



CITY OF PHILADELPHIA

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Philadelphia Board of Ethics

ADVISORY ALERT

Board of Ethics Advisory Alert on Executive Orders Nos. 1-11, 2-11, and 3-11

On January 25, 2011, Mayor Nutter issued executive orders relating to the conduct of Executive and Administrative branch officers and employees. The three executive orders that address nepotism (No. 1-11), outside employment (No. 2-11), and gifts (No. 3-11) relate to conduct that may also be regulated under the Public Integrity Laws over which the Board of Ethics has jurisdiction. (A fourth executive order, No. 4-11, is not addressed in this Alert because it relates to sexual harassment, which is not a subject matter under the Ethics Board's jurisdiction.)

Executive orders are not laws and are not rules that the Board of Ethics can interpret or enforce. As noted in the executive orders themselves, the orders do not affect applicable federal, state or local laws. Accordingly, the Public Integrity Laws, which include ethics provisions in the City Code and Home Rule Charter and also the State Ethics Act, remain unchanged.

Since executive orders are a management directive from the Mayor, interpretation of any executive order is a matter for the Mayor's Office. Generally, Chief Integrity Officer Joan Markman answers questions on executive orders related to ethical conduct.

Executive Order 1-11 prohibits nepotism, but certain employment actions taken by a City officer or employee concerning a relative may also raise conflict of interest issues under the City Code and State Ethics Act. Outside employment, which is addressed in Executive Order No. 2-11, can, under certain circumstances, cause issues under Code and Charter provisions prohibiting representation before the City and having an interest in a City contract, as well as conflicts of interest. Finally, the City Code and Charter and the State Ethics Act all have gift and gratuity rules that are separate from the requirements of Executive Order No. 3-11.

Because the executive orders overlap with subject matter also governed by the Public Integrity Laws, a City officer or employee, aside from complying with the executive orders, would also be well-advised to seek guidance from the Ethics Board regarding compliance with the City Charter, City Code and State Ethics Act. To the extent the ethics provisions of the City Code and Charter apply to the conduct of a City officer or employee, only the Ethics Board has jurisdiction to rule on an ethics issue under those laws. **A ruling, waiver or exception granted with respect to an executive order would not apply or resolve issues under the Public Integrity Laws.**

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Executive Director

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