

Advisory Opinion 91-12

The Conflicts of Interest Board has been asked for an opinion as to whether it would be a violation of Chapter 68 of the City Charter for chairpersons and district managers of community boards to hold political party office.

For the purposes of Chapter 68, a community board is an "agency"; its members, who serve without compensation, are "public servants"; and, as paid employees of such boards, district managers are generally "regular employees," i.e., public servants whose primary employment is with the City. See Charter Sections 2601(2), 2601(19) and 2601(20).

The issue raised by this inquiry is whether community board chairs and district managers are public servants who are "charged with substantial policy discretion" for the purpose of Charter Section 2604(b)(15), which provides that:

No elected official, deputy mayor, deputy to a citywide or boroughwide elected official, head of an agency, or other public servant who is charged with substantial policy discretion as defined by rule of the board may be a member of the national or state committee of a political party, serve as an assembly district leader of a political party or serve as the chair or as an officer of the county committee or county executive committee of a political party, except that a member of the council may serve an assembly district leader or hold any lesser political office as defined by rule

of the board. (Emphasis added.)

The Board has, by rule, determined that a public servant is deemed to have substantial policy discretion for the purpose of Charter Section 2604(b)(15)<sup>1</sup> if he or she has major responsibilities and exercises independent judgment in connection with determining important agency matters. Public servants with substantial policy discretion include, but are not limited to agency heads, deputy agency heads, assistant agency heads and public servants in charge of any major office, division, bureau or unit of an agency. It is our opinion that the chair of a community board is not charged with substantial policy discretion for the purposes of Charter Section 2604(b)(15), inasmuch as his or her role is limited to calling community board meetings and setting the agenda for such meetings. In contrast to the heads of executive City agencies, the chairs of community boards are not responsible for the administration or organization of their agencies, nor do they exercise the powers and responsibilities of such agency heads. Decisions concerning a community board's personnel and budget matters are, for example,

---

<sup>1</sup>Charter Section 2604(b)(12) also sets forth additional restrictions -- on fundraising for elected officials -- on public servants who are charged with substantial policy discretion as defined by the Board's rule.

made by vote of the community board and not by the board's chair.

It is also our opinion that district managers of community boards are not public servants with substantial policy discretion, since they act only at the direction of the community board. See Charter Sections 2800(d)(7) and 2800(f). District managers at the managerial level are subject to Mayoral Personnel Order 88/5, which prohibits City managers from serving as officers of any political party or political organization or as members of any political committee, including political party district leaders.

Thus, based on the foregoing, it is our opinion that it would not be a violation of Chapter 68 for chairs of community boards and community board district managers to hold the political party offices which are set forth in Charter Section 2604(b)(15): member of a national or state committee of a political party, assembly district leader, or officer of the county committee or county executive committee of a political party. We note that while district managers at the managerial level are not prohibited from holding such offices by Chapter 68, they may not do so pursuant to Mayoral Personnel Order No. 88/5.

Sheldon Oliensis  
Chair

Benjamin Gim

Beryl R. Jones

Robert J. McGuire

Shirley Adelson Siegel

Dated: November 19, 1991

