



Guidance

Regarding the Establishment, Operation and Conduct of Community Advisory Committees

June 23, 2025

By statute, a Community Advisory Committee is a public body established to review responses to the Request For Applications under its jurisdiction. The purpose of this document is to outline the legal parameters of Community Advisory Committee operation and to recommend best practices for Public Access to Meetings and Freedom of Information.

Applicable Laws

Ethics and Lobbying Law. The members of each Community Advisory Committee are subject to the laws under the jurisdiction of the New York State Commission on Ethics and Lobbying in Government. Members of a Community Advisory Committee may also be subject to the laws or policies of their appointing authority. It is the responsibility of the appointee to understand what applies to their public service.

Freedom of Information Law. The records produced by each Community Advisory Committee are subject to New York's Freedom of Information Law, Article 6 of the Public Officers Law. The Freedom of Information Law defines a "record" as any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

Open Meetings Law. The activities of Community Advisory Committees are expressly subject to the Open Meetings provisions of Article 7 of the Public Officers Law.

Public Officers Law. Article 3 of the Public Officers Law governs the filling of any vacancy of a Community Advisory Committee occurring after an initial appointment.

Racing Law. Racing, Pari-Mutuel Wagering and Breeding Law § 1321-d, License applicant eligibility, is the sole section wherein Community Advisory Committees are discussed. The entirety of the section has been appended to this guidance.

Records Retention. The New York State Archives, a part of the Office of Cultural Education within the New York State Education Department, has authority over the retention and disposition of certain records. Each Community Advisory Committee is advised to contact State Archives to determine what records are subject to retention and how any records should be disposed upon conclusion of Community Advisory Committee responsibilities.

General

(a) *Establishment.* The establishment of Community Advisory Committees, or CACs, is a requirement of Racing, Pari-Mutuel Wagering and Breeding Law § 1321-d (3). See Racing, Pari-Mutuel Wagering and Breeding Law § 1321-d(3)(a) and 1321-d(3)(b). Upon the receipt of a completed application in response to the Request For Applications issued pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Title 2-A, the Commission will establish a Community Advisory Committee for each application received based upon the physical location of the proposed gaming facility. In the event two or more applications are received with identical statutory appointment authority, only one CAC will be established.

(b) *Appointment.* The Commission will notify the appropriate appointing authorities of their responsibility to appoint to their respective Community Advisory Committee. The timing of such appointments is left to the discretion of the appointing authorities. In making a selection to a Community Advisory Committee, appointing authorities should be cognizant of the Community Advisory Committee's statutory role and ensure that their appointees are able to appropriately participate.

(1) If the application is for a facility within the City of New York, the following people are appointing authorities, each for one seat: the Governor, the State Senator representing the district where the proposed facility is to be located, the Assembly Member representing the district where the proposed facility is to be located, the Borough president where the facility is proposed to be located, the City Council Member representing the district where the facility is proposed to be located, and the New York City Mayor.

(2) If the application is outside the City of New York, the following people are appointing authorities, each for one seat: the Governor, the State Senator representing the district where the proposed facility is to be located, the Assembly Member representing the district where the proposed facility is to be located, the County executive of the county where the facility is proposed to be located, and, if the proposed facility is within a city, the mayor; if the proposed facility is within a town, the town supervisor, or if the proposed facility is within a village, the members shall be appointed jointly by village mayor and town supervisor.

(c) *Application Materials.* The Commission will provide application materials to each Community Advisory Committee member upon notification by the appointing authority of the identity and contact information for their appointed member. Application materials may contain Personally Identifiable Information and trade secrets which if disclosed would cause substantial injury to the competitive position of the submitting entity. As such, each Community Advisory Committee member should exercise care to prevent inappropriate or unauthorized disclosure of information. Practically, the Commission will be posting redacted RFA responses on its website. CAC members are advised that redacted material is considered Personally Identifiable Information or trade secrets.

All application materials are Commission property and must be promptly returned, no later than October 15, 2025.

(d) *Vacancies.* Any vacancies in a Community Advisory Committee shall be filled pursuant to Article 3 of the Public Officers Law.

Community Advisory Committee Operations

The Commission may hire a consultant to serve as a community consultant to assist and manage the Community Advisory Committee process and provide administrative support and technical assistance. In the absence of a retained consultant, the Commission will designate staff to act in such capacity.

(a) *Assistance.* The Community Advisory Committee consultant or assigned Commission representatives will assist the appointed members in convening an organizational meeting.

(b) *Chair.* Each Community Advisory Committee, at its first meeting, shall elect a chair by majority vote, as required by Racing, Pari-Mutuel Wagering and Breeding Law § 1321-d(3)(e)(vii).

(c) *Obligation.* Each Community Advisory Committee established is required to review the provided application(s), solicit public comments and written submissions

of such comments regarding the application, and hold no less than two public hearings.

(d) *Deadline.* By 11:59 p.m. on September 30, 2025, each Community Advisory Committee “shall issue a finding either establishing public support approving or disapproving the application.” For an application to be advanced for Gaming Facility Location Board consideration, a two-thirds majority vote of the total number of members a committee is required. A failure to evidence a qualifying approving vote shall be deemed a rejection by the applicable Community Advisory Committee of the application.

(e) *To Advance Application.* For the purposes of enabling the Gaming Facility Location Board to consider an approved application, it is necessary for the Gaming Facility Location Board to have received notification from the Community Advisory Committee of such unconditional affirmative vote by the Deadline. This notification can be facilitated by providing such written notification directly to the Commission. Pursuant to the Request For Applications, for the avoidance of doubt a copy of all materials upon which the affirmative decision was based is required to be delivered to the Gaming Facility Location Board, with members of the CAC concurring in the positive determination signing the title page of such material.

Public Meetings and Hearings

Each Community Advisory Committee is required pursuant to Racing, Pari-mutuel Wagering and Breeding Law § 1321-d(3)(e)(ix) to conduct no less than two public hearings. There is no statutory address regarding the number of meetings that must be conducted other than requiring no less than two.

(a) *Quorum.* Pursuant to General Construction Law § 41, at any public meeting or hearing a quorum shall be established by the presence of:

(1) Within the City of New York, four members.

(2) Outside of the City of New York, three members.

(b) *Voting.* For the purpose of voting at any public meeting or hearings:

(1) For general action, a majority vote is sufficient.

(2) For purposes of advancing an application to the Gaming Facility Location Board, a Community Advisory Committee:

a. Within the City of New York, four affirmative member votes are required.

b. Outside of the City of New York, four affirmative member votes are required.

Public Comments

The Commission will publish redacted completed application material received, with only those redactions permissible under the Article 6 of the Public Officers Law. Any comments received by the Commission will be directed to the appropriate Community Advisory Committee or Committees for their consideration and review. Each Community Advisory Committee may also independently solicit, receive and review public comments.

Restricted Period

As a procurement, applicants or anyone on their behalf have been prohibited from contacting or communicating with a Community Advisory Committee member about their application. Conversely, a Community Advisory Committee member should be mindful of Public Officers Law obligations and refrain from contact with any applicant or anyone on their behalf, except in the context of a public meeting or through a public comment process. This limitation does not apply to official business interaction between a Community Advisory Committee member undertaking their position as a public officer or employee and an applicant limited to their pursuit of local entitlements.

Application Changes

A Community Advisory Committee may solicit changes to a bidder's application, however there are substantial limitations for the changes to be considered by the Gaming Facility Location Board.

(a) *Future Intention.* In discussions with a Community Advisory Committee, a bidder may make a promise, commitment, or obligation. For such to be considered, all must be reduced to writing and filed by the Deadline. All promises, commitments, or obligations must be definitive, meaning not incumbent on future state or local discretionary action, and unconditioned in ability of the bidder to perform.

(b) *Modifications.* A Community Advisory Committee may request a bidder change or modify their application. For such to be considered, all must be reduced to writing and filed by the Deadline.

Any change or modification necessitating a change to either the New York State Environmental Quality Review Act or New York City Environmental Quality Review process cannot be considered.

Changes, promises, commitments, or obligations must be incorporated into an application for the Board or Commission to have any role in the enforcement of such.

Evaluation Criteria

The law requires a Community Advisory Committee to issue a finding either establishing public support approving or disapproving the application.

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Best Practices

The Best Practices documents below have been adapted from the N.Y.S. Committee on Open Government Open Meetings Law Model Rules for Public Bodies and the Freedom of Information Law Model Rules for Agencies. The source documents may be found at <https://opengovernment.ny.gov/open-meetings-law> and <https://opengovernment.ny.gov/freedom-information-law>, respectively.

1. Model Rules for Public Access to Meetings of a Community Advisory Committee
2. Freedom of Information Best Practice for Community Advisory Committee

Model Rules for Public Access to Meetings of a Community Advisory Committee

Section 1. Purpose and scope:

- a. The people's right to witness and observe the governmental decision-making process in action is basic to our society. Access to public portions of meetings of public bodies must be protected and maintained.
- b. This Community Advisory Committee adopts these guidelines in order to provide direction concerning the procedures by which public meetings of this public body may be photographed, recorded and broadcast.

Section 2. Recording and Broadcasting Public Portions of Meetings:

- a. The public portion of any meeting of a public body may be photographed, recorded and broadcast.
- b. A public body may adopt reasonable rules governing the location of equipment and personnel used to photograph, record or broadcast the public portion of a meeting in order to ensure that the use of such equipment does not detract from or interfere with the deliberative process.
- c. There is no privacy interest in statements made during public portions of meetings of public bodies. Distaste or embarrassment shall not constitute a basis for prohibiting or limiting the photographing, recording or broadcasting of those present at a meeting.

Section 3. Rules for Recording and Broadcasting Public Portions of Meetings:

- a. Operation of equipment to photograph, record or broadcast a meeting is permitted unless it is obtrusive, disruptive, or interferes with the deliberative process or the right of persons in attendance to observe or listen to the proceedings.
- b. Use of equipment necessary to photograph, record or broadcast is permitted without notice to or express permission from the public body or those in attendance at the meeting.
- c. Use of equipment necessary to photograph, record or broadcast is permitted in a supervised or unsupervised manner.

d. Use of special lighting or large equipment necessary to photograph, record or broadcast a meeting is permitted unless it is obtrusive or disruptive.

e. Personnel who operate equipment necessary to photograph, record and/or broadcast a meeting shall be permitted to move about the room, as long as such movement does not disrupt or interfere with the deliberative process.

f. Use of equipment necessary to photograph, record and/or broadcast a meeting shall not be limited to a location from which such equipment is not reasonably capable of photographing, recording and/or broadcasting.

g. Persons operating equipment necessary to photograph, record and/or broadcast shall be given a reasonable opportunity to modify their actions in order to avoid interference with the deliberative process.

Section 4. Public notice:

These rules governing the operation of equipment necessary to photograph, record or broadcast a meeting shall be posted in a designated location. Written copies of such rules shall be provided upon request, free of charge, to those in attendance at or who seek to attend a meeting.

Section 5. Severability:

If any provision of these guidelines or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

**Freedom of Information Best Practice for a
Community Advisory Committee**

Section 1. Purpose and scope:

- a. The people’s right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy of confidentiality.
- b. These regulations provide information concerning the procedures by which records may be obtained.
- c. Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.
- d. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

Section 2. Designation of records access officer:

- a. The Community Advisory Committee is responsible for insuring compliance with the regulations herein, and designates the following person(s) as records access officer(s):

Name

Address

- b. The records access officer is responsible for insuring appropriate agency response to public requests for access to records. The designation of a records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

The records access officer shall insure that agency personnel:

- 1. Maintain an up-to-date subject matter list.

2. Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.

3. Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.

4. Upon locating the records, take one of the following actions:

a. Make records available for inspection; or,

b. Deny access to the records in whole or in part and explain in writing the reasons therefor.

5. Upon request for copies of records:

a. Make a copy available upon payment or offer to pay established fees, if any, in accordance with Section 8; or,

b. Permit the requester to copy those records.

6. Upon request, certify that a record is a true copy; and

7. Upon failure to locate records, certify that;

a. The Community Advisory Committee is not the custodian for such records, or

b. The records of which Community Advisory Committee is a custodian cannot be found after diligent search.

Section 3. Location:

Records shall be available for public inspection and copying at:

Location

Address

Section 4. Hours for public inspection:

Requests for public access to records shall be accepted and records produced during all hours regularly open for business.

These hours are:

Section 5. Requests for public access to records:

a. A written request may be required, but oral requests may be accepted when records are readily available.

b. If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.

c. A response shall be given within five business days of receipt of a request by:

1. informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;

2. granting or denying access to records in whole or in part;

3. acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or

4. if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do

so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.

d. In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

e. A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:

1. fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;

2. acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;

3. furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;

4. fails to respond to a request within a reasonable time after the approximate date given or within twenty business days after the date of the acknowledgment of the receipt of a request;

5. determines to grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;

6. does not grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or

7. responds to a request, stating that more than twenty business days is needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

Section 6. Subject matter list:

- a. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to subdivision two of Section eighty-seven of the Public Officers Law.
- b. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- c. The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

Section 7. Denial of access to records:

- a. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the individual or body established to determine appeals, [who or which] shall be identified by name, title, business address and business phone number.
- b. If requested records are not provided promptly, as required in Section 5 of these regulations, such failure shall also be deemed a denial of access.
- c. The following person or persons or body shall determine appeals regarding denial of access to records under the Freedom of Information Law:

Name

Address

- d. Any person denied access to records may appeal within thirty days of a denial.
- e. The time for deciding an appeal by the individual or body designated to determine appeals shall commence upon receipt of a written appeal identifying:
 - 1. the date and location of requests for records;
 - 2. a description, to the extent possible, of the records that were denied; and

3. the name and return address of the person denied access.

f. A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

g. The person or body designated to determine appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government
Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

h. The person or body designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth subdivision (f) of this section.

Section 8. Fees:

a. There shall be no fee charged for:

1. inspection of records;
2. search for records; or
3. any certification pursuant to this part.

b. Copies may be provided without charging a fee.

c. Fees for copies may be charged, provided that:

1. the fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches. This section shall not be construed to mandate the raising of fees where agencies or municipalities in the past have charged less than 25 cents for such copies;
2. the fee for photocopies of records in excess of 9 x 14 inches shall not exceed the actual cost of reproduction; or

3. an agency has the authority to redact portions of a paper record and does so prior to disclosure of the record by making a photocopy from which the proper redactions are made.

d. The fee an agency may charge for a copy of any other record is based on the actual cost of reproduction and may include only the following:

1. an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and

2. the actual cost of the storage devices or media provided to the person making the request in complying with such request; or

3. the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.

e. When an agency has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the agency shall be required to retrieve or extract such record or data electronically. In such case, the agency may charge a fee in accordance with paragraph (4)(1) and (2) above.

f. An agency shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.

g. An agency may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.

h. An agency may waive a fee in whole or in part when making copies of records available.

Section 9. Public notice:

A notice containing the title or name and business address of the records access officers and appeals person or body and the location where records can be seen or copies shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

Section 10. Severability:

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.