

CITY OF PHILADELPHIA

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Evan Meyer
General Counsel

Philadelphia Board of Ethics
Advice of Counsel GC-2010-511

July 22, 2010

Jordan A. Harris
Executive Director
Philadelphia Youth Commission
1401 John F. Kennedy Blvd.
Floor 16, Room G
Philadelphia, PA 19102

Re: Youth Commission / Political Activities

Dear Mr. Harris:

You have requested a public advisory as to whether members of the City's Youth Commission may also serve a political party in the position of ward committeeperson (also known as "committeeman").

In keeping with the concept that an ethics advisory opinion is necessarily limited to the facts presented, this Advice is predicated on the facts that you have provided. We do not conduct an independent inquiry into the facts. Although previous opinions of this office that interpret statutes are guidance to how this office will likely interpret the same provision in the future, previous opinions do not govern the application of the law to different facts. Ethics opinions are particularly fact-specific, and any official or employee wishing to be assured that his or her conduct falls within the

permissible scope of the ethics laws is well-advised to seek and rely only on an opinion issued as to his or her specific situation, prior to acting. In that regard, to the extent that this opinion states general principles, and there are particular fact situations that you or Youth Commission members may be concerned about, the individual affected is encouraged to contact us for specific advice on the application of the ethics laws to those particular facts.

Background

The Youth Commission was created in 2007 by amendment to the Home Rule Charter. See Charter Sections 3-100(e), 3-807, and 4-1200. As a member of a City board or commission, each member of the Youth Commission is an officer of the City. See Code Section 20-601(2).

Charter Section 10-107 Analysis

Charter Section 10-107 restricts the political activities of appointed City officers in several ways. In particular, subsection 10-107(4) provides:

No appointed officer or employee of the City shall be a member of any national, state or local committee of a political party, or an officer or member of a committee of a partisan political club, or take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote.

As a City committeeperson is clearly a “member of a local committee of a political party,” no appointed officer of the City who is subject to Section 10-107(4) may be a committeeperson. Section 10-107(4) has always applied to members of some, but not all, City boards and commissions. In Formal Opinion No. 2007-006 (incorporating Opinion No. 2007-004) the Board of Ethics stated in the first paragraph that the intent of the Opinion was to address the application of Section 10-107 to members of “all boards and commissions of the City.” The Opinion then analyzed the 81 boards and commissions as to which the Board had information were in existence and active.¹ Opinion No. 2007-006 considered the powers and duties of the individual bodies, in conjunction with the

¹ Although at the time of issuance of Formal Opinion No. 2007-006, the Youth Commission had been formally created by amendment to the Charter, its existence had not yet populated various lists of existing boards and commissions.

compensation provided, under the Code, for members. *See also* Advice of Counsel GC-2009-508 (Charter §10-107 does not apply to Commission on Parks & Recreation, because its authority “is an essentially advisory function and does not rise to the level of the exercise of significant powers of government.”) and Advice of Counsel GC-2010-503 (Charter §10-107 does not apply to Animal Advisory Committee, because it does not exercise the power of the City).

Charter Section 3-807(d) provides that members of the Youth Commission shall not be compensated. As to powers and duties, these are spelled out as follows in Charter Section 4-1200:

§ 4-1200. Powers and Duties.

(a) The Youth Commission shall advise and comment to the Council, the Mayor, agencies and departments of the City on proposed ordinances, other legislative matters and policies which are of concern to the children and youth of the City and shall exercise such other powers and duties that Council may, from time to time, vest in it by ordinance.

(b) The Commission shall prepare an annual report on its activities, goals, and accomplishments and shall file this report with the chief clerk of the Council before March 31 of each year.

To date, City Council has not enacted any ordinance adding powers and duties to the Commission. Accordingly, the Youth Commission, as authorized under Charter Sections 3-100(e), 3-807, and 4-1200, clearly fits with those bodies listed in Section F of Opinion No. 2007-006 (“Advisory bodies that do not exercise the power of the City and are thus not subject to Section 10-107”), and not with those bodies listed in Section D of the Opinion (“Boards whose members are subject to Charter §10-107”).

Conclusion

You are advised that, based on the current facts, members of the Youth Commission are not subject to Charter Section 10-107, except for those members, if any, who are otherwise full-time paid officers or employees of the City of Philadelphia, and except to the degree that subsections 10-107(1) and (2) apply to any person. Accordingly, Charter Section 10-107(4) does not prohibit any member of the Youth Commission from serving as a ward committeeperson.

If you have questions about any other particular factual situations, you would be well-advised to present the specific facts and request advice on the particular question. Also, especially, if any members of the Commission have questions about the

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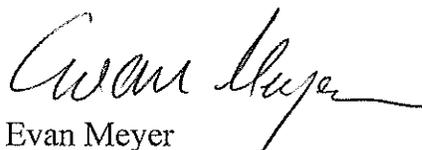
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application of the ethics laws to their conduct, they should request individual advice.

If you have any additional facts to provide, we will be happy to consider if they change any of the conclusions in this opinion. Since you have requested public advice from the Board of Ethics, we will make this letter public as required by Code Section 20-606(1)(d)(iii).

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Evan Meyer".

Evan Meyer
General Counsel

cc: Richard Glazer, Esq., Chair
J. Shane Creamer, Jr., Esq., Executive Director