

Philadelphia Board of Ethics
Meeting Minutes
October 16, 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

J. Shane Creamer, Jr., Esq.
Nedda Massar, Esq.
Michael Cooke, Esq.
Jordana Greenwald, Esq.
Jordan Segall, Esq.
Thomas Klemm, Esq.
Hazel Koshy, Esq.
Bryan McHale
Hortencia Vasquez
Eileen Donnelly

I. Meeting Minutes

By a 5-0 vote, the Board approved the minutes of the Public Session Meeting held on September 18, 2019, as presented.

II. Executive Director's Report

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

III. General Counsel's Report

Mr. Cooke presented to the Board the General Counsel Report, a copy of which is attached as Attachment B.

Mr. Cooke also noted that he had issued Advisory Opinion 2019-505 on October 15, 2019 and that a redacted version of the opinion was available on the Board's website.

APPROVED BY BOARD OF ETHICS ON 11/20/19

IV. Report on Public Hearing Held on July 22, 2019 Regarding Proposed Amendments to Regulation 8 (Political Activity)

Mr. Cooke discussed with Board members the Hearing Report, drafted by Staff, for the public hearing held on July 22, 2019 on proposed amendments to Regulation 8. He summarized the regulatory process to date and also explained the procedural steps for filing the Hearing Report. Mr. Cooke then summarized the contents of the Hearing Report and the Board suggested a few edits thereto.

Mr. Cooke then discussed a letter, submitted by Chief Integrity Officer Ellen Mattleman Kaplan on October 15, 2019, which offered additional comments regarding the application of the restrictions to members of the Educational Nominating Panel. After discussion as well as input from Ms. Kaplan, the Board suggested further minor changes to the Hearing Report.

At this time, the Chair asked for a motion to: (a) approve the Hearing Report as modified; (b) approve the amended regulation as modified; (c) require Staff to present new drafts to the Chair for his review; (d) after the Chair's review, submit the drafts to the Law Department for their review; (e) after the Law Department's review, require Staff to submit any proposed changes to the Chair for his review; and (f) so long as the Chair deemed any such changes to be non-substantive, file the final documents with the Records Department.

After a motion that was duly seconded, the Board voted 5-0 to approve the motion.

V. New Business

There was no new business presented at the Public Session Meeting.

VI. Questions/Comments

Adam Bonin asked when the Board was planning to file the Hearing Report and, thus, when the amended version of Regulation 8 would become effective. After Mr. Cooke explained the procedures and timing, Mr. Bonin suggested that the Board wait to file the Hearing Report so that the amended regulation would not be effective until after the November 2019 General Election. Mr. Bonin stated this would provide more regulatory stability for those covered by the Regulation. Mr. Bonin also requested that the Board consider policy changes regarding how it deals with late campaign finance filings. Citing federal practice, Mr. Bonin suggested the Board consider additional factors in determining penalty amounts. Mr. Bonin distributed documents to the Board regarding this issue. The Board informed Mr. Bonin that it would review the documents and take his suggestion under consideration.

The Chief Integrity Officer, Ellen Kaplan, also expressed concern about the amended version of Regulation 8 becoming effective prior to the November 2019 Election. At this time, the Board and Staff further discussed this effective date issue.

After this discussion, Chair Reed asked for a motion directing Staff to delay filing the July 22, 2019 Hearing Report until a time in which such filing would cause the effective date of the Amended Regulation to fall after the date of the November 2019 General Election.

After a motion that was duly seconded, the Board voted 5-0 to approve the motion.

Chair Reed, pursuant to Sections 708 and 716 of the Pennsylvania Sunshine Act, announced that 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
October 16, 2019**

A. Settlement Agreement

On September 18, 2019, the Board of Ethics approved a settlement agreement with Friends of Justin DiBerardinis and Sharon Kim (Treasurer of Friends of Justin DiBerardinis). The 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 Justin DiBerardinis has amended its 24 hour contribution report with the Board to disclose the relevant transaction. Friends of Justin DiBerardinis has agreed to pay a \$1,000 civil monetary penalty.

B. Campaign Finance Training

As we approach the November General Election, we have continued our emphasis on campaign finance training and have conducted three campaign finance training sessions jointly with the City Commissioners' Office on September 12th, October 2nd, and October 10th. Each class covered the basic requirements of the State Election Code and Philadelphia's campaign finance law, as well as the "nuts and bolts" of the mandatory electronic filing process. We believe this broad approach to campaign finance training is especially important to reach many candidates and political committees who have never participated in an election before this year.

C. Language Access Plan

Title VI of the Civil Rights Act of 1964 and the Philadelphia Home Rule Charter require that each City agency, board, or commission, implement a plan to ensure "meaningful access to City services and programs for individuals with limited English proficiency (LEP)." With assistance from the City's Office of Immigrant Affairs, we therefore developed a Language Access Plan (LAP) that describes the actions the Board will take to deliver language access services to individuals with limited English proficiency. The City agency, board, or commission, rather than the LEP individual, bears the responsibility for providing language appropriate services. Our LAP was submitted on September 23rd and has been approved by the Office of Immigrant Affairs.

The Board must provide in-person or telephonic interpretation services and translation of vital documents for an individual with limited English proficiency at no cost to the individual. The Office of Immigrant Affairs has provided a list of vendors and resources to be used if we need language services, and Hortencia Vasquez, our Language Access Coordinator (LAC), will arrange for these services when needed. We note that Board staff members have the specific duty to identify and record language needs at the initial point of contact with an individual.

D. International Visitor

On September 26th, Bryan McHale, Tom Klemm, and Nedda Massar met with an international visitor from Poland, Magdalena Wnuk. Ms. Wnuk is affiliated with a non-profit organization called "I Have the Right to Know" which is promoting lobbying regulation in Poland. Ms. Wnuk is participating in a U.S. Department of State exchange program. In addition to describing the Philadelphia Lobbying Law, our staff also discussed lobbying programs and requirements in other jurisdictions and various "right to know" laws.

E. Welcome New Staff Member

I am very pleased to introduce and welcome the Board's newest staff member, Hazel Elizabeth Koshy. Hazel is our new Staff Attorney and comes to us from the District Attorney's Office where she had worked since 2014. Her work at the DA's Office included conducting bench and jury trials and all tasks related to those trials. She conducted criminal investigations and successfully prosecuted individuals for attempted murder, rape, sexual assault, and gunpoint robbery, among many other crimes.

Hazel earned her BA in International Relations and Diplomacy at Seton Hall University, her MA in International Education at New York University, and her law degree at Boston College Law School. Her desk is already covered with files and she is involved in campaign finance and political activity matters.

We are delighted to have Hazel on our staff.

Attachment B



**CITY OF PHILADELPHIA
BOARD OF ETHICS**

GENERAL COUNSEL REPORT

TO: Board Members
FROM: Michael J. Cooke, General Counsel
DATE: October 11, 2019

I. Training

Summary of training activity since the September meeting:

- On the morning of September 24th, Jordana presented ethics training at the Municipal Services Building to a group of newly hired City employees.
- On the afternoon of September 24th, Jordana and I presented ethics training to employees of the District Attorney's office.
- On October 7th, Jordana and I presented ethics training to a group of recently hired City employees as part of the City's onboarding program.
- On October 2nd and October 10th, Bryan and I, in conjunction with the City Commissioner's office, presented our standard campaign finance training.

II. Ethics Manual

We are planning to publish the new ethics manual next week after the approval of the Regulation No. 8 hearing report so that we can include up to date political activity guidance in the manual. The manual will be posted on the Board's website and announced by email and Twitter. We thank Board members and staff for feedback and suggestions since the last meeting.

III. Informal Guidance K

Following this report at Tab (B) you will find a chart that summarizes the informal guidance Board Staff provided September 7, 2019 – October 4, 2019.

Tab A

SUMMARY OF INFORMAL GUIDANCE PROVIDED, SEPTEMBER 7, 2019 – OCTOBER 4, 2019

General Topic	Monthly total (ytd. total)	Email	Phone	Email & phone	In-person	Examples of guidance
Campaign Finance	57 (824)	15	39		3	<ul style="list-style-type: none"> ▪ Assisting filers with accessing and utilizing online filing system and with technical issues related to filing system ▪ Contribution limits, including issues regarding doubling of limits ▪ Filing requirements for various individuals and entities, including candidates, former candidates, judicial candidates, political action committees, ward committees and lobbyists ▪ In-kind contributions, including meals to candidates ▪ Issues regarding terminated committees, including reporting requirements ▪ Reporting periods and deadlines for campaign finance reports ▪ Reporting requirements, including in-kind contributions, debts, and debt forgiveness ▪ 24-hour reporting requirements ▪ Special cycles for reporting electioneering communications, including required disclosures
Political Activity	6 (58)	1	4	1		<ul style="list-style-type: none"> ▪ Application of rules to Americorps VISTA fellows ▪ City employees joining ideological organizations that are not affiliated with political party ▪ City employees making political contributions ▪ City employees participating in voter registration drives

General Topic	Monthly total (ytd. total)	Email	Phone	Email & phone	In-person	Examples of guidance
Conflicts	5 (68)	1	1	3		<ul style="list-style-type: none"> ▪ Application of legislation of general application exception to City official ▪ City employee taking official action regarding employee's former private employer ▪ City officer serving on non-profit board as Mayor's designee ▪ Member of City Fire Department serving as private EMT for out-of-state private hospital ▪ Overview of general restrictions that apply to City employee serving as non-profit board member
Gifts	5 (44)		2	3		<ul style="list-style-type: none"> ▪ City co-worker paying for colleagues' meals at office event ▪ City employee accepting honorarium for speaking events and appearances ▪ City employee receiving gifts related to service on outside advisory board ▪ Giving event tickets to City-elected officials ▪ Retirement parties and retirement gifts for City officials
Lobbying	4 (100)		4			<ul style="list-style-type: none"> ▪ Registration inquiries, including requirements, amendments and terminations ▪ Reporting requirements and thresholds

General Topic	Monthly total (ytd. total)	Email	Phone	Email & phone	In-person	Examples of guidance
Financial Disclosure	2 (1,176)		2			<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 ▪ Explaining filing and disclosure requirements to various filers and human resource managers
Post-Employment	2 (29)			2		<ul style="list-style-type: none"> ▪ Application of rules when City employee is utilizing extra, accumulated vacation time until resigning ▪ Former City employee working as independent contractor for employee's former governmental body
Representation	2 (4)	1		1		<ul style="list-style-type: none"> ▪ City employee representing RCO in transactions involving the City ▪ Limits of communicating with other City entities regarding contracts with non-profit, when City employee is member of non-profit
Other	2 (39)		1		1	<ul style="list-style-type: none"> ▪ Overview of lobbying in Philadelphia for an international visitor regarding her academic project regarding lobbying