

**BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
FRANK D. REEVES MUNICIPAL BUILDING
1015 HALF STREET, S.E., SUITE 775
WASHINGTON, D.C. 20003
(202) 671-0550**

IN THE MATTER OF:

Brooke Pinto and
Re-Elect Brooke Pinto 2024
Principal Campaign Committee
Respondents

Docket No.: OCF FI 2023-004

ORDER

I. Introduction

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel pursuant to a complaint filed by Edward Hanlon and docketed December 29, 2023. Mr. Hanlon alleged that, the Ward 2 Council Member Brooke Pinto and the Re-Elect Brooke Pinto 2024 Principal Campaign Committee, used government resources to support her 2024 Re-Election Political Campaign in violation of the D.C. Official Code § 1-1163.36(a) and 3 DCMR § 3301.1(a).

As evidence of the violation, Mr. Hanlon stated that pursuant to the Freedom of Information Act, he secured information that indicated that on Labor Day Weekend 2023, “at government expense, Council Member Brooke Pinto mailed out an election campaign style 6 x 9 hi-gloss 2-sided post card to all Ward 2 registered voters aged 50 or over,” using the addresses from a Board of Elections list of Registered Voters from Ward.

2. He additionally alleged that the Councilmember violated the D.C. Council’s Code of Conduct, which authorizes the uses of official mail because the information included in the postcards is not consistent with the provisions outlined in Sections X(f) and(h).

On December 29, 2023, the Office of Campaign Finance acknowledged Mr. Hanlon’s complaint and transmitted a copy of the complaint and acknowledgement to Councilmember Pinto.

II. Findings of Fact

It is alleged that the Councilmember Brooke Pinto violated the following provisions of the D.C. Campaign Finance statute and its implementing regulations: D.C. Official Code §1-1163.36 (a) provides in pertinent part that:

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

“(a) Except as provided in [\[part C-i of this subchapter\]](#), no resources of the District of Columbia government, including the expenditure of funds, the personal services of employees during their hours of work, and nonpersonal services, including supplies, materials, equipment, office space, facilities, and telephones and other utilities, shall be used to support or oppose any candidate for public office, whether partisan or nonpartisan, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment referendum conducted in accordance with [§ 1-203.03](#).

(b)(1) This section shall not prohibit the Chairman and members of the Council, the Mayor, the Attorney General, or the President and members of the State Board of Education from expressing their views on a District of Columbia election as part of their official duties.

(2) This subsection shall not be construed to authorize any member of the staff of the Chairman and members of the Council, the Mayor, the Attorney General, or the President and members of the State Board of Education, or any other employee of the executive or legislative branch to engage in any activity to support or oppose any candidate for public office, whether partisan or nonpartisan, an initiative, referendum, or recall measure during their hours of work, or the use of any nonpersonal services, including supplies, materials, equipment, office space, facilities, telephones and other utilities, to support or oppose an initiative, referendum, or recall matter.

It is also alleged that Councilmember Pinto violated Title 3 of the District of Columbia Municipal Regulations (3DCMR) §3301 which provides in pertinent part that:

3301.1 No District of Columbia government resources shall be used to support or oppose any of the following:

- (a) A candidate for elected office, whether partisan or nonpartisan; or
- (b) An initiative, referendum, or recall measure, or a charter amendment referendum.

3301.2 Resources of the District of Columbia government shall include, but not be limited to, the following:

- (a) The personal services of employees during their hours of work; and
- (b) Nonpersonal services.

3301.3 Nonpersonal services shall include, but not be limited to, the following:

- (a) Supplies;

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

- (b) Materials;
- (c) Equipment;
- (d) Office space;
- (e) Facilities;
- (f) Utilities, for example, telephone, gas, and electric services; and
- (g) District government accounts, including, but not limited to the following:
 - (1) Email accounts;
 - (2) Social media accounts;
 - (3) Webpages; and
 - (4) Internet domains.

3301.4 Prohibited use, whether intended or unintended, of District government accounts, prescribed under § 3301.3(g), shall include, but not be limited to, the following:

- (a) Linking to or sharing a link to an elected candidate's or political group's website, whether partisan or nonpartisan, advocating in support or opposition of the candidate elected for office or political group; or
- (b) Tweeting or retweeting a link to an article of a candidate elected for office or political group, whether partisan or nonpartisan, in support or opposition to the candidate elected for office or political group, or
- (c) Linking to or sharing a link to a post in a social media account of a candidate elected for office or a political group; and
- (d) Posting a picture, photograph, or cartoon to a District government account of a candidate elected for office or political group, in support or opposition of the candidate or political group.

3301.5 With exception to the members of the ANC Commission, prohibition set forth in § 3301.3, shall not apply to the following public officials who may, as part of their official duties, express their views on a District of Columbia election:

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

- (a) The Mayor;
- (b) The Chairman of the Council;
- (c) Each Member of the Council;
- (d) The Attorney General;
- (e) The President of the State Board of Education; and
- (f) Each Member of the State Board of Education.

On February 21, 2024, Councilmember Pinto filed a response in which she stated the following:

“The complaint alleging that sending a mailer to constituents as a violation of campaign rules is baseless. DC Council offices are permitted to send out mail to constituents (see below)

- DC Council Code of Ethics: PR25-0001b X(d)(1) provides the prohibition on sending out an official mailer from a government office 90 days before any election. See link to code here: [PR25-0001b.pdf \(dccouncil.gov\)](#). This mailer was sent out in September, 2023. The next election was eight months away.
- Please see below the full citation for official mail rules. All rules were complied with in the mailer sent out in consultation with our Council General Counsel’s office.
- The photograph of myself and neighbors at the Pride Parade directly relates to my legislation to waive fees associated with the Pride Parade.

X. OFFICIAL MAIL RULES

(d) PROHIBITED USES OF OFFICIAL MAIL BY ELECTED OFFICIALS

(1) A Councilmember may not mail, as official mail, a 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.

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

(2) A Councilmember may mail, as official mail, newsletters; provided, that these materials do not contain any of the following:

- (A) Autobiographical articles;
- (B) Political cartoons;
- (C) Reference to past or future campaigns;
- (D) Announcements of filings for reelection;
- (E) Announcements of campaign schedules;
- (F) Announcements of political or partisan meetings;
- (G) Reports on family life;
- (H) Personal references that are included for publicity, advertising, or political purposes;
- (I) Pictures of the official members with any partisan label such as "Democrat," "Republican," "Statehood Party," or any other label that purports to advertise the member rather than to illustrate the accompanying text;
- (J) Articles about community events that are unrelated to official government business; or
- (K) Reports on non-official activities of the Councilmember 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.

(3) A Councilmember may not use official mail to solicit directly or indirectly funds for any purpose.

(4) 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, and business of the member.

(5) A Councilmember may not mail, as official mail, cards or other materials that express holiday greetings from the Councilmember or the Councilmember's family

VI. USE OF GOVERNMENT RESOURCES

(a) **GENERALLY.** Employees shall not:

(1) Use Council time or government resources for purposes other than official business or other government-approved or government-sponsored activities, with the exception of de minimis use that does not interfere with an employee's official duties and responsibilities, including the incidental use of Council time or resources for purposes of scheduling;

(2) Order, direct, or request an employee to perform, during regular working hours, any personal services not related to official Council functions and activities, with the exception of incidental use of Council time or resources for purposes of scheduling; or

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

(3) Use or permit the use of government resources to support or oppose any candidate for elected office, to promote a political committee, or to support or oppose any initiative, referendum, or recall measure.

(d) DEFINITIONS. For the purposes of this Rule, the term:

(1) “Government Resources” means any property, equipment, or material of any kind, including that acquired through lease, and the personal services of an employee during his or her hours of work.

(2) “Usual and customary constituent services” includes an employee’s representational activities, such as advocacy, communications, inquiry, oversight, and other actions, made on another person’s behalf; provided, that the employee does not, directly or indirectly:

(A) Threaten reprisal or promise favoritism for the performance or nonperformance of another person’s duties; or From DC Municipal Regulations - Elections and Ethics [3 DCMR Title 3](#)

3301 PROHIBITION ON USE OF GOVERNMENT RESOURCES FOR CAMPAIGN-RELATED PURPOSES

3301.1 No District of Columbia government resources shall be used to support or oppose any of the following:

- (a) A candidate for elected office, whether partisan or nonpartisan; or
- (b) An initiative, referendum, or recall measure, or a charter amendment referendum.

3301.2 Resources of the District of Columbia government shall include, but not be limited to, the following:

- (a) The personal services of employees during their hours of work; and
- (b) Nonpersonal services.

3301.3 Nonpersonal services shall include, but not be limited to, the following:

- (a) Supplies;
- (b) Materials;
- (c) Equipment;
- (d) Office space;
- (e) Facilities;
- (f) Utilities, for example, telephone, gas, and electric services; and
- (g) District government accounts, including, but not limited to the following:
 - (1) Email accounts;
 - (2) Social media accounts;

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

- (3) Webpages; and
- (4) Internet domains.

3301.4 Prohibited use, whether intended or unintended, of District government accounts, prescribed under § 3301.3(g), shall include, but not be limited to, the following:

(a) Linking to or sharing a link to an elected candidate's or political group's website, whether partisan or nonpartisan, advocating in support or opposition of the candidate elected for office or political group; or

(b) Tweeting or retweeting a link to an article of a candidate elected for office or political group, whether partisan or nonpartisan, in support or opposition to the candidate elected for office or political group, or

(c) Linking to or sharing a link to a post in a social media account of a candidate elected for office or a political group; and

(d) Posting a picture, photograph, or cartoon to a District government account of a candidate elected for office or political group, in support of opposition of the candidate or political group.

3301.5 With exception to the members of the ANC Commission, prohibition set forth in § 3301.3, shall not apply to the following public officials who may, as part of their official duties, express their views on a District of Columbia election:

- (a) The Mayor;
- (b) The Chairman of the Council;
- (c) Each Member of the Council;
- (d) The Attorney General;
- (e) The President of the State Board of Education; and
- (f) Each Member of the State Board of Education.

III. Conclusions of Law

The Complainant has alleged that Councilmember Pinto violated § 1-1163.36(a) and 3 DCMR § 3301.1(a) by mailing “an election campaign style” 6x9 inch 2-sided post cards to Ward 2 voters on the Labor Day Weekend 2023, after she had launched her Re-Election campaign, using addresses from a Board of Elections list of Ward 2 voters. However, the Complainant did not allege that the content of the post cards included any of the prohibited information listed in the D.C. Council's Code of Ethics or contained campaign messaging or political statements which

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

solicited support for the Councilmember's campaign, nor did he allege that the post cards were mailed during the prohibited period of 90 days prior to an election, or provide evidence that the list used for addresses, if any, was in fact a voter list purchased from the Board of Elections.

The investigation of this matter included the examination of the Documents submitted in support of the Complaint, including the postcard at issue, and the invoice dated July 19, 2023, for the purchase of the mailer, and the Response of the Respondent to the allegations of the Complaint; the submission of an inquiry to the Secretary of the Council of the District of Columbia regarding the procedure for purchases authorized by the Council; and the search of the Lists of Expenditures by Councilmember Pinto stated in the Reports of Receipts and Expenditures filed by the Committee since the initiation of the campaign. The Secretary confirmed that the proper procedure was followed in connection with the purchase of the T Shirts in question, the search by the OCF Fair Elections Division of the Expenditures reported in the financial reports filed by the Principal Campaign Committee of the Councilmember organized in support of her Re-election to Office did not disclose the purchase by the Committee of a voter list from the Board of Elections, and the examination of the postcard at issue did not find any campaign messaging, political statements, or language which otherwise solicited support for the Councilmember's campaign.

While the photograph of Councilmember Pinto and other individuals wearing T-Shirts with the Councilmember's name displayed may have appeared on one side of the post cards, the T-Shirts did not include any campaign messaging or political statements which solicited support for the Councilmember's campaign nor was any evidence submitted that the T-Shirts were worn during any campaign events.

Based upon the thorough investigation conducted by the Office of the General Counsel, the Office of Campaign Finance (OCF) has determined that the Complainant has not provided sufficient evidence to establish that violations of the Campaign Finance Act were committed by Council Member Pinto or her staff regarding the purchase of and use of the T-Shirts. However, the

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

allegations in question appear to primarily involve the DC Council’s Code of Conduct and pursuant to that determination, the OCF contacted the DC Council’s General Counsel. The General Counsel for the DC Council provided a response on March 12, 2024, in which she indicated that the Office of the General Counsel only advises according to the Code of Conduct and does not conduct investigations into conduct nor reprimand. Accordingly, the Office of Campaign Finance did not find sufficient evidence to sustain the allegations that violations of the Campaign Finance Act were committed by Councilmember Brooke Pinto or her staff.

Nonetheless, based upon the Response of the General Counsel to the Council, the Office of Campaign Finance has determined that any issues concerning the Code of Conduct should be referred to the Board of Ethics and Government Accountability (BEGA) for further review .

IV. Recommendation

In view of the foregoing and the information included in the record, I hereby recommend that the Director Dismiss the Complaint and refer the matter to the Board of Ethics and Government Accountability (BEGA).

03/22/2024
Date

/s/ William O. SanFord
William O. SanFord
Hearing Officer

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

V. Order

Based upon the foregoing findings of fact and conclusions of law, it is this the 22nd day of March 2024:

ORDERED, that the Complaint before the Office of Campaign Finance alleging that Council Member Brooke Pinto violated the Campaign Finance Act is hereby Dismissed, and referred to the Board of Ethics and Government Accountability for further review.

03/22/2024

Date

Cecily E. Montgomery

Cecily E. Collier-Montgomery
Director

IN THE MATTER OF: Brooke Pinto

OCF FI 2023-004

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order on the Honorable Brooke Pinto by email at brookepinto@gmail.com and Anthony Field by email at anthony@brookepinto2024.com on March 22, 2024.

NOTICE

Any party adversely affected by any Order of the Director may: (1) file a Motion for Reconsideration (Motion) with OCF within five (5) days after receipt of an Order, provided that, relevant evidence was omitted from consideration at hearing (3DCMR §3709.13) (May 2015); or obtain review of the Order by filing a request for a **hearing de novo** with the Board of Elections within fifteen (15) days from the date of issuance of an Order. Any fine imposed by the Director, pursuant to 3DCMR §3711.2, shall become effective on the 16th day following the issuance of a decision and order (3DCMR§3711.6); provided that, the Respondent does not request a **hearing de novo**, pursuant to 3DCMR §3709.11. Fines imposed shall be paid within ten (10) days of the effective date of the issued Order of the Director. Make a payment by check or money order payable to the District of Columbia Treasurer. Send payment to the Office of Campaign Finance, 1015 Half Street, SE, Suite 775, Washington, D.C. 20003.