



## CITY OF PHILADELPHIA

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

### **Philadelphia Board of Ethics General Counsel Opinion No. 2021-504**

May 26, 2021

Marissa Rumpf  
Marissa.Rumpf@phila.gov

**Re: Application of Ethics Rules to City Employee who Serves on Board of a Park Friends Group**

Dear Marissa Rumpf,

You have requested a public opinion as to how the ethics rules would apply to your involvement on the board of a Park Friends Group.

As described in detail below, you are advised that the City's ethics rules do not prohibit you from serving on the board of a Park Friends Group while employed by the City, however your interactions with the City as a member of the group are substantially limited:

- a. You are prohibited from representing the Park Friends Group in interactions with City employees and officers.
- b. You are prohibited from applying for City administered grants on behalf of the Park Friends Group.
- c. You may participate in internal board discussions and/or vote on decisions amongst the board that involve the City.

## **I. Jurisdiction**

The Board of Ethics has jurisdiction to administer and enforce all Philadelphia Home Rule Charter and City Code provisions pertaining to ethical matters, including the City's Ethics Code (Philadelphia Code Chapter 20-600) and the Home Rule Charter. Home Rule Charter Section 4-1100 and Philadelphia Code Chapter 20-600 authorize the Board to render advisory opinions concerning a City employee's proposed future conduct.

Board Regulation No. 4 describes the procedures related to seeking an advisory opinion and for requesting reconsideration of an advisory opinion issued by the General Counsel. Home Rule Charter Section 4-1100 also gives the Board "concurrent authority" with the Law Department to advise on the application of the State Ethics Act. Our advice on the State Ethics Act, however, does not provide protection from possible enforcement by the State Ethics Commission. Guidance on the State Ethics Act that would provide such protection must come from either the Law Department or the State Ethics Commission.

## **II. Background**

In April 2021, you joined the City of Philadelphia as a Technical Writer in the Department of Revenue, where you support City departments, including Law. Your primary responsibilities include creating and editing written content and resources that communicate information clearly and succinctly.

You are also the founder and president of Friends of Harrowgate Park, a Park Friends Group. Park Friends Groups are local community organizations that partner with the City's Parks and Recreation Department and Fairmount Park Conservancy to help maintain and improve the City's parks. There are over 100 Park Friends Groups that are active across the City.

Friends of Harrowgate Park ("FHP") is applying for 501(c)(3) tax status. According to the group's Facebook page, FHP "empower[s its] diverse community to activate and advocate for a vibrant, welcoming green space." Among other things, FHP organizes park clean-ups and hosts community events. Recently, FHP and its partner Creative Resilience Collective supported the community engagement process for a Mural Arts installation in the park. The Philadelphia Activities Fund is a major source of funding for FHP. All members of FHP's board, including yourself, are unpaid. You do not expect that you would ever be in a position to take official action that would affect Friends of Harrowgate Park.<sup>1</sup>

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<sup>1</sup> Because you are unpaid and FHP is a not-for-profit entity, the City's conflict of interest rule would not apply in this case. The State Ethics Act, however, prohibits a public employee from taking official action that would financially benefit a not-for-profit organization with which the employee is associated. *See* 65 Pa.C.S. §1101, et seq. Whether you would be considered a "public employee" and therefore subject to this restriction is up to the State Ethics Commission. But, unless you receive definitive guidance from them that you are not covered by the State Ethics Act, we recommend that you refrain from taking any official action that would affect FHP, if that situation ever arises.

### **III. Restriction on Representing Others in Transactions Involving the City**

Philadelphia Code Section 20-602(1)(a) prohibits a City employee from assisting another person by representing them “directly or indirectly as [an] agent or attorney, whether or not for compensation, in any transaction involving the City.”

As explained at Code Section 20-601(27), a transaction involving the City is:

Any proceeding, application, submission, request for a ruling, or other determination, contract, lease, claim, case, award, decision, decree, judgment or legislation including ordinances and resolutions or other particular matter which the City officer or employee in question believes, or has reason to believe (a) is or will be the subject of City action; or (b) is one to which the City is or will be a party; or (c) is one in which the City has a direct proprietary interest. This shall not include routine applications or requests for routine information or other matters which are of a ministerial nature and do not require the exercise of discretion on the part of any City officer or employee.

The Board has provided advice about how the representation rule applies to a City employee who is a member of an organization or business outside of their City role. *See e.g.* [Board Opinion 2020-003](#); [General Counsel Opinion 2010-506](#). In Board Opinion 2014-004, the Board advised a City employee who wanted to serve as an unpaid Board member of a local civic association that the employee could neither represent the association’s interests before the City nor serve as a liaison or negotiator between the association and the City. The Board further advised, however, that the employee could vote on board matters involving City funding, assist with internal matters regarding City grants and work on City-related projects through internal board activity and discussions.

As with the employee in Board Opinion 2014-004, you may not represent FHP in any interactions or dealings with the City, including attending meetings on behalf of FHP where City officers and employees are in attendance. This is true even if a City officer or employee initiates the meeting with FHP. You may attend public City events as a spectator, but you may not ask questions or take part in discussions on behalf of the organization. While some interactions with the City about Harrowgate Park could be permissible requests for routine information, given your role on the board of FHP, I recommend that you refrain from communicating with the City on any matter involving the park.

In addition to avoiding in person interactions with the City on behalf of FHP, you must ensure that your name is not included on an application for City funds or on an email to the City requesting donations. Similarly, your name should not appear on a grant application if the City maintains oversight of the grant. For example, you may not submit a grant application to the Philadelphia Activities Fund. Although the Philadelphia Activities Fund is a non-profit organization, City Council employees review and award the Fund’s grants.

Although the Ethics Code limits your interactions with the City, as described above, it will not apply to many of your activities as a board member of FHP. For example, you may still participate in organizing park activities funded by the City and you may vote on matters that involve City funding. You may also take part in internal discussions with the board that cover prior or future communications with the City. For example, you may advise fellow board members on their interactions with City officials. You may even assist with drafting documents that will be presented to the City so long as your name is not included or otherwise revealed.

#### **IV. Restriction on Use of Confidential Information**

As a City employee who works closely with the law department, you may be privy to confidential information. [Philadelphia Code Section 20-609](#) prohibits City officers and employees from disclosing confidential information for the financial benefit of themselves or another person. This means, for example, you may not share confidential information that you obtained via your City position with anyone at Friends of Harrowgate Park

#### **V. Conclusion**

Thank you for your concern about compliance with the City's Ethics Code and for seeking advice. Advisory opinions are fact-specific, and this Opinion is predicated on the facts you have provided. Requestors of advisory opinions are entitled to act in reasonable reliance on opinions issued to them and not be subject to penalties under the laws within the Board's jurisdiction, unless they have omitted or misstated material facts in their requests. [Code § 20-606\(1\)\(d\)\(.2\)](#); Board Reg. 4 ¶ 4.12.

Since you requested a public opinion, this Opinion will be made public, including by posting on the Board's website. Please let me know if you have any questions.

BY THE PHILADELPHIA BOARD OF ETHICS

*/s/ Michael Cooke*

Michael J. Cooke  
General Counsel

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