



CITY OF PHILADELPHIA

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

Philadelphia Board of Ethics Non-Public General Counsel Opinion No. 2021-507

September 8, 2021

Re: Application of campaign finance rules to use of candidate political committee from a previous campaign for a campaign for a different City elective office

Dear Requestor:

You have asked whether City or State campaign finance rules would permit you to use your existing political committee to support a campaign for Mayor and whether doing so would limit your ability to use funds raised for prior campaigns. As discussed below, neither City nor State law would prohibit you from using your current candidate political committee to support a campaign for Mayor, should you choose to run. Nor would they limit your use of funds held in that committee any differently than if you were running for your current office. You would, of course, be required to adhere to the requirements and limitations set by the City's Campaign Finance Law and the State Election Code, relevant parts of which are discussed in more detail below.

I. Background

You currently hold an elective office covered by the City's Campaign Finance Law. You are considering running for Mayor in 2023 and would like to use the same candidate political committee you used to run for your current office to support your mayoral campaign. I assume that you would not be a candidate for any other City office when you become a candidate for Mayor.¹

¹ An individual becomes a candidate for City office when they file nomination papers or petitions or publicly announces their candidacy. *See* Regulation No. 1, ¶ 1.1(d). I note that Home Rule Charter § 10-107(5) would require you to resign from your current position before becoming a candidate for Mayor.

II. Relevant Law & Discussion

The Board of Ethics is charged with administering, enforcing, and interpreting all Philadelphia Home Rule Charter provisions and ordinances pertaining to ethical matters, including the City’s Campaign Finance Law, which is found at [Philadelphia Code Chapter 20-1000](#), as interpreted by [Board Regulation No. 1](#). The Charter and the Code authorize the Board to render advisory opinions concerning proposed future conduct covered by a law within the Board’s jurisdiction.

A. City’s Campaign Finance Law

The City’s Campaign Finance Law supplements the State Election Code with additional requirements for those who participate in elections for City office² and is found at Chapter 20-1000 of the City Code and Board of Ethics Regulation No. 1. The main components of the City’s Campaign Finance Law are limitations on contributions made to City candidates, restrictions on how candidates may use political committees and bank accounts, and a requirement that candidates and others who spend money to influence City elections electronically file campaign finance reports with the Board of Ethics.

The City’s Campaign Finance Law requires that a candidate for City office have no more than one committee and one checking account for the office the candidate is seeking “into which all contributions for that office shall be deposited and from which all campaign expenditures and expenditures to retire debt for that campaign shall be made.”³ Regulation No. 1, Paragraph 1.23; *see also* Code Section 20-1003. As detailed in Regulation No. 1 at Paragraph 1.25, within three business days of becoming a candidate, an individual must provide specific information to the Board about the political committee they have authorized to support their campaign, including the name of the committee, the name and contact information for treasurer of the committee, and the bank at which the committee has established its checking account. The candidate must provide this information to the Board each time they become a candidate, even if that information has not changed since the last time they ran for City office.⁴

² As provided in the law, the covered offices are Mayor, City Council, Controller, District Attorney, City Commissioner, and Sheriff. *See* Code § 20-1001(5).

³ In addition to the candidate political committee, the Law permits a candidate to use a litigation fund committee to raise and spend money in defense of certain types of litigation, as described in Subpart G of Regulation No. 1. The Law also requires a candidate to use a Transition and Inauguration Committee to raise and spend money to support transition or inauguration to office, as described in Subpart H of Regulation No. 1.

⁴ I note that if a candidate is running for more than one City elective office simultaneously, they must maintain a separate candidate political committee and checking account for each office. *See* Regulation No. 1, ¶ 1.24.

The City's Campaign Finance Law does not require a candidate to establish a new candidate political committee each time they run for office. Nor does the Law explicitly say whether a candidate may use a candidate political committee they used for a prior election, although almost all incumbents use the same committee from their prior election when they run for re-election. While you would presumably be using money raised for a prior campaign to support the Mayoral campaign, that would also be the case for other Mayoral candidates who are current City office holders or, for that matter, if you chose to run for re-election to your current office. In addition, the restrictions and limitations of the City's Campaign Finance Law would apply to your use of the committee the same, regardless of the City office you are seeking. For example, the contribution limits for Mayor are the same as the limits that apply to your current office. Similarly, the rules regarding excess pre-candidacy contributions will apply in the same manner regardless of which City office you seek. As such, using your existing candidate political committee to run for Mayor will not allow you to raise outside the limits or otherwise accept more money than other candidates for Mayor would be permitted to. Based on those considerations, and in the absence of a prohibition to the contrary, I conclude that you may use the candidate political committee you established to run for your current City office and the funds currently held by it to run for Mayor.⁵

As noted above, you must ensure that you comply with the rules related to excess pre-candidacy contributions, which are described in detail in Subpart J of [Regulation No. 1](#). An excess pre-candidacy contribution is the "portion of a pre-candidacy contribution to a political committee that, had it been made to a candidate for City elective office, would have been in excess of the contribution limitations." Regulation No. 1, Paragraph 1.1(1); *see also* Code Section 20-1001(9). Upon becoming a candidate, you must account for any excess pre-candidacy contributions you may have received and exclude them from your committee's checking account. Since the contribution limits are the same regardless of the City office sought, the rules about excess pre-candidacy contributions will not apply any differently if you use your candidate political committee to run for Mayor as opposed to your current office.⁶

⁵ The result would likely be different if, rather than use a committee you had previously authorized for a different race, you took over a committee that had been established and used by someone else.

⁶ In the past, the City's Campaign Finance Law restricted the amount of money candidates could accept from political committees in non-election years, depending on the office sought. For example, a candidate for Mayor could only accept up to \$250,000 per year in contributions from political committees whereas a candidate for City Council could only accept up to \$75,000 per year. That restriction was eliminated by an amendment to the law in 2019.

B. Pennsylvania Election Code

My understanding of the Pennsylvania Election Code is that it would not prohibit you from using an existing candidate political committee to run for a different elective office. That said, since the Board does not have jurisdiction over the Pennsylvania Election Code, for definitive guidance you should contact the City Commissioners or the Department of State.

I note, however, that in order to establish and use a candidate political committee to support a campaign for elective office, the Pennsylvania Election Code requires the submission of a Political Committee Registration Statement and an Authorization for that committee to receive funds on behalf of that candidate. The Election Code mandates that certain information be included on those forms, such as the name and contact information for the treasurer and chair and the bank used by the committee. *See* 25 P.S. § 3244. While not required by the Election Code, the forms also include a field for the office sought. I have consulted with the City Commissioners Office and they recommend that, while not strictly required by the Election Code, if your committee's registration statement and authorization list your current office as the office sought, if you do decide to run for Mayor, you should file amended forms to list the Mayor as the office sought.

III. Conclusion

Thank you for your concern about compliance with the City ethics laws and for seeking advice. Advisory opinions are fact-specific, and this Opinion is predicated on the facts you have provided as stated here. 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.

Since you requested a non-public opinion, the original Opinion will not be made public. As required by the City Code, a version of the Opinion that has been redacted to conceal facts that are reasonably likely to identify you is being made public. 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, Esq., Executive Director