

Advisory Index
Formal Opinions

Formal Opinion No.	Date Issued	Brief Description	Key Words
			Citations
2009-001 Non-public Advice	5/13/09	Advised the head of a City office regarding a proposed arrangement by which the office would keep an employee's services after that employee's separation from the City by arranging for a private business to employ the individual and "lend" that individual to the City for free. The "loan" would not be a gift to the requestor personally and thus would not violate the Code's gift restriction. This unique proposal raised an appearance issue since a City official would be soliciting donation of professional services of significant value from a firm that may be the subject of official action by that City office, particularly where the purpose may be to avoid application of the State Ethics Act's post-employment restriction. Recommended the requestor seek a State Ethics Commission advisory regarding the State Act's contingent payment and post-employment restrictions.	SOLICITING PRIVATE ENTITY FOR LOAN OF PROFESSIONAL SERVICES; CONTINGENT PAYMENTS; POST-EMPLOYMENT; GIFT TO THE CITY; APPEARANCE OF IMPROPRIETY; STATE ETHICS ACT Code §§ 20-604, 20-608; 65 Pa. C.S. §§ 1103(e)(1), 1103(g)
2009-002	5/13/09	Advised the City Solicitor that her participation on the Philadelphia Bar Association's Commission on Judicial Selection and Retention would not violate the Charter's political campaign activity restriction, which has long been interpreted as prohibiting public, partisan expressions of support for political candidates and political parties while permitting private and non-partisan political expression.	POLITICAL ACTIVITY; NON-PARTISAN; PHILADELPHIA BAR ASSOCIATION COMMISSION ON JUDICIAL SELECTION; CITY SOLICITOR Charter § 10-107(4)
2009-003 Non-public Advice	9/16/09	Advised a City employee who serves as an alternate on a City board which may at times consider matters in which applicants are represented by a law firm in which the employee's relative-in-law is a partner, although the relative would not be involved in the representation. The issue was whether the law firm partner would have a "financial interest" in the board alternate's official action and thereby create a conflict of interest for the alternate. Advised the requestor to seek the Board's advice in specific situations that arise as the existence of a conflict depends on the particular facts. Example hypothetical scenarios illustrated the parameters of "financial interest."	CONFLICT OF INTEREST; DEFINING "FINANCIAL INTEREST"; RELATIVE-IN-LAW; LAW FIRM PARTNER; KNOWLEDGE REQUIREMENT; BOARDS & COMMISSIONS Code § 20-607

2009-004 Non-public Advice	9/21/09	Advised a City employee who wished to form an exploratory committee for local elective office. The proposed activity would not constitute a declaration of candidacy and would not trigger the Charter's resign-to-run provision or violate its fundraising or campaign activity restrictions as long as any exploratory committee and associated PAC make clear in their activities and communications that the requestor is not yet a candidate for any office, but is merely exploring a candidacy and exploring the electorate's interest.	POLITICAL ACTIVITY; EXPLORATORY COMMITTEE FORMATION; DEFINING "CANDIDATE"; DECLARATION OF CANDIDACY; RESIGN TO RUN; FUNDRAISING Charter § 10-107(3), (4), (5)
2009-005 Non-public Advice Amended	1/22/10	Advised candidate's campaign on application of the Charter's political activity restrictions to campaign volunteers engaged in pre-transition planning contacting City employees to discuss current work of office being sought and ideas for improvement. There would likely not be an issue that City employees contacted by campaign volunteers were engaging in prohibited campaign activity so long as the contact was solely for pre-transition planning purposes and not for the formation of campaign policies, speeches or positions and was not made public pre-election. The candidate and campaign volunteers are not subject to the Charter's political activity restrictions.	POLITICAL ACTIVITY; PRE-TRANSITION PLANNING Charter § 10-107(4)
2009-006	10/21/09	Advised a Councilmember about sending constituents a letter regarding the state Children's Health Insurance Program (CHIP) where costs would be paid by one of the program providers, AmeriChoice. There is no conflict of interest as there is no issue that the proposed letter enhances any re-election effort. Under the gift to the City analysis, there would not be a prohibited gift. The Board recommended some revisions to the letter (such as incorporating reference to other CHIP providers) to address appearance of impropriety issues and lessen a possible public perception that the Councilmember is endorsing a particular provider in exchange for a monetary benefit that allows a constituent communication otherwise not possible under the budget.	GIFT TO THE CITY; PRIVATELY-FUNDED CONSTITUENT COMMUNICATION; COUNCILMEMBER; APPEARANCE OF IMPROPRIETY; AMERICHOICE; CHIP Code § 20-604; 65 Pa. C.S. § 1103(a)