



## City of Rochester

Office Of Public Integrity  
85 Allen Street, Suite 100  
Rochester, New York 14608  
www.cityofrochester.gov

Timothy R. Weir  
Director

January 10, 2019

Ms. Rachel Barnhart  
26 Netherton Road  
Rochester, New York 14609

Dear Ms. Barnhart:

Enclosed are advisory opinions issued by the City of Rochester's Board of Ethics on January 8, 2019.

These advisory opinions were issued in response to your requests for opinions from the Board of Ethics regarding:

- City purchase of 100 copies of "The New Guardians: Policing in America's Communities for the 21<sup>st</sup> Century" authored by Dr. Cedric Alexander. (Opinion # 2018-2)
- Potential conflicts of interest with respect to Deputy Mayor Alexander's outside business activities and his official duties as Deputy Mayor. (Opinion #2018-3)
- Mayor Warren's use of City connected social media. (Opinion #2018-4)
- Use of City resources to produce political advertisements and support political events. (Opinion #2018-5)
- Deputy Mayor Alexander's use of vacation time and use of City staff to conduct personal business. (Opinion #2018-8)

Thank you for bringing these matters before the Board.

Sincerely,

A handwritten signature in blue ink that reads "Timothy R. Weir".

Timothy R. Weir  
Secretary to the Board of Ethics

TRW:dc  
Encls.



**Opinion of the City of Rochester Board of Ethics**  
**Opinion Number 2018-2**  
**November 13, 2018**  
**C17-3**

**Overview**

On 12/20/2017, Rachel Barnhart ("Barnhart") submitted a request ("Request") (C17-3) for an advisory opinion from the Board of Ethics ("Board") of the City of Rochester ("City") concerning a City purchase of 100 copies of "The New Guardians: Policing in America's Communities for the 21<sup>st</sup> Century" authored by Dr. Cedric Alexander. The cost of the books totaled \$1,566 and the books are given away free of charge at a book signing held at local restaurant in July 2016.

**Applicable Code of Ethics Provisions**

Sections of the Code of Ethics alleged to have been violated:

- C.4 *No City officer or employee, acting in the performance of his or her official duties, shall treat, whether by action or omission to act, any person more favorable than it is the custom and practice to treat the general public.*
- C.5 *No City officer or employee shall use or permit the use of city-owned vehicles, equipment, materials or property for the convenience or profit of himself or herself or any other person.*

**Opinion**

The Board determines that based on the subject matter of the book and the author's professional qualifications, its purchase and distribution is consistent with the Mayor's overall initiative of improving the relationship between law enforcement and the community. The Board does not evaluate the value or merits of this particular purchase and distribution and also notes the purchase occurred prior to Dr. Alexander becoming Deputy Mayor of the City.

It is the opinion of the Board that the City's purchase of Dr. Alexander's book does not violate the referenced provisions of the Code of Ethics.

*(Ginett, Lee, Scott, Sierra, Steinbrenner, Weir)*

**Opinion of the City of Rochester Board of Ethics**  
**Opinion Number 2018-3**  
**November 13, 2018**  
**C17-4**

**Overview**

On 12/26/2017, Rachel Barnhart ("Barnhart") submitted a request ("Request") (C17-4) for an advisory opinion from the Board of Ethics ("Board") of the City of Rochester ("City") concerning potential conflicts of interest with respect to Deputy Mayor Alexander's outside business activities and his official duties as Deputy Mayor.

**Applicable Code of Ethics Provisions**

Sections of the Code of Ethics alleged to have been violated:

- C.1 *No City officer or employee shall have any employment, or engage in any business or commercial transaction, or engage in any professional activity, or incur any obligation, as a result of which, directly or indirectly, he or she would have an interest that would impair his or her independence of judgment or action in the performance of his or her official duties or that would be in conflict with the performance of his or her duties.*
  
- C.5 *No City officer or employee shall use or permit the use of city-owned vehicles, equipment, materials or property for the convenience or profit of himself or herself or any other person.*

**Opinion**

The Board determines that insufficient evidence has been presented that Deputy Mayor Alexander carried out outside business activities on City time or that his outside business activities impaired his ability to independently perform his official duties. The Board noted that the Mayor is the ultimate appropriate authority to evaluate the work performance of her direct subordinates and supervise their daily work activities.

It is the opinion of the Board that the Deputy Mayor does not violate the referenced provisions of the Code of Ethics with respect to his outside business interests.

*(Ginett, Lee, Scott, Sierra, Steinbrenner, Weir)*

**Opinion of the City of Rochester Board of Ethics  
Opinion Number 2018-4  
November 13, 2018  
C18-1**

**Overview**

On 1/01/2018, Rachel Barnhart ("Barnhart") submitted a request ("Request") (C18-1) for an advisory opinion from the Board of Ethics ("Board") of the City of Rochester ("City") concerning Mayor Warren's use of City connected social media. Specifically, Mayor Warren posted negative comments on Facebook commenting on Barnhart's requests for City records pursuant to New York State's Freedom of Information Law (FOIL).

**Applicable Code of Ethics Provisions**

None are cited in the Request. Barnhart alleges only that the Mayor "abused her power by attempting to silence a critic of her administration through defamation, intimidation and bullying."

**Opinion**

The Board determines that no violation of any specific provision of the Code of Ethics is cited and therefore the issue is beyond the scope of the Board's authority to consider.

*(Ginett, Lee, Scott, Sierra, Steinbrenner, Weir)*

**Opinion of the City of Rochester Board of Ethics**  
**Opinion Number 2018-5**  
**November 13, 2018**  
**C18-2**

**Overview**

On 2/02/2018, Rachel Barnhart ("Barnhart") submitted a request ("Request") (C18-2) for an advisory opinion from the Board of Ethics ("Board") of the City of Rochester ("City") concerning the use of city resources to produce political advertisements and support political events. The complaint referenced analysis conducted of spending and email records which indicate that City resources are allegedly used to produce political ads paid for by Mayor Warren's campaign, Friends of Lovely Warren and political action committee, Warren for a Stronger Rochester PAC. Examples provided in the complaint primarily referenced event advertisements placed with local religious institutions.

**Applicable Code of Ethics Provisions**

Sections of the Code of Ethics alleged to have been violated:

- C.5 *No City officer or employee shall use or permit the use of city-owned vehicles, equipment, materials or property for the convenience or profit of himself or herself or any other person.*

**Opinion**

The Board determines the information cited in the complaint is insufficient to find that the Mayor or her staff has knowingly used City resources for convenience or profit, and notes additionally that the matters referenced are de minimis in scope in nature.

The Board cautions, however, that clear lines should be established between City business and political campaign activities so as to not give rise to allegations of inappropriate conduct.

The Board suggests the following recommendations for the City to consider:

- Strengthen employee training regarding participation in campaign activities.
- Minimize using City staff as key members of campaign committees.
- Provide mechanisms for City employees to report potential conflicts involving political campaigns.

It is the opinion of the Board that the Mayor or her staff are not in violation of the referenced provisions of the Code of Ethics with respect to the political advertisements cited.

*(Ginett, Lee, Scott, Sierra, Steinbrenner, Weir)*

**Opinion of the City of Rochester Board of Ethics**  
**Opinion Number 2018-8**  
**November 13, 2018**  
**C18-6**

**Overview**

On July 26, 2018, Rochester For All submitted a complaint with two parts regarding Deputy Mayor Cedric Alexander. The first complaint was regarding the Deputy Mayor using unearned vacation time, and the second was the use of City staff to conduct personal business. The second complaint noted that the Deputy Mayor directed his executive assistant to conduct personal business.

**Applicable Code of Ethics Provisions**

Section of the Code of Ethics alleged to have been violated for the first complaint:

*C.4 No City officer or employee, acting in the performance of his or her official duties, shall treat, whether by action or omission to act, any person more favorable than it is the custom and practice to treat the general public.*

Section of the Code of Ethics alleged to have been violated for the second complaint:

*C.5 No City officer or employee shall use or permit the use of city-owned vehicles, equipment, materials or property for the convenience or profit of himself or herself or any other person.*

**Opinion**

After reviewing the City's "Vacation for Executive New Hires" the Board determined that Deputy Mayor Alexander was not treated more favorable than others with respect to vacation time awarded during April 24, 2017 and December 22, 2017. This policy "provides immediate paid vacation time availability to Executive level new hires in their first six months of employment to aid in their transition." Specifically, the policy allows for six months of vacation accruals to be made available to executive level employees as of their first day of employment. Based on this policy, the vacation time awarded was appropriate and consistent with City policy.

The Board also agreed that the Deputy Mayor's directives to his assistant regarding his personal travel was di minimis in nature and infrequent. In addition, no information was available to indicate the Deputy Mayor pressured his assistant to make the personal travel arrangements referenced in the complaint.

The Board expressed serious concern over the appropriateness of such requests and strongly recommended that managers avoid enlisting their staff to conduct any personal business on their behalf. The Board agreed all personal business should be conducted outside business hours and not involve the use of city staff or other city resources.

The Board determines that the Deputy Mayor is not in violation of the Code of Ethics in these two matters.

**(Ginett, Scott, Steinbrenner, Weir)**