

Philadelphia Board of Ethics
Meeting Minutes
June 19, 2019 - 1:00 p.m.
One Parkway Building
1515 Arch Street, 18th Floor

Board Present

Michael H. Reed, Esq., Chair
Judge Phyllis Beck (Ret.), Vice-Chair
Sanjuanita González, Esq.
Brian McCormick, Esq.
JoAnne Epps, Esq.

Staff Present

Nedda Massar, Esq.
Michael Cooke, Esq.
Jordana Greenwald, Esq.
Jordan Segall, Esq.
Thomas Klemm, Esq.
Bryan McHale
Hortencia Vasquez
Sujin Kim
Louisa Hanson

Chair Reed recognized the presence of a quorum and called the meeting to order at 1:00 p.m.

I. Meeting Minutes

By a 3-0 vote, the Board approved the minutes of the Public Session Meeting held on May 15 2019, as presented. Board Members González and McCormick abstained from the vote because they were not present at the May Public Session Meeting.

II. Executive Director's Report

Ms. Massar presented to the Board the Executive Director's Report, a copy of which is attached as Attachment A.

Chair Reed welcomed summer interns, Sujin Kim and Louisa Hanson, who were both present at the meeting. The Board had no significant questions or comments for Ms. Massar following her presentation.

III. General Counsel's Report

Mr. Cooke presented to the Board his General Counsel Report, a copy of which is attached as Attachment B. Mr. Cooke also updated the Board regarding the status of the newly established General Counsel mailing list and Advisory Opinion Index. The Board had no significant questions or comments for Mr. Cooke following his presentation.

APPROVED BY BOARD OF ETHICS ON 07/22/19

IV. Updates to the Procedural Supplement to Board Regulation 2

Ms. Greenwald presented to the Board her memo regarding proposed updates to the procedural supplement to Regulation 2.

Following this presentation, Chair Reed asked the Board to consider a motion approving the proposed updates. After a motion that was duly seconded, the Board voted 5-0 to approve the updates.

V. Proposed Amendment to Regulation 8 (Political Activity)

Mr. Cooke presented to the Board proposed amendments to Regulation 8. After Mr. Cooke discussed the more significant aspects of the proposed amendments, Board members discussed and agreed to various revisions to and modifications of the current draft.

Following this presentation, Chair Reed asked the Board to consider a motion to: a) approve the proposed amendments as modified; b) authorize Board Staff to file the proposed amendments with the Department of Records for public comment posting upon approval from the Law Department; c) grant General Counsel Staff authority, after discussion with Chair Reed, to make non-substantive changes to the revised amendments if any such changes are requested from the Law Department; and d) set the hearing date regarding the amendments to be the date of the Board's next Board meeting and instruct Board Staff to satisfy proper notice requirements about the hearing. After a motion that was duly seconded, the Board voted 5-0 to approve the motion.

VI. Staff Attorney Job Position Posting

Mr. Cooke presented to the Board a proposed Staff Attorney job posting drafted by Board Staff. Mr. Cooke also provided an overview of how the job posting would be circulated and published.

Following this presentation, Chair Reed asked the Board to consider a motion to delegate to the Executive Director the authority to fill a Staff Attorney position, including: 1) the authority to obtain Finance Department approval, and 2) the authority to conduct City-mandated background and tax compliance checks. After a motion that was duly seconded, the Board voted 5-0 to approve the motion.

VII. Scheduling

The Board discussed the upcoming Board meetings scheduled in July and August.

At the conclusion of this discussion, Chair Reed asked the Board to consider a motion to reschedule the July 17, 2019 meeting to July 31, 2019. After a motion that was duly seconded, the Board voted 5-0 to approve the motion.

VIII. New Business

No new business was presented.

IX. Questions/Comments

Chief Integrity Officer Ellen Kaplan thanked General Counsel Staff for their work regarding the proposed amendments to Regulation 8. Ms. Kaplan specifically thanked Mr. Cooke for the smooth transition to his new role as Acting General Counsel, and for the recently implemented Advisory Opinion distribution list.

Adam Bonin expressed his approval and support for the new Lobbying FAQs issued by the General Counsel Staff. Regarding the proposed amendments to Regulation 8, Mr. Bonin requested clarification regarding some of the proposed language. He stated he planned to discuss his concerns with Mr. Cooke in the future.

Chair Reed made the following announcement regarding Board sessions that had been held and that would be held pursuant to Sections 708 and 716 of the Pennsylvania Sunshine Act:

- (1) the Board met by email June 5th through June 7th regarding non-public advice;
- (2) the Board met by email June 17th and 18th regarding scheduling matters; and
- (3) the Board will meet after today's public meeting to address non-public advice, confidential enforcement matters, and personnel matters.

The Public Session Meeting of the Board was adjourned at approximately 2:20 p.m.

Attachment A

**Philadelphia Board of Ethics
Executive Director's Report
June 19, 2019**

A. Settlement Agreements

On May 15, 2019, the Board of Ethics approved settlement agreements in the following two matters:

Desiree Bell. This agreement resolved three violations of the City's conflict of interest restrictions for making and directing \$19,807.23 in purchases for her personal benefit from accounts held by the Fund for Philadelphia, Inc. Ms. Bell has agreed to pay \$6,000 in civil monetary penalties as well as to reimburse the City \$19,807.23, which is the amount of the purchases she made or directed for her personal benefit.

Friends of Rochelle Bilal and Shirley Jordan (Treasurer of Friends of Rochelle Bilal). This agreement resolved a violation of the City's Campaign Finance Law for making a material omission in a campaign finance report filed with the Board. Friends of Rochelle Bilal has amended its 2019 sixth Tuesday pre-primary campaign finance report with the Board to disclose the relevant transaction. Friends of Rochelle Bilal has agreed to pay a \$500 civil monetary penalty.

B. Campaign Finance Update

The Cycle 3 post-primary report for the May 21st primary election is due on June 20, 2019, and the Filing Support Center is now open in the Board's conference room through June 20th. When we operated the Support Center for the Cycle 2 report in early May, we assisted filers of all ability levels, from those who had never used online filing software to those who had experience but needed help uploading information. We expect to see similar issues this week, including filers who must upload large text files containing detailed GOTV (get-out-the-vote) information.

Interestingly, we have also assisted candidates for State office who are required to file with the City Commissioners and want to use our new online campaign finance software to do so.

C. Financial Disclosure Update

We continue to work with OIT on the design of the new financial disclosure filing software and are hopeful that we'll see a demonstration of the basic system features in the next few weeks. We noted last month that the new system will have much in common with the old one, but we understand the importance of training and outreach well in advance of the 2020 filing season. We will design and conduct training for departmental HR managers who help us with administration of the financial disclosure process and will develop "help" documents and manuals for filers and HR managers. We will continue to update the Board next month on the status of this project.

D. Staff Activities

I am pleased to introduce our two summer interns.

First, you may remember Sujin Kim who was an intern for the Board last year while a senior at Moorestown Friends School. During that time, she assisted on enforcement work for the Board. Sujin is now a rising sophomore at the University of Michigan where she has studied with University Honors and is pursuing Bachelor of Arts degrees in Political Science and Psychology. She also has served in Central Student Government at Michigan and Chaired the Ethics Committee. During this summer, Sujin hopes to work with election and financial disclosure policies to understand the best way to implement them to maximize their effectiveness. She is also interested in accountable government and ensuring fair elections. Sujin will be assisting on enforcement, compliance, and research work during her summer in the office.

We also welcome Louisa Hanson who is a rising senior at Central High School and hopes to study sociology and political science at Brown University in 2020. She became involved in politics after the 2016 presidential election and has since sought to make an impact locally. She has also started to recognize the importance of local politics. As a result, she began volunteering with the Sunrise Movement, a West Philly-based youth-led climate justice group. Louisa has also canvassed for congressional and state candidates leading up to the 2018 midterms. She is interested in law, activism, and oversight of dark money in politics. Louisa will be assisting on enforcement, compliance, and resource work during her summer in the office.

Attachment B



**CITY OF PHILADELPHIA
BOARD OF ETHICS**

GENERAL COUNSEL REPORT

TO: Board Members
FROM: Michael J. Cooke, Acting General Counsel
DATE: June 14, 2019

I. Advisory Opinions

Following this report at Tab A, you will find General Counsel Opinion 2019-503 regarding the application of the City's conflict of interest rule to. We issued the Opinion to the requestor on June 11, 2019 and will post the redacted version on the Board's website.

II. Lobbying FAQ

Following this report at Tab B, you will find a FAQ we have developed in consultation with Bryan and Nedda. We have posted the FAQ on the Board's website and expect that it will provide helpful guidance on the basic requirements of the City's Lobbying Law.

III. Informal Guidance

Following this report at Tab C, you will find a chart that summarizes the informal guidance Board Staff provided May 4, 2019 through June 7, 2019.

Tab A



CITY OF PHILADELPHIA

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

Philadelphia Board of Ethics Non-Public General Counsel Opinion No. 2019-503

June 11, 2019

**Re: Application of Ethics Code Conflicts of Interest Restriction to
Outside Business Opportunity with Agency Client**

Dear Requestor,

You have asked whether a conflict of interest would arise for you under the City Ethics Code if you enter into a business relationship with a private entity (the “Private Entity”) that participates in a City program you help administer. As discussed below, in my view, if you pursued this business opportunity, it would indeed give rise to a conflict of interest that would require you to file a disclosure and disqualification letter and would preclude you from taking any official action that would affect the Private Entity.

I. Background

You are a City employee whose work for the City includes overseeing the implementation of a program that affects numerous local organizations and institutions, including the Private Entity. This work is funded through state and federal programs administered by your office, with a local non-profit serving as the contracted service provider.

In addition to your City position, you own a company that sells products developed by you. Recently, your business received an unsolicited email inquiry from a representative of the Private Entity asking if you could become a vendor for the entity. The Private Entity participates in the program that you help administer as part of your City job.

II. Relevant Law

The Board of Ethics has jurisdiction to administer and enforce all Philadelphia Home Rule Charter provisions and ordinances pertaining to ethical matters. The Charter and the Philadelphia Code authorize the Board to render advisory opinions concerning a City officer or employee's proposed future conduct.

Philadelphia Code Section 20-607 prohibits a City officer or employee from taking action in an official capacity when either (a) he or she (or a close family member) has a personal financial interest in that action; or (b) a for-profit business of which the official is a member, or a fellow member of such business, has a financial interest in the official's action.

The Board has advised that a person or entity has a financial interest in matters that have a potential impact on the person or entity's income, compensation, value of assets, wealth, employment prospects, or business prospects. The Board has further advised that a financial interest may arise from an ongoing, present financial relationship. As such, you would have a personal financial interest in a matter that affected a client of your business. Thus, if you were in a position to take action in your official capacity in a matter that affected a client of your private business, you would have a conflict of interest under Code Section 20-607(a). See Board Opinion 2012-001; General Counsel Opinion 2014-506.

III. Discussion

Based on the information you have provided, if the Private Entity became a client of your business, a conflict of interest would arise under the Ethics Code because you would be in a position to take action in your official capacity that could affect the Private Entity.

In light of this conflict, your options are to either (1) decline to engage in this business opportunity, or (2) follow the disclosure and disqualification procedures set forth in the Ethics Code. If you choose option (2), you must send a letter by certified or registered mail to me, the head of your department, and the Records Department in which you: (a) give your name, City position, and City duties relevant to the conflict; (b) describe the financial interests or relationships that give rise to the conflict; and (c) include a statement that you intend to be disqualified from taking official action in any relevant matters.

Thank you for your concern about compliance with the Ethics Code and for seeking advice. Advisory opinions are fact-specific, and this Opinion is predicated on the facts you have provided as stated here. You are entitled to act in reasonable reliance on this opinion and not be subject to penalties under the laws within the Board's jurisdiction, unless you have omitted or misstated material facts in your request.

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, which 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
Acting General Counsel

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

Tab B



FREQUENTLY ASKED QUESTIONS ABOUT PHILADELPHIA'S LOBBYING LAW

1. What is the purpose of the Philadelphia Lobbying Law?

The City's Lobbying Law ensures disclosure of money spent to influence City government. It does this by requiring principals, lobbyists, and lobbying firms to register with the Board of Ethics and file expense reports when they spend more than \$2,500 on lobbying in a certain time period.

2. What is Lobbying?

Lobbying is an effort to influence any legislative or administrative action by: a) direct communications; b) indirect communications; or c) providing any gift, hospitality, transportation or lodging to a City official or employee for the purpose of advancing the interest of the lobbyist, lobbying firm or principal.

3. What is a principal?

A principal is an individual, association, corporation, business or other person that: a) engages in lobbying on its own behalf; or b) pays someone else to lobby.

4. What is a lobbyist?

A lobbyist is any individual who is paid to lobby on behalf of a principal.

Note: An attorney can be a lobbyist. Unpaid volunteers are not lobbyists.

5. What is a lobbying firm?

A lobbying firm is an entity that is paid to engage in lobbying on behalf of a principal.

Note: A lobbying firm is composed of individual lobbyists who are members, employees or agents of the lobbying firm.

6. When does a principal, lobbyist, or lobbying firm have to register with the Board?

Principals: A principal must register with the Board within ten days of incurring expenses of more than \$2,500 for non-exempt lobbying in a quarter.

Lobbying Firms: A lobbying firm must register with the Board within ten days of engaging in non-exempt lobbying for which it has or will be paid more than \$2,500 in a quarter.

Lobbyists: A lobbyist must register with the Board within ten days of engaging in non-exempt lobbying for which the lobbyist has or will be paid more than \$2,500 in a quarter. However, for in-house lobbyists (i.e., employees who lobby on behalf of their employer), registration is not required unless the in-house lobbyist also engages in 20 or more hours of lobbying in that quarter.

The law exempts certain expenditures from the \$2,500 thresholds referenced above. A list of these exemptions is located in Regulation 9. *See Board Reg. 9 Subpart D.*

Quarter #	Covers the time period
1	January 1 through March 31
2	April 1 through June 30
3	July 1 through September 30
4	October 1 through December 31

7. What information must be included in a registration?

Principals: A principal is required to disclose:

- The principal's contact information;
- The date the principal commenced lobbying;
- The name and the Department of State filer identification number of any affiliated political action committees, and acronym, if applicable;
- The nature of the principal's business;
- The name, business address, and Philadelphia Lobbying Information System ("PLIS") registration number of each paid lobbyist working on behalf of the principal who is required to file a registration statement; and
- For a principal that is an association or organization with members, the approximate number of dues-paying members of the association or organization in the most recently completed calendar year.

Lobbyists: A lobbyist is required to disclose:

- The lobbyist's contact information;
- The date the lobbyist commenced lobbying;
- The name and the Department of State filer identification number of any affiliated political action committees, and acronym, if applicable;
- The name, business address, telephone number and PLIS registration number of each principal for whom the lobbyist is engaged in lobbying;
- The name and PLIS registration number of any lobbying firm with which the lobbyist has a relationship involving economic consideration;
- The name, acronym (if any), and Department of State filer identification number of any candidate political committee of which the lobbyist is the Chair or Treasurer; and
- A statement as to whether the lobbyist is an attorney.

Lobbying Firms: A lobbying firm is required to disclose:

- The lobbying firm's contact information;
- The date the lobbying firm commenced lobbying;
- The name and the Department of State filer identification number of any affiliated political action committees, and acronym, if applicable;
- The nature of the lobbying firm's business;
- The name, business address, and PLIS registration number of each paid lobbyist working on behalf of the lobbying firm who is required to file a registration statement;
- The name, business address, telephone number and PLIS registration number of each principal for whom the lobbying firm is engaged in lobbying.

8. When does a principal, lobbyist, or lobbying firm have to file an expense report with the Board?

Typically, only registered principals are required to file quarterly expense reports. A principal must file an expense report when its non-exempt lobbying expenses exceed \$2,500 in a quarter.

The law exempts certain expenditures from the \$2,500 thresholds referenced above. A list of these exemptions is located in Regulation 9. *See Board Reg. 9 Subpart D.*

Quarter #	Covers the time period	Expense Report due on or before
1	January 1 through March 31	April 30
2	April 1 through June 30	July 30
3	July 1 through September 30	October 30
4	October 1 through December 31	January 30

If the registered principal's lobbying expenses are \$2,500 or less in a quarter, the principal may, in lieu of an expense report, file a statement stating this fact.

9. What information must be included in an expense report?

An expense report must disclose:

- The name and PLIS registration number of each lobbyist the filer paid more than \$2,500 to in the quarter;
- Information about the filer's quarterly expenses for direct communications;
- Information about the filer's quarterly expenses for indirect communications; and
- Information about all gifts, hospitality, transportation and lodging the filer provided to City officers and employees and their immediate family members during the quarter.

For further guidance about what must be included in expense reports, see Board Regulation 9 ¶ 9.13.

10. How does someone file a registration or an expense report?

All lobbying-related filings must be submitted electronically using the Philadelphia Lobbying Information System ("PLIS"). To file, a registrant must create an account in PLIS. The registrant will then create a New Registration. Upon completion of the registration process, including payment of the annual registration fee, the registrant will receive a PLIS registration number, which one uses to file expense reports.

11. Are there any exceptions to the reporting requirements?

Yes. The reporting exemptions are listed in Regulation 9 Subpart D. Application of these exemptions is important in determining whether the financial thresholds for registration and expense reports (\$2,500 in a financial quarter) are satisfied.

Some of the more notable exemptions involve lobbying-related activities regarding:

- a. Unpaid volunteers. See Board Reg. 9 ¶ 9.19(c).
- b. Communications with a City officer or employee on a routine, ministerial matter. See Board Reg. 9 ¶ 9.19(j).
- c. Testifying or commenting before City Council or a committee of City Council. See Board Reg. 9 ¶ 9.19(a).
- d. Activities and efforts directly related to responding to publicly advertised invitations to bids and requests for proposals. See Board Reg. 9 ¶ 9.19(i).

NOTE: The applicability of the exemptions listed in Regulation 9 Subpart D is often very fact-specific. If you have questions about the applicability of any of these exemptions you should contact the Board of Ethics.

Tab C

SUMMARY OF INFORMAL GUIDANCE PROVIDED, MAY 4, 2019– JUNE 7, 2019

General Topic	Monthly total (ytd. total)	Email	Phone	Email & phone	In-person	Examples of guidance
Campaign Finance	173 (640)	47	115	5	6	<ul style="list-style-type: none"> ▪ 24-hour report requirements ▪ Independent expenditures ▪ Special cycles for reporting electioneering communications, including required disclosures ▪ Recent amendments to City Campaign Finance Law ▪ New electronic filing system ▪ Filing requirements for various individuals and entities, including corporations, candidates, candidate political committees, political action committees, and judicial committees ▪ Reporting periods and deadlines for campaign finance reports ▪ Assisting filers with accessing and utilizing online filing system and with technical issues related to filing system
Financial Disclosure	46 (1,160)	7	38		1	<ul style="list-style-type: none"> ▪ Assisting filers and human resource managers with accessing and utilizing online filing system and with technical issues related to filing system ▪ Determining which forms are required to be filed by certain filers ▪ Explaining filing and disclosure requirements to various filers and human resource managers

General Topic	Monthly total (ytd. total)	Email	Phone	Email & phone	In-person	Examples of guidance
Lobbying	9 (87)	4	5			<ul style="list-style-type: none"> ▪ Registration inquiries, including fees, requirements, terminations, affiliations, and affirmations of a lobbyist/lobbying firm/principal ▪ Overview of City Lobbying Law
Political Activity	8 (45)	3	3	2		<ul style="list-style-type: none"> ▪ City employee serving as ward leader ▪ City employee attending election night party ▪ City employee volunteering to work for political campaign ▪ City employee receiving and displaying political signs ▪ Lobbying U.S. Congress member as part of non-profit's leadership conference ▪ Overview of political activity restrictions
Gifts	7 (24)	3	1	2	1	<ul style="list-style-type: none"> ▪ City employee accepting event tickets from entity when entity is overseen by City employee's City department ▪ City department accepting used furniture from entity that has contract with City ▪ Accepting free books provided at City-related training session from book's author ▪ Retirement parties and retirement gifts for City officials ▪ Attending free conference hosted by private entity ▪ Overview of City gift ordinance, including overview of restricted sources and prohibited gifts

General Topic	Monthly total (ytd. total)	Email	Phone	Email & phone	In-person	Examples of guidance
Conflicts	4 (47)	1		3		<ul style="list-style-type: none"> ▪ Non-profit sending letter of support for for-profit business bidding on City contract regarding a product that was developed in partnership between non-profit and City ▪ Mayor's Fund serving as conduit or financial sponsor for City entity's request for money from non-profit entity ▪ Conflicts arising from job search with respect to certain prospective employers
Post-Employment	2 (18)			2		<ul style="list-style-type: none"> ▪ Former City employee entering into consulting contract with non-profit, City-related entity that former employee helped initiate ▪ Overview of post-employment restrictions
Other	2 (23)	1	1			<ul style="list-style-type: none"> ▪ No jurisdiction