

BOB 155



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May 5, 2026

Mr. Kevin M. Dailey, Esq.
Town of Clifton Park
One Town Hall Plaza
Clifton Park, NY 12065

Re: Town of Clifton Park Ethics Board Appointments

Dear Mr. Dailey,

This advisory opinion is being provided in response to your request for an advisory opinion pursuant to General Municipal Law 808(1) regarding the existing vacancies on the Town's Board of Ethics and the authority of the County Board of Ethics to fill that vacancy following the lapse of the applicable 90-day period.

The Town's local law expressly provides that, "[i]n the event the Town Board is unable to fill vacancies as set forth hereinabove, then, in such case, the County Board of Ethics shall select the individuals to fill any vacancies." The law further defines such "inability" by the passage of ninety (90) days without the Town Board making an appointment.

That 90-day period has elapsed. As a result, under the plain and unambiguous terms of the local law, the Town Board is deemed "unable" to fill the vacancy, and the contingent appointing authority of the County Board of Ethics has been triggered.

This framework is fully consistent with New York General Municipal Law § 808, which authorizes a municipality to provide that members of a board of ethics "shall be appointed by such person or body as may be designated by the governing body of the municipality." GML 808(3) This statutory language permits a municipality to structure its appointment process that becomes operative upon the occurrence of a defined condition.

Here, the Town has exercised that authority by assigning the Town Board the primary responsibility to fill vacancies, while establishing a clear and objective trigger—passage of 90 days—upon which the County Board of Ethics assumes the appointing role.

Accordingly, no further showing of deadlock or inability is required beyond the expiration of the prescribed 90-day period. The Town Board's failure to act within that time constitutes, by operation of the local law, the triggering event that vests appointing authority in the County Board of Ethics.

For these reasons, the County Board of Ethics is authorized at this time to proceed with filling the vacancy, and any such appointment would be consistent with both the Town's local law and New York General Municipal Law § 808.

Please feel free to contact me if you wish to discuss this matter further.

Very truly yours,

George P. Conway

George P. Conway

cc: Robert Wilcox, Esq.

ANTHONY F. MORELLI, ESQ.



May 5, 2026

Good evening,

Before this Board proceeds any further on the Ethics Code, several points need to be clearly stated:

- **County appointments were lawful**

The County appointments were made pursuant to Clifton Park’s existing law and are consistent with New York General Municipal Law §808.
These appointments were made under valid Town Code provisions and remain on solid legal ground unless and until the law is properly amended or struck down by a court.
- **The four-vote requirement is binding**

Section 17-19 is unequivocal—any amendment to the Ethics Code requires **four votes**. Not three. Four. This Board cannot simply declare that requirement “null and void.” You must either amend the law in accordance with its own terms or seek a judicial determination.
- **Home Rule §23 cuts both ways**

If the argument is that the prior law was invalid because it affected the powers of elected officials without a referendum, then that same logic applies here. This proposal:

 - Changes how appointments are made
 - Removes safeguards
 - Consolidates authority in a simple majority

If §23 applies, it applies now—you don’t get to use it to invalidate one law and ignore it when passing another.
- **The appointments raise real questions**

There were two county appointments:

 - One was essentially **unanimous**
 - The other involved someone who had previously served and, for some reason, was not reappointed

That raises a legitimate question—what changed?
This does not appear to be about qualifications. It appears to be about control.
- **The bigger issue cannot be ignored**

Why has this Board spent months—across virtually every meeting in 2026—focused on the Ethics Code and Ethics Board appointments?

Very truly yours,

A handwritten signature in black ink, appearing to read 'Anthony F. Morelli'.

ANTHONY F. MORELLI, ESQ.