

Commonwealth of Virginia

Chris Piper, Executive Director



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Virginia Conflict of Interest and Ethics Advisory Council

MEMORANDUM

TO: Council Members
FROM: Chris Piper
DATE: September 28, 2015
RE: Formal Advisory Opinions

Suggested Motion for Council: I move that we accept the staff recommendation for formal advisory opinions.

Discussion:

The Virginia Conflict of Interest and Ethics Advisory Council staff recommends the Council adopt the following procedures for formal advisory opinions:

1. The Council will accept requests for formal guidance via mail, telephone, email, or the Council website. All phone conversations with requesters regarding their question will be summarized and recorded on phone record sheets. Phone records, emails, and online request forms will be archived. If released to the public, Council staff will redact all personal information from such records.
2. Anonymous requests for formal advisory opinions will not be accepted. In order for the Council to properly respond to inquiries, valid contact information in the form of a working telephone number or email address must be provided by the individual seeking an opinion. The Council will not begin working on an opinion until the requester provides valid contact information.
3. Council staff will verify that each request for a formal advisory opinion is made by an individual covered by the State and Local Government Conflict of Interests Act (§ [2.2-3100](#) et seq. of the Code of Virginia), the General Assembly Conflicts of Interests Act (§ [30-100](#) et seq.) (hereafter the Acts), or the lobbying laws in Article 3 (§ [2.2-418](#) et seq.) of Chapter 4 of Title 2.2 (hereafter Article 3) or an agency of state or local government. The Council will provide formal advisory opinions only for requests from individuals or agencies covered by such laws.

The Honorable Walter S. Felton, Jr.
The Honorable Janet D. Howell
The Honorable Thomas K. Norment, Jr.

The Honorable Todd Gilbert
The Honorable Jennifer L. McClellan
The Honorable Patricia L. West

Walter C. Erwin
Bernard L. Henderson, Jr.
Sharon E. Pandak

4. A requester must submit his question a minimum of six weeks prior to the next scheduled Council meeting in order to guarantee the Council will consider the matter at that meeting. Questions submitted less than six weeks before a Council meeting may be presented to the Council at the next meeting at the discretion of the Council.
5. Formal advisory opinions will be drafted by Council staff and personal information will be redacted prior to submission to the Council for review.
6. Council staff will provide Council members with drafts of formal advisory opinions a minimum of two weeks prior to the scheduled meeting at which they will be reviewed.
7. After approval by the Council, Council staff will publish formal advisory opinions with any residential address, personal telephone number, or signature redacted on the Council's website. Council staff may also redact other personal information as may be necessary to protect the identity of the person or persons involved.
8. If the Council receives FOIA requests for formal advisory opinions or drafts of formal advisory opinions prior to approval and publication, Council staff will redact personal information prior to producing the requested documents.

Applicable Code (as of July 1, 2015):

§ 30-356. Powers and duties of the Council.

The Council shall:

. . .

5. Furnish, upon request, formal advisory opinions or guidelines and other appropriate information, including informal advice, regarding ethics, conflicts issues arising under Article 3 or the Acts, or a person's duties under Article 3 or the Acts to any person covered by Article 3 or the Acts or to any agency of state or local government, in an expeditious manner. The Council may authorized a designee to furnish formal opinions or informal advice. Formal advisory opinions are public record and shall be published on the Council's website; however, no formal advisory opinion furnished by a designee of the Council shall be published until such opinion has been approved by the Council. Published formal advisory opinions may have such deletions and changes as may be necessary to protect the identity of the person involved. Informal advice given by the Council or the Council's designee is confidential, protected by the attorney-client privilege, and is excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

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