



CITY OF PHILADELPHIA

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**Philadelphia Board of Ethics**  
**Nonpublic Advice of Counsel GC-2012-501**

March 7, 2012

**Re: Lobbying and Political Committees / Code §20-1205(2)**

The chairman of a candidate's political committee for a City elected official requested a nonpublic advisory regarding the application of the City's new Lobbying Code to any potential lobbying activity by him in light of his position with a political committee.

**Philadelphia Code Section 20-1205(2)**

The Lobbying Chapter of the Philadelphia Code is Ch. 20-1200. Section 20-1205(2) reads as follows:

§ 20-1205. Required and Prohibited Activities.

\* \* \*

(2) Political Committees. A lobbyist may not serve as a treasurer or other officer who must be included in a registration statement under Section 1624(b)(2) and (3) of The Pennsylvania Election Code, for a

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candidate's political committee or a candidate's political action committee if the candidate is seeking City elected office.

This provision is quoted verbatim in Board of Ethics Regulation No. 9, Paragraph 9.26(A). The requestor acknowledged that there is no question that he is an “officer who must be included in a registration statement under Section 1624(b)(2) and (3) of The Pennsylvania Election Code, for a candidate's political committee or a candidate's political action committee.” The relevant question is whether the final phrase applies: “if the candidate is seeking City elected office.”

For purposes of identifying whether an individual is a “candidate seeking City elected office” we will apply the definition of “candidate” as it is used in the Campaign Finance Chapter of the City Code:

(2) Candidate.

(a) An individual who files nomination papers or petitions for City elective office;

(b) An individual who publicly announces his or her candidacy for City elective office.

Code Section 20-1001(2). Additionally, the same criteria would apply as to whether a candidate “is seeking” City elected office at any particular time. The requestor confirmed that the City elected official at issue has not announced his candidacy for re-election or for any other City elected office. Thus, he is not a “candidate . . . seeking City elected office” under Code Section 20-1205(2) nor under Paragraph 9.26(A) of Regulation 9. Therefore, if the requestor were to register as a lobbyist under the Lobbying Code, those provisions would not prohibit him from also serving as the Chair of the political committee, at least until such time as the City elected official takes action that does meet the criteria for definition as a “candidate” as described above.

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 have been provided. We do not conduct an independent inquiry into the facts. Further, we can only issue advice as to future conduct. Accordingly, this Advice does not address anything that may have occurred in the past. The requestor was advised that, 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

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her specific situation, prior to acting. In that regard, to the extent that this Advice states general principles, and there are particular fact situations that the requestor may be concerned about, he was encouraged to contact us for specific advice on the application of the ethics laws to those particular facts.

Since the requestor requested nonpublic advice from the Board of Ethics, we will not make the original letter public, but we will be required to make public this revised version, edited to conceal the requestor's identity, as required by Code Section 20-606(1)(d)(iii).

Evan Meyer  
General Counsel

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