

2017 BEGA Ethics Day

October 19, 2017

D.C. Council's Code of Conduct

Ethics presentation by:

Zach Walter, Assistant General Counsel



Code of Official Conduct



COUNCIL OF THE DISTRICT OF COLUMBIA

CODE OF OFFICIAL CONDUCT

Ethics Counseling

Rule XI(d)

- The General Counsel provides confidential advice about compliance with the Code of Conduct and any other applicable laws
- Permission v. Forgiveness



Conflicts of Interest

- General principle: Shall not use public office for private gain
- Employees may not:
 - Personally and substantially participate in
 - Particular matters that have a
 - Direct and Predictable Effect on the
 - Employee's personal financial interests and those financial interests imputed to the employee
- Imputed Financial Interests
 - Spouse
 - Members of household who reside with you
 - Organizations with which you are affiliated

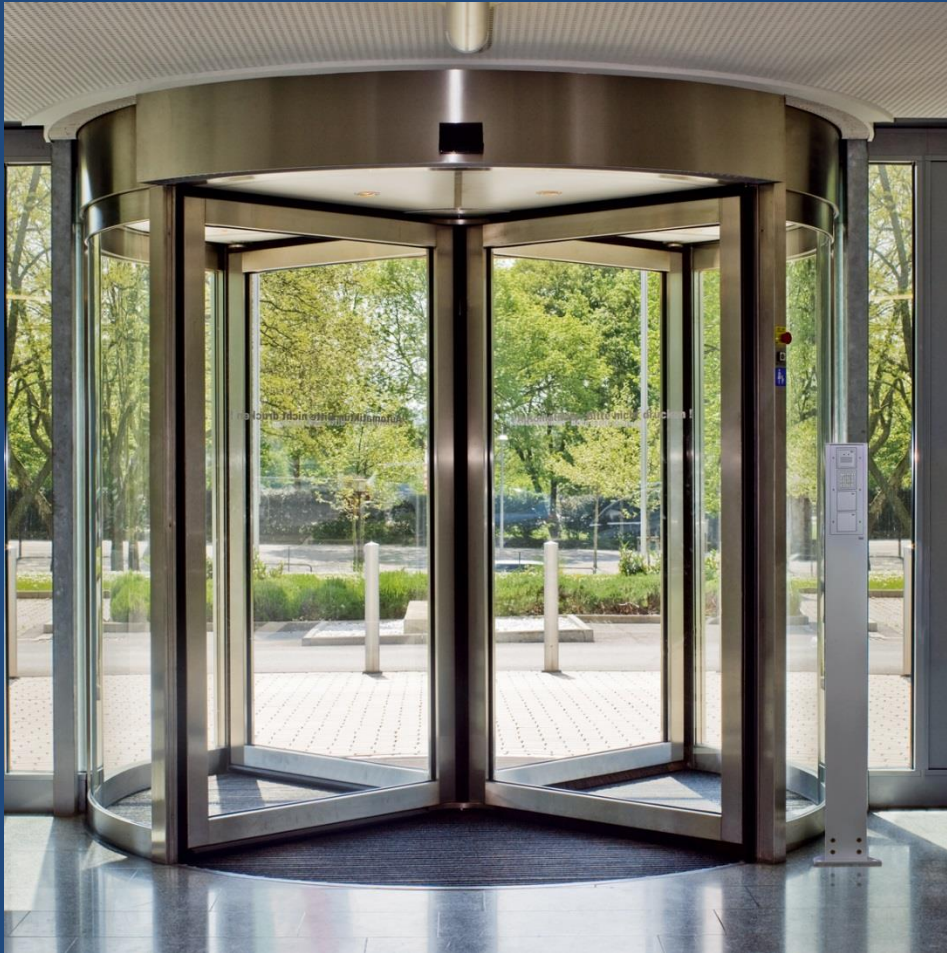


Outside Activities

- No employee shall engage in outside employment or private activity that conflicts or would appear to conflict with the fair, impartial, and objective performance of the employee's official duties and responsibilities or with the efficient operation of the Council.



Post-Governmental Employment Conflicts of Interest



Permanent Restrictions on Representation on Particular Matters

- No employee, after the end of his service with the Council, shall knowingly make, with the intent to influence, a communication or appearance before any District employee or agency, on behalf of any other person in connection with a particular matter:
 - In which the District is a party or has a direct and substantial interest;
 - In which the employee participated personally and substantially as such officer or employee; and
 - Which involved a specific party at the time of the employee's participation.

Two-Year Restrictions Concerning Particular Matters Under Official Responsibility

- Employees may not, within 2 years after the end of their service with the Council, knowingly make, with the intent to influence, a communication or appearance before a District employee or agency, on behalf of another person, in connection with a particular matter:
 - In which the District is a party or has a direct and substantial interest;
 - Which the person knows or should know was actually pending under his or her official responsibility as an employee within a one-year period before the end of his/her service with the Council; and; and
 - Which involved a specific party or specific parties at the time it was pending.

Special Rules for Former Council Employees

- Former Council employees may not, within one year after leaving Council service, knowingly make, with the intent to influence, a communication or appearance before the Councilmember for whom the employee worked or any former subordinate employee, on behalf of any other person, other than the District of Columbia, in connection with a matter on which the former employee seeks action by a Councilmember or Council employee in his or her official capacity.

Overview of Gifts

A “gift” is a gratuity, favor, discount, entertainment, hospitality, loan, forbearance or other item having monetary value.

Two categories of gifts rules:

- Gifts between employees
- Gifts from prohibited sources

In addition, blanket prohibitions against:

- *Quid pro quo* or bribes
- Receiving any compensation, salary, or other thing of value from any source other than the District government for the employee’s performance of official duties.



Restrictions on Gifts Between Employees

- Employees may not:
 - Directly or indirectly, give a gift to or make a donation toward a gift for an official superior;
 - Solicit a contribution from another employee for a gift to either the employee's official superior or the other employee's official superior;
 - Accept a gift, directly or indirectly, from an employee receiving less pay unless they are not in a subordinate-official superior relationship and there is a personal relationship that would justify the gift.

Permitted Gifts Between Employees

- On an occasional basis, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
 - Items, other than cash, with an aggregate market value of \$50 or less per occasion;
 - Items such as food and refreshments to be shared in the office among several employees;
 - Personal hospitality provided at a residence of the type and value customarily provided by the employee to personal friends;
 - Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions;
 - Gifts in recognition of special occasions of personal significance such as marriage, illness, or the birth or adoption of a child; or
 - Gifts for occasions that terminate a subordinate-official superior relationship, such as retirement, resignation, or transfer.

Gifts from Prohibited Sources

- As a general rule, employees may not solicit or accept, either directly or indirectly, any gift from a prohibited source.
- What is a “prohibited source?” A person or entity that:
 - Has or is seeking to obtain contractual or other business or financial relations with District government;
 - Conducts operations or activities that are subject to regulation by District government; or
 - Has an interest that may be favorably affected by the performance or non-performance of the employee’s official responsibilities.
- Basic presumption is that a person or entity offering a gift is a prohibited source, even if there’s nothing associated with the source that is directly before the Council.

Gifts from Prohibited Sources

- Gifts from prohibited sources are not permissible unless an exemption applies.
- Main exemptions:
 - Bona fide personal relationships – gifts given under circumstances that make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee
 - History of the relationship
 - Whether the family member or friend personally pays for the gift
 - Greeting cards and items with little intrinsic value (plaques, trophies, certificates)
 - Anything that is available to the general public or all District employees
 - Anything paid for by the Council or secured by contract
 - Unsolicited gifts having an aggregate market value of \$50 or less per source, per occasion, provided that the aggregate market value of individual gifts received from any prohibited source shall not exceed \$100 in a calendar year

Specific Gift Restrictions

- No employee shall:
 - Solicit or accept anything of value from a registered lobbyist
 - Directly or indirectly demand, seek, receive, accept, or agree to receive or accept anything of value personally or for any other person or entity, in return for:
 - Any official act performed or to be performed by the employee;
 - Being influenced in the performance of any official act;
 - Being influenced to commit or aid in committing, or to collude in, or allow, any fraud or make opportunity for the commission of any fraud, on the District of Columbia; or
 - Being induced to do or omit to do any act in violation of the employee's official duty.

Gifts from Prohibited Sources

- If an employee receives a gift from a prohibited source, the remedy is:
 - Return it;
 - Reimburse the giver for the value of the gift; or
 - Donate it to charity, share it with office staff, or destroy it.

Donations

- D.C. Official Code § 1-329.01(a) authorizes the Council to accept donations to “carry out its authorized functions or duties.”
 - Includes tickets to galas and receptions
 - Does not include Nationals tickets and Verizon Center tickets, which are provided by contract
- Donations of personality (i.e., non-perishable goods) are considered Council property and may not be used for unauthorized purposes

Disclosing Donations

Rule IV(e)

- An employee accepting a donation must, by the last business day of the month, file a donation disclosure on Sterling with the following information:
 - Offeror;
 - Date; and
 - Estimated value
- The Secretary shall publish on the Council website, on the first Friday in the first full week of each month, a list of each donation accepted.
- For Councilmembers, if you do not receive a donation, you still must file a statement that no donation was accepted during the month.



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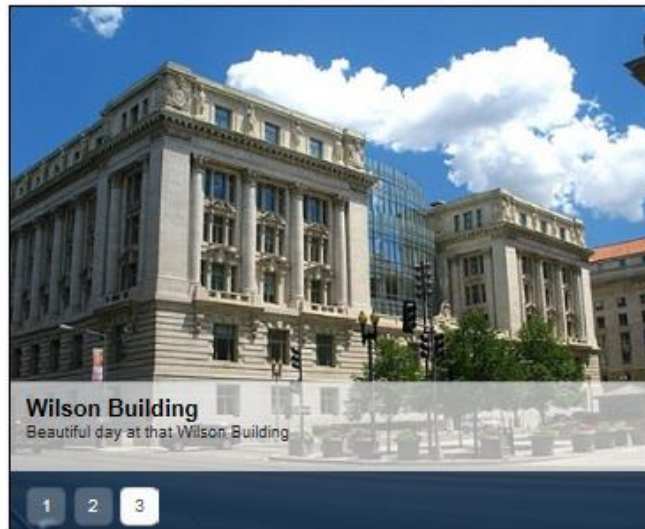
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✓	User	Description	Donation Date	Donor	Total/Value	Created	Created By
	Kenyan McDuffie					4 days ago	<input type="checkbox"/> Sadler, Carol (Council)
	Cynthia LeFevre	1 ticket to the Washington Humane Society Bark Ball	6/20/2015	Christopher Ahn, Washington, D.C. Economic Partnership	150	Yesterday at 10:53 AM	<input type="checkbox"/> LeFevre, Cynthia (Council)

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Donations Disclosures

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DISCLOSURES FORM

GOVERNMENT OF THE DISTRICT OF COLUMBIA

▼ User

Description

Donation Date

Donor

Total Value

Notes

Attachments

▼ Insert item

Click here to attach a file

Donation Agreement Form

Optional, but recommended



COUNCIL OF THE DISTRICT OF COLUMBIA

The John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

OFFICE OF THE SECRETARY

DONATION AGREEMENT FORM

1. _____ ("Donor") agrees to make a donation to the Council of the District of Columbia (Council), Government of the District of Columbia of \$ _____ or of (*Note: Please insert amount and provide in-kind description as stated below:*)

The donation is being given freely without any expectation of special treatment or action by the Council in particular, or the District government in general.

2. The donation will be used to (*describe the purpose of the donation*):

Further, the donation is for an authorized purpose because it is consistent with the functions and purposes of the Council.

3. The donation is being made on the condition that the Council agrees to use the donation for the particular purpose stated in this agreement. If the agency does not use the full balance of the financial donation, I, the donor, give my express consent and authorization to

Misuse of Government Resources

- District employees have a positive duty to protect and conserve government property.



Prestige of Office

Rule VI(c)

- An employee may not knowingly use the prestige of office or public position for that employee's private gain or that of another.
- 2 issues:
 - Constituent services
 - Letters of recommendation

Constituent Services



Constituent Services

General Considerations

1. Consider the public interest
2. Present only facts known to be true
3. Document constituent requests and the action taken in response
4. Follow constituent service practices in a consistent manner when dealing with the agencies
5. Ensure power parity in agency interactions
6. Avoid favoritism and reprisal
7. Avoid conduct which may create the appearance that a constituent will receive special treatment

Letters of Recommendation

Rule VI(d)

Letters of recommendation must be based on personal knowledge of the requestor

OFFICE OF THE GENERAL COUNSEL
COUNCIL OF THE DISTRICT OF COLUMBIA

1350 Pennsylvania Avenue NW, Suite 4, Washington, DC 20004 • (202) 724-8026

Sincerely,

/S Zach M. Walter

Zach M. Walter
Assistant General Counsel

Official Mail

- “Official Mail” is mail that is either prepaid or postpaid by any branch, division, or other agency of District government.
- Official mail should pertain directly or indirectly to the legislative process or to a Council legislative function, including any matter related to a past or current Council, the performance of official duties by a Councilmember in connection with a Council function, or other related matters of public concern or public service.

Prohibited Uses of Official Mail

- Official mail cannot be used to solicit directly or indirectly funds for any purpose.
- A Councilmember may not use official mail for transmission of matter that is purely personal to the sender and is unrelated to the official duties, activities, or business of the member.
- Official mail cannot be used to send cards or other materials that express holiday greetings from the Councilmember or the Councilmember's family.

Prohibited Uses of Official Mail

- A Councilmember may not mail, as official mail, any mass mailing within the 90-day period that immediately precedes a primary, special, or general election in which the Councilmember is a candidate for office.

Restrictions on Official Mail and Electronic Newsletters

- Neither official mail nor electronic newsletters may contain the following:
 - Autobiographical articles
 - References to past or future campaigns
 - Announcements of political or partisan meetings
 - Reports on family life
 - Personal references that are included for publicity, advertising or political purposes
 - Pictures of Members with any partisan label such as “Democrat” or “Republican”
 - Articles about community events that are unrelated to official government business
 - Advertisements for local businesses
 - Reports on non-official activities of the Member that have the effect of lending the franking privilege to others, no matter how worthwhile or charitable the endeavors of those to whom the franking privilege would be loaned

Electronic Newsletters

Rule X(g)(3)

An electronic newsletter shall not be transmitted at public expense unless, when viewed as a whole, it:

- Is informational rather than self-promotional; or
- Is directly related to a Member's official legislative or representative duties.

Electronic Newsletters

Rule X(g)(1)

During the 90-day period immediately before a primary, special, or general election in which the Councilmember is a candidate for office, a Councilmember may not transmit an electronic newsletter, unless:

- The recipients have individually subscribed to receive the electronic newsletter;
- The electronic newsletter contains a clear and conspicuous notice of the method by which a recipient can request not to receive future electronic newsletters; and
- The proposed newsletter has been submitted for review by the Council's General Counsel or the Office of Campaign Finance.

General Counsel Review

Rule X(k)

The General Counsel shall be available to Councilmembers and their staff to review proposed official mail and/or electronic newsletters to ensure that the materials comply with the laws and rules governing official mail.

Political Activity

- General Principle: District employees may participate in political activity, subject to specific restrictions.
- Political activity defined: “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”



Permissible Political Activities

- Take an active part in political management or in political campaigns
- Endorse or oppose a partisan political candidate or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material
- Host a meet-and-greet reception for a candidate
- Can contribute to campaigns, attend events, etc.

Restrictions in the Workplace

- Council employees may not engage in political activities:
 - While on duty;
 - In any government building;
 - While wearing a uniform or official insignia identifying the office or position of the employees; or
 - Using any vehicle owned or leased by the government.
- Cannot use government resources to “support or oppose any candidate for elected office, whether partisan or nonpartisan, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment referendum.”
 - No political buttons
 - No display of political pictures, signs, stickers, or badges that support a particular candidate for office at desks.
 - No District-owned telephones, computers, Blackberries, etc., to engage in campaign activities
- Do not forward emails that are directed toward the success or failure of a candidate for political office using your government email account.

Blanket Restrictions on Political Activity

- Use of “official authority or influence for the purpose of interfering with or affecting the result of an election.”
- Knowingly soliciting, accepting, or receiving a political contribution in District elections.
- Running for the nomination or as a candidate for election to a partisan political office in District elections (exception for Councilmembers)
- Knowingly soliciting or discouraging the participation in any political activity of any person who:
 - Has a measure pending before the Council; or
 - Is the subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the Council.

Conclusion

- If you have any questions, contact:
 - Zach Walter, Assistant General Counsel
 - zwalter@dccouncil.us
 - 724-8156