City of Philadelphia
Board of Ethics

Honesty | **Integrity** | **Transparency**

2011 Annual Report
June 2012

City of Philadelphia
Board of Ethics

Honesty, Integrity, Transparency

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Message from the Chair
An Independent Ethics Board--Is It Really?

One of the most compelling factors underlying the overwhelming support by the voters of Philadelphia in June 2006 of a Charter change to create the Board of Ethics was that it would have independence from the other branches of City government. It was felt that clear structural independence was necessary because the Board has the charge to administer and enforce various Public Integrity Laws that apply to all City officers and employees, including elected officials of the Executive and Legislative Branches. Independence was deemed crucial to the objective that the Board exercise its authority unfettered by political considerations or administrative roadblocks.

Over the last year a confluence of new events and some continuing obstacles have called into question the viability of the Board's independence.

Implicit in being free from restraints is financial viability. Without the money to hire the staff, purchase the services, and pay the consultants to allow us to actually do the work to exercise the Board's statutory mandates, our theoretical independence is only illusory. Once again, this past year, despite a plea for additional funding to implement the City's first-ever lobbyist registration law and an expanded Campaign Finance Law, we remain 20% reduced from our 2006 start-up budget of $1 million. To avoid the self-defeating policy of requiring the Public Integrity watchdog to base its survival on seeking adequate funding from those it oversees, other municipal and state ethics agencies receive annual budget appropriations based upon a statutory fixed formula. A fixed formula avoids the potential of economic retaliation for unpopular agency activity and allows the agency the privilege to make unpopular decisions.

Symbolically, independence is enhanced by physical separation. That is why the originally installed Board sought and secured from the City the decision to occupy offices outside City buildings. Unfortunately, six years of physical separation is about to end. In 2012, with the original lease expiring, the Department of Public Property, over our objections and presumably in a cost-saving measure, will relocate the Board in a City building at 1515 Arch Street.

Because of the nature of the Board's Charter-mandated charge to administer and enforce the ethics laws, including pursuing confidential investigations and issuing confidential advisory opinions, much of the staff's work is highly sensitive and confidential. For this reason, since its inception, the Board has understood that it was inherently outside civil service, and so operated. This year the City Law Department challenged that principle that no explicit ruling from the Civil Service Commission was necessary, and urged the Board to seek a ruling from the Commission that it was entitled to blanket exemptions for its staff. The Board met with the Commissioners contending that the enabling legislation creating the Board, the nature of its responsibilities and its uniqueness were antithetical to civil service. The Commission granted the requested blanket exemptions conditioned on its jurisdiction to do so. Inexplicably, the Law Department reversed itself and concluded that the Commission had no discretion to grant the exemptions.

While none of these challenges alone destroys the ability of the Board to act fairly, openly, transparently and with independence, cumulatively they create a disturbing trend for the Board's future viability.

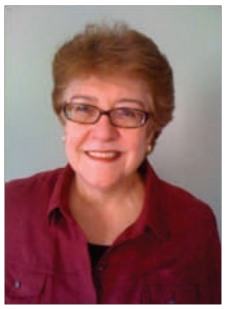
Finally, I want to acknowledge the service of departing Board member Damone Jones and welcome new members Judge Phyllis Beck and Michael Reed. On behalf of the Board, our continuing gratitude is extended to pro bono counsel, Cheryl Krause, and her colleagues at Dechert for their continuing representation in litigation challenging the Board's authority. The staff, again this year, should be acknowledged for their hard work under difficult under-resourced circumstances.

Richard Glazer, Chair
Philadelphia Board of Ethics

Current Board Members

Richard Glazer, Esq., a founder of Cozen O'Connor, one of the 100 largest law firms in the United States. Mr. Glazer serves as Chair of the Board of Ethics. He has served on the boards of a number of local non-profit organizations, including the Committee of Seventy and also the Public Interest Law Center. He has recently accepted the position of Executive Director of the Pennsylvania Innocence Project. Mr. Glazer's term on the Board will run until November 16, 2012.

William H. Brown, III, Esq., senior counsel at the law firm of Schnader, Harrison, Segal and Lewis. A specialist in labor and employment law, he is a former chairman of the U.S. Equal Employment Opportunity Commission. He chaired the Philadelphia Special Investigation Commission investigating the MOVE tragedy of 1985 and served as a deputy district attorney in Philadelphia and chief of the office's Fraud Unit. Mr. Brown's term runs until November 2014.



Sanjuanita González, Esq., Managing Partner at Cohen, Fluhr & González, P.C., a Center City Philadelphia law firm with practices in the areas of Immigration and Social Security Disability law. Ms. González is a former President of the Council of Spanish Speaking Organizations (Concilio), the oldest Latino community based organization in Pennsylvania. She previously served on the Board of Governors of the Philadelphia Bar Association. Ms. González is a member of the American Immigration Lawyers Association; the Philadelphia Bar Association; the Hispanic Bar Association; and the National Organization of Social Security Claimants' Representatives. She is the

Co-Chair of the Social Security Disability Committee of the Philadelphia Bar Association. Ms. González 's term runs until November 2013.

Michael H. Reed, Esq., a partner with Pepper Hamilton LLP. Mr. Reed is a 1969 graduate of Temple University (B.A. Pol. Sci) and received his J.D. from Yale Law School in 1972. He has been associated with the firm of Pepper Hamilton LLP since 1972 and became a partner in 1980. He concentrates his practice in corporate restructuring and bankruptcy law. Mr. Reed is a past President of the Pennsylvania Bar Association and is the State Delegate for Pennsylvania in the ABA House of Delegates, having previously served on the ABA's Board of Governors. Mr. Reed was previously a member of the Pennsylvania Judicial Inquiry and Review Board and chaired the Professional Guidance (Ethics) Committee of the Philadelphia Bar Association. Mr. Reed currently serves as Vice-Chair of the Board of Ethics and his term runs until November 2015.

Judge Phyllis W. Beck (Ret.), retired judge and chairman and chief financial officer of the Independence Foundation. Judge Beck served as vice dean of the University of Pennsylvania Law School from 1976 to 1981, when she was appointed as the first woman to serve on the Superior Court. She has also served as general counsel to the Barnes Foundation. As chair of the Governor's Commission on Judicial Reform, Judge Beck authored a 260-page report recommending major structural reform in Pennsylvania's Judicial System. The American Judicature Society awarded her the Herbert Harley Award for her leadership role in the field, especially her work with Pennsylvanians for Modern Courts. Judge Beck was a founding member and president of Philadelphia Futures, an organization devoted to mentoring children. Judge Beck's term on the Board runs until November 2012.

Message from the Executive Director

In its fifth year of existence, the Board still struggled to establish and maintain the City's new ethics program. Limited staff and a reduced budget combined with vastly increased responsibilities and continuing legal attacks have halted the Board's growth and made it more difficult to fulfill its mandates. At some point, the City needs to recognize that Philadelphia's nascent reform effort may not be sustainable.

The Controller's first Auditor's Report found that the Board had yet to reach full staffing; *even under a startup scenario* and that a lack of resources could "imperil" its mission. Those are startling findings for a new City agency with a mandate to administer, interpret and enforce the City's expanding public integrity laws. Regrettably, the

Controller's warning has gone unheeded.

That Auditor's Report was for fiscal years 2008 and 2009 and was issued in 2010. During the audit period, the Board had a staff of only seven and a reduced budget of $810,000. In 2011- *three calendar years after the beginning of the audit period* - the Board *still* had the same reduced budget of $810,000 and only one more staff member than it had three years earlier. While the Board's staff and resources have remained limited since its beginnings, its responsibilities increased significantly in 2011.

As described in this Annual Report, the Board spent considerable time in 2011 preparing to implement the City's new electronic lobbying disclosure and reporting law. This work included promulgating an implementing Regulation that that drew considerable public comment and is 32 pages long. The lobbying law was passed in 2010 and was supposed to become effective in mid-2011, but a legal challenge and a lack of funding to build the required electronic filing system and database – which must be accessible to the public – have further delayed implementation.

The Board ultimately chose to accept paper filings rather than delay implementation of the law any further, with assurances from the Office of Innovation and Technology (OIT) that one of its vendors would develop a functioning electronic filing system by March of 2012. That vendor failed to deliver on that promise, forcing the OIT and the Board to abandon that attempt to create an electronic filing system. Now, halfway through 2012, there is no electronic filing system that is searchable by the public, nor is there any indication of whether or when there might be such a system.

When the Controller's Report concluded that the Board had not reached full staffing, even in a startup scenario and that a lack of resources could imperil the Board's mission, it did not consider the impact of the City's new lobbying law on the Board. With essentially the same staff and resources that the Board had before it was assigned the task of implementing, administering and enforcing that law, the impact has been substantial.

The Board decided that the public policy of the new lobbying law – to give the public access to information about paid efforts to influence City actions – was critical to government transparency and therefore should not be ignored. Accordingly, the Board chose to make limited lobbying-related information and documents available to the public online. While this choice to implement a public disclosure law even without its required electronic filing system in place ultimately gives the public access to lobbying information, it imposes even greater demands on Board staff compared to an electronic system. Staff must process paper filings, make them available for public inspection, prepare lists of registered lobbyists, lobbying firms and principals, electronically scan expense reports, and finally post the lists and images on the Board's website. Posting also requires assistance from the OIT.

This extra staff work must be repeated monthly to update the lists of registered lobbyists, firms and principals, and every quarter when principals file expense reports. With no additional staff or resources, this additional work makes it more difficult for the Board's very small staff to fulfill its other, significant obligations. The same six staff members, who administer, enforce and provide training on the Ethics Code, Campaign Finance Law, political activity restrictions and financial disclosure requirements, must now absorb the new responsibilities created by the

lobbying law. At the same time, the Board continues to defend itself against lawsuits pending in state court that challenge both its authority and the way it operates. These suits have dragged-on for years, consumed hundreds of hours of precious staff time and might continue to do so for years to come. The outcome of these existential threats to the Board remains uncertain.

The Board had a remarkably successful launch from what was basically a "crash start" five years ago, and I am very proud of that success. However, to build on that initial success and to fulfill its expanded mandates, the Board desperately needs more staff and resources. Without more staff and resources for the Board, Philadelphia may not be able to sustain the robust ethics program that was planned by City government, overwhelmingly approved by voters in 2005, and expanded significantly in 2010. Nevertheless, our staff remains enthusiastic about its potential to bring positive change to City government and to promote honesty, integrity and transparency in Philadelphia.

J. Shane Creamer, Jr.
Executive Director

Board of Ethics Staff

J. Shane Creamer, Jr., has been Executive Director to the Philadelphia Board of Ethics since it was reconstituted in 2007. Previously, he served as the Executive Director of the advisory Board of Ethics, and was Assistant Secretary of Education and Assistant Managing Director for the City of Philadelphia. Before joining City government, he was a partner with Duane, Morris & Heckscher. Mr. Creamer currently serves as a member of the Steering Committee of the Council on Governmental Ethics Laws (COGEL). A Philadelphia native, Mr. Creamer is a graduate of Gettysburg College and Villanova University School of Law.

Evan Meyer became General Counsel to the Board of Ethics in August 2007. He holds a B.A. from Kent State University and an M.A. in English from Temple University. Mr. Meyer received his J.D. in 1985 from Temple, where he was an editor of the law review. He was the administrative law clerk for the Hon. Phyllis W. Beck of the Superior Court before joining the Law Department in September 1987, where he worked closely with the Solicitor and wrote legal opinions interpreting federal, state, and local law on a wide variety of topics. From 1987 to 2005 Evan served as counsel to the $5 billion Municipal Retirement System. Prior to his appointment as the Board's General Counsel, Mr. Meyer served as counsel to the City's Mayoral advisory Board of Ethics from 1989 to 2006.

Nedda Gold Massar is Deputy Executive Director of the Board of Ethics. Prior to her appointment to that position in November 2007, for more than 21 years she was a staff member of the New Jersey Election Law Enforcement Commission (ELEC) where she served ELEC as a staff attorney, the Director of the Gubernatorial Public Financing Program, Deputy Legal Director, and Legal Director. Ms. Massar is a past president of the Council on Governmental Ethics Laws (COGEL). She is a graduate of the University of Pennsylvania and Rutgers-Camden School of Law.

Tina Formica has been the Board's Administrative Assistant since March of 2007. A Philadelphia native, she graduated from St. Hubert's High School and has worked in City government since 1997 with the Law Department, Mayor's Office, and City Council.

Michael J. Cooke, Director of Enforcement, joined the Board in April 2008. Mr. Cooke was formerly an associate with the firm of Burke O'Neil in Philadelphia. After receiving his undergraduate degree from the University of the South in Sewanee, Tenn. and his law degree from Northeastern University in his native Boston, he came to Philadelphia to work with the Pennsylvania Prison Society.

Maya Nayak joined the Board as Associate General Counsel in May 2008. She works with General Counsel Evan Meyer and has played a key role in the Board's expanded training efforts. Ms. Nayak holds undergraduate and law degrees from Yale. She was a litigation associate with Hangley, Aronchick, Segal and Pudlin and was a law clerk to the Honorable Berle M. Schiller in the U.S. District Court for the Eastern District of Pennsylvania.

Elizabeth Baugh, Information Specialist, joined the Board in December 2010. A career librarian, Ms. Baugh was previously director of the Northampton Township Free Library in Bucks County and manager of the Learning Resource Center of the Center City Campus of Strayer University. She is a native of Suffolk, Va., and holds a bachelor's degree in English from Christopher Newport University in Newport News, Va.; a master's degree in education from Old Dominion University in Norfolk, Va.; and a master's degree in library and information science from the University of South Carolina.

Hortencia Vasquez, clerical assistant, joined the Board in 2009. A native of the Virgin Islands, she came to Philadelphia six years ago and attended Cite Business School, taking computer-related courses. Before joining the Board, she was an intern with the Police Advisory Commission. She is bilingual in Spanish and English.

2011—Making Bricks Without Straw—An Overview

In its third straight year on a budget reduced from the original Charter mandate, but with dramatically increased responsibilities and challenges, for the Board of Ethics 2011 was the year of "Making Bricks without Straw." In the early days of the Board Shane Creamer used to say "We are building the plane as we are flying it." In 2011, we were trying to keep the plane in the air while parts were being shot off.

We are proud of a number of instances in which the news media has recognized our contributions to public integrity. In its editorial on December 27, 2011, the Daily News listed "the year's best and worst uses of taxpayer money." The editorial listed the $810,000 appropriated to the Ethics Board as one of four examples of "well-spent" taxpayer money, because the Board not only enforced the campaign finance law, but also "took on the daunting task of writing regulations for lobbyists in the city."

Former Daily News reporter Dave Davies, in his blog on NewsWorks on December 13, 2011, cited one of the Board's settlements as "another example of why the work of Philadelphia Board of Ethics is one of the most inspired developments I've seen in covering 30 years of government and politics in this town."

Nevertheless, we are forced to try to keep this "inspired development" going under increasing pressure, with diminishing resources.

In essence, the Board was faced with implementing a huge new, unfunded, mandate (on which we were immediately sued), while continuing to defend three different lawsuits that required significant staff time, reviewing briefs, providing documents, and preparing for depositions. These concerns are discussed below.

Lobbying—Regulation 9

The Board's efforts to implement the City's new lobbying law were a major focus of our work in 2011. Several members of our staff of eight were constantly involved in this project and it had a tremendous impact on our other responsibilities.

To begin with, after months of drafting, Board staff presented a completely new Lobbying Regulation No. 9 to the Board in May. It was approved for public comment and a public hearing was held on June 15th. Comments received at the public hearing and in writing raised many significant issues about the scope of the lobbying law.

On June 30th, the Philadelphia Bar Association filed a Complaint for declaratory judgment and a Motion for a temporary restraining order against the City and the Ethics Board. The Bar Association asserted that the lobbying law may be unconstitutional if it is deemed to apply to lawyers engaged in the practice of law, because only the Pennsylvania Supreme Court can regulate the practice of law. The Bar Association sought to prevent the City's lobbying

ordinance from taking effect until the merits of its Complaint for declaratory judgment and a permanent injunction were determined.

The Bar Association withdrew its Complaint and Motion without prejudice on July 8th, in response to the Board's Resolution approved in a special meeting on July 7th. The Resolution stated that the Board would not exercise its authority to enforce the lobbying law until 30 days after Regulation No. 9 became effective, and that it would exercise its enforcement authority only with respect to acts and omissions that occur after 30 days after Regulation No. 9 becomes effective. The result was that no one would be required to comply with the law until 30 days after the Board had clarified who must comply with the law and what activities are covered.

What followed during the summer was a series of collaborative and productive meetings with representatives of the Bar Association and other interested parties, including members of Council staff. Major changes were suggested and incorporated in the version of Regulation No. 9 that became effective on November 21st. These amendments were primarily intended to clarify that there are many communications with City officials and employees that are routine and do not constitute lobbying. Further legislation took effect October 26, 2011 modifying the Lobbying Code, and staff worked on amendments to conform Regulation No. 9 to the legislation. (The latter amendments became effective on February 3, 2012.)

In addition to work on Regulation No. 9, our staff began an outreach program to individuals and groups that might have an interest in lobbying in Philadelphia. Members of our staff spoke at meetings of many community groups to explain major features of the new Lobbying Law and differences between the City and State laws. We continue to accept invitations to present an overview of the Lobbying Code to groups, including many nonprofit agencies. In an extraordinary proactive effort, we established a running list of email addresses of "interested parties" who have asked questions, sought to be kept informed, or otherwise expressed interest in developments in the lobbying program. That list has been constantly growing. In mid-2011 there were 199 addresses on it; at the end of 2011, 240 addresses, and in May 2012, 357 addresses. As of the date of this writing, we have used the list to send three Lobbying Alerts and three email Announcements.

We expect to develop detailed training materials in the near future to provide mandatory lobbying training.

Lobbying—Online Filing

One major component of the Lobbying Code remains unfinished. The Code requires that registrations and expense reports be filed electronically and that lobbying information be available to the public online. The Board's FY11 and FY12 budgets contained no additional funding to support development and maintenance of an electronic filing system. As a result, the lobbying project was rolled into a much larger project by the City's Office of Innovation and Technology ("OIT") to revamp the City's website. Without funding of our own, the Board had

no input into OIT's selection of a vendor or the basic system architecture and design. Progress on the mandatory electronic filing system for lobbying has therefore been slow and difficult, has consumed much staff time, and is still in limbo.

Delivery of the project was originally promised for July 1, 2011, but it has been delayed further and further because the site designed by the vendor was deemed nonfunctional by OIT due to problems with the original project concept.

It became apparent to the Board that the software project was not moving forward and, on November 16th, the Board announced that it would delay implementation of the law until January 3, 2012, believing that the software would be ready by that date. It again became apparent to the Board that OIT and the vendor could not deliver the completed and tested software by January 3rd. The Board believed that it was imperative to meet the public policy of the Lobbying Code to bring more transparency to City government, and our staff therefore created an interim paper registration system for lobbyists, firms, and principals that was ready on January 3rd. We have also made limited lobbying registration information available on our website.

The registration software is still not ready, and similarly, the expense report software will not be ready before the April 30th filing deadline. We are therefore again designing an interim paper filing solution. This project has been a severe drain on our small staff. We remain committed to making lobbying information accessible to the citizens of Philadelphia and believe that an appropriation to the Board and rebidding of the project might be the best course of action at this time.

Defending the Authority of the Board of Ethics

Aside from the already-mentioned Complaint filed against the Board by the Bar Association in June 2011, the Board continued to defend, with the generous assistance of pro bono counsel, three court challenges to the Board's authority and jurisdiction. The 2011 status of these lawsuits will be discussed in more detail in the Litigation section of this report, but here is a brief description:

1. Cozen O'Connor v. Philadelphia Board of Ethics, et al. This lawsuit, filed in March 2008, challenges an advisory opinion issued by the Board. The Board is represented by Gregg Mackuse of Drinker Biddle.

2. McCaffery v. Creamer, et al. On December 1, 2009, Daniel McCaffery, a former 2009 primary election District Attorney candidate, filed a defamation suit against the Board and Executive Director Shane Creamer, based on a settlement involving admitted violations of the Campaign Finance Chapter. The Board is represented by Cheryl Krause, Karen Daly, and Albert Suh of the law firm of Dechert LLP. Kelly Diffily of the City Solicitor's office has served as co-counsel.

3. Lodge No. 5 of the Fraternal Order of Police, et al v. City of Philadelphia, et al. The City's Police Union, Lodge No. 5 of the FOP, filed a lawsuit in Federal Court on May 18, 2011, challenging the City's ban on political contributions by members of the police department.

The 2011 Elections

Since 2011 was an election year for the offices of Mayor, City Council, and City Commissioners, it was a busy year on the campaign finance front. At the April Board meeting it was noted that up to that point in 2011 staff had conducted a total of nine campaign finance training sessions for a total of 107 attendees. Three more sessions were held in September and October. Also at the April Board meeting the Executive Director announced the following:

> As you may know, all candidates for Philadelphia elective office are required to file electronic campaign finance reports. As a result, there is a database of information concerning contributions made to these candidates. Until recently, it was complicated to search the database for contribution information. We are pleased to announce that we have completed the upgrade to the search process and it is now much easier to locate information on contributions to City candidates. From our website or from the Records Department website you can use two new "basic" searches for campaign finance information. A member of the public can do a quick search of the campaign finance database for:
>
> - All contributions made by a particular contributor in a given year, and
> - All contributions to a particular candidate or committee in a given year.
>
> The results are clearly displayed and can be downloaded with one click to a spreadsheet. Our staff worked with Records Department and Commissioner Joan Decker and Chief Integrity Officer Joan Markman to accomplish these improvements.

At the March Board meeting, Executive Director Creamer reported:

> The deadline to submit nominating petitions with the City Commissioners was on March 8th. There are 89 candidates for City elective office who are subject the campaign finance law. Of those 89 candidates, only 42 have complied with the new requirement to provide the Board with identifying and contact information within three days of forming a candidate committee or becoming a candidate.

As a result of extensive follow-up efforts, by the April meeting Mr. Creamer was able to report that all but one of the candidates on the ballot was in compliance. In May, Mr. Creamer noted that since the previous Board meeting, staff had responded to more than 100 campaign finance calls and emails. In July Mr. Creamer noted that on June 30th, enforcement staff sent an email to the campaigns of all candidates that participated in the 2011 May primary election informing

them of the obligation to file 24 hour reports. Finally, at the November meeting, Mr. Creamer announced the following:

> We handled dozens of telephone calls for campaign finance assistance in the three weeks before the election. The questions often concerned how to report last minute contributions that must be reported within 24 hours and how to use the electronic filing SmartClient software. We wish to thank the Records Department for their continued assistance and help desk support for the electronic filing system.

Online Ethics Training

As an example of how the pressures on the staff can snowball, the necessity of responding to multiple challenges with limited resources has required a delay in staff testing of the system designed by OIT, designing of lobbying training materials and preparation of a training schedule. This, in turn, has meant that staff continues to have extensive responsibilities to provide in-person training and to support HR in-person training, all of which we had hoped would have been substantially eliminated by online training.

Political Activity

The Board's new political activity regulation, Regulation No. 8, became effective on March 28th. As a result, we moved quickly to design and conduct training about the regulation, especially since we were in the midst of the primary election. City employees and officials needed to know whether the new regulation affects their participation in election-related activity. Therefore, by the April Board meeting, we had already conducted political activity training sessions for City Council staff, HR managers, and the Managing Director's team. We will continue to offer these trainings whenever they are requested.

Limited Resources

The Charter provisions creating the Board of Ethics mandated an annual budget of at least $1 million for the first two years and in all subsequent fiscal years "an amount adequate to enable the Board to perform the functions assigned to it by this charter." In FY09, the Board's budget was reduced to $950,000, and in FY10 it was again reduced to $810,000. That appropriation has remained unchanged for FY11 and FY12. For FY13, the Board will have an additional $44,000 due to the discovery of a limited source of funds in the Fund for Philadelphia. Even with available funds, the vagaries of budget and hiring processes have resulted in delays in filling vacancies in staff positions authorized by the Board.

2011 Advice

Under Regulation No. 4 of the Board of Ethics, the Board issues three kinds of advice:

- Formal Opinions, issued by the Board itself and voted on at a meeting of the Board (in executive session if the request was for a nonpublic advisory);
- Advices of Counsel, issued by the General Counsel of the Board; and
- Informal General Guidance.

There were 16 written advisories issued in calendar year 2011 (one Formal Opinion and 15 Advices of Counsel). Requests for advice from the Board frequently deal with multiple topics and require analysis of multiple provisions of the Home Rule Charter, City Code, and occasionally reference to other legal authority. For example, a City employee considering leaving City government to work for a vendor for the City who asks for advice on how the ethics laws may restrict her may raise issues under at least two "conflict of interest" provisions concerning activity before separation, and three different "post-employment" provisions concerning activity after separation.

All of the opinions and advice issued in 2011 fit into one of the following three categories:

Running for office and campaign finance and/or Charter Sect. 10-107. As in previous years, current City employees considering running for office wished to clarify when they must resign their City positions and what rules governed any campaign fund-raising activities.

For example, in Formal Opinion 2011-001, issued in February, the Board advised the treasurer of a political committee as to the committee's expenditure of excess pre-candidacy contributions, prior to the subject individual becoming a candidate for City elective office. Among other things, the Opinion advised that the campaign may not "frontload" campaign expenses in a committee that is not, at the time, subject to the campaign finance limits. Also, in Advice of Counsel GC-2011-511, issued in October, a City employee was advised that if he were to meet with a group of fewer than 15 community members and share his thoughts on the community, the community's needs and his willingness to consider a run for public office and his qualifications (but not committing to run), that action, in and of itself, would not constitute a "declaration of candidacy" by the employee and would not require him to resign his City position under Charter Section 10-107(5).

Advices of Counsel GC-2011-504, GC-2011-513, and GC-2011-514 were also on campaign finance issues.

Conflicts of Interest and Outside Employment. Likely the most basic ethics rule, expressed in several provisions, prohibits a City official or employee from taking official action that may affect a private financial interest held by themselves, or by an employer, certain relatives, or

other business connections. The Board encourages officers and employees with outside interests to seek advice on what restrictions may apply to them.

In Advice of Counsel GC-2011-505, a City official received a public advisory opinion as to the effect of the ethics laws on his proposed service as an unpaid board member of a nonprofit organization. He was advised that the conflicts provisions of the Ethics Code would not apply to an unpaid board member of a nonprofit, but he may not represent the nonprofit as "agent or attorney" in transactions involving the city, and the State Ethics Act may restrict his official actions that could affect the nonprofit.

Advice on conflicts was also provided in Advices of Counsel GC-2011-501, GC-2011-503, GC -2011-507, GC-2011-510, GC-2011-512, and GC-2011-515.

Post-employment. This is often referred to as "the revolving door." The idea is that a City employee/official should not be able to leave City government and then come right back in the door, with a client in tow, and thereby use his influence to get better treatment for that client than any other ordinary citizen might get. Several provisions provide restrictions, applying to different time periods after separation from City employment.

Advice of Counsel GC-2011-508 provided a summary of the one-year, two-year, and permanent provisions of the ethics laws.

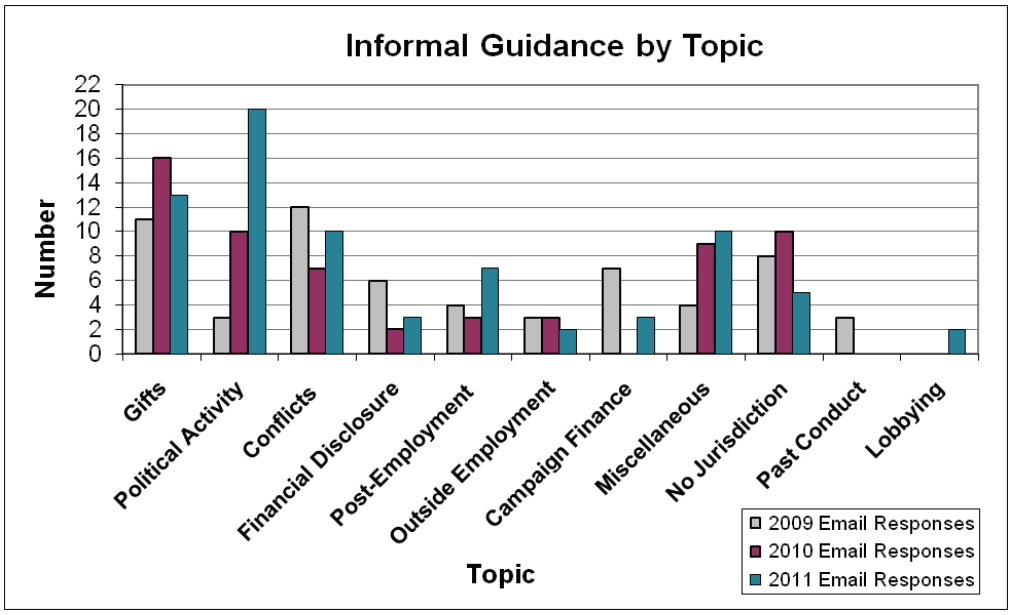
Advice on post-employment restrictions was also provided in Advices of Counsel GC-2011-502, GC-2011-506, and GC-2011-509.

Informal Guidance

The Board also provides assistance through the "Ask for Advice" feature on its Website which provides informal email guidance. The General Counsel and Associate Counsel responded to 75 email inquiries in 2011. Questions about accepting gifts, permissible political activity and conflicts of interest represented almost 60% of email advice in 2011.

Informal General Guidance is generally email guidance provided by the staff that explains the ethics laws but does not apply them to the requestor's individual situation in a way that can be legally relied upon. These also include information provided in trainings, meetings, telephone calls, newsletters, general correspondence, and this Annual Report.

The chart below lists email guidance provided in 2011.



For further reference

The full text of all Formal Opinions and Advices of Counsel issued in 2011 may be found on the Board's website at www.phila.gov/ethicsboard, by selecting "Advisory Opinions & Publications" from the left-hand column and navigating to the 2011 advisories.

Ethics Training

The Board is responsible for providing mandatory ethics training to City officials, employees and board and commission members. The goal of ethics training is to prevent potential violations. Half of our staff members are involved in scheduling, designing, and presenting in-person ethics training sessions. In-person sessions are conducted by Board staff and by Human Resources Department trainers. During the past year, we again focused on training new City employees, and there were 15 live ethics training sessions attended by more than 300 people.

Each ethics training session is designed to raise awareness of the ethics laws and to stress that attendees should always seek advice from the Board on ethics questions to avoid violations. Recent newspaper articles on ethics matters and enforcement actions from other cities and states are used to illustrate ethics issues. Core ethics issues are discussed in each session, including conflicts of interest, prohibited participation in contracts with the City, representation of others in City transactions, and post-employment restrictions. The Board's ethics training materials were revised to reflect the Board's new Regulation No. 8, concerning political activity by City employees.

Financial Disclosure

The purpose of financial disclosure statements is to permit the public to determine whether City officials and employees might have financial interests that would have an effect upon their official duties. Thousands of City officials and employees and the members of City boards and commissions are therefore required to file one or more of three annual financial disclosure forms.

The three forms are the City Form (required by the City Ethics Code), the Mayor's Form (required by an executive order), and the State Form (required by the State Ethics Act). The Board has jurisdiction over City Code Section 20-610 that requires certain elected officials, department heads, and key employees to file the City Form to disclose financial information for the prior calendar year, including sources of income, real estate interests involved with the City, creditors, and business interests.

All financial disclosure reports were due on Monday, May 2, 2011 because the statutory May 1st deadline was on Sunday. After the May 2nd deadline, Board staff confirmed that all elected officials and department heads required to file the City Form had filed.

The Board again issued thousands of email reminders to City officials, employees, and board and commission members in April to alert them about their filing obligation and to provide information on how to file. As a result of the emails, Board staff fielded more than 450 calls and emails in the few weeks prior to the May 2nd due date to explain the filing obligation, the contents of the three reports, and how to use the online financial disclosure system.

Board staff worked with the Records Department to implement an electronic signature process for financial disclosure reports. This was the first time filers could complete their financial disclosure obligation without any paper forms. Seventy-eight percent of the 5,700 reports filed used the electronic signature process which streamlined the filing process at the Records Department and reduced the amount of paper consumed. The financial disclosure process is a cooperative effort with the Records Department and Records Commissioner Joan Decker.

2007-2011 Enforcement Overview

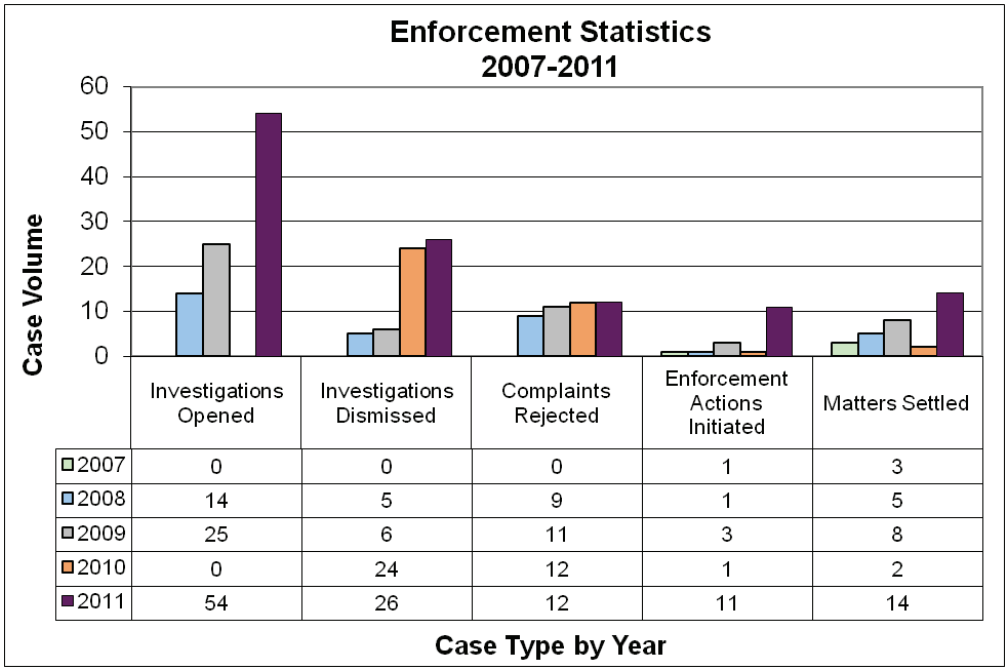
The Board of Ethics is responsible for enforcing the City's public integrity laws and is required to include information concerning its enforcement activities in its annual report.

The Board's Executive Director can initiate an investigation either upon receipt of a complaint or if he determines that a potential violation of a law within the Board's jurisdiction has occurred. Upon completion of the investigation, if The Executive Director finds probable cause to believe a violation has occurred, he can initiate an enforcement action. If, after conducting an

investigation, the Executive Director does not find probable cause, he will terminate the investigation. Similarly, the Executive Director will reject a complaint that does not state potential violation of a law within the Board's jurisdiction.

At any point, the Executive Director can seek to resolve a matter through a settlement agreement. In a settlement agreement, subjects of enforcement admit to violations and, in most cases, agree to pay a civil monetary penalty.

The below table summarizes the Board's investigation and enforcement activity since 2007.



	Investigations Opened	Investigations Dismissed	Complaints Rejected	Enforcement Actions Initiated	Matters Settled
2007	0	0	0	1	3
2008	14	5	9	1	5
2009	25	6	11	3	8
2010	0	24	12	1	2
2011	54	26	12	11	14

Of the 32 settlement agreements concluded since 2007, 27 involved violations of the City's campaign finance law, four involved political activity prohibited by the City's Home Rule Charter, and one involved a violation of the City Code's confidentiality provision.

2011 Enforcement Activity

In 2011, Board staff initiated 54 investigations of potential violations of the public integrity laws. The majority of the investigations concerned potential violations of the City's campaign finance law. The Executive Director dismissed 26 of the investigations because he did not find probable cause to believe a violation had occurred. The Executive Director found probable cause in 14 matters. All of these matters eventually concluded with a settlement agreement, as described below. However, in 11 of those matters, before reaching a settlement, the Executive Director initiated enforcement proceedings.

Settlement Agreements

In 2011, the Board concluded 14 settlement agreements. In those settlement agreements, individuals and political committees admitted to violations and, in most cases, agreed to pay a civil monetary penalty. Twelve of the settlement agreements involved violations of the campaign finance law; two involved violations of the Home Rule Charter's prohibitions on employee political activity. In 2011, subjects of enforcement agreed to pay a total of $26,100 in civil monetary penalties. All of the Board's settlement agreements are available on the Board's website.

Voluntary Compliance

Whenever possible, the Board acts to prevent violations of the City's public integrity laws. In particular, Board staff seeks voluntary compliance with the filing requirements of the campaign finance law by offering that opportunity to political committees that should have filed with the Board but did not do so. In 2011, which was a municipal election year, Board staff sent "failure to file" notices to approximately 250 political committees. Almost all of the recipients of a "failure to file" notice voluntarily filed required reports without the Board having to initiate an enforcement action.

The Board notes that compliance with the campaign finance law was excellent in 2011. The Board is committed to continuing and improving its outreach and education efforts in order to foster high levels of compliance with all of the laws it administers.

Litigation Involving the Board

Litigation concerning the Board's authority continued in 2011 in four important matters.

Cozen O'Connor v. Philadelphia Board of Ethics, et al.

In the 2007 primary election, the Cozen O'Connor law firm provided almost $450,000 in legal services to Mayoral candidate Bob Brady. In Advisory Opinion 2007-003, the Board advised the Brady campaign that contributions received by a candidate after an election are subject to the contribution limits imposed by Section 20-1002 if those contributions are used to retire debt incurred before the election. Cozen O'Connor argued that it should be allowed to forgive the campaign's debt and that the forgiveness should not count as a contribution. Cozen challenged the Board opinion and sought a declaratory judgment in the Court of Common Pleas in March 2008 that the legal expenses incurred by the Brady committee were not "expenditures" as defined under Philadelphia Code § 20-1001(10) and that post-election contributions are not "contributions" as defined under Philadelphia Code § 20-1001(6). In June of 2010, City Council amended the campaign finance law to codify the Board's interpretation that contributions

received by a candidate after an election are subject to the contribution limits imposed by Section 20-1002 if those contributions are used to retire debt incurred before the election.

On November 2008, Common Pleas Court Judge Gary DiVito dismissed Cozen's complaint. On March 12, 2009, Commonwealth Court affirmed. On February 23, 2011, the Supreme Court reversed the two lower courts and remanded for further proceedings. In March of 2012, the parties filed cross motions for judgment on the pleadings, which are currently pending before the court.

The Board expresses its great appreciation to Dechert and specifically Cheryl Krause, Karen Daly, Albert Suh, and Elisa Wiygul for their continued excellent work and time spent representing us *pro bono* in this significant matter.

McCaffery v. Creamer, et al.

In December of 2009, Dan McCaffery sued the Board and its Executive Director, J. Shane Creamer, Jr., alleging that they had defamed him in statements made by Mr. Creamer related to an enforcement action the Board filed against Mr. McCaffery in May of 2009 while he was a candidate for District Attorney.

On January 27, 2010, Common Pleas Court Judge Gary Glazer dismissed the complaint, holding that the Board and Mr. Creamer are covered by "quasi-judicial" immunity because they were acting in their official capacity. On March 16, 2011, Commonwealth Court reversed and remanded to the Court of Common Pleas. The case is currently proceeding through discovery in Common Pleas.

We would like to thank Dechert and specifically Cheryl Krause, Karen Daly, and Albert Suh for their continued excellent work and time spent representing us *pro bono* in this significant matter. Thanks also to Kelly Diffily and Craig Straw of the Law Department who have served as co-counsel.

Lodge No. 5 of the Fraternal Order of Police, *et al*. v. City of Philadelphia, *et al.*

On May 18, 2011, Lodge No. 5 of the Fraternal Order of Police filed a lawsuit in federal court challenging the City's ban on political contributions by members of the police department. Named defendants include the City, Mayor Nutter (official and individual capacity), the Ethics Board, each individual Board Member (official capacity only) and the Board's Executive Director, J. Shane Creamer, Jr., (official and individual capacity). Plaintiffs include Lodge No. 5 of the FOP, John McNesby (President of the FOP), COPPAC (the FOP's PAC), and four individual police officers.

The case is currently in the last stages of discovery with dispositive motions due on May 16, 2012 and trial, if necessary, set for August of 2012.

We would like to thank Mark Maguire, Eleanor Ewing, and Bob Aversa of the Law Department for their representation of the Board in this matter.

Philadelphia Bar Association v. City of Philadelphia, *et al.*

On June 30, 2011, the Philadelphia Bar Association filed a complaint for declaratory judgment against the City and the Ethics Board asserting that the City's new lobbying law was unconstitutional if it was interpreted to apply to lawyers engaged in the practice of law, because only the Pennsylvania Supreme Court can regulate the practice of law.

On July 8, 2012, the Bar Association withdrew its complaint after the Board approved a resolution stating that the Board will not exercise its authority to enforce the lobbying law until 30 days after the Board's lobbying regulation (Regulation No. 9) became effective and that it would exercise its authority to enforce the lobbying law only with respect to acts and omissions that occur after 30 days after Regulation No. 9 became effective. In Regulation No. 9, which became effective on November 21, 2011, the Board clarified that the lobbying law does not regulate lawyers engaged in the practice of law.

Legislative Recommendations

The Board of Ethics is directed by Section 20-606(1)(l) of the Philadelphia Code to include in its annual report to the Mayor and City Council recommendations for legislative change. The Board therefore recommends amendments to further clarify and improve the City's public integrity laws. Several of these changes have been recommended by the Board of Ethics in prior Annual Reports.

1. Clarify and simplify Section 20-608, the Public Disclosure and Disqualification section of the Code. Eliminate an outdated reference to notice by registered mail and consider permitting disclosure and disqualification notification by electronic means. Consider proposing a mechanism for board and commission members to address conflict situations when they arise at the last minute.

2. Incumbent officeholders and committees who contribute to them should be required to continue to file electronic reports with the Ethics Board in non-election years. Currently, when there are no "candidates" for City office, no reports are required to be electronically filed. The public should have continuing access to information about contributions made to elected officials.

3. Include life partners in the definition of "immediate family" in the Lobbying Code at Section 20-1201(14). The Ethics Code, Chapter 20-600, was recently amended to include life

partners. In written testimony submitted to the Committee on Law and Government the Board, in support of this change to the Ethics Code, recommended that a similar change be proposed to include life partners in the definition of "immediate family" in the Lobbying Code at Section 20 -1201(14).

4. Amend the Ethics Code to ensure confidentiality for informal general guidance provided by an email from the General Counsel or Associate General Counsel.

5. Amend the Lobbying Code to simplify the requirement that, when a principal files an expense report, each lobbyist and lobbying firm for that principal must also sign the report and attest to the validity and accuracy of the report.

Looking Ahead

For 2012, many of the challenges discussed in the introductory section of this Report ("Making Bricks Without Straw") remain and will continue to consume staff time and resources for much of the coming year. These include the still-unresolved issue of providing an online lobbying registration and reporting system (and managing a paper system in the interim), the three lawsuits against the Board, the need to develop online ethics training, and the need to work through budgetary issues and personnel issues to hire additional staff.

In addition, the Board is faced with a major disruption to its operation in late June 2012, when we are being required by the Department of Public Property to move our offices to the 18th floor of One Parkway Building, at 1515 Arch Street. We anticipate that the office will be closed for several days for packing, unpacking, and generally getting settled in our new space. Moreover, there may continue to be some inefficiencies in operation, due to changes in routine, new filing systems, etc.

In spite of the challenges, the Board of Ethics and its staff is committed to devoting our best efforts to educating the public and the City government on the Public Integrity Laws, responding to requests for advice, and—when necessary—enforcing the law. We take as our charge the following statement of policy from the 1974 ordinance that added several key provisions to the City's Ethics Code:

> Declaration of Policy. Public officials and employees shall be independent, impartial, and responsible public servants. Government decisions and policy shall be made in the interests of the people, the community, and the government. Public office shall not be used for personal gain.

We are proud to be the agency charged by the people, through the Home Rule Charter, with implementing such statutes and enhancing public confidence in government in Philadelphia.

Appendices

Appendix I: Regulations 1 (amended), 8 & 9

PHILADELPHIA BOARD OF ETHICS

REGULATION NO. 1

CAMPAIGN FINANCE

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SUBPART A. SCOPE; DEFINITIONS

1.0 Scope. The requirements and prohibitions of Philadelphia's campaign finance law supplement the requirements and prohibitions imposed by the Pennsylvania Election Code (25 P.S. §3241, *et seq*.). This Regulation, promulgated by the Board pursuant to its authority under Sections 4-1100 and 8-407 of the Philadelphia Home Rule Charter and Chapter 20-600 of the Philadelphia Code, interprets Philadelphia's campaign finance law found at Code Chapter 20-1000.

1.1 Definitions. As used herein, the following words and phrases shall have the meanings indicated.

Agent. An individual who acts at the direction of or is authorized to act on behalf of a candidate, a chair or treasurer of a political committee, or a political committee.

Board. The body of members of the Board of Ethics appointed pursuant to Section 3-806 of the Home Rule Charter.

Candidate. An individual who (i) files nomination papers or petitions for City elective office, or (ii) publicly announces his or her candidacy for City elective office, including a former candidate who receives post-candidacy contributions or makes post-candidacy expenditures.

City elective office. The offices of Mayor, District Attorney, City Controller, Sheriff, City Commissioner, or City Council.

Candidate political committee. The one political committee used by a candidate to receive all contributions and make all expenditures as required by Section 20-1003 of the Philadelphia Code.

Contribution.

i. Any money, gifts, forgiveness of debts, or loans incurred or received by a candidate or his or her agent for use in advocating or influencing the election of the candidate;

ii. Any thing having a monetary value incurred or received by a candidate or his or her agent for use in advocating or influencing the election of the candidate, which includes (1) any payment by a person or a political committee provided for the benefit of the candidate, including any payment for the services of a person serving as an agent of the candidate, candidate political committee, or litigation fund committee, and (2) any in-kind contributions, as defined at Subparagraph 1.1(m); or

iii. Any post-candidacy contribution, as defined at Subparagraph 1.1(q).

Contributor. A person or political committee who makes a contribution to a candidate, litigation fund committee, or political committee.

Covered election. Every primary, general or special election for City elective office.

Excess post-candidacy contribution. The portion of a post-candidacy contribution that, had it been contributed for the purpose of retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office, would have been in excess of the contribution limitations set forth in Sections 20 -1002(4) or 20-1002(5) of the Philadelphia Code.

Excess pre-candidacy contribution. The portion of a pre-candidacy contribution to a political committee that, had it been made to a candidate for City elective office, would have been in excess of the contribution limitations set forth in Sections 20-1002(1) or 20-1002(2) of the Philadelphia Code.

Expenditure. The payment, distribution, loan, or advancement of money or things having a monetary value by a candidate, political committee, or other person for the purpose of influencing the outcome of a covered election.

Independent expenditure. An expenditure made to influence the outcome of a covered election without the cooperation or consultation of any candidate or candidate political committee and which is not made in concert with or at the request or suggestion of any candidate, candidate political committee, or agent thereof.

In-kind contribution. The provision of or payment for goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services where such provision or payment is made for the benefit of the candidate, but not including volunteer labor as described in Subparagraph 1.11(e).

Litigation fund committee. The committee established by a candidate to receive contributions and make expenditures solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of a candidate's election campaign or participation in an election, as described in Subpart H.

Person. An individual, or a partnership, sole proprietorship, or other form of business organization.

Political committee. Any committee, club, association, political party, or other group of persons, including the candidate political committee of a candidate for office in a covered election, which receives contributions or makes expenditures for the purpose of influencing the outcome of a covered election.

Post-candidacy contribution. Money, gifts, forgiveness of debts, loans, or things having a monetary value, received by a former candidate or his/her agent for use in retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office.

Post-candidacy expenditure. An expenditure made by a candidate, former candidate, or candidate political committee to defray the candidate's cost of transition or inauguration to City elective office or to retire debt that the candidate incurred to (i) influence the outcome of a covered election; or (ii) cover transition or inauguration expenses.

Pre-candidacy contribution. A contribution made to a political committee that: (i) has been transferred to, or otherwise becomes available for expenditure by, a candidate for City elective office; and (ii) was made before such candidate became a candidate.

SPEC account. A segregated pre/post-candidacy excess contribution account, as described in Subpart C.

Sample ballot. A ballot distributed by a political committee that lists more than one candidate in a specific covered election and recommends that voters vote for the listed candidates.

SUBPART B. CONTRIBUTION LIMITS

1.2 Limits on contributions from individuals.

a. An individual shall not make total contributions per calendar year of more than $2,900 to a candidate for City elective office, including contributions made through one or more political committees.

b. An individual shall not make total contributions per calendar year of more than $2,900, including contributions made through one or more political committees, to a litigation fund committee established as described in Subpart H by a candidate for City elective office.

c. An individual shall not make total post-candidacy contributions to a former candidate, including contributions made through one or more political committees, of more than $2,900 between the general election and the end of that calendar year (or, in the case of candidates who do not win nomination, between the primary election and the end of that calendar year), and in each calendar year that follows the year of the general election.

1.3 Limits on contributions from political committees, partnerships, sole proprietorships, or other forms of business organization.

A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than $11,500 to a candidate for City elective office, including contributions made through one or more political committees.

A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than $11,500, including contributions made through one or more political committees, to a candidate's litigation fund committee.

A political committee, partnership, sole proprietorship, or other form of business organization shall not make total post-candidacy contributions to a former candidate, including contributions made through one or more political committees, of more than $11,500 between the general election and the end of that calendar year (or, in the case of candidates who do not win nomination, between the primary election and the end of that calendar year), and in each calendar year that follows the year of the general election.

In order to qualify for the $11,500 contribution limit described in Paragraph 1.3, the finances of a sole proprietorship or partnership must be distinct and segregated from the personal finances of its proprietor or partners.

1.4 Contributions made through one or more political committees.

a. For the purposes of this Subpart, a contribution is made through a political committee when:

A person or political committee makes a contribution to a political committee and directs, suggests, or requests, whether in a direct, indirect, express, or implied manner, that the recipient political committee use all or part of the contributed money to make an expenditure to a specific candidate. A determination that such a direction, suggestion, or request was made shall be based upon all the relevant facts and circumstances; or

The contributing person or political committee has provided the majority of the contributions received by the recipient political committee, whether directly or indirectly, in the twelve months prior to the recipient political committee's expenditure to the candidate, unless the recipient political committee can demonstrate, based on a reasonable accounting method, that money from the contributing person or political committee was not used to make the expenditure to the candidate.

b. For the purpose of the contribution limits, a contribution made through a political committee is from both the original contributing person or political committee and the recipient political committee through which the contribution is made. The entire amount of the contribution made through a political committee shall count toward the contribution limits of the original contributing person or political committee, and the entire amount shall also count toward the recipient political committee's contribution limits.

1.5 During a non-election year:

Candidates for Mayor shall receive no more than $250,000 in total contributions from political committees;

Candidates for District Attorney and Controller shall receive no more than $100,000 in total contributions from political committees; and

Candidates for City Council, Sheriff, and City Commissioner shall receive no more than $75,000 in total contributions from political committees.

1.6 Doubling of Contribution Limits.

If a candidate for City elective office contributes more than $250,000 of his or her personal resources to his or her candidate political committee, the contribution limits for all candidates for that office shall be doubled for that year and each subsequent year up to and including the year in which the covered election occurs, except as provided in Subparagraph 1.6(b).

The limits for post-candidacy contributions (Subparagraphs 1.2(c) and 1.3(c)) and the limits for contributions to litigation fund committees (Subparagraphs 1.2(b) and 1.3(b)) do not double if a candidate contributes more than $250,000 to his or her candidate political committee.

A contribution that exceeds the contribution limits at the time it is accepted by a candidate exceeds the contribution limits described in this Subpart even if the contribution limits subsequently double and the contribution is less than the doubled limits.

If a candidate political committee returns, repays, or refunds to a candidate any money the candidate had contributed from his or her personal resources, the returned amount shall not count toward the $250,000 contribution amount required to trigger doubling of the limits.

Once the contribution limits double, they remain doubled even if:

i. The candidate whose contributions from his or her personal resources triggered the doubling ceases to be a candidate; or

ii. After the limits have doubled, a candidate political committee returns, repays, or refunds to the candidate a portion of the money contributed from the candidate's personal resources.

If a candidate contributes more than $250,000 of his or her personal resources to his or her candidate political committee, as set forth in Paragraph 1.6, within two business days he or she shall notify the Board of this fact by postal mail or email sent to the attention of the Board's Executive Director.

1.7 Candidates, candidate political committees, and litigation fund committees shall not accept any contribution that exceeds the limits set forth in this Subpart.

1.8 A pre-candidacy contribution made in the same calendar year that an individual becomes a candidate shall count toward the contribution limits set forth in this Subpart.

1.9 Candidates and contributors shall include the value of in-kind contributions when determining the total amount of contributions made or accepted in a calendar year.

1.10 If a person or political committee makes an expenditure to a political committee in order that a candidate's name be placed on a sample ballot, the amount of the expenditure from that person or political committee is a contribution to the candidate and shall count toward the contribution limits set forth in this Subpart, so long as the expenditure is not an independent expenditure.

1.11 **Transactions that do not count toward the contribution limits.** The following are not subject to the contribution limits set forth in this Subpart:

a. Contributions from a candidate's personal resources to the candidate's

candidate political committee or to the candidate's litigation fund committee;

b. Contributions from a candidate's candidate political committee to the

candidate's litigation fund committee;

c. A political committee's costs to print or distribute a sample ballot where a candidate, person, or another political committee has paid the usual and normal charge to that political committee to have the candidate placed on a sample ballot distributed by that political committee;

d. d. A political committee's costs to print or distribute sample ballots that are distributed in a candidate's ward pursuant to Paragraph 1.36; and

e. Volunteer labor provided to a candidate or political committee.

i. Volunteer labor is work an individual provides, without compensation from any entity or person, for the benefit of a candidate. It may, among other things, include:

(1) Legal or accounting work;

(2) Entertainment such as a performance by a musical group or DJ; and

Campaign work such as canvassing, working at a phone bank, or election-day get-out-the-vote activities.

ii. Volunteer labor does not include the donation to a candidate of:

Equipment, such as computers, copiers, or printers;

Resources, such as postage; or

Materials, such as stationery or campaign literature.

iii. An individual engaged in volunteer labor may make incidental use of resources without such use being a contribution from the owner of the resource to the candidate for the purposes of the contribution limits. Incidental use does not include the use of resources to reproduce campaign material for public distribution.

SUBPART C. EXCESS PRE-CANDIDACY CONTRIBUTIONS; EXCESS POST-CANDIDACY CONTRIBUTIONS

1.12 A candidate or candidate political committee shall not spend any excess pre-candidacy contributions for the purpose of influencing the outcome of a covered election in which he or she is a candidate.

1.13 A candidate shall not transfer excess pre-candidacy contributions to the candidate's litigation fund committee established as described in Subpart H.

1.14 A candidate shall not spend any excess pre-candidacy contributions or excess post-candidacy contributions for the purposes of:

a. Transition or inauguration expenses; or

b. Retiring debt that was incurred to (i) influence the outcome of an already completed covered election; or (ii) cover transition or inauguration expenses related to an already completed covered election.

1.15 A candidate shall exclude all excess pre-candidacy contributions from his or her candidate political committee checking account by one of the following methods:

a. Transferring excess pre-candidacy contributions to a segregated pre/post-candidacy excess contribution account ("SPEC" account) within ten days after the individual becomes a candidate; or

b. Returning excess pre-candidacy contributions to the contributors who made those contributions within ten days after the individual becomes a candidate.

1.16 A candidate shall exclude all excess post-candidacy contributions from his or her candidate political committee checking account by one of the following methods:

a. Transferring excess post-candidacy contributions to a SPEC account within ten days of receiving the contributions; or

b. Returning excess post-candidacy contributions to the contributors who made those contributions within ten days of receiving the contributions.

1.17 A candidate or a candidate political committee shall not use money held in a SPEC account to influence the outcome of a covered election in which the candidate participates or to make post-candidacy expenditures.

1.18 Within seven days of establishing a SPEC account, a candidate shall notify the Board of the name of the bank at which the account was established by postal mail or email sent to the attention of the Board's Executive Director.

SUBPART D. DATE OF ACCEPTANCE OF CONTRIBUTIONS WITH RESPECT TO THE CONTRIBUTION LIMITS

1.19 Except as provided in Paragraphs 1.20, 1.21, and 1.22 the date of acceptance of a contribution is the date that the contribution comes into the possession of the recipient candidate, treasurer, litigation fund committee, political committee, or agent thereof.

1.20 If a contribution is delivered to a mailbox, the date that the contribution is accepted is the date on which the recipient candidate, treasurer, litigation fund committee, political committee, or agent thereof finds the contribution in the mailbox.

1.21 If a contribution is made by credit card through a website, the date that the contribution is accepted is the date on which the contributor submits his or her credit card information on the website.

1.22 The date of acceptance of an in-kind contribution is the date that the contributor provides the goods or services, or makes payment to a third party for the provision of goods or services, to the recipient candidate, litigation fund committee, or political committee, or agent thereof.

1.23 A candidate, litigation fund committee, or political committee shall not designate as the date a contribution is accepted any date other than the date of acceptance as identified in this Subpart.

SUBPART E. ATTRIBUTING CONTRIBUTIONS MADE BY CHECK FOR THE PURPOSE OF THE CONTRIBUTION LIMITS

1.24 A contribution made by a check that reflects a joint checking account of two or more individuals shall be attributed to the joint account holder who signs the check. If more than one account holder signs a contribution check, the contribution shall be apportioned evenly between the signers. If an individual other than an account holder signs a contribution check, the contribution shall be attributed evenly among the joint account holders.

1.25 A contribution made by a check drawn on the account of a political committee is a contribution from that political committee.

1.26 A contribution made by check drawn on the account of a partnership, sole proprietorship, or other form of business organization is a contribution from the partnership, sole proprietorship, or other form of business organization, unless other facts demonstrate that the contribution is from the signer of the check.

SUBPART F. RETIRING DEBT

1.27 Except as provided in Paragraph 1.28, forgiveness of debt incurred to influence the outcome of a covered election or to cover transition or inauguration expenses is a contribution from the creditor to the candidate or former candidate and is subject to the contribution limits set forth in Subpart B.

1.28 If a debt owed by a former candidate is not collectable as defined below, a creditor may forgive the debt without such forgiveness being subject to the contribution limits set forth in Subpart B. A debt is not collectable if all of the following are true:

a. The creditor billed the candidate for its services in the ordinary course of its business and the terms of the transaction were commercially reasonable;

b. The debt has been outstanding for at least 24 months;

c. The candidate political committee does not have sufficient cash on hand to pay the creditor;

d. The candidate political committee receives less than $1,000 in contributions during the previous 24 months;

e. The candidate political committee makes less than $1,000 in expenditures during the previous 24 months;

f. Forgiveness of the debt is not prohibited by any other relevant law;

g. The creditor and candidate disclose the forgiveness to the extent required by the Pennsylvania Election Code, if applicable; and

h. The creditor notifies the Board by postal mail or email sent to the attention of the Board's Executive Director of its intent to forgive the debt and demonstrates that all the conditions set forth in this Paragraph have been satisfied.

SUBPART G. USE OF POLITICAL COMMITTEES AND CHECKING ACCOUNTS BY CANDIDATES

1.29 A candidate for City elective office shall have no more than one political committee and one checking account for the City office being sought, into which all contributions and post-candidacy contributions for such office shall be made, and out of which all expenditures for that office shall be made, including post-candidacy expenditures.

1.30 If a candidate maintains other political or non-political accounts for which contributions are solicited, such funds collected in those accounts shall not be used for the purpose of influencing the outcome of a covered election or to make post-candidacy expenditures.

1.31 A candidate may transfer funds between his or her candidate political committee checking account and a single savings account so long as:

a. The candidate establishes the savings account at the same bank that has his or her checking account;

b. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account;

c. The candidate does not make any expenditures or withdrawals directly from the savings account, but first transfers funds to the checking account in order to make expenditures or withdrawals; and

d. Within three business days of the establishment of the savings account, the candidate shall notify the Board by postal mail or email sent to the attention of the Board's Executive Director that he or she has established a savings account.

1.32 Requirement to provide information to the Board about a candidate political committee.

a. A candidate who has a candidate political committee when he or she becomes a candidate shall, within three business days of becoming a candidate, notify the Board of the following information:

i. The committee's name and street address (other than a P.O. box);

ii. The name of the bank where the committee's checking account is established; and

iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the committee.

If a candidate does not have a candidate political committee when he or she becomes a candidate, he or she shall notify the Board of this fact within three business days of becoming a candidate and shall provide the Board with his or her street address (other than a P.O. box), telephone number, and email address.

If a candidate establishes a candidate political committee after he or she has become a candidate, he or she shall notify the Board of the information set forth in Subparagraph 1.32(a) within three business days of the formation of the committee.

A candidate may satisfy the requirements of Paragraph 1.32 by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners as long as the information described in Subparagraph 1.32(a)(i)-(iii) is included.

If the information required by Paragraph 1.32 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.

Information required by Paragraph 1.32 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1.33 Exercising control over another political committee. A candidate has a political committee, for the purposes of this Subpart, if he or she exercises control over the political committee. The following are factors relevant to determining whether a candidate exercises control over a political committee other than his or her candidate political committee:

a. The candidate is the treasurer or chair of the other political committee;

b. The candidate established or registered the other political committee;

c. The candidate is an authorized user or signer on the other political committee's bank account;

d. The treasurer or chair of the other political committee is an employee of the candidate;

e. The other political committee has the same treasurer or chair as the candidate political committee; or

f. The political committee's registered address is the same as the registered address of the candidate political committee or the residence or business of the candidate or the candidate political committee's treasurer or chair.

The presence of one or more of the factors enumerated above does not mandate a finding that a candidate exercises control over a given committee if the candidate does not in fact exercise control over that committee. Likewise, the absence of most or all of the factors enumerated above does not mandate a finding that a candidate does not exercise control over a given committee if the candidate does in fact exercise control over that committee.

1.34 Exercising control over another political committee's expenditures. A candidate also has a political committee, for the purposes of this Subpart, if the candidate or the candidate's agent exercises control over a specific expenditure made by that political committee. The following are factors relevant to determining whether a candidate or the candidate's agent exercises control over a specific expenditure made by a political committee:

a. The candidate, candidate political committee, or the candidate's agent provides the money to cover the specific expenditure;

b. The candidate, candidate political committee, or the candidate's agent selects the recipient of the expenditure; or

c. The candidate, candidate political committee, or the candidate's agent decides or directs that the expenditure be made.

1.35 This Subpart does not prohibit a candidate from maintaining a litigation fund committee as described in Subpart H.

1.36 This Subpart does not prohibit a candidate from making expenditures through up to one political committee in addition to his or her candidate political committee for the printing and distribution of sample ballots that are distributed in the candidate's ward. However, all contributions to the candidate for the City elective office being sought shall be made into the candidate's candidate political committee.

1.37 This Subpart does not prohibit a candidate from paying a political committee to conduct or organize get-out-the-vote activities (such as canvassing and the distribution of campaign literature or sample ballots) as long as:

a. The recipient political committee offers similar services to other candidates; and

b. The candidate does not exercise control over the political committee as defined in Paragraph 1.33.

1.38 This Subpart does not prohibit a candidate from making a contribution within the contribution limits to his or her candidate political committee from any other political committee controlled by the candidate, as defined in Paragraph 1.33, other than the candidate's litigation fund committee.

SUBPART H. LITIGATION FUND COMMITTEES

1.39 Litigation fund committee requirements.

a. In addition to a candidate political committee, a candidate for City elective office may establish a litigation fund committee with a single separate checking account to solicit and receive contributions and make expenditures for the purposes described in Subparagraph 1.39(d).

b. The name of a litigation fund committee shall include the term "Litigation Fund."

c. A litigation fund committee shall have a treasurer who shall be responsible for keeping records of contributions and expenditures as described in Paragraph 1.44.

d. A candidate shall make expenditures from a litigation fund committee solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly

out of the conduct of the candidate's election campaign or participation in a covered election, such as a nomination petition challenge, a recount proceeding, or a Board investigation.

e. A candidate shall not make expenditures from a litigation fund committee to pay any judgment, settlement, fine, sanction, or other type of penalty arising out of any civil, criminal, or administrative proceeding.

f. A candidate may make expenditures from his or her candidate political committee for the purposes described in Subparagraph 1.39(d).

1.40 Requirement to provide information to the Board about a litigation fund committee.

a. Within three business days of the formation of a litigation fund committee, a candidate shall notify the Board of the following information:

i. The litigation fund committee's name and street address (other than a P.O. box);

ii. The name of the bank where the litigation fund committee's checking account is established; and

iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the litigation fund committee.

If the litigation fund committee has been registered as a political committee, a candidate may satisfy the requirements of this Subparagraph by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners or Secretary of State as long as the information described in (i)-(iii) above is included.

If the information required by Paragraph 1.40 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.

Information required by Paragraph 1.40 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1.41 Termination of a litigation fund committee.

a. A litigation fund committee shall be terminated no later than six months after the date of the general election for the office which the candidate sought, except as provided in Subparagraph 1.41(b).

b. If six months after the date of the general election any matters are pending for which litigation fund committee funds may be expended, then a litigation fund committee shall be terminated within six months after the conclusion of all such matters, including any appeals.

c. Before a litigation fund committee is terminated, any remaining funds shall be returned to contributors according to one of the methods below, and the litigation fund committee's checking account shall be closed:

i. On a "last in, first out" accounting basis;

ii. On a "first in, first out" accounting basis;

iii. On a pro-rata accounting basis; or

iv. On such other equitable basis as may be approved by a majority vote of the Board upon application in writing by a candidate or treasurer of a litigation fund committee by postal mail or

email sent to the attention of the Board's Executive Director at least 40 days prior to the termination deadline.

d. The Board may grant an extension for terminating a litigation fund committee upon application at least 40 days prior to the termination deadline to the Board's Executive Director in writing that demonstrates good cause for an extension.

SUBPART I. CAMPAIGN FINANCE DISCLOSURES

1.42 Disclosures required of candidates and former candidates.

Whenever a candidate for City elective office (or such a candidate's treasurer or agent) files a campaign finance report with the City Commissioners or the Secretary of State pursuant to the Pennsylvania Election Code, he or she shall file electronically a copy of that report with the Board, through the Department of Records.

b. Former candidates shall file electronically with the Board, through the Department of Records, reports of post-candidacy contributions and expenditures.

i. Such reports shall be identical in form and content to, and filed on the same schedule as, campaign finance disclosure reports required to be filed by municipal candidate political committees with the City Commissioners or Secretary of State pursuant to the Pennsylvania Election Code.

ii. A former candidate may satisfy the requirements of this Paragraph by filing electronically with the Board copies of campaign finance reports the former candidate files with the Secretary of State or the City Commissioners, so long as such reports disclose all post-candidacy contributions received and expenditures made by the former candidate.

1.43 Disclosures required of persons and political committees.

a. Whenever a person or political committee (or a political committee's treasurer or agent), files a campaign finance report with the City Commissioners or the Secretary of State, the person or political committee shall file electronically a copy of that report with the Board, through the Department of Records, if the report filed with the City Commissioners or Secretary of State discloses, or should disclose, any contributions or expenditures made to influence the outcome of a covered election, including contributions from or expenditures to a candidate for City elective office.

b. Political committees shall file electronically with the Board, through the Department of Records, reports of all post-candidacy contributions made by the political committee to any former candidate.

i. Such reports shall be identical in form and content to, and filed on the same schedule as, campaign finance disclosure reports required to be filed by political committees with the City Commissioners or Secretary of State pursuant to the Pennsylvania Election Code.

ii. A political committee may satisfy the requirements of this Paragraph by filing electronically with the Board copies of campaign finance reports the political committee files with the Secretary of State or the City Commissioners, so long as such reports disclose all post-candidacy contributions made by the political committee.

1.44 Disclosures required of litigation fund committees.

a. A litigation fund committee established as described in Subpart H shall file electronically with the Board, through the Department of Records, reports of contributions and expenditures.

b. Such disclosure reports shall be identical in form and content to, and filed on the same schedule as, campaign finance reports required to be filed by municipal candidate political committees with the City Commissioners or Secretary of State pursuant to the Pennsylvania Election Code.

c. If a litigation fund committee is established as a political committee pursuant to the Pennsylvania Election Code, the litigation fund committee may satisfy the requirements of this Paragraph by filing electronically with the Board copies of campaign finance reports it files with the Secretary of State or the City Commissioners, so long as such reports disclose all contributions received and expenditures made by the litigation fund committee.

1.45 Any report required under this Subpart shall be accompanied by a written statement, on a form available from the Department of Records, signed by the individual filing the report, that subscribes and swears to the information set forth in the report.

SUBPART J. PENALTIES

1.46 Acceptance of an excess contribution. A candidate, candidate political committee, or litigation fund committee that accepts a contribution in excess of the limits described in Subpart B shall be subject to a civil penalty of three times the amount by which the accepted contribution exceeded the limit, or $2,000, whichever is less.

1.47 Making an excess contribution. A contributor who makes a contribution in excess of the limits described in Subpart B shall be subject to a civil penalty of three times the amount by which the contribution exceeded the limit, or $2,000, whichever is less.

1.48 Safe harbor if an excess contribution is returned within 15 days. No civil penalty shall be imposed on a contributor or recipient of an excess contribution if the candidate who accepted the excess contribution within fifteen days after receiving the contribution:

a. Returns the excess amount to the contributor; and

b. Notifies the Board of the following information by postal mail or email sent to the attention of the Board's Executive Director: the amount of the excess, the identities of the contributor and the candidate, the date of receipt, and the date of return.

1.49 Failure to file campaign finance disclosures.

a. A civil penalty of $250 shall be imposed for failure to file a campaign finance or litigation fund committee report as described in Subpart I.

b. Each day the report is not filed shall be considered a separate offense for which an additional separate civil penalty of $250 may be imposed. The total civil penalties that may be imposed for failure to file a particular report shall not exceed $2,000 for the first thirty days the report is not filed, plus $1,000 for each additional thirty-day period or part thereof the report is not filed.

1.50 Other violations of the campaign finance law. All other violations of the campaign finance law, including the making of material misstatements or omissions in a campaign finance report filed with the Board, are subject to a civil penalty of $1,000, which may be increased or decreased depending on the presence of mitigating and aggravating factors as described in this Paragraph:

a. Mitigating factors. The civil penalty of $1,000 shall be reduced by $500 if one of the following mitigating factors is present and shall be reduced by $750 if more than one of the following mitigating factors is present:

   i. Good faith effort to comply. The violator is found to have made a good faith effort to comply with the law.

   ii. Prompt corrective action. The violator is found to have taken prompt corrective action where corrective action was possible to remedy the violation.

   iii. Prompt self-reporting. The violator is found to have reported promptly the violation to the Board of Ethics.

b. Aggravating factors. The civil penalty of $1,000 shall be increased by $1,000 for each of the following aggravating factors that is present, provided that the total civil penalty that may be imposed for one violation shall not exceed $2,000:

   i. Intent. The violator is found to have acted knowingly. An act is done knowingly if done voluntarily and intentionally and not because of mistake or accident or other innocent reason.

   ii. Repeat violation. The violator previously has been found by the Board of Ethics in an administrative adjudication or by a court of competent jurisdiction to have violated the same provision.

   iii. Obstruction of investigation. The violator is found to have obstructed the investigation of the Board of Ethics into the same violation.

Approved for public comment by the Board December 18, 2006

Effective January 17, 2007

Amendment approved by Board August 21, 2007

Effective September 21, 2007

Proposed amendments approved for public comment by Board on July 21, 2010 to expand the Regulation to address the requirements, other than electronic filing, of the City's campaign finance law, Philadelphia Code Chapter 20-1000, as that law was amended in June 2010. The amendments to Regulation No. 1 completely strike and replace the original text of the regulation and delete the original exhibit.

Public hearing held September 8, 2010

Adopted by Board with modifications September 15, 2010
Effective September 27, 2010

Proposed amendments approved for public comment by Board May 11, 2011 to, among other things, reflect the April 2011 amendment to Philadelphia Code § 20-1002(2).

Public hearing held June 15, 2011

Adopted by Board July 20, 2011
Effective August 11, 2011

Proposed amendments approved for public comment by Board on January 18, 2012 to reflect the City Finance Director's certification of January 2012 adjustments to the maximum annual contribution limits.
Effective March 2, 2012

PHILADELPHIA BOARD OF ETHICS

REGULATION NO. 8

POLITICAL ACTIVITY

SUBPART A. SCOPE; DEFINITIONS.

8.0 Scope. This Regulation, promulgated by the Board pursuant to its authority under Sections 4-1100 and 8-407 of the Philadelphia Home Rule Charter and Chapter 20-600 of The Philadelphia Code, interprets the requirements and prohibitions of Philadelphia Home Rule Charter Subsections 10-107(3)&(4) as applied to appointed City officers and employees, but not to elected officials. The examples and lists of permissible and prohibited behavior provided in this Regulation are for illustration and are not exhaustive.

8.1 Definitions. As used herein, the following words and phrases shall have the meanings indicated.

Appointed officer. An individual who is appointed to any position in a City department, agency, office, board, or commission, whether paid or unpaid, but not including elected officials.

Board. The Board of Ethics.

Blog. A website that displays in chronological order the postings of one or more individuals.

Candidate. An individual who i) files nomination petitions or papers for public elective office, or ii) publicly announces his or her candidacy for public elective office.

City. City of Philadelphia.

Contribution intended for a political purpose.

i. Money or things having a monetary value received by a candidate or his or her agent for use in advocating or influencing the election of the candidate; and

ii. Money or things having a monetary value received by a political committee, political party, or partisan political group.

Election. Any primary, general, or special election for public elective office.

Employee. An employee of the City, including those serving full-time, part-time, or seasonally, and those on leaves of absence with or without pay, but not including:

i. Elected officials; or

ii. An employee on unpaid leave to be a full-time elected officer or appointed

staff representative of a City employee union.

Family member. A parent, spouse, life partner, child, brother, sister or like relative-in-law.

Life partner. An individual who has a long-term committed relationship with another individual of any gender, provided that both individuals meet the same criteria as set out in The Philadelphia Code Section 9-1106 (2)(a)(i)-(vi).

On duty. An appointed officer or employee is on duty:

i. During normal working hours, which for those with fixed work schedules includes the time between the start and end of the workday excluding a lunch break;

ii. When performing the duties of his or her City jobs or appointments; or

iii. When acting in his or her official capacity as a City appointed officer or employee.

Partisan political group. Any committee, club, or other organization that is affiliated with a political party or candidate or whose primary purpose is to engage in political activity.

Political. Related to a political party, candidate, or partisan political group.

Political activity. An activity directed toward the success or failure of a political party, candidate, or partisan political group.

Political campaign. Actions taken by a candidate or his or her supporters to obtain the candidate's nomination or election to public elective office.

Political party. Includes any national, state, or local political party.

Public elective office. Any public office for which candidates are nominated or elected as representing a political party.

Social networking website. Facebook, Twitter, Myspace, Linkedin, or any similar website.

8.2 Applicability. Except where expressly indicated otherwise, the provisions of this Regulation apply to all appointed officers and employees. Additional rules for members of boards and commissions can be found at Subpart J, and additional rules for employees of City Council can be found at Subpart K.

SUBPART B. POLITICAL ACTIVITY ON DUTY OR WHILE USING CITY RESOURCES IS PROHIBITED

8.3 An appointed officer or employee shall not engage in political activity while:

On duty;

In uniform, or while wearing a badge or other insignia that identifies him or her as a City officer or employee;

Using any City-owned or leased resources, such as telephones, Blackberries, vehicles, printers, computers, or other supplies or equipment; or

In City Hall or in any other City-owned or leased building, property, or office space, except that an appointed officer or employee may, while not on duty, attend a political event held in a City-owned or leased building, property, or office space if the event is open to the public.

EXAMPLES FOR SUBPART B

***Example 1*:** An employee may not display political stickers in her City workplace.

***Example 2*:** An employee may not wear a political button while in his uniform, even if he is not on duty.

***Example 3*:** An employee may not send an email that supports a candidate while using the City's email system or a City computer or Blackberry.

***Example 4*:** An employee may not sign a nominating petition while in City Hall or in a City-owned or leased building or office.

SUBPART C. USE OF CITY POSITION FOR POLITICAL PURPOSES IS PROHIBITED

8.4 An appointed officer or employee shall not use his or her authority, influence, title, or status as a City officer or employee for any political purpose. Activities prohibited by this Paragraph include:

Using his or her title or status as a City officer or employee while participating in political activity;

Using his or her authority or influence to coerce any individual to participate in political activity; and

Requesting, directing, or suggesting that a subordinate officer or employee participate in political activity.

EXAMPLES FOR SUBPART C

***Example 1*:** An employee who writes a letter to the editor expressing his opinion on a political matter may not make reference to his title or his status as a City employee.

***Example 2*:** An appointed officer may not send her subordinate employees an email that promotes the success or failure of a political party.

SUBPART D. COLLECTING, RECEIVING, OR SOLICITING CONTRIBUTIONS INTENDED FOR A POLITICAL PURPOSE IS PROHIBITED

8.5 An appointed officer or employee shall not directly or indirectly be in any manner concerned in the collection, receipt, or solicitation of contributions intended for a political purpose.

8.6 An appointed officer or employee shall not authorize a political committee to collect, receive, or solicit contributions intended for a political purpose on his or her behalf.

8.7 An appointed officer or employee shall not permit, authorize, or direct others to collect, receive, or solicit contributions intended for a political purpose for the appointed officer or employee's benefit or on behalf of the appointed officer or employee.

8.8 An appointed officer or employee, except for an appointed officer or employee of the Police Department, may make contributions intended for a political purpose.

EXAMPLES FOR SUBPART D

***Example 1*:** An employee may not sell tickets to a candidate's fundraiser event.

***Example 2*:** An employee (but not an employee of the Police Department) may purchase tickets to a candidate's fundraiser event.

***Example 3*:** An employee may not be a treasurer of a political committee.

***Example 4*:** An employee may not use a political committee to raise money for a potential candidacy.

SUBPART E. OTHER PROHIBITED POLITICAL ACTIVITY

8.9 An appointed officer or employee shall not be a member of any national, state, or local committee of a political party.

8.10 An appointed officer or employee shall not be an officer of a partisan political group.

8.11 An appointed officer or employee shall not take any part in the management or affairs of any political party, political campaign or partisan political group, which includes any political activity that is performed in concert or coordination with a political party, candidate, or partisan political group, such as:

Circulating or initiating nomination petitions or papers for public elective office;

Being a candidate for public elective office or political party office;

Serving as a delegate to a political party convention;

Participating in get-out-the-vote activities organized or sponsored by a political party, candidate, or partisan political group; or

Any political activity performed by an appointed officer or employee using resources or materials paid for or provided by a political party, candidate, or partisan political group.

EXAMPLES FOR SUBPART E

***Example 1*:** An employee may not serve as a committee person or ward leader.

***Example 2*:** An employee may not distribute campaign posters that she obtains from a candidate's campaign office.

***Example 3*:** An employee may not volunteer at a phone bank organized by a candidate's campaign.

SUBPART F. PERMISSIBLE EXPRESSION AND POLITICAL ACTIVITY

8.12 An appointed officer or employee may register and vote in any election.

8.13 An appointed officer or employee may be a member of a political party or a partisan political group.

8.14 An appointed officer or employee may engage or participate in personal political expression and activity that is directed toward the success or failure of a political party, candidate or political group, including the following, so long as he or she complies with Subparts B, C, D, E, and H and so long as he or she does not do so in concert or coordination with a political party, candidate, or partisan political group:

Publicly expressing an opinion on political matters or candidates, including in letters to the editor or on the internet;

Signing a political petition, such as a nominating petition, including those that are circulated by a political party, candidate or partisan political group;

.Distributing political literature that was not created by a political party, candidate or partisan political group;

Making contributions intended for a political purpose (except for appointed officers and employees of the Police Department); and

Attending political rallies, conventions, fundraisers or other political events solely as a spectator.

8.15 Political activities organized by a civic, community, labor, or professional organization. An appointed officer or employee may engage or participate in activities organized or sponsored by a civic, community, labor, or professional organization that are directed toward the success or failure of a political party, candidate, or partisan political group so long as the organization has not acted in concert or coordination with that political party, candidate, or partisan political group.

8.16 Political buttons, signs, and stickers. As long as he or she complies with the requirements of Subparts B and C, an appointed officer or employee may wear political buttons and may display political signs or stickers, including buttons, signs, and stickers he or she obtains from a political party, candidate, or partisan political group. However, an appointed officer or employee shall not distribute buttons, signs, or stickers that he or she obtains from a political party, candidate, or partisan political group.

EXAMPLES FOR SUBPART F

***Example 1*:** An employee may place in his yard a sign supporting a candidate.

***Example 2*:** An employee may wear a political party button when the employee is not on duty, at her City workplace, or in uniform.

***Example 3*:** An employee may print at her own expense one thousand fliers that state her personal opinion that a specific candidate is the best suited for public office. She may distribute the fliers at a shopping mall on the weekend, but may not distribute them in her City workplace. She also may not distribute fliers printed or paid for by the candidate's campaign committee, a political party, or a partisan political group.

***Example 4*:** An employee may attend a fundraising event that benefits a candidate, but he may not organize, distribute invitations to, or sell tickets to the fundraiser.

***Example 5*:** An employee may be a member of the audience at a political gathering organized by a candidate, but she may not appear on stage with a candidate or address the audience at such a gathering.

***Example 6*:** An employee may volunteer at a phone bank that promotes a candidate and that is organized by the employee's union, but not if the union has coordinated with that candidate's campaign.

SUBPART G. ACTIVITY THAT IS NOT POLITICAL IS PERMITTED

8.17 An appointed officer or employee may engage or participate in expression and activity that is not political and is not directed toward the success or failure of a political party, candidate, or partisan political group. Such activity or expression includes the following so long as it is not performed in concert or coordination with a political party, candidate, or partisan political group:

Campaigning for or against referendum questions, constitutional amendments, federal or state laws, or municipal ordinances;

Participating in civic, community, labor, or professional organizations, including seeking election to positions within such organizations;

Circulating petitions related to referendum questions, constitutional amendments, federal or state laws, municipal ordinances, or other matters of public interest not related to a political party, candidate, or partisan political group; and

Assisting in voter registration drives that are not organized or sponsored by a political party, candidate, or partisan political group.

SUBPART H. USE OF SOCIAL MEDIA

8.18 Blogs. An appointed officer or employee may maintain a blog in which he or she expresses support or opposition to political parties, candidates, or partisan political groups so long as he or she:

Does not write or maintain the blog while on duty, in any City-owned or leased building, property, or office space, or while using any City resources;

Does not use his or her title or status as a City officer or employee in posts on the blog;

Does not post anything on his or her blog that was created by, or links to information created by, a political party, candidate, or partisan political group; and

Does not suggest, encourage or ask readers of the blog to make contributions intended for a political purpose.

8.19 Social networking websites.

An appointed officer or employee's profile page on a social networking website may identify the officer or employee's title or status as a City officer or employee and may also identify the political party the appointed officer or employee supports.

An appointed officer or employee may express support or opposition to political parties, candidates, or partisan political groups in posts to a social networking website so long as he or she:

i. Does not make such posts to the website while on duty, in any City-owned or leased building, property, or office space, or while using any City resources;

ii. Does not use his or her title or status as a City officer or employee in such posts to the website;

iii. Does not include in such posts anything that was created by, or links to information created by, a political party, candidate, or partisan political group; and

iv. Does not suggest, encourage or ask others to make contributions intended for a political purpose.

An appointed officer or employee may become a "friend" or "fan" of, or "like" the page of a political party, candidate, or partisan political group.

An appointed officer or employee may "follow" the Twitter account of a political party, candidate, or partisan political group.

SUBPART I. FAMILY MEMBER OF A CANDIDATE

8.20 An appointed officer or employee who is the family member of a candidate may appear in photographs of the candidate's family that appear in a political advertisement, broadcast, campaign literature, or similar material. A family member also may attend political events with the candidate. However, the appointed officer or employee who is the family member shall not engage in any other activity that would be prohibited under this Regulation.

EXAMPLES FOR SUBPART I

***Example 1*:** An employee who is the spouse of a candidate may stand in the receiving line and sit at the head table during a political fundraising dinner honoring the spouse, but he may not organize, speak at, distribute invitations to, or sell tickets to the event.

***Example 2*:** An appointed officer who is the daughter of a candidate may appear in a family photograph that is printed in a campaign flier, but she may not distribute the flier at a campaign rally.

SUBPART J. MEMBERS OF CITY BOARDS AND COMMISSIONS

8.21 Boards and commissions that exercise significant powers of government. A member of a City board or commission that exercises significant powers of government shall be fully subject to the provisions of this Regulation. The boards and commissions that exercise significant powers of government are the following:

Art Commission

Board of Building Standards

Board of Ethics

Board of Health

Board of Labor Standards

Board of Pensions and Retirement

Board of Revision of Taxes

Board of Surveyors

City Planning Commission

Civil Service Commission

Commission on Human Relations

Fair Housing Commission

Free Library of Philadelphia, Board of Trustees

Historical Commission

Historical Commission Architectural Committee

Historical Commission Committee on Historic Designation

Licenses & Inspections Review Board

Malt and Brewed Beverage Hearing Board

Philadelphia Gas Commission

Philadelphia Prisons Board of Trustees

Sinking Fund Commission

Tax Review Board

Zoning Board of Adjustment

Zoning Code Commission

8.22 **Advisory boards and commissions.** A member of a board or commission not listed in Paragraph 8.21:

a. Shall be subject to the following provisions of this Regulation: Subpart B (on duty or while using City resources), Subpart C (use of City position), Subpart L (evasion) and Subpart M (penalties); and

b. Shall not be subject to the following provisions of this Regulation: Subpart D (contributions intended for a political purpose), Subpart E (other prohibited political activity) and Subpart H (use of social media).

SUBPART K. CITY COUNCIL EMPLOYEES

8.23 An employee of City Council shall not be subject to the following provisions of this Regulation: Subpart E (other prohibited political activity) and Paragraphs 8.4(a) (use of title), 8.18(b) (use of title in blog posts), 8.18(c) (links to political websites in blog posts), 8.19(b)(ii) (use of title in political posts to social networking sites), and 8.19(b) (iii) (links to political websites in posts to social networking sites).

8.24 An employee of City Council shall not collect, receive, or solicit contributions intended for a political purpose as prohibited by Subpart D.

EXAMPLES FOR SUBPART K

***Example 1*:** A City Council employee may not be a treasurer of a political committee.

***Example 2*:** A City Council employee may not use a City-owned photocopier to copy campaign literature.

***Example 3*:** A City Council employee may not circulate or sign a nominating petition while in City Hall or in a City owned or leased building or office.

***Example 4*:** A City Council employee may not ask an individual to make a contribution intended for a political purpose.

***Example 5*:** A City Council employee may not collect from the City Committee a check that is made out to or intended for a ward committee.

***Example 6*:** A City Council employee may enter data for a campaign finance report if the employee is not on duty and does not use City resources.

SUBPART L. EVASION BY INDIRECT MEANS IS PROHIBITED

8.25 An appointed officer or employee shall not evade the prohibitions of this Regulation by indirect means or by acting through another individual to accomplish what is prohibited.

SUBPART M. PENALTIES

8.26 If an appointed officer or employee engages or participates in prohibited political activity, the Board may seek a maximum civil penalty of $300 for each separate instance of prohibited political activity.

8.27 If a court finds that an appointed officer or employee has engaged or participated in prohibited political activity, the Board may seek the appointed officer or employee's removal from office or dismissal from employment.

8.28 If an appointed officer or employee engages or participates in prohibited political activity, he or she shall be ineligible for one year for any office or position under the City.

8.29 The Board shall not seek imprisonment as a sanction if an appointed officer or employee engages or participates in prohibited political activity.

Approved for public comment by Board: January 19, 2011

Public hearing held: February 23, 2011

Adopted by Board with modifications March 16, 2011

Effective March 28, 2011

PHILADELPHIA BOARD OF ETHICS

REGULATION NO. 9, LOBBYING

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SUBPART A. SCOPE; DEFINITIONS; GENERAL.

9.0 Scope. This Regulation, promulgated by the Board pursuant to its authority under Sections 4-1100 and 8-407 of the Philadelphia Home Rule Charter and Chapters 20-600 and 20-1200 of the Philadelphia Code, specifically §20-1210, interprets and provides implementing detail to Philadelphia's lobbying ordinance found at Code Chapter 20-1200. The examples provided in this Regulation are for illustration and are not intended to be exhaustive. In order to provide a single document for the convenience of users, this Regulation restates all provisions of Chapter 20-1200 that concern application of Chapter 20-1200 to lobbyists, lobbying firms and principals.

9.1 Definitions. As used herein, the following words and phrases shall have the meanings indicated.

(A) Chapter 20-1200. Chapter 20-1200, Lobbying, of the Philadelphia Code.

(B) Administrative action. Any of the following:

An agency's:

(a) Proposal, consideration, promulgation, review, revision, approval, disapproval, rejection, or rescission of a regulation;

(b) Development or modification of a written statement of policy;

(c) Preparation of a Request for Qualifications, Request for Proposals, or contract specifications;

(d) Solicitation, award, or administration of a contract, including for the procurement of goods or services;

(e) Solicitation, award, or administration of a grant, loan, or agreement involving the disbursement of public monies;

(f) Determination with respect to zoning or the use, development, or improvement of real property subject to City regulation;

(g) Determination with respect to any of the following:

(i) the terms of the acquisition or disposition by the City of any interest in real property;

(ii) a license or permit for the use of real property of or by the City;

(iii) a franchise or concession;

(h) Adjudication of claims, determination of complaints, or imposition of fines or fees.

The review, revision, approval or disapproval of a regulation.

The Mayor's approval or veto of legislation.

The nomination or appointment of an individual as a City officer or employee.

The proposal, consideration, promulgation or rescission of an executive order.

(C) Affiliated political action committee.

(1) A "political action committee" as defined in section 1621(l) of the Pennsylvania Election Code, which has an officer who:

(a) Must be included in a registration statement under section 1624(b)(2) and (3) of the Pennsylvania Election Code; and

(b) Is a principal, an officer or an employee of a principal, a lobbyist, or an employee of a lobbyist.

(2) A political action committee is not an "affiliated political action committee" if an employee of a registrant serves as the officer of a political action committee in clearly a personal capacity, and the goals and mission of that political action committee clearly have no relationship to the goals and mission of the registrant.

(D) Agency. Any of the following, unless the lobbying of the entity is subject to 65 P. C.S. § 13A01 *et seq*.:

(1) Any office, department, board, commission, or other entity that is part of the government of the City of Philadelphia, including City Council.

(2) The Philadelphia Industrial Development Corporation, the Philadelphia Authority for Industrial Development, the Redevelopment Authority of the City of Philadelphia, and any other entity that meets the definition of "City-related agency" under Section 17-1401(9) of The Philadelphia Code.

(3) The School District of Philadelphia, including any board or other instrumentality thereof.

(E) Attorney at law. An individual admitted to practice law by a court of record of this Commonwealth.

(F) Board. The Board of Ethics.

(G) Budget process. The consideration and passage of the annual operating budget and the capital budget and capital program, and any amendments thereto.

(H) City. City of Philadelphia.

(I) City Code. The Philadelphia Code.

(J) City official or employee. Any person who is elected or appointed to a position in any branch of the government of the City of Philadelphia, including, but not limited to, members of agencies, authorities, boards

and commissions, however elected or appointed, persons serving full-time or intermittently, and persons serving with or without compensation.

(K) Compensation. Anything of value, including benefits, received or to be received from a principal by one acting as a lobbyist.

(L) Direct communication. An effort, whether written, oral or by any other medium, made by a lobbyist or principal, directed to a City official or employee, the purpose or foreseeable effect of which is to influence legislative action or administrative action. The term includes personnel expenses and office expenses.

(M) Disciplinary Board. The Disciplinary Board of the Supreme Court of Pennsylvania.

(N) Economic consideration. Anything of value offered or received. The term includes compensation and reimbursement for expenses.

(O) Electronic Signature. The unique combination of user name, password, and PLIS registration number assigned to a lobbyist, lobbying firm or principal by the Board which shall be used by the lobbyist, lobbying firm or principal to file a registration statement, expense report, termination or amendment to such filing and which constitutes a signature under oath or affirmation by a lobbyist, lobbying firm, or principal as required by Chapter 20-1200.

(P) Enrollment. The process by which a lobbyist, lobbying firm, or principal receives the user name, password and PLIS registration number that are required to access the mandatory Philadelphia lobbying electronic filing system.

(Q) Filed. For the purposes of imposition of the penalties in Chapter 20-1200:

(1) A lobbyist registration statement is filed when the Board has received all of the following:

(a) The electronic registration statement;

(b) The required electronic signature or signatures;

(c) All information required to be included in the lobbyist registration statement by this Regulation;

(d) A photograph of the lobbyist; and

(e) The annual registration fee required pursuant to this Regulation.

(2) A principal or lobbying firm registration statement is filed when the Board has received all of the following:

(a) The electronic registration statement;

(b) The required electronic signature or signatures;

(c) All information required to be included in the registration statement by this Regulation; and

(d) The annual registration fee required pursuant to this Regulation.

(3) An expense report is filed when the Board has received all of the following:

(a) The electronic registration statement;

(b) The required electronic signature or signatures; and

(c) All information required to be included in the expense report by this Regulation.

(4) An amendment to a registration statement or expense report is filed when the Board has received the electronic amendment containing required electronic signature or signatures.

(5) A notice of termination is filed when the Board has received the electronic notice of termination containing required electronic signature or signatures.

(R) Gift. Anything that is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business. The term shall not include hospitality, transportation or lodging.

(S) Hospitality. Meals, beverages and recreation and entertainment, but not gifts, transportation or lodging.

(T) Immediate family. An individual's spouse, child, parent, brother, sister and like relative-in-law.

(U) Indirect communication. An effort, whether written, oral or by any other medium, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence legislative action or administrative action, including, but not limited to, letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues, but not including regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

(V) Legislation. Bills, resolutions, amendments, and nominations pending or proposed in Council, and any other matter that may become the subject of action by Council.

(W) Legislative action. An action taken by a City official or employee involving the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of:

(1) Legislation;

(2) Legislative motions;

(3) A veto by the Mayor; or

(4) Confirmation of appointments by the Mayor or Council, or appointments to public boards or commissions by the Mayor or Council.

(X) Lobbying. An effort to influence legislative action or administrative action including:

(1) Direct or indirect communication;

(2) Incurring office expenses; and

(3) Providing any gift, hospitality, transportation or lodging to a City official or employee for the purpose of advancing the interest of the lobbyist or principal.

For purposes of this Regulation and Chapter 20-1200, it is not lobbying when a principal, or a consultant or professional (e.g., an accountant, architect, attorney, doctor, or engineer), acting as the representative or agent of a principal or client, communicates with a City agency in a matter in which the principal or client is subject to or seeking a specific City agency action in which the principal's or client's interests, rights, or privileges are at issue, provided that such communication is in an effort to address those interests, rights, or privileges and is in the normal course for such matters. This exception shall not apply to efforts to influence general policy on

behalf of an interest group, nor to direct communications with City officials or employees who the principal, representative, or agent knows or should know are not those who would ordinarily make determinations in the matter at issue.

Example 1: A City taxpayer receives a notice from the Department of Revenue that the taxpayer is in arrears on his net profits tax and imposing a substantial penalty and interest. The taxpayer's accountant contacts the contact person listed on the notice, meets with that person, and provides documentation of the taxpayer's position. Must the taxpayer register as a principal, the accountant register as a lobbyist, and the taxpayer file an expense report for the quarter?

Result: The facts presented in this example do not constitute lobbying under the definition of "lobbying" in Paragraph 9.1(X). The accountant does not have to register as a lobbyist, and the taxpayer does not have to register as a principal or file an expense report.

Example 2: Same factual situation as above, except that, in addition to working with the assigned contact person in the Revenue Department, the accountant prepares a letter arguing that the Department should change its policy. On the taxpayer's behalf, the accountant meets with the Revenue Commissioner, the Managing Director, and takes to lunch the Councilperson for the taxpayer's district and two at-large Councilpersons, provides all these officials with the letter, and bills the taxpayer for his time and expenses, for a total of $5000.

Result: This is clearly lobbying under the second sentence of Paragraph 9.1(X). The taxpayer must register as a principal, the accountant as a lobbyist, and the taxpayer must file an expense report for the quarter. (NOTE: Under both of these examples, whether registration and reporting is required also depends on whether the taxpayer or the accountant, or both, are exempt under any of the provisions of Paragraph 9.24, especially the thresholds in Paragraphs 9.24(D), (E), and (F)).

Example 3: An accountant representing a seller in a real estate transaction contacts the City Revenue Department to discuss a realty transfer tax issue on the transaction which is not addressed by the City's regulations and is otherwise unclear. Not satisfied with the result, the accountant contacts a tax attorney in the Law Department. The seller's accountant and the Law Department attorney discuss the transaction and arrive at a mutually agreeable approach to the realty transfer tax issue for that transaction.

Result: The facts presented in this example do not constitute lobbying under the definition of "lobbying" in Paragraph 9.1(X). The accountant does not have to register as a lobbyist, and the client does not have to register as a principal or file an expense report, because the issue concerns specific City action involving the individual client's interests.

Example 4: An attorney is contacted by a client to process an application with the Department of Licenses and Inspections (L&I) for a building permit for the construction of a new food market. Subsequent to the submission, the zoning examiner reviews the application and L&I issues a denial of the permit. The attorney, on behalf of his client, applies to the Zoning Board of Adjustment for a variance. The examiner contends that the food market requires more off-street parking than that which is provided on the plan. The attorney disagrees with this reading of the Code and discusses the matter with the zoning examiner in order to determine the basis of the L & I ruling. The attorney also contacts the staff of the City Planning Commission and the applicable Deputy L&I Commissioner to gather information, as preparation for the variance hearing.

Result: The facts presented in this example do not constitute lobbying under the definition of "lobbying" in Paragraph 9.1(X). The attorney does not have to register as a lobbyist, and the client does not have to register as a principal or file an expense report, because the issue concerns specific City action involving the individual client's interests, and the attorney is preparing for a hearing. However, if the attorney were to contact the L & I Commissioner or the Chair of the Planning Commission in an attempt to influence L & I to reverse its

denial of the building permit, such contacts would be outside the normal course of business, and would constitute lobbying.

Example 5: An engineer has been engaged by a college to represent its interests in the development of a proposed academic building. In order to proceed with the development, City Council ordinances will need to be obtained to: (i) relocate the underground Water Department right-of-way to another part of the college's property; and (ii) permit certain sidewalk encroachments. The college's engineer contacts and meets with the relevant officials of the Water Department, the Streets Department and the City Planning Commission and the applicable District Councilperson to facilitate the introduction and passage of the required ordinances.

Result**:** The facts presented in this example do not constitute lobbying under the definition of "lobbying" in Paragraph 9.1(X). The required ordinances do not concern or affect general policy issues. Rather, the required ordinances are "special ordinances" under Section 21-501 of the Philadelphia Code, wherein the property owner identifies itself, pays a fee to the City and otherwise participates in public meeting(s) and hearing(s) on the proposed ordinances. Additionally, the special ordinances concern only private rights appurtenant to a particular piece of real estate. The engineer does not have to register as a lobbyist, and the client does not have to register as a principal or file an expense report. However, if the engineer or the client were to contact other Councilmembers or the Mayor in an attempt to influence the passage or approval of the subject ordinance, that would constitute lobbying.

(Y) Lobbying firm. An entity that engages in lobbying for economic consideration on behalf of a principal other than the entity itself.

(Z) Lobbyist. Any individual, association, corporation, partnership, business trust or other entity that engages in lobbying on behalf of a principal for economic consideration, including an attorney at law while engaged in lobbying, provided, however, that attorneys engaged in lobbying are subject to the requirements and restrictions of Chapter 20-1200 only to the extent permissible under the Pennsylvania Rules of Professional Conduct.

(AA) Oath or Affirmation. The electronic signature of an individual who is required to sign a registration statement, a quarterly expense report, a notice of termination, or an amendment to any such filing shall constitute an oath or affirmation which is a statement of the correctness of the contents of the registration statement, quarterly expense report, notice of termination, or amendment to any such filing. A false statement in a registration statement, a quarterly expense report, a notice of termination, or an amendment to any such filing shall be subject to the penalties provided in City Code §20-1207 and in 18 Pa.C.S. §4904.

(BB) Office expense. An expenditure for an office, equipment or supplies, utilized for lobbying.

(CC) Person. A business, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

(DD) Personnel expense. An expenditure for salaries or other forms of compensation, benefits, vehicle allowances, bonuses and reimbursable expenses paid to lobbyists, lobbying staff, research and monitoring staff, consultants, publications and public relations staff, technical staff, clerical and administrative support staff and includes individuals who engage in lobbying but are exempt from reporting under §20-1204 of the Philadelphia Code relating to exemption from registration and reporting. For an individual for whom lobbying is incidental to regular employment, the term means a good faith prorated estimate based on the value of the time devoted to lobbying.

(EE) PLIS – Philadelphia Lobbying Information System.

(FF) Principal. An individual, association, corporation, partnership, business trust or other entity:

(1) On whose behalf a lobbying firm or lobbyist engages in lobbying; or

(2) That engages in lobbying on the principal's own behalf.

(GG) Registrant. A registered lobbyist, registered lobbying firm or registered principal.

(HH) Regulation. Any rule or regulation promulgated under the procedure set forth in Section 8-406 or Section 8-407 of the Philadelphia Home Rule Charter, and any formal or informal opinion issued by the City Solicitor.

(II) Reporting period, quarterly reporting period, or expense reporting period. Any of the following quarterly periods:

(1) First Quarter - January 1 through March 31.

(2) Second Quarter - April 1 through June 30.

(3) Third Quarter - July 1 through September 30.

(4) Fourth Quarter - October 1 through December 31.

9.2 Filing Deadlines.

(A) When the deadline for a filing with the Board, pursuant to Chapter 20-1200, falls on a weekend or holiday, or on a day that the Board's office is closed or closes early, the deadline for the filing will be extended to the following City business day.

(B) An expense report shall be filed no later than 30 days after the end of the Quarter as follows:

Quarter	Covers the period	Expense Report due on or before
1	January 1 through March 31	April 30
2	April 1 through June 30	July 30
3	July 1 through September 30	October 30
4	October 1 through December 31	January 30

SUBPART B. REGISTRATION; ANNUAL FEE

9.3 General Rule. Unless exempt from registration and reporting under City Code §20-1204 and Subpart D of this Regulation, a lobbyist, lobbying firm or principal shall register with the Board in the electronic format mandated by the Board within ten days of engaging in lobbying.

Example: On January 10, 2012, Vice President Jones of Business Firm X meets with the local District Councilman concerning a pending bill in Council. Jones spends a total of 5 hours of his time preparing for and participating in this meeting, and the Firm's only expense is Jones' time, which, for the 5 hours, is valued at less than $1000. On February 15, 2012, Business Firm X contracts with the lobbying firm of Y to do all lobbying for the firm for the year beginning on that date. Under the contract, Lobbying Firm Y will bill Business Firm X on a monthly basis. On March 5, 2012, Lobbying Firm Y begins contacting City Councilmembers on behalf of Business Firm X. On April 6, 2012, Lobbying Firm Y bills Business Firm X $3000 for lobbying in March. Who must register and when?

Result: The thresholds for registration are stated in Paragraph 9.24 and Code Section 20-1204. Under these thresholds, an employee who engages in lobbying for his employer of less than 20 hours is exempt from registering

as a lobbyist, so Vice President Jones' 5 hours of lobbying on January 10 does not require him to register. Nor must Firm X register as a principal based on Jones' work, since the expense does not exceed the threshold of $2500. Since Lobbying Firm Y did $3000 worth of lobbying, the dollar threshold is passed and Business Firm X must register as a principal and Lobbying Firm Y must register as a lobbying firm. But these registrations need not occur until ten days after the thresholds are exceeded, or by April 16.

9.4. Registration Period.

(A) On or after January 1, 2012, the registration period shall be for the period of time that begins on January 1 and ends on December 31 of each calendar year.

(B) Unless terminated, a registration statement is effective from the date of filing through December 31 of that calendar year.

9.5 Annual Registration Fee.

(A) Each principal, lobbying firm or lobbyist required to register under Chapter 20-1200 shall pay an annual registration fee of $100 to the Board, made payable to the "City of Philadelphia.".

(B) A separate annual registration fee shall be paid for each registration period for each principal, lobbying firm or lobbyist required to be registered, even if employed by a firm, association, corporation, partnership, business trust or business entity that is also required to register and that has paid or will pay the annual registration fee.

(C) The annual registration fee is nonrefundable and nontransferable and is a flat fee for the calendar year in which it is paid, regardless of when during the calendar year the annual registration fee is paid. A registrant will not be required to pay more than one annual registration fee in any given calendar year, unless a registrant terminates and attempts to reregister during the same calendar year.

(D) The failure to pay an annual registration fee as required by Chapter 20-1200 constitutes a failure to register.

9.6 Renewal of Registration.

(A) An annual registration shall end on December 31 of a calendar year.

(B) A new registration statement shall be filed and an annual registration fee shall be paid for each calendar year as required by Paragraph 9.3.

9.7 Contents of Principal and Lobbying Firm Registration Statements

(A) Each principal or lobbying firm required to register shall file a separate registration statement setting forth the following information:

(1) Name and PLIS registration number.

(2) Permanent address.

(3) Daytime telephone number.

(4) E-mail address.

(5) Name and nature of business.

(6) Name, Department of State registration number and acronym of any affiliated political action committees.

(7) Name, permanent business address, and PLIS registration number of each individual who will for economic consideration engage in lobbying on behalf of the principal or lobbying firm.

(8) Date lobbying commenced.

NOTE: In light of the requirement in Code Section 20-1202(1) that registration must be filed within ten days of "engaging in lobbying" (if other thresholds are met), the information in (8) above is necessary in order for the Board to be able to determine if the deadline requirements are being complied with. This Paragraph 9.7(A)(8) does not define "lobbying" for any other purpose. See the Example at Paragraph 9.3 for further explanation.

(B) A lobbying firm shall include in its registration statement the following information for each principal it represents:

Name.

Permanent business address.

(3) Telephone number.

(4) PLIS Registration number.

(C) A principal that is an association or organization with members shall include in its registration statement the approximate number of dues-paying members of the association or organization in the most recently completed calendar year.

9.8 Signatures on Registration Statements

(A) If a principal or lobbying firm is an individual, that individual shall sign the registration statement with his or her electronic signature.

(B) If a principal is a firm, association, corporation, partnership, business trust or business entity, a named officer or other individual who has the authority to sign documents on behalf of the principal shall sign the registration statement with his or her electronic signature.

(C) A lobbyist who is an individual shall sign the registration statement with his or her electronic signature.

(D) An electronic signature on a registration statement that is filed with the Board by a principal, lobbying firm, or lobbyist shall:

(1) Constitute the oath or affirmation required pursuant to City Code §20-1206(3) of the individual who signed the registration statement to the validity and accuracy to the best of the attester's knowledge of the information reported on the registration statement and that the individual acknowledges that the oath or affirmation is being made subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), and

(2) Constitute consent by the principal, lobbying firm, or lobbyist to receive service of notices, other official mailings, or process at the address listed in the registration statement that was filed with the Board, even if the principal or lobbying firm is located outside the City.

9.9 Contents of a Lobbyist Registration Statement.

(A) A lobbyist who is required to register shall file a single registration statement with the Board, setting forth the following information:

(1) Name.

(2) Permanent business address.

(3) Daytime telephone number.

(4) E-mail address.

(5) Name, permanent business address, daytime telephone number and PLIS registration number of each principal for whom the lobbyist will engage in lobbying.

(6) Name and PLIS registration number of any lobbying firm with which the lobbyist has a relationship involving economic consideration.

(7) Name, Department of State registration number and acronym of any affiliated political action committees.

(8) Name, Department of State registration number and acronym of any candidate political committee of which the lobbyist is an officer who must be included in a registration statement under section 1624(b)(2) and (3) of the Pennsylvania Election Code.

(9) Date lobbying commenced.

(B) A lobbyist who is an individual shall include a recent passport-sized (2 inch x 2 inch) photograph of the lobbyist at the time he or she files the registration statement.

(C) If a lobbyist is a firm, association, corporation, partnership, business trust or business entity, the registration statement shall be signed by a named officer or other individual who has the authority to sign documents on its behalf.

(D) The failure to submit a photograph constitutes a failure to register as required by Chapter 20-1200.

(E) A lobbyist shall indicate on the registration statement if he or she is admitted to practice law by a court of record of the Commonwealth of Pennsylvania.

9.10 Amending a Registration Statement.

(A) A principal, lobbying firm, or lobbyist shall file an amended registration statement with the Board within 14 days after a change occurs in the information required to be included in any registration statement.

(B) A principal that is an association or organization shall amend its registration statement if there is a change in the number of the principal's dues-paying members. The amended registration statement shall be filed with the Board within 14 days of the end of the year in which the change occurs.

9.11 Termination of Registration; Notice of Termination.

(A) A lobbyist, lobbying firm or principal shall terminate his, her or its registration by filing a notice of termination with the Board.

(B) After a review of the notice of termination, but no later than 30 days after receipt of the notice, the Board shall issue to the lobbyist, lobbying firm or principal a letter stating that the registrant has terminated registration. The filing of a notice of termination shall not affect the Board's authority to conduct investigations and hearings.

(C) No lobbying may occur after the filing of a notice of termination unless the lobbying is pursuant to a separate registration statement that is filed with the Board and that, at the time of the lobbying, has not been terminated.

(D) Filing a notice of termination shall not exempt a lobbyist, lobbying firm or principal from any of the requirements in City Code §20-1203, relating to reporting.

SUBPART C. QUARTERLY EXPENSE REPORT; CONTENTS

9.12 RESERVED

9.13 General rule. A registered principal shall, under affirmation, file an expense report with the Board, in the electronic format and with an electronic signature or signatures, as required by this Regulation, no later than 30 days after the last day of each reporting period.

9.14 Reporting Threshold.

(A) A registered principal shall file a quarterly expense report required under this section when total expenses for lobbying made on the principal's behalf by the registered principal, its registered lobbying firm(s) and registered lobbyist(s) exceed $2,500 in a reporting period.

(B) In a reporting period in which total expenses for lobbying on the principal's behalf by the registered principal, its registered lobbying firm(s) and registered lobbyist(s) are $2,500 or less, a statement to that effect shall be filed by checking the appropriate block on the quarterly expense report form.

9.15 Reporting of Direct and Indirect Communications Conducted in an Expense Report Period. Each expense report shall include the following:

(A) The names, PLIS registration numbers, addresses, and phone numbers of all lobbyists by whom lobbying is conducted on behalf of the principal. The expense report shall include the electronic signature of each lobbyist or lobbying firm named in the expense report.

(B) A description of each specific subject matter, issue, administrative action, or legislative action (including bill number, if any) being lobbied and the following additional information for the direct communications concerning that subject matter, issue, administrative action, or legislative action:

(1) The category of the subject matter or issue being lobbied which shall be indicated by selecting the appropriate subject matter category from a drop down menu in PLIS on the expense report form or, if no relevant category is available, by describing the subject matter or issue in the space provided.

(2) The position taken on the specific subject matter, issue, administrative action, or legislative action being lobbied, such as supported, opposed, proposed, or amended.

(3) The name or names of the City official or employee who was lobbied and his or her department or agency.

(a) If a meeting is conducted with a City official or employee and members of that official's or employee's staff are present, it is sufficient to report the name of the City official or employee. It is not required to report the staff members in attendance.

(b) If a direct communication occurs during a City Council meeting or hearing with multiple individuals who are staff of a City official or employee, it is sufficient to report that the direct communication was with "staff of (name of official or employee)."

(C) A description of each specific subject matter, issue, administrative action, or legislative action (including bill number, if any) being lobbied and the following additional information for the indirect communications concerning that subject matter, issue, administrative action, or legislative action:

(1) The category of the subject matter or issue being lobbied which shall be indicated by selecting the appropriate subject matter category from a drop down menu in PLIS on the expense report form or, if no relevant category is available, by describing the subject matter or issue in the space provided.

(2) The position taken on the specific subject matter, issue, administrative action, or legislative action being lobbied, such as supported, opposed, proposed, or amended.

(3) A description of the persons or groups to whom the indirect communication was directed;

(4) The method used for the indirect communication, such as a letter, billboard, or telephone bank.

(5) The term indirect communication shall not include regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

Example 1: Assuming that no exemption pursuant to Paragraph 9.24 applies, when lobbying concerns an insurance contract with the City, the category selected shall be "insurance," and it shall be a sufficient description of the specific subject matter to report the contract number and the City Department from which the contract is sought.

Example 2: In 2015, Bill No. 15001 would rezone a property in City Neighborhood A to permit construction of a warehouse. Restaurant X is located next to the property in Bill No. 15001. Restaurant X pays for a billboard on Route 95 that tells residents of City Neighborhood A to call or write their Councilmember to oppose Bill No. 15001. Assuming that no exemption pursuant to Paragraph 9.24 applies, Restaurant X would report the following on its expense report: the category of the indirect communication is zoning; the specific subject matter is Bill No. 15001; the position is "opposed"; the method is a billboard; and the communication is directed to citizens.

9.16 Reporting of Total Lobbying Costs in a Report Period. The total costs of all lobbying expenses for the reporting period shall be reported on the expense report and shall include:

(A) The amount of economic consideration paid to lobbying firms or lobbyists for lobbying during the reporting period.

(B) The total costs for gifts, hospitality, transportation and lodging, given to or provided to City officials or employees or their immediate families during the reporting period.

(1) Any cost for a gift, hospitality, transportation or lodging given to or provided to a City official or employee or to his or her immediate family which is of a value not exceeding $25 need not be included in the total costs for gifts, hospitality, transportation and lodging on an expense report. If the same or similar

gift, hospitality or transportation or lodging is provided on more than one occasion or to more than one City official or employee, the aggregate economic value of which is more than $50, that value shall be included on the expense report in the total costs reported for gifts, hospitality, transportation and lodging.

(2) The valuation of a complimentary ticket to a fundraiser shall be the ticket price to the general public.

(3) The reportable value of gifts, transportation, lodging or hospitality shall be the fair market value to the registrant, that is, the costs of purchasing the same or similar items or services in marketplace transactions.

(4) See also Paragraph 9.19 which requires that notice be given to the recipients of gifts, hospitality, transportation, and lodging.

(C) The total costs for personnel expenses made during the reporting period.

(1) Reportable personnel costs include expenditures for salaries or other forms of compensation, benefits, vehicle allowances, bonuses and reimbursable expenses paid to lobbyists, lobbying staff, research and monitoring staff, consultants, lawyers, publications and public relations staff and technical staff, as well as clerical and administrative support staff and individuals who engage in lobbying but who are exempt from reporting under City Code §20-1204 and Subpart D of this Regulation.

(2) Compensation, benefits and expenses of any nature shall be included if paid in furtherance of lobbying. These expenses include transportation, food and lodging paid for any individuals in furtherance of lobbying.

(3) If compensation is reported by or for an individual or entity whose lobbying is incidental to regular employment, it shall be sufficient to report a prorated estimate based on the value of the time devoted to lobbying.

(D) The total costs for office expenses during the reporting period, including but not limited to offices, equipment and supplies utilized for lobbying.

(E) Any other lobbying costs.

(F) Each lobbying expense described in Paragraphs 9.16(A) through 9.16(E), above, made during the reporting period shall be allocated to one of the following three categories and shall not be included in more than one category:

(1) The costs for gifts, hospitality, transportation and lodging given to or provided to City officials or employees or their immediate families and shall include any thing of value.

(2) The costs for direct communication.

(3) The costs for indirect communication.

(G) For the purpose of calculating total lobbying costs reportable in an expense report, a registrant may use a reasonable method of estimation and allocation. Any reasonable method may be used to determine how to allocate expenses between direct and indirect communication costs. The registrant shall maintain a detailed written description of the method of estimation and allocation used and shall make such written description available when requested by the Board.

(H) A registered principal that attempts, or that retains a lobbying firm or lobbyist to attempt, to influence an agency's preparing, bidding, entering into or approving a contract shall ensure that the related expenses are included in any expense report filed under Subpart C.

9.17 Reporting Expenses for Gifts, Hospitality, Transportation and Lodging.

(A) In accordance with Code Section 20-1203(2)(e), each expense report must include any expenditure on any gift, hospitality, transportation, or lodging, or reimbursement for the same, provided to a City official or employee, where the fair market value of the gift, hospitality, transportation, lodging, or reimbursement received exceeds the value of the cost borne by the official or employee.

EXCEPTION: When a City official or employee attends a reception in connection with his or her public office or employment at the invitation of and hosted by an organization and, at the reception, receives food, beverage, entertainment, and admission without charge, the fair market value of the same shall not be considered a gift to the individual official or employee within the meaning of Code Chapter 20-1200. Accordingly, the reception host is neither required to report the related expenditure on any expense report required to be filed under this Regulation or City Code Chapter 20-1200 nor to include it in the calculation of any reporting thresholds under this Regulation or City Code Chapter 20-1200. Provided, however, that if lobbying covered by Code Chapter 20-1200 occurs at such a reception, such lobbying activity and any related expenditure must be reported pursuant to Chapter 20-1200 and this Regulation.

(B) For each expenditure described in Paragraph 9.17(A), the report must identify the following:

(1) Name of the official or employee who received the value.

(2) Position of the official or employee who received the value and his or her job title and unit of government.

(3) Description of thing of value provided, including fair market value received.

(4) Date and place provided.

(5) Name and address of the source of each gift, payment or reimbursement.

(C) For any quarterly report period, where the value of all expenditures for gifts, hospitality, transportation, lodging, or reimbursement received by a particular official or employee from the same registrant, in the aggregate for the calendar year, to that point, is less than $200, Paragraph 9.17(C) does not require reporting of those expenditures pursuant to Paragraph 9.17(B) in that reporting period. However, the value shall be included in the total costs for gifts, hospitality, transportation, lodging or reimbursements pursuant to Paragraph 9.16(B).

(D) Notwithstanding Paragraph 9.17(C) above, once the aggregate total cost of all expenditures for gifts, hospitality, transportation, lodging, or reimbursements to a recipient in a calendar year reaches or exceeds $200, the registrant shall report such previously unreported expenditures on that quarter's report, and on each subsequent expense report in that calendar year report the details of each subsequent gift, transportation, hospitality, lodging, or reimbursement to that recipient.

(E) A lobbyist, lobbying firm, principal, or City official or employee is not relieved by the provisions of Chapter 20-1200 from the restrictions in City Code §20-604 (Gifts, Loans and Favors to City Personnel), or from financial disclosure requirements such as those in Code §20-610, or from departmental or other restrictions or prohibitions on the offer or acceptance of gifts, hospitality, transportation, and lodging.

(F) The requirement to report gifts, hospitality, transportation, and lodging expenses shall not apply to anything of value received from immediate family when the circumstances make it clear that the motivation for the action was the personal or family relationship.

> **Example:** Paul is a City employee who received tickets with a value of $150 from a lobbyist for Principal A on March 15th. Because the $150 gift of the tickets is less than $200, Principal A is not required to disclose the details of the gift on the expense report for the first quarter, but must include the $150 value of the tickets in the total costs for gifts, hospitality, transportation, and lodging on that report. See Paragraph 9.16.
>
> On May 15th, another lobbyist for Principal A gives Paul tickets with a value of $60. Because the total value of all gifts to Paul in the calendar year is now $210, Principal A must on its second quarter report include the $60 value of the tickets in the total costs for gifts, hospitality, transportation, and lodging, and report both the $150 and $60 gifts in detail. If Principal A gives any additional gifts in that calendar year to Paul, regardless of their value, each one must be reported in detail on the appropriate expense report and included in the total cost of gifts for the quarter.

9.18 Repayment to a Principal or Lobbyist for Gifts, Hospitality, Transportation or Lodging

If a City official or employee repays, in whole or in part, any costs for gifts, hospitality, transportation or lodging received from a registrant, and if the gift, hospitality, transportation or lodging expense is or would have been required to be reported on an expense report under Paragraph 9.17, the expense report shall disclose both the expenditure and the repayment.

Example: On January 15th, a City official received tickets costing $300 from a lobbyist for Principal A. On March 1st, the official sent a check for $150 to Principal A as a partial repayment for the tickets. Because the $300 gift of the tickets was $200 or more, both the $300 gift and the $150 repayment must be reported on the principal's first quarter expense report.

9.19 Written Notice to a Recipient of Gifts, Hospitality, Transportation or Lodging

(A) At least seven days prior to submitting an expense report to the Board, a registrant shall provide written notice to each City official or employee who is listed in the expense report as a recipient of a gift or gifts, hospitality, transportation or lodging.

(B) The written notice shall include the following information:

(1) The name of the recipient official or employee and his or her department and position;

(2) The cost and a description of each gift, or payment for hospitality, transportation, or lodging;

(3) The date and place of receipt;

(4) The name and address of the source of the gift; and

(5) The total amount of the gifts and payments for hospitality, transportation, or lodging given during the expense reporting period and the cumulative amount given from January 1 through the end of the applicable reporting period.

9.20 Lobbying Firm or Lobbyist Expense Report

(A) Although generally not required to file expense reports, a lobbying firm or a lobbyist not associated with a lobbying firm shall submit an expense report if either of the following occurs:

(1) During the reporting period the lobbying firm or lobbyist engaged in lobbying that was not reported in any expense report filed by a principal or principals represented; or

(2) The lobbying firm or lobbyist engaged in lobbying on behalf of any entity that is exempt under City Code §20-1204(7) relating to government officials acting in an official capacity.

(B) The expense report filed by a lobbyist or lobbying firm shall contain the information described in Subpart C.

(C) The expense report shall be filed on or before the 30th day after the due date of a principal's report.

(D) The filing of an expense report by a lobbyist or lobbying firm does not relieve a principal of any reporting requirements.

9.21 Reporting Contributions to a Principal: Each expense report shall include the following:

(A) The name, permanent business address and daytime telephone number of any individual, association, corporation, partnership, business trust or other business entity that contributed more than 10% of the total resources received by the principal during the reporting period.

(B) The term "total resources" includes all contributions to the principal and all dues and grants received by the principal during the reporting period.

9.22 Signatures Required on the Expense Report

(A) Signature of Principal:

(1) If a principal or lobbying firm is an individual, that individual shall sign the expense report with his or her electronic signature.

(2) If a principal is a firm, association, corporation, partnership, business trust or business entity, a named officer or other individual who has the authority to sign documents on behalf of the principal shall sign the expense report with his or her electronic signature.

(3) Each electronic signature for the principal shall:

(a) Constitute the oath or affirmation required pursuant to Section 20-1206(3) of Chapter 20-1200, of the individual(s) who signed the expense report on behalf of the principal to the validity and accuracy to the best of the attester's knowledge of the information reported on the expense report and that the individual acknowledges that the oath or affirmation is being made subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) Constitute consent to receive service of notices, other official mailings, or process at the address listed in the registration statement that was filed with the Board, even if the lobbyist is located outside the City.

(B) Signature of Lobbying Firm or Lobbyist

(1) A named officer or other individual in a lobbying firm who has the authority to sign documents on behalf of the lobbying firm shall sign the principal's expense report with his or her electronic signature.

(2) A lobbyist shall sign the principal's expense report with his or her electronic signature.

(3) The electronic signature of the individual, described in (1) and (2) above shall serve as his or her affirmation, to the best of his or her knowledge, of the validity and accuracy of the information in the expense report during the reporting period. A lobbying firm or lobbyist may include with his or her electronic signature a description of the limits of his or her knowledge concerning contents of the expense report.

9.23 Amending an Expense Report

(A) A principal, lobbying firm, or lobbyist shall file an amended expense report, including the required electronic signature(s), with the Board within 14 days after the principal, lobbying firm, or lobbyist determines that information was omitted from an expense report or that information reported in an expense report is incorrect.

(B) The filing of an amended expense report by a principal, lobbyist or lobbying firm does not relieve the principal, lobbyist or lobbying firm of any reporting requirements.

SUBPART D. EXEMPTION FROM REGISTRATION AND REPORTING

9.24 Exemptions

The following persons and activities are exempt from registration and reporting:

An individual who limits lobbying to preparing testimony and testifying or commenting before City Council or a committee of Council, or participating in an administrative proceeding of an agency. For this purpose, "administrative proceeding" shall have the meaning as defined in 2 Pa. C.S. §101, and the phrase "administrative proceeding of an agency" shall refer to adjudications under the Local Agency Law, 2 Pa.C.S. §551 *et seq.*

Note: This Paragraph 9.24(A) is derived from an exemption stated in the Philadelphia Code, Section 20-1204 (1). See the Note to Paragraph 9.24(J), below.

(B) An individual who is an employee of an entity engaged in the business of publishing or broadcasting while engaged in the gathering and dissemination of news and comment on the news to the general public in the ordinary course of business.

An individual who does not receive economic consideration for lobbying.

An individual whose economic consideration for lobbying, from all principals represented, does not exceed $2,500 in the aggregate during any reporting period.

An individual who engages in lobbying on behalf of the individual's employer if the lobbying represents less than 20 hours during any reporting period.

Except as required under City Code §20-1203(7), a principal whose total expenses for lobbying purposes do not exceed $2,500 during any reporting period.

Example: In January 2012, a nonprofit group that supports safety hires a lobbyist (registered with the State) to meet with the Mayor, along with the group's executive director, to ask for his support of a bill in Council

prohibiting anyone from running with scissors. The executive director and the lobbyist both spend 5 hours preparing for the meeting and meeting with the Mayor, and the lobbyist bills the nonprofit group $1000 for his time. That is the only lobbying in Philadelphia for any client that the lobbyist does in the first half of 2012 and the only lobbying activity that the nonprofit group engages in during that same period. Who must register and report?

Result: No one. Even though the activity is clearly lobbying under Paragraph 9.1(X), the lobbyist did not receive more than $2500 in the quarter, and is exempt under 9.24(D). The executive director of the nonprofit did not spend 20 hours in lobbying in the quarter, and is exempt under 9.24(E). And the nonprofit group itself did not incur lobbying expenses exceeding $2500 during the quarter, and is exempt under 9.24(F).

(G) A City official or employee who acts in an official capacity, as well as elected orappointed officials and employees of the following jurisdictions, when acting in an official capacity: the Commonwealth, political subdivisions thereof, other States or political subdivisions thereof, and the federal government.

(H) An individual representing a bona fide church or bona fide religious body of which the individual is a member where the lobbying is solely for the purpose of protecting the constitutional right to the free exercise of religion.

An individual who is not a registered lobbyist and who serves on an advisory board, working group or task force at the request of a City agency.

(J) Participating as a party or as an attorney at law or representative of a party in a case or controversy, or in any administrative adjudication. This includes all actions, including responses, questions, discussions, submissions, and settlement negotiations regarding any claim, controversy, assessment, voluntary tax disclosure, or letter ruling request. Provided, however, that this exemption shall not apply to efforts to influence general policy on behalf of an interest group, nor to direct communications with City officials or employees who the principal, representative, or agent knows or should know are not those who would ordinarily make determinations in the matter at issue.

Note: This Paragraph 9.24(J) is derived from an exemption stated in the Philadelphia Code, Section 20-1204 (10). Other communications with the City government, in the normal process of a party seeking to resolve a dispute with the government, may not be exempt under this Paragraph 9.24(J). However, such communications may not constitute "lobbying" as defined in Paragraph 9.1(X). In difficult cases, advice should be sought, in advance of acting, from the Board, in accordance with Regulation No. 4.

(K) Expenditures and other transactions subject to reporting under Article XVI of the Pennsylvania Election Code.

(L) Activities and efforts directly related to responding to publicly advertised invitations to bid and requests for proposals.

(M) Communication with a City official or employee on a routine, ministerial matter.

For purposes of this exemption, "routine, ministerial matters" include, but are not limited to, the following:

Scheduling a meeting;

Requesting information about the status of an administrative matter;

Requesting forms or procedures;

(4) Requesting information on requirements for compliance with existing laws or regulations;

(5) Participating in an inspection required by law;

Responding to an audit conducted pursuant to law;

Performing services pursuant to an existing contract;

(8) Inquiring about the delivery of services or materials pursuant to an existing contract;

(9) Filing a complaint with a City agency to seek enforcement of existing laws or regulations;

(10) Filing a response to a complaint or other enforcement action commenced by a City agency;

(11) Applying for means-tested City services or benefits for that individual as an agent or representative of a specific individual for whom the services or benefits are sought.

(N) Communications concerning extensions of an existing contract with the City are not routine, ministerial matters.

(O) For purposes of this Regulation and Chapter 20-1200, it is not lobbying when a principal, or a consultant or professional (e.g., an accountant, architect, attorney, doctor, or engineer), acting as the representative or agent of a principal or client, communicates with a City agency in a matter in which the principal or client is subject to or seeking a specific City agency action in which the principal's or client's interests, rights, or privileges are at issue, provided that such communication is in an effort to address those interests, rights, or privileges and is in the normal course for such matters. This exception shall not apply to efforts to influence general policy on behalf of an interest group, nor to direct communications with City officials or employees who the principal, representative, or agent knows or should know are not those who would ordinarily make determinations in the matter at issue.

(P) Activities of an individual volunteer, not undertaken for compensation, including

an attorney rendering pro bono publico services in activities for improving the law.

SUBPART E. INDIRECT COMMUNICATION DISCLOSURE

9.25 Identification of Person Who Financed an Indirect Communication

Whenever any person makes an expenditure for indirect communication for the purpose of disseminating or initiating a communication, such as a mailing, telephone bank, print or electronic media advertisement, billboard, publication or education campaign, the communication shall clearly and conspicuously state the name of the person who made or financed the expenditure for the communication.

SUBPART F. PROHIBITED ACTIVITIES AND UNLAWFUL ACTS

9.26 Prohibited Activities

(A) Political Committees. A lobbyist may not serve as a treasurer or other officer who must be included in a registration statement under section 1624(b)(2) and (3) of the Pennsylvania Election Code, for a candidate's political committee or a candidate's political action committee if the candidate is seeking City elected office.

Fee Restrictions. A lobbyist may not charge a fee or receive economic consideration based on a contract, either written or oral, that any part of the fee or economic consideration will be converted into a contribution to a candidate for public office or a political committee subject to reporting under Article XVI of the Pennsylvania Election Code.

(C) Falsification. A lobbyist, lobbying firm or principal may not, for the purpose of influencing legislative action or administrative action, transmit, utter or publish to a City official or employee a communication, knowing that the communication or a signature on the communication is false, forged, counterfeit or fictitious.

Conflicts of Interest

(1) Except as permitted by Paragraph 9.26(D)(2), a registrant may not lobby on behalf of a principal on any subject matter in which the principal's interests are directly adverse to the interests of another principal currently represented by the lobbyist or previously represented by the lobbyist during the current four-year session of Council, or directly adverse to the lobbyist's own interests.

(2) A lobbyist may represent a principal in circumstances described in Paragraph 9.26(D)(1) if:

(a) The lobbyist reasonably believes that the lobbyist will be able to provide competent and diligent representation to each affected principal;

(b) The lobbyist provides written notice to each affected principal upon becoming aware of the conflict; and

(c) Each affected principal provides written informed consent waiving the conflict of interest.

(3) If a lobbyist represents a principal in violation of Code Section 20-1205 or if multiple representation properly accepted becomes improper under this section and the conflict is not waived, the lobbyist shall promptly withdraw from one or more representations to the extent necessary for the remaining representation to not be in violation of that section.

(4) If a lobbyist is prohibited by Code Section 20-1205 from engaging in particular conduct, an employer of the lobbyist or a partner or other person associated with the lobbyist may not engage in the particular conduct.

(5) A principal or lobbyist required to file an expense report under this Chapter shall include in the report a statement affirming that to the best of the principal's or lobbyist's knowledge the principal or lobbyist has complied with this section.

(6) A lobbyist and principal shall maintain the records relating to the conflict of interest set forth in Paragraph 9.26(D) for a four-year period beginning on the date the conflict is discovered and provide copies of the records to the Board upon request.

(7) Complaints regarding violations of Code Section 20-1205(5) involving a lobbyist or principal who is an attorney at law shall be referred to the Disciplinary Board to be investigated, considered and resolved in a manner consistent with the Rules of Professional Conduct.

Multiple Principals. Nothing in this Subpart shall be construed to require a lobbyist representing multiple principals who each have an interest in the budget process to comply with Paragraph 9.26(D)(3) unless a conflict of interest exists under Paragraph 9.26(D)(1).

(F) Contingent Compensation.

(1) A person may not compensate or incur an obligation to compensate a person to engage in lobbying for compensation contingent in whole or in part upon any of the following:

(a) Occurrence, nonoccurrence or amendment of legislative action.

(b) Occurrence, nonoccurrence or amendment of an administrative action.

(2) A person may not engage in or agree to engage in lobbying for compensation contingent in whole or in part upon any:

(a) Occurrence, nonoccurrence or amendment of legislative action.

(b) Occurrence, nonoccurrence or amendment of an administrative action.

(3) It shall not be a violation of Paragraph 9.26(F) or Code Section 20-1205(7) for an individual who is paid on a contingent or commission basis for the sale of goods or services to contact a City official or employee regarding the purchase by the City of such goods or services, provided that such individual is contacting only those City officials or employees who have responsibility for making purchasing decisions regarding such goods or services in the normal course.

9.27 Unlawful Acts

(A) A lobbyist or principal may not:

Instigate the introduction of legislation for the purpose of obtaining employment to lobby in opposition to that legislation.

Knowingly counsel a person to violate Philadelphia Code Chapter 20-1200 or any other provision of the City Code or of any Federal or State statute.

Engage in or counsel a person to engage in fraudulent conduct.

Attempt to influence a City official or employee on legislative or administrative action by making or facilitating the making of a loan to the City official or employee.

While engaging in lobbying on behalf of the principal, refuse to disclose to a City official or employee, upon request, the identity of the principal.

Commit a criminal offense arising from lobbying.

Influence or attempt to influence, by coercion, bribery or threat of economic sanction, a City official or employee in the discharge of the duties of office.

Extort or otherwise unlawfully retaliate against a City official or employee by reason of the City official's or employee's position with respect to or vote on administrative or legislative action.

Attempt to influence a City official or employee on legislative or administrative action by the promise of financial support or the financing of opposition to the candidacy of the City official or employee at a future election.

Engage in conduct that brings the practice of lobbying or the legislative or executive branches of City government into disrepute.

(11) Make a material misstatement or omission on a registration statement or expense report filed with the Board pursuant to this Regulation and Chapter 20-1200. Provided, however, that if a lobbyist, lobbying firm, or principal learns that an already-filed registration statement or expense report included a material misstatement or omission and, within 15 days of learning the same, files an amended, corrected registration statement or expense report, it shall not be a violation of this Chapter; further provided, however, that this exception shall not apply in cases where the filer learns of the material misstatement or omission from the Ethics Board.

(B) The Board:

May, as it deems appropriate, refer an alleged violation of Code Section 20-1205(8) to any appropriate agency for investigation or law enforcement agency for investigation and prosecution; and

Shall, if the subject of the complaint is an attorney at law, refer an alleged violation of Code Section 20-1205(8) to the Disciplinary Board.

SUBPART G. LOBBYING RECORDS

9.28 Records

(A) A registrant shall maintain records of its Philadelphia lobbying activity in sufficient detail to enable the registrant to fully comply with the registration and reporting requirements of Chapter 20-1200, which records may be in written or electronic formats. If a document is maintained in an electronic format, it shall be maintained to enable the Board to access in readable form all of the information reasonably necessary to substantiate the registration statements or reports.

(B) The documents to be used in recordkeeping include: books, journals, ledgers, accounts, statements, invoices, bills, vouchers, receipts, charge slips, cancelled checks, payroll check stubs, time sheets, tax returns and related forms, contracts, subcontracts, business diaries and calendars and other related written or computerized records.

(C) A registrant may keep records of all lobbying activity separate from records of the registrant's non-lobbying activity. If a registrant's records include records of lobbying and non-lobbying activities, only those records that pertain to Philadelphia lobbying activity shall be retained and made available for inspection by the Board, upon request, as required by Code Section 20-1203(6) and this Regulation. Upon receipt of a request from the Board to examine lobbying records, a registrant may redact any records which do not pertain to Philadelphia lobbying activity.

(D) If an original source document is not available to support a reportable expenditure, the registrant shall upon payment of the expenditure promptly prepare a written voucher, journal entry or other written or electronic form of record to document the expenditure. The record must include a notation of the reason an original source document was not available.

(E) Documents to substantiate contributions of resources reportable under Paragraph 9.21, must include for each reportable item, the following information:

The full names of the donor and donee.

The amount or value and date of the contribution.

In the case of a nonmonetary contribution, a description of the goods, services or other forms of resources provided.

Instructions, directions, conditions, restrictions, limitations or controls provided or imposed by the donor as to the use or disposition of the contribution.

9.29 Period of Retention: A registrant shall retain all records of lobbying activity described in Subpart G for four years from the date of filing the subject report. Upon request by the Board, these materials shall be made available to the Board for inspection within ten business days.

SUBPART H. ADVICE AND OPINIONS; ENFORCEMENT; PENALTIES; and TRAINING

9.30 Advice and Opinions

Requests for advisory opinions and the process of issuing advisory opinions shall be subject to Board of Ethics Regulation No. 4, with the following additions:

(A) Paragraph 4.1(b), "such other matters as may be assigned by Council" shall be understood to include Chapter 20-1200.

(B) Paragraphs 4.1(c) and 4.1(f), in listing the persons who may receive advice, shall be read to include a lobbyist, a lobbying firm, a principal, the Disciplinary Board or a person or entity seeking to determine whether that person or entity is required to register or file expense reports pursuant to Chapter 20-1200 and this Regulation.

(C) Paragraph 4.4, on the information to be provided by a requestor, shall be read to require, from requestors, additional detail relating to the name, address, and telephone number of any principal, lobbyist, or lobbying firm that is the subject of the request.

9.31 Enforcement

(A) Investigations and hearings shall be governed by Board of Ethics Regulation No. 2, with the following additions:

(B) Paragraph 2.0(a), "other matters assigned to the Board by City Council" shall be understood to include Chapter 20-1200.

9.32 Penalties

(A) A person who violates this Chapter shall be subject to a civil penalty of up to $2,000.

(B) Notwithstanding Paragraph 9.32(A), above, failure to register or report as required by Chapter 20-1200 is subject to a civil penalty not exceeding $250 for each late day, provided that the total fines that may be imposed for failure to file a particular registration or report shall not exceed $2,000.

(C) In addition to any penalties imposed under Chapter 20-1200, the Board may

prohibit a person from lobbying for economic consideration for up to five years for intentional violations of this Chapter. The Board shall not impose the prohibition under this Paragraph unless the person has been afforded the opportunity for a hearing.

(D) The Board shall notify the Disciplinary Board of any lobbyist or principal who is an attorney at law against whom a civil penalty is imposed.

(E) Affirmative Defense. Any of the following is an affirmative defense to an action brought under Chapter 20-1200:

(1) The respondent relied on an advisory opinion issued to the respondent by the Board pursuant to Paragraph 9.30.

(2) The respondent reasonably relied on notice as required by Paragraph 9.19.

9.33 Training

(A) Each lobbyist and principal shall within 120 days of filing a registration statement pursuant to Subpart B attend an initial training session conducted by the Board regarding the requirements of Chapter 20-1200 and other relevant sections of the City Code. Principals that do not have an office in Pennsylvania, Maryland, Delaware, or New Jersey may be sent materials prepared by the staff of the Board.

(B) In addition to the initial training described above, each lobbyist and principal shall be required to attend further training if the Board shall determine, by Resolution adopted at a public meeting, that additional training is necessary. Factors to be considered by the Board in determining whether additional training is necessary include:

Any recent amendments to Chapter 20-1200 or other relevant sections of the City Code, and the degree of substantive change represented by such amendments;

The number of years since the initial training attended by the lobbyist or principal;

Other significant events that may indicate that re-training is called for;

The availability and cost of available methods of providing training, such as on-line computer training;

Training programs developed and conducted by the Board shall include programs developed and approved by staff of the Board and on-line training programs developed by staff.

Approved for public comment by Board: May 11, 2011
Public hearing held: June 15, 2011
Adopted by Board with modifications: September 21, 2011
Effective: November 21, 2011

Proposed amendments approved for public comment by Board: December 21, 2011
Effective: February 3, 2012

Appendix II: 2011 Index of Formal Opinions

2011 Formal Opinions

Formal Opinion No.	Date Issued	Brief Description	Key Words / Citations
Formal Opinion No. 2011-001 Non-public Advice	2/23/11	Advised the treasurer of a political committee regarding the committee's expenditure of excess pre-candidacy contributions prior to an individual's candidacy for City elective office. The committee may make expenditures of excess pre-candidacy contributions in support of non-campaign activity. The committee may not "frontload" campaign expenses when it is not subject to the campaign finance limits.	CAMPAIGN FINANCE; EXCESS PRE-CANDIDACY CONTRIBUTIONS; SPEC ACCOUNT Code §20-1002(6), (7); Regulation 1

Appendix III: Index to 2011 Advices of Counsel

2011 Advices of Counsel

Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2011-501	2/16/11	The City's Police Advisory Commission asked whether there is an impermissible conflict of interest for the Commission's Executive Director arising out of the fact that his brother is the head of the Police Department's Internal Affairs Division. Advised that if the Commission investigates a complaint concerning the conduct of the Executive Director's brother, then the Executive Director would have a conflict, and he must disclose the financial interest of his brother and disqualify himself from participating in that matter. Otherwise, the Executive Director would not have a conflict with respect to matters that do not involve his brother's conduct.	CONFLICT OF INTEREST; POLICE ADVISORY COMMISSION; SIBLINGS; NO INHERENT CONFLICT OF INTEREST OR APPEARANCE OF IMPROPRIETY Code §20-607; 65 Pa. C.S. §1103(a)
GC-2011-502 Non-public Advice	3/3/11	Advised an employee whose duties include technical line-level work that the State Ethics Commission would conclude she is not a "public employee" and therefore not subject to the State Ethics Act one-year post-employment restriction. If the restriction did apply, it would make difficult the employee's plan to work for a firm that has a City contract and to perform services for the City as an employee of the firm. Although the firm has a contract with the employee's current City department, City Code §20-603 would not prohibit her from doing any work under that contract if she becomes an employee of the firm, so long as her work did not involve adversarial assistance with her previous work for her City department. City Code §20-607(c) imposes a two-year prohibition on the employee acquiring a financial interest in official decisions she made while in City employ.	POST-EMPLOYMENT RESTRICTIONS; FIRM WITH CITY CONTRACT; NOT A "PUBLIC EMPLOYEE" Code §§ 20-603(1), 20-607 (c); 65 Pa. C.S. §1103(g)

2011 Advices of Counsel

Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2011-503 Non-public Advice	3/23/11	Advised a City employee concerning a local company's invitation to become a member of an advisory board to the company for at least 2 years and for which he would receive an annual $10,000 stipend, plus travel and hotel expenses. The stipend is compensation for services rendered and is not a gift. The employee would not be considered a "member" of the company for purposes of the conflict provision of Code §20-607(b). The State Ethics Commission might well conclude that the conflict of interest provision of the State Ethics Act would prohibit the employee from taking official action that affected the company during his service on the advisory board. It was unclear whether the State Ethics Commission would consider the annual stipend to be a prohibited honorarium.	CONFLICT OF INTEREST; PAID ADVISORY BOARD TO LOCAL COMPANY; NOT A "MEMBER" OF COMPANY; HONORARIUM Code §§20-604, 20-607; 65 Pa. C.S. §1103(a), (d)
GC-2011-504 Non-public Advice	4/6/11	Advised the treasurer of a political committee regarding the committee's plan to move its single checking account to a new bank. Because the committee had recurring bills set on automatic payment from its current account, the treasurer proposed switching the bulk of the committee's funds to a new bank, while leaving less than $5,000 in the current account to cover the automatic payments and with an intention of transferring any remaining funds to the new account later. City Code §20-1003(1) prohibits this plan because a candidate committee may not have more than one checking account that receives contributions or makes expenditures. If the committee wishes to change banks, it must either close one account and open another, or if two accounts are to be open simultaneously only one of the accounts should receive contributions and make expenditures.	CAMPAIGN FINANCE; SINGLE CHECKING ACCOUNT RULE; CHANGING BANKS; TEMPORARY EXISTENCE OF MULTIPLE ACCOUNTS Code §20-1003(1); Regulation 1
GC-2011-505	6/17/11	Advised the Commerce Department's Chief Operating Officer and Deputy Commerce Director regarding his proposed service as an unpaid board member of a nonprofit organization, United Way of Southeastern Pennsylvania. There were no issues under the City Code's conflict of interest provisions, but under the State Ethics Act he should not take official action that causes United Way to receive a "private pecuniary benefit." If his official duties intersect with the financial interests of United Way, he should disclose this interest and disqualify himself from acting for the City.	CONFLICT OF INTEREST; UNPAID BOARD MEMBER OF NONPROFIT; COMMERCE DEPARTMENT; UNITED WAY Code §20-607; 65 Pa. C.S. §1103 (a)

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Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2011506 Non public Advice	7/18/11	Advised a former City employee regarding the application of post-employment restrictions to her independent consulting work. As a City employee, she had managed contracts between the City and certain non-profits, including invoice review and recommending contract approvals. Under Code §20-607(c), for two years after leaving the City she should not acquire a financial interest in action she took in her official capacity. This would include working for the non-profits whose contracts she had managed for the City if she would receive compensation from revenue derived from the contracts. Under Code §20-603(1), she may never assist another person in any "transaction involving the City" as to a particular issue about which she exercised discretion while working for the City. Under the State Ethics Act, for one year after leaving the City she may not represent anyone, including herself, before the governmental body with which she was associated (likely her former department), including by personally contracting with that body or having her name appear on documents submitted to it.	POST-EMPLOYMENT RESTRICTIONS; CONSULTING WORK; CONTRACTS Code §§ 20-603(1), 20-607(c); 65 Pa. C.S. §1103(g)
GC-2011-507	7/25/11	Advised Chief of Staff to the Managing Director because the company that employs his wife responded to a request for proposals ("RFP") issued by Philly311, which reports to the Managing Director's Office ("MDO"). The requestor had direct management responsibility for the administrative functions of the MDO, but he did not participate in the development of the RFP, will not review the responses, and will not manage the contract at issue. Advised there were no issues under the City Code's conflict of interest provisions, but under the State Ethics Act he should not take official action that causes his wife's employer to receive a "private pecuniary benefit." This likely includes approving a contract between the City and the employer, in which case he should follow the disclosure and disqualification process.	CONFLICT OF INTEREST; SPOUSE'S EMPLOYER RESPONDS TO RFP; CONTRACTS Code §20-607; 65 Pa. C.S. §1103(a)
GC-2011-508 Non-public Advice	9/8/11	Provided post-employment advice to a City employee who was considering leaving City employment and applying for a position with a company that does business within the City. The employee held a technical position in an operating department and also had prior service in a different City department.	POST-EMPLOYMENT RESTRICTIONS; MULTIPLE CITY DEPARTMENTS Code §§ 20-603(1), 20-607(c); 65 Pa. C.S. §1103(g)

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Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2011-509	8/24/11	Advised a Divisional Deputy City Solicitor regarding post-employment restrictions that might apply to a potential post-City job as Deputy Policy Director for the Committee of Seventy. The State Ethics Act one-year post-employment restriction has limited application to attorneys. So long as he would be practicing law, the State post-employment rule would not apply. To the extent he would not be engaged in the practice of law, he may not for one year after leaving City employment represent anyone, including a new employer, before his former governmental body. Similarly, Code §20-603(1)'s post-employment representation rule would restrict him, only to the extent that he was not practicing law, from representing persons in transactions involving the City in which he had participated as a City employee. Under Code §20-607(c), for two years after leaving City employment, he should not acquire a financial interest in action he took in his official capacity.	POST-EMPLOYMENT RESTRICTIONS; ATTORNEY; COMMITTEE OF SEVENTY Code §§ 20-603(1), 20-607(c); 65 Pa. C.S. §1103(g)
GC-2011-510 Non-public Advice	9/28/11	Advised a City employee about the application of various ethics restrictions of the City Charter, City Ethics Code and State Ethics Act in light of her position as an officer of a nonprofit that she created. The representation restriction of Code §20-602(1) prohibits the employee from participating in a meeting with City officials to brainstorm about a project related to the nonprofit.	PROHIBITED REPRESENTATION; OFFICER OF NON-PROFIT; MEETING WITH CITY OFFICIALS Code §§20-602, 20-607, 20-608; Charter §10-102; 65 Pa. C.S. §1103(a)
GC-2011-511 Non-public Advice	10/7/11	Advised a City employee regarding whether his proposed activity exploring a possible run for public office would require him to resign his City position under the resign to run restriction of Charter §10-107 (5). Under the Charter and the City's campaign finance law, the employee will not become a candidate until he either files nominating papers or publicly announces his candidacy. The employee proposed meeting with a group of less than 15 community members (without media) and sharing his qualifications, his thoughts on the community and its needs, and his willingness to consider a run for public office (without committing to run). This activity alone would not constitute a declaration of candidacy and would not require him to resign his City position.	POLITICAL ACTIVITY RESTRICTION; RESIGN TO RUN; PUBLIC ANNOUNCEMENT OF CANDIDACY Charter §10-107(5)

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Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2011-512 Non-public Advice	11/30/11	Advised a City employee who was considering purchasing with a partner an existing business located in the city. The employee works for a City department that regulates such businesses, and she is responsible for the staff that takes City action in regulating such businesses. The employee may not take official action on any matter in which she or her business has a financial interest. In any such matter, the requestor must disclose her financial interest and disqualify herself from working on that matter for the City, as provided in Code §20-608. The employee may not represent any person as agent or attorney in any transaction involving the City, including her business and her partner. Her partner may represent the business, if the employee follows the disclosure and disqualification procedure. Under Code §20-609, the employee must not disclose confidential information she acquired in her City employment to any other person for the purpose of advancing her financial interest or that of her business or partner.	CONFLICT OF INTEREST; OWNER OF A BUSINESS; PROHIBITED REPRESENTATION; DISCLOSURE AND DISQUALIFICATION Code §§20-602, 20-607, 20-608, 20-609
GC-2011-513	12/8/11	Advised the Nutter for Mayor political committee regarding the solicitation and receipt of contributions to defray the expenses of an inaugural celebration. Funds raised by a former candidate to pay for inauguration expenses are post-candidacy contributions that are subject to the contribution limits. All post-candidacy contributions raised by a former candidate must be deposited into the checking account of the former candidate's authorized candidate political committee. Likewise, any inaugural expenditures (or other post-candidacy expenditures) must be made from the same checking account. A former candidate who prevails in the general election may accept post-candidacy contributions between the general election and the end of that calendar year and in each subsequent calendar year that follows the election year. Contributors may make post-candidacy contributions in the election year even if they previously made the maximum allowable contribution to the candidate that year prior to	CAMPAIGN FINANCE; POST-CANDIDACY CONTRIBUTIONS AND EXPENDITURES; INAUGURAL EXPENSES; CANDIDATE POLITICAL COMMITTEE; NUTTER FOR MAYOR Code §§20-1001(14), 20-1002 (4),(5); 20-1003(1); Regulation 1

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Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2011-514 Non-public Advice	1/23/12	The same advice about post-candidacy contributions that was covered in Advice of Counsel GC-2011-513 was provided to a different candidate political committee. See the summary above.	CAMPAIGN FINANCE; POST-CANDIDACY CONTRIBUTIONS AND EXPENDITURES; INAUGURAL EXPENSES; CANDIDATE POLITICAL COMMITTEE Code §§20-1001(14), 20-1002 (4),(5); 20-1003(1); Regulation 1
GC-2011-515 Non-public Advice	2/9/12	Advised a prospective City employee that Code §20-602 would prohibit his proposed outside employment representing clients in adjudicative proceedings involving a City agency represented by the Law Department. He is restricted from personally representing any person as agent or attorney in any transaction involving the City, whether or not his particular office is acting in the matter. The adjudicative proceedings would constitute "transactions involving the City" since the City is a party.	PROHIBITED REPRESENTATION; OUTSIDE EMPLOYMENT; TRANSACTION INVOLVING THE CITY; CITY AS A PARTY Code §20-602