

2009 Advisory Index
Advices of Counsel

Advice No.	Date Issued	Brief Description	Key Words
			Citations
GC-2009-501 Non-public Advice Amended	3/2/10	Advised City employee who held an unpaid position on the board of directors of a nonprofit corporation that deals with and receives some funding through the employee's City office. Noted November 2009 Pennsylvania Supreme Court ruling on a nonprofit qualifying as a "business" under the State Ethics Act, making it likely the Act requires the requestor to follow disclosure and disqualification regarding any official action that would have a financial impact on the nonprofit corporation.	CONFLICT OF INTEREST; NONPROFIT BOARD MEMBER; NONPROFIT AS BUSINESS Code §§ 20-602, 607, 608; 65 Pa.C.S. §1103(a); <i>Rendell v. Pa. State Ethics Comm'n</i> , 983 A.2d 708 (Pa. 2009).
GC-2009-502 Non-public Advice	4/16/09	Provided post-employment advice to former City employee, an attorney, whom the City had employed in multiple capacities and departments over many years. Companies, including some with a City contract, had asked requestor to be a consultant advisor. Concluded one Code post-employment restriction, §20-603(1), did not apply to attorney representations while another, §20-607(c), applied but did not raise issues on these facts. As to the State Ethics Act, addressed when post-employment "cooling off" periods start in case of multiple separation dates; what the former employee's "former governmental body" is in case of multiple former departments; and how the post-employment rules may differ for attorneys.	POST-EMPLOYMENT; ATTORNEY; MULTIPLE CITY JOBS; CONSULTANT TO VENDORS THAT CONTRACT WITH FORMER GOVERNMENTAL BODY 65 Pa.C.S. §1103(g); Code §§ 20-603(1), 20-607(c); <i>Shaulis v. State Ethics Comm'n</i> , 833 A.2d 123 (Pa. 2003); Prof. R. Resp. 1.11.
GC-2009-503 Non-public Advice	4/9/09	Advised City board member who is employed by a university that receives financial support from companies that can be affected by the City board's actions. As the requestor had no personal financial interest and the university is a nonprofit, the Code's conflict provision was not implicated. There likely was not a State Ethics Act issue even though the issue of non-profits qualifying as a "business" was the subject of pending litigation. Also addressed how to avoid an appearance of impropriety.	CONFLICT OF INTEREST; APPEARANCE OF IMPROPRIETY; DONOR TO BOARD MEMBER'S NONPROFIT EMPLOYER IMPACTED BY BOARD ACTION; BOARDS & COMMISSIONS Code §20-607; 65 Pa.C.S. §1103(a); <i>Rendell v. Pa. State Ethics Comm'n</i> , 938 A.2d 554 (Pa. Commw. 2008), reversed by 983 A.2d 708 (Pa. 2009).
GC-2009-504	4/17/09	Advised member of the Historical Commission's Architectural Committee that he may not present to the Commission or any of its advisory committees a project in which his architectural firm is involved. Although the Code's representation restriction	PROHIBITED REPRESENTATION; COMMITTEES OF THE HISTORICAL COMMISSION;

		generally applies to preclude board members only from making representations before their own boards, the Historical Commission's committees are so closely connected to the Commission that the proposed representations present a significant risk of perceived or actual advantage due to the requestor's City position. The requestor had filed a disclosure letter and disqualified himself from official action on the matter, so there was no conflict of interest.	DISCLOSURE OF CONFLICT OF INTEREST; BOARDS & COMMISSIONS
			Code §§ 20-602, 20-607
GC-2009-506	6/11/09	Advised alternate on a City board that was going to consider a matter involving an applicant represented by a law firm in which the alternate's relative-in-law is a partner, although the relative would not take part in the representation. The issue was whether the law firm partner would have a "financial interest" in the board alternate's official action and thereby create a conflict of interest for the alternate. Reach of the term "financial interest" is question of first impression appropriate for a Board Formal Opinion, but time constraints did not allow for that. Given the lack of prior rulings on similar facts, the requestor need not file a public disclosure and disqualification, but due to an appearance of impropriety it was better not to participate in this matter.	CONFLICT OF INTEREST; DEFINING "FINANCIAL INTEREST"; RELATIVE-IN-LAW; LAW FIRM PARTNER; BOARDS & COMMISSIONS
			Code §§ 20-607, 20-608; <i>see related</i> Formal Opinion No. 2009-003
GC-2009-507	7/9/09	Advised City employee that he cannot accept a greater percentage of settlement proceeds than he had otherwise agreed upon from an attorney representing him in a private lawsuit in exchange for referring that attorney some clients where the requestor's City job involves such referrals and would be the source of the referral names. The proposed arrangement would create an unavoidable conflict of interest. Noted the Code's prohibition on the disclosure of confidential information obtained in a City job to advance one's financial interest.	UNAVOIDABLE CONFLICT OF INTEREST; CONFIDENTIAL INFORMATION; ATTORNEY REFERRALS
			Code §§ 20-607, 20-609; 65 Pa.C.S. §1103(a)
GC-2009-508	6/29/09	Advised the Mayor that the Charter's political activity restrictions would not apply to members of the newly-created Commission on Parks & Recreation. Applying the standard set forth in the Board's Formal Opinion No. 2007-006, concluded the new Commission does not exercise significant powers of government and is essentially advisory.	POLITICAL ACTIVITY; COMMISSION ON PARKS & RECREATION; BOARDS & COMMISSIONS
			Charter §10-107(3), (4), and (5); Formal Opinion No. 2007-006

GC-2009-509 Non-public Advice	9/14/09	Advised City board member who volunteers as the president of a nongovernmental group that is considering applying for a City grant where staff of a City department affiliated with the requestor's City board will have a role in reviewing applications and awarding grants. Concluded there was no conflict of interest based on the particular facts and described how to minimize an appearance of impropriety.	CONFLICT OF INTEREST; NON-PROFIT VOLUNTEER; APPEARANCE OF IMPROPRIETY; BOARDS & COMMISSIONS
			Code §20-607
GC-2009-510 Non-public Advice	9/17/09	Advised City employee that the City's ethics restrictions permit her to serve as a paid workshop trainer in her area of technical expertise while not on City work time. Recommended the requestor seek a State Ethics Commission opinion regarding the State Act's honorarium restriction.	OUTSIDE EMPLOYMENT; WORKSHOP TRAINER; HONORARIUM
			Charter §10-102; Code §§ 20-602, 20-607; 65 Pa.C.S. §1103(d)
GC-2009-511 Non-public Advice	9/18/09	Advised City employee who was invited to be an unpaid board member of a non-profit agency that has City contracts with which the employee would not be involved. Concluded the proposed non-profit board membership would not be problematic under the relevant City ethics provisions.	NON-PROFIT VOLUNTEER; CITY CONTRACTS
			Code §§ 20-602, 20-607
GC-2009-512 Non-public Advice	11/13/09	Advised City employee who is an attorney and was faced with possibly reviewing responses to a City RFP for outside counsel to which her former law firm may respond. There was no "financial interest" as defined in Formal Opinion No. 2009-003 and no actual conflict of interest, but to avoid an appearance of impropriety the requestor might consider removing herself from the contract award process.	CONFLICT OF INTEREST; ATTORNEY; RFP; FINANCIAL INTEREST; APPEARANCE OF IMPROPRIETY
			Code §20-607; 65 Pa.C.S. §1103(a)
GC-2009-513 Non-public Advice	11/18/09	Advised City employee who was considering accepting employment with a private company that contracts with the City agency that currently employs him. While still a City employee, the requestor may be required to disclose a conflict of interest and disqualify himself from taking certain official action with respect to the potential employer if his pursuit of employment creates a "financial interest" in that company as defined in Formal Opinion No. 2007-001, including if he receives an employment offer. Explained the post-employment restrictions.	CONFLICT OF INTEREST RELATED TO OFFER OF EMPLOYMENT; POST-EMPLOYMENT
			Charter §10-102; 65 Pa.C.S. §1103(g); Code §§ 20-603(1), 20-607(c); Formal Opinion No. 2007-001