



OFFICE OF THE INSPECTOR GENERAL
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Baltimore, MD 21202



June 14, 2022

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 22-0238 – Charter Amendment – Inspector General – Advisory Board

Dear President and City Council Members:

The Office of the Inspector General (“OIG”) is pleased to comment on Bill 22-0238 (“Bill”), which alters the method by which individuals are selected to serve on the OIG Advisory Board (“Advisory Board”). The OIG supports the Bill, which would remove elected officials and their designees from the Advisory Board. Because such individuals could fall within the OIG’s jurisdiction, there is an inherent conflict with their membership on the Advisory Board; removing them promotes OIG independence from politics and inappropriate influence. However, as explained below, the OIG suggests amending the Bill to clarify the application process for certain members of the Advisory Board and to delete certain inappropriate duties given to the Chair of the Ethics Board.

In November 2018, Baltimore citizens voted overwhelmingly to increase the OIG’s independence through a Charter Amendment. *See* Council Bill 18-0199. Since then, the OIG team has worked tirelessly to make the office fair and neutral, seeking to evaluate and investigate complaints without bias or political pressure. The OIG team has received more than 2,000 complaints, authored more than 150 reports, and documented savings or waste of more than \$10 million dollars. We have also added Ethics and Whistleblower responsibilities, resulting in more than 2,000 calls alone for help with financial disclosure filings.

The existing law requires the Advisory Board to fulfill four main functions:

1. Selecting the Inspector General;
2. Presenting the OIG budget directly to the Board of Estimates, thereby reducing political influence;
3. Completing an annual performance review of the Inspector General; and
4. Remove the Inspector General for cause, as outlined in the law.

The current Advisory Board comprises five permanent members: the Mayor, City Council President,

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Comptroller, a Council member, and the City Solicitor (or their designees). These individuals are all elected officials or political appointees who fall under the jurisdiction of the OIG. This makes Baltimore an outlier when it comes to national best practices in OIG oversight.

In a review of twenty-five independent state and local Inspector General offices around the country, only seven had advisory boards. Of those seven, only two contained any elected or politically appointed officials. *See* Exhibit 1. Only Baltimore has an OIG Advisory Board whose permanent membership is made up exclusively of elected and politically appointed government employees.¹

The Advisory Board's current membership raises a number of obvious concerns and conflicts. For example, an OIG complainant should not hesitate in making a complaint against a member of the Advisory Board for fear that the complaint will be unduly quashed or prejudiced, or that they will face retaliation from the Advisory Board member. Likewise, the public should never wonder whether an OIG report is fully accurate and objective because of potential undue influence on the OIG process by an Advisory Board member.

The implications of elected officials choosing their own watchdog are unmistakable. It is a documented fact that over the past few years, the OIG has investigated numerous cases involving individuals or departments over whom members of the Advisory Board have sway. By removing elected officials and political appointees from the Advisory Board, this Bill will remove even the appearance of conflict, and will further the independence of the OIG—independence that received a clear mandate from voters in 2018. It is worth noting that when voters overwhelmingly approved the OIG's independence in 2018, the ballot language did not outline the constitution of the Advisory Board. The Bill will also allow citizens from all 14 City Councilmanic jurisdictions to apply for a spot on the Advisory Board—citizens who must not be City employees or otherwise fall within the OIG's jurisdiction.

However, the Bill, as written, should be amended to address ambiguity in how some members of the Advisory Board are selected and to delete certain inappropriate duties given to the Chair of the Ethics Board, as follows.

First, the Bill provides that the Ethics Board Chair shall randomly choose two of the five Advisory Board members from among the membership of three professional organizations. City Charter, Art. X, § 2(F)(3). However, the Bill does not provide a process by which interested members of those professional organizations may apply for a spot on the Advisory Board. Accordingly, the Bill should add an application process for those interested members.

Second, the Bill authorizes the Ethics Board Chair to remove members of the Advisory Board at any time, subject to approval by a majority vote of Ethics Board members. City Charter, Art. X, § 2(H). However, this expansion of Ethics Board authority over the membership of the Advisory Board is an inappropriate expansion of one independent board's jurisdiction over another. The Bill, in authorizing the Ethics Board Chair to randomly select Advisory Board members from a qualified applicant pool, does not require the Ethics Board Chair to exercise any discretion and does not add a substantive duty to his or her powers. But authorizing the Ethics Board Chair to remove members of the Advisory Board does add a discretionary

¹ Although the Board also has the option to add two law school deans, it can only do so when two elected officials—the Mayor and City Council President—agree to the arrangement.

and substantive duty, one that does not mesh with the jurisdiction or authority of the Ethics Board. Accordingly, the OIG suggests deleting the Ethics Board Chair's removal power from the Bill. Instead, the Bill could provide for the removal of Advisory Board members, for cause, by a majority vote of the Advisory Board.

Finally, the Bill requires the Ethics Board Chair to train new members of the Advisory Board on the City's Ethics Law, the rules governing the Advisory Board, and the rules governing and duties of the Inspector General. City Charter, Art. X, § 2(K). However, it is not within the Ethics Board Chair's purview or jurisdiction to know the workings of the Advisory Board or of the OIG. Accordingly, it is not appropriate to require the Ethics Board Chair to provide this training. Instead, the Bill could require the OIG to provide new Advisory Board members with training on the duties of the OIG and Advisory Board. Regarding ethics training, the Ethics Board already provides such training to new City officers and employees.

For all the foregoing reasons, the OIG strongly supports the Bill, with suggested amendments, and urges its passage. The OIG is, and is expected to be, one that avoids any political influence; this Bill helps to ensure the OIG's independence.

Sincerely,



Isabel Mercedes Cumming
Inspector General

Exhibits

1. 25 IG Advisory Boards

cc: Nina Themelis, Mayor's Office of Government Relations
Yvonne Brooks, Deputy IG

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Attachment #1

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HOTLINE: 443-984-3476/800-417-0430 EMAIL: OIG@BALTIMORECITY.GOV WEBSITE: OIG.BALTIMORECITY.GOV

OIG Location	Oversight Committee	Elected Officials or Designees on Oversight Board
Miami-Dade County (Florida), OIG	No	NA
Georgia, State OIG	No	NA
City of Springfield, OIG	No	NA
Indiana, State OIG	No	NA
Louisiana, State OIG	No	NA
City of Detroit, OIG	No	NA
City of Yonkers, OIG	No	NA
New York State, OIG	No	NA
Pennsylvania, State OIG	No	NA
City of Philadelphia, OIG	No	NA
South Carolina, State OIG	No	NA
Virginia, State OIG	No	NA
City of Richmond (Virginia), OIG	No	NA
Washington DC, OIG	No	NA
MD State Education, OIG	No	NA
Montgomery County, OIG	No	NA
City of Chicago, OIG	No	NA
Cook County, OIG	No	NA
<u>City of Atlanta, GA OIG</u>	Yes	None
Broward County (Florida), OIG	Yes	None
Palm Beach County (Florida), OIG	Yes	None
City of New Orleans, OIG	Yes	None
Jefferson Parish, OIG	Yes	None
City of Albuquerque, OIG	Yes	Yes: Mayor, one City Councilor
City of Baltimore, OIG	Yes	Yes: Mayor, City Solicitor, Council President, Comptroller, one City Council member

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