



THE COUNCIL OF THE CITY OF NEW YORK

Christine C. Quinn, Speaker

BRIEFING PAPER OF THE COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS

Joel Rivera, Chairperson

November 27, 2012

Topic: *New York City Conflicts of Interest Board – (Mayoral Candidate for appointment upon advice and consent of the Council)*

- **Nicholas Scoppetta [Preconsidered-M]**

The New York City Conflicts of Interest Board (“COIB”), which is mandated to meet at least once per month, primarily serves to provide clear guidance to public employees regarding prohibited conduct through training, education, and the issuance of advisory opinions. COIB is required to publish an index of its opinions and an annual report. COIB’s mandate covers Council as well as mayoral agency employees. COIB also collects and reviews financial disclosure reports [*New York City Charter* (“Charter”) §§ 2602 and 2603]. COIB promulgates rules as necessary to implement and interpret the provisions of Chapter 68 of the *Charter* (“*Conflicts of Interest Code*” or the “*Code*”), consistent with the goal of providing clear guidance regarding prohibited conduct [*Charter* § 2603(a)]. COIB is authorized to hear and decide violations of the *Code*. Additionally, COIB is empowered to impose fines of up to \$10,000 and recommend suspensions or removals from City employment in appropriate cases.

COIB members are chosen for their independence, integrity, civic commitment and high ethical standards. Members are prohibited from holding public office, seeking election to any public office, being a public employee in any jurisdiction, holding political party office, or appearing as a lobbyist before the city [*Charter* § 2602(b)].

COIB consists of five members who are appointed by the Mayor with the advice and consent of the City Council.¹ The term of office for COIB members is six years. The Council must act on mayoral nominations to COIB within forty-five days of submission [*Charter* § 2602(c)]. If the Council fails to act within forty-five days of receipt of such nomination from the Mayor, the nomination is deemed to be confirmed [*Charter* § 2602(c)]. If the Mayor does not submit a nomination for appointment of a successor to the Council at least sixty days prior to the expiration of the term of the member whose term is expiring, the term of the member in office is extended for an additional year and the term of the eventual successor to such member is shortened by an equal amount of time. COIB members are prohibited from serving more than two consecutive six-year terms [*Charter* § 2602(c)]. Two members of COIB constitute a quorum and all acts of COIB must be by the affirmative vote of at least two members [*Charter* § 2602(h)].

Members of COIB serve until their successors have been confirmed. Any vacancy occurring other than by expiration of term is filled by nomination by the Mayor, made to the Council within sixty days of the creation of the vacancy, for the un-expired portion of the term of the member succeeded. If the Council fails to act within forty-five days of receipt of such nomination from the Mayor, the nomination is deemed to be confirmed [*Charter* § 2602(e)].

COIB members may be removed by the Mayor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of the COIB section of the *Charter*, after written notice and an opportunity for a reply [*Charter* § 2602(f)].

Pursuant to the Charter, COIB is authorized to appoint a Counsel to serve at its pleasure and to employ or retain other such officers, employees and consultants as are necessary to exercise its powers and fulfill its obligations. The

¹ At present, COIB's members include: Steven B. Rosenfeld (Chair), Monica Blum, Andrew Irving, Burton Lehman, and Erika Thomas-Yuille.

authority of the Counsel may be defined in writing, provided that neither the Counsel, nor any other officer, employee or consultant of COIB, shall be authorized to issue advisory opinions, promulgate rules, issue subpoenas, issue final determinations concerning violations of Chapter 68 of the *Charter*, or recommend or impose penalties. Also, COIB may, and has, delegated its authority to issue advisory opinions under *Charter* § 2604(e) to its Chair [*Charter* § 2602(g), and as per COIB's Executive Director²].

By statute, members are entitled to receive per-diem compensation for each calendar day when performing the work of COIB. According to COIB's Deputy Executive Director, the rate for members is \$250 per-diem, and the rate for the Chair is \$275 per-diem.

If appointed, Mr. Scoppetta, a Manhattan resident, will replace Steven B. Rosenfeld and be eligible to serve the remainder of a six-year term that expires on March 31, 2014. Copies of Mr. Scoppetta's résumé and report/resolution are annexed to this briefing paper.

Attachments

PROJECT STAFF

Charles W. Davis III, Director

Yasmin Vega, Legislative Investigator

Emerson J. Sykes, Counsel, Committee on Rules, Privileges and Elections

Alycia Vassell, Legislative Clerk

² Mark Davies currently serves as the COIB's Deputy Executive Director.