

From: [Lee, Benjamin](#)
To: [Emmett, Kathryn](#)
Cc: [Rosenson, Valerie](#)
Subject: Ethics Committee - Request for Opinion
Date: Friday, June 25, 2021 10:24:53 AM

Dear Kathy,

As you may be aware, there is a proposal for the Ethics Revisions Committee to adopt a new concept for the "Hearing Board", e.g., the public trial of an alleged violation of the Ethics Ordinance (this is known in the record as the Representative de la Cruz proposal). It deletes the Hearing Board and replaces the concept with an independent arbitrator.

As discussed in the committee, it was seen as an idea worth exploring, insofar as unconscious bias is inevitable among members of a group, such that members of the Hearing Committee may be naturally inclined to be favorable to the views of the members of the Investigating Committee, their fellow members of the Ethics Board, during a hearing. As I emphasized in the meeting, this unconscious bias not a mark of poor character or inherent bias, but rather, is simply a function of human nature. After all, there are similar concerns in the legal community regarding the overlap between former prosecutors and appointed judges, such that there is now a push to appoint more public defenders to the bench for precisely this reason.

If there is a movement to proceed with this idea, there are certainly details to be considered, such as the method of choosing the arbitrator. However, as a threshold issue, I would like Corporation Counsel to verify three points.

- 1) Is this is a permissible delegation of authority? That is, the enabling state statute authorizes municipalities to create ethics boards, and for those ethics boards to render punishment for violations. May an ethics board delegate that authority to render judgment to a third party?
- 2) If not, is it permissible to create to a two-tier structured, with one board charged with investigation of potential offenses and one board charged with hearings?
- 3) As a variation on the above, could the roles of the Ethics Board be modified, such that a member could be appointed to the Board but only for the purposes of being an investigator or only for the purposes of being a judge (thus, one board, but with two distinct missions)?

My apologies for sending this request late, but if we might have some thoughts from your department in advance of our July 1 meeting, that would be much appreciated.

Best regards,

Ben

Benjamin Lee

Stamford Board of Representatives
District 15 Representative
Phone: 203-614-9366
Twitter: @BenLeeCT
Email: blee@stamfordct.gov