

2012 Index of Board Formal Opinions

Board Formal Opinion No.	Date Issued	Brief Description	Key Words
			Citations
Board Formal Opinion 2012-001 Non-public Advice	9/19/12	Advised a City official about ethics restrictions relevant to his outside employment as an independent contractor for a firm. The official is prohibited from having an interest in City contracts and from representing any person as an agent or attorney in a transaction with the City. If a client of the firm is represented by a firm employee in a matter in which the official is responsible for making a determination, the representation restriction would not apply because the official is not a “member” and he would not be required to disqualify himself. The official would have a conflict of interest if he takes official action in a matter that could affect his outside income, and he would then be required to disqualify himself.	OUTSIDE EMPLOYMENT; INDEPENDENT CONTRACTOR; CONFLICT OF INTEREST; PROHIBITED REPRESENTATION; INTEREST IN A CITY CONTRACT
			Charter §§10-100, 10-102; Code §§20-602, 20-607, 20-608
Board Formal Opinion 2012-002 Non-public Advice	9/19/12	Advised an employee of the Office of the City Commissioners about whether the Charter’s political activity restrictions allow employees of the Office to engage in a series of proposed activities while on duty. Political activity restrictions require that City employees carry out their City duties in a strictly non-partisan manner and maintain neutrality among political parties, among candidates, and among partisan political groups. For example, a Commissioners’ employee may give a potential or current candidate the same information or advice about the electoral process the employee would give any candidate or member of the public.	POLITICAL ACTIVITY RESTRICTIONS; CITY COMMISSIONERS OFFICE; NON-PARTISAN ACTIVITY; CANDIDATES FORUM; VOTER REGISTRATION DRIVE; RALLY; ADVOCACY MATERIAL
			Charter §10-107(4); Regulation 8

Board Formal Opinion 2012-003 Non-public Advice, subsequently made public by agreement of requestor	7/18/12	Advised that the City administration and PGW were principals not exempt from lobbying reporting and registration requirements when they had hired an outside lobbying firm to lobby City agencies. The exemption for a City official acting in an official capacity did not apply when a City government entity hires an outside lobbyist or lobbying firm. An exemption for agents that may communicate principals' interests, rights, or privileges did not include lobbyists.	LOBBYING; CITY ENTITY AS PRINCIPAL; OFFICIAL CAPACITY EXEMPTION; OUTSIDE LOBBYING FIRM; REGISTRATION AND REPORTING REQUIREMENTS
			Code §§20-1201, 20-1204(7), 20-1204(13); Regulation 9, ¶ 9.24(G)
Board Formal Opinion 2012-004	10/17/12	Advised City Commissioner that she could accept travel reimbursement from Pew Foundation for travel to its Washington, DC office for a meeting of Election Directors of major U.S. jurisdictions. The facts did not present an issue under the City gift or gratuity restrictions.	GIFT; GRATUITY; TRAVEL REIMBURSEMENT; PRIVATE FOUNDATION
			Charter §10-105; Code §§20-604, 20-601(8)
Board Formal Opinion 2012-005 Non-public Advice, subsequently made public by agreement of requestor	11/20/12	Advised a representative of the Community College of Philadelphia that to the extent that lobbying activities for the College are performed by that public entity itself or by its employees in an official capacity, the College is a public entity that is exempt from the Lobbying Code's reporting and registration requirements.	LOBBYING; PUBLIC ENTITY/INSTITUTION AS PRINCIPAL; OFFICIAL CAPACITY EXEMPTION ; REGISTRATION AND REPORTING REQUIREMENTS; COMMUNITY COLLEGE OF PHILADELPHIA
			Code §§20-1203(5), 20-1204(7); 65 Pa. C.S. §13A06(7)-(10)

Board Formal Opinion 2012-006 Non-public Advice	1/23/13	Advised a City official that the official was permitted to solicit a City vendor to financially support a nonprofit professional association's conference. The official was a board member and officer of the nonprofit, and the official and staff would attend the conference as part of their City work. The official would not have a prohibited personal financial interest in a vendor making a contribution to the nonprofit to support the conference. The proposed solicitation would not be a prohibited under the Code's gift provision because the official was not seeking a personal financial benefit. The official and staff could attend conference meals and social events that are sponsored and funded by vendors with City contracts or contracts with the official's City office. Recommended that the official seek advice on the State Ethics Act because there may be an issue under the Act with the official using his office for the benefit of a nonprofit with which he was associated.	GIFTS; SOLICITING CITY VENDOR; PROFESSIONAL ASSOCIATION AND CONFERENCE; CONFLICT OF INTEREST; NONPROFIT ORGANIZATION; FINANCIAL DISCLOSURE; NON-COMPETITIVELY BID CONTRACT REFORM LAW; STATE ETHICS ACT
			Code §§20-607, 20-604, 20-610, 17-1402; 65 Pa.C.S. §§1102, 1103
Board Formal Opinion 2012-007 Non-public Advice	1/23/2013	Advised an attorney on the staff of a nonprofit that his activity on behalf of the nonprofit limited to testifying in an administrative hearing in which the nonprofit is a party, preparing testimony, and related work would be exempt activity under the Lobbying Code. If not exempt, the attorney's testimony at a City hearing would have constituted direct communication. The nonprofit could not withdraw its already-filed forms, but could file amended forms. The requirement to detail sources that contributed more than 10% of the total resources received by the principal on a lobbying expense report does not contain an exception for funding received that cannot be used for lobbying.	LOBBYING; PARTICIPATION IN AN ADMINISTRATIVE HEARING; TESTIMONY; DIRECT AND INDIRECT COMMUNICATION; REGISTRATION AND REPORTING REQUIREMENTS
			Code §§20-1204(1), (6), (10); Regulation 9