City of Philadelphia Board of Ethics

Photo Credit: Bryan McHale

Annual Report September 2015

Honesty | Integrity | Transparency

City of Philadelphia
Board of Ethics

Honesty, Integrity, Transparency

Michael H. Reed, Esq.
Chair

Judge Phyllis W. Beck (Ret.), Vice Chair
Vice-Chair

Sanjuanita González, Esq.
Brian J. McCormick, Jr., Esq.
JoAnne A. Epps, Esq.
Board Members

Philadelphia's Board of Ethics was created by an amendment to the Philadelphia Home Rule Charter that voters approved via a ballot question at the May 2006 primary election. The Board is charged with administering and enforcing all provisions of the Charter and City Code that pertain to ethical matters, and such additional duties as City Council may assign. The Board has jurisdiction over City laws pertaining to conflicts of interest, representation and post-employment restrictions, gifts and gratuities, financial disclosure, interests in certain City contracts, campaign finance, prohibited political activities, and lobbying. The Board renders advisory opinions, promulgates regulations, and offers trainings on how to comply with the laws within its jurisdiction. The Board also has the power to conduct investigations and enforce the laws over which it has jurisdiction.

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Message from the Chair

I am again pleased to submit a report to the Mayor, the City Council and the citizens of Philadelphia on the work of the Philadelphia Board of Ethics. My fellow Board members and I have reviewed the Board's accomplishments during the past year and believe that they have indeed made an important positive difference in the ethical and political life of the City.

As expected, the 2015 Primary Election was a major focus of the Board's activities during the 12 months ending on June 30, 2015. The Board and staff were acutely aware that this was the first primary election since 2007 in which there was no incumbent candidate for Mayor, and, at the same time, all City Council seats, the offices of the three City Commissioners and the Sheriff were on the ballot. In addition, there was public concern about the impact of the 2010 United States Supreme Court decision in *Citizens United* on the flow of money into the 2015 Philadelphia elections. The Board and staff therefore took major steps to clarify the rules applicable to candidates, political committees, and other participants in the election process and to provide education about those rules. The extent of those efforts is described in this Report.

Several staff members worked on a daily basis on election-related tasks. The Board and staff anticipated that not only candidates and political committees would be interested in this election, but also that the public would have many questions about the Campaign Finance Law. We therefore devoted time and resources to increased and improved election-related training, to developing a new Campaign Finance Guide and to amending and improving the Board's Campaign Finance Regulation No. 1. During the same time, staff worked in cooperation with City Council on complex amendments to the Campaign Finance Law, Chapter 20-1000 of the City Code.

While much attention was paid to the Primary Election, Board staff continued to provide guidance by telephone, e-mail and in-person meetings and written advice to hundreds of requestors on compliance with the City's ethics, conflicts of interest, financial disclosure, and lobbying laws (the Public Integrity Laws), as well as the Campaign Finance Law. Other staff members conducted ethics training classes and investigative and enforcement activity. The attention paid to the Primary Election did not compromise the Board's core training and advisory functions.

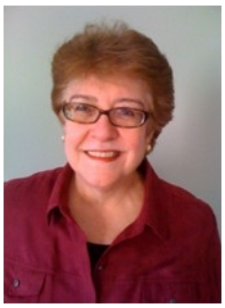
This Annual Report provides a glimpse into both the large projects undertaken this year as well as the daily activities of the Board. The Board and staff anticipated and addressed the concerns of the regulated community and the public during the past year. We therefore believe that our work had a significant positive impact on municipal governance in Philadelphia this past year and will make every effort to continue this service to the citizens of Philadelphia.

Michael H. Reed, Esq., Chair
Philadelphia Board of Ethics

Current Board Members

Michael H. Reed, Esq., Chair, of counsel 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, became a partner in 1980 and became of counsel in 2014. 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. Prior to being selected as Chair, Mr. Reed served as Vice-Chair of the Board of Ethics. His term runs until November 2015.

Judge Phyllis W. Beck (Ret.), Vice-Chair, served 25 years on the Superior Court of Pennsylvania. She was the first woman elected to that office. Before becoming a judge, she spent many years in private practice and she served as a vice dean of the University of Pennsylvania Law School. After retirement from the Superior Court, she was general counsel of The Barnes Foundation, served as a mediator for the Superior Court, and now serves as a mediator and arbitrator. Judge Beck is the Chair of the Independence Foundation, President of the Beck Institute for Cognitive Therapy, Chair of the Advisory Committee of Pennsylvanians for Modern Courts, and is a member of the Board of Directors for the Free Library of Philadelphia. Her term on the Board runs until November 2017.



Sanjuanita González, Esq., practices in the areas of Immigration and Social Security Disability law at Sanjuanita González Law Firm, a Center City Philadelphia law firm. 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. Ms. González's term on the Board runs until November 2018.

Brian J. McCormick, Jr., Esq., is a trial lawyer at Ross Feller Casey, LLP in Philadelphia. He has a national practice that includes pharmaceutical injury and products liability mass tort litigation, as well as representing whistleblowers in qui tam and fraud actions involving the waste of government funds and resources. Mr. McCormick received his J.D. from Rutgers University School of Law and is a 1991 graduate of the University of Richmond. Before being appointed to the Board of Ethics, Mr. McCormick was selected by Philadelphia Mayor Michael Nutter to serve on the Mayor's Task Force for Campaign Finance and Ethics Reform, which produced a final report in late 2009. A number of the recommendations in that report have been enacted in Philadelphia. Mr. McCormick formerly served as a member of the Board of Directors of the Philadelphia nonpartisan watchdog group, The Committee of Seventy. Before attending law school, Mr. McCormick served as an analyst with the FBI in its Philadelphia office, and also worked as a newspaper reporter in the Philadelphia area. Mr. McCormick's term on the Board runs until November 2016.

JoAnne A. Epps, Esq., is Dean of Temple University Beasley School of Law, a position she has held since 2008. Dean Epps received her B.A. from Trinity College in Hartford, Connecticut in 1973 and is a 1976 graduate of Yale Law School. In 2014, Dean Epps was awarded the Justice Sonia Sotomayor Diversity Award by the Philadelphia Bar Association and in 2009 received the Association's Sandra Day O'Connor Award, conferred annually on "a woman attorney who has demonstrated superior legal talent, achieved significant legal accomplishments and has furthered the advancement of women in both the profession and the community." A three-time honoree by Lawyers of Color Magazine as one of the 100 most influential black lawyers in the country, Dean Epps was named by National Jurist Magazine in 2013 and 2014 as one of the 25 most influential people in legal education. She is the court-appointed monitor in the settlement of *Bailey v. City of Philadelphia*, a lawsuit challenging the city's stop and frisk activity, and was recently named by Mayor Nutter as Chair of the Police Community Oversight Board. Dean Epps' term on the Board runs until November 2019.

Message from the Executive Director

I think of this past year as the year that *Citizens United* came to Philadelphia. That is because the Board spent a considerable amount of its time during its eighth year preparing for and responding to the impact of independent expenditure committees, (also called "super PACs"), as well as other new groups that are less transparent than traditional political committees, on Philadelphia's municipal elections in 2015.

Super PACs are political committees that are not subject to any contribution limits and can be funded by corporate and union money, as long as they do not "coordinate" with candidates or political parties. They emerged following court decisions in 2010, starting with the United States Supreme Court decision in *Citizens United v. FEC*, which changed the definition of "corruption" by narrowing it from "undue influence" to "*quid pro quo*" bribery.

This had a profound effect on the landscape of political spending around the country, because preventing "corruption" is the only recognized government interest that supports contribution limits. After *Citizens United*, if a particular contribution limit doesn't prevent "*quid pro quo*" corruption, it's unconstitutional. Since political spending by groups that do not coordinate with or contribute to candidates or parties cannot possibly lead to "*quid pro quo*" corruption, the U.S. District Court for the District of Columbia ruled in a case following *Citizens United* that the federal limits on contributions to truly independent political committees are unconstitutional.

Super PACs were permitted to register and operate in Pennsylvania after the U.S. District Court for the Middle District of PA issued a permanent injunction against the Pennsylvania Department of State in March 2014 in the case *General Majority PAC v. Aichele*. Recognizing that it was highly probable that super PACs would raise and spend unlimited amounts of money to influence the City's 2015 elections, as detailed in this Report, the Board expanded on and clarified the definition of "coordination" between political committees and candidates in the Board's Regulation No. 1 during the fall of 2014 – well in advance of the May 2015 Primary Election. If a political committee coordinates an expenditure with a candidate that it supports, it becomes an in-kind contribution, which is subject to the City's contribution limits to candidates.

The Board's clarification of coordination in Regulation No. 1 was intended to capture "wink and nod" coordination, where there may not be evidence of direct agreement, but where a candidate might have indirect involvement with a super PAC's spending, such as uploading video of the candidate to a public internet site, so that it can be downloaded by a supporting super PAC and used to make a TV advertisement. That kind of coordination undermines the contribution limits and therefore needs to be prevented.

Under the improved definition of coordination in Regulation No. 1, super PACs would have to ensure that their spending decisions were made without any involvement with the candidates, or they would risk violating the City's contribution limits. This measure puts Philadelphia at the forefront of efforts to deal with the emergence of super PACs following the *Citizens United* decision. In fact, Philadelphia was identified along with one other city and three states that have

shown better approaches to regulating coordinated expenditures in a report published by the Brennan Center for Justice in 2014, entitled "After *Citizens United*: the Story in the States."

However, the Board's efforts to keep pace with the changing landscape of political spending in recent years did not end with the improved coordination rule in Regulation No. 1. During the lead-up to the May 2015 Primary Election, it became apparent that the public did not have access to information about contributions to candidates and third party spending to influence the elections until two weeks before Election Day. Accordingly, the Board proposed an amendment to the City's Campaign Finance Law to City Council and the Mayor that would increase the amount of campaign finance disclosures in the six weeks leading up to a Primary or General Election. City Council unanimously passed the amendment, which was signed into law by the Mayor on June 18, 2015.

The amendment adds additional reporting requirements six weeks before the election for City candidates and any political committees that make or incur expenditures to influence City elections. It also imposes new reporting requirements on any person, including political committees and not-for-profit organizations that makes or incurs expenditures for electioneering communications in excess of $5,000 in the 50 days before an election. Before this amendment, some not-for-profits making independent expenditures to influence City elections were not disclosing complete information on their donors, because they are not registered as political committees under state law, but going forward these groups that have emerged in recent years around the country, and now in Philadelphia, will have to disclose all donor information, just like PACs do.

The new disclosure requirements will ensure that the public will be fully informed about who is spending money to influence City elections, and puts Philadelphia in the vanguard of an effort to shed light on super PACs and non-profits that have been spending millions of dollars nationwide to influence federal, state and local elections since the Supreme Court's *Citizens United* decision.

The recent amendment to the City's Campaign Finance Law is the most recent example of an ongoing collaborative effort between Council, the Board and the Mayor to improve the City's Public Integrity Laws. I am not aware of a similar, ongoing collaborative effort between the legislature, executive and an ethics agency in any other city in the country. What's been happening in Philadelphia in the past several years is rare, but serves as a model for what is possible.

J. Shane Creamer, Jr., Esq.
Executive Director
Philadelphia Board of Ethics

Current Board of Ethics Staff Members

J. Shane Creamer, Jr., has been Executive Director to the Philadelphia Board of Ethics since it was reconstituted in November 2006. Previously, he served as the Executive Director of the City's 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 served 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.

Tina Formica Simone has been a member of the Board's staff since March 2007. She serves as the Board's Legal Support Services Coordinator. 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.

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.

Michael J. Cooke, Director of Enforcement, joined the Board in April of 2008. Mr. Cooke was formerly an associate at the Philadelphia firm Burke O'Neil LLC and a Staff Attorney at the Pennsylvania Institutional Law Project. Mr. Cooke graduated from Northeastern University School of Law in 2002.

Maya Nayak was appointed as the Board's General Counsel in 2013. She had served as the Board's Associate General Counsel since 2008. Previously, Ms. Nayak was a litigation associate with Hangley Aronchick Segal & Pudlin and was a law clerk to the Honorable Berle M. Schiller in the U.S. District Court for the Eastern District of Pennsylvania. She holds undergraduate and law degrees from Yale University.

Hortencia Vasquez joined the Board in 2008 and is the Board's Legal Services Clerk. A native of the Virgin Islands, she came to Philadelphia 11 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.

Bryan McHale joined the Board in September 2012 as a Public Integrity Compliance Specialist. He is currently serving on a temporary basis as the Board's Public Integrity Compliance Services Supervisor**.** A Philadelphia native, he holds a bachelor's degree in political science from Temple University. He has worked for the U.S. Census Bureau and the Internal Revenue Service and prior to joining the Board was a facilitator at public meetings for the Penn Project for Civic Engagement.

Jordan E. Segall joined the Board in July 2014 as a Staff Attorney. Before joining the Board, Mr. Segall served as a Senior Investigator for the Office of the Inspector General for the City of Philadelphia. He is a native of Baltimore, MD and a graduate of the American University in Washington, D.C. and the University of Pittsburgh School of Law.

Ayodeji Perrin joined the Board in November 2014 as a Staff Attorney. Before joining the Board, Mr. Perrin served as a judicial fellow and judicial law clerk in the First Judicial District Court of Common Pleas in Philadelphia. Previously, he spent nine years in education, first as the graduate coordinator of the Ph.D. and M.A. programs in political science at Columbia University, and then as a college advisor, teacher, and director of multicultural affairs at Deerfield Academy. Mr. Perrin is a 2013 graduate of the University of Pennsylvania Law School where he served as Editor-in-Chief of the *University of Pennsylvania Journal of International Law* (Volume 34) and has a bachelor's degree in political science from Tufts University.

Diana Lin, Associate General Counsel, joined the Board's staff in June 2015. Diana was formerly an associate at Cozen O'Connor in the commercial litigation department. She is a graduate of Temple University Beasley School of Law, Harvard Graduate School of Education and Yale University.

What's New

The past year was notable because it saw the first open Mayoral election since 2007 and the first Mayoral election since the Supreme Court's ruling in *Citizens United v. F.E.C.* dramatically reshaped the way money is spent to influence elections. In addition to the Mayoral election, 2015 saw elections for City Council, Sheriff, and City Commissioner. In anticipation of these hotly contested elections, the Board took several steps to improve and clarify the City's Campaign Finance Law. The Board also engaged in extensive training and education efforts to ensure that those who participate in City elections understand the rules they must comply with.

In July of 2014, the Board approved for public comment an amendment to Board Regulation No. 1 (Campaign Finance). The most notable changes were to provisions concerning coordinated expenditures and excess pre-candidacy contributions. The amendment provided expanded guidance on when republication by a third party of materials created by a campaign is a coordinated expenditure and therefore an in-kind contribution to that campaign. The amendment also provided significantly more guidance on how candidates should calculate and handle excess pre-candidacy contributions. Finally, the amendment reorganized the Regulation to make it more user friendly and made numerous small changes to improve clarity and readability.

On September 17, 2015, the Board held a public hearing on the proposed amendment. Several members of the public testified and the Board made numerous changes to the proposed amendment in response. On October 15, 2015, the Board approved a final version of the proposed amendment. The Regulation as amended became effective on October 31, 2015.

A major concern leading up to the 2015 primary election was the absence of public disclosure until two weeks before the Primary Election for significant amounts of money being spent by third parties such as Super PACs and non-profits to influence the City's elections. To address this concern, in April of 2015, the Board sent a letter to Mayor Nutter and City Council President Clarke proposing an amendment to Philadelphia Code Chapter 20-1000 that would strengthen the City's Campaign Finance Law by enhancing the campaign finance disclosures required for candidates, political committees, and other entities such as not for profit organizations that participate in or spend money to influence City elections. On April 23, 2015, Councilwoman Tasco introduced the Board's proposed bill on behalf of Council President Clarke. On May 29, 2015, Board staff testified at a hearing on the bill and on June 11, 2015, City Council approved it. Mayor Nutter signed the bill into law on June 18, 2015. The new reporting requirements required by the change in the law will be in effect for the 2015 General Election.

Ceremonial signing (July 30, 2015) of the Board's proposed amendments to the City's Campaign Finance Law. Pictured are: Mayor Michael Nutter and City Council President Darrell Clarke along with (left to right) Chief Integrity Officer Stephanie Tipton, Board Director of Enforcement Michael Cooke, Board Vice Chair Judge Phyllis W. Beck (ret.), and Board Executive Director J. Shane Creamer, Jr.

Training and Public Integrity

The Board's purpose is to promote honesty, integrity and transparency in City government and the primary tools to achieve that purpose are education and outreach. The Board remains convinced that when City officials, employees, and the regulated community know how and why the Public Integrity Laws apply to them, they will be better able to avoid violations of the law. With this in mind, the Board engaged in a full program of training and outreach during the past year.

Emphasis on Campaign Finance Training and Outreach

Recognizing that the Mayor's office, all City Council seats, the City Commissioners' offices, and the Sheriff's office were on the 2015 Primary election ballot, the Board and staff undertook a three-prong approach to training about the City's Campaign Finance Law. Campaign finance training classes, email alerts on important issues, and frequent email reminders of filing dates and requirements were the three methods used to provide maximum exposure to candidates, treasurers and committees about campaign finance filing obligations. The Board understood that training for this election would be especially important because there were likely to be new candidates and political committees that were unfamiliar with the contribution limits and other requirements of the City's Campaign Finance Laws.

Between October 2014 and April 2015, the Board offered five in-depth training sessions for anyone interested in the City and Commonwealth Campaign Finance Laws. Email notices of the training calendar were sent to the Board's campaign finance distribution list, which includes people who have expressed an interest in the City's Campaign Finance Law, as well as candidates and treasurers. Each of the training sessions covered the requirements for candidates and political committees under the Pennsylvania Election Code and Philadelphia's Campaign Finance Law. A representative of the Office of the City Commissioners also participated in these classes, which were attended by more than 130 interested individuals. Prior to these training sessions, Board staff updated its training materials to include recent changes to the Board's Campaign Finance Regulation No. 1, which is discussed elsewhere in this report. In addition, the Board created and disseminated a guide to complying with the City's Campaign Finance Law. The guide covers all of the requirements under the law that applies to candidates and political committees and provides helpful tips and examples.

Campaign finance training will continue prior to the November election with a series of five more classes scheduled between September 15 and October 15, 2015. These sessions will include both standard campaign finance training and sessions about new filing requirements and the "nuts & bolts" of electronic filing.

The Board used a series of email alerts throughout the election season to deliver important election-related messages. For example, the Board was aware that the amendments to the Campaign Finance Regulation would have a significant impact on participants in the May 2015 Primary Election. Therefore, on November 4th, staff sent an email to the Board's campaign finance distribution list that included a copy of recently amended Board Regulation No. 1 and a summary of the most notable changes to Regulation 1 that became effective on October 31, 2014.

The Board continued this use of email alerts throughout the election season. On December 18, 2014, an alert was issued to clarify the meaning and application of Subpart H of Regulation No. 1, which concerned coordinated election expenditures.

The City's Campaign Finance Law provides that if a candidate makes total contributions of $250,000 or more of his or her personal resources to his or her campaign, then the contribution limits for all candidates for that office shall be doubled. This happened twice in 2015 and there were email alerts on January 6, 2015 and May 5, 2015 to announce that the contribution limits had doubled for 2nd District and At-Large City Council candidates, respectively.

Other Alerts provided instructions on how contributions made by individuals by check are to be attributed to comply with the contribution limits in the law (April 27, 2015) and explained that failure to file a required campaign finance report with the Board is a violation of the City's Campaign Finance Law and is subject to a civil monetary penalty (May 7, 2015). Another email Alert on June 16, 2015 reminded election participants that the Cycle 3 (post-primary) campaign finance report was due on June 18, 2015 and that Board enforcement staff would pursue enforcement and penalties for the failure to file a timely report.

In addition to the training sessions and email alerts, the Board also issued filing reminder emails to its campaign finance distribution list prior to the deadline for each reporting period.

On-going Ethics Training

While there was an emphasis on campaign finance training and outreach during the past year, Board staff maintained its busy schedule of ethics training classes. Ethics training is mandatory for all new City officials and employees, and certain officials and employees and board and commission members are required to attend annual ethics training. Board of Ethics staff members are therefore continually involved in scheduling, designing, revising and presenting in -person ethics training sessions. Between July 2014 and June 2015, Board staff members conducted 28 ethics training classes that were attended by more than 700 City officials and employees. At these sessions, attendees are always encouraged to ask questions, and complex questions are referred for detailed treatment to the Board's General Counsel staff for advice. Topics covered in these sessions include ethics rules, political activity, and financial disclosure. The Board anticipates that there will be an increased demand for ethics training in early 2016 as a new City administration is established and hires new employees and makes new appointments to City boards and commissions. Staff will make plans in the coming months to increase the number of ethics training sessions so that all new employees and officials are able to receive timely training.

Advice

The Board is charged with providing advice to the regulated community, which includes any individual or entity that is subject to, or reasonably could be subject to, a law within the Board's jurisdiction. Advice requestors include current and former City officers and employees, lobbyists, principals, candidates for City elective office, campaign contributors, political committees, and gift givers. Advice often takes the form of informal guidance and is also delivered through advisory opinions.

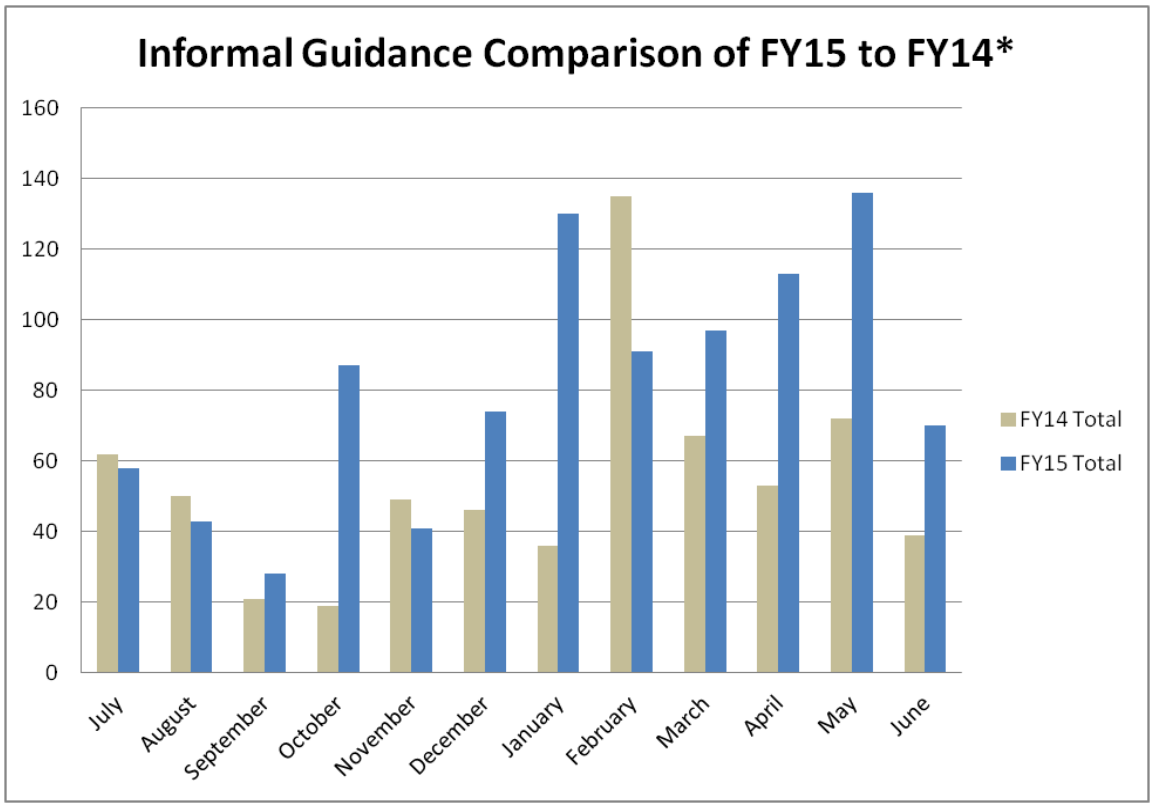
The regulated community turns to and depends upon the Board and its staff to explain the requirements of the City ethics, campaign finance and lobbying laws. Informal guidance typically involves answering questions based upon the text of relevant legal provisions or prior advisory opinions. Unlike advisory opinions, informal guidance does not contain a detailed analysis and may not be relied upon to provide protection against penalties in the event of a violation. Informal guidance also includes Board staff providing filing assistance to individuals and entities that are required to make disclosures under the City's financial disclosure, campaign finance or lobbying laws.

Board staff has continued the practice initiated in mid-2013 of tracking the informal guidance it provides to the regulated community. In FY2015 alone, Board staff recorded 1,761 informal guidance contacts. This data shows a strong demand for informal guidance. The data also reflects Board staff's efforts, when possible and appropriate, to provide informal guidance quickly via e-mail, telephone or in-person conversations. The chart that follows on the next page displays the number of monthly informal guidance contacts in FY2015 and provides a comparison to the number of monthly informal guidance contacts in FY2014. The chart omits financial disclosure assistance because the disproportionally high volume of financial disclosure contacts does not map to the scale of the chart. In FY2015, Board staff responded to 793 informal guidance contacts pertaining to financial disclosure.

The Board also provides advice to the regulated community via advisory opinions. Advisory opinions are written opinions that provide a detailed analysis of specific facts provided by a requestor regarding prospective behavior that the requestor is contemplating. Requestors are entitled to act in reasonable reliance on advisory opinions issued to them and not be subject to penalties under the laws within the Board's jurisdiction as long as they have not omitted or misstated material facts. Upon request, advisory opinions can be non-public. A non-public opinion is redacted to conceal facts that are reasonably likely to identify the requestor.

In FY2015, the Board issued 10 advisory opinions. Of these, four were Board Opinions, which are advisory opinions that are approved and issued directly by the Board. Board Opinions generally address novel questions that have not been previously interpreted by the Board or by a court. The four Board Opinions issued in FY2015 addressed restrictions related to interests in City contracts, political activity, gifts, and representation. In contrast to Board Opinions, General Counsel opinions generally address issues that directly follow from the text of the relevant law or that have been determined by the Board in an opinion or regulation or by a court. The six General Counsel Opinions issued in FY2015 addressed restrictions related to post -employment, lobbying, gifts, outside employment, interests in City contracts, and conflicts of interest.

Detailed indexes of the Board Opinions and General Counsel Opinions issued in the last fiscal year are provided in this annual report at Appendix II and III.



* In FY2015, Board staff responded to 1,761 informal guidance contacts, including 793 requests pertaining to financial disclosure assistance. This chart omits financial disclosure assistance because the disproportionally high volume of financial disclosure contacts, which were primarily provided in April 2015, does not map to the scale of the chart.

Lobbying in Philadelphia

The purpose of the City's Lobbying Law, City Code Chapter 20-1200, is to provide the public with a window into activity by various entities that attempt to shape legislative and administrative decisions in City government. This purpose is achieved by two requirements in the Lobbying Law. First, lobbyists, lobbying firms, and principals are required to electronically file registrations and generally registered principals must file quarterly reports of lobbying expenditures. The second requirement is a disclosure mandate that the electronically-filed lobbying information be made available to the public in an online searchable database.

The Board met this disclosure mandate when the Philadelphia Lobbying Information System (PLIS) was launched in January 2014. Since that time, PLIS has become the most important tool to make lobbying information accessible to the public. Board staff members routinely assist lobbyists, lobbying firms, and principals with the registration and filing software either on the telephone or by conducting one-on-one training sessions. Staff also field calls from the public about how to search and use the PLIS database.

Through the database, a citizen can determine which individuals and entities are seeking to affect legislative and administrative decisions in City government, what they are lobbying about, who in city government they are lobbying, and how much has been spent on their lobbying efforts.

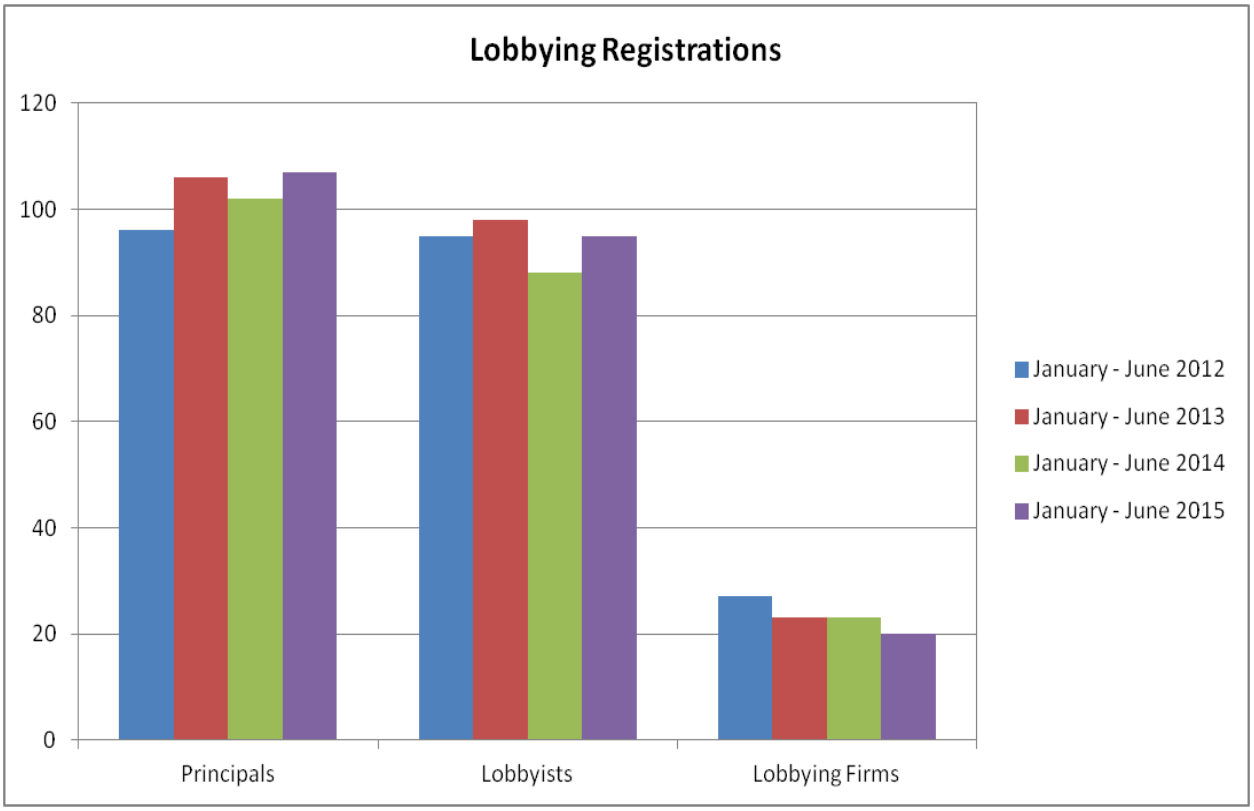
As more lobbying data becomes available each year, more detailed comparisons will be possible, and the opportunity for analysis and comparison of lobbying data in the future will increase. The Board looks forward to this process, to encouraging public access to lobbying information, and to the role of lobbying data in understanding City government.

Lobbying Registrations

● **Figure 1**, below, compares the number of lobbyists, lobbying firms and principals registered during the first six months of each year from 2012 through 2015. This comparison is based upon a manual count of registrations filed by lobbyists, lobbying firms and principals in the first and second quarters of 2012 and 2013, and the electronic data in PLIS for registrations filed in the first and second quarters of 2014 and 2015.

Lobbying registration in Philadelphia is on an annual basis. Therefore the number of registered lobbyists, firms and principals can change from year-to-year depending on what issues or projects are being considered for legislative or administrative action at that time. Having said that, it appears that the number of registrations has remained relatively stable for each type of registration from 2012 through 2015. Future years of data will provide more context for analysis.

Figure 1



Lobbying Expenditures

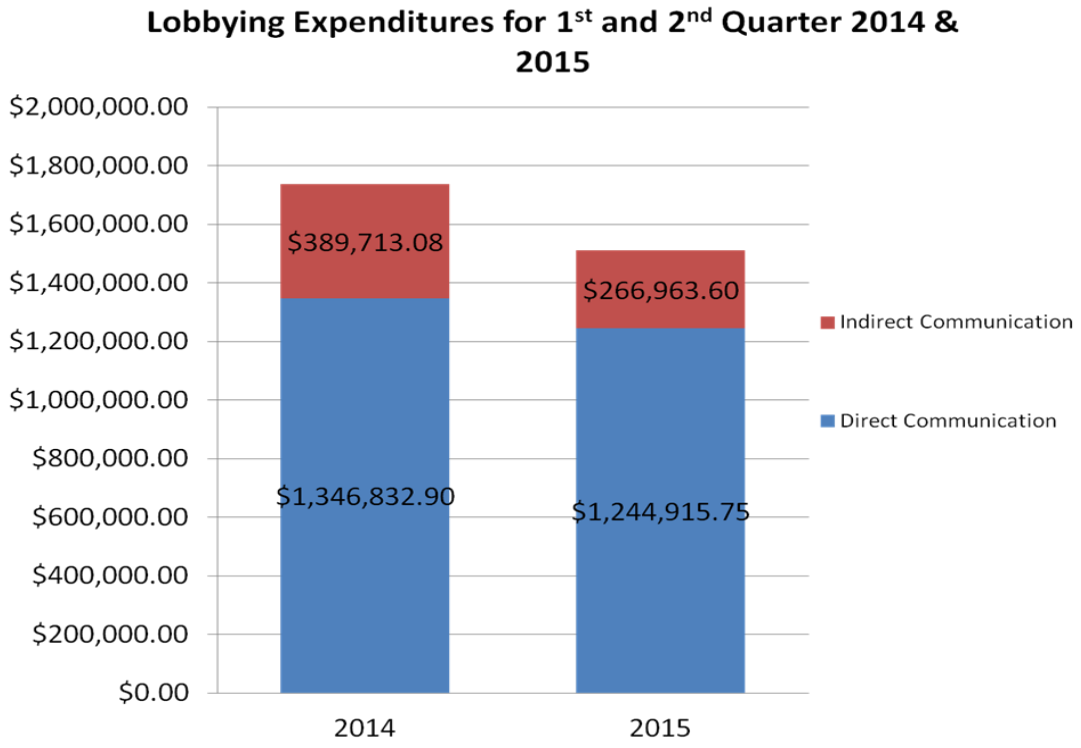
Lobbying expenditure data is now available via PLIS for the 18-month period from January 2014 through June 2015. By the time of the Board's next Annual Report, in September 2016, more than two full calendar years of online data will be available and year-over-year comparisons can be made that are not possible at this time. However, review of the expenditure data for this 18-month time period provides interesting results.

There are two types of lobbying communications that are reported each quarter, those for Direct Communications and those for Indirect Communications. Direct lobbying communications include, but are not limited to, written, in-person, telephone, and email contacts between a lobbyist or principal with a City official or employee to affect legislative action or administrative action. Indirect lobbying communications occur when a lobbying entity makes an effort to encourage others, including the general public, to take action that is intended to directly influence legislative action or administrative action. Examples of indirect lobbying methods include letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues.

Figures 2 and 3, below, provide summary information from PLIS for expenditures by lobbying entities on direct and indirect communications.

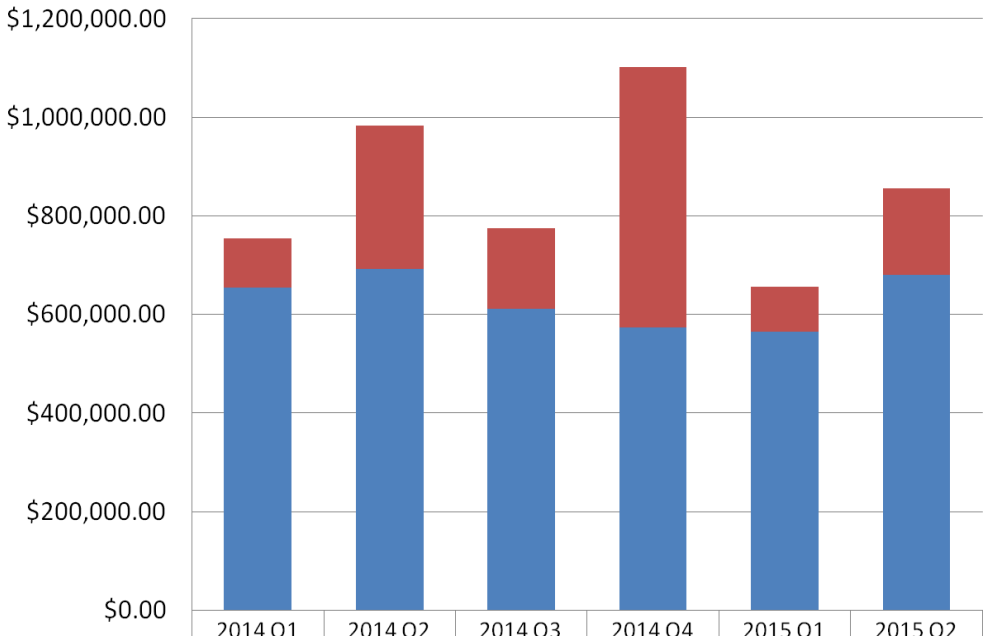
● **Figure 2** shows that the total spent on direct and indirect communications in the first and second quarters of 2014 was $1,736,546. In the same six-month period in 2015, lobbying entities spent $1,511,879 on both types of communications. In each year, expenditures on direct communications far outpaced expenditures for indirect communications. In the first half of 2014, direct communications accounted for 78% of all communications expenditures, and they accounted for 82% of all 2015 communications expenditures from January through June.

Figure 2



● **Figure 3** includes direct and indirect communication data for all of 2014, including the third and fourth quarters. While similar data is not yet available for 2015, the trend noted in Figure 2 continued and direct communication expenditures were greater in all quarters than those for indirect communications. In both 2014 and 2015, the volume of spending on lobbying communications may be the result of more intense lobbying activity during the City's budget season which concludes in June. Staff further believes that the spike in lobbying spending in the fourth quarter of 2014 is attributable to lobbying activity surrounding the proposed sale of PGW.

Figure 3



	2014 Q1	2014 Q2	2014 Q3	2014 Q4	2015 Q1	2015 Q2
Indirect Communications	$98,430.88	$291,282.20	$162,738.31	$527,283.74	$91,400.32	$175,563.28
Direct Communications	$655,198.48	$691,634.42	$611,263.48	$573,936.65	$565,244.65	$679,671.10

Financial Disclosure

Each year, thousands of City officials and employees and the members of City boards and commissions are required to file one or more of three annual financial disclosure forms on or before May 1st. The three forms are the City Form (required by the City Ethics Code), the Mayor's Form (required by Mayoral executive order), and the State Form (required by the State Ethics Act). From January through May of each year, as many as five of the Board's ten staff members are involved on any given day in the many tasks necessary to implement the financial disclosure process. This year was no exception.

Board staff members worked with Joan Decker, the City's Records Commissioner, and her staff to upgrade the online financial disclosure electronic filing software, which is maintained by the Records Department. Employees and officials are encouraged to use the online filing system rather than filing paper reports. Board staff members worked closely with the City's departmental Human Resources Managers to review the financial disclosure process and the changes to the online system because HR Managers work directly with City employees and board and commission members who are required to file financial disclosure statements.

We note that Mayoral Executive Order 11-14, signed by Mayor Nutter on December 19, 2014, made changes in the Mayor's Form filing requirements. The Executive Order revised the list of City officials and employees who are required to file the Mayor's Form and required that members of the Mayor's Office Staff, as designated by the Mayor, were now required to file the City Form. The changes enacted by Executive Order 11-14 and the software upgrade resulted in a significant increase in the number of calls for assistance that were received by the Board's staff, especially during April 2015.

The Board was again fortunate to have help from the Office of Human Resources, which issued email filing reminders to thousands of current City employees concerning their financial disclosure obligation. Board staff issued email reminders to hundreds of members of City boards and commissions and mailed almost 700 letters to City employees who left City government during the past year, but still had to file one last time. The email and postal reminders typically resulted in a constant stream of phone calls to our office with two consistent themes: callers wanted to know why they had to file and how to use the online system.

The number of financial disclosure statements that are filed electronically continues to climb. We note that 87 percent of the financial disclosure reports filed in this reporting cycle were filed electronically. In 2014, 86 percent were filed electronically, and 84 percent were filed electronically in 2013. Electronically-filed reports save paper and reduce the time necessary to process the information.

The Board again wishes to thank the Records Department for providing financial and staff resources for an in-person Financial Disclosure Filer Support Center. The Support Center was available during the week before the May 1st filing deadline and provided invaluable technical assistance to individuals who needed help to file the Financial Disclosures reports using the online system.

The Financial Disclosure process is a successful program because it is a joint effort of the Records and Human Resources Departments and the Board of Ethics.

Enforcement

2007-FY2015 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 a referral 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 a 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.

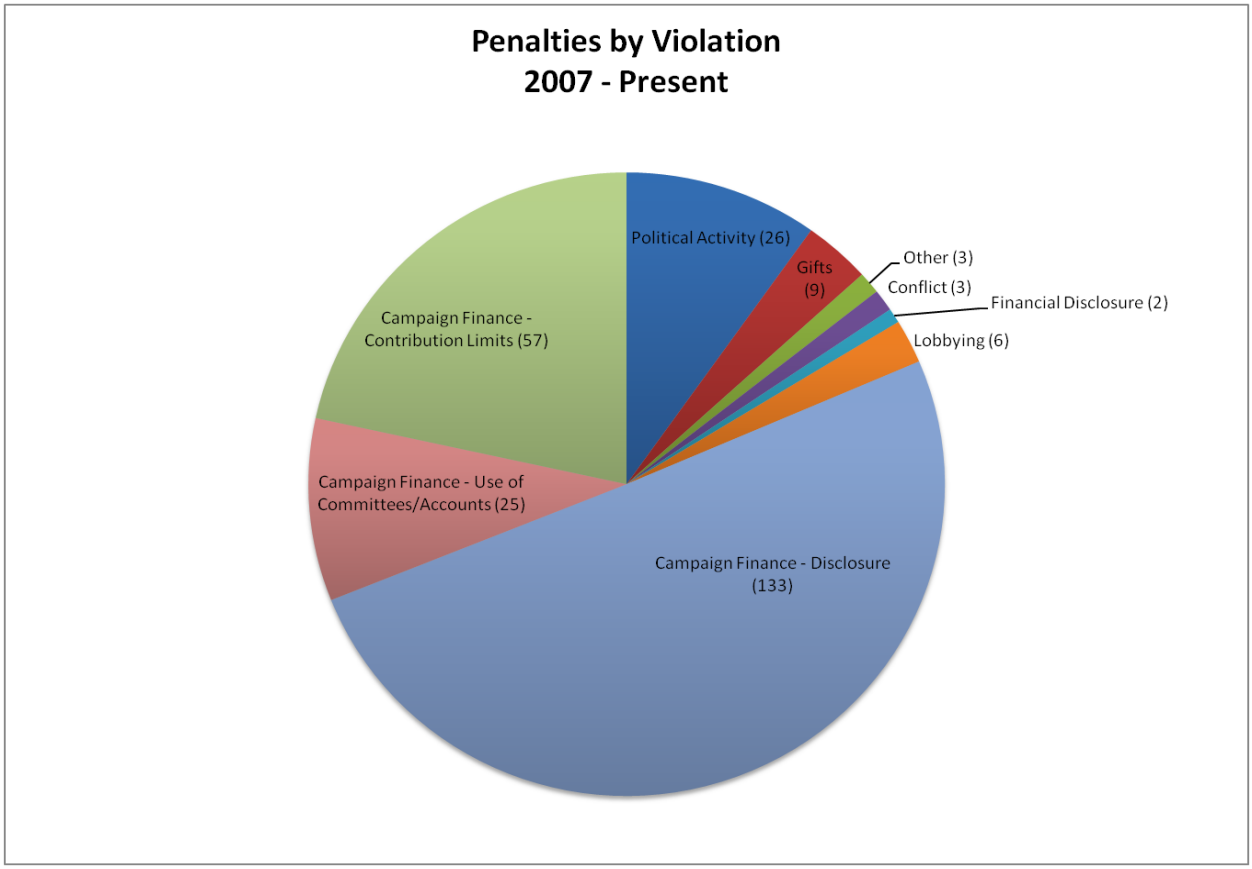
The below table summarizes the Board's investigation and enforcement activity since 2007:

	Investiga-tions Opened	Investigations terminated	Complaints accepted	Complaints rejected	Enforcement actions initi-	Settlements
Total	151	84	22*	70	19	89
FY 2015	32	8	5	14	2	40**
FY 2014	13	8	6	7	0	4
2012/ FY2013	13	7	3	5	0	13
2011	54	26	8	12	11	14
2010	0	24	0	12	1	2
2009	25	6	*	11	3	8
2008	14	5	*	9	1	5
2007	N/A	N/A	*	N/A	1	3

*Board enforcement staff only began tracking complaints accepted starting with FY2010.

** The number of settlements in FY2015 includes settlements that were concluded through early FY2016 (September 2015) that resulted from conduct that arose in FY2015.

The below chart depicts the 264 violations that have been resolved through the 89 settlement agreements the Board has approved since 2007:



FY2015 Enforcement Activity

Settlement Agreements

In FY2015 (and early FY2016), the Board approved 40 settlement agreements: Twenty five of the agreements related to the failure to file campaign finance reports as required by the City's Campaign Finance Law (further described below); ten of the agreements involved other violations of the campaign finance law; four involved violations of the Charter's restriction on political fundraising and political activity, and the other agreement involved violations of the Ethics Code's mandatory cooperation and conflict of interest provisions. In FY2015, parties to settlement agreements agreed to pay a total of $67,300 in civil monetary penalties.

Additionally, in FY2015 parties to settlement agreements agreed to disgorge or re-pay to the City $43,350. In most cases, the disgorgement was of excess contributions accepted by a candidate for City elective office. Lastly, in FY2015, parties to settlement agreements agreed to segregate $71,427 of excess pre-candidacy contributions. All of the Board's settlement agreements are available on the Board's website.

Terminated Investigations

In FY2015, Board enforcement staff terminated eight investigations after determining that probable cause did not exist to believe a violation had occurred. Seven of those investigations involved potential violations of the Campaign Finance Law and one involved potential violations of the Ethics Code's representation prohibition.

2015 Campaign Finance Reporting Compliance

In FY2015 (and early FY2016), Board enforcement staff also devoted a significant amount of time to ensuring that candidates, political committees, and others filed campaign finance reports as required by the City's Campaign Finance Law. In prior election cycles, enforcement staff had offered non-filers an opportunity to come into compliance without being subjected to penalties. Starting with the 2015 cycle 2 filing cycle, enforcement staff began to seek a penalty for late filing by anyone who had previously filed reports with the Board. Filers who had never filed with the Board before were given an opportunity to come into compliance without being subjected to penalties. The below chart summarizes Board compliance activities to date for filings related to the 2015 Philadelphia municipal primary election.

Time Period	Number of unique filings with the Board	Number of Board Approved Settlements for Non-Filers	Number Brought into Compliance
Cycle 1	**677**	**0**	**9**
Cycle 2	**1,522**	**16**	**45**
Cycle 3	**1,822**	**4**	**29**
24 Hour Reports	**787**	**5**	**17**
Total	**4,808**	**25**	**100**

Parties to settlement agreements resolving violations for late filing of campaign finance reports agreed to pay a total of $39,500 in civil monetary penalties. All of these settlement agreements are available on the Board's website.

Litigation

Three major cases involving the Board resolved during the past year.

Cozen O'Connor v. City of 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 of the City Campaign Finance Law if those contributions are used to retire campaign debt incurred before the election. Cozen challenged the Board's Opinion and sought a declaratory judgment in the Court of Common Pleas in March 2008 that the legal expenses incurred by the Brady Campaign were not "expenditures" as defined under Philadelphia Code § 20-1001(10) and that post-election contributions or debt forgiveness are not "contributions" as defined under Philadelphia Code § 20-1001(6). (In June 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 that was incurred for use in influencing the election of the candidate.)

After the Board prevailed on its preliminary objections in the Court of Common Pleas, and was affirmed by the Commonwealth Court, the case was appealed to the Pennsylvania Supreme Court, which reversed on narrow grounds and remanded for further proceedings in February 2011. On July 18, 2012, the Honorable Leon Tucker of the Philadelphia Court of Common Pleas ruled that post-election forgiveness by Cozen O'Connor of the debt owed to it by the Brady Campaign at one time and *in toto* would be subject to the City's contribution limits.

Cozen O'Connor appealed and the Pennsylvania Commonwealth Court affirmed Judge Tucker's ruling on June 18, 2013. Cozen O'Connor filed a Petition for Allowance of Appeal with the Pennsylvania Supreme Court on July 17, 2013. On December 15, 2014, the Supreme Court ruled that the firm's forgiveness of the Brady Committee's debt would not constitute a "contribution" that was subject to the contribution limits under the law as it existed in 2007, and that the firm could forgive the debt at one time and *in toto* without violating the City's Campaign Finance Law.

The Supreme Court upheld the Commonwealth Court's ruling that the firm did not have standing to seek a declaration that the Brady Committee could conduct unrestricted post-election fundraising to retire the debt owed to the firm. The Court also affirmed the Board's interpretation of the City's Campaign Finance Law, as it existed in 2007, by concluding that the contribution limits continued to apply post-election, and that the 2010 amendment of the law merely clarified that interpretation. Although the ruling permits the forgiveness of legal fees to defend a ballot challenge, it is expressly limited to an interpretation of the law as it stood in 2007. The Court cited with approval the 2010 additions to the law, including new provisions for the forgiveness of debt and for the establishment of separate legal defense funds. Therefore, the decision does not affect the City's Campaign Finance Law that has applied since 2010.

The Board thanks its *pro bono* attorneys at Dechert LLP, including Elisa Wiygul and Stephen D. Brown, who represented the Board throughout the litigation.

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 Philadelphia Police Department. Named defendants included the City, Mayor Nutter, the Ethics Board, each individual Board Member and the Board's Executive Director, J. Shane Creamer, Jr.

On February 21, 2013, Judge Juan R. Sanchez granted the Board's motion for summary judgment and dismissed the FOP's case, thereby upholding the ban. The FOP appealed and the case was argued before a panel of the United States Court of Appeals for the Third Circuit on November 12, 2013.

On August 18, 2014, in a 57 page Opinion written by Judge Hardiman, the Third Circuit held that Charter Subsection 10-107(3) violated the First Amendment to the extent it prohibited members of the Philadelphia Police Department from making contributions to their union's political action committee, COPPAC.

The Court found that protecting police officers from politically motivated forces was a legitimate rationale for the City, but that the contribution ban was poorly tailored to the City's articulated interests. The Court suggested that repealing the automatic payroll deduction ordinance (Bill 060181), which the Court described as having an "inherently coercive nature," or enforcement of "existing anti-solicitation measures" that can be drawn from the Charter's political activity restrictions, would be more closely drawn to the City's legitimate interests.

The Court stated that it was reviewing and was striking down only the portion of the Charter Subsection 10-107(3) fundraising restriction's application to members of the Police Department making contributions to political committees that are not affiliated with a candidate. It explained that it was not deciding whether police officers may be prohibited from contributing directly to political candidates under the Charter ban.

The City Solicitor decided not to move for reconsideration or to appeal the decision to the United States Supreme Court. In September of 2014, the Board added a note to its Political Activity Regulation (Regulation No. 8) stating that pursuant to the August 18, 2014 decision of the Third Circuit 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.

Hon. Anthony Clark v. City of Philadelphia Board of Ethics, et al.

On June 4, 2015, City Commissioner Anthony Clark filed a lawsuit in the Philadelphia Court of Common Pleas asking for a declaratory judgment against the Board. Commissioner Clark asked the Court to declare that the Executive Director did not have the authority to initiate or prosecute an Administrative Enforcement Proceeding against him. The Board's Executive Director, J. Shane Creamer, Jr, was also a named defendant in the lawsuit.

Commissioner Clark's lawsuit arose out of an administrative enforcement action Board enforcement staff brought against him for violating the Ethics Code's conflict of interest and mandatory cooperation provisions in connection with out-of-class payments for Commissioner Clark's brother, a City Commissioners Office employee. On June 18, 2015, Commissioner Clark entered into a settlement agreement with the Board whereby he admitted to three violations of the Ethics Code's conflict of interest and mandatory cooperation provisions. On June 22, 2015, Commissioner Clark discontinued his lawsuit thereby terminating the litigation.

FY15 Fiscal Report

In addition to filing an annual report of its activities, the Board is required by Home Rule Charter Section 3-806(k) to provide an annual accounting of its expenditures. As reported below, the Board spent a total of $898,217 between July 1, 2014 and June 30, 2015.

Class	FY15 Appropriation	FY15 Total Spent
100 – Salaries	$918,580	$843,845*
200 – Purchase of Services	$96,000	$50,649
300/400 – Materials, Supplies & Equipment	$14,000	$3,724
Total:	$1,028,580	$898,217

*adjusted for rounding

Two major factors contributed to spending below the Board's FY15 appropriation. First, the process to fill vacant Civil Service positions has taken longer than expected. Hiring is ongoing and the Board expects to fill the positions in FY2016 so that it will reach its full budgeted complement of 12 staff members. The Board is working with the Department of Public Property to acquire necessary additional office space to accommodate new staff members.

Second, as in prior years, a portion of the funds in the Board's Class 200 appropriation also remained unspent in FY15. This occurs because the Board must anticipate that it will need to pay for legal representation in the event of an outside legal challenge to its authority. Because the City Law Department has not provided representation for the Board or paid for outside counsel in certain major cases, the Board must allocate a portion of Class 200 funds for legal and related services in the event of such litigation. However, the Board is well aware that the total funds available in its Class 200 appropriation in FY15 most likely would not cover the cost of outside attorneys in such legal actions in a single year.

For example, one case involving the Board began in 2008 and was finally concluded in FY15. The Board was represented on a *pro bono* basis by the Dechert law firm, and the costs related to this one matter over several years are valued at well in excess of $1 million. The Board operates with the knowledge that these generous volunteer legal services may not be available for future litigation and that Class 200 funds in a fiscal year would therefore be insufficient to cover its legal costs.

The Board is also aware that it may need accounting, computer and other professional forensic services to conduct complex investigations and that Class 200 funds available for this purpose might similarly be insufficient. For example, accounting expenses related to a single investigation conducted in FY15 cost more than $24,000, while the total funds in Class 200 for all purposes for the entire fiscal year were $96,000.

As noted in prior Annual Fiscal Reports, the Board did not receive any funding from the City for the design, implementation and maintenance and support costs of the online Philadelphia Lobbying Information System (PLIS). Financial support from the City's Office of Innovation and Technology (OIT) was therefore crucial for the completion of the Board's lobbying project. However, the Board has no guarantee that OIT will continue to assume maintenance and support costs of the lobbying system once this current contract expires and operation of the lobbying system could be put at risk.

The Board remains aware that while it did not spend all the funds appropriated in Class 200 in FY15, it is entirely possible that one legal challenge or one investigative matter might exhaust the entire Class 200 appropriation in a fiscal year and therefore cripple the Board's ability to meet its statutory responsibilities.

Between July 1, 2014 and June 30, 2015, the Board spent $898,217, as follows:

Class 100 – Personal Services

Class	Name	Title	FY15
101	Baugh, Elizabeth (resigned)	Compliance Services Supervisor	20,679
101	Cooke, Michael	Director of Enforcement	113,201
101	Creamer, Jr., J. Shane	Executive Director	141,927
101	Downey, Elizabeth (resigned)	Associate General Counsel	81,197
101	Formica, Tina	Legal Support Services Coordinator	56,142
101	Lin, Diana	Associate General Counsel	2,759
101	McHale, Bryan	Acting Compliance Services Supervisor	42,221
101	Massar, Nedda	Deputy Executive Director	124,463
101	Nayak, Maya	General Counsel	120,674
101	Perrin, Ayodeji	Staff Attorney	38,476
101	Segall, Jordan	Staff Attorney	61,845
101	Vasquez, Hortencia	Legal Services Clerk	40,237
	Total Class 100		**$843,845***

*adjusted for rounding

Class 200 – Purchase of Services

Class	Class Description	Description of Services	Amount Paid
209	Telephone	Equipment & Service	348
210	Postal Services	Delivery Service & Postage	1,980
211	Transportation	Travel & Transportation	5,341
216	OTS Software	Adobe Acrobat Software	866
240	Advertising	Job Postings	595
250	Professional Services	Accounting	25,000
255	Dues	Professional Membership Dues	850
256	Seminar & Training Sessions	Seminars, Training & Continuing Legal Education	5,966
258	Court Reporting	Court Reporting Services	2,821
260	Repairs & Maintenance	Copier	5,670
266	Maintenance & Support – Computer Hardware & Software	Software Maintenance - Lectora	1,173
299	Other Expenses	Subpoena Copy Charges	39
	Total Class 200		**$50,649**

Class 300 & 400 – Materials, Supplies & Equipment

Class	Class Description	Description of Purchase	Amount Paid
304	Books & Other Publications	Books	1,554
320	Office Materials & Supplies	Office Materials, Supplies & Paper	2,073
325	Printing	Stationery, Cards & Nameplates	97
400	Furniture & Computer Equipment		0
	Total Class 300/400		**$3,724**

Total FY15 Expenses = $898,217

Looking Ahead

With no litigation at present, following seven years of continuous lawsuits, and with staff up to ten with only two vacancies, the Board has been able to achieve a tremendous amount of work in the past year, as reflected in this Report. We hope to continue with that brisk pace as we look forward into 2016. As we continue to make our best efforts to provide guidance and to administer and enforce the City's Public Integrity Laws, we will look for opportunities to clarify and improve those laws. We will also look forward to playing a role in the transition process to the next Administration, which will be the first such transition since 2008, when the Board was only one year new.

We take our responsibilities to administer, interpret and enforce the City's Public Integrity Laws very seriously, and we hope that our endeavors continue to promote public confidence in City government.

Appendix I: Amended Regulation No. 1

Regulation No. 1 does not currently reflect a change to the campaign finance disclosure requirements that became effective on July 1, 2015.

For the reporting requirements that currently apply, please see the description attached at the end of the Regulation.

PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 1
CAMPAIGN FINANCE

(Modified from original version to accommodate spacing requirements)

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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 publiccation;

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.

SUPBART 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 Para graph 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 commit tee 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 up dated 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 up dated 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 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 de sign, 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 sub paragraph 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 be cause 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 be fore 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 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 per son'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 be comes 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 com mittee 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. **Accounting-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 ac counting method, were actually spent before becoming a candidate, provided that:

(1) Before accounting for the expenditure of any excess pre-candidacy contributions, an ac counting 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 ac count.

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 Para graph 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

CITY OF PHILADELPHIA
BOARD OF ETHICS

PHILADELPHIA'S CAMPAIGN FINANCE LAW: NEW REPORTING REQUIREMENTS

Philadelphia's Campaign Finance Law was recently amended to increase public disclosure of money spent to influence City elections. The changes became effective on July 1, 2015. Philadelphia's Campaign Finance Law covers elections for the offices of Mayor, District Attorney, City Controller, City Council, City Commissioner, and Sheriff. The Board of Ethics is responsible of administering, enforcing, and providing guidance on the City's Campaign Finance Law.

WHAT'S NEW AS OF JULY 1, 2015

- The authorized candidate committees of candidates for City office must now file reports on the sixth Tuesday pre-primary (cycle 1) and the sixth Tuesday pre-election (cycle 4).

- Political committees must now file reports on the sixth Tuesday pre-primary (cycle 1) and the sixth Tuesday pre -election (cycle 4) if they make any expenditures to influence a City election during those reporting periods.

- Expenditures to influence a City election include expenditures for electioneering communications, which are any broadcast, cable, radio, print, Internet, or satellite communications (a) that promotes, attacks, supports, or opposes a candidate, or (b) that , within 50 days of a covered election, names, refers to, includes, or depicts a candidate in that covered election.

- Any political committee (but not a candidate committee), not-for-profit entity, or other person that spends or promises to pay, in the aggregate, $5,000 or more for one or more electioneering communications that are published or to be published within fifty (50) days of a covered election must file a full campaign finance report with the Board. Such reports are due at the following times:

  - ◊ On the sixth Tuesday before a covered election;
  - ◊ On the fourth Tuesday before a covered election;
  - ◊ On the second Friday before a covered election; and
  - ◊ On the Tuesday immediately before a covered election.

  These reports must include all transactions that occurred in the prior eight months through 24 hours before the report is due unless the person has more recently filed a report with the Board, in which case the person need only include transactions that occurred since that report.

All campaign finance reports filed with the Board of Ethics must be filed electronically.

If you have questions about Philadelphia's Campaign Finance Law, please contact the Board of Ethics at 215-686-9450 or visit our website at http;//www.phila.gov/ethicsboard.

Filing a campaign finance report with the Board of Ethics does not satisfy the requirement under the Pennsylvania Election Code to file reports with the City Commissioners or the Department of State. For questions about the Pa. Election Code, please call either the City Commissioners at **215-686-3469** or the Dept. of State at **717-787-1512.**

CITY OF PHILADELPHIA
BOARD OF ETHICS

PHILADEPHIA'S CAMPAIGN FINANCE REPORTING DEADLINES: NOVEMBER 3, 2015 ELECTION

	Name of Report	Complete As Of	Deadline
Cycle 4	Sixth Tuesday Pre-Election	September 14, 2015	Sept. 22, 2015
Cycle 401	Fourth Tuesday Pre-Election	October 4, 2015	October 6, 2015
Cycle 5	Second Friday Pre-Election	October 19, 2015	October 23, 2015
Cycle 11	**24 hour reporting**	**Start Oct. 20, 2015**	**End Nov. 3, 2015**
Cycle 501	Final Tuesday Pre-Election	October 25, 2015	October 27, 2015
Cycle 6	Thirty Day Post- Election	November 23, 2015	December 3, 2015

Philadelphia's Campaign Finance Law covers elections for Mayor, District Attorney, City Controller, City council, City Commissioner, and Sheriff and requires that those who participate in City elections file campaign finance reports that are in addition to what they may have to file under the Pennsylvania Election Code. The Board of Ethics is responsible of administering, enforcing, and providing guidance on the law.

ALL CAMPAIGN FINANCE REPORTS FILED WITH THE BOARD OF ETHICS MUST BE FILED ELECTRONICALLY.

Candidate committees must file reports for cycles 4, 5, &6.
During the 24 hour reporting period, **Candidate committees** that receive contributions or pledges of $500 or more must file reports disclosing those contributions or pledges within 24 hours of receipt.

Candidates must file reports for cycles 5 & 6.

Political committees must file reports for cycles 4, 5, &6 if, during the cycle, the committee makes an expenditure to influence a City election. An expenditure to influence a City election includes: 1) a direct contribution to a candidate for City office, 2) an expenditure that is coordinated with a candidate for City office (and is therefore an in-kind contribution to the candidate); and 3) an expenditure for an electioneering communication, which is any broadcast, cable, radio, print, Internet, or satellite communication (a) that promotes, attacks, supports, or opposes a candidate, or (b) that, within 50 days of a covered election, names, refers to, includes, or depicts a candidate in that covered election. **Political committees** are only required to file for cycles 401 & 501 if, during the cycle, they spend or promise to pay, in the aggregate, $5,000 or more for electioneering communications that are published or to be published within 50 days of a covered election.

Not-for-profit entities, individuals and **other persons** must file reports for reporting cycles 4, 401, 5, or 501 if they spend or promise to pay, in the aggregate, $5,000 or more for electioneering communications that are published or to be published within 50 days of a covered election.

During the 24 hour reporting period, **Political committees or other persons** that make independent expenditures of $500 or more to influence a City election (or incur debts for such expenditures) must file reports disclosing those independent expenditures within 24 hours.

If you have questions about the Philadelphia's campaign finance law please contact the Board of Ethics at 215-686-9450 or visit our website at http://www.phila.gov/ethicsboard.

Filing a campaign finance report with the Board of Ethics does not satisfy the requirement under the Pennsylvania Election Code to file reports with the City Commissioners or the Department of State. For questions about the Pa. Election Code, please call either the City Commissioners at **215-686-3469** or the Dept. of State at **717-787-1512.**

Appendix II: Index to FY15 Board Opinions

FY15 Index of Board Formal Opinions

Advice No.	Date Issued	Brief Description	Key Words / Citations
Board Opinion 2014-001 Non-public Advice	7/16/14	Advised City employee that leasing an office space the employee owns in exchange for rental payments from the City was in contravention of Charter Section 10-102, which prohibits City employees from having a direct or indirect interest in any contract for the purchase of property of any kind that is paid for by funds from the City Treasury. Charter Section 10-102 prohibits City officers and employees from having an interest in certain City contracts regardless of whether any connection exists between their official duties and those contracts. The Opinion also described the history behind Section 10-102. The City employee was advised to act expeditiously to terminate the lease.	INTEREST IN CITY CONTRACT; REAL PROPERTY PURCHASE/LEASE; RENTAL PAYMENT; CONTINUING COURSE OF CONDUCT Charter §10-102; *Golden Motors v. Southern Motors*, 9 Phila. Co. Rptr. 212, 219 (1983)
Board Opinion 2014-002 Non-public Advice	9/17/14	Advised City elected official that Charter Subsection 10-107(3) did not prohibit the elected official from personally soliciting a political contribution for the official's authorized political committee from an individual who is not a City officer or employee. In contrast to prior interpretation by the City Solicitor, the Board concluded that City elected officials may personally solicit contributions if the circumstances do not involve a risk of coercion or misuse of office. Examples of such circumstances where solicitation by a City elected official would be prohibited by Charter Subsection 10-107(3) include solicitation of political contributions from an appointed City officer or employee; solicitation from a person who is seeking action from the City elected official; solicitation on City-owned or leased property or while using City resources; and solicitation in a manner that links the requested contribution to official action.	POLITICAL FUNDRAISING RESTRICTION; ELECTED OFFICIAL; POLITICAL CONTRIBUTION; SOLICITATION/SOLICIT; CANDIDATE POLITICAL COMMITTEE; FUNDRAISE/FUNDRAISING; POLITICAL ACTIVITY; OFFICIAL ACTION; COERCION; MISUSE OF OFFICE Charter §10-107(3); Solicitor Opinion No. 93-6

FY15 Index of Board Formal Opinions

Advice No.	Date Issued	Brief Description	Key Words / Citations
Board Opinion 2014-003 Non-public Advice	9/17/14	Advised City employee on the application of the recently amended Code gift restriction to various scenarios related to the employee's upcoming wedding. The City employee was permitted to: (1) provide wedding reception hospitality to City officers and employees (who were permitted to accept the hospitality) at a non-ticketed event celebrating a major life event; (2) give a gift to a member of the wedding party who works for the head of the employee's City agency and for whom the employee is not a restricted source – a person seeking official action or a person who has a financial interest the City employee can substantially affect through official action; (3) accept gifts from a City superior, certain guests who are co-workers, and other guests, none of whom are restricted sources for the employee. The gift law limits gifts to City employees from restricted sources and lists certain non-cash gifts that a City officer or employee may accept, but not solicit, notwithstanding the fact that the person giving the gift is a restricted source. The Board interpreted this list of exemptions to mean not only that City employees may accept such gifts but also that restricted sources may offer or give these gifts to City officers and employees in unlimited values.	GIFTS; WEDDING; WEDDING RECEPTION; WEDDING GIFTS; WEDDING GUESTS; OFFICIAL ACTION; HOSPITALITY; RESTRICTED SOURCE; GIFT LAW EXEMPTIONS; MAJOR LIFE EVENT EXEMPTION; MEMBER OF WEDDING PARTY; SUPERIOR; SUPERVISOR; SUBORDINATE EMPLOYEE; CO-WORKERS Code §§20-601, 20-604; 65 Pa. C.S. §§1103, 1104, 1105
Board Opinion 2014-004 Non-public Advice	9/17/14	Advised City employee that the Code representation restriction would prohibit the employee from being the lead person communicating and negotiating with the City on behalf of the employee's civic association in its application for a grant from a City agency. By contrast, the employee's proposed conduct internal to the civic association would not be prohibited by the representation restriction, including: (1) remaining on the civic association board while it pursues a City grant; (2) voting on a civic association board motion about whether to pursue the grant; (3) participating as a board member in the civic association's consideration and formulation of the grant application; (4) voting on the civic association's zoning committee's feedback to the City on a zoning application; (4) conducting research about zoning applications; and (5) voting as a board member to appeal a decision of the Zoning Board of Appeals to the Court of Common Pleas.	PROHIBITED REPRESENTATION; REPRESENTATION RESTRICTION; CIVIC ASSOCIATION; AGENT; ATTORNEY; NON-PROFIT BOARD; TRANSACTION INVOLVING THE CITY; INTEREST IN A CITY CONTRACT; CONFIDENTIAL INFORMATION; ZONING BOARD OF APPEALS Code §§20-601, 20-602, 20-609; Charter §10-102; Pa. C.S. §§1102, 1103, 1104, 1105

Appendix III: Index to FY15 General Counsel Opinions

FY15 Index of General Counsel Opinions

Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2014-503 Non-public Advice	8/26/14	Advised City employee about how the ethics laws would apply to the employee's future post-City employment with a non-profit organization that receives funding pursuant to a City contract with the employee's City agency. The employee's new position would not raise an issue under the two City post-employment restrictions. The employee had not taken official action on the non-profit's current City contract, and any City contracts the employee had taken action on as a City employee had expired. The employee would be financially interested in an entity if the employee applied for a job with the entity or if the entity made a job offer to the employee. To avoid a prohibited conflict of interest if the City employee is in a position to take action on a matter involving a future employer, the City employee should publicly disclose the financial interest and disqualify him or herself from taking official action.	POST-EMPLOYMENT RESTRICTIONS; CONFLICT OF INTEREST; NONPROFIT; TRANSACTION INVOLVING THE CITY; NEW EMPLOYER WITH CITY CONTRACT Code §§20-607(c), 20-608(1)(c), 20-603(1), 20-601(27); 65 Pa. C.S. §§1101, 1102, 1103(g)
GC-2014-504 Non-public Advice	8/29/14	Advised an individual who is employed by and lobbies on behalf of a registered principal that the City lobbying law does not require the principal to report hospitality that the employee will provide to various City officials who will be guests at the employee's wedding reception. The hospitality provided at the wedding reception would not constitute reportable lobbying under the circumstances provided, including that: (1) the wedding is a personal occasion that does not indicate a purpose of advancing the interests of the principal to influence legislative or administrative action (assuming there would be no direct communications because requestor planned to interact in a purely social manner with the City officials); (2) the invited City officials are long-standing personal acquaintances of the employee, the employee's spouse, and their families; (3) and the employee and the employee's spouse – not the principal – will be paying for the wedding and will not be reimbursed by the principal.	LOBBYING; HOSPITALITY; WEDDING RECEPTION GUESTS; LOBBYIST; PRINCIPAL; DIRECT COMMUNICATION; ADVANCE INTERESTS OF PRINCIPAL; REPORTING REQUIREMENTS FOR REGISTERED PRINCIPALS; PERSONAL OCCASION; PURELY SOCIAL INTERACTION Code §§20-1201, 20-1203; Regulation 9

FY15 Index of General Counsel Opinions

Advice No.	Date Issued	Brief Description	Key Words	Citations
GC-2014-505 Non-public Advice	10/20/14	Advised City employee attending and participating as member of the wedding party in wedding of fellow City employee within the same City agency marrying an individual who lobbies employee's City agency. Prior interactions with the couple by the City employee in an official capacity were limited. The employee was not a restricted source for the co-worker, and neither member of the couple was a restricted source for the employee. Under the circumstances, the City gift law did not prohibit the employee providing a wedding gift to the couple or accepting a gift from the couple, and it did not limit the value of these gifts. The City employee was also permitted to attend the wedding reception.	GIFT; OFFICIAL ACTION; FINANCIAL INTEREST; LOBBYING; WEDDING RECEPTION; MARRIAGE; MAJOR LIFE EVENT EXEMPTION; GRATUITY; RESTRICTED SOURCE	Charter §10-105; Code §§20-601, 20-604; Board Opinion 2014-003; 65 Pa.C.S. §§1103, 1104, 1105
GC-2014-506 Non-public Advice	11/7/14	Advised City official considering accepting outside employment as an independent contractor sales consultant with a local technology company that City ethics laws do not prohibit the official from employment and other financial interests outside City government, but the official must abide by City ethics laws while engaged in outside work. The official (1) must not perform outside work using City facilities or resources (including equipment, materials, and staff time); (2) must disclose outside employment, sources of income, and financial interests on annual financial disclosure statements; and (3) must avoid (a) conflicts of interest, (b) prohibited interests in certain City contracts, (c) assisting a person as agent or attorney in a transaction involving the City and (d) disclosing confidential City information. The official's proposed work as a sales consultant appears to avoid an intersection between the official's City duties and personal financial interests, the financial interests of the employing company, and the financial interests of the official's potential sales targets/clients.	OUTSIDE EMPLOYMENT; SALES CONSULTANT; INDEPENDENT CONTRACTOR; CONFLICT OF INTEREST; LARGE CLASS/LARGE GROUP EXCEPTION; INTEREST IN CITY CONTRACT; REPRESENTATION RESTRICTION; TRANSACTION INVOLVING THE CITY; CONFIDENTIAL INFORMATION; SALES TARGETS/CLIENTS	Code §§20-601, 20-602, 20-607, 20-608, 20-609, 20-610; Charter §§10-100, 10-102; Board Opinions 2012-001, 2009-003, 2014-001, 2014-004

FY15 Index of General Counsel Opinions

Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2015-501 Public Advice	1/28/15	Advised prospective member of uncompensated City board (Water Rate Board) whose private business has contracts with various City departments and engages in consulting work for the City. City ethics laws do not prohibit the requestor from maintaining employment and other financial interests outside City government, but the requestor would be required to abide by certain ethics restrictions while engaged in outside work, including those prohibiting conflicts of interest and representation in a transaction involving the City in which the individual participated as a City official or that is pending before the Water Rate Board while the official serves. A conflict of interest would not arise because the individual is a Philadelphia resident water rate payer, as this financial interest in a possible nominal benefit as the result of water rate changes was shared by a large class of individuals and was not particularized. If the individual's employer were hired by the Water Rate Board without the individual's participation, a conflict of interest would still exist with respect to potential actions taken as a board member that impact the employer's financial interests, including as a paid consultant. The Home Rule Charter's prohibition on interests in certain City contracts would not apply because the individual would not receive a salary or compensation for service on the City board.	UNCOMPENSATED CITY BOARD MEMBER; WATER RATE BOARD; INTEREST IN CITY CONTRACT; SALARY; EMPLOYER WITH CITY CONTRACT; PAID CONSULTANT; OUTSIDE EMPLOYMENT; CONFLICT OF INTEREST; LARGE CLASS/LARGE GROUP EXCEPTION; NOMINAL BENEFIT; MEMBER OF FOR PROFIT BUSINESS; PROHIBITED REPRESENTATION; CONFIDENTIAL INFORMATION Code §§ 20-602, 20-607, 20-608, 20-609, 20-610; Charter §10-102; Regulation 6; Board Opinions 2012-001, 2009-003, 2010-002, 2014-001, 2014-004, 2012-001; 65 Pa. C.S. §§1102-1105

FY15 Index of General Counsel Opinions

Advice No.	Date Issued	Brief Description	Key Words / Citations
GC-2015-502 Public Advice	4/24/15	Advised Councilmember that conflict of interest provision prohibited taking official action with respect to spouse's application to purchase vacant City property. Councilmember should comply with specific procedures to publicly disclose the conflict of interest and disqualify Councilmember from taking any official action related to the spouse's application. Different disclosure and disqualification procedures are required depending on whether a conflict is related to legislation. The disclosure and disqualification process that was detailed related to the legislative aspects of the vacant property acquisition process in which the Councilmember would normally participate – namely, a resolution to transfer City property.	CONFLICT OF INTEREST; SPOUSE; PURCHASING CITY PROPERTY; DISCLOSURE AND DISQUALIFICATION PROCEDURE FOR LEGISLATION; COUNCILMEMBER; OFFICIAL ACTION; CONFIDENTIAL INFORMATION; OPEN AND PUBLIC PROCESS FOR CONTRACT; VACANT PROPERTY REVIEW COMMITTEE Code §§20-601, 20-607, 20-608, 20-609; 65 Pa. C.S. §§1102, 1103; SEC Advice of Counsel 05-544