



City of Philadelphia

Ethics Manual

for

Officers & Employees

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(Online Version)

City of Philadelphia Board of Ethics

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City Ethics Manual 2019

Welcome to the City of Philadelphia!

We provide this manual as a guide to the ethics rules administered and enforced by the City's Board of Ethics. We hope it is a useful reference during your time with the City. This manual is not meant as legal advice.

What is the Board of Ethics?

The Board of Ethics is a five-member, independent board that was established in 2006. The Board provides advice, training, and enforcement for ethics rules found in the Home Rule Charter and City Code. The Board also issues regulations interpreting the laws it administers.

What are the City's ethics rules?

The Board oversees rules for City officers and employees including:

- Conflicts of Interest
- Financial Disclosures
- Gifts & Gratuities
- Interests in City Contracts
- Political Activity
- Post-employment
- Representation
- Confidential Information

You may be subject to additional rules including the State Ethics Act, Executive Orders, or departmental policies. Note that in a few places, the rules apply differently to elected officials and Council staff than they do to most City officers and employees.

What if I need help?

The Board's staff is here to help answer your questions! You can reach us by phone or by clicking the "Ask for Advice" button on our website. If you believe someone has violated the ethics rules, contact the Board's enforcement staff by phone or online using the "Report a Concern" button.



[Ask for Advice](http://www.phila.gov/ethicsboard) @
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Chief Integrity Officer	bit.ly/2Rh5NR7 (215) 686-2178 integrity@phila.gov
State Ethics Commission	www.ethics.pa.gov (800) 932-0936
City Law Department	bit.ly/2INKYC2 (215) 683-5001

Conflicts of Interest

As a City employee, you cannot use your City position for your financial benefit. This means you cannot take official action if that action would affect your financial interest or the financial interest of a:

- [family member](#);
- [prospective employer](#);
- client of your outside business or employer;
- business of which you are a member; or
- fellow member of such a business.

What is a financial interest?

A financial interest is any interest involving money or its equivalent. It also includes any right, power, or privilege that has economic value. You have a financial interest in anything that could impact your income, assets, wealth, employment prospects, or business prospects.

What is official action?

Official action is any action you take (or decide not to take) in your official capacity that requires you to use your judgment or discretion.

Are there additional rules if I am part of a private business?

Yes. If you are a member of a firm, company, or other for-profit business, other members of that business cannot represent someone in a [transaction with the City](#) that you have authority to act on in your City role. While this restriction appears in the Ethics Code as part of the [representation rules](#) discussed on pages 11-12, as a practical matter it is treated as a conflict of interest.

What should I do if I have a conflict of interest?

Having a conflict of interest does not, by itself, violate the Ethics Code. If, however, you are able to take official action to affect a financial interest, you must file a letter disclosing that interest and disqualify yourself from taking any action on it.

How do I file a disclosure and disqualification letter?

For conflicts not involving legislation,¹ you must file a letter that:

- states your name, City title, and duties related to the conflict;
- describes the financial interests or relationships at issue;
- states that you intend to be disqualified from taking official action in all matters related to the conflict.

The letter must be sent by certified or registered mail to:

- Board of Ethics (c/o General Counsel);
- City Department of Records (c/o Records Commissioner); and
- Head of your agency (e.g. Commissioner, Executive Director).

A [form letter](#) is available on the Board's website.

Example 1: You are a Health Department manager who also runs a small natural foods stand at farmers' markets in the City. If you are able to take official action that could impact your own business, such as issuing permits for your business or markets at which you sell, you must disclose the conflict and disqualify yourself from any such action.

Example 2: You are an L&I inspector whose sibling owns several commercial buildings in the City. If you are able to take official action that could impact these buildings, such as deciding whether to issue violations, you must disclose the conflict and disqualify yourself from any such action.

Are there other conflicts rules I need to know?

State Ethics Act: The [State Ethics Act](#), which applies to [many City officers and employees](#), also addresses conflicts of interest. Under state law, being an employee or board member of a nonprofit creates a conflict. Whether the State Ethics Act applies depends on your City position and duties. The Board can provide informal guidance on State ethics rules. For formal advice, contact the [State Ethics Commission](#) or the [Law Department](#).

Outside Employment Rules: [Executive Order 12-16](#) or departmental policy may restrict your ability to have a second job or run your own business, even if those activities do not create a conflict of interest under City or State law. You should get approval before engaging in outside work. Check with your supervisor and the [Chief Integrity Officer](#) for guidance.

¹ Procedures for conflicts involving legislation can be found at [Code §§20-608\(1\)\(a\), \(b\)](#).

Gifts & Gratuities

The Board administers and enforces the Home Rule Charter and Ethics Code rules about gratuities and gifts.

If you work in the Executive or Administrative branch, [Executive Order 10-16](#) further restricts gifts. Contact the [Chief Integrity Officer](#) for guidance on the Executive Order.

Your department or agency may also have its own gift policy. Check with the head of your department or agency head for more information.

Gifts may also be subject to [financial disclosure](#) requirements.

Gratuities are prohibited

A gratuity is anything of value offered as a tip or “thank you” for your work as a City employee. Gratuities are absolutely prohibited under the City Charter. You cannot legally accept a gratuity of any amount.

Example: A resident gives you, a Streets employee, a \$10 gift card as a thank you for work you did filling potholes. You cannot accept because the gift card is a gratuity.

What is a gift?

A gift is anything of value given to you that you do not pay full value for. Whether you can accept a gift depends on its type, value, and source.

Can I accept a gift?

If the person offering you the gift is seeking official action from you or if you can affect that person's financial interests through your official action, then the person is a restricted source.

You cannot accept any **monetary gift** (cash, checks, gift cards) from a restricted source. Unlike a gratuity, a monetary gift is not offered as a “thank you” for work performed in your City position.

You cannot **solicit** a gift of any type or value from a restricted source.

You cannot accept **non-monetary gifts** worth more than **\$99 total** per calendar year from a restricted source.²

² Gifts under \$99 may still be prohibited by the [Executive Order](#) or a departmental policy.

You may accept a non-monetary gift from a restricted source **IF** it falls into one of the [exceptions](#) listed in the Ethics Code **OR** if the total value of all non-monetary gifts from that source in a calendar year is \$99 or less.

If offered by someone who is not a restricted source, you may accept gifts in any amount from that person. You may also accept gifts without restriction from certain close [family members](#). A commercially reasonable loan made in the ordinary course of business is not a gift.

What if I receive a prohibited gift or gratuity?

You must take prompt action to avoid a violation of the Ethics Code.

Gratuities & non-perishable prohibited gifts:

1. Return within 3 days (or pay full value) **AND**
2. Send a letter or email to the Board's Executive Director that includes:
 - a. Your name and title
 - b. Source of gratuity or gift
 - c. Dates of receipt and return (or payment)

[Form letters](#) are available on our website. If you are in the Executive or Administrative branches, use [this letter](#).

Perishable prohibited gifts:

1. Donate,
2. Destroy, **OR**
3. Share with coworkers

Example 1: A resident who is negotiating a payment plan for unpaid City taxes offers a senior Revenue Department official two Eagles tickets with a face value of \$150. The official must decline (or pay for) the tickets because this is a gift from a restricted source with a value over \$99.

Example 2: A friend who lives in New Jersey and does no business in Philadelphia gives you two tickets to a Beyoncé concert. You can accept because the tickets are not from a restricted source.

Job Searches & Post-employment

The City Code and State Ethics Act³ have restrictions that apply both during a job search and after you leave City service.

What restrictions apply if I am job hunting?

Conflicts of Interest: Applying for or accepting a non-City job while you are still working for the City creates a conflict of interest under both City and State law. If you could affect that employer’s financial interests through official action, you must follow the [disclosure and disqualification](#) procedures outlined in the conflict of interests section on page 2. This requirement applies regardless of whether you are planning to leave City service or are just [looking for a second job](#).

Interests in City Contracts: [As noted below](#), you cannot apply for a job that would be funded by a City contract while still working for the City.

What restrictions apply after I leave City service?

Year 1: No representation before your former government body.

For one year after you leave City service, the [State Ethics Act](#) prohibits you from being paid to represent someone before your former government body.

Your government body is usually the City department you work(ed) for. Representation includes appearances, lobbying, and submitting documents with your name on them.

Note that this restriction may not apply if you are representing someone as an attorney. For further guidance on the one-year restriction, you should contact the State Ethics Commission.

Year 2: No financial interests in your official actions.

For two years after leaving City service, you cannot become financially interested in any actions you took in your City job.

Forever: No assistance with any matter you participated in.

You may never assist another person in a [transaction involving the City](#) if you participated in that transaction during your City service.

³ Whether the [State Ethics Act](#) applies [depends on your City position and duties](#).

Example 1a: You approve a grant from the City to a nonprofit. For two years after you leave the City, you cannot work for that nonprofit and be paid through that grant.

Example 1b: For one year after you leave City service, you cannot be paid to submit a grant application to your former City agency on behalf of that nonprofit or any other entity.

Example 2: You participate in your agency's negotiations with a business seeking a City contract. If you leave the City, you cannot assist the business in negotiations for that contract, whether or not you are paid to do so.



Interests in City Contracts⁴

The Charter prohibits you from financially benefitting from a contract with the City, even if that contract is unrelated to your City job duties.

You cannot, for example:

- lease or sell property you own to the City;
- take a job that pays you with funds from a City contract; or
- enter into a contract to provide services to a City department.

The Charter also prohibits you from soliciting any contract that would result in a prohibited interest. This means you cannot seek out an arrangement that would give you an interest you could not hold while in City service. This applies even if you will not actually receive the interest until after you leave City service.

Example 1: You own land that the City wants to buy. As a City employee, you cannot sell the land to the City. You cannot avoid the rules by selling to the City through a third party.

Example 2: While looking for a new job, you see a posting for a position with a City contractor. If the position will be funded by a City contract, you cannot apply for that job while still working for the City.

Example 3: You are a City worker who writes a book about City Hall. You cannot accept payment either directly or through your publisher for books purchased by the City. You can, however, donate copies of the book.

⁴ Similar restrictions on Councilmembers' interests in City contracts can be found at City Code [Section 10-100](#).

Financial Disclosure

As a City officer or employee, you may be required to file an annual financial disclosure statement.

How do I know if I need to file?

There are three forms – [State](#), [City](#), and [Mayor's](#). Whether you need to file one or more of these forms depends on your City position and duties.

State Form: Anyone who is a “public employee” or “public official” as defined by the [State Ethics Act](#) must file the State Form. Whether you are a public employee [depends on your job description and official duties](#).

City Form: Elected officials, director- and commissioner-level appointees, and members of City boards and commissions are required to file the City Form. In addition, [Executive Order 11-14](#) requires Mayor's Office Staff to file the City Form.

Mayor's Form: The [instructions for the Mayor's Form](#) list the City officials who are required to file.

You should get an email in March or April with a link to the [Financial Disclosure Filing System](#). You can also check with your human resources manager or the Board if you are not sure whether you need to file.

What do I need to disclose?

Each of the three forms requires slightly different information and has a different threshold for reporting. Generally, you will need to disclose information about your income, gifts, debts, and ownership interests.

When do I need to file?

Each form must be filed no later than May 1 of each year. If you are a City Form filer and joined the City after April 2, you must file within 30 days of taking office. You must file each year that you work for the City. The State and City forms must also be filed the year after you leave City service.

What if I need help filing?

The [instructions](#) for each form are available on the Board's website. The Board also posts [Frequently Asked Questions](#). If you need additional help, you can reach the Board by [email](#) or [phone](#). The Board also hosts a filing help center – check our website for dates and times.

Political Activity

The [Home Rule Charter](#) restricts whether, how, and when you can participate in political activity. [Board Regulation 8](#) interprets the Charter and explains more about how these restrictions apply.⁵ The Board also publishes [FAQs](#), which are available on our website.

What is political activity?

Political activity is any activity directed toward the success or failure of a candidate, political campaign political party, or partisan political group. This includes efforts to get a candidate onto the ballot (or keep them off), as well as any support for (or opposition to) a candidate, party, campaign, or partisan political group.

What is prohibited?

City-related activity: You are not allowed to engage in any political activity while you are:

- on duty,
- in uniform,
- using City resources,
- on City-owned or City-leased property, **OR**
- using your City title or position.

Political management & coordination: You cannot be involved in the management or affairs of a campaign or political party, nor can you be part of a political campaign. You also cannot coordinate your political activity with a candidate, campaign, or political party. Similarly, you cannot be a member of a committee of or otherwise have a leadership role in a partisan political group. For example, you cannot:

- be a member of a political committee;
- serve as a party official (e.g. committeeperson, ward leader, delegate);
- volunteer or work for a candidate's campaign;
- circulate nominating petitions; or
- distribute campaign literature paid for by a campaign or party.

Political fundraising: You cannot be involved in political fundraising. This means you cannot ask for or collect political contributions. You also cannot help plan or promote political fundraisers, even if you a friend or relative of the candidate. You cannot be the treasurer of a political committee.

⁵ Political activity rules apply differently for elected officials, Council employees, and members of certain City boards and commissions. See Regulation 8 for more details.

What am I allowed to do?

You can participate in many ways!

You may vote in an election or register as a member of a political party. As long as you are off duty, not in uniform, not using City resources, not on City owned or leased property, and do not use your City title or position, you may also:

- give money to a candidate, party, or political group;⁶
- attend a political fundraiser or rally as a spectator;
- display a candidate's campaign sign in your yard;
- campaign for or against a ballot question;
- wear a campaign button; and
- talk about your personal political opinions.

You may participate in political activity with your union, neighborhood organization, or any other type of group as long as that activity is not coordinated with a candidate, campaign, or political party.

Example 1: Your childhood friend is running for office. As a City employee, you cannot coordinate with a campaign. On your own, you may send an email to friends and neighbors in support of your friend. You cannot use your City account, City computer, or City smart phone to send this email. You also cannot use your personal computer or smart phone to send such an email while you are on duty for your City job.

Example 2: You see a stack of yard signs sitting outside the campaign headquarters of your preferred candidate for state senate. As a City employee, you may not distribute yard signs in your neighborhood. You may, however, display a sign in your own yard.

What if I want to run for office?

Before you run for public office, you must first resign from City service. This restriction applies even if you are on leave from your City job. This rule also applies to elected positions on an Election Board, such as judge of elections and inspector.

What about elections outside of the City?

The political activity rules cover all candidates, campaigns, parties, and partisan political groups regardless of location.

⁶ Members of the Police Department may make political contributions only to political committees not affiliated with a candidate.

Do the political activity rules apply to social media?

Yes. Below are some examples of permissible and prohibited political activities on social media. Your department or unit may have additional rules or guidelines for social media.

Permitted (with restrictions):

Generally, you may express your personal political opinions on social media if you follow the basic rules that apply to all political activity. This means that you cannot use social media to express your political opinions while you are on duty, using City resources, on City property, or using your City title or your status as a City officer or employee.

Profile information. You may include your political affiliation as well as your status as a City officer or employee in your social media profile. You may also use a photo or user name that identifies your City title or status.

WARNING: Because some social media platforms automatically include certain user information in content you create, **choosing to identify your City title or status in your profile may limit your ability to engage in political activity.** It is your responsibility to know how each social media platform displays your profile information. If your City title or status will automatically appear with your actions or content, you must choose between including your City title or status in your profile and using your social media account for political activity.

Creating political content. You may use social media to discuss your personal support for (or opposition to) a candidate, party, or campaign through posts or other social media content. You cannot include or reference your City title or status in such content.

Interacting with political content. You may interact with content from a candidate, party, or campaign. This includes following a social media account, as well as sharing, liking, or otherwise responding to social media content from a candidate, party, or campaign. You cannot include or reference your City title or status when interacting with political content.

Always Prohibited:

Political activity using City accounts. You may not engage in political activity using any City-owned or City-operated social media account, or any account that presents itself as being for official City business. This includes profile information as well as creating or interacting with content that supports (or opposes) a candidate, party, campaign or partisan political group.

Political fundraising. You may not use social media to create, promote, or share content related to political fundraising. This means you may not use social media to share a candidate's fundraiser event or encourage others to contribute to a political party. This prohibition applies regardless of whether your social media account identifies your City title or status.

Political management and coordination. While you may express your personal political opinions on social media, you may not use social media on behalf of or in coordination with a candidate, campaign, or political party. This means you may not create or promote content for a candidate, campaign, or party at their request.

Example 1: Your favorite Inquirer opinion writer links to a hilarious video poking fun at your least-favorite candidate. You may share both the article and the video using your personal social media account as long as you do so while off duty, using your personal device, and without using your City title or status (including in profile data that appears with your action).

Example 2: Your close friend who is working on a candidate's campaign asks you to write a post on your blog about the candidate's background in public service. Under these circumstances, you may not create such a post because it is at the request of or in coordination with a political campaign.

Example 3: You are a social media manager for a City department. You notice a witty tweet from a political party is trending on Twitter. Even if the content relates to your department's work, you may not retweet or otherwise promote it using your department's Twitter account.

Ex Parte Communications

Ex parte means one-sided, and covers any communication that does not include all interested parties. The City Code prohibits anyone – whether or not they work for the City – from having *ex parte* communications with members of boards, agencies, authorities, or commissions about a pending adjudication.

An exception may apply if your official City duties require you to have *ex parte* communications with City officials. This is a narrow exception and you should proceed with caution. You may also be subject to other rules or procedures that do not allow *ex parte* communication even when it would not violate the City Code.

Example: You want to build a roof deck. You have an application pending with L&I, but your neighbor has objected. You see the head of L&I in the hallway. Discussing the pending application with the L&I official would be an *ex parte* communication. You may talk to L&I about the application only if you give your neighbor the chance to be part of the discussion.



Confidential Information

As a City employee, you may have access to confidential information. The City Code prohibits you from disclosing such information for the purpose of promoting your own financial interests or those of another. This includes confidential information about City property, government, or affairs. Disclosing such information requires proper legal authorization.

Example: As a Public Property employee, you have information about the City's position in negotiating a lease for office space in a privately owned building. You cannot disclose the City's negotiating position to the realtor for the property owner.

Representing Others in City Transactions

The City Code restricts when you can represent another person or entity in transactions involving the City.

What type of representation is restricted?

You cannot act as an agent or attorney in a transaction involving the City. We encourage you to contact us if you are not sure whether your role is covered by this rule. This restriction applies equally to **both paid and unpaid** representation.

What is a transaction involving the City?

A transaction involving the City is anything that may:

- be subject to City action,
- involve the City as a party, **OR**
- involve a direct proprietary interest of the City.

Routine applications and information requests, or other matters not requiring a City worker to exercise discretion, are not included.

What if the transaction has nothing to do with my City job?

This restriction applies even if the transaction is with a different department and is not something you can affect through official action. This rule is meant to prevent any appearance that City officers or employees can get special treatment for their friends or associates.

Example 1: You can help a vision-impaired neighbor read their water bill.

Example 2: You cannot represent your local civic association in applying for or negotiating the terms of a City grant. The grant-making process is a transaction involving the City, and presenting a grant application or negotiating terms involves acting as an agent.

Are there any exceptions?

Yes. Except for matters in which you have personally participated or that are part of your City duties, you may represent yourself, certain [close relatives](#), or someone for whom you serve as a legal guardian, fiduciary, or executor of an estate. You may also represent another City employee in a City personnel matter.

If you are part-time or unpaid, the representation restriction only applies to matters that either involve work you did for the City or are pending before the City entity you serve.

Note: [Conflict of interest](#) rules still apply even if representation is allowed.

Penalties

Violations of the City's ethics rules can have serious consequences. The Board can impose civil penalties of up to \$2,000 for most violations. You may also be required to repay illegal financial gains, and may be subject to disciplinary action up to and including termination from your City position.

The [State Ethics Act](#) separately provides for penalties, damages, and other consequences for violations of State ethics rules.

The [settlement agreements](#) posted on the Board's website provide examples of penalties levied for violations of the City's ethics rules.

Philadelphia Home Rule Charter^{*}

(Sections Administered by the Board of Ethics)

§ 10-100. Councilmembers Not to Engage in Certain Activities; Penalties.

As provided by statute, no councilmember shall solicit, benefit by, or be interested directly or indirectly in any contract for the purchase of property of any kind to be paid for from the City Treasury, nor shall such councilmember be interested directly or indirectly in any contract for the erection of any structure, or for the supplying of any services to be paid for out of the City Treasury, nor shall such councilmember solicit or recommend the appointment of any person to any position in the civil service, nor shall such councilmember interfere with the performance of the duties of the members of the Philadelphia Police, or of any other employees in any department, board or commission of the City.

ANNOTATION

Sources: Act of June 24, 1939, P.L. 872, Section 682; Act of June 25, 1919, P.L. 581, Article XX, Section 3; A Model State Civil Service Law, Section 19.

Purposes: 1. Ethical standards of conduct preclude one who is a City officer from soliciting in a private capacity or personally profiting or being interested, directly or indirectly, in contracts with the City whose officer he is. See Act of June 24, 1939, P.L. 872, Section 682.

2. An effective civil service regime and principles of employment on merit preclude a legislator from soliciting or recommending the appointment of any person to a civil service position. Councilmen appropriate funds to City agencies and are in a position to affect in that manner and in other ways administrative operations. Officers of such agencies must remain completely free from pressures of legislators, direct or indirect, in staffing their offices with civil service personnel. If a Councilman were permitted to solicit or recommend an appointment, an administrative officer might assume such pressure and might be influenced by it as a matter of protecting the interest of his agency and position, regardless of the motives, integrity and intentions of the Councilman.

3. For comparable reasons, Councilmen are emphatically prohibited from interfering with the performance of the duties of any employees in the executive and administrative branch of the City government. An employee should perform his duties as required by law and by his superiors and not because of a fear of legislative retaliation, whether or not such fear is in fact warranted.

4. For penalties for violating this section, see Section 10-109.

§ 10-102. City Officers and Employees Not to Engage in Certain Activities.

As provided by statute, the Mayor, the Managing Director, the Director of Finance, the Personnel Director, any department head, any City employee, and any other governmental officer or employee whose salary is paid out of the City Treasury shall not benefit from and shall not be interested directly or indirectly in any contract for the purchase of property of any kind nor shall they be interested directly or indirectly in any contract for the erection of any structure or the supplying of any services to be paid for out of the City Treasury; nor shall they solicit any contract in which they may have any such direct or indirect interest.

ANNOTATION

Sources: See Section 10-100.

Purposes: See Annotation to Section 10-100.

^{*}A complete and updated version of the Charter is available at bit.ly/36iXlsF.

§ 10-105. Gratuities.

No officer or employee of the City and no officer or employee whose salary or other compensation is paid out of the City Treasury shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work. Provided, however, that the head of any department, board or commission of the City or other agency receiving appropriations from the City Treasury may permit an employee to receive a reward publicly offered and paid, for the accomplishment of a particular task.

ANNOTATION

Sources: No specific source.

Purposes: 1. Public officers and employees are compensated with public funds to perform the task for which they were elected, appointed or employed. Their holding office or employment presupposes their faithful discharge of all their duties without more. An exception is recognized and permitted in instances of a special reward authorized by the head of an agency for special accomplishments, such as the apprehension of a criminal, acts of particular courage and bravery, the devising of new methods or inventions to effect economies in the expenditure of City funds, and the like. Otherwise, however, no public official or employee should do that which he ought to do or not do that which he is not supposed to do because of the inducement of receiving directly or indirectly any benefit in addition to that which is the lawful incident of his position. The solicitation or acceptance of any such benefit by any City officer or employee of the executive or legislative branch or by any County or other governmental employee whose compensation is paid from the City Treasury is prohibited.

2. For penalties for violating this section, see Section 10-109.

§ 10-107. Political Activities.

(1) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the civil service.

(2) No person shall, for the purpose of influencing the vote or political action of any person, or for any consideration, use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the civil service, or an increase in pay or other advantage in employment in any such position.

(3) No officer or employee of the City and no officer or employee of any governmental agency whose compensation is paid from the City Treasury shall, from any person, and no officer or member of a committee of any political party or club shall, from any civil service employee, directly or indirectly demand, solicit, collect or receive, or be in any manner concerned in demanding, soliciting, collecting or receiving, any assessment, subscription or contribution, whether voluntary or involuntary, intended for any political purpose whatever. No officer or member of the Philadelphia Police or of the Fire Department shall pay or give any money or valuable thing or make any subscription or contribution, whether voluntary or involuntary, for any political purpose whatever.*

* The City was permanently enjoined from enforcing the last sentence of this subsection as to uniformed members of the Fire Department, by a decision of the federal court on October 6, 2003. *Philadelphia Fire Fighter's Union Local 22, AFL-CIO v. City*, 286 F. Supp. 2d 476 (E.D. Pa. 2003).

(4) No appointed officer or employee of the City shall be a member of any national, state or local committee of a political party, or an officer or member of a committee of a partisan political club, or take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote.

(5) No officer or employee of the City, except elected officers running for re-election, shall be a candidate for nomination or election to any public office unless he shall have first resigned from his then office or employment.

(6) Any officer or employee of the City who violates any of the foregoing provisions of this section shall, in addition to any penalties provided for hereafter, be ineligible for one year for any office or position under the City.

ANNOTATION

Sources: A Model State Civil Service Law, Section 19; Act of June 25, 1919, P.L. 581, Article XIX, Section 23.

Purposes: 1. Merit principles of governmental employment require the divorcement of politics from such employment. They presuppose employment upon merit and not because of political connections, powers and pressures. They also presuppose that governmental employment will not serve as a means for political tribute to maintain political parties and regimes. The prohibitions of this section are intended to sustain these basic principles and precepts subject to certain qualifications which political necessities require to be made at certain levels of employment and office-holding. Absolutism in this area is neither necessary nor practicable for the fact is that political parties are essential parts of the democratic form of government in the United States. This section attempts to balance the public interest involved.

2. All City officers, elected or appointed, and all City employees, civil service or non-civil service, and all officers and all employees of governmental agencies compensated with City funds, such as County officers and employees, are prohibited from demanding, soliciting, collecting or receiving from any person assessments, subscriptions or contributions for political purposes.

3. Members of a political party or clubs are prohibited from demanding, soliciting, collecting or receiving from any civil service employee such assessments, subscriptions or contributions. This prohibition does not apply to elected and appointed officers and non-civil service employees because political realism and democratic traditions require that a line be drawn here.

4. Voluntary contributions for political purposes are permitted to be made by civil service employees except that, because of the nature of their duties, policemen and firemen may not under any circumstances make any contributions for political purposes.

The Philadelphia Code^{*}

Chapter 20-600. Standards of Conduct and Ethics

§ 20-601. Definitions.

- (1) *Agency*. Any office, department, board, commission, or other entity that is part of the government of the City, including City Council.
- (2) *Annual Salary*. Payment for services pursuant to Section 20-303, 20-304 and 20-305 of this Chapter except in those instances in which the rate of compensation is based upon the number of meetings attended or days worked.
- (3) *Board*. Board of Ethics.
- (4) *Board or commission member*. A member of any City of Philadelphia board or commission established by The Philadelphia Home Rule Charter, The Philadelphia Code, or an Executive Order.
- (5) *Business*. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or legal entity organized for profit.
- (6) *City*. City of Philadelphia.
- (7) *Commodity*. Any movable or tangible thing that is produced or used as the subject of barter or sale.
- (8) *Family member*. A parent, spouse, life partner, child, brother, sister or like relative-in-law.
- (9) *Financial Interest*. An interest involving money or its equivalent or an interest involving any right, power or privilege that has economic value.
- (10) *Gift*. A payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value given to, or for the benefit of, an officer or employee, unless consideration of equal or greater value is received. "Gift" shall not include a political contribution otherwise reportable as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a Family member of the individual or from a relative within the third degree of consanguinity of the individual or of the individual's spouse or Life Partner, or from the spouse or Life Partner of any such relative.
- (11) *Government entity*. Any agency, office, department, board, commission, authority, or other entity that is part of the United States or a State, local, or foreign government.
- (12) *Income*. Any money or thing or value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain or any other form of recompense or any combination thereof.
- (13) *Indirect Interest in Real Estate*. Any business entity the assets of which are 80 percent or more in real property.

^{*}A complete and updated version of the Code is available at bit.ly/2JyYv9H.

- (14) *Life partner.* A member of a Life Partnership that meets the criteria set forth in Code Section 9-1102(1)(r) and is verified pursuant to § 9-1123(1) (relating to verification of life partnerships).
- (15) *Major life event.* Marriage, separation from City employment, birth or adoption of a child, death or serious illness of a family member, 25th or 50th wedding anniversary, a ceremony celebrating a religious or cultural life cycle event such as baptism, first communion, or bar mitzvah, or a similarly rare and significant event in someone's life.
- (16) *Money or monetary gifts.* Cash, checks, money orders, or the equivalent, including pre-paid debit or gift or credit cards.
- (17) *Official action.* An act or omission taken by an officer or employee in his or her official capacity that requires discretion and is not ministerial in nature.
- (18) *Officer or Employee.* Any person who is elected or appointed to a position in any branch of the government of the City and/or County of Philadelphia or to any elected or appointed position which serves the City and/or County of Philadelphia including, but not limited to, members of agencies, authorities, boards and commissions however elected or appointed; persons serving full-time or intermittently; persons serving with or without compensation.
- (19) *Part-time Service.* Service rendered by any City officer or employee who is not employed by the City on a full-time basis in any capacity. This shall include members of agencies, authorities, boards and commissions who are paid on the basis of each meeting attended.
- (20) *Person.* A business, individual, corporation, non-profit, union, association, firm, partnership, committee, political committee, club, or other organization or group of persons.
- (21) *Reception.* An afternoon or evening event at which only items such as appetizers, beverages, or light fare are served or a morning event at which items such as coffee, juice, pastries, or bagels are served.
- (22) *Relative within the third degree of consanguinity.* An individual's family members and grandparent, grandchild, great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual.
- (23) *Security.* Any contract, transaction or scheme whereby a person invests his money in a common enterprise and there is an expectation of profit solely through the efforts of a third party. The term security shall include, but not be limited to, any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, warrant or right to subscribe to or purchase, any of the foregoing.
- (24) *Solicit.* To directly or indirectly request, ask, appeal for, or demand any gift, cash or otherwise, that falls within the confines and definitions of this Chapter.

(25) *Subordinate*. An officer or employee is the subordinate of his or her superior and of his or her superior's superiors.

(26) *Superior*. An officer or employee whose official duties include directing or evaluating the performance of an officer or employee and any superior of that officer's or employee's superior.

(27) *Transactions Involving the City*. Any proceeding, application, submission, request for a ruling, or other determination, contract, lease, claim, case, award, decision, decree, judgment or legislation including ordinances and resolutions or other particular matter which the City officer or employee in question believes, or has reason to believe (a) is or will be the subject of City action; or (b) is one to which the City is or will be a party; or (c) is one in which the City has a direct proprietary interest. This shall not include routine applications or requests for routine information or other matters which are of a ministerial nature and do not require the exercise of discretion on the part of any City officer or employee.

§ 20-602. Representation by City Officers, Employees and Members of Council.

(1) (a) No member of the Council nor other City officer or employee shall assist another person by representing him directly or indirectly as his agent or attorney, whether or not for compensation, in any transaction involving the City. This Section shall not apply to any assistance rendered by any member of Council or other City officer or employee in the course of or incident to his official duties, or to any person who holds any City office or position who is not compensated for his service by the City. Subject to Section 20-602(4).

(b) No member of Council or other City officer or employee shall accept any fee from anyone for referring any matter to another person where the member of Council or other City officer or employee would be barred from assisting or representing them under this ordinance.

(2) An uncompensated City officer or employee or a compensated City officer or employee whose service is part-time (excluding members of City Council or other City officers or employees who are paid on an annual basis) is subject to the foregoing paragraph only in relation to a particular matter (a) in which he has at any time participated through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or (b) which is pending in the department, agency, authority, board or commission of the City in which he is serving.

(3) A member of Council or other City officer or employee may take uncompensated action, not inconsistent with the faithful performance of his duties, to aid or assist any person who is the subject of disciplinary, or other personnel administration proceedings with respect to those proceedings.

(4) A member of the Council or any other City officer or employee may act, with or without compensation, on his own behalf or as agent or attorney for, or otherwise aiding or assisting, his parents, spouse, Life Partner, child, brother, sister or any person for whom he is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which he has participated personally as a member of Council, City officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility.

(5) No member or employee of a partnership, firm, corporation, or other business organization or professional association organized for profit of which a member of the Council or other City officer or employee is a member shall represent any person directly or indirectly as agent or attorney in any matter in which such member of the Council or other City officer or employee has the responsibility for decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise determining such matters, unless such member of the Council or other City officer or employee shall disclose such fact and disqualify himself from such responsibility in the manner set forth in Section 20-608.

§ 20-603. Post-Employment Representation.

(1) No person who has served for compensation as a member of Council, City officer or employee shall assist, at any time subsequent to his City service or employment, another person, with or without compensation, in any transaction involving the City in which he at any time participated during his City service or employment.

§ 20-604. Gifts, Loans and Favors to City Personnel.

(1) No City officer or employee shall accept or receive gifts worth more than \$99.00 in the aggregate per calendar year or any gifts of money from any person who is seeking official action from that officer or employee or who has a financial interest at the time, or in close proximity to the time the gift is received, which the officer or employee is able to substantially affect through official action. An officer or employee may not solicit gifts of any value from a person who is seeking official action from that officer or employee or who has a financial interest the officer or employee is able to substantially affect through official action.

(2) No person shall offer, make or render gifts worth more than \$99.00 in the aggregate per calendar year or any gifts of money to any City officer or employee if the person is seeking official action from that officer or employee or has a financial interest at the time, or in close proximity to the time the gift is received, which the officer or employee is able to substantially affect through official action.

(3) An officer or employee may accept, but not solicit, the following gifts, notwithstanding that the person giving the gift may be seeking official action from that officer or employee or may have a financial interest the officer or employee receiving the gift is able to substantially affect through official action:

(a) Hospitality provided at a residence when the donor or a family member of the donor is present;

(b) Food, beverages, or entertainment provided at a reception for which attendees do not have to purchase a ticket;

(c) Rebates or discounts offered to members of the general public or a class of persons, including rebates or discounts offered to a class of officers or employees;

(d) Gifts resulting solely from the officer's or employee's membership in a bona fide charitable, professional, educational, labor, or trade organization;

(e) Free attendance at an event celebrating a major life event of another individual, for which attendees do not have to purchase a ticket;

(f) Food and beverages provided to all participants in the ordinary course of a meeting where the food and beverages are provided at the site of the meeting;

(g) Food and beverages provided by a superior, subordinate, or other co-worker and consumed as part of an office or agency event;

(h) Gifts resulting solely from the officer's or employee's outside employment;

(i) Gifts resulting solely from the officer's or employee's life partner's or spouse's business or employment activities;

(j) Free admission to political events, including food and beverages, if the officer or employee is permitted to engage in political activity in coordination with candidates, political parties, or partisan political groups;

(k) Payment or reimbursement of an officer's or employee's reasonable expenses for admission, travel, lodging, or food and beverage related to attendance at an event, convention, conference, seminar, or fact-finding trip that will benefit the City and is reasonably related to the officer's or employee's official duties or expertise.

(l) Tickets for public events given to an elected officer or employee that the elected officer or employee does not personally make use of and gives to members of the public, who shall not include a family member of the officer or employee or a member of the officer's or employee's government or campaign staff.

(m) A gift from a government entity.

(4) Other Limitations On Gifts.

(a) No person shall give a gift to an officer or employee through another person if this Ordinance would prohibit the person from giving the gift directly to the officer or employee.

(b) A gift to another person is a gift to an officer or employee if the officer or employee solicits the gift and receives a financial benefit from it.

(c) If a person offers an officer or employee a gift prohibited by this Ordinance, the officer or employee shall not suggest or request an alternative recipient, such as a charity.

(5) Valuation of Gifts.

(a) The value of a gift is the retail cost the officer or employee would incur to purchase the gift. An officer or employee who does not know the retail cost of a gift shall estimate the retail cost by reference to similar items of like quality.

(b) The value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket.

(6) Written Approval.

(a) Elected officers and board and commission members. An elected officer or a board or commission member does not need to obtain written approval in order to accept a gift pursuant to subsection (3)(k) 36 of this Section.

(b) Heads of Executive Branch agencies. The head of an Executive Branch agency must obtain written approval from either the Mayor or the Mayor's designees prior to accepting a gift pursuant to subsection (3)(k) 37 of this Section. The written approval must identify the date of the receipt and nature of the gift and describe how the officer's or employee's participation or attendance will benefit the City and is related to his or her official duties and/or expertise.

(c) Most officers and employees. Any officer or employee not covered by subsection (6)(a) or subsection (6)(b) 38 must obtain written approval from the head of his or her agency, or the agency head's designee, prior to accepting a gift pursuant to subsection (3)(k) 39 of this Section. The written approval must identify the date of the receipt and nature of the gift and describe how the officer's or employee's participation or attendance will benefit the City and is related to his or her official duties and/or expertise.

(d) Factors relevant to determining whether an officer's or employee's attendance at an event, convention, conference, seminar, or fact-finding trip will benefit the City and is reasonably related to the officer or employee's official duties or expertise include but are not limited to:

i. Whether the officer or employee is scheduled to deliver a speech, make a presentation, serve on a panel, or otherwise represent the City in his or her official capacity; and

ii. Whether the officer or employee will receive training or information that he or she can use to fulfill his or her official duties.

(7) The Board shall not impose a civil penalty on an officer or employee who receives a gift restricted by this Ordinance if he or she within three days of receiving the gift:

(a) If the gift is perishable and it is not practicable to return it to the donor, donates the gift to charity, shares it with co-workers, or destroys it; or

(b) Notifies the Board's Executive Director by postal mail or e-mail that he or she has returned the gift to the donor or paid the donor the full value of the gift and provides the following information:

i. The officer's or employee's name and title;

ii. The source of the gift;

iii. The date the gift was received or accepted; and

iv. The date the gift was returned or paid for, and, if paid for, the amount paid.

§ 20-605. Exparte Communication.

No person shall, directly or indirectly, communicate in any way with any member of any board, agency, authority or commission of the City as to any adjudicative matter which is, or which may reasonably be, expected to be pending before such board, agency, authority or commission for the purpose of influencing said member of such board, agency, authority or commission, unless a full disclosure of such communication is simultaneously made available to the other party or parties in interest with respect to such matter. This shall not apply to any communication by a member of Council or by any other City officer or employee in the performance of his official duties.

§ 20-606. Board of Ethics.

(1) Powers and Duties.

(a) Rules and Regulations. The Board shall promulgate rules and regulations as are necessary to implement and interpret the provisions of this Chapter consistent with the goal of providing clear guidance regarding standards of conduct and ethics.

(b) Mandatory Training and Education.

(i) The Board shall have the responsibility of training and educating all City officers and employees regarding the standards of conduct and ethics. In fulfilling this responsibility, the Board shall prepare and disseminate educational materials regarding the provisions contained within this Chapter and related interpretive regulations, including a Code of Ethics Manual, and shall develop and conduct routine and mandatory educational and training programs for all City officers and employees. The Board shall consult with City departments and agencies in developing and conducting routine and mandatory educational and training programs for all City employees. Failure to attend a mandatory ethics program shall be deemed a violation of this Chapter.

(ii) Within sixty (60) days of the effective date of the Ordinance adding this provision to The Philadelphia Code, each head of a City department shall provide a copy of this Chapter to all employees under his or her direction. Thereafter, on or before the tenth day after an individual becomes a City officer or employee, each head of a City department shall provide a copy of this Chapter to all such new officers or employees. Upon receipt of a copy of this Chapter, the City officer or employee shall sign a written statement that such officer or employee has read and shall conform with the provisions of this Chapter, and this statement shall be placed in the City officer's or employee's personnel file. Failure of a City officer or employee to receive a copy of this Chapter, failure to receive and sign such written statement, or failure to maintain the written statement on file shall have no effect on the duty of the City officer or employee to be in compliance with this Chapter.

(iii) Within one year of the effective date of the Ordinance adding this provision to The Philadelphia Code and annually thereafter, all elected City officers, all cabinet members, all City department heads, and all board and commission members, and their respective staff members as determined by the Board based on staff position, shall participate in an educational and training program conducted by the Board. Failure to attend the mandatory ethics program shall be deemed a violation of this Chapter.

(iv) The Board shall develop procedures for all City officers and employees to obtain informal guidance and assistance in understanding and maintaining compliance with the standards of conduct and ethics.

(c) Ethics Training and Education for Businesses. The Board shall develop, in conjunction with the Procurement Commissioner, a code of business ethics manual and conduct education and training programs for use by all businesses who may conduct business with the City.

(d) Advisory Opinions.

(i) The Board shall render advisory opinions with respect to all matters pertaining to the standards of conduct and ethics. An advisory opinion shall be rendered on the request of a City officer or employee or a supervisor of such City officer or employee and shall apply only to such City officer or employee. The request shall be in such form as the Board may require and shall be signed by the person making the request. The opinion of the Board shall be based on such facts as are presented in the request or subsequently submitted in a written, signed document.

(ii) Advisory opinions shall be issued only with respect to proposed future conduct or action by a City officer or employee. A City officer or employee whose conduct or action is the subject of an advisory opinion shall not be subject to penalties or sanctions under this Chapter by virtue of acting or failing to act due to a reasonable reliance on such opinion, unless material facts were omitted or misstated in the request for the opinion. The Board may amend a previously issued advisory opinion after giving reasonable notice to the City officer or employee that it is reconsidering its opinion; provided that such amended advisory opinion shall apply only to future conduct or action of the City officer or employee.

(iii) The Board shall make public its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of any City officer or employee or other involved party in accordance with regulations promulgated by the Board.

(e) Financial Disclosure.

(i) All Statements of Financial Interest required pursuant to Section 20-610 shall be filed with the Board.

(ii) The Board shall issue rules and regulations concerning the filing of Statements of Financial Interest for the purpose of ensuring compliance by all City officers and employees with the applicable provisions of financial disclosure law. The Board shall investigate any instances of non-compliance and take appropriate action.

(f) Complaints.

(i) The Board shall receive written complaints alleging violations of this Chapter. All such complaints must be signed by the complainant and the Board shall preserve the confidentiality of the complainant and keep information, records and proceedings relating to an investigation confidential at all times.

(ii) Whenever a written complaint is received by the Board, it shall:

(.1) Dismiss the complaint if it determines that no further action is required by the Board;

(.2) Investigate internally;

(.3) Make an initial determination as to whether there is probable cause to believe that a City officer or employee has violated a provision of this Chapter and, if so, proceed to adjudicate the matter in accordance with the regulations promulgated under paragraph (g) of this Section; or

(.4) Refer the alleged violation of this Chapter to the head of the City agency in which the City officer or employee serves if the Board deems the violation to be minor or if related disciplinary charges are pending against the City officer or employee; or

(.5) Refer the alleged violation to the Inspector General or other appropriate enforcement authorities.

(g) Investigations and Referrals.

(i) The Board shall have the power to conduct an investigation of any matter related to the Board's responsibilities under this Chapter.

(ii) 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.

(h) Adjudication. The Board shall, by regulation, provide for adjudication of alleged violations of this Chapter; or Section 10-102, 10-105 or 10-107 of the Home Rule Charter (relating to City Officers and Employees; Gratuities; and Political Activities); insuring in each case that notice and an opportunity to be heard are provided prior to any final decision by the Board. If the Board finds that there has been a violation of this Chapter it may impose penalties pursuant to Section 20-612. If the Board finds that there has been a violation of Section 10-102, 10-105 or 10-107 of the Charter, it may impose penalties pursuant to Section 10-109 of the Charter (relating to Penalties), provided that no penalty set forth in Section 10-109 other than a monetary penalty shall be issued in an adjudication under this subsection (h). Findings and decisions of the Board on any actions taken by the Board shall be final and there shall be no further appeal other than to court as provided by law. 41

(i) Confidentiality. Except as otherwise provided in this Chapter, the records, reports, memoranda and files of the Board shall be confidential and shall not be subject to public inspection, except as otherwise provided by law. Also, no person shall disclose or acknowledge to any other person any information relating to a complaint, investigation, referral or pending adjudication, except as otherwise provided by law.

(j) Retaliation Prohibited. No officer or employee shall discharge, or change the official rank, grade or compensation, or deny a promotion or threaten to do so of an officer or employee for filing a complaint with or providing information to the Board, or for testifying in any Board proceeding.

(k) Frivolous Complaints. If an officer or employee has reason to believe a complaint to the Board is frivolous, or without probable cause and made primarily for a purpose other than that of reporting a violation of this Chapter, or a person publicly disclosed or caused to be disclosed that a complaint against an officer or employee has been filed with the Board, the official or employee shall notify the Board and the Board shall conduct an investigation.

(l) Annual Report and Recommendations.

(i) The Board shall submit an annual report to the Mayor and City Council. The report shall include a summary of the proceedings and activities of the Board, a description of the education and training conducted, a summary and evaluation of complaints and referrals

received and their disposition, such legislative and administrative recommendations the Board deems appropriate, the rules of the Board, and an index of opinions and orders of that year. The report, which shall be made available to the public, shall not contain any information which, if disclosed, would constitute an invasion of the privacy of a City officer or employee.

(ii) The Board shall, whenever it deems necessary, make recommendations to the Mayor and to City Council which seek to improve the administration and enforcement of this Chapter, including any legislative changes which help strengthen or clarify the standards of conduct and ethics.

(2) Mandatory Cooperation with the Board. All City officers and employees shall cooperate fully with any request of the Board made pursuant to the execution of the Board's powers and duties. Any City officer or employee who fails or refuses to cooperate with the Board shall be deemed to be in violation of this Chapter.

§ 20-607. Conflict of Interest.

(a) Unless there is public disclosure and disqualification as provided for in Section 20-608 hereof, no member of Council, or other City officer or employee shall be financially interested in any legislation including ordinances and resolutions, award, contract, lease, case, claim, decision, decree or judgment made by him in his official capacity, or by any board or body of which he is a member nor shall any financial interest be held by a parent, spouse, Life Partner, child, brother, sister or like relative-in-law, or by any person, firm, partnership, corporation, business association, trustee or straw party for his or her benefit, nor shall a member of Council or other City officer or employee be a purchaser at any sale or vendor at any purchase made by him in his official capacity. This latter prohibition shall apply so as to prevent a parent, spouse, child, brother, sister or like relative-in-law or any person, firm, partnership, corporation, business association, trustee or straw party from being such purchaser or vendor for or on behalf of the member of City Council, City officer or employee.

(b) In the event that a financial interest in any legislation (including ordinances and resolutions) award, contract, lease, case, claim, decision, decree or judgment, resides in a parent, spouse, Life Partner, child, brother, sister, or like relative-in-law of the member of City Council, other City officer or employee; or in a member of a partnership, firm, corporation or other business organization or professional association organized for profit of which said member of City Council, City officer or employee is a member and where said member of City Council, City officer or employee has knowledge of the existence of such financial interest he or she shall comply with the provisions of Section 20-608(a)(b)(c) of this ordinance and shall thereafter disqualify himself or herself from any further official action regarding such legislation (including ordinances and resolutions) award, contract, lease, case, claim, decision, decree or judgment.

(c) No member of Council or other City officer or employee shall become financially interested, subsequent to final action, in any legislation including ordinances and resolutions, award, contract, lease, case, claim, decision, decree or judgment made by him in his official capacity, during his term of office or employment and until two (2) years have elapsed since the expiration of service or employment in the term of office of said member of Council or other City officer or employee.

This prohibition shall apply so as to prevent a parent, spouse, Life Partner, child, brother, sister or like relative-in-law or any person, firm, partnership, corporation, business association, trustee or straw party from becoming financially interested for or on behalf of a member of City Council, City officer or employee within said two (2) year period.

§ 20-608. Public Disclosure and Disqualification.

(1) Any member of City Council having a financial interest, under Section 20-607(a), (b), in any legislation including ordinances and resolutions, shall make public the nature and extent of such interest as set forth in paragraph (a) hereof. Other City officers and employees having a financial interest in legislation, including ordinances and resolutions, shall make public the nature and extent of their interest as set forth in paragraph (b) hereof. When any member of City Council or other officer or employee has a financial interest in an award, lease, case, claim, decree or judgment, such person shall make public the nature and extent of the interest as set forth in paragraph (c) hereof. Thereafter, such person shall disqualify himself or herself from any further official action regarding such legislation including ordinances and resolutions; award, contract, lease, case, claim, decree or judgment.

(a) In the case of a member of Council, it shall be done at the scheduled public hearing of such legislation including ordinances and resolutions; if such interest occurs after the public hearing and prior to five (5) days before such legislation is to be acted upon, it shall be made by registered or certified mail to the Chief Clerk of the Council and all members of the Council and be announced by the presiding officer of the Council at the time the legislation is called up for consideration; if such interest occurs less than five (5) days prior to the action by the Council on such legislation, the member shall announce his interest publicly on the floor of the Council in public session. This provision shall apply notwithstanding the fact that the member of Council did not participate or was absent upon or during the vote or consideration of such legislation.

(b) In the case of any other City officer or employee having such interest in legislation including ordinances and resolutions, he shall notify the Chief Clerk of the Council and every member of the Council, by registered or certified mail, at least five (5) days prior to the public hearing on the legislation and such notice shall be made part of the official records; in the event said interest occurs after the public hearing, the City officer or employee shall notify the Chief Clerk of the Council and every member of the Council by registered or certified mail, prior to the time of the Council meeting when action is to be taken upon said legislation.

(c) Where there is a financial interest, as set forth in Section 20-607(a), by any member of Council or other City officer or employee in any award, contract, lease, case, claim, decree or judgment, other than legislation, the person having such interest, prior to any City action thereon, shall notify, by registered or certified mail, the Commissioner, Secretary and/or Executive Director of the pertinent agency, authority, board or commission, and the Board of Ethics and the Department of Records which shall maintain a public record of such notices; in the event of action within a department or by a department head, such notice by registered or certified mail shall be given, prior to any action taken, to the Mayor, the Managing Director, the Board of Ethics and the Department of Records which shall maintain a public record of such notices.

This Section shall not apply to routine applications or requests for routine information or other matters which are of a ministerial nature and do not require substantial discretion on the part of a City officer or employee.

§ 20-609. Confidential Information.

No member of the Council or other elected official or City officer or employee, paid or unpaid, full-time or part-time, shall directly or indirectly disclose or make available confidential information concerning the property, government or affairs of the City without proper legal authorization, for the purpose of advancing the financial interest of himself or others.

§ 20-610. Statement of Financial Interests.

(1) All individuals who are paid an annual salary pursuant to the provisions of Sections 20-303, 20-304 and 20-305 of this Chapter and all members of boards and commissions whether compensated or not shall file a statement of financial interests for the preceding calendar year with the Board of Ethics no later than the first day of May of each year that he holds office and of the year after he leaves such office except that for calendar year 1983 the effective filing date shall be July 1, 1984. All such individuals or members who take office after the effective filing date or less than thirty (30) days before the effective filing date must file a statement of financial interest for the preceding calendar year within thirty (30) days of taking office.

(2) The statement of financial interests filed pursuant to this Section shall be signed under penalty of perjury and include the following information for the prior calendar year with regard to the individual required to file the statement:

(a) The name, address and position of the individual required to file statement.

(b) The occupation or profession of the individual required to file the statement.

(c) Any direct or indirect interest in any real estate which was sold or leased to the City of Philadelphia or any of its departments, boards, commissions, authorities or other agencies; purchased or leased from the City of Philadelphia or any of its departments, boards, commissions, authorities or other agencies; or was subject to any condemnation proceeding by the City of Philadelphia or any of its departments, boards, commissions, authorities or other agencies.

(d) The name and address of each creditor to whom is owed in excess of five thousand (\$5,000) dollars and the interest rate thereon. However, loans or credit extended between members of the immediate family and mortgages securing real property which is the principal residence of the individual filing shall not be included.

(e) The name and address of any person who is the direct or indirect source of income totalling in the aggregate five hundred (\$500) dollars or more. However, this provision shall not be construed to require the divulgence of confidential information protected by statute or existing professional codes of ethics.

(f) The name and address of any person from whom a gift or gifts valued in the aggregate at two hundred (\$200) dollars or more were received, and the value and the circumstances of each gift.

(g) The source of any honorarium received which is in excess of one hundred (\$100) dollars.

(h) Any office, directorship or employment of any nature whatsoever in any business entity.

(i) Any financial interest in any legal entity engaged in business for profit.

(3) Except for gifts reported under § 20-610(2)(f), the statement of financial interests need not include specific amounts for any of the items required to be listed.

(4) All statements of financial interest filed pursuant to the provisions of this Section shall be made available for public inspections and copying during regular office hours.

§ 20-611. Notice to Members of Council, Other City Officers and Employees.

It shall be the duty of each head of a department, agency, authority, board, and commission to furnish a copy of this ordinance to each and every employee under his or her direction.

§ 20-612. Penalties and Other Consequences of Violations.

(1) Penalties for violations of this Chapter shall be as set forth in Chapter 20-1300.

(2) City Council shall have the right to repeal legislation enacted in violation of this Chapter. The Mayor, with the concurrence of a majority of all the members of City Council, may void any award, contract, lease, case, claim, decision, decree or judgment made in violation of this Chapter, provided that no such legislative act including ordinances and resolutions, award, contract, lease, case, claim, decision, decree of judgment may be avoided because of the interest of an officer or employee unless such contract is made in the official capacity of such officer or employee or by a board or body of which he is an officer, member or employee.

§ 20-613. Ethics-Related Matters Incorporated as Part of this Chapter.

(1) The following provisions of the Code are incorporated by reference as part of this Chapter and shall be subject to the jurisdiction of the Board of Ethics under § 20-606(including, but not limited to, the Board's powers and duties relating to education, training, issuance of advisory opinions, receipt of complaints, investigations, referral, and adjudication), and violations of these provisions shall be subject to the penalties set forth in Chapter 20-1300:

(a) The provisions of § 17-1407(2) 50 prohibiting certain persons from making material misrepresentations or omissions in disclosures required by Chapter 17-1400 51 (relating to Non-Competitively Bid Contracts) and by Chapter 17-1300 52 (relating to Competitively Bid Contracts).

(b) The provision of § 20-1006(4) prohibiting the failure to file information as required by § 20-1006 or the making of material misstatements or omissions in any filing required by that Section in Chapter 20-1000 (relating to Campaign Contributions and Expenditures).

§ 20-614. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application and to this end the provisions of this ordinance are severable.

§ 20-615. Repealer.

This ordinance hereby repeals any prior inconsistent ordinance.

Board Regulation 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. 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 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 their agent for use in advocating for or influencing the election of the candidate; and
- ii. Money or things having a monetary value received by a political committee, political party, political campaign, 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 the officer's or employee's City job or appointment; or
- iii. When acting in their official capacity as a City appointed officer or employee.

l. Partisan political group. Any committee, club, or other organization whose primary purpose is to promote the success or failure of a political party, candidate, or political campaign.

m. Political activity. An activity directed toward the success or failure of a political party, candidate, political campaign, or partisan political group.

n. Political campaign. A group of people organized by or on behalf of an individual in order to obtain that individual's nomination or election to public elective office.

o. Political party. Includes any national, state, or local political party, or any affiliate thereof, such as a ward committee.

p. Public elective office. Any public office for which candidates are nominated or elected as representing a political party.

q. Social media. Facebook, Twitter, Myspace, LinkedIn, Instagram, Reddit, a blog, SnapChat, or any similar website or Internet platform.

8.2 Applicability. Except where expressly indicated otherwise, the provisions of this Regulation apply to all appointed officers and employees.

SUBPART B. PROHIBITED ACTIVITY

8.3 No political activity on duty.

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 them as a City officer or employee; or
- c. In City Hall or in any other City-owned or City-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 PARAGRAPH 8.3

- 1) An employee may not display in her City workplace a sticker promoting a political party or candidate.
- 2) An employee may not wear a button promoting a candidate while in his uniform, even if he is not on duty.
- 3) An employee may not sign a nominating petition while in City Hall or in a City-owned or City-leased building or office.

8.4 No political activity using City resources.

An appointed officer or employee shall not engage in political activity:

- a. Using any City-owned or City-leased resources, such as telephones, smart phones, tablets, vehicles, printers, computers, or other supplies or equipment.
- b. Via a City-owned or City-operated social media account or a social media account that presents itself as being for official City business.

EXAMPLES FOR PARAGRAPH 8.4

- 1) An employee may not send an email that supports a candidate while using the City's email system, a City computer, or a City-provided smart phone.
- 2) An appointed officer may not make a post that supports a political party on the official Facebook page for the officer's department.
- 3) An employee may not use a City-owned photocopier to copy campaign literature.

8.5 No political activity using City position.

An appointed officer or employee shall not use their authority, influence, title, or status as a City officer or employee while engaging in political activity, such as:

- a. Using their title or status as a City officer or employee while participating in political activity;*
- b. Using their 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 PARAGRAPH 8.5

- 1) An employee may write a letter to the editor promoting a candidate for public office so long as he does not make reference to his title or his status as a City employee in that letter.
- 2) An employee uses a photo of herself in her uniform in her personal Google account profile. The employee may not send emails in support of a candidate from this account because her profile photo of herself in uniform will appear as part of each such email.

* Subparagraph 8.5(a) does not apply to City Council appointed officers and employees. See Paragraph 8.12.

3) An employee uses their City title in her profile headline on their personal LinkedIn account. Because a LinkedIn headline automatically accompanies almost every action on that platform, the employee may not post messages on LinkedIn supporting a candidate for public elective office.

8.6 No political fundraising.

An appointed officer or employee shall not:

a. Be in any manner concerned in the collection, receipt, or solicitation of contributions intended for a political purpose, either directly or indirectly.

b. Authorize or use a political committee to collect, receive, or solicit contributions intended for a political purpose on their behalf.

c. 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.

An appointed officer or employee of the Police Department shall not make a contribution to a candidate or a political committee affiliated with a candidate.

EXAMPLES FOR PARAGRAPH 8.6

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

2) An employee may not be a treasurer of a political committee.

3) An employee may not promote a candidate's fundraiser event on Facebook.

8.7 No involvement in political campaigns or in management of political parties.†

An appointed officer or employee shall not:

a. Take any part in the management or affairs of any political party.

b. Take any part in any political campaign.

c. Engage in political activity in coordination with a candidate, political party, or political campaign.

d. Republish or distribute any printed campaign literature that was produced or paid for by a candidate, political party, or political campaign.

e. Be a member of any national, state, or local committee of a political party.

f. Be an officer of a partisan political group or a member of a committee of a partisan political group.

EXAMPLES FOR PARAGRAPH 8.7

1) An appointed officer may not serve as a delegate to a political party convention.

† Paragraph 8.7 does not apply to City Council appointed officers and employees. See Paragraph 8.12.

- 2) An employee may not participate in get-out-the-vote activities organized or sponsored by a political party.
- 3) An employee may not be a candidate for public elective office or political party office.
- 4) An appointed officer may not circulate nomination petitions for a candidate for public elective office.
- 5) An employee may not distribute campaign posters that she obtains from a political campaign.
- 6) An employee may not volunteer at a phone bank organized by a candidate's campaign.
- 7) An employee may not be a candidate for a position on an election board such as judge of election, majority inspector, and minority inspector.
- 8) An employee may not serve as a committee person or ward leader.
- 9) A representative of the campaign of a candidate for State Senate sends an appointed officer a direct message on Twitter asking the appointed officer to tweet about the candidate's upcoming rally. The appointed officer may not make such tweets at the request of the campaign.

SUBPART C. PERMISSIBLE ACTIVITY

8.8 Appointed officers or employees may register and vote in any election and may be members of a political party or a partisan political group.

8.9 So long as they comply with the restrictions set forth in Subpart B, appointed officers and employees may:

- a. Publicly express their personal opinion on political matters or candidates.
- b. Campaign for or against referendum questions, constitutional amendments, federal or state laws, or municipal ordinances.
- c. Participate in civic, community, labor, or professional organizations, including seeking election to positions within such organizations.
- d. Circulate petitions related to referendum questions, constitutional amendments, federal or state laws, municipal ordinances, or other matters of public interest.
- e. Assist in voter registration drives that are not organized or sponsored by a political party, a candidate, or a political campaign.
- f. Sign a political petition, such as a nominating petition, including those that are circulated by a political party, candidate, or political campaign.
- g. Attend political rallies, conventions, fundraisers, or other political events as a spectator.
- h. Make contributions intended for a political purpose, except that appointed officers and employees of the Police Department may not make contributions to a candidate or to a political committee affiliated with a candidate.

i. Participate in political activities organized or sponsored by a civic, community, labor, or professional organization or a partisan political group where the organization or group has not acted in coordination with a political party, candidate, or political campaign with regard to those activities.

EXAMPLES FOR PARAGRAPH 8.9

- 1) An employee may place in his yard a sign supporting a candidate.
- 2) An appointed officer may write a letter to the editor expressing their support for a candidate for City office.
- 3) An employee may wear a political party button when the employee is not on duty, at her City workplace, or in uniform.
- 4) An employee may volunteer at a phone bank that promotes a candidate and that is organized by the employee's union, where the union has not coordinated with a candidate's campaign.

8.10 Permissible activity involving social media.

So long as they comply with the restrictions set forth in Subpart B, appointed officers and employees may:

- a. Use social media to express their personal opinion on political matters, including to express support for or opposition to a candidate, political campaign, or political party.
- b. Identify in their social media profile their title or status as a City officer or employee and the political party he or she supports.
- c. Share, respond to, or follow the social media account, post, or page of a political party, candidate, or political campaign.

Appointed officers and employees must ensure that their City title or status is not referenced, reproduced, or depicted in any social media post they make that expresses support for or opposition to a candidate, political campaign, or political party.

If a social media platform automatically reproduces profile information alongside user actions, appointed officers or employees must choose between including their title or status in the profile for that platform or using that platform to express support for or opposition to candidates, political campaigns, or political parties.

EXAMPLES FOR PARAGRAPH 8.10

- 1) An off-duty employee using her personal mobile phone and Instagram account may “like” an Instagram post made by a candidate for Mayor.
- 2) An off-duty employee using his personal mobile phone and Twitter account may retweet a tweet by a candidate for the U. S. Senate.
- 3) The campaign of a candidate for the U. S. House of Representatives publishes a post on Instagram that includes a picture of the candidate with Beyoncé and the statement “Hey everybody! Please share this amazing picture with all your friends!!” A City employee may share the photo on his personal social media accounts.

8.11 Family member of a candidate.

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, but may not engage in any other activity that would be prohibited by this Regulation.

EXAMPLES FOR PARAGRAPH 8.11

- 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.
- 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.

8.12 City Council employees.

In addition to activity permitted by Paragraphs 8.8 through 8.11, so long as they comply with the applicable restrictions set forth in Subpart B, appointed officers and employees of City Council may:

- a. Take part in the management or affairs of a political party or in a political campaign, including engaging in activity in coordination with a candidate, political party, or political campaign.
- b. Republish or distribute printed campaign literature that was produced or paid for by a candidate, political party, or political campaign.
- c. Be a member of any national, state, or local committee of a political party or an officer of a partisan political group or a member of a committee of a partisan political group.
- d. Use their title while engaging in political activity.

EXAMPLES FOR PARAGRAPH 8.12

- 1) An employee of City Council may be a committeeperson.
- 2) An employee of City Council may be a candidate for political party office.
- 3) An employee of City Council may serve as the campaign manager for a candidate for City Council.
- 4) An employee of City Council may serve as a delegate to a political party convention.

SUBPART D. MEMBERS OF CITY BOARDS AND COMMISSIONS

8.13 Because the following entities exercise significant powers of City government, their members shall be fully subject to the provisions of this Regulation, except as provided in Paragraph 8.16:

- a.** Air Pollution Control Board
- b.** Art Commission
- c.** Board of Building Standards
- d.** Board of Ethics
- e.** Board of Health
- f.** Board of Labor Standards
- g.** Board of Pensions and Retirement
- h.** Board of Revision of Taxes
- i.** Board of Safety and Fire Prevention
- j.** Board of Surveyors
- k.** City Planning Commission
- l.** Civil Service Commission
- m.** Commission on Human Relations
- n.** Fair Housing Commission
- o.** Free Library of Philadelphia, Board of Trustees
- p.** Historical Commission
- q.** Historical Commission Architectural Committee
- r.** Historical Commission Committee on Historic Designation
- s.** Licenses & Inspections Review Board
- t.** Living Wage and Benefits Review Committee
- u.** Philadelphia Gas Commission
- v.** Police Advisory Commission
- w.** Sinking Fund Commission
- x.** Tax Review Board
- y.** Vacant Property Review Committee
- z.** Water, Sewer and Storm Water Rate Board
- aa.** Zoning Board of Adjustment

8.14 A member of a board or commission not listed in Paragraph 8.13 shall only be subject to those provisions of this Regulation that prohibit (a) political activity while on duty (Paragraph 8.3), (b) political activity using City resources (Paragraph 8.4), or (c) the use of City position for political activity (Paragraph 8.5).

8.15 Nominating Panels.

A member of the Educational Nominating Panel, Civil Service Panel, or Finance Panel shall be fully subject to the provisions of this Regulation, but only for those periods of time when the panel is convened, as provided in Home Rule Charter Sections 3-1003 and 12-207.

8.16 A member of a board or commission who is separately a City officer or employee shall be subject to this Regulation without regard to their position on the board or commission.

EXAMPLES FOR PARAGRAPH 8.16

- 1) An employee of the Water Department is a member of the Commission for Women. The employee is subject to all parts of this Regulation that apply to City employees, even though the Commission is not listed in Paragraph 8.13.
- 2) An employee of City Council serves on an advisory Board formed by the Mayor. The City Council employee is subject to this Regulation as provided in Subparts B and C, not as provided by Paragraph 8.14.
- 3) A City of Philadelphia elected official serves on a commission listed in Paragraph 8.13. The elected official is not subject to this Regulation.

SUBPART E. PENALTIES

8.17 The penalties for violations of Home Rule Charter Section 10-107 are set forth at Charter Sections 10-109 and 10-107(6). 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. The Board shall not seek imprisonment as a sanction if an appointed officer or employee engages or participates in prohibited political activity.

