

**This Opinion has been superseded by the June 2020 amendment to Home Rule Charter Section 10-107(4).**



**CITY OF PHILADELPHIA**

BOARD OF ETHICS  
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**Philadelphia Board of Ethics  
Non-Public General Counsel Opinion No. 2020-502**

March 9, 2020

**Re: Application of Political Activity Restrictions to Participation by City Employee in Partisan Political Group’s Activities**

Dear Requestor:

You are a City employee. You have requested a non-public advisory opinion concerning the application of the Home Rule Charter’s political activity restrictions to your involvement with the group Indivisible Philadelphia. You note that you are not part of the leadership of the group. In particular, you ask whether you can be a member of the group and participate in activities supporting causes not related to specific candidates for public office. You also ask if you can participate in activities supporting candidates for office, such as postcard writing, phonebanking, textbanking, and in-person canvassing. You note that so far as you are aware, the group is not currently coordinating its activities with any political party or campaign. You expect that the group will endorse eventual Democratic nominees for federal office and engage in various canvassing projects to support those candidates, which may or may not include activities coordinated with those candidates or the Democratic party.

As explained in detail below, you may be a member of Indivisible Philadelphia and engage in many activities with the organization on your own time and in your personal capacity. Even on your own time, however, you cannot serve as an officer of Indivisible Philadelphia, take part in activities that the organization coordinates with a candidate or political party, or participate in the organization’s fundraising activities.

**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 political activity restrictions found in Charter Section 10-107. Home Rule Charter Section 4-1100, Code Chapter 20-600, and Board Regulation No. 4 authorize the Board to render advisory opinions concerning a City officer’s or employee’s proposed future conduct.

## II. Relevant Law

Home Rule Charter Section 10-107 sets forth a number of restrictions and limitations on the political activity of City officers and employees. These rules were intended to ensure that City government serves the public interest rather than the interests of political parties or factions.<sup>1</sup>

Board Regulation No. 8 defines “political activity” as any activity directed toward the success or failure of a political party, candidate, or partisan political group. *See* ¶ 8.1(m). A partisan political group is a committee, club, or other organization whose primary purpose is to promote the success or failure of political parties, candidates, or political campaigns. *See* Board Reg. 8 ¶ 8.1(l). An appointed City officer or employee is prohibited from being an officer of a partisan political group or a member of a committee of a partisan political group. *See* Board Reg. 8 ¶ 8.7(f). An appointed City officer or employee may participate in political activities organized or sponsored by a partisan political group so long as the group does not act in coordination with a political party, candidate, or political campaign with regard to those activities. *See* Board Reg. 8 ¶ 8.9(i).

As explained in Subpart B of Regulation No. 8, appointed officers and employees may not engage in political activity while on duty, using City resources, or in any City-owned or City-leased building. City employees are also prohibited from using their position, authority, influence, title, or status as a City employee for any political purpose. *See* Board Reg. 8, ¶¶ 8.4, 8.5. In addition, City employees are prohibited from being in any manner concerned in the collection, receipt, or solicitation of contributions intended for a political purpose. *See* Board Reg. 8, ¶ 8.6. A contribution intended for a political purpose includes any money or things having a monetary value received by a political committee, political party, political campaign, or partisan political group. *See* Board Reg. 8, ¶ 8.1(f).

## III. Discussion

Based on my review of the Facebook page for Indivisible Philadelphia, it is a partisan political group. As such, while you are permitted to be a member of the organization, you may not engage in activity related to it while on duty, using City resources, or in any City-owned or City-leased building. Nor may you use your City position, authority, influence, title, or status as a City employee while engaging in activities related to Indivisible Philadelphia. You are also prohibited from being an officer or serving as a member of a committee of the organization. Lastly, you may not participate in any of Indivisible Philadelphia’s fundraising activities.

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<sup>1</sup> *See e.g.* The Committee of Seventy, *The Charter: A History* (1980), *available* at <https://seventy.org/uploads/files/127709242549666483-1980-charter-history.pdf> (last visited Dec. 6, 2019).

So long as you observe the limitations described in the preceding paragraph, you may participate in any Indivisible Philadelphia activities that are not coordinated with a candidate, campaign, or political party. For example, you could participate in a phonebank set up by Indivisible Philadelphia to promote a candidate for U. S. Senate, but not if that phonebank was set up in coordination with a political party. You can find additional examples of prohibited and permissible activity in Paragraphs 8.7 and 8.9, respectively, of Board Regulation No. 8. Keep in mind the burden is on you to find out if Indivisible Philadelphia is coordinating a particular activity with a candidate, campaign, or political party.

#### **IV. 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