

CITY OF ALBUQUERQUE
BOARD OF ETHICS AND CAMPAIGN PRACTICES

AO 01-2021

ADVISORY OPINION

Manny Gonzales III is a candidate for mayor. On September 15, 2021, he requested an advisory opinion regarding whether he is permitted to transfer \$36,000 from the campaign committee that holds funds he raised in his past campaign for Sheriff of Bernalillo County to the committee he established for his current mayoral campaign. Pursuant to Section 3(h) of the City Code of Ethics, “[t]he Board may issue to candidates, officials, and lobbyists advisory opinions concerning the Code of Ethics, the Election Code, the Open and Ethical Elections Code, and rules promulgated by the Board and/or the City Clerk.”

The Board does not interpret this as a grant of authority to advise those requesting advisory opinions on legal questions outside whether contemplated conduct complies with the listed sources of City law as codified. Rather, the Board’s advisory opinions are meant to address matters related to the interpretation of the election laws and rules Albuquerque has enacted as part of its important home rule authority.

As set forth in the request for an advisory opinion, what the Gonzales campaign is actually seeking, and acknowledges in its letter, is an opinion on

whether the restrictions in the City Elections Code and accompanying Regulations are constitutional, under court decisions that have held similar restrictions in State law to be unconstitutional. The Board of Ethics cannot answer that question. The Board has only limited jurisdiction, and is not in a position to advise a candidate on such matters. Mr. Gonzales is, of course, free to request an additional opinion on questions regarding the Code of Ethics, the Election Code, the Open and Ethical Elections Code, and rules promulgated by the Board and/or the City Clerk, which the Board will timely address.

Dated this 29th day of October, 2021.

/s/ Andrew G. Schultz

Andrew G. Schultz
Chair, Board of Ethics and Campaign Practices