



CITY OF PHILADELPHIA

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

**Philadelphia Board of Ethics
Non-Public General Counsel Opinion No. 2017-501**

February 21, 2017

Re: Volunteering to Assist a Candidate’s Campaign

Dear City Employee:

You have requested a non-public advisory opinion about whether the Philadelphia Home Rule Charter (“Charter”) political activity restrictions prohibit you as a City employee from contributing to the policy positions and policy papers of the campaign of a candidate for District Attorney. The Charter political activity restrictions prohibit you from assisting the campaign in this manner.

I. Jurisdiction

The Board of Ethics has jurisdiction to administer and enforce all Philadelphia Home Rule 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 related to seeking an advisory opinion and for requesting reconsideration of a General Counsel opinion. Board Regulation 4 ¶¶ 4.0, 4.24.

II. Facts Provided

You provided the following facts. You are an appointed City employee. You have been approached by a candidate for District Attorney to see if you would be willing to interact over email or in person with non-City, campaign advisors of the candidate regarding potential policy positions of this candidate. It is likely that this email interaction could lead to policy papers being written on behalf of the candidate.

FOR PUBLIC RELEASE

III. Question Presented & Brief Answer

Is an appointed City employee permitted to interact over email or in person with the campaign advisors of a candidate for District Attorney to contribute to policy positions of the candidate and to the drafting of policy papers on behalf of the candidate?

No, the Charter political activity restrictions prohibit an appointed City employee from volunteering to assist a candidate's campaign.

IV. Discussion

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; Board Regulation 8 ¶ 8.1(n) (defining “political activity”). In relevant part, Charter Subsection 10-107(4) provides, “No appointed officer or employee of the City shall . . . take any part . . . in any political campaign” Charter § 10-107(4). Board Regulation 8, which interprets Charter Subsection 10-107(4), prohibits an appointed City employee from taking any part in the management or affairs of any political campaign, which includes actions taken by a candidate or his or her supporters to obtain the candidate’s nomination or election to public elective office. *See* Board Regulation 8 ¶¶ 8.1(o) (defining “political campaign”), 8.11. As such, City employees are prohibited from volunteering to assist a candidate’s campaign or otherwise engaging in political activity in concert or coordination with a candidate. *See* Board Regulation 8 ¶ 8.11 & Examples for Subpart E; Board Opinion 2016-001 at 3 (advising that even while off duty from his or her City job, a City employee is prohibited from volunteering to organize, assist with, or staff an event of a candidate’s campaign). Notably, in Board Opinion 2009-005, the Board underscored that City employees are prohibited from participating in the formation of campaign policies, speeches, or positions. Board Opinion 2009-005 at 3-4.

You have inquired whether you are permitted to engage in interactions by email or in person with the campaign advisors of a candidate for District Attorney for the purpose of formulating campaign policy positions and papers of the candidate. The Charter political activity restrictions prohibit this proposed behavior of assisting the campaign of a candidate, which qualifies as activity directed toward the success of the candidate and for the purpose of obtaining the candidate’s election to public elective office. This proposed behavior constitutes participation in the candidate’s campaign and political activity performed in concert and coordination with a candidate. Accordingly, the Charter political activity restrictions prohibit such behavior.

* * * * *

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 that you provided, the details of which have been redacted here. If you have questions about scenarios that vary from these facts, you should ask for specific advice on the application of the law to 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 me know if you have any questions.

BY THE PHILADELPHIA BOARD OF ETHICS

Maya Nayak
General Counsel

cc: Michael H. Reed, Esq., Chair