



**CITIZENS UNION OF THE CITY OF NEW YORK**  
**Testimony to the New York City Charter Revision Commission 2019**  
**Meeting on the Office of Public Advocate**  
**March 18, 2019**

Good evening Chair Benjamin and distinguished members of the New York City Charter Revision Commission. I am Betsy Gotbaum, executive director of Citizens Union and the former New York City Public Advocate from 2002 to 2009. We are happy to see that you are holding a meeting on the Office of Public Advocate, and for giving Citizens Union and I the opportunity to share our recommendations with you.

In 2010, Citizens Union issued a report in which we advocated retaining the Office of Public Advocate and giving it more authority. The recommendations I make to you today expand on those made in the 2010 report and are informed by my own experience serving New Yorkers as Public Advocate.

Citizens Union believes that the Office of Public Advocate, when properly structured and adequately funded, can be a useful and necessary actor in city government, especially given the need for greater oversight of city agencies. With the City of New York having only three elected citywide officials, the Office of Public Advocate occupies a unique and useful position from which to assess the needs and failures of city services in a city as large and diverse as New York. We believe the following recommendations for Charter reform will strengthen the position of public advocate and should be taken up by this Charter Revision Commission.

1. **Establish independent budgeting for the Office of Public Advocate and increase its annual funding.** Independently elected officials should not have their office operating budgets decided by both the city council and the mayor when these officials, especially the public advocate, may challenge the mayor or the council on their positions and approaches to issues. It undermines the integrity of the office if the public advocate feels the need to couch their remarks and opinions for fear of having their budget cut. Independent budgeting would require the public advocate's budget to be tied to another line of the city budget. We also believe that, given its responsibilities, the public advocate's budget should be increased from the roughly \$3.6 billion it is now (we note that the mayor has slightly increased the public advocate's budget in his preliminary budget). In 2010, Citizens Union recommended the annual funding of the public advocate's office be set to between five and seven percent of the council's budget, however we have not revisited this formula.

- 2. Give the public advocate the power to make one appointment each on the Franchise and Concessions Review Committee, the Board of Standards and Appeals, and the Conflicts of Interest Board.** Expand the Franchise and Concessions Review Committee (FCRC) from six to seven members, adding a designee of the public advocate to address concerns that the franchise and concessions process is too centralized and that the voices of consumers or other affected groups are not given enough weight during negotiations. The public advocate's representative would be a natural advocate for consumer issues and constituent groups citywide, given the office's ombudsperson role. This expansion will preserve a majority appointed by the mayor or representing mayoral agencies, and would provide three rather than the existing two votes for appointees of other elected officials (the comptroller, the borough presidents, and now the public advocate). It will also create an odd number of votes on the FCRC.

The appointment process for the Board of Standards and Appeals should include additional representatives from the borough presidents and the public advocate. Specifically, the BSA should be expanded to include one appointee from the public advocate and one appointee from each of the five borough presidents. For a given ruling, the voting BSA members would consist of seven members, five appointed by the mayor, one by the public advocate, and one representing the borough impacted by the ruling, as is the practice with the Franchise and Concessions Review Committee. Members of the BSA from the mayoral appointments also should now be required to possess professional expertise, with two of the five appointees being architects, and one of the five being an urban planner. Additional members to the BSA should be put in place immediately while professional expertise should be phased in as mayoral appointees are replaced.

The present appointment system of the Conflicts of Interest Board should be changed to create greater independence so that the mayor does not appoint all five members with council approval. It is recommended that the newly reconstituted Conflicts of Interest Board should have three appointees by the mayor, one by the comptroller, and one by the public advocate. The council would retain its role and power through its advice and consent authority for all appointees. Citizens Union believes that to go from all mayoral appointees to one in which a small plurality would be appointed by the mayor would inject too much change and politicize what has been a professional approach to ethics enforcement even though justifiable concerns exists over one elected official making all the appointments. Removal of Board members would be for cause only, at the discretion of the appointing office.

- 3. Eliminate the Commission on Public Information and Communication (COPIC) and transfer its major duties and responsibilities into the Office of Public Advocate.** Such an amendment would give the public advocate a greater level of responsibility for expanding public access to government data, information, and reports. In addition, city agencies should be required to provide information, documents, and other data to the public advocate who, as the city's watchdog of public information, will be better able to

evaluate the ease of public access to city government information and the breadth of information available.

- a. Require the public advocate to review the city's procedures and timeliness of response related to Freedom of Information Law (FOIL) requests, and make recommendations in this area.
  - b. Require the public advocate to make recommendations on improving access to data and information via new technologies, such as the internet and mobile devices, and on the reporting mechanisms developed.
  - c. Require the public advocate to review current law requiring agency reports and make recommendations on sun-setting reports when they are no longer needed or useful.
4. **Empower the public advocate to request and receive documents from city agencies.** This should be achieved in the Charter by mandating that agencies provide documents to the public advocate when requested, rather than requiring the public advocate go through the relevant council committee. Exceptions to this currently in the Charter, namely those documents for which a claim of privilege may properly be raised or are being used by the Department of Investigations for use in an investigation, should be maintained as provided in Chapter 2, Section 24(j) of the Charter. Citizens Union does not recommend granting the public advocate subpoena power, as there are already many investigative agencies in New York City.
5. **Give the public advocate access to data from the 311 call center.** The 311 call center is the nation's largest municipal call center and the most centralized site of communications between residents and city government. The system is intended to field complaints and inquiries, and act as a communication network among city agencies. As the citywide ombudsperson – the only elected official tasked with addressing individuals' complaints on a global scale – it is essential to have access to information gathered by 311. From nowhere else can the public advocate assess the scope and scale of city service problems so completely. 311 has an Agency Relations department, which works to exchange information about trends with city agencies, and there should be an explicit link between this work and the public advocate's.

We thank the Commission for its consideration of these important reforms to reinforce and expand upon the authority of the public advocate to serve as the city's ombudsperson. We look forward to continuing to work with you on this issue.