

DEPARTMENT OF RECORDS

2018 SEP 26 AM 10:39

338199



CITY OF PHILADELPHIA
BOARD OF ETHICS

MEMORANDUM

TO: Department of Records, City Hall Room 156
Attn: Kattie Anderson
Anthony Tann, Jr.

FROM: Maya Nayak, General Counsel *M. Nayak / DS*

DATE: September 26, 2018

SUBJECT: Board of Ethics Regulation 1 ("Campaign Finance")

CC: Richard Feder, Chief Deputy Legislation & Counsel to Solicitor
(via email)

At a public meeting on September 12, 2018, the Board of Ethics voted to approve for public comment the proposed amendments to Regulation 1 ("Campaign Finance") that are attached. In accordance with Section 8-407 of the Home Rule Charter, the proposed amendments have been submitted to the Law Department, which has given approval as reflected in the attached Law Department memorandum. Please advertise these proposed amendments to Regulation 1 and make them available for public inspection.

In accordance with past practice that our Office has previously discussed with Commissioner Leonard, the Board has already scheduled a public hearing on these proposed amendments to be held on October 17, 2018 at 1:00 p.m. at this location: Philadelphia Board of Ethics, Room 18-020, One Parkway Building, 1515 Arch Street, 18th Floor, Philadelphia, PA 19102.

It would be very helpful for the Department of Records' newspaper legal notice of these proposed amendments to include the time and location of the October 17, 2018 public hearing on these proposed amendments. The Board will also separately arrange for newspaper and website notice of the October 17, 2018 public hearing.

Please let me know if you have any questions. Thank you for your assistance with this matter.

Enclosures: Law Department Approval Memorandum
Board Regulation 1 Proposed Amendments Approved for Public Comment

Memorandum

TO: Shane Creamer, Executive Director, Board of Ethics
FROM: Richie Feder, Chief Deputy City Solicitor
DATE: September 25, 2018
SUBJECT: Amendments to Regulation No. 1: Campaign Finance

I have reviewed the Amendments to Regulation No. 1: Campaign Finance (attached) and find the proposed amendments to be legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may now forward these Regulations to the Department of Records where they will be made available for public inspection.



RICHARD FEDER
Chief Deputy City Solicitor

Attachment

DEPARTMENT OF RECORDS
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Proposed amendment approved by Board on September 12, 2018 for public comment posting
Strikethrough indicates matter removed; underline indicates new matter

PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 1
CAMPAIGN FINANCE

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SUBPART A. SCOPE; DEFINITIONS

1.0 Scope. The Board promulgates this Regulation pursuant to Philadelphia Home Rule Charter §§ 4-1100 and 8-407 and Philadelphia Code § 20-606(1)(a) to interpret Code Chapter 20-1000.

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

- a. Accounting period.** The period from January 1 of the year following the previous election that was held for the City elective office a candidate is seeking through 5:00pm of the day before he or she became a candidate.
- b. Agent.** An individual who acts at the direction of or is authorized to act on behalf of a candidate, a chair or treasurer of a political committee, or a political committee.
- c. Board.** The body of members of the Board of Ethics appointed pursuant to Section 3-806 of the Home Rule Charter.
- d. Candidate.** An individual who (i) files nomination papers or petitions for City elective office, or (ii) publicly announces his or her candidacy for City elective office, including a former candidate who receives post-candidacy contributions or makes post-candidacy expenditures.
- e. Candidate's campaign.** A candidate, the candidate's candidate political committee (or litigation fund committee), or an officer or an agent of any of the foregoing.
- f. City elective office.** The offices of Mayor, District Attorney, City Controller, Sheriff, City Commissioner, or City Council.
- g. Candidate political committee.** The one political committee used by a candidate to receive all contributions and make all expenditures as required by Section 20-1003 of the Philadelphia Code.
- h. Contribution.**
 - i. Any money, gifts, forgiveness of debts, ~~or~~ loans, or things having a monetary value incurred or received by a candidate's campaign for use in advocating or influencing the election of the candidate;
 - ii. An in-kind contribution, as defined at Paragraph 1.1(q);
 - iii. Any post-candidacy contribution, as defined at Paragraph 1.1(u); or
 - iv. Any money, gifts, forgiveness of debts, or loans incurred or received to pay fees and costs incurred in any civil, criminal, or administrative proceeding arising directly out of the conduct of the candidate's campaign or with respect to a covered election, such as a nomination petition challenge, a recount proceeding, or a Board investigation.
- i. Contributor.** A person or political committee who makes a contribution to a candidate, litigation fund committee, or political committee.
- j. Covered election.** Any primary, general or special election for City elective office.

- k. Electioneering communication.** Any broadcast, cable, radio, print, Internet, or satellite communication (a) that promotes, attacks, supports, or opposes a candidate, or (b) that, within 50 days of a covered election, names, refers to, includes, or depicts a candidate in that covered election; provided that, however, the term shall not include: (i) sponsorship or organization of a candidate debate or forum; or (ii) any news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication, including any Internet periodical publication, unless the station, newspaper, magazine, or publication is owned or controlled by a candidate, political committee, or political party.
- l. Excess post-candidacy contribution.** The portion of a post-candidacy contribution that, had it been contributed for the purpose of retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office, would have been in excess of the contribution limitations set forth in Subpart B.
- m. Excess pre-candidacy contribution.** The portion of a pre-candidacy contribution to a political committee that, had it been made to a candidate for City elective office, would have been in excess of the contribution limitations set forth in Subpart B.
- n. Expenditure.** The payment, distribution, loan, or advancement of money or things having a monetary value by a candidate, political committee, or other person for the purpose of influencing the outcome of a covered election, including:
- i. For the provision of a service or other valuable thing for the purpose of influencing the outcome of the nomination or election of a candidate;
 - ii. For the payment or provision of money or other valuable thing to compensate any person for services rendered to a candidate or candidate political committee;
 - iii. For an independent expenditure;
 - iv. For an electioneering communication; or
 - ~~iv~~v. To obtain, defend, or challenge a candidate's place on the ballot, including payments to workers to circulate nominating petitions.
- o. Former candidate.** An individual who was a candidate for City elective office becomes a former candidate:
- i. On the day after a general election, if he or she was unopposed in that election;
 - ii. On the day after a primary election, if he or she concedes that election;
 - iii. When his or her opponent concedes, if he or she was opposed in a general election; or
 - iv. If an election is contested, when that contest is resolved.

p. Independent expenditure. An expenditure to influence the outcome of a covered election that is made without the cooperation or consultation of any candidate's campaign and that is not made in concert with or at the request or suggestion of any candidate's campaign.

q. In-kind contribution.

- i. The provision of any goods or services directly to a candidate's campaign without charge or at a charge that is less than the usual and normal charge for such goods or services;
- ii. The payment or agreement to pay a third party to provide goods or services to a candidate's candidate political committee, if the goods and services are in fact provided; or
- iii. Any expenditure that advocates or influences the nomination or election of a candidate that is coordinated with that candidate's campaign, as provided in Subpart H.

The term "in-kind contribution" does not include volunteer labor as described in Paragraph ~~1.11(g)~~ 1.10(g).

r. Litigation fund committee. The committee established by a candidate to receive contributions and make expenditures solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of a candidate's election campaign or participation in an election, as described in Subpart G.

s. Person. An individual, a political committee, a corporation, ~~or a partnership, a sole proprietorship, or any other form of business or nonprofit for-profit or not-for-profit~~ organization.

t. Political committee. Any committee, club, association, political party, or other group of persons, including the candidate political committee of a candidate for office in a covered election, which receives contributions or makes expenditures for the purpose of influencing the outcome of a covered election.

u. Post-candidacy contribution. Money, gifts, forgiveness of debts, loans, or things having a monetary value, received by a former candidate or his/her agent for use in retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office.

v. Post-candidacy expenditure. An expenditure made by a candidate, former candidate, or candidate political committee to defray the candidate's cost of transition or inauguration to City elective office or to retire debt that the candidate incurred to: (i) influence the outcome of a covered election; or (ii) cover transition or inauguration expenses.

w. Pre-candidacy contribution. A contribution made to a political committee that: (i) has been transferred to, or otherwise becomes available for expenditure by, a candidate for City elective office; and (ii) was made before such candidate became a candidate.

- x. **Pre-payment.** A payment made during the accounting period for any thing used or to be used by a candidate's campaign, including but not limited to: printed or produced campaign materials, such as sample ballots, shirts, signs, flyers, brochures, websites, photographs, audio or video recordings; advertising time or space; office space; or services or labor.
- y. **SPEC account.** A segregated pre/post-candidacy excess contribution account, as described in Subpart I.
- z. **Sample ballot.** A ballot distributed by a political committee that lists more than one candidate in a specific covered election and recommends that voters vote for the listed candidates.

SUBPART B. CONTRIBUTION LIMITS

1.2 Limits on contributions from individuals.

- a. An individual shall not make total contributions per calendar year of more than \$3,000 to a candidate for City elective office, including contributions made through one or more political committees.
- b. An individual shall not make total contributions per calendar year of more than \$3,000, including contributions made through one or more political committees, to a litigation fund committee established as described in Subpart G by a candidate for City elective office.
- c. An individual shall not make total post-candidacy contributions to a former candidate, including contributions made through one or more political committees, of more than \$3,000 between the general election and the end of that calendar year (or, in the case of candidates who do not win nomination, between the primary election and the end of that calendar year), and in each calendar year that follows the year of the general election.

1.3 Limits on contributions from political committees, partnerships, sole proprietorships, or other forms of business organization.

- a. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than \$11,900 to a candidate for City elective office, including contributions made through one or more political committees.
- b. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than \$11,900, including contributions made through one or more political committees, to a candidate's litigation fund committee.
- c. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total post-candidacy contributions to a former candidate, including contributions made through one or more political committees, of more than \$11,900 between the general election and the end of that calendar year (or, in the case of candidates who do not win nomination, between the primary election and the end of that calendar year), and in each calendar year that follows the year of the general election.

- d. In order to qualify for the \$11,900 contribution limit described in this Paragraph, the finances of a sole proprietorship ~~or~~, partnership, or other form of organization shall be distinct and segregated from the personal finances of its proprietor or partners.

1.4 Contributions made through one or more political committees.

- a. For the purposes of this Subpart, a contribution is made through a political committee when:
 - i. A person or political committee makes a contribution to a political committee and directs, suggests, or requests, whether in a direct, indirect, express, or implied manner, that the recipient political committee use all or part of the contributed money to make an expenditure to support a specific candidate. A determination that such a direction, suggestion, or request was made shall be based upon all the relevant facts and circumstances; or
 - ii. The contributing person or political committee has provided the majority of the contributions received by the recipient political committee, whether directly or indirectly, in the twelve months prior to the recipient political committee's expenditure to support the candidate, unless the recipient political committee can demonstrate, based on either a last in/first out or first in/first out accounting method that money from the contributing person or political committee was not used to make the expenditure to the candidate.
- b. For the purpose of the contribution limits, a contribution made through a political committee is from both the original contributing person or political committee and the recipient political committee through which the contribution is made. The entire amount of the contribution made through a political committee shall count toward the contribution limits of the original contributing person or political committee, and the entire amount shall also count toward the recipient political committee's contribution limits.

~~1.5~~ ~~During a non-election year:~~

- ~~a. Candidates for Mayor shall receive no more than \$250,000 in total contributions from political committees;~~
- ~~b. Candidates for District Attorney and Controller shall receive no more than \$100,000 in total contributions from political committees; and~~
- ~~c. Candidates for City Council, Sheriff, and City Commissioner shall receive no more than \$75,000 in total contributions from political committees.~~

1.65 Doubling of Contribution Limits.

- a. If a candidate for City elective office contributes \$250,000 or more of his or her personal resources to his or her candidate political committee, the contribution limits for all candidates for that office shall be doubled for that year and each subsequent year up to and including the year in which the covered election occurs, except as provided in Paragraph ~~1.6(b)~~ 1.5(b).
- b. The limits for post-candidacy contributions (Paragraphs 1.2(c) and 1.3(c)) and for contributions to litigation fund committees (Paragraphs 1.2(b) and 1.3(b)) do not double if a candidate contributes \$250,000 or more to his or her candidate political committee.
- c. A contribution that exceeds the contribution limits at the time it is accepted by a candidate exceeds the contribution limits described in this Subpart even if the contribution limits subsequently double and the contribution is less than the doubled limits.
- d. If a candidate political committee returns, repays, or refunds to a candidate any money the candidate had contributed from his or her personal resources prior to reaching the \$250,000 threshold, the returned amount shall not count toward the amount required to trigger doubling of the limits.
- e. Once the contribution limits double, they remain doubled even if:
 - i. The candidate whose contributions from his or her personal resources triggered the doubling ceases to be a candidate; or
 - ii. After the limits have doubled, a candidate political committee returns, repays, or refunds to the candidate a portion of the money contributed from the candidate's personal resources.
- f. If a candidate contributes \$250,000 or more of his or her personal resources to his or her candidate political committee, ~~as set forth in Paragraph 1.6,~~ within two business days he or she shall notify the Board of this fact by postal mail or email sent to the attention of the Board's Executive Director.

1.76 Candidates, candidate political committees, and litigation fund committees shall not accept any contribution that exceeds the limits set forth in this Subpart.

1.87 A pre-candidacy contribution made in the same calendar year that an individual becomes a candidate shall count toward the contribution limits set forth in this Subpart.

1.98 Candidates and contributors shall include the value of in-kind contributions when determining the total amount of contributions made or accepted in a calendar year.

1.109 If a person or political committee makes an expenditure to a political committee in order that a candidate's name be placed on a sample ballot, the amount of the expenditure from that person or political committee is a contribution to the candidate and shall count toward the contribution limits set forth in this Subpart, so long as the expenditure is not an independent expenditure.

~~1.1110~~ 1.1110 **Transactions that do not count toward the contribution limits.** The following are not subject to the contribution limits set forth in this Subpart:

- a. Contributions from a candidate's personal resources to the candidate's candidate political committee or to the candidate's litigation fund committee;
- b. Contributions from a candidate's candidate political committee to the candidate's litigation fund committee;
- c. A political committee's costs to print or distribute a sample ballot where a candidate, person, or another political committee has paid the usual and normal charge to that political committee to have the candidate placed on a sample ballot distributed by that political committee;
- d. A political committee's costs to print or distribute sample ballots that are distributed in a candidate's ward pursuant to Paragraph 1.32;
- e. Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication, including any Internet periodical publication;
- f. Incidental expenditures made by persons other than candidates' campaigns that are related to internet activity (such as the cost of hardware, software, or internet access) that advocates or influences the election of a candidate; or
- g. Volunteer labor provided to a candidate or a political committee.
 - i. Volunteer labor is work an individual provides without compensation from any entity or person for the benefit of a candidate. It may, among other things, include:
 - (1) Legal or accounting work;
 - (2) Entertainment such as a performance by a musical group or DJ; and
 - (3) Campaign work such as canvassing, working at a phone bank, or election-day get-out-the-vote activities.
 - ii. Volunteer labor does not include the donation to a candidate of:
 - (1) Equipment, such as computers, copiers, or printers;
 - (2) Resources, such as postage; or
 - (3) Materials, such as stationery or campaign literature.
 - iii. An individual engaged in volunteer labor may make incidental use of resources without such use being a contribution from the owner of the resource to the candidate for the purposes of the contribution limits. Incidental use does not include the use of resources to reproduce campaign material for public distribution.

SUBPART C. DATE OF ACCEPTANCE OF CONTRIBUTIONS WITH RESPECT TO THE CONTRIBUTION LIMITS

1.1211 Except as provided in Paragraphs 1.12, 1.13, and 1.14 ~~1.15~~, the date of acceptance of a contribution is the date that the contribution comes into the possession of a candidate's campaign. A candidate's campaign shall not designate as the date a contribution is accepted any date other than the date of acceptance as identified in this Subpart.

1.1312 If a contribution is delivered to a mailbox, the date that the contribution is accepted is the date on which the candidate's campaign finds the contribution in the mailbox.

1.1413 If a contribution is made by credit card through a website, the date that the contribution is accepted is the date on which the contributor submits his or her credit card information on the website.

1.1514 In-kind contributions.

- a. If a person makes an in-kind contribution by providing goods or services directly to a candidate's campaign, the date of acceptance of that contribution is the date that the candidate's campaign receives the goods or services.
- b. If a person makes an in-kind contribution by paying or agreeing to pay a third party to provide goods or services to a candidate's campaign ~~candidate political committee~~, the date of acceptance of that contribution is the date ~~of the agreement to pay, if the goods and services are in fact~~ goods or services are provided or the date payment is made, whichever is earlier.

SUBPART D. ATTRIBUTING CONTRIBUTIONS MADE BY CHECK FOR THE PURPOSE OF THE CONTRIBUTION LIMITS

1.1615 A contribution made by a check that reflects a joint checking account of two or more individuals shall be attributed to the joint account holder who signs the check. If more than one account holder signs a contribution check, the contribution shall be apportioned evenly between the signers. If an individual other than an account holder signs a contribution check, the contribution shall be attributed evenly among the joint account holders.

1.1716 A contribution made by a check drawn on the account of a political committee is a contribution from that political committee.

1.1817 A contribution made by check drawn on the account of a partnership, sole proprietorship, or other form of business organization is a contribution from the partnership, sole proprietorship, or other form of business organization, unless other facts demonstrate that the contribution is from the signer of the check.

SUBPART E. CAMPAIGN FINANCE DISCLOSURES

1.18 Electronic filing of ~~Method of filing~~ campaign finance reports and statements. Any campaign finance report or statement required by this Subpart shall be electronically filed with the Board ~~through the Department of Records~~ and shall be submitted in a format required by the Board ~~approved by the Department of Records~~. Upon receipt of any filing, the Board shall ~~issue~~ provide a ~~written~~ printable receipt.

Information on how to electronically file a report or statement is available at the office of the Department of Records in City Hall Room 156 and at: <http://www.phila.gov/ethicsboard/campaignfinance/Pages/Filecfinformation.aspx>

[NOTE: This Paragraph was moved from 1.23, below]

1.19 Campaign finance reporting schedule:

	Deadline	Complete As Of
Cycle 1	Sixth Tuesday Pre-Primary Election	50 days before the Primary Election
<u>Cycle 101</u>	<u>Fourth Tuesday Pre-Primary Election</u>	<u>The Sunday preceding the deadline</u>
Cycle 2	Second Friday Pre-Primary Election	The Monday preceding the deadline
<u>Cycle 201</u>	<u>Final Tuesday Pre-Primary Election</u>	<u>The Sunday preceding the deadline</u>
Cycle 10	24 hour reporting – continuous through day of Primary Election	Starts Second Tuesday Pre-Primary Election
Cycle 3	30 Day Post-Primary Election	20 days after the Primary Election
Cycle 4	Sixth Tuesday Pre-General Election	50 days before the General Election
<u>Cycle 401</u>	<u>Fourth Tuesday Pre-General Election</u>	<u>The Sunday preceding the deadline</u>
Cycle 5	Second Friday Pre-General Election	The Monday preceding the deadline
<u>Cycle 501</u>	<u>Final Tuesday Pre-General Election</u>	<u>The Sunday preceding the deadline</u>
Cycle 11	24 hour reporting- continuous through day of General Election	Starts Second Tuesday Pre-General Election
Cycle 6	30 Day Post-General Election	20 days after the General Election
Cycle 7	Annual Report	January 31 of the year after the Election

Note: A schedule with the specific reporting deadlines may be found following this Regulation and at <http://www.phila.gov/ethicsboard/campaignfinance/Pages/default.aspx>

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1.20 Required ~~disclosures~~ filings for covered City elections.

<u>Reporting Cycle</u>	<u>Who must file</u>
<u>Cycle 1</u> <u>Cycle 4</u>	<ul style="list-style-type: none"> ➤ <u>The candidate political committee of a candidate for City elective office, if the committee has made expenditures in the reporting period.</u> ➤ <u>A political committee that in the reporting period has made expenditures to influence the outcome of a covered election, including contributions made to a candidate for City elective office or for electioneering communications.</u> ➤ <u>Any other person, including an individual or a not-for-profit organization, that, in the reporting period, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.</u>
<u>Cycle 2</u> <u>Cycle 3</u> <u>Cycle 5</u> <u>Cycle 6</u> <u>Cycle 7</u>	<ul style="list-style-type: none"> ➤ <u>The candidate political committee of a candidate for City elective office, if that candidate is required to file for that cycle with the City Commissioners.</u> ➤ <u>A candidate for City elective office, if that candidate is required to file for that cycle with the City Commissioners.</u> ➤ <u>A political committee, including a political committee of a former candidate, that is required to file for that cycle with the Department of State or City Commissioners if, in the reporting period, the committee:</u> <ul style="list-style-type: none"> ○ <u>Has made expenditures or incurred debt to influence the outcome of a covered election, including contributions made to a candidate for City elective office or for electioneering communications.</u> ○ <u>Is carrying debt incurred to influence the outcome of a covered election or has made expenditures to pay down such debt.</u> ○ <u>Has accepted contributions or made expenditures to pay for transition or inauguration to City elective office or to pay down debt incurred for such transition or inauguration.</u> ➤ <u>Any other person, including an individual or a not-for-profit organization, that (1) is required to file a campaign finance report with the City Commissioners or Department of State that discloses expenditures to influence a covered election or, (2) in either Cycle 2 or Cycle 5, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.</u>
<u>Cycle 101</u> <u>Cycle 201</u> <u>Cycle 401</u> <u>Cycle 501</u>	<ul style="list-style-type: none"> ➤ <u>A political committee or other person, including an individual or a not-for-profit organization, but not a candidate political committee, that, in the reporting period, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.</u>
<u>Cycle 10</u> <u>Cycle 11</u>	<ul style="list-style-type: none"> ➤ <u>During the 24 hour reporting period, a candidate political committee that receives contributions or pledges of \$500 or more shall electronically file with the Board reports disclosing those contributions or pledges within 24 hours of receipt.</u> ➤ <u>During the 24 hour reporting period, a political committee or other person that makes independent expenditures of \$500 or more to influence a covered election (or incurs debts for such expenditures) shall electronically file with the Board reports disclosing those independent expenditures within 24 hours.</u>

~~a. For candidates and candidate political committees.~~

- ~~i. Candidate political committees shall electronically file with the Board a campaign finance report or statement for each reporting deadline listed in Paragraph 1.19 that occurs during the year of the covered election in which he or she is a candidate; however, the committee need not file for Cycles 1 or 4 if, during the reporting period, the committee did not make any expenditures.~~

~~During a non election year, if a candidate's candidate political committee is required to file a campaign finance report with the City Commissioners or Department of State and that report discloses, or is required to disclose, expenditures to influence a covered election, the committee shall electronically file a copy of that report with the Board.~~

- ~~ii. Candidates shall electronically file with the Board reports or statements for any cycle for which the candidate was required to file such a report or statement with the City Commissioners.~~

- ~~iii. **24 hour reporting period.** During the 24 hour reporting period preceding a covered election in which the individual who has authorized that committee is a candidate, a candidate political committee that receives contributions or pledges of \$500 or more shall electronically file with the Board reports disclosing those contributions or pledges within 24 hours of receipt.~~

~~b. A political committee of a former candidate shall electronically file with the Board a campaign finance report or statement for any reporting cycle for which the committee is required to file a report or statement with the City Commissioners or Secretary of State that discloses:~~

- ~~i. Contributions accepted or expenditures made to pay off debt incurred to influence the outcome of a covered election;~~
- ~~ii. Contributions accepted or expenditures made to pay for transition or inauguration to City elective office or to pay off debt incurred for transition or inauguration to City elective office;~~
- ~~iii. Debt incurred to influence the outcome of a covered election; or~~
- ~~iv. Expenditures made to influence the outcome of a covered election, including contributions made to a candidate for City elective office.~~

~~e. A **litigation fund committee** established pursuant to Subpart G shall electronically file with the Board a campaign finance report or statement for any reporting cycle listed at Paragraph 1.19 in which the committee received contributions or made expenditures.~~

[NOTE: This sub-paragraph has been moved to new Paragraph 1.22 below]

~~d. Other political committees and persons.~~

- ~~i. A **political committee** shall electronically file with the Board a campaign finance report or statement for any reporting cycle listed at Paragraph 1.19 in which the committee makes expenditures or incurs debt to influence the outcome of a covered election.~~

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- ii. ~~During the 24 hour reporting period, **political committees** and **other persons** that make independent expenditures of \$500 or more to influence a covered election (or incur debts for such expenditures) shall electronically file with the Board reports disclosing those independent expenditures within 24 hours.~~
- iii. ~~A **political committee** shall also electronically file with the Board a campaign finance report or statement for any reporting cycle in which the committee files a campaign finance report or statement with the City Commissioners or Secretary of State that discloses debt incurred to influence the outcome of a covered election.~~

1.21 Electioneering communications. Special cycles for reporting of electioneering communications.

	Deadline	Complete As Of
Cycle 101	Fourth Tuesday Pre Primary Election	The Sunday preceding the deadline
Cycle 201	Final Tuesday Pre Primary Election	The Sunday preceding the deadline
Cycle 401	Fourth Tuesday Pre General Election	The Sunday preceding the deadline
Cycle 501	Final Tuesday Pre General Election	The Sunday preceding the deadline

Note: A schedule with the specific reporting deadlines may be found at <http://www.phila.gov/ethicsboard/campaignfinance/Pages/default.aspx>[†]

~~A **political committee or other person, including an individual or a not-for-profit organization**, shall file a campaign finance report for any reporting cycle listed in this Paragraph in which it spends or promises to pay, in the aggregate, \$5,000 or more for electioneering communications published within fifty (50) days of a covered election. The report shall include all transactions that occurred from eight months prior to the election through the “complete as of” date in the chart above that have not previously been disclosed in a report filed with the Board.~~

- a. Any person required to file a campaign finance report with the Board because such person made, or promised to make, electioneering communications of \$5,000 or more during a reporting cycle as specified in Paragraph 1.20 shall include all transactions that have not previously been disclosed in a report filed with the Board and that occurred from eight months prior to the election through the “complete as of” date.

[†]The schedule may also be found immediately following this Regulation.

*Editor’s note: As provided by Phila. Code § 20-1006(1)(e), in addition to the reporting cycles listed at Paragraph 1.21, a political committee or other person, including an individual or a not-for-profit organization, must file a campaign finance report for cycles 1, 2, 4, and 5, if during that cycle the political committee or other person makes expenditures for electioneering communications as described in Paragraph 1.21. These cycles were inadvertently omitted from the table at Paragraph 1.21.

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- b. If an organization other than a political committee that files a report pursuant to this Paragraph has used funds in segregated accounts to make expenditures for electioneering communications, that organization is only required to disclose sources of contributions that were deposited into the segregated accounts used to make those expenditures.
- c. An individual who files a report pursuant to this Paragraph is only required to disclose contributions that he or she receives or solicits in order to fund the expenditures disclosed in the report.

1.22 A **litigation fund committee** established pursuant to Subpart G shall file electronically with the Board ~~a campaign finance report or statement for any reporting cycle listed at Paragraph 1.19 in which the committee received contributions or made expenditures for which the committee is required to file with the Department of State or City Commissioners.~~

[NOTE: This sub-paragraph was moved from Paragraph 1.20(c) below]

~~1.23—Method of filing campaign finance reports and statements.~~ Any campaign finance report or statement required by this Subpart shall be electronically filed with the Board through the Department of Records and shall be submitted in a format approved by the Department of Records. Upon receipt of any filing, the Board shall issue a written receipt.

Information on how to electronically file a report or statement is available at the office of the Department of Records in City Hall Room 156 and at:

<http://www.phila.gov/ethicsboard/campaignfinance/Pages/Filecfinformation.aspx>

[NOTE: This sub-paragraph has been moved to Paragraph 1.18, above]

~~1.22~~ **1.23** **Content of campaign finance reports and statements.**

- a. A campaign finance report filed with the Board shall disclose all contributions and other receipts received, each expenditure made, ~~and~~ any debt incurred during the relevant reporting period. ~~The report shall also disclose, and~~ the cash balance at the beginning and end of the reporting period.
 - i. For each contribution of more than \$50, the report shall disclose the date and amount of the contribution and the contributor's name and address.

For each contribution of more than \$250, the report shall disclose the date and amount of the contribution, the contributor's name and address, and, in the case of contributions from individuals, the contributor's occupation, employer, and employer's address.
 - ii. For each receipt other than a contribution (such as interest income, returned checks, or refunds), the report shall disclose the name and address of the source of the funds ~~as well as~~ and a description of the receipt.
 - iii. For each expenditure, the report shall disclose the date, amount, and recipient of the expenditure ~~as well as~~ and the recipient's address and the purpose of the expenditure.

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If the filer has used a credit or charge card to make expenditures, the filer shall disclose and itemize each purchase made with such a card, not merely a lump sum payment.

- iv. For each unpaid debt, the report shall disclose the name and address of the creditor, the amount of debt owed, and the date the debt was incurred, as well as a description of the debt.
- b. If, during ~~the relevant~~a reporting period, ~~the~~a filer has ~~spent, received, and accepted contributions, made expenditures, or incurred debt~~ of less than \$250, the filer may file a statement attesting to that fact in lieu of a full report. The statement shall set forth the filer's starting and ending balance for the reporting period.

1.24 ~~Sworn statement~~Affirmation required for campaign finance filings disclosures. Any candidate, treasurer, or other individual submitting a campaign finance report or statement to the Board shall ~~sign a written statement that subscribes and swears to or affirms~~affirm that the information set forth therein ~~is true and correct~~. The individual who ~~signs~~submits the report or statement ~~and the committee~~ shall be jointly and severally subject to liable for civil penalties if the report or statement ~~it~~ contains any material misstatements or omissions. ~~Any statement~~The affirmation required by this Paragraph shall be submitted ~~on a form as required by the Board available from the Department of Records~~.

SUBPART F. USE OF POLITICAL COMMITTEES AND CHECKING ACCOUNTS BY CANDIDATES

1.25 One committee and one checking account.

- a. A candidate for City elective office candidate's campaign shall have use no more than one political committee and one checking account for the City elective office ~~being sought, into which all the candidate is seeking. All~~ contributions and post-candidacy contributions for ~~such~~that office shall be made, and out of which all deposited into the candidate political committee's checking account. All expenditures and post-candidacy expenditures for that office shall be made, including post-candidacy expenditures from the candidate political committee's checking account. If a candidate is running for more than one City elective office simultaneously, he or she shall maintain a separate candidate political committee and checking account for each office being sought. [The final sentence of this sub-paragraph has been moved to new Paragraph 1.26, below.]

- ~~1.26~~ b. If a candidate maintains other political or non-political accounts for which contributions are solicited, such funds collected in those accounts shall not be used for the purpose of influencing the outcome of a covered election or to make post-candidacy expenditures.

c. Payment Service Providers.

- i. A candidate's campaign may use a Payment Service Provider (such as PayPal) to accept contributions so long as all such contributions are promptly transferred to the candidate political committee's checking account.

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ii. A candidate's campaign shall not use a Payment Service Provider to make expenditures.

1.27 d. **Use of savings account.** A candidate's campaign ~~a candidate~~ may transfer funds between ~~his or her candidate political committee~~ the candidate political committee's checking account and a single savings account so long as:

~~ai.~~ ai. The ~~candidate establishes the~~ savings account is at the same bank ~~that has his or her~~ as the checking account;

~~bii.~~ bii. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account;

~~eiii.~~ eiii. The candidate does not make any expenditures or withdrawals directly from the savings account, but first transfers funds to the checking account in order to make expenditures or withdrawals; and

~~div.~~ div. Within three business days of the establishment of the savings account, the candidate shall notify the Board by postal mail or email sent to the attention of the Board's Executive Director that he or she has established a savings account.

1.26 **Multiple offices sought.** If a candidate is running for more than one City elective office simultaneously, he or she shall maintain a separate candidate political committee and checking account for each office being sought.

~~1.28~~ 1.27 **Requirement to provide information to the Board about a candidate political committee.**

- a. A candidate who has a candidate political committee when he or she becomes a candidate shall, within three business days of becoming a candidate, notify the Board of the following information:
 - i. The committee's name and street address (other than a P.O. box);
 - ii. The name of the bank where the committee's checking account is established; and
 - iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the committee.
- b. If a candidate does not have a candidate political committee when he or she becomes a candidate, he or she shall notify the Board of this fact within three business days of becoming a candidate and shall provide the Board with his or her street address (other than a P.O. box), telephone number, and email address.
- c. If a candidate establishes a candidate political committee after he or she has become a candidate, he or she shall ~~notify the Board of~~ provide the information ~~set forth in Paragraph 1.28(a)~~ required by this Paragraph within three business days of the formation of the committee.
- ~~d. A candidate may satisfy the requirements of this Paragraph 1.28 by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners as long as the information described in Paragraph 1.28(a)(i) (iii) is included.~~

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~~e. d.~~ If the information required by this Paragraph 1.28 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.

~~f. e.~~ Information required by this Paragraph 1.28 shall be provided on a form required by the Board and available on the Board's website at [LINK] and shall be sent to the attention of the Board's Executive Director by postal mail or email.

~~1.29~~ **1.28 Exercising control over another political committee or bank account.**

~~A candidate has a political committee, for the purposes of this Subpart, if he or she exercises control over the political committee. The following are factors relevant to determining whether a candidate exercises control over a political committee other than his or her candidate political committee: Other than the candidate's designated candidate political committee or a litigation fund committee established pursuant to Subpart G, or a checking account of such committees, a candidate's campaign shall not exercise control over any political committee or checking account that makes expenditures to influence a covered election.~~

For example, a candidate's campaign may be found to exercise control over a political committee or an account if:

- ~~a.~~ The candidate or an agent of the candidate's campaign is the treasurer or chair of the other political committee or a signer on, or authorized user of, the account;
- ~~b.~~ The candidate or an agent of the candidate's campaign established or registered the other political committee or account; or
- ~~c.~~ The candidate is an authorized user or signer on the other political committee's bank account;
- ~~c. d.~~ The treasurer or chair of the other political committee, or a signer on or authorized user of the account, is an employee of the candidate;
- ~~e.~~ The other political committee has the same treasurer or chair as the candidate political committee; or
- ~~f.~~ The political committee's registered address is the same as the registered address of the candidate political committee or the residence or business of the candidate or the candidate political committee's treasurer or chair.

~~The presence of one or more of the factors enumerated above does not mandate a finding that a candidate exercises control over a given committee if the candidate does not in fact exercise control over that committee. Likewise, the absence of most or all of the factors enumerated above does not mandate a finding that a candidate does not exercise control over a given committee if the candidate does in fact exercise control over that committee.~~

~~1.30~~ **1.29 Exercising control over another political committee's expenditures.**

Other than expenditures made by the candidate's designated candidate political committee or a litigation fund committee established pursuant to Subpart G, a candidate's campaign shall not exercise control over an expenditure made to influence a covered election.~~A candidate also has a political committee, for the purposes of this Subpart, if the candidate or the candidate's agent exercises control over a specific expenditure made by that political committee. The following are factors relevant to determining whether a~~

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~~candidate or the candidate's agent exercises control over a specific expenditure made by a political committee:~~

For example, a candidate's campaign may be found to exercise control over an expenditure made to influence a covered election if:

- a. The candidate's campaign ~~candidate, candidate political committee, or the candidate's agent~~ provides the money to cover the specific expenditure;
- b. ~~The candidate, candidate political committee, or the candidate's agent~~ campaign selects the recipient of the expenditure; or
- c. ~~The candidate, candidate political committee, or the candidate's agent decides or directs that~~ campaign approves the expenditure or directs that it be made.

1.30. Reimbursed expenditures.

- a. A candidate or an agent of a candidate's campaign shall not use personal funds to make expenditures for campaign activities, except that a candidate or an agent of a candidate's campaign may make minor purchases, such as postage stamps, on behalf of the campaign so long as he or she is reimbursed by the candidate political committee within a reasonable amount of time.
- b. A candidate's campaign shall not make expenditures for campaign activities through a vendor's account, except as required by standard business practice, such as placement of advertisements by an advertising agency, except that a candidate's campaign may reimburse a vendor for costs that are incidental to the vendor's provision of services to the campaign.

1.31 This Subpart does not prohibit a candidate from maintaining a litigation fund committee as described in Subpart G.

1.32 This Subpart does not prohibit a candidate from making expenditures through up to one political committee in addition to his or her candidate political committee for the printing and distribution of sample ballots that are distributed in the candidate's ward. However, all contributions to the candidate for the City elective office being sought shall be made into the candidate's candidate political committee.

1.33 This Subpart does not prohibit a candidate from paying a political committee to conduct or organize get-out-the-vote activities (such as canvassing and the distribution of campaign literature or sample ballots) as long as:

- a. The recipient political committee offers similar services to other candidates; and
- b. The candidate does not exercise control over the political committee ~~as defined in Paragraph 1.29.~~

1.34 This Subpart does not prohibit a candidate from making a contribution within the contribution limits to his or her candidate political committee from ~~any other~~ a political committee controlled by the candidate, ~~as defined in Paragraph 1.30,~~ other than the candidate's litigation fund committee.

SUBPART G. LITIGATION FUND COMMITTEES

1.35 Litigation fund committee requirements.

- a. In addition to a candidate political committee, a candidate for City elective office may establish a litigation fund committee with a single separate checking account to solicit and receive contributions and make expenditures for the purposes described in Paragraph 1.35(c).
- b. The name of a litigation fund committee shall include the term “Litigation Fund.” The committee shall have a treasurer who shall be responsible for keeping records of the committee’s transactions.
- c. A candidate shall make expenditures from a litigation fund committee solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of the candidate’s election campaign or participation in a covered election, such as a nomination petition challenge, a recount proceeding, or a Board investigation.
- d. A candidate shall not make expenditures from a litigation fund committee to pay any judgment, settlement, fine, sanction, or other type of penalty arising out of any civil, criminal, or administrative proceeding.
- e. A candidate may make expenditures from his or her candidate political committee for the purposes described in Paragraph 1.35(c).

1.36 Requirement to provide information to the Board about a litigation fund committee.

- a. Within three business days of the formation of a litigation fund committee, a candidate shall notify the Board of the following information:
 - i. The litigation fund committee’s name and street address (other than a P.O. box);
 - ii. The name of the bank where the litigation fund committee’s checking account is established; and
 - iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the litigation fund committee.

~~If the litigation fund committee has been registered as a political committee, a candidate may satisfy the requirements of this Paragraph by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners or Secretary of State as long as the information described in (i) (iii) above is included.~~

- b. If the information required by this Paragraph 1.36 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.
- c. Information required by this Paragraph 1.36 shall be provided on a form required by the Board and available on the Board’s website at [LINK] and shall be sent to the attention of the Board’s Executive Director by postal mail or email.

1.37 Termination of a litigation fund committee.

- a. A litigation fund committee shall be terminated no later than six months after the date of the general election for the office which the candidate sought, except as provided in Paragraph 1.37(b).
- b. If six months after the date of the general election any matters are pending for which litigation fund committee funds may be expended, then a litigation fund committee shall be terminated within six months after the conclusion of all such matters, including any appeals.
- c. Before a litigation fund committee is terminated, the litigation fund committee's checking account shall be closed, and any remaining funds shall be returned to contributors according to one of the methods below:
 - i. On a "last in, first out" accounting basis;
 - ii. On a "first in, first out" accounting basis;
 - iii. On a pro-rata accounting basis; or
 - iv. On such other equitable basis as may be approved by a majority vote of the Board upon application in writing by a candidate or treasurer of a litigation fund committee by postal mail or email sent to the attention of the Board's Executive Director at least 40 days prior to the termination deadline.
- d. The Board may grant an extension for terminating a litigation fund committee upon application at least 40 days prior to the termination deadline to the Board's Executive Director in writing that demonstrates good cause for an extension.

SUBPART H. COORDINATED EXPENDITURES

1.38 An expenditure is coordinated with a candidate's campaign if it is made in cooperation, consultation or concert with the candidate's campaign, including the following:

- a. The expenditure is made at the request or suggestion of the candidate's campaign;
- b. A person suggests making an expenditure and the candidate's campaign assents to the suggestion;
- c. The person making the expenditure communicates with the candidate's campaign concerning the expenditure before making the expenditure;
- d. The candidate's campaign has solicited funds for or directed funds to the person making the expenditure, but only if the solicitation occurred within the 12 months before the election that the expenditure seeks to influence; or
- e. An agent of the candidate's campaign directs, places, or arranges the expenditure; or
- f. The person making the expenditure uses information obtained from the candidate's campaign to design, prepare, or pay for the specific expenditure at issue, unless the person has obtained that information from a public source or from a communication the candidate made to the general public. This subparagraph does not apply to the republication of campaign communications or materials, which is covered by Paragraph 1.39.

Example for 1.38(f): Philadelphians for Philadelphia PAC establishes a telephone bank to get out the vote for primary voters for Candidate A. Candidate A's campaign gives Philadelphians for Philadelphia a list of telephone numbers of people that contributed to Candidate A's campaign. Philadelphians for Philadelphia organizes the phone bank without any other input from Candidate A and spends \$11,900 to set up the phone bank and telephones individuals provided on the list from Candidate A. The \$11,900 spent by Philadelphians for Philadelphia is a coordinated expenditure with Candidate A because the PAC used information obtained from Candidate A's campaign for the phone bank. As such, Philadelphians for Philadelphia has made an \$11,900 in-kind contribution to Candidate A.

1.39 Republication of campaign communications or materials. For the purposes of the contribution limits, an expenditure made to reproduce, republish, or disseminate a campaign communication (including audio recordings or video footage) or campaign material (such as photographs, flyers, signs, or brochures) prepared by a candidate's campaign:

- a. Shall be considered an in-kind contribution made by the person making the expenditure.
- b. Shall be considered an in-kind contribution received by the candidate if the person making the expenditure obtains the communication or materials directly from the candidate's campaign or from another source with the consent of the candidate's campaign.

A campaign communication or campaign material is obtained with the candidate's consent if the candidate provides it to a third party for the purpose of enabling another person to obtain the communication or material from that third party and subsequently republish some or all of it.

- c. Shall not be considered an in-kind contribution if:
 - i. The communication or material is incorporated into a communication that advocates the defeat of the candidate that prepared the material;
 - ii. The item republished is a photograph obtained from a public source that is not controlled by the candidate's campaign; or
 - iii. The person's expenditures for republication of a candidate's communications or materials are less than \$100 in the aggregate per reporting period.

Example for 1.39(a) and (b): Three weeks before election day, ~~candidate~~ Candidate A's campaign uploads five minutes of b-roll video footage to her YouTube channel. The political committee Pennsylvanians for a Better Pennsylvania downloads the b-roll footage and uses it to create a television advertisement. The committee spends \$100,000 to run the advertisement on three television stations during the week before election day.

Candidate A posted the b-roll footage for the purpose of enabling another person to obtain it. Pennsylvanians for a Better Pennsylvania obtained a campaign communication created by Candidate A's campaign with the consent of the candidate's campaign. As such, the committee's expenditure of \$100,000 was coordinated with Candidate A's campaign and is both an excess in-kind contribution made by the committee and an excess in-kind contribution received by Candidate A.

- 1.40** An expenditure will not be considered a coordinated expenditure merely because:
- a. The person making the expenditure interviews the candidate;
 - b. The person making the expenditure has endorsed the candidate;
 - c. The person making the expenditure and the candidate's campaign use the same vendor, attorney, or accountant;
 - d. The person making the expenditure has obtained from the candidate a biography of the candidate or a position paper, press release, or similar material about the candidate; or
 - e. The person making the expenditure has invited the candidate to make an appearance before the person's members, employees, or shareholders.

**SUBPART I. EXCESS PRE-CANDIDACY CONTRIBUTIONS;
EXCESS POST-CANDIDACY CONTRIBUTIONS**

Note: The following requirements regarding excess pre-candidacy contributions are relevant only if, prior to becoming a candidate for City elective office, an individual accepts contributions in excess of the limits set forth in Subpart B.

- 1.41** The provisions of this Subpart regarding excess pre-candidacy contributions apply only to contributions received during the accounting period.

Example: On December 1, 2016, Candidate A declares her candidacy for the May 2017 Controller primary election. The accounting period for Candidate A is January 1, 2014 through November 30, 2016. The last Controller election was held in 2013 so January 1, 2014 would be the first day of the year following that election.

1.42 Prohibited Expenditures.

- a. A candidate or candidate political committee shall not spend any excess pre-candidacy contributions for the purpose of influencing the outcome of a covered election in which he or she is a candidate or for transition or inauguration to City elective office.
- b. A former candidate or the political committee of a former candidate shall not spend any excess post-candidacy contributions for the purposes of:
 - i. Transition or inauguration to City elective office; or
 - ii. Retiring debt incurred either to influence the outcome of a covered election or for expenses related to transition or inauguration to City elective office.
- c. A candidate or candidate political committee shall not transfer excess pre-candidacy contributions to the candidate's litigation fund committee established pursuant to Subpart G.

1.43 Exclusion of excess pre-candidacy contributions upon becoming a candidate.

- a. Except as provided in Paragraph 1.44, within ten days after becoming a candidate, a candidate shall exclude all excess pre-candidacy contributions from his or her candidate political committee checking account by one of the following methods:
 - i. Transferring excess pre-candidacy contributions to a segregated account; or
 - ii. Returning excess pre-candidacy contributions to their contributors.
- b. **Calculation of amount to be excluded.** A candidate shall determine the amount to be excluded by using one of the following methods:
 - i. **Dollar for dollar calculation.** A candidate shall exclude an amount equal to the total amount of excess pre-candidacy contributions received during the accounting period.

Example: On November 1, 2016, Friends of Candidate A receives a contribution of \$3,500 from Mr. B (\$3,000 within limits, \$500 excess) and a contribution of \$3,500 from Ms. C (same). On December 1, 2016, Candidate A declares her candidacy for the May 2017 Controller primary election. By December 11, 2016, Friends of Candidate A must exclude \$1,000 (\$500 excess from Mr. B + \$500 excess from Ms. C) from its checking account.

- ii. **Accounting-based calculation.** A candidate does not have to exclude any excess pre-candidacy contributions that he or she demonstrates, using either a last in/first out or first in/first out accounting method, were actually spent before becoming a candidate, provided that:
 - (1) Before accounting for the expenditure of any excess pre-candidacy contributions, an accounting shall be made for the expenditure of the balance of the committee account as it existed on the day before the start of the accounting period; and
 - (2) Pre-payments that were made by the candidate's political committee shall not constitute expenditures of excess pre-candidacy contributions using this accounting method.
- c. If the amount that the candidate shall exclude from the checking account of his or her candidate political committee exceeds the amount of cash the committee has on hand, the candidate shall use incoming contributions to cover the amount that shall be excluded.

1.44 Pre-candidacy segregation. A candidate does not have to exclude any excess pre-candidacy contributions that, upon receipt, he or she had transferred to a segregated pre-candidacy excess contribution account ("SPEC account"), provided that, if he or she used any funds in a SPEC account for pre-payments, the candidate shall exclude from his or her candidate committee account an amount equal to those pre-payments. Funds transferred into a SPEC account that were not used for pre-payments need not be included in accounting for the exclusion of excess pre-candidacy contributions under either calculation method described in Paragraph 1.43.

Example 1: On November 1, 2016, Friends of Candidate A receives a contribution of \$3,500 from Person B (\$3,000 within limits, \$500 excess) and a contribution of \$3,500 from Person C (same). On November 2, 2016, Candidate A transfers \$1,000 from the checking account of the candidate political committee to a SPEC account. On December 1, 2016, Candidate A declares her candidacy for the May 2017 Controller primary election. Friends of Candidate A has already segregated Person B and Person C's excess contributions and therefore does not need to exclude any other money from its checking account.

Example 2: On November 1, 2016, Friends of Candidate A receives a contribution of \$3,500 from Person B (\$3,000 within limits, \$500 excess) and a contribution of \$3,500 from Person C (same). On November 2, 2016, Candidate A transfers \$1,000 from the checking account of the candidate political committee to a SPEC account. On November 30, 2016, Candidate A spends \$1,000 from the SPEC account on fliers to be used in the upcoming election. On December 1, 2016, Candidate A declares her candidacy for the May 2017 Controller primary election. By December 11, 2016, Friends of Candidate A must exclude \$1,000 from its checking account. While Candidate A segregated the \$1,000 in excess contributions received from Person B and Person C, she spent \$1,000 from the SPEC account on pre-payment expenditures during the accounting period and must therefore exclude an amount equal to those pre-payments from the Friends of Candidate A checking account.

1.45 A candidate shall exclude all excess post-candidacy contributions from his or her candidate political committee checking account by one of the following methods:

- a. Transferring excess post-candidacy contributions to a SPEC account within ten days of receiving the contributions; or
- b. Returning excess post-candidacy contributions to the contributors who made those contributions within ten days of receiving the contributions.

1.46 A candidate or a candidate political committee shall not use money held in a SPEC account to influence the outcome of a covered election in which the candidate participates or to make post-candidacy expenditures.

1.47 Within seven days of establishing a SPEC account, a candidate shall notify the Board of the name of the bank at which the account was established by postal mail or email sent to the attention of the Board's Executive Director.

SUBPART J. RETIRING DEBT

1.48 Except as provided in Paragraph 1.49, forgiveness of debt incurred to influence the outcome of a covered election or to cover transition or inauguration expenses is a contribution from the creditor to the candidate or former candidate and is subject to the contribution limits set forth in Subpart B.

1.49 If a debt owed by a former candidate is not collectible as defined below, a creditor may forgive the debt without such forgiveness being subject to the contribution limits set forth in Subpart B. A debt is not collectible if all of the following are true:

- a. The creditor billed the candidate for its services in the ordinary course of its business and the terms of the transaction were commercially reasonable;
- b. The debt has been outstanding for at least 24 months;
- c. The candidate political committee does not have sufficient cash on hand to pay the creditor;
- d. Forgiveness of the debt is not prohibited by any other relevant law; and
- e. The creditor notifies the Board by postal mail or email sent to the attention of the Board's Executive Director of its intent to forgive the debt and demonstrates that all the conditions set forth in this Paragraph have been satisfied.

If the creditor has provided all the necessary information, the Executive Director shall present the request to the Board at a public meeting. The Board shall either approve or disapprove the proposed debt forgiveness. The Executive Director shall inform the creditor in writing whether or not the Board has approved the forgiveness of debt. The forgiveness of debt is subject to the post-candidacy reporting requirements set forth in Subpart E.

SUBPART K. PENALTIES

1.50 Acceptance of an excess contribution. A candidate, candidate political committee, or litigation fund committee that accepts a contribution in excess of the limits described in Subpart B shall be subject to a civil monetary penalty of three times the amount by which the accepted contribution exceeded the limit, or \$2,000, whichever is less.

1.51 Making an excess contribution. A contributor who makes a contribution in excess of the limits described in Subpart B shall be subject to a civil monetary penalty of three times the amount by which the contribution exceeded the limit, or \$2,000, whichever is less.

1.52 Safe harbor if an excess contribution is returned within 15 days. No civil monetary penalty shall be imposed for an excess contribution if the candidate who accepted the excess contribution within fifteen days after receiving the contribution:

- a. Returns the excess amount to the contributor; and
- b. Provides the following information to the Board's Executive Director by postal mail or email: the amount of the excess contribution, the identity of the contributor, the date of receipt, and the date of return.

1.53 Failure to file campaign finance disclosures. If a political committee fails to file a campaign finance report or statement with the Board as required by Subpart E the committee and its treasurer shall be jointly and severally subject to a civil monetary penalty of \$250. If a candidate fails to file a campaign finance report or statement with the Board as required by Subpart E, the candidate shall be subject to a civil monetary penalty of \$250.

Each day the report or statement is not filed shall be considered a separate offense for which an additional separate civil monetary penalty of \$250 may be imposed. The total civil penalties that may be imposed for failure to file a particular report or statement shall not exceed \$2,000 for the first thirty days the report is not filed, plus \$1,000 for each additional thirty-day period or part thereof the report or statement is not filed.

1.54 Material misstatements or omissions. If a campaign finance report filed with the Board contains material misstatements or omissions, the candidate, treasurer, or other individual who filed the report shall be subject to a civil monetary penalty of \$1,000 for each such misstatement or omission. If the report is filed on behalf of a political committee, the individual who filed the report and the committee shall be jointly and severally liable.

1.55 Misuse of political committees or accounts. If a ~~candidate~~ candidate's campaign uses a political committee or account in violation of the requirements set forth in Subpart F or G, ~~he or she~~ the candidate shall be subject to a civil monetary penalty of \$1,000.

1.56 Excess pre-candidacy and post-candidacy contributions.

- a. If a candidate or former candidate fails to exclude any excess pre-candidacy or post-candidacy contributions from his or her candidate political committee as required by Subpart I, he or she shall be subject to a civil monetary penalty of \$1,000.
- b. If a candidate or former candidate spends excess pre-candidacy or post-candidacy contributions in violation of the prohibitions of Subpart I, he or she shall be subject to a civil monetary penalty of \$1,000, for which his or her candidate political committee shall be jointly and severally liable if such expenditures were made from that committee.

1.57 Failure to provide committee or account information to Board. If a candidate fails to provide information to the Board about a political committee or account as required by Subpart F, G, or I, he or she shall be subject to a civil monetary penalty of \$1,000.

1.58 Other violations of the campaign finance law. All other violations of the campaign finance law are subject to a civil monetary penalty of \$1,000 per violation.

1.59 Increase or decrease of civil monetary penalty. A penalty imposed pursuant to Paragraph 1.54, 1.55, 1.56, 1.57, or 1.58 shall be increased or decreased as follows:

- a. Mitigating factors. The civil monetary penalty of \$1,000 shall be reduced by \$500 if one of the following mitigating factors is present and shall be reduced by \$750 if more than one of the following mitigating factors are present:
 - i. Good faith effort to comply. The violator is found to have made a good faith effort to comply with the law.

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- ii. Prompt corrective action. The violator is found to have taken prompt corrective action where corrective action was possible to remedy the violation.
 - iii. Prompt self-reporting. The violator is found to have reported promptly the violation to the Board of Ethics.
- b. Aggravating factors. The civil monetary penalty of \$1,000 shall be increased by \$1,000 for each of the following aggravating factors that is present, provided that the total civil monetary penalty that may be imposed for one violation shall not exceed \$2,000:
- i. Intent. The violator is found to have acted knowingly. An act is done knowingly if done voluntarily and intentionally and not because of mistake or accident or other innocent reason.
 - ii. Repeat violation. The violator previously has been found by the Board of Ethics in an administrative adjudication or by a court of competent jurisdiction to have violated the same provision.
 - iii. Obstruction of investigation. The violator is found to have obstructed the investigation of the Board of Ethics into the same violation.

Approved for public comment by the Board December 18, 2006

Effective January 17, 2007

Amendment approved by Board August 21, 2007

Effective September 21, 2007

Proposed amendments approved for public comment by Board on July 21, 2010 to expand the Regulation to address the requirements, other than electronic filing, of the City's campaign finance law, Philadelphia Code Chapter 20-1000, as that law was amended in June 2010. The amendments to Regulation No. 1 completely strike and replace the original text of the regulation and delete the original exhibit.

Public hearing held September 8, 2010

Adopted by Board with modifications September 15, 2010

Effective September 27, 2010

Proposed amendments approved for public comment by Board May 11, 2011 to, among other things, reflect the April 2011 amendment to Philadelphia Code § 20-1002(2).

Public hearing held June 15, 2011

Adopted by Board July 20, 2011

Effective August 11, 2011

Proposed amendments approved for public comment by Board on January 18, 2012 to reflect the City Finance Director's certification of January 2012 adjustments to the maximum annual contribution limits.

Effective March 2, 2012

Proposed amendments approved for public comment by Board on December 19, 2012

Public hearing held January 23, 2013

Adopted by Board with modifications February 20, 2013

Effective March 8, 2013

Proposed amendments approved for public comment by Board on July 16, 2014

Public hearing held September 17, 2014

Proposed amendment approved by Board on September 12, 2018 for public comment posting
Strikethrough indicates matter removed; underline indicates new matter

Adopted by Board with modifications October 15, 2014
Effective October 31, 2014

Proposed amendments approved for public comment by Board on September 21, 2016
Public hearing held October 19, 2016
Adopted by Board with modifications November 16, 2016
Effective December 2, 2016

NOTE: As part of its November 16, 2016 vote to approve a proposed amendment to this Regulation, the Board authorizes staff to update examples set forth in this Regulation from time to time as necessary in order to ensure that they reference current contribution limits, covered elections, and reporting periods.

Proposed amendments approved for public comment by Board on **September 12, 2018**
Public hearing held
Adopted by Board with modifications
Effective