

## Advice of Counsel Index

Advice No.	Date Issued	Brief Description	Key Words
			Citations
GC-2008-501	1/2/08	Advised Mayor-elect and Inaugural Committee on possible gift issues raised by fund-raising activities and attendance at inaugural events in light of Executive Order No. 002-04 and City Code gift restrictions. Advised there would be no violation provided that all donations were made to the non-profit "Nutter Inaugural Committee." Concluded that to the extent attendance at each inaugural event, whether complimentary or at a discounted ticket price, constituted gifts, they are gifts to the City and not gifts to individuals. The possibility of an appearance of impropriety was minimized by the Committee's voluntary adherence to limits on contributions. Suggested that to avoid appearance of impropriety private individuals should solicit donations to the Committee and the names of donors should not be prominently publicized.	GIFTS; GIFT TO THE CITY; INAUGURAL COMMITTEE AND EVENTS; APPEARANCE OF IMPROPRIETY
			Executive Order 002-04; Code §20-604  (see related Formal Opinion No. 2007-005)
GC-2008-502	1/9/08	Advised a civil service employee in the City's Capital Program Office that outside employment as an instructor at a local university was not prohibited. Explained relevant restrictions exist concerning conflicts of interest, interests in City contracts, confidential information, prohibited representations, and financial disclosure.	OUTSIDE EMPLOYMENT; TEACHING POSITION
			Charter §10-102; Code §§ 20-602, 607, 608; 65 Pa.C.S. §1103; Civil Service Reg. 33.02
GC-2008-503	1/10/08	Advised City employee that the employee's proposed uncompensated service on the board of directors for multiple nonprofit organizations was not prohibited. Explained relevant restrictions exist concerning conflicts of interest, interests in City contracts, confidential information, prohibited representations, and financial disclosure.	CONFLICT OF INTEREST; UNCOMPENSATED NONPROFIT SERVICE
			Charter §10-102; Code §§ 20-602, 607, 608; 65 Pa.C.S. §1103
GC-2008-504  Non-public Advice	4/1/08	Advised a City official on recommending to the Mayor appointment of an attorney for a legal organization to a City board/commission. Advised that the appointee could be appointed and generally avoid a conflict by complying with the disclosure and disqualification requirements of Code § 20-608.	CONFLICT OF INTEREST; ATTORNEY; BOARDS & COMMISSIONS
			Code §§ 20-602, 607, 608

GC-2008-505	1/29/08	Advised a former Health Department employee about the effect of post-employment restrictions if he were to start a private consulting business that helps entities comply with the City Health Code. Explained the State Ethics Act's one-year limitation on representation before the City, the City Code's two-year limitation on certain financial interests, and the City Code's permanent limitation on assistance with certain matters.	POST-EMPLOYMENT; HEALTH DEPARTMENT; CONSULTING BUSINESS
			Code §§ 20-603, 607; 65 Pa.C.S. §1103
GC-2008-506	1/29/08	Advised a law firm attorney that he is not prohibited from serving as a member of the City's Prison Board where a client of his firm has provided services to the prisons, his firm has represented that client in past prison litigation, and the attorney would decline to participate in future prison litigation. Noted that under the State Ethics Act conflict of interest restrictions may extend to situations in which the requestor's clients have matters before the requestor's board.	CONFLICT OF INTEREST; PRISON BOARD; ATTORNEY; BOARDS & COMMISSIONS
			Charter §10-102; Code §§ 20-602, 607, 608; 65 Pa.C.S. §1103
GC-2008-507  Non-public Advice	3/31/08	Advised a City official that a deputy in the official's office would not be permitted under the State Ethics Act to accept a witness fee for testifying as an expert witness for another Pennsylvania city's municipal agency because such a fee would be a prohibited honorarium. However, if the City decided that such testimony would vindicate a City purpose, the City might allow the official to be reimbursed for travel expenses.	HONORARIUM; TESTIMONY AS EXPERT WITNESS; WITNESS FEE; STATE ETHICS ACT
			65 Pa.C.S. §1103
GC-2008-508	2/7/08	Advised a Sanitation Supervisor in the Health Department's lead poisoning prevention unit she is not prohibited from opening her own business that would provide a food safety certification course required for food establishments.	OUTSIDE EMPLOYMENT; CONFLICT OF INTEREST; HEALTH DEPARTMENT
			Charter §10-102; Code §§ 20-602, 607, 608; 65 Pa.C.S. §1103; Civil Service Reg. 33.02
GC-2008-509  Non-public Advice	12/22/08	Advised a City employee about the effect of post-employment restrictions if he/she were to retire from the City and work for an employer that does consulting work for the City. Explained the State Ethics Act's one-year limitation on representing others, the City Code's two-year limitation on certain financial interests, and the City Code's permanent limitation on assistance with certain matters.	POST-EMPLOYMENT
			Code §§ 20-603, 607; 65 Pa.C.S. §1103

GC-2008-510	3/7/08	Advised a Deputy Finance Director whose brother works for a local law firm that does bond work on conflict of interest principles. The official may generally avoid a conflict by complying with the disclosure and disqualification requirements of Code § 20-608.	CONFLICT OF INTEREST; SIBLING
			Code §§ 20-607, 608
GC-2008-511	3/20/08	Advised an employee of City Council who also serves on the board of a nonprofit that has received a grant of funds directed from the Commerce Department through PIDC on conflict of interest principles. The employee may generally avoid a conflict by complying with the disclosure and disqualification requirements of Code § 20-608.	CONFLICT OF INTEREST; NONPROFIT BOARD SERVICE
			Code §§ 20-607, 608
GC-2008-512  Non-public Advice  Amended	4/2/08	A member of a City board or commission requested advice on the restrictions the ethics laws would place on that person's activities as an officer for a local nonprofit entity, in light of the requestor's position on the City board/commission. Advised that the board member may generally avoid a conflict by complying with the disclosure and disqualification requirements of Code § 20-608.	CONFLICT OF INTEREST; NONPROFIT POSITION; BOARDS & COMMISSIONS
			Charter §10-102; Code §§ 20-602, 607, 608; 65 Pa.C.S. §1103
GC-2008-513	4/18/08	Advised a Telephone Maintenance Crew Chief for the City's Mayor's Office of Information Services (MOIS) who may seek to separate from the City and work for an employer that is a subcontractor for the company that provides the City with telephone and data service. Two questions were presented: whether the ethics laws would prohibit his applying for the position; and what post-employment restrictions apply after leaving the City. Advised the requestor on how to avoid conflicts of interest in pursuing future employment while still on the City payroll; and advised on the post-employment rules of the State Ethics Act and City Code.	POST-EMPLOYMENT; CONFLICT OF INTEREST; PURSUING FUTURE EMPLOYMENT WHILE A CITY EMPLOYEE
			Code §§ 20-603, 20-607; 65 Pa.C.S. §1103; Formal Opinion No. 2007-001
GC-2008-514	4/22/08	Advised a Licenses & Inspections official regarding effect of post-employment rules on recently retired employee of L & I whom Mayor has just appointed to Board of Licenses & Inspections Review. The former employee was not prohibited from serving as a City board member.	POST-EMPLOYMENT; LICENSES & INSPECTIONS; BOARDS & COMMISSIONS
			Code §§ 20-603, 20-607; 65 Pa.C.S. §1103

GC-2008-515  Non-public Advice	5/15/08	Received a request from a member of a City board/commission on whether a violation of the Ethics Code would occur if that board/commission were to award a consulting contract to a certain independent contractor who has in the past done business with a company in which a member of this board/commission is a principal. Advised that no conflict issue was raised by the facts provided, but that the requestor might wish to avoid even the appearance of any personal bias by complying with the disclosure and disqualification requirements of Code § 20-608.	CONFLICT OF INTEREST; CONTRACT AWARD; BOARDS & COMMISSIONS
			Charter § 10-102; Code §§ 20-607, 608; 65 Pa.C.S. §1103
GC-2008-516	5/6/08	Advised Personnel Administrator for Health Department that City employees in civil service title of Sanitarian are “public employees” under the State Ethics Act, and thus are required to file the State financial disclosure form.	“PUBLIC EMPLOYEE”; STATE ETHICS ACT; FINANCIAL DISCLOSURE; SANITARIAN
			65 Pa.C.S. §1102
GC-2008-517  Non-public Advice  Amended	8/4/08	Advised a member of a City board/commission about the restrictions the ethics laws place on his/her activities as an employee of a business that has a contract with the City, the proceeds of which are realized by the company. Advised that Charter §10-102 (interest in City contracts) applied to members of that board/commission. Although the requestor’s salary at the company is not connected to any particular contract, the requestor participates in an employee stock purchase and other investment interests determined in part based on the company’s performance. We concluded that the requestor clearly has a financial interest in the company’s present contract with the City as well as in potential future contracts. We concluded that there are circumstances under which a de minimis standard may be applied in determining whether a particular financial interest qualifies as a “direct or indirect interest in a City contract” under Charter § 10-102. We concluded that any financial interest the requestor may have in his company’s contracts with the City (those currently in place or contemplated under the facts we were provided) is too insubstantial to constitute a “direct or indirect interest” in those contracts, so § 10-102 did not restrict the member’s activities.	INTEREST IN CITY CONTRACT; DE MINIMIS STANDARD; BOARDS & COMMISSIONS
			Charter §10-102

GC-2008-518	6/25/08	Advised a member of the Board of Ethics, who is also in-house counsel for a local company, concerning the application of the conflict of interest rules to his representation of his company in matters involving the City such as participation in Council hearings. Also concluded that Charter § 10-102 does not apply to the members of the Board of Ethics because they are uncompensated.	CONFLICT OF INTEREST; APPEARANCE OF IMPROPRIETY; BOARD OF ETHICS; BOARDS & COMMISSIONS
			Charter § 10-102; Code §§ 20-602, 607, 608
GC-2008-519  Non-public Advice	7/8/08	Advised a City civil service employee that Charter § 10-107 (Political Activities) would prohibit the employee from appearing in a current photograph of his/her family that would be included in campaign literature supporting the candidacy for elective office of a member of the employee's immediate family. The employee's voluntary appearance in campaign literature photographs for any candidate, including a close relative, would violate Charter §10-107(4) because it is a public, partisan act that promotes the election of a candidate and is therefore a prohibited political activity.	POLITICAL ACTIVITY; FAMILY MEMBER AS CANDIDATE FOR OFFICE; PHOTOGRAPH IN CAMPAIGN LITERATURE
			Charter §10-107(4); Civil Serv. Reg. 29
GC-2008-520	7/7/08	Advised the City's Chief Information Officer, who was scheduled to separate from the City, about current restrictions on conflicts in seeking future employment and post-employment restrictions that will apply after separation.	POST-EMPLOYMENT; CONFLICT OF INTEREST; PURSUING FUTURE EMPLOYMENT WHILE A CITY EMPLOYEE
			Code §§ 20-603, 20-607; 65 Pa.C.S. §1103; Formal Opinion No. 2007-001
GC-2008-521  Non-public Advice  Amended	9/4/08	Advised a member of a City board/commission who is an employee of a local business that may have an interest in transactions involving purchases of real property from the City. Advised that Charter § 10-102 (interest in City contracts) applied to members of the relevant board/commission, but that § 10-102 did not apply to purchases from the City in which funds would be paid into the Treasury. Advised that disclosure and disqualification is required if a representative of the requestor's company represented the company before the requestor's board. Advised as to the conflict of interest rules of the City Code and the State Ethics Act and also about avoiding appearances of impropriety.	INTEREST IN CITY CONTRACT; REAL PROPERTY PURCHASES FROM CITY; BOARDS & COMMISSIONS
			Charter §10-102; Code §§ 20- 602, 607; 65 Pa.C.S. §1103

GC-2008-522  Non-public Advice  Amended	9/5/08	This Advice was nearly identical to GC-2008-521, except that it involved a different requestor and a different board/commission. Advised a member of a City board/commission who is an employee of a local business that may have an interest in transactions involving purchases of real property from the City or City-related entities. Advised that Charter § 10-102 (interest in City contracts) applied to members of the relevant board/commission, but that § 10-102 did not apply to purchases from the City in which funds would be paid into the Treasury. Advised that disclosure and disqualification is required if a representative of the requestor's company represented the company before the requestor's board. Advised as to the conflict of interest rules of the City Code and the State Ethics Act and also about avoiding appearances of impropriety.	INTEREST IN CITY CONTRACT; REAL PROPERTY PURCHASES FROM CITY; BOARDS & COMMISSIONS
			Charter §10-102; Code §§ 20-602, 607; 65 Pa.C.S. §1103
GC-2008-523  Non-public Advice	10/9/08	Advised an employee on the payroll of City Council about the effect of the application of Charter §10-107(3) on the employee's ability to participate in political fund-raising. Advised that under §10-107(3) the employee is prohibited from being "in any manner concerned in demanding, soliciting, collecting or receiving, any assessment, subscription or contribution, whether voluntary or involuntary, intended for any political purpose whatever."	POLITICAL ACTIVITY; FUNDRAISING; COUNCIL EMPLOYEE
			Charter §10-107(3)
GC-2008-524	10/21/08	Advised board/commission members who said that conflicts of interest and prohibited representations occasionally come to their attention too late to file the disclosure and disqualification letter required by the Code prior to City action being taken on a matter. Advised them: (1) to take whatever steps they can to ensure they are informed of who will be appearing before them in good time so the occurrence of such last-minute situations is minimized; and (2) if such a situation occurs, to request their body postpone official action until they can comply with the Code's disclosure requirements; or (3) if postponement is not practicable, to announce their nonparticipation publicly at the meeting, leave the room during consideration of the matter, and bring themselves into compliance with the Code's requirements as soon as possible, which includes filing a letter that is in full compliance with Code §20-608(1)(c)'s requirements no later than 5 calendar days after the Board action.	DISCLOSURE & DISQUALIFICATION; LAST MINUTE NOTICE OF CONFLICT OR PROHIBITED REPRESENTATION; BOARDS & COMMISSIONS
			Code §§ 20-602, 607, 608

GC-2008-525  Non-public Advice	12/3/08	Advised a City department head regarding an employee's proposed appearance as a representative of a nonprofit organization in a City transaction. Concluded that the employee's proposed representation of the nonprofit was prohibited by Code §20-602.	REPRESENTATION
			Code § 20-602
GC-2008-526  Non-public Advice	12/4/08	Advised a member of a City board/commission who was also an unpaid officer of a nonprofit and the board/commission was considering funding a program in which the member's nonprofit would provide services in connection with another nonprofit. Advised that there was no conflict of interest. However, Section 20-602 of City Code prohibits the requestor from representing his/her private organization, or any of its clients, in any matter involving the City in which the requestor acted previously acted while on the City board/commission. Also, the same provision prohibits him/her from representing the nonprofit, or any of its clients, while serving on the City board/commission in any matter that comes before that body. Another officer or employee of the nonprofit may represent the organization before the board/commission.	CONFLICT OF INTEREST; UNPAID OFFICER OF NONPROFIT; BOARDS & COMMISSIONS
			Code §§ 20-602, 607; 65 Pa.C.S. §1103
GC-2008-527  Non-public Advice	12/5/08	Advised a City employee on the payroll of City Council who asked a number of questions related to the possibility of seeking elective office and the possibility of others opening an exploratory committee, which would include a candidate's political action committee (PAC). Advised as follows: (1) We can address only laws in our jurisdiction, and thus State Election Code is not addressed; (2) under Charter and City Code, person becomes a "candidate" upon the earlier of public announcement of candidacy or filing of nomination papers; (3) under case law, mere inquiry as to whether others would consider lending financial support to a candidacy or statement indicating only willingness and availability to run do not constitute declaration of candidacy; (4) formation or activities of exploratory committee, including fundraising using the requestor's name, would not constitute a declaration of candidacy, so long as such activities and any communications make it clear that the subject individual is not yet a candidate; (5) Code Ch. 20-1000 would not apply to such an exploratory committee, but application of the Chapter to any funds in a PAC after a declaration of candidacy is not addressed; (6) State Ethics Act definition of	CAMPAIGN FINANCE; EXPLORATORY COMMITTEE; POLITICAL ACTION COMMITTEE; POTENTIAL CANDIDACY FOR ELECTIVE OFFICE
			Charter §§ 10-107(3),(4),(5); Code §§ 20-1000, 1001; 65 Pa.C.S. §1102

		<p>“candidate” is different and may require financial statement filing -- requestor was referred to State Ethics Commission; (7) Charter subsection 10-107(3) applies to the requestor and prohibits being in any manner concerned in soliciting or receiving donations “for a political purpose” and in the absence of clear precedent, requestor was advised to assume participation in fund-raising for an exploratory committee might be considered to be “for a political purpose”; (8) formation and existence of exploratory committee would not require requestor to resign his/her City position under Charter subsection 10-107(5), so long as he/she has not “become a candidate” as discussed in the Advice; and (9) Charter subsection 10-107(4) did not apply to requestor.</p>	
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