No. 8 Ethical Guidance Manual. Since that time, new issues have been brought before the Board that resulted in the need to expand the Guidelines' content and scope. The following Guidelines have been revised by a subcommittee of the Law, Rules and Ethics Committee (LRE).

"Community board members are chosen because of their professional involvement with, and commitment to, the communities in which they live and work".

*It is recognized that, by virtue of such interests and qualifications, they have personal interests and private or official associations. It is the purpose of the New York City ethical codes, presented in many ways, to ensure the integrity and impartiality of Board decisions. Thus, members are instructed and assigned in their service to avoid personal gain or advantage." (Community Boards by General Counsel, Conflict of Interest Board)

Our community is best served by the sincere and active involvement of Board members. The highest ethical imperative is met by attendance, participation and voting. In this way, members may achieve improvement in the quality of life for the neighborhoods served by the Bronx Community Board No. 8 and for all New Yorkers.

Beyond adherence to the formal rules, members are expected to treat with dignity and respect all the members of the Board and members of the public whom we serve.

This manual is intended as long-term reference for members of Bronx Community Board No. 8 to aid them in affording proper and effective service. Generally, few issues arise but, for guidance, the basis and experience of local boards and the specifics of the Board's Bylaws are provided. The major source is the Conflicts of Interest Board (COIB), responsible for issuing opinions and for advising community boards and the public.

Bronx Community Board No. 8 also has a website at www.nyc.gov/bronxcb8. The Board's site provides resource information; committee agendas and minutes, board reports, data relevant to the district's planning initiatives, district statistical profiles, community health profiles and conflict of interest information.

The completion of this revised project could not have occurred without the hard work of Patricia Manning, District Manager. In addition, great appreciation is offered to Wayne G. Hawley, General Counsel, Conflicts of Interest Board who reviewed the initial document, the Office of the Bronx Borough President, and to those Board members who provided comments.

This is a work in progress. As new issues come before us, especially in our rich and varied communities, new and current responses will be needed.

Irving Ladimer, Rosemary Ginty, Martin Wolpoff
Law, Rules and Ethics Committee

Part I

General Conditions

In service to City and community, members of Community Boards (CB) are expected to observe generally accepted ethical principles, notably avoidance of conflict of interest or advantage of position.

It is known that members would have personal, family, work or social interests and associations that may affect their views or conduct in Board considerations. Accordingly, rules and opinions from several sources are available to instruct and govern member participation. The purpose of these restrictions is to acknowledge private concerns while preserving the integrity of the Board and its processes.

Part II

Authorities and Sources

1. Primarily, the New York City Charter includes a chapter on Ethics (Ch. 68) creating the current Conflicts of Interest Board (COIB) to promulgate rules, provide education and issue advisory opinions. The Charter contains specific provisions relating to official conduct of Community Board members, many subject to COIB interpretation. These apply to Board staff and to appointed Board members but not to “public members” who volunteer on committees, as they are not deemed “public servants” under the Charter. However, the Community Board expects these “community members” to disclose any relationships that might involve a conflict and that they not vote on any resolution for which they have a conflict.
2. The Conflicts of Interest Board (COIB) is the principal agency monitoring and advising Boards generally on ethical issues or specifically in answer to a Board inquiry. The COIB may also enforce requirements and impose fines or other penalties, after a hearing.

The COIB has a wide range of responsibilities and issues advisory opinions (not judicial orders) on topics concerning Board operations, committee service and financing of Board

activities, but mainly responds to private versus public interests. Part III (below) summarizes a number of opinions of special interest to Bronx Community Board No. 8 (CB8) such as zoning, representation of charitable and non-profit groups, public employment and business ventures.

3. Bylaws of Bronx Community Board No. 8. This is the governing instrument of the Board. It governs the internal management and outlines the responsibilities and powers of the Board. It defines rules for officers, meetings, voting, standing committees and the authorization for special committees, public hearings, gallery sessions, public relations, district manager and the board office and amendments. The bylaws are available on the Board's website at: www.nyc.gov/bronxcb8 under the category About CB8. The Ethical Guidance Manual does not change or amend CB8's Bylaws.

The Board uses parliamentary procedures based on Robert's Rules of Order to conduct meetings in the tradition of public democracy. The Mayor's Community Assistance Unit (CAU) has written *A Guide to Parliamentary Procedures for New York City Community Boards*. The parliamentary procedures are available on the Board's website at www.nyc.gov/bronxcb8 under the category About CB8, Member Resources.

4. Law, Rules & Ethics Committee. The Committee is a regular standing committee of the Board. By special provision, the membership of the Committee "shall consist of those appointed Board Members who are attorneys at law and other interested appointed Board Members. When an issue arises requiring an ethics opinion, an ad hoc committee shall be constituted as follows: Board Chairperson shall appoint two (2) officers of the Board; the Chairperson of the Law Rules and Ethics (LRE) Committee shall appoint an LRE Committee member as counsel/voting member," (Bylaws, Article Section 7, D)

The jurisdiction of the Committee is limited to issues and matters within the scope of Board powers and functions and does not extend to subjects of interest to the community district unless properly presented and acknowledged by the Board.

The Committee is available on an open or confidential basis, for information or advice to any appointed Board member, or any community committee member upon approval of the Chair.

The Committee is obliged to inform the Board of official reports, decisions and advice provided for guidance of Community Boards. The Committee maintains a reference file of such information for the benefit of Board and community members.

5. Your Community Board. This brochure, issued by the Mayor's Community Affairs Unit, outlines the functions, powers and operations of local Boards. It is available on the Board website at: www.nyc.gov/bronxcb8 under the category About CB8.
6. The 2010 Handbook for Community Board Members was originally prepared by the Community Board Assistance Unit of the Mayor's Office. It has a reference guide for community board members and includes the *Appendix E. Conflicts of Interests*. The Handbook is available on the Board's website at: www.nyc.gov/bronxcb8, under the category About CB8, Member Resources.

Part III

Opinions of the Conflicts of Interest Board

The Conflicts of Interest Board (COIB) issues and compiles opinions, published periodically; also in City Law, the journal of the Center for New York City Law; in occasional bulletins and brochures. Separates are available. A City Law monograph "Conflicts of Interest Under the New York City Charter" contains a chapter on Community Boards. By illustration, two pamphlets "Conflicts of Interest: What Every Community Board Member Should Know" (1996) and "Conflicts of Interest Law and Community Boards" (1999) are available on the website under Member Resources.

Ethics seminars open to the public are held by the COIB and the Center for New York City Law. Meetings and conferences are announced in publications of the Center for New York City Law (New York Law School) and COIB office. Visit COIB at: <http://nyc.gov/ethics>

The purpose of the Charter (law) is to ensure that Board members, as public servants, do not use or appear to use their positions for their own interests. Recognizing their private interests, COIB opinions permit discussion and participation on proper disclosure or abstention "For Cause." This is

determined by balancing the nature and extent of possible personal gain or influence against the importance of the subject at issue.

Some typical opinions are provided:

1. Zoning - Board member homeowners may vote on rezoning when not individually or directly involved. Nine members of Community Board 7 (Queens) asked COIB if they could vote on a proposal for rezoning an area in which they lived. Voting would not violate conflicts of interest laws as long as members disclose, in advance, any economic interests to their Board. The Board members were homeowners, not investors with business interests and the rezoning involved a vast area with 8000 properties. Board members could not individually benefit. (Opinion No. 2005-3, 11/7/05)
2. Senior Facility - A Board member had an interest in a corporation planning to build an assisted living facility on five lots in the community. The member did not refrain from voting on the proposal. COIB ruled that by voting, he violated the Ethics provision of the Charter since his vote could result in a direct economic gain to him. (Opinion No. 99-157, 2001)
3. Liquor Facility - A Board member who owned a liquor shop may be permitted to vote on liquor licensing of another, possibly competing, facility because any advantage would be speculative and any effect on the member's facility would be indirect. (Opinion No. 2003-2, 2003). A further Opinion stated that a Board member who had an interest in a liquor facility could not serve as Chair of the Committee responsible for considering liquor license applications, i.e.; Public Safety Committee. (Opinion No. 2003-2)
4. Private Interests - A Board member may Chair a Committee unlikely to consider issues concerning the member's private interests. If they arise, the member may not participate in discussions. Relevant information must be disclosed.
5. Budget Priorities - Board members may vote on budget priorities that may affect developments in which they have an interest, provided such votes do not result in personal and direct economic gain. (Opinion No. 93-3)

6. Compliance with City Charter - Appointed members may not use their positions for personal advantage or for any business or organization with which they are associated. Generally, they are subject to the same restrictions imposed on public servants but are afforded the special Charter provision for community boards, mainly regarding conflicts of interest.
7. Service on a Community Education Council ("CEC") - A Board member may serve on a "CEC" that represents the same neighborhood as the community board. The Board member may vote on matters at both entities, and chair community board meetings that consider matters that had been or might be considered by the "CEC". (Opinion No. 2010-1)
8. Community Board Members Right to Vote when Associated with Organizations
- A member who is employed or a board member of an organization may not vote on a matter that would benefit the organization or chair any meeting.
 - A member who is an executive director or executive of an organization may not vote on a matter that would benefit a more senior executive or member of the board of directors. An employee may vote if it does not appear that the executive or director determines terms and conditions of employment.
 - A member whose spouse, sibling or other "associated" party is employed by an organization that would be materially affected may not vote on the matter or chair any meeting if the "associated" party will receive a financial benefit.
 - A member who is employed at a not-for-profit may not vote or chair a meeting on a matter providing direct financial benefit such as to underwrite the member's salary but, if unpaid, may vote.
 - A member whether an employee or a board member of a not-for-profit may not solicit contributions from any person or firm with a matter before, or about to be before, the community board. (Opinion No. 2008-2)
9. Acceptance of Admission to Sporting or Entertainment Events - A Board member or employee, as public servants, may accept complimentary attendance to a sporting and other entertainment events only if there is a clear and direct nexus between the event and the public servant's official duties and the public servant must perform some official function at the event, not merely be announced as present. (Opinion 2012-4)

10. Board Office Staff

Certain close relatives and business associates of Community Board members may not serve on the staff of the member's Community Board. More particularly, a member's spouse, domestic partner, parents, children, siblings, or anyone with whom the member has a business or financial relationship may not serve as staff to the Board. (Advisory Opinion No. 2004-3)

Part IV

Related Issues of Interest to the Board

1. Representation. A Board member may not issue a public statement to media or otherwise without prior approval by the Board Chair and may not sign as a Board member or permit such inference unless authorized.
2. Honoraria. A Board member may not accept an honorarium or expense fee for speaking or working for an organization when it may reasonably be inferred that the member might receive favorable treatment.
3. Political Activity. A Board member may be involved in political activity and run for public office while continuing to serve on the Board. However, pursuant to Section 1115 of the City Charter, which prohibits individuals from holding more than one civil office, a Community Board member would have to resign from the Board upon assuming elective office. Fundraising must be undertaken separately and without reference to Community Board membership. (Board of Ethics Opinion 435, affirmed by COIB)
4. Board Appointments. Appointments to a Community Board are within the discretion of the Borough President on the basis of applications, recommendations and nominations from local City Council members. Appointments are not subject to reconsideration or appeal.
5. Board Fundraising. Boards may authorize soliciting of donations or contributions but not from individuals or firms with matters pending before the Board or periodically pending and, as appropriate, within the City's bidding process. The Board may solicit or accept funds to

support a public service project, such as a community survey, but with disclosure of any possible involvement leading to conflict of interest and must provide findings and recommendations on the basis of fair dealing.

6. Gifts. The Board may, after appropriate approval, accept gifts on the condition that the donor, private or non profit, is not afforded any advantage or preference or be a party to a pending issue.
7. Member Request. A Board member for self or others is entitled, as a private citizen, to apply to a Committee for consideration of a neighborhood matter, such as parking or housing. Membership does not, of itself, imply preference or the appearance of special interest. The member is equally entitled to the resources of public authorities, including the Board. There is no personal economic gain for the member.
8. Professional Representation. Board members associated with professional firms such as law, health, accounting, engineering, architecture, urban planning and similar entities, may not personally represent a private client before the Board and cannot vote on any matter involving the client's interest. However, the firm may be able to obtain a waiver from COIB for presentation by a partner or colleague.
9. Supplier to Board. A Board member may not serve as a supplier or vendor to the Board or engage in business dealings. An exception may be made for special purchases, upon disclosure and approval.
10. Financial Disclosure. Information presented by a member at the time of appointment is deemed sufficient by the Board. A proposal by New York City Council Member, submitted to all Boards, for full financial disclosure similar to that for City employees, was deemed not necessary and also inappropriate for members with only advisory authority.
11. Waivers for Members. Employees of contractors for the City may serve as "public members" or Board members. They are unpaid volunteers who evaluate or review programs and take part in public hearings. They have no executive or administrative responsibility for the employer. To serve as members they may obtain waivers from COIB and recuse themselves

from any negotiations involving their employer or gain status from their employer. (Opinion No. 2006-01, 01/18/06)

12. Ex Officio Member. An ex officio Board member may participate in discussion and express opinions but is not entitled to vote. CB8 has three (3) ex-officio members from City Council Districts 10, 11 and 14.

13. Post Board-Membership Appearances

Former Community Board members may not appear before their former Community Board within one year of leaving Community Board service. An “appearance” is any communication for compensation, other than those involving ministerial activities. This does not bar the former Community Board member from coming to public meetings and participating as a regular private citizen. It does, however, bar him from representing clients before his former Community Board for one year after finishing service as a Community Board member. (Charter Sections 2601(4) and 2604(d)(2))

Part V

Community Board Administration

In the interest of our community, the Board is subject to the Freedom of Information Law and to the Open Meetings Law for access.

1. Nominating Committee

The Nominating Committee is subject to the Open Meetings Law. (See Appendix)

In addition to the Bylaws, which specify the structure and duties of the committee, the following procedures are to be followed pursuant to resolutions adopted by the community board on February 14, 2012, November 13, 2012, April 14, 2015, and December 8, 2020.

- a) Officers: A member of the nominating committee may not be nominated by the committee for a position of officer.
- b) Committee Chairs: A member of the Nominating Committee under consideration for a committee chair shall recuse him/herself from discussion and not vote for that position.
- c) In the event of a tie vote in the Nominating Committee, both candidates shall be presented to the Board.
- d) The Nominating Committee must complete its activities and present its slates at least two calendar weeks before the June meeting at which the election will take place.

- e) *When the Nominating Committee is elected, there will be a statement that all officer and committee chair positions are to be considered open and available for nominations, and the following guidance to the Committee will be read aloud:*

“Board Members who are putting together a proposed slate should make their choice bearing in mind that it is both good policy as well as conducive to the smooth functioning of the Board to strive for a Nominating Committee and a slate of proposed Officers and Committee Chairs who represent diversity in geographic areas within the Board, communities, ethnic and racial groups, professional and work backgrounds and ages. The choices made should also consider the experience of any nominee as a Board Member and the extent of the interest shown by any such nominee in participating in Board matters. These factors, while not meant to impel any particular individual choice, should always serve as general guidance.”

- f) *Within five (5) business days of the formation of the Nominating Committee, each current officer or committee chair must notify the Committee of his/her intention either (i) not to be considered for nomination, or (ii) affirmatively to seek nomination to his/her current position. The Nominating Committee will then promptly notify all board members of those positions as to which the Committee has received notification that the incumbent officer or chair is not seeking nomination. In the event, if a current officer or committee chair does not provide the required notification, the Nominating Committee may deem such officer or committee chair not to be seeking the nomination for that position. A member of the Board may seek to be considered by the Nominating Committee for nomination for election to only one position.*
- g) *The Nominating Committee shall interview (i) all candidates for an officer or chair position who have not previously occupied the position sought and (ii) all candidates for an officer or chair position where more than one candidate is seeking the Committee’s nomination for that position, irrespective of incumbency. The Committee may in its discretion interview any candidates seeking nomination who currently occupy the officer or chair position sought, giving due consideration to the length of the candidate’s tenure in the position. (Revised 12/20)*
- h) *Open Meetings Law:*
- (i) *The actions of the Nominating Committee are subject to the Open Meetings Law: meeting notice must be given; meetings are open to the public; and minutes must be taken, including the recording of votes taken.*
- (ii) *The Nominating Committee may go into executive session if it is to discuss the “medical, financial, credit or employment history of a particular individual.” It is recommended that, if interested, the Committee establish a question schedule that includes such questions. If that is the case, a motion must be made to go into executive session and a recording of the votes on the motion be recorded. While in executive session, there are no minutes, votes or discussion relating to the selection of a slate. Such discussions and votes must be made in open session with minutes taken and votes recorded*
- (iii) *Consistent with the requirements of the New York State Open Meetings Law in order to provide sufficient public notice of the meetings of the Nominating Committee and to provide sufficient meeting time for the Committee to complete the required*

*organizational tasks, while accounting for possible scheduling conflicts, the following Nominating Committee **initial** meeting dates shall be noticed at the same time public notice of the April meeting of the Community Board is provided:*

- immediately follow upon the adjournment of the April Board meeting;*
- the day immediately following the April Board meeting;*
- the sixth (6th) business day following the April Board meeting; and*
- the seventh (7th) business day following the April Board meeting.*

*(iv) The newly elected Nominating Committee members shall select one of the above publicly noticed dates and, by public notice, announce cancellation of the others.
(Revised 12/20)*

- i) Any incumbent who wishes to be considered for more than one officer or chair position, must announce the vacancy of their current position.
- j) Board Members who wish to be considered for the nominating committee need to be aware that they need to be available during the period when the committee will be meeting and deliberating.

2. Filling Midterm vacancies

Upon the vacancy of any Officer or elected Committee Chair position as the result of death, resignation or termination, the expression of interest by any community board member in seeking election to the position will not be made public before 10 days after the effective date of such vacancy. Expressions of interest may be submitted at any time up to the time of the election to fill such vacancy. A vote to fill such vacancy shall be taken not later than at the second regular meeting following the creation of the vacancy. At the election to fill the vacancy, all nominations will be made from the floor.

3. Freedom of Information Law (FOIL)

NYS Public Officers Law Article 6 states: "The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality. The legislature therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article." Accordingly, Community Board 8 follows the guidelines set forth in the Board's FOIL Request Memorandum of November 12, 2014. (See Appendix)

Part VI

Voting

Appointed members of the Board are exclusively entitled and expected to vote on resolutions for action submitted to the Board. An official vote requires a quorum ("A majority of appointed members.") All votes are recorded as cast in person and on time. For a resolution to be approved there must be a majority vote of the members eligible to vote.

Votes may be positive, negative, abstentions or any abstentions noted as "ineligible to vote". The quorum is not affected by abstention or refusal to vote. Abstention, "ineligible to vote". is subject to challenge on request. Votes from members who are approved as abstentions "ineligible to vote". reduce the majority required for the resolution to be approved.

An abstention "ineligible to vote," is acceptable if the cause or reason for abstention is permissible as a recognized conflict of interest, the appearance of a conflict of interest or the position of the member is based on statute or a decision of the Conflict of Interest Board (COIB). Absent a specific response to a question adjudicated by the COIB, the chair of the Law, Rules and Ethics Committee shall determine whether the basis of an abstention, ineligible to vote meets the standards provided by the COIB. The Chair of the board will offer a decision, which may be challenged by a vote of the board.

All votes are recorded as For, Against, Abstention and Abstention. Ineligible to vote. A member who abstains is permitted to attend the meeting and allowed to take part in the discussion.

Community Committee members vote in their committees.

END

Appendix:

1. Conflicts of Interest: Appendix E. Conflicts of Interest: What Every Community Board Member Should Know from 2010 Handbook for Community Board Members
2. Community Boards by Wayne G. Hawley, General Counsel, Conflicts of Interest Board
3. Your Community Board, City of New York, Mayor's Community Affairs Unit pamphlet
4. Open Meetings Law
5. FOIL Memorandum by Daniel Padernacht, Chair, BXCB8 – November 12, 2014