

Ethics Rising

The newsletter of the Philadelphia Board of Ethics



Mayor-Elect Will Follow Board's Recommendation, Restrict Inauguration and Transition Donations



Board Meeting Schedule:

December 18, 2007 at 1 pm

The board meetings are held in our offices at the Packard Building, 1441 Sansom Street, 2nd Floor, Philadelphia, PA 19102.

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Mayor-Elect Michael Nutter will follow advice from the Board of Ethics and restrict donations to fund his inaugural celebration and transition team expenses to a total of \$2,500 for an individual or \$10,000 for a business or political committee, even though there is no rule that requires him to apply any cap the donations.

He said that the contributions would be made to non-profit groups set up for that purpose, that he personally would not solicit the donations and that no contributions

would be accepted once he takes office in January.

He also pledged to identify all donors whether or not this was required by law.

Nutter had originally proposed to accept \$5,000 and \$20,000, respectively and asked for an advisory opinion from the Board.

After receiving a formal request for guidance from Mayor-elect Nutter, the Board issued an [Advisory Opinion](#) in a specially-called meeting, stating that donations to the non-profit committees do not fall under the City's campaign finance or contract reform laws. But Board Chairman Richard Glazer said that if an entity gave a \$20,000 contribution to the campaign and another \$20,000 to the committees, this would

be "getting close to someone currying favor with the next mayor."

It was reported that Nutter said he would abide by the board's suggestion, even though there is no rule requiring him to do so. The lower figures represent the maximum donation under the City's campaign finance law, but they are doubled when a mayoral candidate personally contributes \$250,000 to his or her own campaign.

The so-called "doubling provision" took effect in the last primary when one candidate contributed some \$10 million to his own campaign (see [Advisory Opinion 2006-001](#) for details). But since the election is over, Glazer said, there's "no legitimate rationale" for following the higher limits.

From the Executive Director



Mayor-elect Nutter's voluntary actions described on page one will make it twice as hard for him to raise the money needed, but the credibility earned is priceless.

His example illustrates two points I like to emphasize in our ethics training sessions.

The first point is to always ask for advice whenever you're not sure what the rules are or how they might apply to your situation. It's always better to know what the right answer is before you act, rather than to face ques-

tions later.

The second point is that you can always hold yourself to a higher standard than what the rules might permit. You can do so by asking yourself a simple question: "what would the public think about your action, even if the rules allow it?"

If you think the public might reasonably question your motivation for doing something, even if it doesn't violate a specific rule, then don't do it. Follow Mayor-elect Nutter's example by holding yourself to a higher standard. You'll earn the public's trust if you do.

Anyone who works for the City must remember that promoting public confidence in government is a critical part of their job. Seeking advice on how the ethics rules apply to situations and sometimes holding yourself to a higher standard are two excellent ways to do your job well.

I'd encourage you to visit our [Web site](#) if you have questions about the rules, want an informal legal opinion from our general counsel or simply want to know what we are up to.

J. Shane Creamer, Jr.
Executive Director

"If you think the public might reasonably question your motivation for doing something, even if it doesn't violate a specific rule, then don't do it."

Your Ethics IQ

Q) Your City office has a contract with a nonprofit agency, and you serve on the board of that nonprofit as part of your City job, in order to facilitate relations between the City and agency. You receive no pay for sitting on the board but get paid time off to attend board meetings.

The nonprofit's parent agency in New York City invites you to its regional meeting there and offers to pay your transportation. Is this an acceptable gift?

A) This would be an acceptable "gift to the City" if your appointing authority (your office head) sees this trip as part of your job and agrees that you are the logical City employee to go. It

would not be a personal gift to you and thus is not prohibited. See [Board of Ethics Opinion 2004-002](#).

Q) What if a City vendor sends a fruit basket to my office, or invites all City employees to a holiday party?

A) These would *not* qualify as "gifts to the City" because there would be no governmental purpose in accepting them. See Board of Ethics Opinions [2004-01](#) and [2004-03](#).

You should not attend the holiday party. You should, if possible, refuse or return the fruit basket. If return is not possible, the fruit may be distributed, on an equitable basis, to all in

Ethics IQ

your office, but it is still recommended that you write to the vendor to advise them that offering such a gift may subject them to sanctions under the [Gift Executive Order](#).

- Q) My fiancée works for a City vendor, and has invited me to the company's holiday party. May I accept this as a gift from a friend, or if not, may I get a waiver from the Ethics Board?
- A) No, you may not accept the gift. The giver of the gift is the vendor company, not your fiancée, who merely happens to work there. The vendor company is not a "friend" under the executive order.

Also, there is no such thing as a "waiver" or "variance" from the executive order (or any

other ethics law). The Ethics Board can only issue an opinion as to whether or not any ethics law applies and would restrict the proposed behavior. If the answer is yes, there is no "waiver" available.

- Q) I'm thinking about looking around for another job, outside of City government. Are there any ethics restrictions on how I go about my job search?
- A) Yes. See [Confidential Opinion No. 2007-001](#) of the Ethics Board.

Also, there may be restrictions after you take a new job. See [Law Department Newsletter: Post Employment Restrictions](#).

Kenya Mann Picked For Board Of Ethics



Mayor-elect Michael Nutter has announced that he will nominate Kenya S. Mann, a former assistant U.S. attorney, to a vacancy on the Board.

The choice of Mann, a partner in the White Collar Litigation Group of

Ballard Spahr Andrews and Ingersoll is subject to approval by the incoming City Council. She would replace Pauline Abernathy, who resigned to join the Nutter administration.

Mann has nearly 20 years of experience in criminal

defense and prosecution and participated in the successful prosecution of City Councilman Rick Mariano on corruption charges.

Council Calls Off Hearing On Rizzo Bills

Council's Law and Government Committee called off hearings scheduled for Nov. 13 on four ethics bills introduced by Councilman Frank Rizzo.

The bills dealt with issues including nepotism; gifts to city officials and employees; registration of lobbyists and their clients; and prohibiting City officers and employees from holding jobs with

firms that do business with the City.

To be considered further, the bills will have to be reintroduced by the new Council that takes office in January.



Ethics Board to Consider Political Activity Restrictions Covering City Boards and Commissions

In an October [opinion](#), the Board of Ethics stated that all four departmental boards under the city Department of Licenses and Inspections are subject to the political activity restrictions in the City Charter.

At its November meeting, the Board instructed the staff to develop a proposed policy governing

all 38 boards and commissions of the City whose members are compensated as set by City Council in Section 20-304 of the Philadelphia Code.



*City of Philadelphia
Board of Ethics*

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Honesty, Integrity, Transparency

The five-member, independent Philadelphia Board of Ethics was established by ordinance, approved by voters in May 2006, and installed on November 27, 2006. It is charged with providing ethics training for all city employees and enforcing city campaign finance, financial disclosure, and conflict of interest laws, and has authority to render advice, investigate complaints and issue fines.

Current members of the Board include: Richard Glazer, Esq., Chair; Rich Negrin, Esq., Vice-Chair; Stella Tsai, Esq.; and Phoebe Haddon, Esq.