

2012 Index of General Counsel Opinions

Advice No.	Date Issued	Brief Description	Key Words
			Citations
GC-2012-501 Non-public Advice	3/7/12	Advised the chairman of a candidate's political committee for a City elected official that the Lobbying Code's prohibition on a lobbyist serving as an officer of a political committee if the candidate is seeking City elected office would not prohibit him from registering as a lobbyist because the elected official in his case was not a candidate. He is able to be a registered lobbyist and serve as the chair of the political committee until such time as the City elected official takes action that meets the criteria for being a candidate who is seeking City elected office.	LOBBYING; OFFICER OF POLITICAL COMMITTEE; CANDIDATE SEEKING CITY ELECTED OFFICE
			Code §§20-1205(2); 20-1001(2); Regulation 9, ¶ 9.26(A)
GC-2012-502 Non-public Advice	3/9/12	Advised a City employee on the application of the ethics laws to her proposed service as an unpaid board member of a nonprofit organization.	UNPAID BOARD MEMBER OF NONPROFIT ; CONFLICT OF INTEREST; PROHIBITED REPRESENTATION; CONFIDENTIAL INFORMATION
			Code §§20-602, 20-607, 20-609; 65 Pa. C.S. §1103
GC-2012-503 Non-public Advice	4/18/12	Advised a City employee regarding restrictions on employment that apply after separation from the City. A City employee may not become financially interested in a decision made by him as a City employee for two years after leaving the City. A City employee may never assist another person in a transaction involving the City in which he participated during his City service. Under the State Ethics Act, a former employee may not represent a person before his former governmental body for one year after he leaves that body.	POST-EMPLOYMENT RESTRICTIONS
			Code §§20-601(4), 20-603(1), 20-607(c); 65 Pa. C.S. §1103(g)

GC-2012-504 Non-public Advice	4/23/12	Advised the attorney of a lobbying firm regarding application of the Lobbying Code to a lobbyist's comments that appeared in a news article. The comments did not constitute an indirect communication because they were not an effort to encourage others to take action, particularly not with a foreseeable effect to directly influence legislative or administrative action. A principal of the lobbyist would not need to provide indirect communication information in a quarterly expense report as a result of the comments and news article.	LOBBYING; INDIRECT COMMUNICATION; COMMENTS TO THE MEDIA; NEWS ARTICLE
			Code §20-1201(15); Regulation 9, ¶ 9.15(C)
GC-2012-505	5/7/12	Advised a Councilmember that the City ethics laws would not prohibit him from sending a letter to certain businesses soliciting sponsors for a race benefitting youth sports organizations. The Councilmember was not an officer or director of any of the organizations that would receive funds.	CONFLICT OF INTEREST; SOLICITATION FOR CHARITIES; CITY COUNCILMEMBER
			Charter §10-100; Code §§20-602(1)(a), 20-607
GC-2012-506 Non-public Advice	7/16/12	Advised a City employee on the application of the ethics laws to her serving as a board member of a nonprofit charter school while also working for a City agency that regularly does business with various nonprofits. The employee may not represent the charter school as its agent or attorney in any transaction involving the City. If the employee has personally represented the charter school in seeking a City contract or any other City action, those efforts must cease. While the City's conflict of interest provisions do not raise issues, the State Ethics Act's conflict of interest provision may prohibit the employee from taking actions that financially benefit the charter school.	PROHIBITED REPRESENTATION; CONFLICT OF INTEREST; PAST CONDUCT; CHARTER SCHOOLS AS POLITICAL SUBDIVISIONS
			Code §§ 20-602(1)(a), 20-607; 65 Pa. C.S. §1102
GC-2012-507 Non-public Advice	7/24/12	Advised an appointed City employee about how the political activity restrictions would affect his participation in a partisan political group in which he was member. The employee is permitted to be a member of the group, to attend meetings as a spectator, and may testify on the group's behalf in court, including in a lawsuit in which political organizations and political party officials would be parties, if he does so without participating in the management or affairs of the group.	POLITICAL ACTIVITY; MEMBERSHIP IN PARTISAN POLITICAL GROUP; PARTICIPATION IN LAWSUIT; TESTIMONY
			Charter §10-107(4); Regulation 8

<p>GC-2012-508</p> <p>Non-public Advice</p>	<p>7/24/12</p>	<p>Advised a City official about the application of the ethics laws to her creating a nonprofit and serving as an uncompensated board member. She may select board members of the nonprofit, solicit charitable donations from businesses, and be listed as a board member on the nonprofit's stationery so long as the general prohibitions against conflicts of interest or representing another person in a transaction involving the City are observed. An appearance issue can arise with solicitation of contributions if the public perceives a <i>quid pro quo</i>. While the City's conflict of interest provisions raise no issues, the State Ethics Act's conflict of interest provision may prohibit the City official from taking actions which financially affect the nonprofit, if she is on its board of directors.</p>	<p>NONPROFIT BOARD MEMBER; CONFLICT OF INTEREST; PROHIBITED REPRESENTATION; SOLICITATION FOR CHARITIES; APPEARANCE OF IMPROPRIETY; FINANCIAL DISCLOSURE; NO-BID CONTRACT DISCLOSURE REQUIREMENTS</p> <hr/> <p>Code §§17-1402(1), 20-602(1)(a), 20-602(5), 20-607; 65 Pa. C.S. §1102</p>
<p>GC-2012-509</p> <p>Non-public Advice</p>	<p>7/25/12</p>	<p>Advised a City employee about application of the ethics laws to his volunteer service as a member and soon to be president of the PTA of a local charter school, in light of his official position as a City employee in a unit that interacts with such schools. Explained relevant restrictions concerning conflicts of interest, interest in City contracts, and confidential information. The requestor may not represent others, including the school or its PTA, as an agent or attorney in a transaction involving the City. It is assumed that, as president of the PTA or as a trustee of the School, the requestor would be an agent of those respective organizations. The exception for representation in the course of or incident to official duties does not contemplate dual representation in his City position and in his position as the PTA President.</p>	<p>PROHIBITED REPRESENTATION ; AGENT; NON-PROFIT ORGANIZATION; CHARTER SCHOOL; PTA; CONFLICT OF INTEREST; DISCLOSURE OF CONFIDENTIAL INFORMATION</p> <hr/> <p>Charter §10-102; Code §§ 20-602(1)(a), 20-602(5), 20-607, 20-609</p>

GC-2012-510 Non-public Advice	8/3/12	Advised a City employee who is an attorney regarding her uncompensated volunteer service while not on duty on election day as a voter protection volunteer with the Committee of Seventy. Provided that she avoids representing any person, including Seventy or a voter, in a transaction involving the City, such as a voting challenge to the City Commissioners, the representation restriction would not prohibit her proposed service. The Charter's political activity restrictions would not prohibit the employee's participation because the voter protection program is a non-partisan program and volunteer participation answering questions, providing information, and reporting problems to Seventy would not involve political activity.	VOTER PROTECTION; ELECTION DAY VOLUNTEER; COMMITTEE OF SEVENTY; POLITICAL ACTIVITY; PROHIBITED REPRESENTATION
			Charter §§10-102, 10-107(4); Code §§20-602(1)(a), 20-607(b), 20-609; Regulation 8
GC-2012-511 Non-public Advice	8/16/12	Advised an employee of the Office of City Commissioners about the application of the political activity restrictions if he were to participate, as part of his duties and representing his City office, in a rally addressing the Pennsylvania Voter ID law. If the employee is reasonably assured that the rally is intended to be non-partisan and his participation would not involve coordination with political parties, candidates, or partisan political groups, he would not be prohibited from participating in the rally. However, he should avoid making, or being associated with, partisan political statements or activity and should it become apparent that the rally is veering into partisan waters, he should limit his participation as much as possible from that point forward.	POLITICAL ACTIVITY RESTRICTIONS; ACTIVITIES IN OFFICIAL CAPACITY; ON DUTY; RALLY
			Charter §10-107(4); Regulation 8
GC-2012-512 Non-public Advice	9/20/12	Advised a City employee who was a candidate for non-City office prior to her City employment that the restrictions on political activity would prohibit her from being in any manner concerned in soliciting, collecting, or receiving a political contribution. The continuing authorization of her campaign committee, which has ceased raising funds but had debt and still existed as a registered political committee, raises issues concerning fundraising for a political purpose. To avoid any suggestion the requestor has authorized the committee to continue soliciting or receiving contributions on her behalf, it was recommended that she de-authorize the committee.	POLITICAL FUNDRAISING RESTRICTIONS; FORMER CANDIDATE; DE-AUTHORIZATION OF POLITICAL COMMITTEE
			Charter §10-107(3); Regulation 8, ¶¶8.6, 8.7

GC-2012-513	10/17/12	Advised a City employee regarding her unpaid service on the Board of a nonprofit charter school. She may not represent anyone, including the charter school, as its agent or attorney in a transaction involving the City. She may not make confidential City information available to the nonprofit to advance its financial interest. While the City's conflict of interest provisions do not raise issues, the State Ethics Act's conflict of interest provision may prohibit the employee from taking actions that financially benefit the charter school.	UNPAID BOARD MEMBER OF NONPROFIT; CONFLICT OF INTEREST; PROHIBITED REPRESENTATION; CONFIDENTIAL INFORMATION
			Charter §10-102; Code §§20-602(1)(a); 20-607; 65 Pa. C.S. §§1102, 1103(a)
GC-2012-514 Non-public Advice	12/27/2012	Advised a former City employee, who is an attorney, regarding restrictions on employment that apply after separation from the City. The City Code post-employment representation restriction would prohibit the requestor from representing persons in transactions involving the City in which she had participated as a City employee only to the extent she is not practicing law. Lobbying by an attorney on behalf of a principal/client is generally considered to be the practice of law. For two years after leaving City service, she may not acquire a financial interest in action she took in her official capacity during her City service. The Lobbying Code does not contain specific restrictions for a lobbyist who is a former City employee.	POST-EMPLOYMENT RESTRICTIONS; ATTORNEY; LOBBYING; PRACTICE OF LAW; OFFICIAL ACTION
			Code §§20-603(1); 20-607(c); Regulation 9; <i>Shaulis v. Pa. State Ethics Comm.</i> , 574 Pa. 680 (2003).
GC-2012-515 Non-public Advice	12/28/2012	Advised a City official who serves on a City board that is seeking to contract with a professional firm that employs the official's child as an associate employee. The City Code's conflict of interest provision would require the official's disclosure and disqualification from any City decision that would have a financial impact on the professional firm only where the financial impact specifically extends to the official's child. The fact that the board may contract with a firm that already has a contract with another City office in which the official has authority does not create a conflict of interest for the official. The official's assistant, who routinely attends meetings of the board as the official's designee, may participate in a board matter in which the official is disqualified, provided that the designee acts independently and not on the official's instructions.	CONFLICT OF INTEREST; IMMEDIATE FAMILY MEMBER; FINANCIAL INTEREST; CITY BOARD/COMMISSION; DISCLOSURE & DISQUALIFICATION; KNOWLEDGE REQUIREMENT
			Code §§20-607(b); 20-608(1)(c); Board Opinion 2009-003

<p>GC-2012-516</p> <p>Non-public Advice</p>	<p>12/31/2012</p>	<p>Provided clarifying advice to a former City employee, who had received a prior advisory opinion, about post-employment restrictions as applied to his proposed work with a nonprofit that contracts with his former City department. For two years after leaving his City job, the requestor may not acquire a financial interest in any official decision he made while working for the City. While a City employee, the requestor met with the nonprofit but was not involved in awarding, renewing, amending, or administering its City contract. Employment with the nonprofit would not be prohibited as it would not constitute a financial interest in an award, decision or judgment made by him in his official capacity when he was a City employee.</p>	<p>POST-EMPLOYMENT RESTRICTIONS; CITY CONTRACTOR; FINANCIAL INTEREST; TRANSACTION INVOLVING THE CITY</p> <p>Code §§20-603(1); 20-607(c); 65 Pa. C.S. §1103(g); General Counsel Opinion 2012-503</p>
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