

## 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.

- a. 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.
- b. Board.** The Board of Ethics.
- c. Blog.** A website that displays in chronological order the postings of one or more individuals.
- d. 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.
- e. City.** City of Philadelphia.
- f. 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.
- g. Election.** Any primary, general, or special election for public elective office.

- h. 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.
- i. Family member.** A parent, spouse, life partner, child, brother, sister or like relative-in-law.
- j. 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).
- k. 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.
- l. 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.
- m. Political.** Related to a political party, candidate, or partisan political group.
- n. Political activity.** An activity directed toward the success or failure of a political party, candidate, or partisan political group.
- o. Political campaign.** Actions taken by a candidate or his or her supporters to obtain the candidate's nomination or election to public elective office.
- p. Political party.** Includes any national, state, or local political party.
- q. Public elective office.** Any public office for which candidates are nominated or elected as representing a political party.
- r. 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:
- a.** On duty;
  - b.** In uniform, or while wearing a badge or other insignia that identifies him or her as a City officer or employee;
  - c.** Using any City-owned or leased resources, such as telephones, Blackberries, vehicles, printers, computers, or other supplies or equipment; or
  - d.** 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:
- a.** Using his or her title or status as a City officer or employee while participating in political activity;
  - b.** Using his or her authority or influence to coerce any individual to participate in political activity; and
  - c.** 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:

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\* Pursuant to the August 18, 2014 decision of the Third Circuit in *Lodge No. 5 of the Fraternal Order of Police v. City of Philadelphia*, members of the Police Department may make contributions intended for a political purpose to political committees that are not affiliated with a candidate, including COPPAC.

- a. Circulating or initiating nomination petitions or papers for public elective office;
- b. Being a candidate for public elective office or political party office;
- c. Serving as a delegate to a political party convention;
- d. Participating in get-out-the-vote activities organized or sponsored by a political party, candidate, or partisan political group; or
- e. 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:

- a. Publicly expressing an opinion on political matters or candidates, including in letters to the editor or on the internet;
- b. Signing a political petition, such as a nominating petition, including those that are circulated by a political party, candidate or partisan political group;
- c. Distributing political literature that was not created by a political party, candidate or partisan political group;
- d. Making contributions intended for a political purpose (except for appointed officers and employees of the Police Department); and
- e. 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:

- a. Campaigning for or against referendum questions, constitutional amendments, federal or state laws, or municipal ordinances;
- b. Participating in civic, community, labor, or professional organizations, including seeking election to positions within such organizations;

- c. 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
- d. 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:

- a. 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;
- b. Does not use his or her title or status as a City officer or employee in posts on the blog;
- c. 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
- d. Does not suggest, encourage or ask readers of the blog to make contributions intended for a political purpose.

**8.19 Social networking websites.**

- a. 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.
- b. 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.
- c. 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.

- d. 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:

- a. Art Commission
- b. Board of Building Standards
- c. Board of Ethics
- d. Board of Health
- e. Board of Labor Standards
- f. Board of Pensions and Retirement
- g. Board of Revision of Taxes
- h. Board of Surveyors
- i. City Planning Commission
- j. Civil Service Commission
- k. Commission on Human Relations
- l. Fair Housing Commission
- m. Free Library of Philadelphia, Board of Trustees



- n. Historical Commission
- o. Historical Commission Architectural Committee
- p. Historical Commission Committee on Historic Designation
- q. Licenses & Inspections Review Board
- r. Malt and Brewed Beverage Hearing Board
- s. Philadelphia Gas Commission
- t. Philadelphia Prisons Board of Trustees
- u. Sinking Fund Commission
- v. Tax Review Board
- w. Zoning Board of Adjustment
- x. 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

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