



May 3, 2022

Sent via email

Dennis Walcott, Chair  
New York City Districting Commission  
253 Broadway  
New York, NY 10007

Re: Code of Ethics of the New York City Districting Commission

In the first meeting of the New York City Districting Commission, on March 29, 2022, you noted the Commission plans to develop a Code of Ethics for its proceedings that would address any potential conflicts of interests. Citizens Union is pleased to hear of that plan, which would help ensure an independent and fair redistricting process for the benefit of all New Yorkers. We offer the following recommendations and comments on the issue:

### **Potential *financial* Conflicts of Interest**

New York City Council Members hold direct power over city spending, both as a collective body and as individuals through discretionary funding. Council Members also spend a considerable amount as candidates on ads, campaign services, and consulting. The decisions that members of the Districting Commission make will have a significant impact on incumbent Council Members and their chances of reelection. Some commissioners have lobbied sitting Council Members for direct discretionary capital funding or have received income from campaign expenses for political advertisements.

Considering the above, the Commission's code of ethics should include a conflicts of interest policy. Such a policy should:

- make it clear that commissioners are considered public servants under Chapter 68 of the City Charter (Conflicts of Interest);
- require commissioners to disclose any potential conflicts of interest and recuse themselves in relevant cases; and
- be published publicly.

The Commission should seek guidance from the New York City Conflicts of Interest Board (COIB) on this issue and provide training to commissioners and staff.

### **Potential *political* Conflicts of Interest**

Through the map-making process, commissioners hold significant sway over the electoral landscape and the campaigns of incumbents and presumptive candidates. To ensure an independent and fair redistricting process, it is essential that commissioners be transparent about their relationships with relevant political figures and remain impartial in their decisions. Some members on the commission have been involved in campaigns of sitting council members, have family relations to political party organizations, or hold

positions in labor unions that issue candidate endorsements. Conflicting interests such as these can undermine the objectivity of the Commission and harm public trust in the process.

Therefore, the Commission's code of ethics should:

- require commissioners or staff members to file a disclosure form anytime maps or plans are discussed with individuals who are not affiliated with the commission. This includes Council Members, other elected officials and/or their representatives, or potential candidates for office.

The Commission's business should be open and transparent to strengthen the public's trust in the independence of the process, especially considering the last state redistricting process.

We note that the last scandal concerning a political intervention in the Council redistricting process – a map was drawn to help then Assembly Member Vito Lopez mount a run for City Council – occurred following a private meeting between a Council Member and the Commission's executive director.

### **Other Codes of Ethics**

In devising the Districting Commission's code of ethics, we recommend learning from similar documents adopted by redistricting bodies around the country.

In California, where state law disqualifies people with certain conflicts of interest from serving on the Citizens Redistricting Commission, the commission also adopted its own code of conduct. The code requires every commissioner to “disclose any actual or perceived conflicts of interest to the Commission” and to “act impartially and provide no special privilege to any one member of the Commission, staff, or the public,” among other things. The commission also adopted specific conflicts of interest provisions as required by California law<sup>1</sup>.

In Michigan, the state's Independent Citizens Redistricting Commission adopted a code of conduct that forbids commissioners from publicly supporting or opposing legislation or ballot initiatives and requires them to “actively foster an environment of thoughtful and purposeful nonpartisan collegiality at all times”. The Michigan Commission also approved a detailed conflict of interest policy. Among other things, it forbids commissioners from divulging confidential information acquired in the course of their duties or employment to an unauthorized person, and “refrain from engaging in conduct that could be reasonably perceived to call into question the honesty, integrity, and professionalism” of the commission.

See full policies and codes in in Appendix A below.

The above recommendations are not meant to question the merits or qualifications of any of the individuals sitting on the Commission, only to demonstrate the importance of creating a detailed conflicts of interest policy that addresses any financial and political conflicts of interest commissioners might have.

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<sup>1</sup> Conflict of Interest Code for the Citizens Redistricting Commission, October 2015. Retrieved from: [https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2020/08/13\\_CRC-Conflict-of-Interest-Code.pdf](https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2020/08/13_CRC-Conflict-of-Interest-Code.pdf)

Please do not hesitate to contact me or Ben Weinberg, Citizens Union's Director of Public Policy, at [bweinberg@citizensunion.org](mailto:bweinberg@citizensunion.org) or 347-291-4199 with any questions.

Sincerely,



Betsy Gotbaum  
Executive Director, Citizens Union

CC:

John L. Faletau, Executive Director  
Ali Rasoulinejad, Chief of Staff

## Appendix A

### **2020 California Citizens Redistricting Commission Commissioner Code of Conduct (Adopted November 4, 2020)**

The Commission's Code of Conduct is a set of conventional principles and expectations that are considered binding on any person serving on the California Citizens Redistricting Commission.

Per Government Code Section 8253 (a)(3), Commission members shall not communicate with or receive communications about redistricting matters from anyone outside of a public meeting/hearing. This does not prohibit communications between Commissioners, staff, consultants, and legal counsel that are otherwise permitted by the Bagley-Keene Act.

Every Commissioner shall:

- Conduct themselves in a manner which reflects positively on the Commission, their colleagues, and themselves.
- Speak the truth with no intent to deceive or mislead by technicalities or omissions.
- Ensure that all reports presented to the Commission or the public are accurate and honest.
- Honor all agreements made with the Commission or colleagues, with the understanding that individual Commissioners may not bind the entire Commission without action by the full Commission.
- Disclose any actual or perceived conflicts of interest to the Commission.
- Take personal responsibility for their actions – for success or failure.
- Act impartially and provide no special privilege to any one member of the Commission, staff, or the public.

- Discharge their responsibilities with dedication to achieving the Commission's mission and in line with the Commission's principles.
- Act with fiscal prudence when conducting Commission business.
- Comply with all levels of governmental regulations and Commission policies.
- Disclose information that belongs in the public domain freely and completely and protect privileged Commission information.
- Actively encourage diversity of thought through the inclusion of people from diverse backgrounds and refuse to engage in and or sanction discrimination on the basis of race, gender, age, religion, national origin, sexual orientation, physical appearance, or disability.
- Refuse to engage in and/or sanction activities for personal gain at the expense of the Commission or in violation of government code.
- Build relationships with others from a place of collaboration and respect that supports and upholds the dignity of California's diverse population, the Commission members, Commission staff, and all individuals participating in the redistricting process.

Retrieved from:

[https://d3n8a8pro7vhmx.cloudfront.net/ccrc/pages/14/attachments/original/1644017129/2020\\_California\\_Citizens\\_Redistricting\\_Commission\\_Policy\\_Manual.docx.pdf?1644017129](https://d3n8a8pro7vhmx.cloudfront.net/ccrc/pages/14/attachments/original/1644017129/2020_California_Citizens_Redistricting_Commission_Policy_Manual.docx.pdf?1644017129)

**Michigan Independent Citizens Redistricting Commission  
Commissioner Code of Conduct (Adopted November 10, 2020)**

- Commissioners shall demonstrate honesty, integrity and professionalism in their duties.
- Commissioners shall conduct themselves in a manner that reflects positively on the Commission and shall put the responsibilities and integrity of the Commission above personal or political gain.
- Commissioners shall not lobby, as defined in the Michigan Lobby Registration Act, Act 472 of 1978, except as it pertains to the Independent Citizens Redistricting Commission as permitted in the Michigan Constitution (Sec 6 Subsection 6) to carry out their duties. For the duration of their tenure as Commissioners, no Commissioner will publicly oppose or support specific ballot initiatives or legislative bills beyond those related to the work of the Commission itself (e.g., social media posts, interviews, public meetings, etc.).
- Commissioners shall actively foster an environment of thoughtful and purposeful nonpartisan collegiality at all times.
- Commissioners shall be respectful, tolerant and impartial toward their colleagues, staff, fellow governmental agency partners and the public.
- Commissioners shall uphold and abide by the Michigan Constitution, the Commissioner Code of Conduct and all rules and regulations set forth or enacted by the Commission.

- G. Commissioners shall refuse to engage in or sanction activities for personal gain at the expense of the Commission or in violation of government code.
- H. Commissioners shall maintain transparency in process and procedure so to instill public confidence in the Commission and the redistricting process.
- I. Commissioners will actively seek bipartisan and nonpartisan representation in their presentations and demonstrations at Commission meetings, public hearings or third-party speaking engagements.

Retrieved from: [https://www.michigan.gov/documents/sos/Code\\_of\\_Conduct\\_wMDOS\\_707248\\_7.pdf](https://www.michigan.gov/documents/sos/Code_of_Conduct_wMDOS_707248_7.pdf)

## **Michigan Independent Citizens Redistricting Commission Conflict of Interest Policy (adopted May 5, 2021)**

### **A. Purpose and Intent**

The Michigan Independent Citizens Redistricting Commission (MICRC) adopts the following Conflict of Interest Policy (“Policy”) to protect the interests of the MICRC and to ensure individual members of the Commission, its staff, attorneys, consultants, and contractors are diligent in avoiding unethical conduct and/or conflicts of interest and act in a manner consistent with their duties to the MICRC and to the public. This Policy is intended to supplement existing state law and MICRC policies dealing with unethical conduct and/or conflicts of interest including but not limited to Art IV §6, and Art IV §10 of the Michigan Constitution, Conflict of Interest Act, MCL 15.301, *et seq.*, Incompatible Public Offices Act, MCL 15.181 *et seq.*, the [MICRC Rules of Procedure](#) and the [ICRC Code of Conduct](#) currently in effect, as well as applicable MICRC contractual terms and conditions. Conflict(s) shall be disclosed and managed or eliminated to the extent practicable.

### **B. Definitions**

1. “Conflict of Interest” means personal, professional, political, commercial, or financial interests or activities outside of the MICRC that may, either in actuality or in appearance: 1) compromise judgment in the performance of duties to the MICRC; 2) bias the nature or direction of their actions related to the MICRC; 3) influence their decision or behavior with respect to appointments and promotions, uses of MICRC resources, contracting, or other matters of interest to the MICRC; or 4) result in a personal or Family Member’s gain or advancement arising out of MICRC business.
2. “Family Member” means a spouse, domestic partner, parent, stepparent, dependent child or stepchild, or anyone else with whom the individual has a close, continuing personal or business relationship. Siblings and non-dependent children (including step- and in-law variants of those relationships) are included in this definition in circumstances where the individual has actual knowledge that such relative is likely to, or will, benefit from a particular MICRC transaction. Relevant factors in determining the existence of a close, continuing personal or business relationship include the duration, strength and intimacy of the relationship.

3. “Loan” means a transfer of money, property, or anything of ascertainable value in exchange for an obligation, conditional or not, to repay in whole or in part.
4. “Person” means a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly, including a state agency or a political subdivision of the state.

### **C. Applicability**

Any Person associated with the MICRC or performing duties on its behalf, including, but not limited to, individual Commissioners, staff, attorneys, consultants, and contractors.

### **D. Policy**

1. Individual members of the MICRC, its staff, attorneys, consultants, and contractors, (“Agents”) stand in a relationship of trust and confidence to the MICRC and the residents of the State of Michigan. They shall act in good faith with due regard for the best interests of the MICRC and the public and shall comply with the principles set forth in this Policy and applicable law. They must not use their official MICRC positions or influence for further gain or advancement for themselves, Family Members, or other personal or business associates.
2. Conflicting interests can undermine the judgment or objectivity of Agents and compromise their primary obligation to the MICRC. Furthermore, bias or the appearance of bias may undermine public trust in the MICRC. Therefore, all direct or indirect potential or actual conflicts of interest must be disclosed, evaluated, and, if found to be substantial or material, eliminated or managed as described in this Policy.
3. Agents shall:
  - a. Consistently act in a manner that upholds and advances personal and professional honor, integrity, and the public’s trust in the Agents and the MICRC.
  - b. Refuse to provide, promise to provide, or offer any contract, work, payment, special attention, preferential treatment, priority or other thing or position of value in exchange for any gift, gratuity, favor, promise or other consideration.
  - c. Refrain from engaging in conduct that could be reasonably perceived to call into question the honesty, integrity, and professionalism of the Agent or the MICRC.
  - d. Faithfully and accurately account for all public funds.
  - e. Comply with all applicable laws and rules regarding conflicts of interest including but not limited to Art IV §6, and Art IV §10 of the Michigan Constitution, Conflict of Interest Act, MCL 15.301, *et seq.*, Incompatible Public Offices Act, MCL 15.181 *et seq.*, the MICRC Rules of Procedure and the ICRC Code of Conduct currently in effect, as well as applicable MICRC contractual terms and conditions.
  - f. Comply with all applicable laws providing for transparency in governmental affairs including but not limited to the provisions in Art IV §6 of the Michigan Constitution, Michigan’s Open Meetings Act, MCL 15.261, *et seq.*, and Freedom of Information Act, MCL 15.231, *et seq.*

4. Agents shall not:
  - a. Use of Confidential Information. Divulge confidential information acquired in the course of their duties or employment to an unauthorized Person.
  - b. Solicitation. Directly or indirectly solicit or accept any gift or loan of money, goods, services, or other thing of value greater than \$20.00 for the benefit of any Person or organization, which may influence the manner in which the Agents performs their duties.
  - c. Personal Opinion. Represent his or her personal opinion as that of the MICRC.
  - d. Public Resources. Use personnel, resources, property, and funds under the care and control of the MICRC, imprudently or in conflict with prescribed constitutional, statutory, and regulatory procedures and not for direct or indirect gain or benefit of the Agent or their Family Members.
  - e. Incompatibility and Conflicts of Interest. Except as otherwise provided in the Michigan Constitution or by statute, engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the Agent's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties.
  - f. Personal and financial interests. Participate in the negotiation or execution of contracts, or other regulation or supervision relating to a Person or business entity in which the Agent has a financial or personal interest.
  - g. Nepotism. Show favoritism for Family Members or others. Actual favoritism, or an appearance of favoritism, reduces the authority of and the public's confidence in the MICRC.

## E. Procedures

1. General Principles.
  - a. Fact-specific and nuanced inquiry on a case-by-case basis whether a conflict exists between personal interests and public duty.
  - b. Two key inquiries regarding conflicts of interest: is it incompatible with the discharge of official duties or does it impair independence of judgment in the performance of official duties.
  - c. Generally, a conflict exists when an individual's external interest provides an incentive to affect the individual's conduct of his or her MICRC activities or when the individual has the opportunity to affect a MICRC decision or other activity.
  - d. Conflicts of interest can arise naturally from an individual's engagement with the world outside the MICRC, and the mere existence of a conflict of interest does not necessarily imply wrongdoing on anyone's part, or the inability to perform duties related to the MICRC. When conflicts of interest do arise, however, they must be recognized, disclosed and either properly managed or eliminated.
2. Duty to Disclose.
  - a. To ensure effective identification and management of conflicts of interest, each Person or Agent subject to this Policy shall:
    - i. Receive a copy of the Conflict of Interest Policy and complete the Acknowledgement in writing that they understand and agree to the provisions herein.
    - ii. Complete a *MICRC Disclosure of Potential Conflict of Interest* form:

- 1) Upon receipt of this Policy; and
  - 2) For any new, previously unidentified or potential conflict of interest as soon as it arises or becomes known.
- iii. Direct disclosures required under this Policy shall be submitted in writing on the *MICRC Disclosure of Potential Conflict of Interest* form and submitted to the MICRC Executive Director.

### 3. Conflicts Management.

- a. Review after disclosure must take place promptly to help the Agent determine which interests are not in conflict, which conflicting interests may be permissible, and which conflicting interests must be eliminated or addressed.
- b. The Executive Director may consult with General Counsel as needed to:
  - i. Review and document the disclosure for apparent, potential, or actual conflicts;
  - ii. If necessary, to evaluate the presence or absence of a conflict, request and document additional details;
  - iii. Make a recommendation to the MICRC regarding the presence of an apparent, potential, or actual conflict and, if applicable, proposed actions to address it.
- c. The information compiled by the review and recommendation shall be presented to the MICRC for review and action. If the MICRC, by majority vote, determines that an actual or potential conflict exists, it shall set forth the steps to be taken to address the conflict. If the MICRC, by majority vote, determines that no conflict exists, the inquiry may be documented but no further action will be taken.
- d. Examples of management mechanisms include, but are not limited to, revising the reporting structure to place the decision-making capacity with a non-conflicted Agent; abstention in voting; divestiture of the interest; severing the relationship that creates the conflict.
- e. Violation of this Policy may result in the adoption of a Resolution of Censure by the MICRC, discipline or termination of staff, enforcement of contractual terms and conditions, or other appropriate action including, but not limited to, those remedies provided by relevant state laws.

### 4. **Confidentiality**

In order to encourage full disclosure of potential conflicts without unduly intruding on the privacy of individuals or their families, disclosures shall be treated confidentially to the extent permitted by law and disclosed only to the extent necessary for the MICRC to review and resolve conflicts.

Retrieved from: [https://www.michigan.gov/-/media/Project/Websites/MiCRC/MISC1/MICRC\\_Conflict\\_of\\_Interest\\_Policy\\_DRAFT\\_Sub\\_May\\_4.pdf?rev=1f8dcafa752d40c0950916764e4c4407](https://www.michigan.gov/-/media/Project/Websites/MiCRC/MISC1/MICRC_Conflict_of_Interest_Policy_DRAFT_Sub_May_4.pdf?rev=1f8dcafa752d40c0950916764e4c4407)