

Stephan W. Fogleman, Chair
Melodie Hengerer
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John McCauley
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Director: J. Christoph Amberger

BALTIMORE CITY BOARD OF ETHICS

October 19, 2023

Via Electronic Mail

Aaron DeGraffenreidt, General Counsel
Baltimore City Council President's Office
100 N. Holliday Street, Room 400
Baltimore, MD 21202
A.Degraffenreidt@baltimorecity.gov

Re: City Council President Nick J. Mosby's Third Annual Holiday Toy Drive Charitable/Governmental Gift Solicitation Waiver

Dear Mr. DeGraffenreidt,

During the Public Session of its October 11, 2023 meeting, the Ethics Board ("Board") approved your application to solicit donations in support of City Council President Nick J. Mosby's Third Annual Holiday Toy Drive. Approval is subject to the following conditions:

- 1) *In general.* The campaign must be conducted in accordance with the standards, terms, and conditions set forth in your application and in Board Regulation 06.26.1, attached for your reference.
 - a. Of specific importance, please note that all solicitations must be directed at a broad range of potential donors, must not specially target controlled donors, and must be conducted so as to avoid any suggestion that contributors might receive special access or favored treatment from any City agency or official. See R 06.26.1.
 - (i) To comply with the requirements above, the Board recommends that you use uniform solicitation material that includes a written disclaimer along the following lines: "Important: Your contribution will in no way result in special access or favored treatment from any City agency or official."
- 2) *Prestige of Office Prohibition.* Pursuant to the City Code, Art. 8, §6-36, City employees and officials may not intentionally use the prestige of their City position—including, but not limited to, their City title, image, connections, and resources—for the private gain of the beneficiary of this waiver or of any other.¹
- 3) *Reports.* A Final, Cumulative Report (due within 30 days after all solicitations and receipt of all anticipated donations) must be filed with the Ethics Board on Ethics Form 627.

¹ Section 6-36 does not prohibit the performance of usual and customary constituent services, without additional compensation.

- 4) *Expiration.* This approval expires on the date set forth in your application, December 31, 2023. After that date, a new application will be required for any further solicitation efforts.

If you have any questions, please contact Ethics Board staff at ethics@baltimorecity.gov or 410-396-7986.

Sincerely,



Maura Romo
Ethics Officer, Ethics Board

PART IV. GIFTS

Authority: City Code Article 8, §§ 3-6(a), 6-26(b), 6-28, and 6-29

R 06.26.1. Official governmental or City-endorsed charitable solicitations – In general.*A. Definitions.**(1) In general.*

In this Regulation, the following terms have the meanings indicated.

(2) “Controlled donor”.

“Controlled donor” means any person described in Ethics Code § 6-26(a)(1), (2), (3), or (4).

*(3) “Fiscal sponsor”.**(i) In general.*

“Fiscal sponsor” means the person who is responsible for the custody, accounting, and distribution of donations.

(ii) Exception.

The fiscal sponsor may not be an individual employed by the sponsoring agency.

(4) “Sponsoring agency”.

“Sponsoring agency” means:

- (i) the City agency conducting a solicitation under this Regulation; or
- (ii) if more than one agency is involved, the City agency designated to coordinate the solicitation.

B. General standards for Ethics Board approval.

The prohibition in Ethics Code § 6-26(a) against the solicitation of gifts from controlled donors does not apply to a solicitation if:

- (1) the solicitation is for the exclusive benefit of a governmental or charitable function, program, or activity;
- (2) the program, function, or activity to be benefitted and the proposed solicitation campaign has been endorsed by the Board of Estimates or its designee(s);
- (3) the solicitation is directed at a broad range of potential donors and does not specially target controlled donors;

- (4) the campaign is designed and conducted so as to avoid any suggestion that contributors might receive special access or favored treatment from any City agency or official;
- (5) the proposed solicitation has been approved in advance by the Ethics Board, on written request of the sponsoring agency; and
- (6) the solicitation is conducted in accordance with the terms and conditions of the Ethics Board's approval.

C. Request for approval.

- (1) The sponsoring agency must submit its written request for approval to the Ethics Board at least 45 days before any controlled donor is solicited. (The Ethics Board may waive the 45-day requirement in its discretion.)
- (2) The request must contain the following information:
 - (i) the specific governmental or charitable function, program, or activity for which the solicitation will be made;
 - (ii) the specific purposes to which all receipts will be applied;
 - (iii) when and from whom the endorsement required by subsection B(2) of this Regulation were obtained, and a description of any conditions or limitations imposed on that endorsement;
 - (iv) when, how, and by whom the solicitation will be conducted;
 - (v) the categories of persons to be solicited;
 - (vi) measures to ensure that:
 - (A) the solicitation will be directed at a broad range of potential donors and does not specially target controlled donors; and
 - (B) the campaign will avoid any suggestion that contributors might receive special access or favored treatment from any City agency or official;
 - (vii) the identity of the individual who will be responsible for the custody, accounting, and final distribution of donations;
 - (viii) the aggregate value of the donations sought; and
 - (ix) any other information that the Ethics Board requests.

D. *Report.*

- (1) The sponsoring agency must periodically report solicitation activities to the Ethics Board, as follows:
 - (i) A Final, Cumulative Report must be filed within 30 days after all solicitations have been made and anticipated donations received.
 - (ii) Interim Reports must be filed on the following schedule, depending on the aggregate value of donations sought by the campaign:
 - (A) for campaigns seeking \$50,000 or more in donations, once every 3 months;
 - (B) for campaigns seeking between \$5,000 and \$50,000, once every 6 months; and
 - (C) for campaigns seeking less than \$5,000, only the Final, Cumulative Report is required.
- (2) The report must be filed in the form that the Ethics Board requires.
- (3) The report must contain the following information:
 - (i) all changes in any of the information contained in the request to the Ethics Board or in the Board's approval;
 - (ii) the aggregate amount or value of donations received from all persons;
 - (iii) a list of all donors and the amount or value of their respective donations;
 - (iv) the identity of each controlled donor that was solicited, whether that person donated or not;
 - (v) an accounting of how all donations and other income have been expended; and
 - (vi) any other information that the Ethics Board requires.
- (4) The report must be signed as accurate by the fiscal sponsor, and the data provided in the report must be in a form consistent with generally accepted standards in the practice of accounting.

E. *Public record.*

All requests, approvals or denials, and reports filed under this Regulation are public records, available for public inspection and copying during regular office hours.

(Effective 03/01/10; Amendments to Sections C(2) and D(1), effective 01/01/15; Additions of Sections A(3) and D(4), effective 02/12/20.)