



CITY OF PHILADELPHIA

BOARD OF ETHICS
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**Philadelphia Board of Ethics
Non-Public Formal Opinion No. 2012-002**

September 19, 2012

Re: Political Activity Restrictions and Actions Taken in an Official Capacity

Dear Employee of the Office of the City Commissioners:

You have asked whether employees of the Office of the City Commissioners may engage in several proposed activities while on duty. Your questions require an analysis under the Philadelphia Home Rule Charter political activity restrictions and Board of Ethics Regulation 8. These restrictions prohibit appointed City employees from, among other things, participating in political activity while on duty or with City resources and from using their City positions for political purposes. Some of the proposed activities are prohibited, but many are permissible as long as employees of the City Commissioners carry out the activities in a non-partisan manner and treat similarly-situated political parties, candidates and partisan political groups the same. Answers to your specific questions are provided in the Discussion Section below, which begins on page 3. Preliminary matters that are covered first include the factual background, the Board's jurisdiction and relevant law, and certain limitations of this Opinion.

I. Factual Background

The Office of the City Commissioners is the City agency that serves as the Philadelphia County Board of Elections and the Voter Registration Commission. The Office conducts and certifies elections in Philadelphia, including the canvassing and computation of votes. The Office administers election logistics such as voter registration, absentee ballots, receipt of nomination petitions, and the organization and training of poll workers, including appointment of machine

inspectors. The Office of the City Commissioners provides citizens information on how to vote and provides candidates information on how to run for office. The Office also has various campaign finance filing-related responsibilities under the Pennsylvania State Election Code.

In your advice request, you described the duties of employees of the City Commissioners' Office as encouraging Philadelphians to register and vote and making sure elections are free and fair, which you stated includes fighting legislation detrimental to free and fair elections.

In March of 2012, the Pennsylvania Voter ID Law was enacted, requiring voters to show an acceptable photo ID to vote at the polls. The Commissioners' Office administers provisions of this new law and disseminates information about its requirements. Your advice request noted that the Pennsylvania Voter ID Law has implications for the Commissioners' Office and for Philadelphia voters.

II. Jurisdiction and Relevant Law

The Board of Ethics has jurisdiction to administer and enforce all Philadelphia Home Rule Charter provisions and ordinances pertaining to ethical matters, including the political activity prohibitions of Charter Section 10-107. Charter § 4-1100. The first annotation to Charter Section 10-107 provides guidance on the purpose of the political activity restrictions, stating that: "Merit principles of governmental employment require the divorcement of politics from such employment. . . .They also presuppose that governmental employment will not serve as a means for political tribute to maintain political parties and regimes." Charter Subsection 10-107(4) prohibits appointed City employees, but not elected officials, from taking part in the management or affairs of any political party or in any political campaign.

The Charter and the City Code authorize the Board to render advisory opinions and to promulgate regulations. Charter §§ 4-1100, 8-407; City Code § 20-606(1)(a),(d). In March 2011, the Board promulgated Regulation 8 as an interpretation of the requirements and prohibitions of Charter Subsections 10-107(3) and (4) for appointed City officers and employees. Regulation 8, attached as Appendix A, is the major text that details the political activity restrictions on City employees and that governs the Board's responses to the questions you have posed.

III. Limitations of this Opinion

In this Opinion, the Board of Ethics is addressing only whether the proposed behavior is permissible under the Charter's political activity restrictions and Regulation 8. Furthermore, the Board is not endorsing or commenting on the advisability of any of the permissible activities.

As requested, this Opinion analyzes the proposed activities in the context of whether they are permissible for employees of the Office of the City Commissioners in their official capacities, while on duty and while utilizing City resources. This Opinion does not address whether employees can participate in these activities off duty in their personal capacities. Indeed, the analysis for behavior in a personal capacity is different, and some activities that are prohibited on duty would be permissible off duty. *See* Reg. 8, ¶8.14.

Ethics advisory opinions are highly fact-specific, and this Opinion is predicated on the facts as stated here. In particular, when the premise of a question or response relies on the fact that employees of the Commissioners' Office are carrying out their work duties or are acting in an official capacity, this means they are engaged in activities in furtherance of the responsibilities of the Office of the City Commissioners that are described in the Factual Background Section of this Opinion.

City officials and employees who want to know whether conduct they are contemplating is permissible should seek and rely on an advisory opinion issued about their specific situations. If you are concerned about particular situations that vary from the facts presented here or that are related to principles that are described only generally in this Opinion, you should ask for specific advice on the application of the ethics laws to those particular facts.

Finally, this Opinion addresses only proposed future conduct, not past behavior. *See* City Code § 20-606(d)(ii); Reg. 4, ¶4.1(d).

IV. Discussion

As appointed City employees, employees of the Office of the City Commissioners are subject to Charter Subsection 10-107(4) and the Board's Regulation 8. The political activity restrictions that are most relevant to your request include a prohibition on City employees engaging in political activity while on duty, using City resources or in any City-owned or leased building. *See* Reg. 8, Subpart B. City employees are also prohibited from using their City

position, authority, influence, title, or status as a City employee for any political purpose.¹ *See* Reg. 8, Subpart C.

The meaning of “political activity” is critical to identifying prohibited behavior. Political activity is defined as activity that is directed toward the success or failure of a political party, candidate, or partisan political group.² Reg. 8, ¶8.1(n). Examples of political activity are organizing a campaign event, circulating nomination petitions and distributing political campaign literature that encourages voters to choose a certain candidate. Activity that merely involves contact with political parties, partisan political groups, candidates and campaigns does not necessarily amount to political activity. Notably, the responsibilities of the Office of the City Commissioners require interaction with candidates and campaigns since these groups compose not just a segment of the public, but also part of the community that the Office serves and regulates.

Political activity is prohibited on duty, and an employee is considered to be on duty: (i) during normal working hours, which for those with fixed work schedules includes the time between the start and end of the workday excluding a lunch break; (ii) when performing the duties of his or her City jobs or appointments; or (iii) when acting in his or her official capacity as a City appointed officer or employee. Reg. 8, ¶8.1(k). Your questions all address activities that employees of the Office of City Commissioners will undertake when performing the duties of their City jobs in furtherance of the responsibilities of the Office.

The Board’s responses that are provided below require an evaluation of whether each of the proposed activities you have described involves political activity or the use of a City position for a political purpose. This includes considering whether employees would be providing the same services and opportunities to all similarly-situated political parties, candidates and partisan political groups. The political activity restrictions require that City employees carry out their City duties in a strictly non-partisan manner and maintain neutrality among political parties, among candidates and among partisan political groups. City employees must perform their duties and deliver services without regard to their personal political preferences.

¹ “Political” means related to a political party, candidate, or partisan political group. Reg. 8, ¶8.1(m); *see also* Reg. 8, Subpart G (describing activity that is not political). Regulation 8 defines in Paragraph 8.1 other key terms that are used throughout this Opinion.

² A partisan political group is any club, committee or other organization that is affiliated with a political party or candidate or one whose primary purpose is to engage in political activity. Reg. 8, ¶8.1(l).

Question 1: Can employees of the Office of City Commissioners disseminate and collect voter registration forms at a school?

Response: Yes, this is permitted as long as it is carried out in a non-partisan manner. Voter registration drives are not political activity if the drives are geared toward registering all voters no matter what their party affiliation or candidate choices may be. In contrast, voter registration drives would be political activity if the drives are sponsored by, conducted in coordination with, or directed toward the success or failure of a political party, candidate or partisan political group. *See* Reg. 8, §§ 8.11(d), (e), 8.17(d). Accordingly, employees of the Office of City Commissioners may not influence registrants' political party selection or make known their own party preference while they are disseminating and collecting voter registration forms.

Question 2: Upon request, can employees of the Office of City Commissioners give a potential or current candidate information about the electoral process or advice about the process (e.g., information about petition signature gathering and checking)?

Response: Yes, this is permitted. In carrying out official duties, a City employee may give a potential or current candidate the same information the employee would give to any candidate or any member of the public. This would not be political activity. Rather, it would involve educating a segment of the community that the Office of City Commissioners serves and regulates. Employees must treat all potential and current candidates similarly and provide the same information to any potential or current candidate who requests it.

Question 3: Can employees of the Office of City Commissioners participate in activities of the Pennsylvania Voter ID Coalition, such as attending meetings, participating in an email list and serving as an information resource for the Coalition?

Response: Yes, this is permitted. The Pennsylvania Voter ID Coalition is a non-partisan coalition organized by the Committee of Seventy to conduct a non-partisan campaign educating voters about the PA Voter ID Law and to help voters obtain acceptable photo ID. The purpose of the Coalition is aligned with the responsibility of the Commissioners' Office to disseminate information about the PA Voter ID Law. The membership of the Coalition is extensive, including more than eighty entities that are civic, advocacy, legal, labor, political, community, media, educational and religious groups. For example, members include ABC's Local Media Board, Support Center for Child Advocates, the Asian Pacific

American Bar Association, the Philadelphia Republican Resource Center, and the Philadelphia Democratic Progressive Caucus. Participation by employees of the Commissioners' Office in Coalition activities would involve educating the public pursuant to the responsibilities of the Commissioners' Office. Participation by employees of the Commissioners' Office would not cause an issue under the political activity restrictions in the particular case of this broad-based coalition as long as the Coalition abides by its stated purpose, even though some partisan political groups are coalition members and some political party leaders are participants.

Question 4: Can employees of the Office of City Commissioners attend or speak at a candidates forum for all primary candidates or a candidates forum only for primary candidates of a single party (e.g. only Democratic primary candidates or only Republican primary candidates)?

Response: Yes, employees of the Office of City Commissioners may attend and speak at candidates forums if they are carrying out their official duties, their statements are non-partisan and they provide similarly-situated political parties the same opportunities for participation by employees of the Commissioners' Office. Although employees are generally prohibited from attending political events while they are on duty, attendance and speaking at a political event, such as a candidates forum, is permitted if the purpose is to perform the duties of the employee's City job. Employees of the Office of City Commissioners are permitted to speak at a candidates forum if what they say is non-partisan, meaning political party-neutral and candidate-neutral. If, for example, an employee of the Commissioners' Office speaks about election logistics and the mechanics of how to run for office, that would not be political activity. On the other hand, it would be prohibited for an employee to make statements that promote the success or failure of a political party, candidate or partisan political group, such as the endorsement of a candidate.

In performing their official duties, City employees must treat all similarly-situated political parties similarly in order to maintain the neutrality that the political activity restrictions require. With respect to attending and speaking at a candidates forum only for primary candidates of a single party, this means employees must accept any similarly-situated party's invitation to speak at a candidates forum. Or, if employees are taking the initiative of identifying speaking opportunities, they should extend an offer to speak at candidate forums of all similarly-situated political parties. For example, if employees of the Office of City Commissioners accept an invitation to attend and speak at a candidates forum for all Democratic Party primary candidates, they must also accept if they are invited to participate in a candidates forum for all Republican Party primary

candidates or for all primary candidates of another similarly-situated political party. If employees of the Office of City Commissioners offer to speak at a candidates forum for all Democratic Party primary candidates, they must also extend an offer to speak to candidates forums for all Republican Party primary candidates and for all primary candidates of other similarly-situated political parties, if such forums exist.

Of course, political parties other than the Democratic Party and the Republican Party exist. For these specific purposes, you can determine which political parties are similarly situated by referring to the Pennsylvania Voter Registration Act's definition of "party":

(1) A party or political body, one of whose candidates at the general election immediately preceding the primary:

(i) polled, in each of at least ten counties, at least 2% of the largest entire vote cast in the county for any elected candidate; and

(ii) polled a total vote in this Commonwealth equal to at least 2% of the largest entire vote cast in this Commonwealth for any elected candidate.

(2) A party or political body, one of whose candidates at either the general or municipal election preceding the primary polled at least 5% of the largest entire vote cast for any elected candidate in any county.

25 PA. CONS. STAT. § 1102. Political parties that satisfy this definition are similarly situated, and those that do not satisfy this definition are likewise in the same position as one another.

Question 5: Can employees of the Office of City Commissioners visit a ward committee meeting to disseminate information and answer questions about the new Voter Photo ID Law?

Response: Yes, it is permissible for employees of the Office of City Commissioners pursuant to carrying out their official duties to visit a ward committee meeting to disseminate information and answer questions about the new Voter Photo ID Law. Employees of the Office of City Commissioners may give a partisan political group or political party the same election-related information they would give any group or any member of the public. To satisfy the neutrality toward political parties, candidates and partisan political groups that the political activity restrictions require, employees must accept any similarly-situated group's invitation to speak at a meeting. Or, if employees are taking the initiative of identifying speaking opportunities, they should extend an offer to

speak to all similarly-situated groups. For example, employees of the Office of City Commissioners should provide the same treatment that is extended to Democratic Ward Committees to Republican Ward Committees.

Question 6: Can employees of the Office of City Commissioners plan, attend and use City resources (such as an amplification system) for a rally to urge voters to reach out to legislators to ask them to vote against a bill pending in Harrisburg, DC, or City Council (e.g., the Voter Photo ID bill)? At the rally, can employees of the Office of City Commissioners “lambaste” a particular elected official (e.g., the Republican Governor) because he is in favor of the bill?

Response: City employees attending and planning a non-partisan rally regarding a bill or law that impacts their agency is permissible in theory. The practical realities, however, of the unpredictable nature and potential trajectory of a rally about bills that you have described as “highly partisan in nature” create a grave risk that the rally would be partisan, that City resources would be used for political purposes, and that the political activity restrictions would be violated. Employees of the Office of City Commissioners would be responsible for ensuring that these unacceptable outcomes do not come to pass.

In general, campaigning for or against referendum questions, constitutional amendments, federal or state laws, or municipal ordinances is activity that is not political. Reg. 8, ¶8.17(a). A rally organized by City employees using City resources would have to be non-partisan, meaning party and candidate-neutral. A rally could not involve coordination with political parties, candidates, or partisan political groups, and speakers could not include political party leaders or candidates.

Neutrality is absolutely required but may be difficult to guarantee. Rallies are often not neat, predictable affairs, and a public rally would include participants who are not subject to the Charter’s political activity restrictions. Partisan statements and displays, even if unplanned and off-script, could cause the rally to become partisan and involve political activity and result in employees of the Office of City Commissioners being in violation of the political activity restrictions.

Employees of the Office of City Commissioners would not be permitted to lambaste political parties, candidates or partisan political groups at such a rally. The risks associated with a rally are underscored by the fact that City employees may not lambaste the “Republican Governor” in their official capacities, including at a rally organized with City resources. Partisan statements criticizing the Republican Party, or any political party, would constitute political activity and the use of authority for a political purpose.

Question 7: Can employees of the Office of City Commissioners staff an information table presenting non-partisan election-related information at an event held by a campaign committee or at an event held by a State Representative who is currently a candidate for office?

Response: No, this would be prohibited. Events sponsored by campaign committees and candidates are efforts to promote a candidate and thus are political activity by those hosting the event. City employees cannot participate in political activity in concert or coordination with candidates and political campaigns whether or not they are on duty. *See Reg. 8, ¶¶8.11, 8.14(e).* Assisting a political campaign or candidate in putting on an event in this manner could also create the inappropriate appearance of an endorsement of the campaign and its candidate by the City, the Office of the City Commissioners, or City employees in their official capacities.

Question 8: Can employees of the Office of City Commissioners recruit poll workers or polling place inspectors at an event held by a campaign committee or at an event held by a State Representative who is currently a candidate for office?

Response: No, this would be prohibited. If employees of the Office of City Commissioners recruit supporters of the candidates who are hosting the events to serve as poll workers, this could help or be perceived to help these candidates at the polls. Depending on how such recruitment was carried out, it could also amount to prohibited participation in a political event in coordination with a political campaign or candidate as described in the response to Question 7 above.

Question 9: Can employees of the Office of City Commissioners disseminate an information packet with information from various political parties to help new registrants choose whether to enroll in a party and, if so, which one?

Response: No, this would be prohibited. The proposed information from political parties is distinct from non-partisan, election-related information, such as that about polling place location and how to register, from the Commissioners' Office. This packet would contain advocacy materials created by political parties with the information provided by each participating party aimed at attracting new members. Distribution of advocacy information created by political parties is political activity directed toward the success of the participating political parties. Furthermore, when employees of the Office of City Commissioners are participating in voter registration efforts, it is important that they not influence registrants' political party selection.

Question 10: Do Charter Subsection 10-107(4) and Board of Ethics Regulation 8 restrict the City Commissioners, who are elected officials, with respect to the activities described in Questions 1-9?

Response: No, as elected officials the City Commissioners are not prohibited by laws under the Board's jurisdiction from participating in the activities described in Questions 1-9 above. City elected officials are not subject to Philadelphia Home Rule Charter Subsection 10-107(4), which prohibits appointed City employees from taking part in the management or affairs of political parties and political campaigns. Likewise, the Board's Regulation 8 does not apply to elected officials. Reg. 8, ¶8.0.

Note that certain state laws restrict public officials' use of public resources for political activity, but the Board does not have jurisdiction beyond the Charter's political activity restrictions. In addition, the conflict of interest provisions of the City Code and State Ethics Act could be implicated under certain circumstances, for example, when an elected official uses City resources to support his or her re-election campaign. This Opinion and advice request, however, focus solely on the Charter's political activity restrictions.

V. Conclusion

Thank you for being concerned about compliance with the Charter's political activity restrictions and for seeking advice. Since you requested a non-public opinion, the original Opinion will not be made public. As required by the City Code, this version of the Opinion that is redacted to prevent disclosure of your identity will be published on the Board's website. Please let Board Staff know if you have any questions or concerns.

BY THE PHILADELPHIA BOARD OF ETHICS³

Richard Glazer, Esq., Chair
Michael H. Reed, Esq., Vice-Chair
Sanjuanita González, Esq., Member
Judge Phyllis W. Beck, (Ret.), Member

³ William H. Brown III, Esq. voted to approve the original Formal Opinion 2012-002, but due to his resignation from the Board he did not participate in the approval of this redacted public version.

APPENDIX A

PHILADELPHIA BOARD OF ETHICS

REGULATION NO. 8

POLITICAL ACTIVITY

SUBPART A. SCOPE; DEFINITIONS.

8.0 Scope. This Regulation, promulgated by the Board pursuant to its authority under Sections 4-1100 and 8-407 of the Philadelphia Home Rule Charter and Chapter 20-600 of The Philadelphia Code, interprets the requirements and prohibitions of Philadelphia Home Rule Charter Subsections 10-107(3)&(4) as applied to appointed City officers and employees, but not to elected officials. The examples and lists of permissible and prohibited behavior provided in this Regulation are for illustration and are not exhaustive.

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

- a. Appointed officer.** An individual who is appointed to any position in a City department, agency, office, board, or commission, whether paid or unpaid, but not including elected officials.
- b. Board.** The Board of Ethics.
- c. Blog.** A website that displays in chronological order the postings of one or more individuals.
- d. Candidate.** An individual who i) files nomination petitions or papers for public elective office, or ii) publicly announces his or her candidacy for public elective office.
- e. City.** City of Philadelphia.
- f. Contribution intended for a political purpose.**
 - i. Money or things having a monetary value received by a candidate or his or her agent for use in advocating or influencing the election of the candidate; and
 - ii. Money or things having a monetary value received by a political committee, political party, or partisan political group.
- g. Election.** Any primary, general, or special election for public elective office.

- h. Employee.** An employee of the City, including those serving full-time, part-time, or seasonally, and those on leaves of absence with or without pay, but not including:

 - i. Elected officials; or
 - ii. An employee on unpaid leave to be a full-time elected officer or appointed staff representative of a City employee union.
- i. Family member.** A parent, spouse, life partner, child, brother, sister or like relative-in-law.
- j. Life partner.** An individual who has a long-term committed relationship with another individual of any gender, provided that both individuals meet the same criteria as set out in The Philadelphia Code Section 9-1106 (2)(a)(i)-(vi).
- k. On duty.** An appointed officer or employee is on duty:

 - i. During normal working hours, which for those with fixed work schedules includes the time between the start and end of the workday excluding a lunch break;
 - ii. When performing the duties of his or her City jobs or appointments; or
 - iii. When acting in his or her official capacity as a City appointed officer or employee.
- l. Partisan political group.** Any committee, club, or other organization that is affiliated with a political party or candidate or whose primary purpose is to engage in political activity.
- m. Political.** Related to a political party, candidate, or partisan political group.
- n. Political activity.** An activity directed toward the success or failure of a political party, candidate, or partisan political group.
- o. Political campaign.** Actions taken by a candidate or his or her supporters to obtain the candidate's nomination or election to public elective office.
- p. Political party.** Includes any national, state, or local political party.
- q. Public elective office.** Any public office for which candidates are nominated or elected as representing a political party.
- r. Social networking website.** Facebook, Twitter, Myspace, LinkedIn, or any similar website.

8.2 Applicability. Except where expressly indicated otherwise, the provisions of this Regulation apply to all appointed officers and employees. Additional rules for members of boards and commissions can be found at Subpart J, and additional rules for employees of City Council can be found at Subpart K.

SUBPART B. POLITICAL ACTIVITY ON DUTY OR WHILE USING CITY RESOURCES IS PROHIBITED

- 8.3** An appointed officer or employee shall not engage in political activity while:
- a. On duty;
 - b. In uniform, or while wearing a badge or other insignia that identifies him or her as a City officer or employee;
 - c. Using any City-owned or leased resources, such as telephones, Blackberries, vehicles, printers, computers, or other supplies or equipment; or
 - d. In City Hall or in any other City-owned or leased building, property, or office space, except that an appointed officer or employee may, while not on duty, attend a political event held in a City-owned or leased building, property, or office space if the event is open to the public.

EXAMPLES FOR SUBPART B

Example 1: An employee may not display political stickers in her City workplace.

Example 2: An employee may not wear a political button while in his uniform, even if he is not on duty.

Example 3: An employee may not send an email that supports a candidate while using the City's email system or a City computer or Blackberry.

Example 4: An employee may not sign a nominating petition while in City Hall or in a City-owned or leased building or office.

SUBPART C. USE OF CITY POSITION FOR POLITICAL PURPOSES IS PROHIBITED

- 8.4** An appointed officer or employee shall not use his or her authority, influence, title, or status as a City officer or employee for any political purpose. Activities prohibited by this Paragraph include:
- a. Using his or her title or status as a City officer or employee while participating in political activity;
 - b. Using his or her authority or influence to coerce any individual to participate in political activity; and
 - c. Requesting, directing, or suggesting that a subordinate officer or employee participate in political activity.

EXAMPLES FOR SUBPART C

Example 1: An employee who writes a letter to the editor expressing his opinion on a political matter may not make reference to his title or his status as a City employee.

Example 2: An appointed officer may not send her subordinate employees an email that promotes the success or failure of a political party.

SUBPART D. COLLECTING, RECEIVING, OR SOLICITING CONTRIBUTIONS INTENDED FOR A POLITICAL PURPOSE IS PROHIBITED

8.5 An appointed officer or employee shall not directly or indirectly be in any manner concerned in the collection, receipt, or solicitation of contributions intended for a political purpose.

8.6 An appointed officer or employee shall not authorize a political committee to collect, receive, or solicit contributions intended for a political purpose on his or her behalf.

8.7 An appointed officer or employee shall not permit, authorize, or direct others to collect, receive, or solicit contributions intended for a political purpose for the appointed officer or employee's benefit or on behalf of the appointed officer or employee.

8.8 An appointed officer or employee, except for an appointed officer or employee of the Police Department, may make contributions intended for a political purpose.

EXAMPLES FOR SUBPART D

Example 1: An employee may not sell tickets to a candidate's fundraiser event.

Example 2: An employee (but not an employee of the Police Department) may purchase tickets to a candidate's fundraiser event.

Example 3: An employee may not be a treasurer of a political committee.

Example 4: An employee may not use a political committee to raise money for a potential candidacy.

SUBPART E. OTHER PROHIBITED POLITICAL ACTIVITY

8.9 An appointed officer or employee shall not be a member of any national, state, or local committee of a political party.

8.10 An appointed officer or employee shall not be an officer of a partisan political group.

8.11 An appointed officer or employee shall not take any part in the management or affairs of any political party, political campaign or partisan political group, which includes any political activity that is performed in concert or coordination with a political party, candidate, or partisan political group, such as:

- a.** Circulating or initiating nomination petitions or papers for public elective office;
- b.** Being a candidate for public elective office or political party office;
- c.** Serving as a delegate to a political party convention;

- d. Participating in get-out-the-vote activities organized or sponsored by a political party, candidate, or partisan political group; or
- e. Any political activity performed by an appointed officer or employee using resources or materials paid for or provided by a political party, candidate, or partisan political group.

EXAMPLES FOR SUBPART E

Example 1: An employee may not serve as a committee person or ward leader.

Example 2: An employee may not distribute campaign posters that she obtains from a candidate's campaign office.

Example 3: An employee may not volunteer at a phone bank organized by a candidate's campaign.

SUBPART F. PERMISSIBLE EXPRESSION AND POLITICAL ACTIVITY

8.12 An appointed officer or employee may register and vote in any election.

8.13 An appointed officer or employee may be a member of a political party or a partisan political group.

8.14 An appointed officer or employee may engage or participate in personal political expression and activity that is directed toward the success or failure of a political party, candidate or political group, including the following, so long as he or she complies with Subparts B, C, D, E, and H and so long as he or she does not do so in concert or coordination with a political party, candidate, or partisan political group:

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

8.15 Political activities organized by a civic, community, labor, or professional organization. An appointed officer or employee may engage or participate in activities organized or sponsored by a civic, community, labor, or professional organization that are directed toward the success or failure of a political party, candidate, or partisan political group so long as the organization has not acted in concert or coordination with that political party, candidate, or partisan political group.

8.16 Political buttons, signs, and stickers. As long as he or she complies with the requirements of Subparts B and C, an appointed officer or employee may wear political buttons and may display political signs or stickers, including buttons, signs, and stickers he or she obtains from a political party, candidate, or partisan political group. However, an appointed officer or employee shall not distribute buttons, signs, or stickers that he or she obtains from a political party, candidate, or partisan political group.

EXAMPLES FOR SUBPART F

Example 1: An employee may place in his yard a sign supporting a candidate.

Example 2: An employee may wear a political party button when the employee is not on duty, at her City workplace, or in uniform.

Example 3: An employee may print at her own expense one thousand fliers that state her personal opinion that a specific candidate is the best suited for public office. She may distribute the fliers at a shopping mall on the weekend, but may not distribute them in her City workplace. She also may not distribute fliers printed or paid for by the candidate's campaign committee, a political party, or a partisan political group.

Example 4: An employee may attend a fundraising event that benefits a candidate, but he may not organize, distribute invitations to, or sell tickets to the fundraiser.

Example 5: An employee may be a member of the audience at a political gathering organized by a candidate, but she may not appear on stage with a candidate or address the audience at such a gathering.

Example 6: An employee may volunteer at a phone bank that promotes a candidate and that is organized by the employee's union, but not if the union has coordinated with that candidate's campaign.

SUBPART G. ACTIVITY THAT IS NOT POLITICAL IS PERMITTED

8.17 An appointed officer or employee may engage or participate in expression and activity that is not political and is not directed toward the success or failure of a political party, candidate, or partisan political group. Such activity or expression includes the following so long as it is not performed in concert or coordination with a political party, candidate, or partisan political group:

- a. Campaigning for or against referendum questions, constitutional amendments, federal or state laws, or municipal ordinances;
- b. Participating in civic, community, labor, or professional organizations, including seeking election to positions within such organizations;
- c. Circulating petitions related to referendum questions, constitutional amendments, federal or state laws, municipal ordinances, or other matters of public interest not related to a political party, candidate, or partisan political group; and
- d. Assisting in voter registration drives that are not organized or sponsored by a political party, candidate, or partisan political group.

SUBPART H. USE OF SOCIAL MEDIA

8.18 Blogs. An appointed officer or employee may maintain a blog in which he or she expresses support or opposition to political parties, candidates, or partisan political groups so long as he or she:

- a.** Does not write or maintain the blog while on duty, in any City-owned or leased building, property, or office space, or while using any City resources;
- b.** Does not use his or her title or status as a City officer or employee in posts on the blog;
- c.** Does not post anything on his or her blog that was created by, or links to information created by, a political party, candidate, or partisan political group; and
- d.** Does not suggest, encourage or ask readers of the blog to make contributions intended for a political purpose.

8.19 Social networking websites.

- a.** An appointed officer or employee's profile page on a social networking website may identify the officer or employee's title or status as a City officer or employee and may also identify the political party the appointed officer or employee supports.
- b.** An appointed officer or employee may express support or opposition to political parties, candidates, or partisan political groups in posts to a social networking website so long as he or she:
 - i.** Does not make such posts to the website while on duty, in any City-owned or leased building, property, or office space, or while using any City resources;
 - ii.** Does not use his or her title or status as a City officer or employee in such posts to the website;
 - iii.** Does not include in such posts anything that was created by, or links to information created by, a political party, candidate, or partisan political group; and
 - iv.** Does not suggest, encourage or ask others to make contributions intended for a political purpose.
- c.** An appointed officer or employee may become a "friend" or "fan" of, or "like" the page of a political party, candidate, or partisan political group.
- d.** An appointed officer or employee may "follow" the Twitter account of a political party, candidate, or partisan political group.

SUBPART I. FAMILY MEMBER OF A CANDIDATE

8.20 An appointed officer or employee who is the family member of a candidate may appear in photographs of the candidate's family that appear in a political advertisement, broadcast, campaign literature, or similar material. A family member also may attend political events with the candidate. However, the appointed officer or employee who is the family member shall not engage in any other activity that would be prohibited under this Regulation.

EXAMPLES FOR SUBPART I

Example 1: An employee who is the spouse of a candidate may stand in the receiving line and sit at the head table during a political fundraising dinner honoring the spouse, but he may not organize, speak at, distribute invitations to, or sell tickets to the event.

Example 2: An appointed officer who is the daughter of a candidate may appear in a family photograph that is printed in a campaign flier, but she may not distribute the flier at a campaign rally.

SUBPART J. MEMBERS OF CITY BOARDS AND COMMISSIONS

8.21 Boards and commissions that exercise significant powers of government. A member of a City board or commission that exercises significant powers of government shall be fully subject to the provisions of this Regulation. The boards and commissions that exercise significant powers of government are the following:

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

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

8.22 Advisory boards and commissions. A member of a board or commission not listed in Paragraph 8.21:

- a. Shall be subject to the following provisions of this Regulation: Subpart B (on duty or while using City resources), Subpart C (use of City position), Subpart L (evasion) and Subpart M (penalties); and
- b. Shall not be subject to the following provisions of this Regulation: Subpart D (contributions intended for a political purpose), Subpart E (other prohibited political activity) and Subpart H (use of social media).

SUBPART K. CITY COUNCIL EMPLOYEES

8.23 An employee of City Council shall not be subject to the following provisions of this Regulation: Subpart E (other prohibited political activity) and Paragraphs 8.4(a) (use of title), 8.18(b) (use of title in blog posts), 8.18(c) (links to political websites in blog posts), 8.19(b)(ii) (use of title in political posts to social networking sites), and 8.19(b)(iii) (links to political websites in posts to social networking sites).

8.24 An employee of City Council shall not collect, receive, or solicit contributions intended for a political purpose as prohibited by Subpart D.

EXAMPLES FOR SUBPART K

Example 1: A City Council employee may not be a treasurer of a political committee.

Example 2: A City Council employee may not use a City-owned photocopier to copy campaign literature.

Example 3: A City Council employee may not circulate or sign a nominating petition while in City Hall or in a City owned or leased building or office.

Example 4: A City Council employee may not ask an individual to make a contribution intended for a political purpose.

Example 5: A City Council employee may not collect from the City Committee a check that is made out to or intended for a ward committee.

Example 6: A City Council employee may enter data for a campaign finance report if the employee is not on duty and does not use City resources.

SUBPART L. EVASION BY INDIRECT MEANS IS PROHIBITED

8.25 An appointed officer or employee shall not evade the prohibitions of this Regulation by indirect means or by acting through another individual to accomplish what is prohibited.

SUBPART M. PENALTIES

8.26 If an appointed officer or employee engages or participates in prohibited political activity, the Board may seek a maximum civil penalty of \$300 for each separate instance of prohibited political activity.

8.27 If a court finds that an appointed officer or employee has engaged or participated in prohibited political activity, the Board may seek the appointed officer or employee's removal from office or dismissal from employment.

8.28 If an appointed officer or employee engages or participates in prohibited political activity, he or she shall be ineligible for one year for any office or position under the City.

8.29 The Board shall not seek imprisonment as a sanction if an appointed officer or employee engages or participates in prohibited political activity.

Approved for public comment by Board: January 19, 2011

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Adopted by Board with modifications: March 16, 2011

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