



CITY OF PHILADELPHIA

BOARD OF ETHICS
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Philadelphia Board of Ethics

Non-Public General Counsel Opinion No. 2024-503

December 30, 2024

Re: *Application of City post-employment rules*

Dear Requestor,

You have requested a non-public opinion explaining how the City’s post-employment rules would apply to your new role as an employee of a political committee. As explained below, City law would not prohibit you from serving in such a role. The City’s permanent rule would, however, restrict you from assisting others in transactions in which you participated during your City employment.

I. Jurisdiction

The Board of Ethics administers, enforces, and interprets all Philadelphia Home Rule Charter and Code provisions pertaining to ethical matters, including the City’s Ethics Code (Philadelphia Code Chapter 20-600) and certain provisions of the Home Rule Charter. Home Rule Charter Section 4-1100 and Code Chapter 20-600 authorize the Board to render advisory opinions concerning a City officer’s proposed future conduct. [Board Regulation No. 4](#) describes the procedures related to seeking an advisory opinion and for requesting reconsideration or appeal to the Board of an advisory opinion issued by me.

Home Rule Charter Section 4-1100 also gives the Board “concurrent authority” with the Law Department to advise City officials on the application of State law. My guidance on State law, however, does not provide protection from possible enforcement by the State Ethics Commission. For guidance on the State Ethics Act that would provide such protection, you should contact either the State Ethics Commission or the City’s Law Department.

That said, my understanding is that you have requested and received advice directly from the State Ethics Commission. As such, I will not directly address the State Ethics Act in this Opinion.¹

¹ Section 1103(g) of the State Ethics Act prohibits a former public employee from being paid to represent someone before their “former governmental body” for one year after leaving City service. Representation includes, but is not limited to, attending meetings, signing documents, and emailing points of contact.

II. Background

You are a former City employee. You were selected to serve as an employee of a political committee (the “Committee”). You have asked whether the City’s post-employment rules would limit your ability to be a paid employee of the Committee. Specifically, you asked how City law would apply to your communications with current City officials. I address these questions in detail in Part III below.

III. Relevant City Law and Discussion

a. Code Section 20-607(3) – Two Year Post-Employment Restriction

Philadelphia Code Section 20-607(3) prohibits a City officer or employee from becoming financially interested in any official action taken “during [their] term of office or employment and until two (2) years have elapsed” after leaving City service. The Code defines official action as “an act or omission taken by an officer or employee in their official capacity that requires discretion and is not ministerial in nature.” Code § 20-601(17).

The application of this rule depends on the type of official actions you took as a City employee. At a minimum, for two years after leaving City service, you may not be paid with any funds from, or provide any services through, a contract that you helped award while working for the City. *See* [Bd. Op. 2016-002](#). This rule has also been applied to prohibit a former City official from holding a paid role with a nonprofit they helped form while in their City role. *See* [G.C. Op. 2021-503](#) at 4.

In addition, as explained in Board Opinion 2021-001, a City employee “may not accept an offer of employment if it is connected to prior official action taken by that employee.” [Bd. Op. 2021-001](#) at 3. The Board explained that “connected” it meant that “the specific official action cannot be a substantial basis for the offer of employment.” *Id.* The Board noted, however, that “the mere existence of a prior official action is not sufficient to preclude a subsequent offer of employment.”² *Id.*

As I previously advised, Section 20-607(3) would not prohibit you from being a paid employee of the Committee. The Committee existed well before you became a City employee. *Cf.* [G.C. Op. 2021-503](#) (employee prohibited from paid work for nonprofit they helped establish in their City role). Further, you had a role with the Committee prior to your City employment. Based on the information provided, you did not take any action in your City role to direct funds to the Committee.³ Accordingly, there is nothing to suggest that you took official action that is a substantial basis for your employment by the Committee.

² Board Opinion 2021-001 involved a current City employee, but I do not believe this aspect of its holding would be any different if applied to a former City employee.

³ I note that directing funds to the Committee, whether from public or private sources, would be prohibited by the City’s political activity rules. *See* Charter Section 10-107(3); [Bd. Reg. 8](#), ¶¶8.5., 8.6.

b. Code Section 20-603 – Permanent Post-Employment Restriction

Philadelphia Code Section 20-603 prohibits a former City officer or employee from assisting “another person, with or without compensation, in any transaction involving the City in which [the officer or employee] at any time participated during their City service or employment.” This rule would prohibit you from assisting the Committee – or anyone else – with any transactions in which you were personally involved while working for the City. As defined in the City Code, 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.

Code § 20-601(27).

Participation includes any non-ministerial actions as part of the employee’s City duties. For example, an employee has participated in a transaction where they “made a recommendation, did some research, participated in a meeting, analyzed some data, drafted a document or the like.” [G.C. Op. 2012-516](#) at 4; [G.C. Op. 2021-503](#) at 5.

Prior General Counsels have advised that participation in City transactions does not include every aspect of a project or policy in which a former employee had some role. Rather, the relevant matter for purposes of Section 20-603 is “the particular issue or issues on which decisions were made by the City with the requestor’s involvement, not every issue related to that project that may arise after [the employee] separated from City service.” [G.C. Op. 2012-516](#) at 4. For example, Section 20-603 did not bar a former City employee from assisting their new employer with its City contracts where those specific agreements were not in place while the former employee was working for the City. [G.C. Op. 2017-504](#) at 6.

The Ethics Code does not define “assist”, and the Board has not opined on what actions constitute assistance under Section 20-603. General Counsel Opinion 2021-503, however, advised that the former employee would be “assisting” their new employer if they took discretionary action specific to the matter in question. [G.C. Op. 2021-503](#) at 6. For example, the General Counsel advised that “offering a recommendation about which City officers an employee of the [new employer] should talk to about a project or drafting a proposed scope of work for a project” would be “assisting” the new employer and therefore prohibited under Section 20-603. *Id.*

Many of the scenarios posed in your request assert that certain City officials with whom you might interact on behalf of the Committee would be acting in their personal, rather than official, capacity. Section 20-603 focuses on the subject matter of your post-employment activities. Thus, whether you consider a City official to be acting in their official capacity or some other role would not affect the application of Section 20-603. Rather, the critical inquiry is whether your post-City activities involve a City transaction in which you participated during your City employment.

Interactions with former coworkers

You described several situations in which you might encounter former coworkers in social settings. Specifically, you asked if you may:

- speak with current City employees about personal matters at private events;
- speak with current City employees about personal matters at City events that are open to the public;
- have dinner with a former subordinate to discuss City matters and provide advice as a mentor; or
- inform a City employee that the City is untimely in specific activity.

Whether Section 20-603 would apply to these interactions depends on (1) whether the matters at issue relate to City transactions in which you participated during your City service and (2) whether your actions would be “assisting” the Committee or another with that transaction. Thus, Section 20-603 would only prohibit you from speaking with current City employees about City matters in which you participated during your City tenure. This means you are free to catch up with City employees about their personal lives at both private and public events. Subject to the restrictions of State law, you may also speak with current City employees about City matters in which you had no part during your City employment.⁴

In contrast, you would be prohibited from promoting the Committee’s interests in any transaction you participated in while working for the City. As applied to interactions with current City employees, you may only discuss matters in which you participated while employed by the City if (1) a City employee asks you for information related to the work you performed for the City as part of the process of transitioning your City work or (2) you are speaking solely on your own behalf as a resident of the City (not on behalf of the Committee).

⁴ Keep in mind that City employees must follow the City’s political activity rules. This may require some caution on their part in interacting with a representative of a political committee. For example, City employees may only provide information to the Committee to the same extent they would typically provide such information to any member of the public.

For example, if a former subordinate is now working on projects you oversaw in your City role, you can answer their questions about the location of files or the status of requests to outside organizations to the extent that you are assisting the City. You cannot, however, discuss the Committee's position on those same matters or be paid by the Committee for time spent answering such inquiries from City staff. Similarly, if you have concerns as a resident about the timeliness of City services you can contact a City office on your own behalf even if that would involve speaking with someone you worked with in your City role.

Scheduling with elected City officials

You asked what role you can have in scheduling appearances by elected City officials for Committee business, including by contacting an elected officials' scheduler to get a meeting on their calendar or speaking to the elected official directly about scheduling.

Communications with an elected City official or their scheduler solely about the logistics of appearances or appointments for Committee business would not be prohibited by Section 20-603.⁵ This would be the case even if the appearances or appointments relate to matters in which you participated during your City services because making such arrangements would not, by itself, be "assisting" the Committee. Where such communications get into the substance of such appearances or meetings, they would be prohibited if they involve matters in which you participated during your City service.

Advising elected City officials about interest group concerns

You posed several questions about exchanging information with elected City officials on behalf of the Committee. Specifically, you asked whether City law would prohibit you in your role as an employee of the Committee from:

- informing elected City officials about an email to the Committee from a resident complaining about the timeliness of City services;
- telling elected City officials about a group that has an interest in a particular matter that will come before them for official action;
- explaining to elected City officials the issues or concerns that are important to that group;
- recommending that elected City officials meet with the group to discuss its issues or concerns;
- preparing or presenting a memorandum for elected City officials summarizing your analysis of public information related to City issues the group cares about;

⁵ Note that City employees generally may not, as part of their City work, communicate with the Committee for the purpose of scheduling elected officials' appearance at meetings. The exception to this would be communications with the elected official themselves or with their designated scheduler.

- preparing or presenting a memorandum for elected City officials summarizing your conversations with the group about City issues they care about; or
- receiving or responding to requests from elected City officials to find out more about City issues that are important to the group.

As above, whether Section 20-603 would apply depends on (1) whether the matters of interest to the resident or group relate to City transactions in which you participated during your City service and (2) whether your actions would be “assisting” the Committee or another with that transaction.

For example, if a resident emails the Committee complaining that the Streets Department took two weeks to fill a sinkhole on their block, you would not be prohibited from passing that complaint along to an elected City official because that specific transaction – a sinkhole that needed to be filled – did not arise while you were employed by the City. In contrast, if a resident contacts the Committee to complain about how long it is taking for Council to pass legislation you helped draft in your City role, you would be prohibited from assisting either the resident or the Committee with that complaint. This would include you relaying the complaint to an elected City official because it involves you exercising your discretion to determine that this is a matter of such importance to that elected official that they should hear about it directly. *See* G.C. Op. 2021-503 at 6.

Section 20-603 would apply similarly where the interests at stake are those of a group rather than an individual.⁶ For example, if you were the City’s point person on a development project, you cannot advise elected City officials about a community group’s concerns about that project. This includes letting City officials know that the group has concerns, explaining their concerns, preparing memoranda analyzing or summarizing their concerns, or conducting additional research or analysis at the request of City officials. These restrictions would not apply to a development proposal made after you left City service, even if the proposal was for a location you worked on in your City role.

IV. Conclusion

As explained above, the City’s post-employment rules would not preclude you from serving as an employee of the Committee. Section 20-603, however, will restrict you from assisting the Committee or anyone else on matters in which you participated during your City service. I am happy to advise further about the application of this rule to specific transactions.

⁶ Regardless of whether Section 20-603 restricts your post-employment activities, those who seek to influence City officials by communicating with you or other representatives of the Committee are engaging in indirect communications that may require registration and disclosure under the City’s Lobbying Law.

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)(ii); Board Reg. 4 ¶ 4.12.

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/ Jordana L. Greenwald

Jordana L. Greenwald

General Counsel

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