



## CITY OF PHILADELPHIA

BOARD OF ETHICS  
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### **Philadelphia Board of Ethics Non-Public General Counsel Opinion No. 2020-501**

January 17, 2020

#### **Re: Application of Post-Employment Rules to Proposed Post-City Service Work**

Dear Requestor:

You have requested a non-public advisory opinion concerning the rules that would apply to you if you separate from City service. Specifically, you have explained that you are considering leaving City government after this year and would like to offer public policy advice to nongovernmental organizations in the area of economic development. You are not interested in becoming a lobbyist and do not intend to represent clients in governmental affairs. You intend to be a sole practitioner without incorporating any legal entity. You have bought a domain name and intend to launch a website, when appropriate.

As discussed in more detail below:

- (1) For one year after leaving City service, you may not represent a client for pay in any matters involving your former City Department.
- (2) For two years after leaving City service, you may not become financially interested in any official action you took while working for the City.
- (3) You may not, at any time after leaving City service, assist another person, with or without compensation, in any transaction involving the City in which you participated while working for the City.

#### **I. Jurisdiction**

The Board of Ethics has jurisdiction to administer and enforce all Philadelphia Home Rule Charter provisions and ordinances pertaining to ethical matters, including the post-employment rules found in the City's Ethics Code, Philadelphia Code Chapter 20-600. Home

Rule Charter Section 4-1100 and Code Chapter 20-600 authorize the Board to render advisory opinions concerning a City officer's or employee's proposed future conduct.

Home Rule Charter Section 4-1100 also gives the Board "concurrent authority" with the Law Department to advise City officials on the application of State law. Our advice on State law, however, does not provide protection from possible enforcement by the State Ethics Commission. For guidance on the State Ethics Act that would provide such protection, you should contact either the State Ethics Commission or the Law Department.

## **II. Relevant Law and Discussion**

If you leave City employment, you will be subject to post-employment restrictions under the State Ethics Act and the City's Ethics Code.

### **A. State Law One Year Post-Employment Restriction**

The State Ethics Act prohibits public employees from representing any individual or organization before their former governmental body for compensation for one year after leaving government service. 65 Pa. C.S. §1103(g). It is my understanding that, for the purposes of this restriction, you are a public employee subject to the Act and your former governmental body is your former City department, not the City as a whole. As such, this provision would prohibit you from representing a client for pay in any matters involving your former City department. Since you have said that you do not intend to engage in lobbying or representation of clients before the City, this provision should not be an issue for you. As noted above, however, you should consult with the State Ethics Commission or the City Solicitor for definitive guidance on the State Ethics Act.

### **B. City Law Post-Employment Restrictions**

#### **1. Two year prohibition**

Philadelphia Code Section 20-607(c) prohibits a City officer or employee from becoming financially interested in official action taken "during his [or her] term of office or employment and until two (2) years have elapsed" since leaving City service. As such, for two years after you leave City employment, you must ensure that you do not obtain a financial benefit from any official action you took while working for the City. An example of this would be if, while working for the City, you participated in the approval of a City contract with a vendor. For two years after leaving City service, you could neither work on nor receive any funds from that contract.

#### **2. Permanent prohibition**

Philadelphia Code Section 20-603(1) permanently bans a former City officer or employee from assisting "another person, with or without compensation, in any transaction involving the

City in which [the officer or employee] at any time participated during their City service or employment.” This rule would prohibit you from providing assistance to clients regarding any transactions with which you were personally involved while working for the City. For example, after leaving City service, you could not draft testimony or talking points for a client to present at a hearing on legislation you worked on while you were a City employee. This provision, however, would not prevent you from assisting clients on a matter with which you had no involvement when you worked for the City.

### **III. Conclusion**

Thank you for your concern about compliance with the City’s Ethics Code and for seeking advice. Advisory opinions are fact-specific, and this Opinion is predicated on the facts you have provided. 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 Reg. 4 ¶ 4.12.

Since you requested a non-public opinion, the original Opinion will not be made public. As required by the City Code, a 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

Michael J. Cooke  
General Counsel

cc: Michael H. Reed, Chair  
J. Shane Creamer, Jr., Executive Director