



CITY OF PHILADELPHIA

BOARD OF ETHICS
One Parkway Building
1515 Arch Street
18th Floor
Philadelphia, PA 19102
P: (215) 686 – 9450
F: (215) 686 – 9453

**Philadelphia Board of Ethics
Non-Public Board Opinion No. 2016-001**

April 21, 2016

Re: Non-City Paid Work to Staff Event Site that Will Host Political Party Event

Dear City Employee:

You have requested a non-public advisory opinion about whether the Philadelphia Home Rule Charter political activity restrictions prohibit you as a City employee from performing non-City, part-time paid work for Comcast-Spectacor as an usher at the Wells Fargo Center during the Democratic National Convention. The Charter political activity restrictions do not prohibit you from performing these non-City employment duties.

I. Jurisdiction

The Board of Ethics has jurisdiction to administer and enforce all Philadelphia Home Rule Charter (“Charter”) provisions and ordinances pertaining to ethical matters. Charter § 4-1100. The Charter and the City Code authorize the Board to render advisory opinions concerning a City officer’s or employee’s proposed future conduct. Charter § 4-1100; Code § 20-606(1)(d). Board of Ethics Regulation 4 describes the procedures for seeking an advisory opinion and for requesting reconsideration of an advisory opinion issued by the Board. Board Regulation 4, ¶¶ 4.0, 4.26.

II. Facts Provided By Requestor

You provided the following facts. You are a full-time City employee. You have been employed part-time by Comcast-Spectacor as a member of the Events Staff at the Wells Fargo Center since 2013. You are paid on an hourly basis, and Spectra Arena, LP issues your paycheck. You work in the evenings, and your job duty is to act as an usher by helping people find their seats at events that occur in the Wells Fargo Center. You have no duties other than ushering.

The Wells Fargo Center will be closed at the end of May to prepare for the Democratic National Convention in late July. Your supervisors at Comcast-Spectacor have asked you to make yourself available in the evenings from July 25-29, 2016, but you are not certain whether you will be assigned to work as an usher for all five nights, only some portion of those five nights, or at all. Comcast-Spectacor will send you a form at the end of May, and you need to indicate on that form your availability to work during the week of July 25. You must return the availability form to Comcast-Spectacor by June 10, 2016. Comcast-Spectacor will let you know your work schedule approximately one week after you return the form. This means that you will not know your schedule for working at the Wells Fargo Center until approximately one month prior to the Convention.

You were not provided any other details about the Convention itself and were merely told the dates that you should make yourself available and the process described above for signing up for shifts. You know that you would have to undergo additional background checks and that security will be heightened during the Convention. You know that you would be working as an usher inside the Wells Fargo Center, but beyond that, you do not know any Convention-related specifics. You expect that you would conduct the same ushering duties that you normally conduct for other events at the Wells Fargo Center, such as concerts or Flyers games.

III. Discussion

As discussed below, your proposed activity of performing ushering duties as your non-City, part-time employment for Comcast-Spectacor at the Wells Fargo Center during the Democratic National Convention is permissible.

Under Charter Section 10-107, City employees are subject to various restrictions on their political activity, which is activity that is directed toward the success or failure of a political party, candidate, or partisan political group. Charter § 10-107(4); Board Regulation 8 ¶ 8.1(n). In the context of your inquiry, the relevant restriction in Charter Subsection 10-107(4) and Board of Ethics Regulation 8 provides that an appointed City employee shall not take any part in the management or affairs of any political party,

which includes any political activity that is performed in concert or coordination with a political party. Board Regulation 8 ¶ 8.11. City employees are permitted to attend candidate and political party events, including conventions, solely as a spectator and not as a participant. *Id.* ¶ 8.14(e). For example, even while off duty from his or her City job, a City employee would be prohibited from volunteering to organize, assist with, or staff an event of a political party or a candidate’s campaign. *See id.* ¶ 8.11 and Examples for Subpart E. An Advisory Alert that was recently issued on behalf of the Board to City employees applied these political activity restrictions in the context of the Democratic National Convention. The Alert provided the guidance that City employees should not engage in volunteer opportunities inside the Democratic National Convention, which is being held in the Wells Fargo Center, or for the Democratic National Convention Committee or the Democratic Party. *See Advisory Alert: Guidelines for City Employees Regarding Off-Duty Volunteering Related to the Upcoming Democratic National Convention*, Mar. 28, 2016.

Although your proposed work would involve you providing event support for the Democratic National Convention, the situation you present does not involve you volunteering to assist a political party with its event. Rather, in providing this event support, you would be carrying out the ushering duties you typically perform as part of your paid work for Comcast-Spectacor at the Wells Fargo Center.¹ You would perform the same ushering duties regardless of what entity – a sports team, a musician, or in this case, a political party – is conducting an event at the Wells Fargo Center. The purpose of your proposed activity would be to perform the regular duties of your part-time paid work for Comcast-Spectacor. In this circumstance, your proposed work as an usher at the Wells Fargo Center during the Democratic National Convention is permissible under the Charter political activity restrictions.

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Thank you for your concern about compliance with the Charter political activity restrictions and for seeking advice. Advisory opinions are fact-specific, and this Opinion is predicated on the facts you have provided. If you have questions about scenarios that vary from these facts, you should ask for specific advice on the application of the law to

¹ The Board has not previously addressed the application of the Charter political activity restrictions to a City employee performing paid non-City work that involves providing support for a political party or candidate event. In Board Opinion 2012-002, the Board analyzed the application of the political activity restrictions to the situation of City employees taking action in their official capacities and examined the specific restrictions on City employees using their City positions for political purposes and participating in political activity while on duty or using City resources. That Opinion provided that although City employees are generally prohibited from attending political events while they are on duty, attendance and some form of assistance at a political event is permitted if the purpose is to perform the duties of the employee’s City job. Board Opinion 2012-002 at 6.

those particular facts. Requestors of advisory opinions are entitled to act in reasonable reliance on opinions issued to them and not be subject to penalties under the laws within the Board's jurisdiction, unless they have omitted or misstated material facts in their requests. Code § 20-606(1)(d)(ii); Board Regulation 4, ¶ 4.12.

Since you requested a non-public opinion, the original Opinion will not be made public. As required by the City Code, this version of the Opinion that has been redacted to conceal facts that are reasonably likely to identify you is being made public. Please let Board staff know if you have any questions.

BY THE PHILADELPHIA BOARD OF ETHICS²

Michael H. Reed, Esq., Chair
Judge Phyllis W. Beck, (Ret.), Vice-Chair
Sanjuanita González, Esq., Member
Brian J. McCormick, Jr., Esq., Member

² Board Member JoAnne A. Epps, Esq., did not participate in the approval of this Opinion.