

PHILADELPHIA BOARD OF ETHICS

REGULATION NO. 3

REFERRALS TO AND COOPERATION WITH OTHER GOVERNMENTAL ENFORCEMENT AGENCIES

3.0 Definitions. The definitions in paragraph 2.0 of Board Regulation No. 2 shall apply herein. Additionally, as used herein, the following words and phrases shall have the meanings indicated.

a. Other appropriate enforcement authorities. The Board interprets this phrase in Code Section 20-606(1)(f)(ii)(.5) to include, without limitation, the Philadelphia Police Department, the Philadelphia City Controller, the Philadelphia Inspector General, the Philadelphia District Attorney's Office, the Federal Bureau of Investigation, the U.S. Attorney's Office for the Eastern District of Pennsylvania or other appropriate Districts, the Pennsylvania Attorney General's Office or that of other appropriate States, the Disciplinary Board of the Pennsylvania Supreme Court or of any other State, and any other federal, state, or local governmental entity with civil or criminal enforcement powers.

3.1 Scope. This Regulation, promulgated by the Board pursuant to its authority under Sections 4-1100 and 8-407 of the Home Rule Charter ("Charter") and Section 20-606(1)(a) of the City of Philadelphia Ethics Code ("Ethics Code"), sets forth the Board's interpretation of Code Sections 20-606(1)(f)(ii) and 20-606(1)(g)(ii), relating to referrals from the Board to other appropriate enforcement authorities.

3.2 Authorization for Referrals by the Board. The Board notes that Paragraph 2.5 of Board Regulation No.2 provides as follows:

The Executive Director shall have the authority to initiate an investigation on the basis of any of the following three circumstances:

- a. receipt of a complaint that meets the requirements of Paragraph 2.6(b), submitted pursuant to Ethics Code § 20-606(1)(f) and Paragraph 2.6(a);
- b. upon a referral from another government and/or law enforcement agency; or
- c. upon the Executive Director determining, through a preliminary inquiry, that a potential violation of the Public Integrity Laws has occurred.

This Regulation No. 3 will refer to these three types of initiations of an investigation, respectively, as “complaint,” “referral,” and “Executive Director initiation.” The Board further notes that Code section 20-606(1)(g)(ii), as amended by Bill No. 051024 (effective June 5, 2006), currently provides as follows:

Whenever a City agency receives a complaint alleging a violation of the provisions of this Chapter or determines that a violation of this Chapter may have occurred, it shall refer such matter to the Board. Such referral shall be reviewed and acted upon by the Board in the same manner as a complaint received by the Board under paragraph (e) of this Section.

The Board interprets the cross-reference to “paragraph (e)” to be a typographical error. Paragraph (e) relates to financial disclosure, which does not make sense in this context. The Board concludes that the intended cross-reference was to paragraph (f), which relates to complaints. Accordingly, the Board interprets Code section 20-606(1)(g)(ii) to authorize the Board to act upon an investigation, whether initiated by “complaint,” “referral,” or “Executive Director initiation,” in the same manner as a complaint, including any of the actions enumerated in Code Section 20-606(1)(f)(ii). This includes, in 20-606(1)(f)(ii).5, the Board referring the matter to the Inspector General or other appropriate enforcement authorities.

3.3 Procedure for Referrals by the Board. A referral to other appropriate enforcement authorities may include any of the following:

a. Partial referral. The Board retains jurisdiction in the matter, but shares file information with the other enforcement authority, subject to appropriate controls to maintain confidentiality and limit access to information on a “need to know” basis with appropriate personnel in both agencies.

b. Complete referral. The Board concludes that the matter is not appropriate for Board action, and transfers the entire file to the other enforcement authority for possible action.

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