

2010 Advisory Index
Advices of Counsel

Advice No.	Date Issued	Brief Description	Key Words
			Citations
GC-2010-501	1/22/10	Advised the Director of the Department of Behavioral Health and Mental Retardation Services that the gift provisions of the Public Integrity Laws did not prohibit his participation in a foreign professional exchange program funded by a local foundation. The requestor proposed accepting travel expenses to visit another country on his own time to learn about that country's services and programs. Even if this exchange could be considered a gift, it would not be prohibited due to the lack of connection between the requestor's City work and the funding foundation.	GIFTS; PROFESSIONAL EXCHANGE PROGRAM; TRAVEL FUNDED BY PRIVATE FOUNDATION
			City Code §20-604; Charter §10-105; 65 Pa. C.S.A. §§ 1103(b), (c), (d)
GC-2010-502	1/26/10	Advised the Executive Director of the Sinking Fund Commission that there would be no issue under the Public Integrity Laws if the Controller as a Commission member participated in selecting a certain private company as an investment manager and contract recipient in light of the fact that an employee and officer of that company is a consultant for the Controller's Office. An independent contractor who is a paid consultant to a City agency is not subject to the Public Integrity Laws.	CONFLICT OF INTEREST; BOARDS & COMMISSIONS; CONTRACT RECIPIENT; CONSULTANT; CONTROLLER; SINKING FUND COMMISSION
			City Code §20-607; Charter §10-102; 65 Pa. C.S.A. §§ 1103(a)
GC-2010-503	3/11/10	Summarized for the Health Commissioner the major requirements that the Public Integrity Laws would impose on members of a proposed Animal Advisory Committee. Because the Committee would be advisory and not exercise the power of City government, the Charter's political activity restrictions and State Ethics Act would not apply.	SUMMARY OF PUBLIC INTEGRITY LAWS; BOARDS & COMMISSIONS; ANIMAL ADVISORY COMMITTEE; ADVISORY BOARD; POLITICAL ACTIVITY
			Code Chapter 20-600; Charter §10-107
GC-2010-504 Non-public Advice	4/5/10	Provided post-employment advice to a City attorney leaving City employment to work for a law firm. Attorney representations are regulated solely by the Pa. Supreme Court and the Rules of Professional Conduct. The post-employment rules of the State Ethics Act and Code §20-603(1) do not apply to the City attorney's subsequent practice of law. Code §20-607(c)'s conflict of interest rule prohibits the City attorney for two years after he leaves the City from having a financial interest in actions he took in his capacity as a City employee.	POST-EMPLOYMENT; ATTORNEY
			65 Pa. C.S. §1103(g); Code §§ 20-603(1), 20-607(c)

GC-2010-505 Non-public Advice	5/6/10	Advised an employee, whose City position involves work with the news media, regarding his outside interests. A newspaper that employs him part-time has City Sheriff Sale ads as its primary source of revenue. Charter §10-102 prohibits the employee's financial interest in the City's ad contracts with the newspaper. The employee may not be compensated by the newspaper from the City ad contract revenues. If the employee's work were to involve City action regarding a local communications nonprofit on whose board of directors the employee serves, it is likely that the State Ethics Act would require him to disqualify himself from participating and to disclose the conflict publicly. In contrast, a nonprofit is not a "business" for this purpose under the City Code.	INTEREST IN CITY CONTRACT; CONFLICT OF INTEREST; NON-PROFIT
			Charter §10-102; Code §20-607; 65 Pa. C.S. §1103(a)
GC-2010-506 Non-public Advice	5/6/10	Advised a City board member who volunteers as an unpaid committee member of a nonprofit, which is engaged in a contractual matter with the City. Staff of a City department affiliated with the requestor's board will have a role in negotiating the contract and in related City actions. No conflict of interest exists under the Code because the requestor has no personal financial interest and because nonprofits are not covered. The State Ethics Act does not apply because the board is advisory. The requestor asked how to minimize any appearance of impropriety. Recommended that she not take action that would make it appear she is attempting to influence the outcome of the contract negotiations or process, for example, by voluntarily disqualifying herself from any related actions by her board.	CONFLICT OF INTEREST; BOARDS & COMMISSIONS; ADVISORY BOARD; DEPARTMENT AFFILIATED WITH BOARD; VOLUNTEER; NONPROFIT; APPEARANCE OF IMPROPRIETY
			Code §20-607; 65 Pa.C.S. §1102
GC-2010-507 Non-public Advice	6/1/10	Advised a City employee concerning his application for a grant from a program funded with City funds through a quasi-public nonprofit corporation. The employee's grant application is not prohibited. Due to his personal financial interest, the employee is prohibited from taking action in his City job that affects the grant program, and he must publicly disqualify himself from such official action.	CONFLICT OF INTEREST; GRANT APPLICATION; DISCLOSURE & DISQUALIFICATION
			Code §§ 20-607, 20-608
GC-2010-508 Non-public Advice	6/7/10	Advised a City employee on whether she may take official action authorizing her agency's purchase of tickets to a fund-raiser for a nonprofit where she is an unpaid member of that non-profit's board of directors. No conflict of interest exists under the Code because the requestor has no personal financial interest and because nonprofits are not covered. Under the State Ethics Act, nonprofits are covered, and disclosure of a conflict of interest and disqualification from action would be required.	CONFLICT OF INTEREST; NON-PROFIT; VOLUNTEER; DISCLOSURE & DISQUALIFICATION
			Code §§ 20-607, 20-608; 65 Pa.C.S. §§ 1102, 1103(a)

GC-2010-509 Non-public Advice	6/21/10	Advised a City employee considering becoming owner of a for-profit daycare center that would receive State-subsidized payments on behalf of eligible parents. If the employee's City work were to involve action that could impact the requestor's personal financial interest in the daycare center or the financial interests of the center itself, the City Code and State Ethics Act would require the employee's disclosure of a conflict of interest and disqualification from taking action. The employee also may not represent another person as agent or attorney in a transaction involving the City.	OUTSIDE BUSINESS INTEREST; PROHIBITED REPRESENTATION; CONFLICT OF INTEREST
			Code §§ 20-602, 20-607, 20-608; 65 Pa.C.S. §§ 1102, 1103(a)
GC-2010-510 Non-public Advice	8/17/10	Advised a City employee that she is prohibited from accepting a scholarship worth over \$3,000 to a leadership seminar series, where the scholarship is offered by a professional firm that works with the employee on a pro bono project for the City. The Code prohibits the gift because it is of substantial economic value and might reasonably be expected to influence the employee in the discharge of her duties. The "gift to the City" exception does not apply because the offer was made to the requestor directly rather than to the employee's appointing authority.	GIFTS; CRITERIA FOR GIFT TO THE CITY; SCHOLARSHIP; PRO BONO
			Code § 20-604; 65 Pa.C.S. § 1103
GC-2010-511	7/22/10	Advised the Youth Commission's Executive Director that the political activity restrictions of Charter §10-107(4) do not apply to members of the Commission because it is an advisory body that does not exercise City power. Therefore, members of the Youth Commission are not prohibited from serving as a ward committeeperson.	POLITICAL ACTIVITY; YOUTH COMMISSION; ADVISORY BOARD; WARD COMMITTEEPERSON
			Charter §10-107(4)
GC-2010-512 Non-public Advice	9/2/10	Advised a City employee who is a publisher and children's author that Charter §10-102 and the other Public Integrity Laws would not prohibit her from contracting with and selling her books to the Philadelphia School District.	INTEREST IN A CITY CONTRACT; BOOK CONTRACT; SCHOOL DISTRICT
			Charter §10-102
GC-2010-513 Non-public Advice	9/3/10	Advised a City employee who was considering leaving City employment to work for a particular company. He may be required to disclose a conflict of interest and disqualify himself from taking action for the City affecting the company if his pursuit of employment reaches the level that he has a "financial interest" in the company, such as if he takes actions to apply for a job with the company or it offers him a job while he is still a City employee. Also advised on post-employment rules that would apply after separation.	CONFLICT OF INTEREST IN SEEKING FUTURE EMPLOYMENT; POST-EMPLOYMENT
			Code §§ 20-607, 20-608; 65 Pa.C.S. §§ 1102, 1103(a), (g); Charter §10-102

GC-2010-514 Non-public Advice	9/17/10	Advised a City employee who was considering leaving City employment to pursue a job with a local nonprofit that has City contracts. She may be required to disclose a conflict of interest and disqualify herself from taking action for the City affecting the nonprofit if her pursuit of employment reaches the level that she has a “financial interest” in the non-profit. Advised on post-employment rules that would apply after separation. Under the City Code, the employee may not for two years after leaving the City acquire a financial interest in any decision she made while in City employ. This would include a prohibition on her salary at the nonprofit being paid out from proceeds of a City contract she had been involved in awarding.	CONFLICT OF INTEREST IN SEEKING FUTURE EMPLOYMENT; POST-EMPLOYMENT
			Code §§ 20-607, 20-608; 65 Pa.C.S. §§ 1102, 1103(a), (g); Charter §10-102
GC-2010-515 Non-public Advice	9/20/10	Advised a City employee who holds a technical position with duties including overseeing operations of a “pilot” technical system to which the City owns the copyright. He proposed becoming an employee of an independent legal entity formed in order to improve upon and commercialize the system. The Code prohibits the employee from assisting anyone, such as a future employer, in a transaction involving the City in which the employee participated during City employ. This includes matters in which the City has a direct proprietary interest. The Code also prohibits the employee for two years after he leaves City employment from acquiring a financial interest in actions he took while in City employ. Also advised on conflict of interest rules that apply while the employee is still on the City payroll.	CONFLICT OF INTEREST; POST-EMPLOYMENT; CITY COPYRIGHT; TRANSACTION INVOLVING THE CITY
			Code §§ 20-603, 20-607, 20- 608; 65 Pa.C.S. §§ 1102, 1103(a), (g); Charter §10-102
GC-2010-516 Non-public Advice	10/4/10	In this addendum to GC-2010-515, clarified advice for the requesting City employee who had provided additional facts. The City Code prohibits the employee from assisting anyone with a transaction involving the City in which the employee participated only if the City continues to have an interest in the matter.	CONFLICT OF INTEREST; POST-EMPLOYMENT; CITY COPYRIGHT; TRANSACTION INVOLVING THE CITY
			Code §§ 20-603, 20-607; Advice of Counsel GC-2010- 515

GC-2010-517 Non-public Advice	11/1/10	Advised a City employee regarding his outside interests as a real estate investor, as part owner of a company that recovers funds for clients through Sheriff's Sales, and as preparer of deeds for friends and family. If he or his company will be paid in any transaction in which his City department's action is required, the employee must disclose his financial interest and disqualify himself from working on that matter. He may not represent any person as agent or attorney in any transaction involving the City, except that he may represent himself or certain relatives in matters that are not the subject of his official responsibility and in which he has not participated personally. The State Ethics Act does not apply to the Clerk II position.	REPRESENTATION IN A TRANSACTION INVOLVING THE CITY; CONFLICT OF INTEREST; REAL ESTATE; "PUBLIC EMPLOYEE"; CLERK II
			Charter §10-102; Code §§ 20-602, 20-607, 20-608; 65 Pa.C.S. §1102
GC-2010-518 Non-public Advice	12/16/10	Advised the HR Manager for the Office of Housing and Community Development about a proposed employee incentive program to reward high-performing employees with gift certificates of modest value to restaurants and stores. The Law Department had advised that such gift certificates would be considered part of employees' regular compensation and thus would not be "extra compensation" prohibited by Charter §8-107. There would be no issues under Charter §10-105 or other Public Integrity Laws provided that the proposed incentive program is implemented as suggested by the Law Department with clearly established guidelines announced in advance.	GIFTS; EMPLOYEE INCENTIVE PROGRAM; GIFT CERTIFICATE; EXTRA COMPENSATION
			Charter §10-105; Code §20-604; 65 Pa.C.S. §1103
GC-2010-519 Non-public Advice	12/16/10	Advised the treasurer of a political committee regarding the City campaign finance law's requirements relating to excess pre-candidacy contributions and the political committee's disposition of funds it accumulates prior to an individual becoming a candidate. The Board of Ethics does not have jurisdiction over the State Election Code and cannot provide guidance on that law.	CAMPAIGN FINANCE; EXCESS PRE-CANDIDACY CONTRIBUTIONS; CANDIDATE; SPEC ACCOUNT
			Code Chapter 20-1000; Regulation 1

GC-2010-520	11/24/10	Reviewed a draft memo for the City's Chief Integrity Officer that she proposed sending to the Mayor's staff, Cabinet, and Executive Team. The memo, captioned "2011 Philadelphia Elections Guide," provided general guidance on what activities are likely permissible under the Charter's political activity restrictions and those that should be avoided. The memo advised that information can be communicated about the administration's agenda and performance so long as such communications did not promote the Mayor's potential candidacy for re-election. Specific suggestions were included for schedulers, press staff, security staff, and aides who assist the Mayor with City business while he is attending campaign events.	POLITICAL ACTIVITY; MEMO TO MAYOR'S STAFF; CHIEF INTEGRITY OFFICER; RE-ELECTION
			Charter §10-107
GC-2010-521 Non-public Advice	12/17/10	Advised a City Council employee on issues under the Charter's political activity restrictions and the City's campaign finance law related to others establishing a "Friends Of" political committee in his name. This Advice was provided for the limited purpose of the immediate request. The Board's anticipated political activity regulation, when it becomes effective, may well supersede parts of this Advice that are inconsistent.	POLITICAL ACTIVITY; POLITICAL COMMITTEE; CITY COUNCIL EMPLOYEE
			Charter §10-107; Code Chapter 20-1000
GC-2010-522 Non-public Advice	12/17/10	Advised a City Council employee considering running for City elective office that she would not be required to resign her City position if she had one-on-one, private conversations with friends, advisors, and others about her chances for success and the details of running. Those conversations alone would not constitute a declaration of candidacy. She would not become a candidate until filing nominating papers or publicly declaring her candidacy.	POLITICAL ACTIVITY; RESIGN TO RUN; CITY COUNCIL EMPLOYEE; DECLARATION OF CANDIDACY
			Charter §10-107(5)