

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**



Office of Government Ethics

August 16, 2024

Beverly Perry
Senior Advisor to the Mayor, Office of Federal and Regional Affairs
1350 Pennsylvania Avenue, N.W., Suite 324
Washington, D.C. 20004

Betsy Cavendish
General Counsel, Executive Office of the Mayor
1350 Pennsylvania Avenue, N.W., Suite 327
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Ms. Perry and Ms. Cavendish:

This opinion responds to your request for advice¹ on whether representatives of the Office of the Senior Advisor (“OSA”) may attend the 2024 Democratic National Convention (“DNC”) to present information regarding D.C. Statehood. In your request for an advisory opinion, you state that “[t]he D.C. Statehood Delegation – which is supported by OSA -- is re-invigorating efforts for statehood in the District of Columbia at the 2024 DNC in Chicago, Illinois, from August 19 through August 22, 2024”.

You pose several ethical questions surrounding your proposed statehood activity. I will analyze the ethical implications of each question in turn below. However, based on the information in your memorandum, I conclude that all but one of the activities outlined in it are permissible under section 1801 of the Merit Personnel Act², 6B DCMR § 1808, and the Local Hatch Act, all of which are elements of the Code of Conduct.

A. Background

DC Statehood is a non-partisan issue, since it is not activity that is regulated by the District directed toward the success or failure of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum.³ According to your request, the Office of the Senior Advisor has been tasked with “advancing statehood and full voting rights for the District of Columbia through education, organizing, and advocacy.”⁴

¹ OSA’s full advice request is attached for reference and review.

² Section 1801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code 1-618.01) (Section 618.01).

³ D.C. Official Code § 1-1171.01(8)(A).

⁴ Memorandum to the Office of Government Ethics dated August 13, 2024, re “Request for Expedited Formal Advisory Opinions from BEGA on Statehood-Related Activities at the 2024 Democratic National Convention (DNC)”.

You state that, during the trip to the DNC, OSA representatives would not: 1) use government equipment or make expenditures endorsing any candidates; 2) use any “vote for” or “vote against” messaging regarding candidates for office; 3) fundraise for any candidates; 4) organize for or against any candidates; 5) wear insignia of any candidates when conducting statehood advocacy efforts or when “on the clock” for a workday; or 6) post on official accounts any electoral endorsements and would not “like” or repost any candidates’ webpages or posts.

B. Relevant Rules

Section 618.01 of the Merit Personnel Act

Section 618.01(a) of the Merit Personnel Act provides as follows:

Each employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

The Local Hatch Act

The Local Hatch Act (“LHA”) prohibits District government employees from engaging in certain political activity.⁵ Under the LHA, “political activity” is “activity that is regulated by the District directed toward the success or failure of a political party, partisan political group, candidate for partisan political office, ballot initiative, or referendum.”⁶ The LHA prohibits District employees from partaking in political activities while on duty or in a District government office or building, while wearing official government insignia, or while using a government vehicle.⁷ These restrictions apply to political activity that relates to federal and District elections. Additionally, the LHA prohibits District employees from using their official authority to influence or affect others relating to an election.⁸ This includes engaging in political activities while acting in an official capacity

Misuse of Government Resources

An employee has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.⁹ “Government property”

⁵ See D.C. Official Code § 1-1171.01 et seq. Prohibition on Government Employee Engagement in Political Activity Act of 2010; see also Rule 9 of the Council of the District of Columbia, (a)(5), Council Code of Official Conduct, which contains parallel language as the LHA.

⁶ D.C. Official Code § 1-1171.01(8)(A).

⁷ D.C. Official Code § 1-1171.03(a) (setting rules for engaging in political activity while on duty, in a government room or building, while wearing a uniform or official insignia, or while using a government vehicle).

⁸ D.C. Official Code § 1-1171.02(a)(1).

⁹ District Personnel Manual (“DPM”) § 1808.1.

includes any form of real or personal property in which a federal, District, state, or local government agency or entity has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with government funds, including the services of contractor personnel.¹⁰

Impartiality

Employees shall act impartially and not give preferential treatment to any private organization or individual.¹¹

Appearance

Employees shall not take actions creating the appearance that they are violating the law or the ethical standards set forth in [Chapter 18 of the District Personnel Manual].¹²

C. Discussion and Response to Inquiry

1. May EOM/OSA send representatives to the 2024 DNC in Chicago, Illinois, at which employees and members of the public would educate delegates and other attendees about the case for statehood and seek allies?

Yes, representatives of OSA may attend the 2024 DNC to educate attendees on the District's Statehood Initiative. In your request, you state that the activities would take place at the convention; outside the convention itself but in Chicago; at hotels; and at various events hosted and/or sponsored by the OSA. OGE agrees, the OSA representatives may educate DNC attendees on statehood and make the case for statehood at the convention and at other meetings and events surrounding the convention. The LHA prohibits employees from engaging in political activity while on duty.¹³ As noted above, the District's Statehood initiative and statehood activities are non-partisan and do not meet the definition of political activity under the LHA. This Office has long advised that District government employees and public officials may attend partisan events or speak before partisan groups, as long as they are providing information about a non-partisan matter in an effort to advance the mission of their office.¹⁴ The OSA representatives must ensure that they do not engage in partisan political activity, while providing statehood information.

2. May OSA expend District funds (authorized for statehood expenses) to advance its policy agenda, including attending the DNC and coordinating with the DC Democratic Party for the purpose of educating and informing the attendees on DC Statehood?

¹⁰ DPM § 1808.2(a).

¹¹ DPM § 1800.3(h).

¹² DPM § 1800.3(n).

¹³ See, supra, footnote 7.

¹⁴ See Advisory Opinion 1566-001 Response to Request for Advisory Opinion Regarding Statehood Activities by OCTFME Employees, November 30, 2016, <https://bega.dc.gov/publication/1566-001-response-request-advisory-opinion-regarding-statehood-activities-octfme>.

Yes, OSA may expend funds to advance the policies of the office. Per DPM § 1808.1, an employee has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes. According to DPM § 1808.2(b), “authorized purposes” are those purposes for which government property is made available to members of the public or those purposes authorized by an agency head in accordance with law or regulation. BEGA has previously opined that the use of government property to further the District’s Statehood Initiative was not a misuse of government property or a violation of the Local Hatch Act.¹⁵ Because I believe that your proposed activity is official District government business, OSA may expend District funds on this activity in accordance with statehood policies, District law and policy and OSA enabling documents.

3. May representatives of OSA giveaway items such as pens, buttons, key chains, posters, and stickers using phrases or taglines such as “#DCstatehood, #51st State, or Statehood.dc.gov”?

Yes, since OSA has been tasked with advancing statehood and full voting rights for the District of Columbia, OSA representatives may give away the aforementioned items at the DNC. The statehood educational and promotional giveaways and literature must not contain any partisan language and should be given away in a manner that is impartial and that does not give preferential treatment¹⁶.

4. May representatives of OSA post tweets or Facebook messages or use other social media from official accounts and, if they wish, from employees’ personal accounts during the workday supporting statehood generally, re-broadcasting articles about statehood, and building crowds for statehood events?

Yes, representatives of OSA may use OSA’s official social media accounts to post about their statehood activities at the DNC. An agency’s social media account is considered government property; therefore, it may be used to promote the agency’s mission and to provide pertinent information concerning the agency’s operations. Such usage does not amount to misusing government property, as prohibited by DPM § 1808.1. However, OSA should refrain from suggesting or requesting that OSA representatives post about their statehood activities on their personal social media accounts. OSA representatives may voluntarily post content to their personal social media accounts but should not post so frequently that it appears as though they are not engaging in their official government duties.

5. May EOM/OSA representatives appear at events such as receptions, talks at others’ tables, and educational forums and rallies hosted by others to pitch statehood for

¹⁵ See Advisory Opinion 1009-014 OCTO Statehood Portal, September 15, 2017, <https://bega.dc.gov/publication/1009-014-advisory-opinion-octo-statehood-portal>.

¹⁶ DPM § 1800.3(h).

DC? Can they do so, if a partisan group paid for the reception or table or educational forum at which our staff appear?

Yes, OSA representatives may attend those events only to provide information on behalf of OSA. As previously stated, the OSA representatives may educate DNC attendees on statehood and make the case for statehood at the convention and at other meetings and events surrounding the convention. When District employees are attending a conference on behalf of their office, they may partake in any activities that are integral to the conference. Purely social gatherings that occur outside of the conference are not integral to the conference. The OSA representatives should, therefore, pay for their admission, food and drinks at social gatherings or activities that occur outside of the DNC. The OSA representatives should not accept any food or other gifts from a person or entity that is considered a District government prohibited source.¹⁷

6. After a full workday tabling or doing other statehood-related activities, may representatives of OSA attend other DNC events and engage more directly in partisan political activity? Is this allowable under § 1-1171.03, provided they refrain from fundraising in locally-regulated elections, such as for the President? Should they just say they are “from DC” but not that they represent the District government, if asked?

No, OSA representatives may not engage in partisan political activity after they finish statehood-related activities. The LHA prohibits employees from engaging in political activity while on duty. The phrase “on duty” is defined as the time period when an employee is: (a) in a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay); or (b) representing any agency or instrumentality of the District government in an official capacity.¹⁸ Employees shall not take actions creating the appearance that they are violating the law or the ethical standards set forth in [Chapter 18 of the District Personnel Manual].¹⁹

Based on your request, I presume that the OSA representatives will spend many hours meeting DNC attendees and speaking with them about the District’s Statehood Initiative. Those representatives will most likely identify themselves as representatives of the District, the Mayor’s Office or OSA while tabling, engaging in statehood-related activities, and delivering information. Therefore, because the OSA representatives will present at the DNC on behalf of the District government, they will be “on duty” for purposes of the LHA. In fact, the entire purpose of their attendance is to provide statehood information on behalf of the District government. There is no way to clearly determine when an OSA

¹⁷ Pursuant to DPM § 1803.4(b), “Prohibited source” means any person or entity who: (1) Is seeking official action by the employee's agency; (2) Does business or seeks to do business with the employee's agency; (3) Conducts activities regulated by the employee's agency; (4) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or (5) Is an organization in which the majority of its members are described in subparagraphs (1) through (4)...”

¹⁸ D.C. Official Code § 1-1171.01(4).

¹⁹ DPM § 1800.3(n).

representative is off duty and it is highly likely that reasonable DNC attendees with knowledge of the facts, would conclude that the representatives are engaging in political activity while on duty.²⁰ The representatives would therefore, be violating or give the appearance of violating the LHA and/or using government time for other than authorized purposes if they engage in political activity at the DNC.

Please be advised that this advice is provided pursuant to section 219 of the Ethics Act (D.C. Official Code § 1-1162.19), which empowers me to provide such guidance. Pursuant to Chapter 3 of the D.C. Municipal Regulations § 5405.7 this proposed advisory opinion shall be published in the District of Columbia Register for a 30-day public-comment period during which time a person may submit information or comment to bega@dc.gov.



ASHLEY COOKS
Director of Government Ethics
Board of Ethics and Government Accountability

AC/ASM

²⁰ Pursuant to DPM § 1800.3(n) [w]hether particular circumstances create an appearance that the law or [the Districts ethical standards] have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

ATTACHMENT

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR**



Office of the General Counsel to the Mayor

TO: Office of Government Ethics

FROM: Beverly Perry, Senior Advisory to the Mayor
Office of the Senior Advisor

Betsy Cavendish, General Counsel
Executive Office of the Mayor

DATE: August 13, 2024

RE: Request for Expedited Formal Advisory Opinions from BEGA on Statehood-Related Activities at the 2024 Democratic National Convention (DNC)

The Office of the Senior Advisor to the Mayor (OSA) requests your guidance as we continue our statehood-related activities, so that we can assure compliance with the law. From the Office of Government Ethics, we seek guidance on Hatch Act and ethics laws, pursuant to your authority under D.C. Official Code § 1-1162.19(a), and “safe harbor” protection for the proposed activities we outline below under § 1-1162.19(b).

Background:

The mission of the Office of the Senior Advisor to the Mayor includes advancing statehood and full voting rights for the District of Columbia through education, organizing, and advocacy. The statehood referendum was passed by the voters of the District and pro-statehood is the official policy of the District. Statehood does not require a constitutional amendment; it can be enacted by federal legislation as the local pieces have been achieved (approving a constitution, affirming we will remain a republic, and delineation of the boundaries of the state). Thus key targets to implement the declared policy of the District include federal elected officials and the constituents who influence them.

The D.C. Statehood Delegation – which is supported by OSA -- is re-invigorating efforts for statehood in the District of Columbia at the 2024 DNC in Chicago, Illinois, from August 19 through August 22, 2024.¹ Many of the targets of our statehood educational and advocacy efforts will be in attendance. Statehood is a nonpartisan issue and our broader portfolio of efforts include outreach and educational advocacy to Republicans and Independents as well.

¹ The Members of the District of Columbia Statehood Delegation are exempt from the Local Hatch Act. D.C. Official Code § 1-1171.01(3)(A)(vii)-1171.03.

States are of course represented at the DNC and many public interest, advocacy organizations, unions and others attend and host receptions at the conventions, in the hopes of educating elected officials and leaders from around the country on their issues, getting their issues into platforms and talking points and into agendas and workplans.

Proposed activities include:

- Tabling at the DNC with statehood informational literature, handing out promotional statehood-messaged M&M'S® and dialoguing with people who stop by, and providing other educational and promotional giveaways with the statehood message.
- Outlining the advantages of statehood and the injustices associated with lack of statehood and communicating these messages to DNC attendees.
- Hosting and/or sponsoring a statehood educational breakfast and/or other similar events for DNC attendees.
- Attending other policy related and social events hosted by others at the DNC, where staff, Statehood Delegates, and volunteers will raise issues of statehood, identify allies, answer questions, and build support for statehood.

Questions:

We seek confirmation that the OSA would not be in violation of the Local Hatch Act or local ethics law if we do the following:

- A. Send representatives to the 2024 DNC in Chicago, Illinois, at which District employees and members of the public would educate delegates and other attendees about the case for statehood and seek allies. These activities would take place at the convention itself; outside the convention itself but in Chicago; at hotels; and at various events hosted and/or sponsored by the OSA. The statehood educational and promotional giveaways and literature would not be partisan.
- B. Relatedly, OSA's expenditure of District funds (authorized for statehood expenses) to advance its policy agenda, including attending the DNC and coordinating with the DC Democratic Party for the purpose of educating and informing the attendees on DC Statehood.
- C. The giveaways would include items like pens, buttons, key chains, posters, and stickers using phrases or taglines such as "#DCstatehood, #51st State, or Statehood.dc.gov".
- D. Post tweets or Facebook messages or use other social media from official accounts and, if they wish, from employees' personal accounts during the workday supporting statehood generally, re-broadcasting articles about statehood, and building crowds for statehood events.
- E. Appear at events such as receptions, talks at others' tables, and educational forums and rallies hosted by others to pitch statehood for DC. Can we do so, if a partisan group paid for the reception or table or educational forum at which our staff appear?
- F. We also imagine that after staff put in a full workday tabling or doing other statehood-related activities, they might wish to attend other DNC events and engage more directly in partisan political activity. Is this allowable under § 1-1171.03, provided they refrain from fundraising in locally-regulated elections, such as for the President? Should they just say they are "from DC" but not that they represent the District government, if asked?

Notable limits:

1. OSA would not use government equipment or make expenditures endorsing any candidates.

2. OSA would not use any “vote for” or “vote against” messaging regarding candidates for office.
3. OSA would not fundraise for any candidates.
4. OSA would not organize for or against any candidates.
5. OSA staff would not wear insignia of any candidates when conducting statehood advocacy efforts or when “on the clock” for a workday.
6. OSA staff would not post on official accounts any electoral endorsements and would not “like” or repost any candidates’ webpages or posts, though it could use official accounts to thank elected officials (some of whom are running for office) and other leaders who take a pro-statehood pledge.

It being the DNC, OSA staff will be present at DNC-related events where candidates will be endorsed and “vote for” messages will be made by other, non-OSA staff.

We believe that BEGA’s previous advisory opinions have answered the questions above; we have attached these opinions to the memo, for your review. The nonpartisan statehood related activities at the DNC to us seem distinguishable from the political activities that are clearly prohibited; rather, advocating for statehood at the DNC is part of a comprehensive ongoing effort to advance the interests of the District in reinvigorating the Statehood movement. Taking a cautious approach to this, we seek a safe harbor letter approving of the above activities and any further advice you have on staying compliant while we aim to continue to educate and inform DNC delegates and attendees about DC statehood.

Thank you for your advice. If you have further questions, feel free to call either one of us: Beverly Perry at 202.724.5391 or Betsy Cavendish at 202.727.6851 (cell).

Attachments

Cc: BEGA Advisory Opinion 1009-010, June 14, 2016 (with attached questions)
BEGA Advisory Opinion 1009-014, August 17, 2017.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**



Office of Government Ethics

June 14, 2016

Beverly Perry
Senior Advisor to the Mayor, Office of Federal and Regional Affairs
1350 Pennsylvania Avenue, N.W., Suite 324
Washington, D.C. 20004

Betsy Cavendish
General Counsel, Executive Office of the Mayor
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Dear Ms. Perry and Ms. Cavendish:

This responds to your June 3, 2016 memorandum, attached hereto, in which you request an advisory opinion from the Board of Ethics and Government Accountability (Ethics Board) “on Hatch Act and ethics laws,” in connection with “statehood-related activities” leading up to an advisory referendum to be held in November of this year.¹ While your request is addressed to the Ethics Board, I view it as invoking my authority as the Director of Government Ethics under section 219(a) of the Ethics Act.²

Based on the information in your memorandum, I conclude that the activities outlined in it would not violate section 1801 of the Merit Personnel Act,³ 6B DCMR § 1808, or the Local Hatch Act,⁴

¹ Your memorandum, a copy of which is attached, also requests advice from the Office of Campaign Finance (OCF) and the Board of Elections (BOE) “on expenditures” related to these same activities.

² Section 219(a) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.19(a)). The section provides that “[u]pon application made by an employee or public official subject to the Code of Conduct, the Director of Government Ethics shall, within a reasonable period of time, provide an advisory opinion as to whether a specific transaction or activity inquired of would constitute a violation of a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.”

³ Section 1801 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01) (“Section 618.01”).

⁴ The Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; D.C. Official Code § 1-1171.01 *et seq.*).

all of which are elements of the Code of Conduct.⁵ I also conclude that the activities would not violate any other relevant provision of the Code of Conduct.

Section 618.01 of the Merit Personnel Act

Section 618.01(a) of the Merit Personnel Act provides as follows:

Each employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

On its face, section 618.01(a) sets a high bar – “a high level of ethical conduct” – for the wide range of individuals who are engaged in the various functions of the District government as they carry out their “official duties.” In terms of those individuals whose conduct would be called into question for purposes of this opinion, I look to the members and employees of the Office of the Statehood Delegation,⁶ the Statehood Delegation itself,⁷ and the New Columbia Statehood Commission.⁸ Also, inasmuch as the Mayor or her alternate is a voting member of the Commission,⁹ I include here any employees who may be delegated her duties and responsibilities as a Commission member, as well as any Executive Branch employees whose official duties include those activities outlined in your memorandum or otherwise would directly support the Mayor’s statehood policy agenda.

Section 618.01(a) also clearly envisions, as a consequence of the failure to adhere to a high standard of ethical conduct, the adverse effect on the public’s confidence in the integrity of the government. What the section does not do, however, is attempt to list any of the many ways in which that failure can occur. Fortunately, there is interpretive guidance that I find particularly relevant here, in light of your request for advice from OCF and BOE on expenditures.

⁵ Respectively, *see* section 101(7)(B), (E), and (E-i) of the Ethics Act (D.C. Official Code § 1-1161.01(7)(B), (E), and (E-i)).

⁶ Established by section 21(a) of the District of Columbia Statehood Constitutional Convention Initiative of 1979 (Initiative), effective May 2, 2015 (D.C. Law 20-271; D.C. Official Code § 1-129.22(a)). The Office “provide[s] support to the Statehood Delegation in promoting statehood and voting rights for the citizens of the District of Columbia.” *Id.* at section 21(b) (D.C. Official Code § 1-129.22(b)).

⁷ *See* section 4 of the Initiative (D.C. Official Code § 1-123).

⁸ Established by section 31(a) of the Initiative (D.C. Official Code § 1-129.31(a)). Among other things, the Commission is to “[e]ducate regarding, advocate for, promote, and advance the proposition of statehood and voting rights for the District of Columbia to District residents and citizens of the 50 states.” *Id.* at section 31(b)(1) (D.C. Official Code § 1-129.31(b)(1)).

⁹ *See* section 31(c)(1) of the Initiative (D.C. Official Code § 1-129.31(c)(1)).

In 2000, the Board of Elections and Ethics (BOEE) considered an appeal by then Mayor Anthony Williams from an OCF Order finding that the Mayor's use of District government resources in connection with a press conference in support of a Charter amendment created the appearance of adversely affecting the confidence of the public in the integrity of government, thereby violating a standard of conduct now codified in substantively similar form in section 618.01(a).¹⁰ The BOEE affirmed the OCF Order, finding as follows:

The Mayor is, of course, *permitted* and *encouraged* to express his views on any policies or programs that meet the needs of the citizenry. The Mayor may use the assistance of the Press Secretary or any other resources properly appropriated to assist the Mayor in his relationship with the media, and to ensure timely and accurate communication of the Mayor's views and position. The Mayor can also freely campaign for any candidate or ballot measure; however, he cannot, in this respect, use government resources...[H]e can only use government resources for authorized government business – which campaigning is not.¹¹

The BOEE's conclusion is also worth noting:

[W]e submit public officials may properly express their views on ballot measures placed before the electorate, engage in activities which encourage citizens to vote on ballot measures, and take steps to educate and inform the electorate of the proposed measures. Such public officials may use to this end *whatever government resources and employees are authorized by program and budget to assist with these activities*.¹²

In sum, based on the BOEE opinion, I conclude that the individuals identified in the discussion above may engage in the statehood-related activities outlined in your memorandum without violating section 618.01(a), as long as they do so by using funds and other District government resources that are authorized for that purpose. However, while the BOEE opinion supports this conclusion, I do note that the opinion is, nevertheless, to be distinguished in a very significant regard. The Charter amendment referendum central to the Williams case, conducted as it was pursuant to District Charter section 303 (codified at D.C. Official Code § 1-203.03), involved a very different type of vote – a binding, approval or rejection type of vote – than the advisory referendum here. As described more fully in the text below, the advisory referendum would be held pursuant to District Charter section 412(b) (codified at D.C. Official Code § 1-204.12(b)), and its nonbinding result would operate as nothing more than a public opinion poll. In short, I view the BOEE opinion as distinguishable on its facts, and, to that extent, it represents no

¹⁰ See *Williams v. D.C. Office of Campaign Finance*, Admin. Hearing No. 00-025, memo op. at 1 (Sept. 22, 2000).

¹¹ *Id.* at 7 (emphasis in original).

¹² *Id.* at 8 (emphasis added).

authority on which to prohibit the statehood-related activities leading up to the advisory referendum this November.

6B DCMR § 1808

A District government employee “has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.”¹³ Further, given the wide-ranging nature of the statehood-related activities, the definition of “government property” is equally as broad, covering everything from paperclips to intangible property interests.¹⁴

Therefore, considerations very similar to those discussed above in the context of CMPA section 618.01(a) lead me to the same conclusion of permissibility regarding participation in the statehood-related activities, when viewing the activities (along with associated resources) in light of 6B DCMR § 1808.¹⁵

The Local Hatch Act

The Local Hatch Act governs the political activities of District government employees. While the Mayor, among others, is exempt from the Act,¹⁶ it is important to note that, generally, an employee is defined as “[a]ny individual paid by the District government from grant or appropriated funds for his or her services or holding office in the District of Columbia.”¹⁷ That definition would, then, capture most, if not all, of the individuals discussed above in the context of CMPA section 618.01(a). Also important, especially with regard to the activities leading up to the advisory referendum, is the definition of “political activity.” The Local Hatch Act defines the term as “any activity that is regulated by the District *directed toward the success or failure* of

¹³ 6B DCMR § 1808.1. The term “authorized purposes” is defined by 6B DCMR § 1808.2(b) as meaning “those purposes for which government property is made available to members of the public or those purposes authorized by an agency head in accordance with law or regulation.”

¹⁴ See 6B DCMR § 1808.2(a) (defining “government property” as including “any form of real or personal property in which a federal, District, state, or local government agency or entity has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.”).

¹⁵ On a related note, I see no issue here concerning the prohibition against using government resources or office for a private purpose or for private gain. The purpose of the statehood-related activities is entirely a public and governmental purpose, not a private one. Further, insofar as the Mayor is vested with the executive power of the District, there is nothing improper about her engaging in, or publically advocating for, such a governmental purpose. Indeed, under section 422(8) of the District Charter (codified at D.C. Official Code § 1-204.22(8)), the Mayor has express authority to “propose to the executive or legislative branch of the United States government legislation or other action dealing with any subject, whether or not falling within the authority of the District government.”

¹⁶ See section 2(3)(A) (D.C. Official Code § 1-1171.01(3)(A)).

¹⁷ *Id.*

a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum.”¹⁸

From the several references to the advisory referendum in your memorandum, it appears that you mean the type of vote authorized by section 412(b) of the District Charter, that is, a special election “called by resolution of the Council to present for an advisory referendum vote of the people any proposition upon which the Council desires to take action.” Unfortunately, the legislative history of the Charter fails to shed any meaningful light on what Congress intended by the provision for an advisory referendum in section 412(b). What is clear, however, is that on at least one occasion since Home Rule, an advisory referendum was held in the District pursuant to section 412(b). In 2002, Advisory Referendum A was placed on the general election ballot “[t]o ask the voters ... if the Home Rule Act should be amended to establish an Office of the District Attorney for the District of Columbia, headed by a locally elected, independent District Attorney.”¹⁹ That experience is quite consistent with the description of an advisory referendum in the secondary literature as “a government-administered advisory poll on a certain issue.”²⁰

Given the nonbinding nature of an advisory referendum, I view it as being very different from the type of referendum contemplated in the Local Hatch Act definition of “political activity.” In other words, because an advisory referendum functions essentially as nothing more than a public survey or opinion poll, considerations of “success or failure” – the only possible results that can flow from, for example, an election for partisan political office or a referendum to suspend an act of the Council²¹ – are absent.

¹⁸ Section 2(8)(A) (D.C. Official Code § 1-1171.01(8)(A)) (emphasis added). *See also* Report of the Committee on Government Operations and the Environment on Bill 18-460, the Prohibition on Government Employee Engagement in Political Activity Act of 2010, at 5-6 (Council of the District of Columbia, November 16, 2010) (discussing definitions in bill) (“Political activity means conduct whose goal is the success or failure of a partisan candidate or political group, ballot initiative, or referendum.”).

¹⁹ *See* section 2(b) of the Establishment of an Office of the District Attorney Advisory Referendum Approval Resolution of 2002, effective July 19, 2002 (Res. 14-494; 49 DCR 6722).

²⁰ Thomas E. Cronin, *Direct Democracy* 176 (1989); *see also* Nicholas R. Theodore, Comment, *We the People: A Needed Reform of State Initiative and Referendum Procedures*, 78 Mo. L. Rev. 1401, 1410 (2013) (“The results of [an advisory referendum] are non-binding on the legislature and serve only as a survey tool.”). *Cf. Kimble v. Swackhamer*, 439 U.S. 1385, 1387 (Rehnquist, Circuit Justice 1978) (rejecting contention that Nevada statute providing for advisory referendum for benefit of the legislature violates U.S. Const. art. V) (applicants’ contention “is in my opinion not substantial because of the nonbinding character of the referendum”).

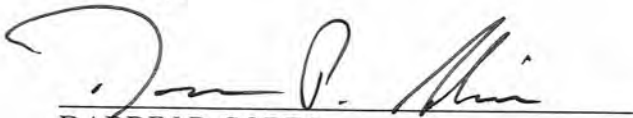
²¹ *See* section 2(b) of the Initiative, Referendum, and Recall Charter Amendments Act of 1977, effective March 10, 1978 (D.C. Law 2-46; D.C. Official Code § 1-204.101(b)) (“The term ‘referendum’ means the process by which the registered qualified electors of the District of Columbia may suspend acts of the Council of the District of Columbia (except emergency acts, acts levying taxes, or acts appropriating funds for the general operation budget) until such acts have been presented to the registered qualified electors of the District of Columbia for their approval or rejection.”). A substantively similar definition is contained in section 2(11) of the Initiative, Referendum and Recall Procedures Act of 1979, effective June 7, 1979 (D.C. Law 3-1; D.C. Official Code § 1-1001.02(11)).

All this said, I conclude that the statehood-related activities leading up to the advisory referendum in November, as well as participation in the vote itself, are not forms of political activity as defined in the Local Hatch Act and are, therefore, permissible.

Because this advisory opinion is provided to you pursuant to section 219 of the Ethics Act, be advised that the opinion must be published in the *D.C. Register* within 30 days of its issuance, but your identity will not be disclosed unless you consent to such disclosure in writing.²² We encourage individuals to so consent in the interest of greater government transparency. Please, then, let me know your wishes about disclosure.

Please let me know if you have any questions or wish to discuss this matter. I may be reached at 202-481-3411, or by email at darrin.sobin@dc.gov.

Sincerely,



DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

Attachment (1) June 3, 2016 memorandum

Copies to: Brian Moore, Chief of Staff to Council Chairman Phil Mendelson
Janet Robins, Deputy, Legal Counsel Division, Office of the Attorney General

#1009-010

²² See section 219(b) (D.C. Official Code § 1-1162.19(b)). Also, in terms of the safe harbor against enforcement of a violation of the Code of Conduct afforded by section 219(d) (D.C. Official Code § 1-1162.19(d)), be advised that this opinion is limited in scope to the statehood-related activities outlined in your memorandum and is intended to operate prospectively from June 14, 2016.

ATTACHMENT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR



Office of the General Counsel to the Mayor

TO: Office of Campaign Finance
Board of Elections
Board of Ethics and Government Accountability

FROM: Beverly Perry, Senior Advisory to the Mayor,
Office of Federal and Regional Affairs

Betsy Cavendish, General Counsel
Executive Office of the Mayor

DATE: June 3, 2016

RE: Request for Expedited Formal Advisory Opinion from BEGA on Activities
Relating to Advisory Ballot Referendum and Expedited Interpretive Opinion from
OCF and BOE, on Activities Relating to Advisory Ballot Referendum

The Executive Office of the Mayor requests your guidance as we embark on statehood-related activities, so that we can assure compliance with law. From BEGA, we seek guidance on Hatch Act and ethics laws, and from OCF and BOE, we seek advice on expenditures.

Background:

The Mayor is co-chair of the New Columbia Statehood Commission, as added May 2, 2015, D.C. Law 20-271, §101(b), 62 DCR 1884, codified at D.C. Code §1-129.31 (2016), whose charter is to “educate regarding, advocate for, promote, and advance the proposition of statehood and voting rights for the District of Columbia to District residents and citizens of the 50 states.” The enabling statute also authorizes the solicitation of financial and in-kind contributions, allocations from public and private sources and the use of pro bono services.

The Commission is re-invigorating efforts for statehood in the District of Columbia.

Activities include:

- Drafting a constitution
- Encouraging public comment and engagement around it
- Working with the Office of Planning to define the boundaries of a new state, while maintaining the seat of the federal government as an enclave apart from the state as provided in the U.S. Constitution

- Outlining the advantages of statehood and the injustices associated with lack of statehood and communicating those messages to constituents in all eight wards
- Conducting historical research regarding the process other jurisdictions followed on their paths towards becoming states
- Securing support from the Council for statehood and the draft constitution
- Building public support from around the country for statehood.

Based on its research, the Commission has determined that the most promising strategy for achieving statehood is through the Tennessee Plan.

Under the Tennessee Plan, as applied to the District of Columbia, what needs to happen is the following (as has previously been discussed with your offices):

Following a robust agenda of public engagement that has already begun, the Council plans to ask the Board of Elections in July to put four questions on the ballot this fall as part of an advisory referendum: Do the people agree to the borders of the proposed new state? Do the people agree to have a republican, representative form of government? Do the people approve this Constitution? Do the people desire to become a state? (As this is just a plan, we do not have exact language.)

If the advisory referendum is approved by the Board of Elections and conducted in November, and if the people indicate that they want statehood, preferably by a resounding margin, the Council would again meet and the next step would be to adopt legislation to send a petition to Congress, seeking to become a state. Thereafter, Congress would need to enact an Admissions Act granting the District statehood. Presumably, numerous other negotiations of a transition nature would also ensue, to work out aspects of statehood and the transition from the Home Rule Act, as amended, to the new Constitution. Obviously, there are many, many steps towards statehood, and the advisory referendum is just that, advisory to the Council as it considers whether to advance a statehood petition to Congress.

Questions:

We recognize that not every question involves the jurisdiction of each of your offices, but we seek confirmation that the Mayor's Office – assisted by counsel from the Attorney General's office – would not be in violation of the Hatch Act, ethics law, or elections expenditures law if we do the following:

- A. Host public engagement events at local schools, recreation centers and other public venues, to make presentations on statehood and the draft constitution, and to take public comment on the draft constitution and statehood generally.
- B. Host a constitutional convention on statehood with speeches from local and national notables, and at which public commenters (in favor or not) will have an equal time to speak, pursuant to rules established by the Commission. These first events would all be before Council sends any language to the Board of Elections for its consideration for an advisory referendum.
- C. Send delegates to Cleveland and Philadelphia, to the two major political conventions, at which District employees and members of the public would educate delegates about the case for statehood and seek allies. These activities would take place at state delegation breakfasts or other workshops. The presentations would not be partisan. We assume that these events will be roughly contemporaneous with transmittal to BOE, but before it has ruled on putting the four-part question on the ballot in November.

- D. Under the aegis of the statehood commission, which has authority to raise money, raise funds, pursuant to and consistent with the duly-established donations process, to advance statehood efforts generally, including educational efforts surrounding the advisory referendum's questions on statehood. These activities might take place both before and after the referendum is sent or certified by BOE, depending on your answers.
- E. Relatedly, EOM's expenditure of District funds to advance its policy agenda, which includes statehood, but would not use "vote for" messages.
- F. Compile lists of persons who have indicated they are interested in statehood and communicate to them, from government email servers, on upcoming community engagement fora and other events relating to statehood.
- G. Produce doodads like pens, buttons, posters, and bumper stickers using phrases or taglines such as #AddaStar, #51st State, or, simply, Statehood. Could EOM employees use and wear such doodads while doing official work? Only before such questions have been referred to the Elections Commission, or afterwards, too?
- H. Send administration representatives to ANC meetings, law school classes, law firm lunches or other civic meetings, upon invitation or *sua sponte*, to talk about statehood and the process for achieving it.
- I. Post tweets or Facebook messages or use other social media from official accounts and administration officials' personal accounts during the work day supporting statehood generally, re-broadcasting articles about statehood, and building crowds for the community engagement forums.
- J. Indicating support for statehood at work, or while on work assignments, as at community forums.
- K. Encourage participation in the referendum at work, or while on work assignments, such as at community meetings, not using "vote for" messages.
- L. We have assumed that – other than elected officials – employees cannot use public dollars or public equipment to transmit "vote for" messages for any advisory ballot referendum, but we would appreciate knowing if we are being too cautious in this regard.
- M. While we do not intend to mobilize agency officials whose day to day responsibilities are remote from statehood, we do believe a number of persons at EOM are critical to working on the constitution and education efforts. Please let us know if there are restrictions on which EOM administration officials can conduct any of the above activities. We believe that the above activities are squarely within the province of those who work in the Office of Federal and Regional Affairs, the Office of Policy and Legislative Affairs, the Office of Communications, the Office of Community Relations and Services and other Office of Community Affairs Offices, the Office of General Counsel and the Mayor's Office of Legal Counsel.

We believe that the efforts to advance statehood are authorized by statute, and that the advisory ballot referendum is an integral and necessary part of advancing statehood effectively, but it is not an end in itself, in contrast to elections and binding referenda. This advisory referendum to us seems distinguishable from the political activities that are clearly prohibited: it's not a campaign for a particular person or a narrow initiative to change one element of the charter backed by the Mayor; rather, the advisory referendum is part of a comprehensive effort to advance the interests of the District, as recognized by Council in restructuring and reinvigorating the Statehood Commission. We are mindful of D.C. Code 1-1163.36 and are concerned about its applicability here. We have read the Board of Elections and Ethics Opinion in *Anthony Williams v. D.C. Office of Campaign Finance and Dorothy Brizill*, Administrative Hearing No 00-025 No. MUR-00-01 (Sept. 22, 2000), and are uncertain as to whether it applies to an advisory referendum, when an advisory referendum is simply the Council and the Mayor's question to the citizens as to whether they wish to proceed with a matter. Taking a cautious approach as to this, we plan to ground our activities in the areas the Board said were proper for the Mayor to engage

in, namely, “express[ing] their views on ballot measures placed before the electorate; engag[ing] in activities which encourage citizens to vote on ballot measures, and take steps to educate and inform the electorate of the proposed measures,” when of course such resources and employees are authorized by delegated authority from the Mayor, and program and budget authorizations to assist in such advocacy, education, legal analysis and drafting, and communications. We are concerned that statehood activities generally (which seem to be authorized expenditures under the Statehood Commission legislation and within the general authority of the Mayor’s close staff) may be confused with activities connected with the anticipated advisory ballot referendum at some point in the process towards statehood.

Thank you for your advice. If you have further questions, feel free to call either one of us: Beverly Perry at 202.724.5391 or Betsy Cavendish at 202.727.8555.

Cc:

Brian Moore, Chief of Staff to Chairman Mendelson

Janet Robins, Legal Counsel Division, Office of the Attorney General

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**



Office of Government Ethics

August 17, 2017

Beverly Perry
Senior Advisor to the Mayor, Office of Federal and Regional Affairs
1350 Pennsylvania Avenue, N.W., Suite 324
Washington, D.C. 20004

Dear Ms. Perry:

This responds to your August 4, 2017 memorandum in which you request a formal advisory opinion from the Board of Ethics and Government Accountability (“Ethics Board”) as to whether certain activities by the District government to encourage District residents to contact United States Senators regarding District statehood would violate the Code of Conduct. Your proposed activities are as follows:

1. The Executive Office of the Mayor (“EOM”) and the New Columbia Statehood Commission would have the Office of the Chief Technology Officer (“OCTO”) develop or create a portal that would include the contact information, email and mailing addresses for all U.S. Senators. District residents would be able to access the portal and would be “matched” to a suggested Senator, with the goal that each resident will “adopt” the suggested Senator.
2. The EOM and the Statehood Commission would send a letter to District residents encouraging them to contact their adopted Senators regarding issues and policies that affect them.
3. The EOM and the Statehood Commission would provide District residents with a suggested introductory letter to send to their adopted Senator. The letter would explain, among other things, that the District resident does not have voting representation in Congress and that the resident has chosen the Senator as his or her surrogate representative.
4. District residents would be expected to email their letters directly to their adopted Senators.

On August 9, 2017, you provided supplementary materials as background to your request for guidance. Those materials reveal that the above-referenced activities are part of a larger effort to “mobilize [the District’s] quest for congressional representation,” with the overall goal of having a “statehood bill voted on in the Senate and House in 2018.”¹

While your request is addressed to the Ethics Board, I view it as invoking my authority as the Director of Government Ethics.² Based on the information you provided as well as this Office’s previous advisory opinions regarding whether District employees may engage in statehood-related activities,³ I conclude that your proposals would not violate section 1801 of the Merit Personnel Act (“MPA”), 6B DCMR §1808, or the Local Hatch Act, all of which are elements of the Code of Conduct.

This Office previously noted that there are “very similar”⁴ considerations to take into account when determining whether proposed statehood activities comply with section 1801 of the MPA, which provides that District employees shall “maintain a high level of ethical conduct,” and 6B DCMR §1808, which notes that District employees shall not misuse government property.” Those considerations led to this Office’s conclusion that District employees may participate in statehood related activities without violating section 1801 of the MPA and 6B DCMR §1808 as long as those employees are authorized to participate in such activities and as long as they do so by using funds and other District resources that are authorized for that purpose.⁵

Consequently, we noted that employees of the Office of the Statehood Delegation, the Statehood Delegation itself, as well as any Executive Branch employees whose official duties include or otherwise support the Mayor’s statehood policy agenda could engage in all of the statehood related activities outlined in the EOM’s June 3, 2016 request for guidance.⁶ Notably, some of the proposed activities in that request, such as the request to compile lists of persons and

¹ See Statehood Package at p.1, provided to the Office of Government Ethics on August 9, 2017.

² D.C. Official Code §1-1162.19(a)(“Upon application made by an employee or public official subject to the Code of Conduct, the Director of Government Ethics shall, within a reasonable period of time, provide an advisory opinion as to whether a specific transaction or activity inquired of would constitute a violation of a provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.”)

³ For an in depth discussion of section 1801 of the Merit Personnel Act (“MPA”), 6B DCMR §1808, and the Local Hatch Act as those regulations relate to statehood related activities, see Response to Request for Advisory Opinion Regarding Statehood Activities by OCTFME Employees, 1566-001 (November 30, 2016); see also Response to Request for Opinion Regarding Statehood Activities, 1009-010 (June 14, 2016).

⁴ See OGE Opinion, 1009-010 at 4; OGE Opinion 1566-001 at 5.

⁵ OGE Opinion, 1009-010 at 3-4; OGE Opinion 1566-001 at 4-5.

⁶ OGE Opinion, 1009-010 at 1-2(“Based on the information in your memorandum, I conclude that the activities outlined in it would not violate section 1801 of the Merit Personnel Act, 6B DCMR § 1808, or the Local Hatch Act.”); see also June 3, 2016 Request for Expedited Formal Advisory Opinion from BEGA on Activities Relating to Advisory Ballot Referendum at 2-3.

communicate with them from government servers on community engagement events relating to statehood and building public support from around the country for statehood,⁷ are similar to the activities contemplated by your current request.

We also advised that other agencies not explicitly linked to or tasked with carrying out District statehood initiatives could, nevertheless, provide support or assistance in those endeavors “if done so on behalf of the [Statehood Commission], EOM, the Council, Congresswoman Norton, or another District agency whose activities directly support the Mayor’s Statehood agenda.”⁸ Specifically, we noted that the Office of Cable Television, Film, Music and Entertainment (“OCTFME”) could develop “Create the State” slogans and other media aimed at educating District residents on statehood because the request was initiated by the Statehood Commission and EOM and because OCTFME is statutorily required to produce content for the government and educational channels.⁹

With regard to the activities proposed in your memorandum, I conclude that based on this Office’s previous statehood guidance, OCTO employees may create an online portal to match District residents to Senators so that residents can discuss with their surrogate representatives their lack of voting representation and other issues that impact them. I reach this conclusion based on the fact that the request is initiated by the Statehood Commission and EOM and given that OCTO’s statutory purpose is to “centralize responsibility” for the District government’s information technology and telecommunications systems and “to help District departments and agencies provide services more efficiently and effectively.”¹⁰

In addition, the proposal for EOM and the Statehood Commission to have OCTO create a portal to facilitate District resident’s ability to communicate with Congress regarding statehood appears consistent with OCTO’s statutory purposes as well as the District Statehood Commission’s purposes, which are to “[e]ducate regarding, advocate for, promote, and advance the proposition of statehood and voting rights for the District of Columbia to District residents and citizens of the 50 states.”¹¹ As such, your proposal complies with section 1801 of the Merit Personnel Act, 6B

⁷ See June 3, 2016 Request for Expedited Formal Advisory Opinion from BEGA on Activities Relating to Advisory Ballot Referendum at 2-3.

⁸ OGE Opinion 1566-001 at 4.

⁹ See *id.*

¹⁰ D.C. Official Code §1-1402.

¹¹ D.C. Official Code §1-129.31(b)(1).

DCMR §1808 and our previous statehood guidance, so long as all of the agencies involved in executing this project use funds that are specifically authorized to do so.¹²

Moreover, I note that your proposal complies with the Local Hatch Act. The Local Hatch Act regulates political activity, which is defined as “any activity that is regulated by the District directed toward the success or failure of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum.”¹³ Your proposal contemplates a grassroots effort to engage members of Congress on the issue of District statehood and to build support for the introduction and passage of statehood legislation. This endeavor does not fall under the statutory definition of “political activity,” as it is not aimed at the success or failure of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum. Therefore, I conclude that the activities you propose do not violate the Local Hatch Act.¹⁴

In addition, however, please note that the District Personnel Manual requires that District employees comply with *all* federal, state, and local laws and regulations.¹⁵ There may be other laws and regulations that are implicated by your proposal which our office does not have the jurisdiction to interpret or enforce.¹⁶

Please be advised that this advisory opinion must be published in the *D.C. Register* within thirty days of its issuance because it is provided to you pursuant to D.C. Official Code §1-1162.19(a). Your identity will not be disclosed, unless you consent to such disclosure in writing. We

¹²The Office of Campaign Finance (“OCF”) may take a different view with respect to permissible expenditures in this area. It is OCF, and not this Office, that has authority to opine on the prohibition concerning expenditures of government resources for “campaign related activities” and to define what constitutes such activities.

¹³ D.C. Official Code §1-1171.01(8)(A).

¹⁴ It is my understanding that the District government will provide “suggested letters” to residents to be sent to members of Congress regarding issues related to the District’s lack of voting representation and District statehood. District residents will be expected to send their letters to members of Congress directly. My conclusion that this proposed activity does not implicate the Local Hatch Act would differ if District residents transmitted letters to Congress through the District’s portal or in clear conjunction with the District government, as there is a possibility that residents will modify the letters in such a manner that the letters could contain language that meets the definition of “political activity,” as defined by the Local Hatch Act. If District resources were used to facilitate the transmittal of such materials, that *could* amount to a violation of the Local Hatch Act. In the alternative, the District could ensure that the suggested letter is *unalterable*, so that “political activity” cannot be added to it. In that case, residents could then transmit the letter to their adopted representative through the portal without violating the Local Hatch Act.

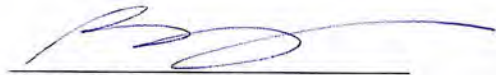
¹⁵ 6B DCMR 1800.3(m).

¹⁶ *See e.g.*, 18 U.S.C. § 1913 (prohibiting the use of monies appropriated by Congress for lobbying), *see also* section 806 (a) of the Consolidated Appropriations Act, 2017, approved May 5, 2017(Pub. L. No. 115-31; 131 Stat. 244) (prohibiting the District of Columbia from using federal funds for any petition, drive, or civil action which seeks to require Congress to provide voting representation in the District of Columbia.)

encourage individuals to so consent in the interest of greater government transparency. Please let me know your wishes about disclosures.

Please let me know if you have any questions or wish to discuss this matter. I may be reached at 202-481-341, or by email at brian.flowers@dc.gov.

Sincerely,



BRIAN K. FLOWERS
Interim Director of Government Ethics
Board of Ethics and Government Accountability

#1009-014

ATTACHMENTS

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Executive Office of Mayor Muriel Bowser



Executive Office of the Mayor

TO: Office of Campaign Finance
Board of Elections and Government Accountability

FROM: Beverly Perry, Senior Advisor

DATE: August 4, 2017

SUBJECT: Request for Formal Advisory Opinion from BEGA and for
Interpretive Opinion from OCF on Statehood Activities

The Executive Office of the Mayor requests your guidance as we undertake new strategies on statehood and Congressional representation for residents of Washington, DC.

Background:

The Executive Office of the Mayor and the New Columbia Statehood Commission would like to have the Office of the Chief Technology Officer (OCTO) develop a computer program that would allow DC residents to contact all members of the United States Senate. This would require that OCTO develop or create a portal that would include the contact information, email and mailing addresses, for all Senators. This information is all public. DC residents will be able to access the portal and would be “matched” to a suggested Senator, with the goal that each resident will “adopt” the suggested Senator to send input on policies and issues that impact them.

The Executive Office of the Mayor and the Statehood Commission would contact DC residents with a letter letting them know about the goal and suggesting the Senators with whom they are “matched.” We would also provide a suggested letter to send to the Senators establishing the relationship, which will be included in the portal.

The Office of the Senior Advisor asked OCTO whether it would be able to build the portal described above. OCTO acknowledges that it has the technological capability to build such a system. However, OCTO recommended that we seek input from your agencies to ensure that our request complies with the DPM Code of Conduct, the Ethics Manual, and the Local Hatch Act.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Executive Office of Mayor Muriel Bowser



Executive Office of the Mayor

Thank you for your advice. If you have further questions, please feel free to call me at 202-724-5326.

Congressional Representation and National Education Campaign

Mission: To mobilize our quest for congressional representation and initiate national citizen engagement, to advance the Statehood movement.

Goals:

1. Activate voters across country to engage in the statehood process
 2. Increase engagement with members of Congress
 3. Build national coalitions of advocates by making appeal to 100-1000 national organizations
 4. Educate all Americans on the District of Columbia, its lack of representation, correct false narratives regarding the District relationship/benefits with the federal government
 5. Engage/lobby target states in effort to get support legislation passed in their State Assemblies.
 6. Get a statehood bill voted on in the Senate and House 2018
-
- I. **Surrogate Letter Writing Campaign Launch – 9/5/17**
 - a. Letter Writing Campaign
 - i. Introductory Letter – DC residents request members to represent them
 - ii. Concerns and Issues – alert members that residents will contact them
 - iii. Monthly Issue Letters – forward newsletter to members
 - iv. Meeting Requests – when issue arises, request meeting
 - II. **10 State Strategy – 10/1/17**
 - a. Family and Friends
 - i. Federal: My ____ lives in DC and does not have a voting member in the House of Representatives. I'd like you to support them in their quest for state hood. Until then, I'd like you to serve as their voting member in Congress.
 - ii. State: My ____ lives in Washington, DC and does not have voting representation in the House or Senate. The constitution affords all tax paying citizens voting representation. I'm asking you as my representative to the State Legislature to support a state resolution in support of DC's path to statehood and admission to the union as the 51st State.
 - III. **Connecting and Pairing with Puerto Rico**
 - a. Capital city alliance meeting
 - b. Identify sponsor of legislation to create same federal tax structure for DC
 - IV. **Process**
 - a. Outreach Tactics – 11/1/17
 - i. Letters
 - ii. Website: A full revamp of the statehood website by an outside contractor. The website has to be developed in way for information to be easily found, while engaging to make residents want to check back for information. It should also include a "sign up for updates" option allowing residents to enter email addresses as well as social media information so that updates and "action requests" can be disseminated on short notice.
 - iii. Social media – hire manager by 12/1/17
 1. Twitter
 2. Facebook

3. Snapchat
4. Site Visits
- iv. Legislative Meetings (should have specific language we'd like to have introduced in each state legislature for continuity of support.
- v. Outreach map (to show specific targets as well as monitor the progress being made in each state and by who
- vi. State/Member profiles: that identify key information about the state as it relates and is unrelated to DC but affects issues of similar sorts, A specific federal appropriation that is unique to that state but not appropriated for the majority of states in the country,
- vii. Statehood Design contests to engage youth/millennials:
 1. 1. Logo Design – The statehood campaign has used a graphic generated by the NCSC but has no specific graphic that residents feel they own or represents them and DC Values.
 2. 2. Mural Design – Identify a location in the city with high traffic and visibility for a mural design. This will allow residents and tourists alike to take pictures in front of it, as well as post the pictures to generate conversation, engagement, and support via social media
- viii. One Pagers: used to provide residents and nationwide supporters with information to share with other, in addition to serving as talking points with local and national political leaders
- ix. Outside media engagement: People tend to trust their local media affiliates more than they do the national media. We have to maximize coverage and conversation with small, local outlets via news, radio, and television.
- x. Public Service Flyers:

Do you know American History?
We are Washington DC!
Please do not confuse us with your Federal Policy makers.
Like you, we pay taxes to support their work.
But unlike you, we have no voice or vote to urge sensible positions.
Please support our quest for full citizenship.

Congress: _____

Senator: _____

Dear Resident/Voter,

As an American taxpaying citizen, you are entitled to full democratic representation within the halls of government in America. Unfortunately, because you have opted to call Washington DC home, you are being denied voting representation before both houses of Congress. To ameliorate this wrong, your fellow citizens are pursuing Statehood for Washington DC. Until full democracy is bestowed upon Washington, the New Columbia Statehood Commission is suggesting that you adopt a surrogate Congressional representative.

The Commission is suggesting the delegation listed above as your member of the US House of Representatives and two United States Senators from the corresponding state. You may, of course, choose a different delegation. Please use your surrogate representatives as you would direct representation. As important issues are debated, you can have your voice heard by writing and calling your surrogate representatives.

Surrogate representation does not affect or impact your relationship with Congresswoman Eleanor Holmes Norton in any way. Surrogate representation allows you, for the first time, to express your wishes to voting members of both houses of Congress. The ultimate goal is to urge the House and to vote for DC Statehood in 2018.

To register your surrogate relationship, please send the enclosed letter to your representatives during the first week of September of 2017. This effort is sponsored by the New Columbia Statehood Commission to provide an avenue for the people of Washington DC to express their wishes on votes in the Congress of the United States.

Dear Resident/Voter,

Our renewed quest for DC Statehood is off to a good start, but there is still more work to be done. The fight for DC Statehood has to be a collective effort. We must maximize our power in numbers, which includes inviting our family and friends to follow in our footsteps and send letters to Congress in support of voting representation for the residents of Washington DC. Enlisting their help will bring more attention to this voting injustice, providing the additional ammunition needed to make our voices heard in Congress. Our friends and family across the country can work as allies by informing their own congressional delegation of the injustices facing Washington DC residents.

Please pass along the enclosed letter to your family and friends for them to send to their surrogate/congressional delegation. This effort is sponsored by the New Columbia Statehood Commission to provide an avenue for the people of Washington DC to express their wishes on votes in the Congress of the United States.