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 Philadelphia Code Chapter 20-1000.

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

- **a. Accounting period.** The period from January 1of the year following the previous election that was held for the City elective office a candidate is seeking through 5:00pm of the day before he or she became a candidate.
- **b. 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.
- **c. Board.** The body of members of the Board of Ethics appointed pursuant to Section 3-806 of the Home Rule Charter.
- **d. 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.
- **e. Candidate's campaign.** A candidate, the candidate's candidate political committee (or litigation fund committee), or an agent of any of the foregoing.
- **f. City elective office.** The offices of Mayor, District Attorney, City Controller, Sheriff, City Commissioner, or City Council.
- **g. 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.
- **h. 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 any in-kind contribution, as defined at Paragraph 1.1(o); or
  - iii. Any post-candidacy contribution, as defined at Paragraph 1.1(s).
- **i. Contributor.** A person or political committee who makes a contribution to a candidate, litigation fund committee, or political committee.
- **j. Covered election.** Any primary, general or special election for City elective office.

k. 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 Subpart B.

l. 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 Subpart B.

m. 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, including, but not limited to, any expenditure to obtain, defend, or challenge a candidate's place on the ballot, including payments to workers to circulate nominating petitions.

n. Independent expenditure. An expenditure that is not made in coordination with any candidate, candidate political committee, or agent thereof. For guidance on what constitutes coordination, see Subpart H.

o. In-kind contribution.

i. The provision of any goods or services directly to a candidate's campaign without charge or at a charge that is less than the usual and normal charge for such goods or services; or

ii. The payment or agreement to pay a third party to provide goods or services that assist in advocating or influencing the election of a candidate, if the goods and services are in fact provided.

The term "in-kind contribution" does not include volunteer labor as described in Paragraph 1.11(g).

p. 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 G.

q. Person. An individual, a political committee, or a partnership, sole proprietorship, or other form of business or nonprofit organization.

r. 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.

s. **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.

t. **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.

u. **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.

v. **Pre-payment.** A payment made during the accounting period for any thing used or to be used by a candidate's campaign, including but not limited to: printed or produced campaign materials, such as sample ballots, shirts, signs, flyers, brochures, websites, photographs, audio or video recordings; advertising time or space; office space; or services or labor.

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

x. **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 G 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. 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.

b. 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.

c. 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.

d. 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:

   i. 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

   ii. 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:

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

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

c. 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.

a. 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 Paragraph 1.6(b).

b. The limits for post-candidacy contributions (Paragraphs 1.2(c) and 1.3(c)) and the limits for contributions to litigation fund committees (Paragraphs 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.

c. 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.

d. 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.

e. 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.

f. 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. A political committee's costs to print or distribute sample ballots that are distributed in a candidate's ward pursuant to Paragraph 1.32;

e. Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication, including any Internet periodical publication;

f. Incidental expenditures made by persons other than candidates' campaigns that are related to internet activity (such as the cost of hardware, software, or internet access) that advocates or influences the election of a candidate; or

g. 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

      (3) 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:

      (1) Equipment, such as computers, copiers, or printers;

      (2) Resources, such as postage; or

      (3) 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. DATE OF ACCEPTANCE OF CONTRIBUTIONS WITH RESPECT TO THE CONTRIBUTION LIMITS

1.12 Except as provided in Paragraphs 1.13, 1.14, and 1.15 the date of acceptance of a contribution is the date that the contribution comes into the possession of a candidate's campaign. A candidate's campaign shall not designate as the date a contribution is accepted any date other than the date of acceptance as identified in this Subpart.

1.13 If a contribution is delivered to a mailbox, the date that the contribution is accepted is the date on which the candidate's campaign finds the contribution in the mailbox.

1.14 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.

1.15 In kind contributions.

a. If a person makes an in-kind contribution by providing goods or services directly to a candidate's campaign, the date of acceptance of that contribution is the date that the candidate's campaign receives the goods or services.

b. If a person makes an in-kind contribution by paying or agreeing to pay a third party to provide goods or services that assist in advocating or influencing the election of a candidate, the date of acceptance of that contribution is the date of the agreement to pay, if the goods and services are in fact provided.

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

1.16 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. 17 A contribution made by a check drawn on the account of a political committee is a contribution from that political committee.

1. 18 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 E. CAMPAIGN FINANCE DISCLOSURES

1. 19 Disclosures required of candidates and candidate political committees.

a. Any time a candidate for City elective office is required to file a campaign finance report or statement with the City Commissioners as required by the Pennsylvania Election Code, the candidate shall file electronically with the Board a copy of that report or statement.

b. Any time the candidate political committee of a candidate for City elective office is required to file a campaign finance report or statement with the City Commissioners as required by the Pennsylvania Election Code, the committee shall file electronically with the Board a copy of that report or statement.

Example: Candidate A is running for City office and has authorized Friends of A as her candidate political committee. Friends of A files a cycle 2 (pre-primary) campaign finance report with the City Commissioners. In addition, Candidate A personally files a campaign finance statement with the City Commissioners.

Friends of A must electronically file with the Board a copy of the cycle 2 campaign finance report it filed with the City Commissioners.

Candidate A must electronically file with the Board a copy of the cycle 2 campaign finance statement she personally filed with the City Commissioners.

1. 20 Post-candidacy disclosures

a. Former candidates and candidate political committees shall file electronically with the Board 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 reports required to be filed by municipal candidates and candidate political committees with the City Commissioners pursuant to the Pennsylvania Election Code.

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

Example: Candidate A is successful in the November general election, but her candidate political committee, Friends of A, incurred $20,000 in debt in the course of the campaign. In December, former Candidate A raises $10,000 in post-candidacy contributions which her committee uses to pay off some of the campaign debt. In January of the year following the general election, Friends of A files a cycle 7 campaign finance report with the City Commissioners. The cycle 7 report discloses the post-candidacy contributions and the expenditure to pay down the campaign debt.

Friends of A can satisfy the post-candidacy disclosure requirements of Paragraph 1.20 by electronically filing with the Board a copy of the cycle 7 campaign finance report it filed with the City Commissioners.

1. 21 Disclosures required of political committees and persons.

a. Any time a political committee or person is required to file a campaign finance report with the City Commissioners or the Secretary of State, as required by the Pennsylvania Election Code, the committee or person shall file electronically a copy of that report with the Board if the report filed with the City Commissioners or Secretary of State discloses, or should disclose, any expenditures made or debt incurred to influence the outcome of a covered election, including expenditures to a candidate for City elective office.

Example: Pennsylvanians for a Better Pennsylvania is a political committee registered with the Department of State. The committee files a cycle 2 (pre-primary) campaign finance report with the Department of State disclosing numerous expenditures to candidates for state office and one expenditure to a candidate for City office.

Pennsylvanians for a Better Pennsylvania must electronically file with the Board a copy of the cycle 2 campaign finance report it filed with the Department of State.

b. Political committees shall file electronically with the Board 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. 22 Disclosures required of litigation fund committees.

a. A litigation fund committee established as described in Subpart G shall file electronically with the Board 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. 23 Method of filing campaign finance reports and statements. Any campaign finance report or statement required by this Subpart shall be electronically filed with the Board through the Department of Records and must be submitted in a format approved by the Department of Records. Information on how to electronically file a report or statement is available at the office of the Department of Records in City Hall Room 156 and at:

http://www.phila.gov/records/CampaignFinance/CampaignFinance.html

1. 24 Sworn statement required for campaign finance disclosures.

a. Any time a candidate political committee, political committee, or litigation fund committee electronically files a campaign finance report or statement with the Board, the individual who files the report or statement on behalf of the committee shall submit a signed statement in which he or she swears or affirms that the information set forth in the report or statement is true, correct, and complete to the best of his or her knowledge. The individual who signs the statement and the committee shall be jointly and severally subject to civil penalties if the report or statement contains any material misstatements or omissions.

b. Any time a candidate electronically files a campaign finance report or statement with the Board, the candidate shall submit a signed statement in which he or she swears or affirms that the information set forth in the report or statement is true, correct, and complete to the best of his or her knowledge. The candidate shall be subject to civil penalties if the report or statement contains any material misstatements or omissions.

c. Any sworn statement required by this Paragraph shall be submitted on a form available from the Department of Records. The form may be submitted in person at the office of the Department of Records in City Hall Room 156 or via email or fax as indicated on the form.

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

1. 25 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. If a candidate is running for more than one City elective office simultaneously, he or she shall maintain a separate candidate political committee and checking account for each office being sought.

1. 26 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. 27 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. 28 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.

b. 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.

c. 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 Paragraph 1.28(a) within three business days of the formation of the committee.

d. A candidate may satisfy the requirements of Paragraph 1.28 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 Paragraph 1.28(a)(i)-(iii) is included.

e. If the information required by Paragraph 1.28 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.

f. Information required by Paragraph 1.28 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1. 29 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. 30 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. 31 This Subpart does not prohibit a candidate from maintaining a litigation fund committee as described in Subpart G.

1. 32 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. 33 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 1.29.

1. 34 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 1.30, other than the candidate's litigation fund committee.

SUBPART G. LITIGATION FUND COMMITTEES

1. 35 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 Paragraph 1.35(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 1.22.

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 Paragraph 1.35(d).

1. 36 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 Paragraph 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.

b. If the information required by Paragraph 1.36 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.

c. Information required by Paragraph 1.36 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1. 37 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 Paragraph 1.37(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, the litigation fund committee's checking account shall be closed, and any remaining funds shall be returned to contributors according to one of the methods below:

   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 H. COORDINATED EXPENDITURES

1. 38 When a person or political committee makes an expenditure that is coordinated with a candidate's campaign and is made to advocate or influence the election of the candidate, the expenditure is an in-kind contribution from the person or committee to the candidate and is subject to the contribution limits set forth in Subpart B.

1. 39 An expenditure is coordinated with a candidate's campaign if:

a. The expenditure is made in cooperation, consultation or concert with the candidate's campaign;

b. The expenditure is made at the request or suggestion of the candidate's campaign;

c. A person suggests making an expenditure and the candidate's campaign assents to the suggestion;

d. The person making the expenditure communicates with the candidate's campaign concerning the expenditure before making the expenditure;

e. The candidate's campaign has solicited funds for or directed funds to the person making the expenditure, but only if the solicitation occurred within the 12 months before the election that the expenditure seeks to influence; or

f. The person making the expenditure uses information obtained from the candidate's campaign to design, prepare, or pay for the specific expenditure at issue, unless the person has obtained that information from a public source or from a communication the candidate made to the general public. This subparagraph does not apply to the republication of campaign communications or materials, which is covered by Paragraph 1.40.

Example for 1.39(f): Philadelphians for Philadelphia PAC establishes a telephone bank to get out the vote for primary voters for Candidate A. Candidate A's campaign gives Philadelphians for Philadelphia a list of telephone numbers of people that contributed to Candidate A's campaign. Philadelphians for Philadelphia organizes the phone bank without any other input from Candidate A and spends $11,500 to set up the phone bank and telephones individuals provided on the list from Candidate A. The $11,500 spent by Philadelphians for Philadelphia is a coordinated expenditure with Candidate A because the PAC used information obtained from Candidate A's campaign for the phone bank. As such, Philadelphians for Philadelphia has made an $11,500 in-kind contribution to Candidate A.

1.40 Republication of campaign communications or materials. For the purposes of the contribution limits, an expenditure made to reproduce, republish, or disseminate a campaign communication (including audio recordings or video footage) or campaign material (such as photographs, flyers, signs, or brochures) prepared by a candidate's campaign:

a. Shall be considered an in-kind contribution made by the person making the expenditure.

b. Shall be considered an in-kind contribution received by the candidate if the person making the expenditure obtains the communication or materials directly from the candidate's campaign or from another source with the consent of the candidate's campaign.

   A campaign communication or campaign material is obtained with the candidate's consent if the candidate provides it to a third party for the purpose of enabling another person to obtain the communication or material from that third party and subsequently republish some or all of it.

   Example for 1.40(a) and (b): Three weeks before election day, candidate A's campaign uploads five minutes of b-roll video footage to her YouTube channel. The political committee Pennsylvanians for a Better Pennsylvania downloads the b-roll footage and uses it to create a television advertisement. The committee spends $100,000 to run the advertisement on three television stations during the week before election day.

   Candidate A posted the b-roll footage for the purpose of enabling another person to obtain it. Pennsylvanians for a Better Pennsylvania obtained a campaign communication created by Candidate A's campaign with the consent of the candidate's campaign. As such, the committee's expenditure of $100,000 was coordinated with Candidate A's campaign and is both an excess in-kind contribution made by the committee ~~to~~ and an excess in-kind contribution received by Candidate A~~.~~

c. Shall not be considered an in-kind contribution if:

   i. The communication or material is incorporated into a communication that advocates the defeat of the candidate that prepared the material;

   ii. The item republished is a photograph obtained from a public source; or

   iii. The person's expenditures for republication of a candidate's communications or materials are less than $100 in the aggregate per reporting period;

1. 41 An expenditure will not be considered a coordinated expenditure merely because:

a. The person making the expenditure interviews the candidate;

b. The person making the expenditure has endorsed the candidate;

c. The person making the expenditure and the candidate's campaign have an agent in common;

d. The person making the expenditure has obtained from the candidate a biography of the candidate or a position paper, press release, or similar material about the candidate; or

e. The person making the expenditure has invited the candidate to make an appearance before the person's members, employees, or shareholders.

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

Note: The requirements in this Subpart regarding excess pre-candidacy contributions are relevant only if a political committee that is authorized to receive contributions on behalf of an individual who subsequently becomes a candidate for City office receives contributions prior to that individual becoming a candidate in excess of the limits set forth in Subpart B.

1.42 The provisions of this Subpart regarding excess pre-candidacy contributions apply only to contributions received during the accounting period.

Example: On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. The accounting period for Candidate A is January 1, 2012 through November 30, 2014. The last Mayoral election was held in 2011 so January 1, 2012 would be the first day of the year following that election.

1. 43 **Prohibited Expenditures.** A candidate or candidate political committee shall not:

a. 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.

b. Spend any excess pre-candidacy contributions or post-candidacy contributions for the purposes of:

i. Transition or inauguration expenses; or

ii. Retiring debt that was incurred to (i) influence the outcome of an already completed covered election in which he or she was a candidate; or (ii) cover transition or inauguration expenses related to an already completed covered election.

c. Transfer excess pre-candidacy contributions to the candidate's litigation fund committee established as described in Subpart G.

1.44 Exclusion of excess pre-candidacy contributions upon becoming a candidate

a. Within ten days after becoming a candidate, a candidate shall exclude all excess pre-candidacy contributions from his or her candidate political committee checking account by one of the following methods:

   i. Transferring excess pre-candidacy contributions to a segregated pre/post-candidacy excess contribution account; or

   ii. Returning excess pre-candidacy contributions to the contributors who made those contributions.

b. Calculation of amount to be excluded. A candidate shall determine the amount to be excluded by using one of the following calculation methods:

   i. **Dollar for dollar calculation**. Using this calculation method, a candidate shall exclude an amount equal to the total amount of excess pre-candidacy contributions his or her candidate political committee received during the accounting period.

   Example: On November 1, 2014, Friends of Candidate A receives a contribution of $3,000 from Person B ($2,900 within limits, $100 excess) and a contribution of $3,000 from Person C (same). On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, Friends of Candidate A must exclude $200 from its checking account.

   ii. A**ccounting-based calculation**. Using this calculation method, a candidate does not have to exclude any excess pre-candidacy contributions that he or she demonstrates, using a reasonable accounting method, were actually spent before becoming a candidate, provided that:

   (1) Before accounting for the expenditure of any excess pre-candidacy contributions, an accounting must be made for the expenditure of the balance of the committee account as it existed on the day before the start of the accounting period; and

   (2) Pre-payments that were made by the candidate's political committee shall not constitute expenditures of excess pre-candidacy contributions using this accounting method.

c. If the amount that the candidate must exclude from the checking account of his or her candidate political committee exceeds the amount of cash the committee has on hand, the candidate must use incoming contributions to cover the amount that must be excluded.

1.45 Pre-candidacy segregation. A candidate does not have to exclude any excess pre-candidacy contributions that, upon receipt, he or she had transferred to a segregated pre-candidacy excess contribution account ("SPEC account"), provided that, if he or she used any funds in a SPEC account for pre-payments, the candidate must exclude from his or her candidate committee account an amount equal to those pre-payments. Funds transferred into a SPEC account that were not used for pre-payments need not be included in accounting for the exclusion of excess pre-candidacy contributions under either calculation method described in Paragraph 1.44.

Example 1: On November 1, 2014, Friends of Candidate A receives a contribution of $3,000 from Person B ($2,900 within limits, $100 excess) and a contribution of $3,000 from Person C (same). On November 2, 2014, Candidate A transfers $200 from the checking account of the candidate political committee to a SPEC account. On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. Friends of Candidate A has already segregated Person B and Person C's excess contributions and therefore does not need to exclude any other money from its checking account.

Example 2: On November 1, 2014, Friends of Candidate A receives a contribution of $3,000 from Person B ($2,900 within limits, $100 excess) and a contribution of $3,000 from Person C (same). On November 2, 2014, Candidate A transfers $200 from the checking account of the candidate political committee to a SPEC account. On November 30, 2014, Candidate A spends $200 from the SPEC account on fliers to be used in the upcoming election. On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, Friends of Candidate A must exclude $200 from its checking account. While Candidate A segregated Person B and Person C's $200 in excess contributions, she spent $200 from the SPEC account on pre-payment expenditures during the accounting period and must therefore exclude an amount equal to those pre-payments from the Friends of Candidate A checking account.

1. 46 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. 47 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. 48 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 J. RETIRING DEBT

1. 49 Except as provided in Paragraph 1.50, 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. 50 If a debt owed by a former candidate is not collectible 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 collectible 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. Forgiveness of the debt is not prohibited by any other relevant law; and

e. 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.

If the creditor has provided all the necessary information, the Executive Director shall present the request to the Board at a public meeting. The Board shall either approve or disapprove the proposed debt forgiveness. The Executive Director shall inform the creditor in writing whether or not the Board has approved the forgiveness of debt. The forgiveness of debt is subject to the post-candidacy reporting requirements set forth in Subpart E.

SUBPART K. PENALTIES

1. 51 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. 52 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. 53 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. 54 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 E.

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. 55 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

Proposed amendments approved for public comment by Board on December 19, 2012
Public hearing held January 23, 2013
Adopted by Board with modifications February 20, 2013
Effective March 8, 2013

Proposed amendments approved for public comment by Board on July 16, 2014
Public hearing held September 17, 2014
Adopted by Board with modifications October 15, 2014
Effective October 31, 2014