

Philadelphia Board of Ethics
Meeting Minutes
September 27, 2023 – 1:30 p.m.
One Parkway Building
1515 Arch Street, 18th Floor

Board Present (via video)

Michael H. Reed, Esq., Chair
Brian McCormick, Esq., Vice-Chair
Sanjuanita González, Esq.
Ellen Mattleman Kaplan, Esq.

Staff Present (via video)

J. Shane Creamer, Jr., Esq.
Jordana Greenwald, Esq.
Thomas Klemm, Esq.
Dani Gardner Wright, Esq.
Michael Gutierrez, Esq.
Richard Barzaga, Esq.
Dakota Baeringer, Esq.
Bryan McHale
Hortencia Vasquez

Approved by the Board on 10/18/2023

The meeting was conducted electronically via the Zoom video-conferencing platform.

Prior to the start of the Public Session Meeting that was scheduled to occur on this date, the Board had also scheduled a public hearing regarding a proposed repeal and replacement of Board Regulation No. 7 (Required Ethics Training) to commence at 1:00 p.m.

At approximately 1:00 p.m., prior to the start of the public hearing, Chair Reed made a heartfelt statement in memory of Board Member JoAnne Epps who had passed away on September 19, 2023. A copy of this statement is attached as Exhibit A. All attendees at the hearing then observed a moment of silence, after which other Board Members made remarks honoring Board Member Epps' life and memory. After these remarks, the public hearing commenced.

At the conclusion of the hearing, at approximately 1:30 p.m, Chair Reed announced the presence of a quorum for the regular Public Session Meeting of the Board.

I. Meeting Minutes

By a 4-0 vote, the Board approved the minutes of the Public Session Meeting held on August 16, 2023, as presented.

A video recording of the August 16, 2023 meeting can be found at: ethics.pub/081623.

II. Executive Director's Report

Mr. Creamer presented to the Board his Executive Director's Report, a copy of which is attached hereto as Attachment B.

III. General Counsel's Report

Ms. Greenwald presented to the Board the General Counsel's Report, a copy of which is attached hereto as Attachment C.

As a supplement to her report, Ms. Greenwald further noted that on Friday, September 22, 2023, Ms. Gardner Wright served as a panelist at the Philadelphia Bar Association's Bench Bar Conference in Atlantic City. The panel was entitled "Public Employee by Day, Private Citizen by Night: Free Speech Rights of Public Employees Under the First Amendment." Ms. Gardner Wright and the other panelists educated participants about the rules at the local, state and federal levels regarding government attorneys' and employees' free speech rights under the First Amendment and their engagement in political and social activism.

IV. Personnel Matter

Mr. Creamer proposed hiring a new Staff Attorney who would report to the Executive Director as part of the Board's Enforcement Staff. This attorney would work closely with other Board attorneys to support the Board's administration, interpretation, and enforcement of the City's Public Integrity Laws.

In this regard, Mr. Creamer requested a motion to authorize the Executive Director, in coordination and consultation with the Board Chair and other Board members as the Chair may ask to participate, to: 1) conduct a search to fill the Staff Attorney position on the Enforcement Staff; 2) obtain Finance Department approval for this position; 3) conduct any City-mandated background and tax compliance checks; and 4) hire for the position and set the position salary at \$70,000 per year.

After a motion that was duly seconded, the Board voted 4-0 to approve the motion.

V. Proposed, New Regulation No. 5 (Conflict of Interest)

At this time, Ms. Greenwald was scheduled to present to the Board a proposed version of new Regulation No. 5 (Conflict of Interest).

By a vote of 4-0, the Board approved a motion to postpone this presentation and reschedule it for a later meeting.

VI. FY2023 Annual Report

Mr. Klemm presented a draft version of the Board's FY2023 Annual Report. After his presentation, he requested a motion to: a) approve the draft Report as presented, subject to any current or future edits offered by Board Members or Staff; b) grant authority to Chair Reed to approve any non-substantive edits to the Annual Report made by Board Members or Staff with the caveat that Board approval would be required for any edits the Chair deems to be substantive; and c) upon final completion of the Report, direct Board Staff to notify the required recipients

under the Philadelphia Code that the Annual Report has been published and provide a link to the Annual Report website.

After a motion that was duly seconded, the Board voted 4-0 to approve the motion.

VII. New Business

No new business was presented.

VIII. Questions & Comments

No questions or comments were presented.

IX. Sunshine Act

Chair Reed, pursuant to Sections 708 and 716 of the Pennsylvania Sunshine Act, announced that the Board met on the following days via email to discuss personnel matters:

- August 16, 2023
- September 13, 2023

Chair Reed further announced that the Board would meet in executive session after the current public meeting to address non-public advice, confidential enforcement matters, and personnel matters.

* * * *

The Public Session Meeting of the Board was adjourned at approximately 2:05 p.m.

ATTACHMENT A

To Sept. 27, 2023 Public Session Minutes
Sept. 27, 2023 Memorial Statement
Regarding Board Member JoAnne Epps

Memorial Statement for JoAnne Epps as Member of Philadelphia Board of Ethics

As most if not all of you know, our beloved and revered colleague, Board Member JoAnne A. Epps recently passed away. As President of Temple University, JoAnne was scheduled to speak at a ceremony held in memory of noted historian and author Charles L. Blockson last Tuesday, September 19. Shortly before she was to present her remarks at the ceremony held at the Temple Performing Arts Center, President Epps, who was on stage, became ill and she passed away shortly thereafter. As it happens, as a member of the Temple University Board of Trustees, I attended the Blockson ceremony but, due to a conflicting engagement, I arrived a little late and fortunately did not witness JoAnne's becoming ill. Because of this tragic event, the Board promptly decided to reschedule the September Public Meeting, which is being held today.

One of her many endearing qualities was that President and Board Member Epps urged people to eschew her titles and "just call her JoAnne," which is what I do now.

JoAnne's premature passing was a national news event and many articles reviewing her distinguished career as a lawyer, scholar, educator and leader have been written, including those appearing in the New York Times and Philadelphia Inquirer shortly after her death. I will only note that she was a native of Cheltenham Township; received a B.A. from Trinity College in 1973; graduated from Yale Law School in 1976; and served as Dean of Temple Law School and Provost and President of Temple University. JoAnne and I were close personal friends for many years.

JoAnne was initially appointed to the Board in 2014 by Mayor Michael A. Nutter. Her service on the Board was exemplary. She was an important contributor to all of the actions and deliberations of the Board that occurred during her tenure. She employed her brilliance, fairness and integrity to make sure the Board's actions were always legally sound, consistent, practical and, most importantly, fair to respondents. Given her other commitments, including running a major university, it is remarkable how faithful JoAnne was in devoting her time and fulfilling her duties as a member of the Board.

JoAnne was the first member of the Board to die during their term on the Board. She will be deeply missed by her other colleagues on the Board and by every member of the Board's staff.

JoAnne's term on the Board would have ended in November 2024. Her seat will be filled in due course by the Mayor.

A viewing for JoAnne will be held on Thursday, September 28 from 1:00-7:00 pm and Friday, September 29 from 8:00-10:00 am at the Liacouras Center on Temple's campus and a Celebration of Life will be held on Friday, September 29 at 10:00 am at the Liacouras Center.

At this time, I ask that we observe a brief moment of silence in memory of JoAnne, after which I will recognize my other colleagues on the Board for any brief remarks they may wish to make.

ATTACHMENT B

To Sept. 27, 2023 Public Session Minutes
Sept. 20, 2023 Exec. Dir. Report

**Philadelphia Board of Ethics
Executive Director's Report
September 20th, 2023**

A. Litigation Update

On August 15, 2023, a hearing was held before Judge Roberts to address Preliminary Objections filed by For a Better Philadelphia PAC and For a Better Philadelphia 501(c)(4) in response to the first amended complaint filed by Board staff on June 5, 2023. The Board subsequently filed its Response in Opposition to the Preliminary Objections on June 26, 2023, and the Respondents filed a Reply to the Opposition to their Preliminary Objections on June 28, 2023.

On September 11, 2023 Judge Roberts issued his Order and Memorandum Opinion granting the Respondents Preliminary Objections and dismissing the Board's First Amended Complaint.

B. Upcoming Compliance Dates

The Cycle 4 campaign finance reporting period ended on September 18, 2023, and reports are due by September 26, 2023. Candidate committees will need to file with us as will other political committees who made expenditures to influence the elections for City office and other persons who have spent or promised to pay \$5000 in the aggregate on electioneering communications.

C. Budget Update

Board staff are currently coordinating with the City's Budget Office on our FY2024 Target Budget. We are arranging a meeting with them to discuss our initial plan for the FY24 budget. Our approved FY24 budget was \$1,382,433 and a staff allocation of 14 positions. I will update the Board at the October meeting as to the final state of our FY24 budget.

ATTACHMENT C

To Sept. 27, 2023 Public Session Minutes
Sept. 15, 2023 Gen. Counsel Report



**CITY OF PHILADELPHIA
BOARD OF ETHICS**

SEPTEMBER 2023 GENERAL COUNSEL REPORT

TO: Board Members
FROM: Jordana L. Greenwald, General Counsel
DATE: September 15, 2023

I. Advisory Opinions

We have not issued any formal opinions since the August 2023 Board meeting.

II. Training

Training Activity 8.12.23 through 9.15.23

Sun	Monday	Tuesday	Wednesday	Thursday	Friday	Sat
13	14 General Ethics (Streets Laborers) DG & JS	15	16 General Ethics (Crossing Guards) DG & JS	17 General Ethics (Crossing Guards) Recording	18	19
20	21	22 General Ethics (Crossing Guards) DG & JS	23 General Ethics (Crossing Guards) DG & JS	24	25	26
27	28 General Ethics (Crossing Guards) TK & JS	29 General Ethics TK & JS	30	31	1	2
3	4	5	6	7	8	9
10	11 General Ethics (Crossing Guards) DG & JS	12 General Ethics (DA's Office) DG & TK	13	14 Campaign Finance DG, JG, & BM	15	

JG: Jordana Greenwald | DG: Dani Gardner Wright | TK: Tom Klemm | BM: Bryan McHale | DB: Dakota Baeringer | JS: Julia Sheppard

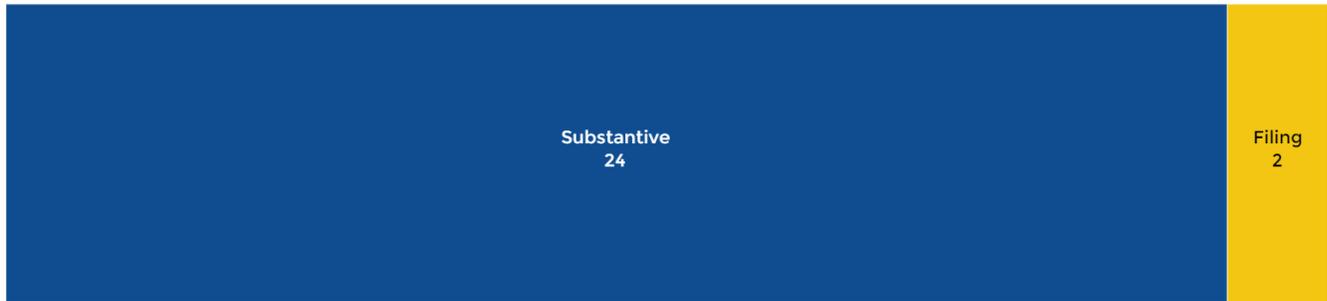
Training Activity 8.12.23 through 9.15.23
498 people @ 10 sessions

General Ethics
483 @ 9 sessions



III. Informal Guidance

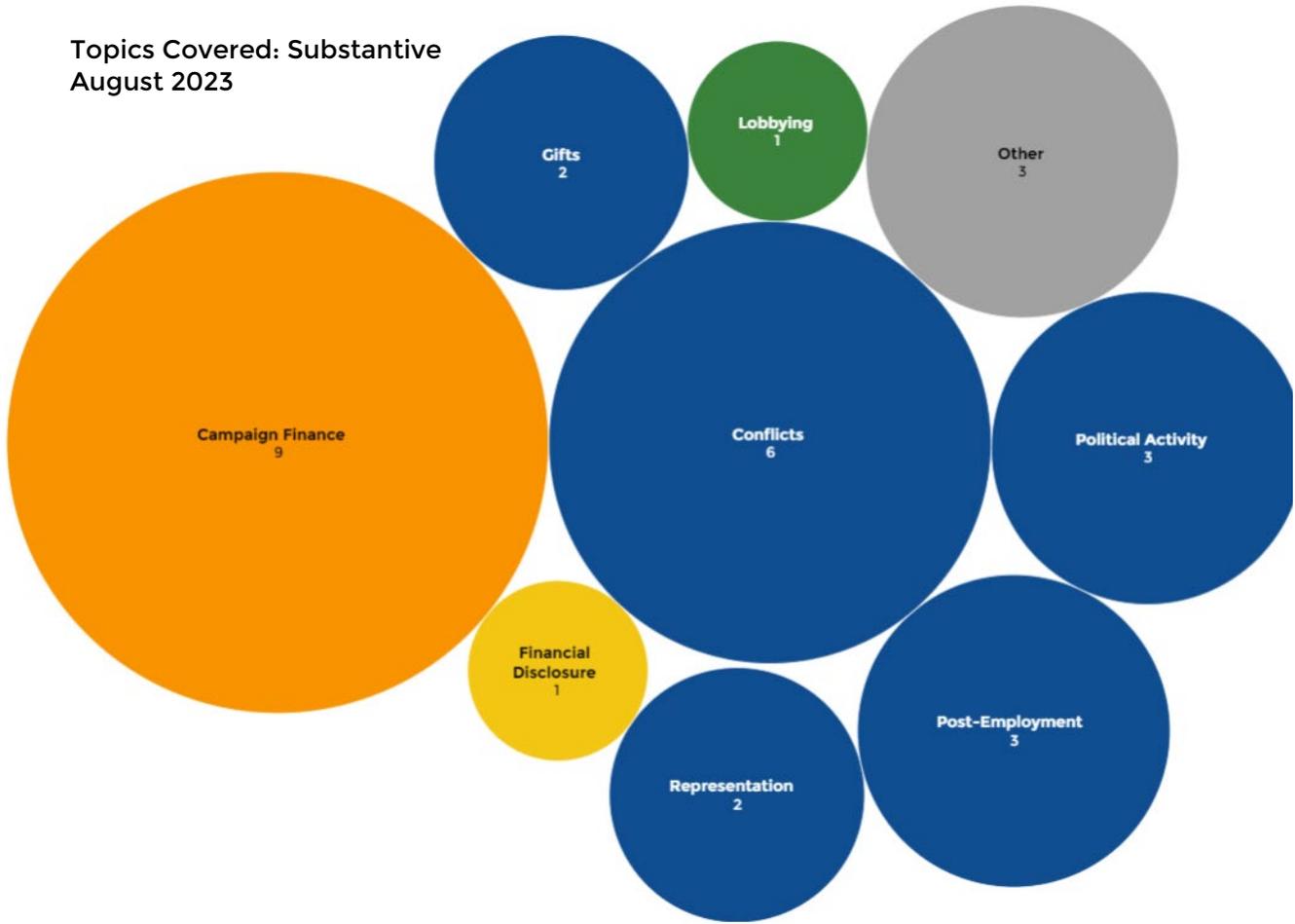
Total Requests Resolved August 2023



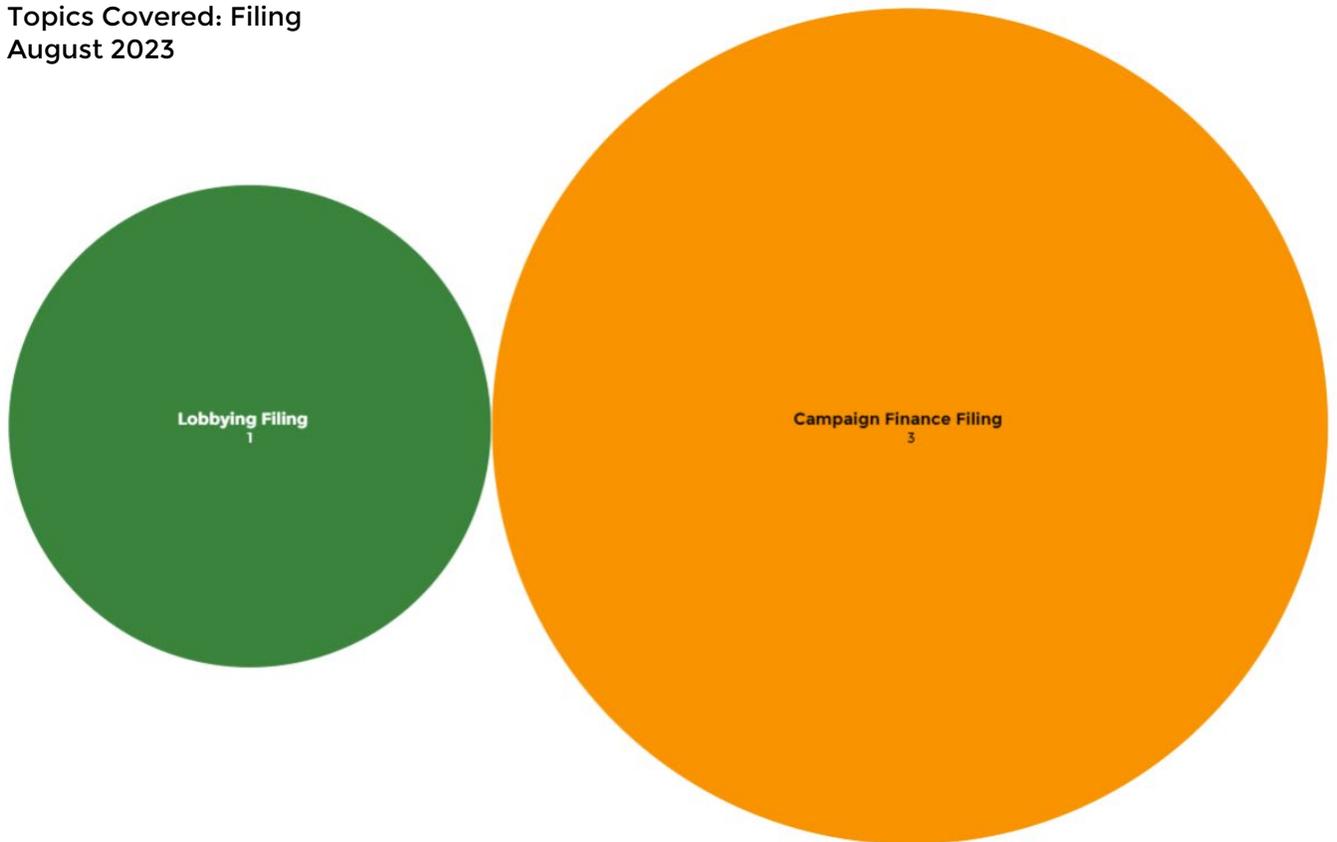
Total Requests Resolved 2023 YTD



Topics Covered: Substantive
August 2023



Topics Covered: Filing
August 2023



Questions of Note:

May a City employee be involved in a decision to hire their niece or nephew for a City position?

Yes, absent a department-specific policy. While the City's conflict of interest rule prohibits City officers and employees from taking official action that benefits the financial interest of a "family member," the City Code defines that term to include only a parent, spouse, Life Partner, child, brother, sister or like in-law. Because nieces or nephews are not included in the Code's definition of "family member," so long as the City officer did not interfere with a Civil Service hiring process, they could take official action to hire their niece or nephew into a City position.

May a City employee be a Committee Person for a City political ward?

No, unless they are an employee of City Council. All other City employees are prohibited from having any role in the management of a political party, political campaign, or partisan political group. This includes serving as a committeeperson or other officer of a political party or ward committee.

May a City employee who writes or illustrates a book sell that book to the City?

No. The Home Rule Charter prohibits City employees from having any financial interest in a contract with the City, including one for the purchase of goods. As such, a City employee may not sell a book they authored to the City either directly or through an agent, such as a publishing company. A City employee may, however, donate such books to the City.