

A. Legal Authority

This Board was created by an amendment to the Philadelphia Home Rule Charter that voters approved via a ballot question at the May 2006 primary election. *See Philadelphia Home Rule Charter §§ 3-806 and 4-1100.* The Board is charged with administering and enforcing all provisions of the Charter and City Code that pertain to ethical matters, such as conflicts of interest, financial disclosure, standards of governmental conduct, campaign finance, prohibited political activities, and such additional duties as City Council may assign. The Board has the power to promulgate regulations as necessary to implement and interpret the laws over which it has jurisdiction, including the City's campaign finance law. *See Code §§ 20-606(1)(a), 20-1008.*

B. Procedural Summary

The Board followed the procedures set forth in Home Rule Charter Section 8-407 when promulgating this amendment to Board Regulation No. 1 (Campaign Finance). On September 21, 2016, the Board voted to approve the posting of a proposed amendment to Regulation No. 1 at the Department of Records. The Law Department approved the proposed amendment of Regulation No. 1 for public comment posting and, on September 28, 2016, the Board filed the proposed amendment with the Records Department. The Board scheduled a hearing on the proposed amendment for October 19, 2016, notice of which was advertised in local newspapers and posted prominently on the Board's website. Board staff also provided notice to the regulated community via email.

Through this report on the October 19, 2016 hearing, the Board modifies the amendment and adopts the amendment as modified. A clean copy of the regulation as amended is attached as Exhibit A and shall become effective 11 days after the filing of this Report with the Records Department. A blackline showing changes made via the Hearing Report to the amendment as posted at the Records Department on September 28, 2016 is attached as Exhibit B. A blackline showing all changes made to the Regulation by the regulatory process initiated on September 21, 2016, and being approved by the Board through this report, is attached as Exhibit C.

C. The October 19, 2016 Hearing

The hearing was conducted by Michael Reed, Chair of the Board of Ethics, along with Vice-Chair Phyllis Beck and Board members Sanjuanita González, Brian McCormick, and JoAnne Epps. Lewis Rosman, Senior Attorney, attended on behalf of the Law Department. The hearing transcript is attached as Exhibit D. The proposed amendment as posted for public comment at the Records Department is included in Exhibit D as an attachment to the hearing transcript. The following witnesses provided in-person testimony: Michael Cooke, the Board's Director of Enforcement; Ellen Kaplan, the City's Chief Integrity Officer; and Adam Bonin. Mr. Bonin also submitted written testimony in advance of the hearing, which is attached at Exhibit D.

D. Summary of testimony and Board response

1. Testimony of Michael Cooke, on behalf of Board staff.

a. Paragraph 1.19

Mr. Cooke proposed that in the table of filing deadlines in Paragraph 1.19, “thirty” be changed to “30” in two places.

Board Response

The Board agrees that Paragraph 1.19 should be modified as proposed.

b. Paragraph 1.20(d)(ii)

Mr. Cooke proposed that this paragraph be modified as follows:

- ii. During the 24 hour reporting period, political committees and other persons that make independent expenditures of \$500 or more to influence a ~~City covered~~ election (or incur debts for such expenditures) shall file reports disclosing those independent expenditures within 24 hours.

Board Response

The Board agrees that Paragraph 1.20(d)(ii) should be modified as proposed.

c. Update examples

Mr. Cooke proposed updating all examples in the Regulation, where relevant, in order to reflect (1) the current contribution limits, and (2) dates and covered elections relevant to the current election cycle.

Board Response

The Board agrees that the relevant examples should be modified as proposed.

d. Typo and formatting review

Mr. Cooke noted that since posting the proposed amendment at the Records Department, staff had carefully reviewed it and found several typos and formatting errors. He proposed that staff correct such typos and formatting errors before submitting the final version of the proposed amendment to the Board.

Board Response

The Board agrees and notes that a number of corrections have been made and may be seen in the blackline found at Exhibit B of this Report.

2. Testimony of Adam Bonin

a. Paragraph 1.20(a)

Mr. Bonin testified that in his view proposed Paragraph 1.20(a)(i) goes beyond the Board's legislative mandate because it requires *all* candidate political committees to file for every reporting cycle listed in the proposed amendment at Paragraph 1.19, so long as the committee is authorized by a candidate for City elective office.

Board Response

The Board notes that the provisions to which Mr. Bonin refers are not intended to have the effect that he ascribes to them. In recognition of the concern he raises and in order to clarify the relevant provisions, the Board modifies Paragraph 1.20(a) as follows:

- i. **Candidate political committees** shall electronically file with the Board a campaign finance report or statement for each of the reporting cycles 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, at the time of filing the reporting deadline, the individual by whom period, the committee did not make any expenditures. is authorized to accept contributions is a candidate for City elective office.
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 cycles 2, 3, 5, and 6 and for any other 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 the 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. Paragraph 1.20(b)

Mr. Bonin testified that the requirement of proposed Paragraph 1.20(b) that the political committee of a former candidate file campaign finance reports at every cycle so long as the committee is carrying outstanding debt is not authorized by City ordinance.

Board Response

The basis for the filing requirement in proposed Paragraph 1.20(b) is Philadelphia Code Section 20-1006(1)(a)(.2), which provides as follows:

Any time any person or political committee is required by the Pennsylvania Election Code to file a campaign finance report or statement with the City Commissioners or the Secretary of State and that report or statement discloses, or is required to disclose, any expenditures or any debt incurred to influence the outcome of a covered election, the person or political committee shall file a copy of the report or statement with the Board of Ethics in a digital electronic format prescribed by the Board no later than the state law due date. (emphasis added)

As such, the ordinance plainly provides that the existence of debt incurred to influence the outcome of a covered election will require a political committee, which includes the political committee of a former candidate, to file a campaign finance report. However, the ordinance does not require such filing at every reporting cycle, nor was proposed Paragraph 1.20(b) intended to create such a requirement. In response to Mr. Bonin's testimony and in order to clarify the requirement, the Board modifies proposed Paragraph 1.20(b) as follows:

- b. A **political committee of a former candidate** shall electronically file with the Board ~~an~~ campaign finance report or statement for any reporting cycle listed at Paragraph 1.19 ~~in~~ ~~which the committee~~ ~~for which the committee is required to file a report or statement with~~ the City Commissioners or Secretary of State that discloses:
- i. ~~Received contributions~~ Contributions accepted or made expenditures made to pay off debt incurred to influence the outcome of a covered election;
 - ii. ~~Received contributions~~ Contributions accepted or made 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; ~~or~~
 - iii. ~~Files a campaign finance report or statement with the City Commissioners or Secretary of State that discloses debt~~ 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.

The Board also adds the following provision to Paragraph 1.20(d):

- 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.

c. **“former candidate”**

Mr. Bonin testified that the Regulation should define the term “former candidate.”

Board Response

The Board agrees with Mr. Bonin and adds the following definition to Paragraph 1.1 of the Regulation:

- 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.

d. **Paragraph 1.39(c)(ii)**

Mr. Bonin testified that Paragraph 1.39(c)(ii) would be more effective if it were modified to state: “The photograph republished was not provided to a public source by the candidate’s campaign” rather than “The item republished is a photograph obtained from a public source that is not controlled by the candidate’s campaign.”

Board Response

The Board appreciates Mr. Bonin’s concern, but finds that his proposed modification would result in an overly broad rule and therefore declines to adopt it.

e. **Liability for penalties**

Mr. Bonin testified that he could not discern “what the Board intends by holding ‘the individual who filed the report’ liable for material misstatements and omissions in proposed Reg. 1.54.”

Board Response

Code Section 20-1006(1)(g) provides: “Any person submitting a filing to the Board of Ethics under this Section shall sign a written statement that subscribes and swears to the information set forth therein.”

Code Section 20-1006(4) provides: “The failure to file information as required by this Section, or the making of material misstatements or omissions in any filing required by this Section, shall be deemed to be a violation of Chapter 20-1300 (Penalties for Campaign Finance-Related and Ethics-Related Violations) and subject to enforcement and the imposition of penalties under that Chapter.”

The Board has interpreted these provisions to mean that the actual individual who submits the report and signs the sworn statement form is liable if the report contains material misstatements or omissions. The Board notes that the sworn statement form includes the following notice:

Note:

Reports and statements filed by candidate committees and political committees: The individual who signs this form may, with the committee, be jointly and severally subject to civil penalties if the report or statement contains any material misstatements or omissions.

Reports and statements filed by candidates as individuals:

A candidate may be subject to civil penalties if his or her report or statement contains any material misstatements or omissions.

3. Ellen Kaplan

Ms. Kaplan observed that it is inefficient for the Board to go through a formal regulatory process merely to update dates and examples in the Regulation.

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Board Response

In response to Ms. Kaplan's testimony, the Board approves an amendment to the regulation to provide the following note at the end of the 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.

DEPARTMENT OF ETHICS
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E. Approval

At a public meeting on November 16, 2016, the Board voted 5-0 to approve the proposed amendment to Regulation No. 1 as modified and to approve this Hearing Report. The Regulation as amended is attached as Exhibit A.

* * *

The Board of Ethics appreciates the input of the Law Department and the participation of those who provided testimony and those who simply attended the hearing on this Regulation.

DEPARTMENT OF DEFENSE

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EXHIBIT A

**EXHIBIT A TO REGULATION NO 1 HEARING REPORT:
FINAL VERSION OF REGULATION AS APPROVED**

**PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 1
CAMPAIGN FINANCE**

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EXHIBIT A TO REGULATION NO 1 HEARING REPORT:

FINAL VERSION OF REGULATION AS APPROVED

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 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.

DEPARTMENT OF ETHICS
2016-2017 EDITION
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EXHIBIT A TO REGULATION NO 1 HEARING REPORT:
FINAL VERSION OF REGULATION AS APPROVED

- 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 electioneering communication; or
 - iv. 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.

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FINAL VERSION OF REGULATION AS APPROVED**

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).

- 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, or a partnership, sole proprietorship, or other form of business or nonprofit 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.

EXHIBIT A TO REGULATION NO 1 HEARING REPORT:

FINAL VERSION OF REGULATION AS APPROVED

- 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.

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DEPARTMENT OF ELECTIONS

**EXHIBIT A TO REGULATION NO 1 HEARING REPORT:
FINAL VERSION OF REGULATION AS APPROVED**

- d. In order to qualify for the \$11,900 contribution limit described in this Paragraph, the finances of a sole proprietorship or partnership 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.

1.6 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).

EXHIBIT A TO REGULATION NO 1 HEARING REPORT:

FINAL VERSION OF REGULATION AS APPROVED

- 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~~
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~~
or her candidate political committee, as set forth in Paragraph 1.6, within two~~or~~
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.

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

1.8 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.

1.9 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.

1.10 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.

2016 MARCH 15 DEPARTMENT OF POLITICAL PARTIES
REGULATIONS
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EXHIBIT A TO REGULATION NO 1 HEARING REPORT:

FINAL VERSION OF REGULATION AS APPROVED

1.11 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.

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DEPARTMENT OF STATE

EXHIBIT A TO REGULATION NO 1 HEARING REPORT:

FINAL VERSION OF REGULATION AS APPROVED

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

1.12 Except as provided in Paragraphs 1.13, 1.14, and 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.

1.13 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.

1.14 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.

1.15 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 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 provided.

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

1.16 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.

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

1.18 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.

**EXHIBIT A TO REGULATION NO 1 HEARING REPORT:
FINAL VERSION OF REGULATION AS APPROVED**
SUBPART E. CAMPAIGN FINANCE DISCLOSURES

1.19 Campaign finance reporting schedule:

	Deadline	Complete As Of
Cycle 1	Sixth Tuesday Pre-Primary Election	50 days before the Primary Election
Cycle 2	Second Friday Pre-Primary Election	The Monday preceding the deadline
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
Cycle 5	Second Friday Pre-General Election	The Monday preceding the deadline
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 at
<http://www.phila.gov/ethicsboard/campaignfinance/Pages/default.aspx>¹

1.20 Required disclosures

- 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.

¹ The schedule may also be found immediately following this Regulation.

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- 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.
- c. **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.
- 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.
 - 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.

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1.21 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>²**

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.

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.

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 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 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.

² The schedule may also be found immediately following this Regulation.

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- 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 a description of the receipt.
- iii. For each expenditure, the report shall disclose the date, amount, and recipient of the expenditure as well as the recipient's address and the purpose of the expenditure.
- 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 reporting period, the filer has spent, received, and 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.

1.23 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>

1.24 Sworn statement required for campaign finance disclosures. Any individual submitting a campaign finance report or statement to the Board shall sign a written statement that subscribes and swears to or affirms the information set forth therein. The individual who signs the statement and the committee shall be jointly and severally subject to civil penalties if the report or statement contains any material misstatements or omissions. Any statement required by this Paragraph shall be submitted on a form available from the Department of Records.

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**EXHIBIT A TO REGULATION NO 1 HEARING REPORT:
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**SUBPART F. USE OF POLITICAL COMMITTEES AND CHECKING
ACCOUNTS BY CANDIDATES**

1.25 A candidate for City elective office shall have no more than one political committee and one checking account for the City elective office being sought, into which all contributions and post-candidacy contributions for such office shall be made, and out of which all expenditures for that office shall be made, including post-candidacy expenditures. 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.

1.26 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.

1.27 A candidate may transfer funds between his or her candidate political committee checking account and a single savings account so long as:

- a. The candidate establishes the savings account at the same bank that has his or her checking account;
- b. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account;
- c. 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
- d. 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.

1.28 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 the information set forth in Paragraph 1.28(a) within three business days of the formation of the committee.

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- d. A candidate may satisfy the requirements of 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.
- e. If the information required by Paragraph 1.28 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.
- f. Information required by Paragraph 1.28 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1.29 Exercising control over another political committee. 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:

- a. The candidate is the treasurer or chair of the other political committee;
- b. The candidate established or registered the other political committee;
- c. The candidate is an authorized user or signer on the other political committee's bank account;
- d. The treasurer or chair of the other political committee 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 Exercising control over another political committee's expenditures. 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 candidate or the candidate's agent exercises control over a specific expenditure made by a political committee:

- a. The 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 selects the recipient of the expenditure; or

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- c. The candidate, candidate political committee, or the candidate's agent decides or directs that the expenditure be made.

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 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).

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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 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 Paragraph 1.36 shall be sent to the attention of the Board's Executive Director by postal mail or email.

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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.

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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.

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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 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.

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- 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.

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**EXHIBIT A TO REGULATION NO 1 HEARING REPORT:
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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, 2014, 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, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, 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 **must** shall be excluded.

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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 ~~must~~ 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.

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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.

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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.

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**EXHIBIT A TO REGULATION NO 1 HEARING REPORT:
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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 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 uses a political committee or account in violation of the requirements set forth in Subpart F or G, he or she 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.

EXHIBIT A TO REGULATION NO 1 HEARING REPORT:

FINAL VERSION OF REGULATION AS APPROVED

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.
 - 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.

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EXHIBIT A TO REGULATION NO 1 HEARING REPORT:

FINAL VERSION OF REGULATION AS APPROVED

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

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

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.

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FINANCIAL AFFAIRS
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EXHIBIT B

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EXHIBIT B TO REGULATION NO 1 HEARING REPORT:-
CHANGES TO REGULATION SINCE POSTING AT RECORDS DEPT

**PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 1
CAMPAIGN FINANCE**

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**EXHIBIT B TO REGULATION NO 1 HEARING REPORT:-
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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 1st 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 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(p);
 - iii. Any post-candidacy contribution, as defined at Paragraph 1.1(t); 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.

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- 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 electioneering communication; or
 - iv. 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.

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e.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.

e.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).

e.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.

e.s. Person. An individual, a political committee, or a partnership, sole proprietorship, or other form of business or nonprofit organization.

e.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.

e.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.

e.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.

e.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.

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- | **w.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.
- | **x.y.** **SPEC account.** A segregated pre/post-candidacy excess contribution account, as described in Subpart I.
- | **y.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.

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- d. In order to qualify for the \$11,900 contribution limit described in this Paragraph 1.3, the finances of a sole proprietorship or partnership must 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:
- 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
 - 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/last 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:

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

1.6 Doubling of Contribution Limits.

- 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).

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- 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.

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

1.8 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.

1.9 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.

1.10 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.

1.11 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;

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- 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.

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

1.12 Except as provided in Paragraphs 1.13, 1.14, and 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.

1.13 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.

1.14 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.

1.15 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 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 provided.

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

1.16 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.

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

1.18 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.

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SUBPART E. CAMPAIGN FINANCE DISCLOSURES

1.19 Campaign finance reporting schedule:

	Deadline	Complete As Of
Cycle 1	Sixth Tuesday Pre-Primary Election	50 days before the Primary Election
Cycle 2	Second Friday Pre-Primary Election	The Monday preceding the deadline
Cycle 10	24 hour reporting – continuous through day of Primary Election	Starts Second Tuesday Pre-Primary Election
Cycle 3	<u>Thirty</u> 30 Day Post-Primary Election	20 days after the Primary Election
Cycle 4	Sixth Tuesday Pre-General Election	50 days before the General Election
Cycle 5	Second Friday Pre-General Election	The Monday preceding the deadline
Cycle 11	24 hour reporting- continuous through day of General Election	Starts Second Tuesday Pre-General Election
Cycle 6	<u>Thirty</u> 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 at
<http://www.phila.gov/ethicsboard/campaignfinance/Pages/default.aspx>¹

1.20 Required disclosures

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 of the reporting cycles 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, at the time of during the reporting deadline, the individual whom period the committee is authorized to accept contributions is a candidate for City elective office 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.

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¹ The schedule may also be found immediately following this Regulation.

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- ii. **Candidates** shall electronically file with the Board reports or statements for cycles 2, 3, 5, and 6 and for any otherany 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, candidate political committees that receive 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 listed at Paragraph 1.19 infor which the committee is required to file a report or statement with the City Commissioners or Secretary of State that discloses:
- i. Received contributionsContributions accepted or made expenditures made to pay off debt incurred to influence the outcome of a covered election;
 - ii. Received contributionsContributions accepted or made 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; or
 - iii. iii. — Files a campaign finance report or statement with the City Commissioners or Secretary of State that discloses debtDebt 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.
- c. 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.
- 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.
 - ii. During the 24 hour reporting period, **political committees and other persons** that make independent expenditures of \$500 or more to influence a Citycovered election (or incur debts for such expenditures) shall fileelectronically 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.

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1.21 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>²

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.

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.

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 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 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.

| ² The schedule may also be found immediately following this Regulation.

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- 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 a description of the receipt.
- iii. For each expenditure, the report shall disclose the date, amount, and recipient of the expenditure as well as the recipient's address and the purpose of the expenditure.
- 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 reporting period, the filer has spent, received, and 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.

1.23 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 must 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>

1.24 Sworn statement required for campaign finance disclosures. Any individual submitting a campaign finance report or statement to the Board shall sign a written statement that subscribes and swears to or affirms the information set forth therein. The individual who signs the statement and the committee shall be jointly and severally subject to civil penalties if the report or statement contains any material misstatements or omissions. Any statement required by this Paragraph shall be submitted on a form available from the Department of Records.

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

1.25 A candidate for City elective office shall have no more than one political committee and one checking account for the City elective office being sought, into which all contributions and post-candidacy contributions for such office shall be made, and out of which all expenditures for that office shall be made, including post-candidacy expenditures. 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.

1.26 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.

1.27 A candidate may transfer funds between his or her candidate political committee checking account and a single savings account so long as:

- a. The candidate establishes the savings account at the same bank that has his or her checking account;
- b. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account;
- c. 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
- d. 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.

1.28 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 the information set forth in Paragraph 1.28(a) within three business days of the formation of the committee.

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- d. A candidate may satisfy the requirements of 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.
- e. If the information required by Paragraph 1.28 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.
- f. Information required by Paragraph 1.28 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1.29 Exercising control over another political committee. 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:

- a. The candidate is the treasurer or chair of the other political committee;
- b. The candidate established or registered the other political committee;
- c. The candidate is an authorized user or signer on the other political committee's bank account;
- d. The treasurer or chair of the other political committee 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 Exercising control over another political committee's expenditures. 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 candidate or the candidate's agent exercises control over a specific expenditure made by a political committee:

- a. The 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 selects the recipient of the expenditure; or

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- c. The candidate, candidate political committee, or the candidate's agent decides or directs that the expenditure be made.

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 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(d).
- 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(d).

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

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- 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 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 Paragraph 1.36 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.

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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 \$11,500~~900~~ to set up the phone bank and telephones individuals provided on the list from Candidate A. The \$11,500~~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 \$11,500~~900~~ in-kind contribution to Candidate A.

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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 1.4039(a) and (b): Three weeks before election day, 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.

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- 1.40** An expenditure will not be considered a coordinated expenditure merely because:
- The person making the expenditure interviews the candidate;
 - The person making the expenditure has endorsed the candidate;
 - The person making the expenditure and the candidate's campaign use the same vendor, attorney, or accountant;
 - 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
 - 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, 20142016, Candidate A declares her candidacy for the May 2015 Mayoral2017 Controller primary election. The accounting period for Candidate A is January 1, 20122014 through November 30, 20142016. The last MayoralController election was held in 20142013 so January 1, 20122014 would be the first day of the year following that election.

1.42 Prohibited Expenditures.

- 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.
- A former candidate or the political committee of a former candidate shall not spend any excess post-candidacy contributions for the purposes of:
 - Transition or inauguration to City elective office; or
 - Retiring debt incurred either to influence the outcome of a covered election; or for expenses related to transition or inauguration to City elective office.
- 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.

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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, 2014, Friends of Candidate A receives a contribution of \$3,000 ~~\$3,500~~ from Mr. B (\$2,900 ~~\$3,000~~ within limits, \$100 ~~\$500~~ excess) and a contribution of \$3,000 ~~\$3,500~~ from Ms. C (same). On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, Friends of Candidate A must exclude ~~\$200~~ ~~\$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/last 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 ~~must~~ 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 ~~must~~ 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 ~~must~~ shall use incoming contributions to cover the amount that ~~must~~ shall be excluded.

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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 ~~must~~ 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 1.4443.

Example 1: On November 1, ~~2014~~2016, Friends of Candidate A receives a contribution of \$3,500 from Person B (\$~~2,900~~ \$3,000 within limits, \$100-\$500 excess) and a contribution of \$3,500 from Person C (same). On November 2, ~~2014~~2016, Candidate A transfers \$1,000 from the checking account of the candidate political committee to a SPEC account. On December 1, ~~2014~~2016, Candidate A declares her candidacy for the May ~~2015~~ ~~Mayoral~~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, ~~2014~~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, ~~2014~~2016, Candidate A transfers \$1,000 from the checking account of the candidate political committee to a SPEC account. On November 30, ~~2014~~2016, Candidate A spends \$1,000 from the SPEC account on fliers to be used in the upcoming election. On December 1, ~~2014~~2016, Candidate A declares her candidacy for the May ~~2015~~ ~~Mayoral~~2017 Controller primary election. By December 11, ~~2014~~2016, Friends of Candidate A must exclude \$~~200~~ \$1,000 from its checking account. While Candidate A segregated Person B and Person C's 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.

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SUBPART J. RETIRING DEBT

1.48 Except as provided in Paragraph 1.5049, 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.

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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 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 uses a political committee or account in violation of the requirements set forth in Subpart F or G, he or she 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.

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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 ~~is~~are present:
 - i. Good faith effort to comply. The violator is found to have made a good faith effort to comply with the law.
 - 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.

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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

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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

Adopted by Board with modifications October 15, 2014

Effective October 31, 2014

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DEPARTMENT OF RECORDS

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

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.

EXHIBIT C

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**EXHIBIT C TO REGULATION NO 1 HEARING REPORT:
ALL CHANGES MADE BY AMENDMENT**

**PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 1
CAMPAIGN FINANCE**

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SUBPART A. SCOPE; DEFINITIONS

1.0 Scope. The requirements and prohibitions of Philadelphia's campaign finance law supplement the requirements and prohibitions imposed by the Pennsylvania Election Code (25 P.S. §3241, *et seq.*). This Board promulgates this Regulation, promulgated by the Board pursuant to its authority under Sections 4-1100 and 8-407 of the Philadelphia Home Rule Charter §§ 4-1100 and Chapter 20-600 of the 8-407 and Philadelphia Code, interprets Philadelphia's campaign finance law found at Philadelphia § 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 1st 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 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 incurred, or things having a monetary value incurred or received by a candidate or his or her agent for use in advocating or influencing the election of the candidate;
 - ii. Any thing having a monetary value incurred or received by a candidate or his or her agent for use in advocating or influencing the election of the candidate, which includes any An in-kind contribution, as defined at Paragraph 1.1(e); or;
 - iii. Any post-candidacy contribution, as defined at Paragraph 1.1(f); 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.

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- 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, but not limited to, any expenditure to:
 - 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 electioneering communication; or
 - iv. 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

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iv. If an election is contested, when that contest is resolved.

m.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 coordination/concert with any candidate, candidate political committee, or agent thereof. For guidance on what constitutes coordination, see Subpart H or at the request or suggestion of any candidate's campaign.

n.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; or
- ii. The payment or agreement to pay a third party to provide goods or services that assist in advocating or influencing the election of 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).

o.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.

p.s. Person. An individual, a political committee, or a partnership, sole proprietorship, or other form of business or nonprofit organization.

q.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.

r.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.

s.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.

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- | **t.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.
- | **u.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.
- | **v.y. SPEC account.** A segregated pre/post-candidacy excess contribution account, as described in Subpart I.
- | **w.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 \$2,9003,000 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 \$2,9003,000, 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 \$2,900 \$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.
- a.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

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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.

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

- b. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than \$11,500 to a candidate for City elective office, including contributions made through one or more political committees.
- c. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than \$11,500, including contributions made through one or more political committees, to a candidate's litigation fund committee.
- d. 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 \$11,500 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.
- e.d. In order to qualify for the \$11,500 contribution limit described in this Paragraph 1.3, the finances of a sole proprietorship or partnership ~~must~~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 ~~a reasonable 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.

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- 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.

1.6 Doubling of Contribution Limits.

- a. If a candidate for City elective office contributes ~~more than \$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).
- b. The limits for post-candidacy contributions (Paragraphs 1.2(c) and 1.3(c)) and the limits for contributions to litigation fund committees (Paragraphs 1.2(b) and 1.3(b)) do not double if a candidate contributes ~~more than \$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 \$250,000 contribution 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 ~~more than \$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.

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

1.8 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.

1.9 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.

1.10 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.

1.11 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

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(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

1.12 Except as provided in Paragraphs 1.13, 1.14, and 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.

1.13 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 ~~the~~ mailbox.

1.14 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.

1.15 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 that assist in advocating or influencing the election of ~~to~~ a candidate's 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 provided.

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

1.16 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.

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

1.18 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.

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SUBPART E. CAMPAIGN FINANCE DISCLOSURES

1.19 Disclosures required of Campaign finance reporting schedule:

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

**Note: A schedule with the specific reporting deadlines may be found at
<http://www.phila.gov/ethicsboard/campaignfinance/Pages/default.aspx>¹**

1.20 Required disclosures

a. For candidates and candidate political committees.

- a. Any time a candidate for City elective office is required to file a campaign finance report or statement with the City Commissioners as required by the Pennsylvania Election Code, the candidate shall file electronically with the Board a copy of that report or statement.
- b. Any time the candidate political committee of a candidate for City elective office is required to file a campaign finance report or statement with the City Commissioners as required by the Pennsylvania Election Code, the committee shall file electronically with the Board a copy of that report or statement.

Example: i. Candidate A is running for City office and has authorized Friends of A as her candidate political committee. Friends of A files a cycle 2 (pre-primary) campaign finance report with the City Commissioners. In

¹ The schedule may also be found immediately following this Regulation.

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addition, Candidate A personally files a campaign finance statement with the City Commissioners.

~~Friends of A must electronically file with the Board a copy of the cycle 2 campaign finance report it filed with the City Commissioners.~~

~~Candidate A must electronically file with the Board a copy of the cycle 2 campaign finance statement she personally filed with the City Commissioners.~~

1. 20 Post candidacy disclosures

- a. ~~Former candidates and candidate political committees shall file electronically file with the Board reports of post candidacy contributions and expenditures.~~
 - i. ~~Such reports shall be identical a campaign finance report or statement for each reporting deadline listed in form and content to, and filed on the same schedule as, campaign finance reports required to be filed by municipal candidates and candidate political committees with the City Commissioners pursuant to the Pennsylvania Election Code.~~
 - ii. ~~A former candidate or a candidate political committee may satisfy the requirements of this Paragraph by filing electronically with the Board copies of campaign finance reports the former candidate or candidate political committee files with the City Commissioners, so long as such reports disclose all post candidacy contributions received and expenditures made by the former candidate or candidate political committee.~~

Example: Candidate A is successful ~~Paragraph 1.19 that occurs during the year of the covered election in the November general election, but her candidate political committee, Friends of A, incurred \$20,000 in debt in the course of the campaign. In December, former Candidate A raises \$10,000 in post candidacy contributions which her committee uses to pay off some of the campaign debt. In January of the year following the general election, Friends of A files a cycle 7 campaign finance report with the City Commissioners. The cycle 7 report discloses the post candidacy contributions and the expenditure to pay down the campaign debt.~~

~~Friends of A can satisfy the post candidacy disclosure requirements of Paragraph 1.20 by electronically filing with the Board a copy of the cycle 7 campaign finance report it filed with the City Commissioners.~~

1. 21 Disclosures required of political committees and persons.

~~Any time a political committee or person is required to file a campaign finance report with the City Commissioners or the Secretary of State, as required by the Pennsylvania Election Code, the committee or person shall file electronically a copy of that report with the Board ~~he or she is a candidate; however, the committee need not file for Cycles 1 or 4 if the report filed with the City Commissioners or Secretary of State discloses, or should disclose, during the reporting period, the committee did not make any expenditures made or debt incurred to influence the outcome of a covered election, including expenditures to a candidate for City elective office.~~~~

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Example: Pennsylvanians for During a Better Pennsylvania is non-election year, if a candidate's candidate political committee registered with the Department of State. The committee files a cycle 2 (pre primary) is required to file a campaign finance report with the City Commissioners or Department of State disclosing numerous and that report discloses, or is required to disclose, expenditures to candidates for state office and one expenditure to a candidate for City office. influence a covered election, the committee shall electronically file a copy of that report with the Board.

Pennsylvanians for a Better Pennsylvania must ii. **Candidates** shall electronically file with the Board a copy of the cycle 2 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 it filed with or statement for any reporting cycle for which the Department of State.

b. Political committees shall file electronically with the Board reports of all post candidacy contributions made by the political committee to any former candidate.

i. Such reports shall be identical in form and content to, and filed on the same schedule as, campaign finance disclosure reports required to be filed by political committees file a report or statement with the City Commissioners or Secretary of State pursuant to the Pennsylvania Election Code that discloses:

ii. A political committee may satisfy the requirements of this Paragraph by filing electronically with the Board copies of campaign finance reports the political committee files with the Secretary of State or the City Commissioners, so long as such reports disclose all post candidacy contributions made by the political committee.

1.22 Disclosures required of litigation fund committees.

ai. 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.

c. A **litigation fund committee** established as described in pursuant to Subpart G shall file electronically file with the Board reports of a campaign finance report or

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statement for any reporting cycle listed at Paragraph 1.19 in which the committee received contributions or made expenditures.

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.
- b. Such disclosure reports shall be identical in form and content to, and filed on the same schedule as, campaign finance reports required to be filed by municipal candidate political committees with the City Commissioners or Secretary of State pursuant to the Pennsylvania Election Code.
- c. If a litigation fund committee is established as aii. 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 pursuant to the Pennsylvania Election Code, the litigation fund committee may satisfy the requirements of this Paragraph by filing electronically shall also electronically file with the Board copies of 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 Special cycles for reporting of electioneering communications.

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

Note: A schedule with the specific reporting deadlines may be found at <http://www.phila.gov/ethicsboard/campaignfinance/Pages/default.aspx>²

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 files with the Secretary of State or the City Commissioners, so long

² The schedule may also be found immediately following this Regulation.

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as such reports disclose 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.

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.

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 Content of campaign finance reports and statements.

- a. A campaign finance report filed with the Board shall disclose all contributions and other receipts received and expenditures, each expenditure made by the litigation fund committee, and any debt incurred during the relevant reporting period. The report shall also disclose 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 a description of the receipt.
- iii. For each expenditure, the report shall disclose the date, amount, and recipient of the expenditure as well as the recipient's address and the purpose of the expenditure.
- 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 reporting period, the filer has spent, received, and 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.

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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 ~~must~~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/records/CampaignFinance/CampaignFinance.html#ethicsboard/campaignfinance/Pages/Filecfinformation.aspx>

a.—1.24 Sworn statement required for campaign finance disclosures.

Any time a candidate political committee, political committee, or litigation fund committee electronically files ~~individual~~ submitting a campaign finance report or statement ~~with~~to the Board, the individual who files the report or ~~shall sign a written statement on behalf of the committee shall submit a signed statement in which he or she that subscribes and swears to or affirms that the information set forth in the report or statement is true, correct, and complete to the best of his or her knowledge~~therein. The individual who signs the statement and the committee shall be jointly and severally subject to civil penalties if the report or statement contains any material misstatements or omissions.

b. Any time a candidate electronically files a campaign finance report or statement with the Board, the candidate shall submit a signed statement in which he or she swears or affirms that the information set forth in the report or statement is true, correct, and complete to the best of his or her knowledge. The candidate shall be subject to civil penalties if the report or statement contains any material misstatements or omissions.

Any ~~sworn~~ Any statement required by this Paragraph shall be submitted on a form available from the Department of Records. The form may be submitted in person at the office of the Department of Records in City Hall Room 156 or via email or fax as indicated on the form.

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

1.25 A candidate for City elective office shall have no more than one political committee and one checking account for the City elective office being sought, into which all contributions and post-candidacy contributions for such office shall be made, and out of which all expenditures for that office shall be made, including post-candidacy expenditures. 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.

1.26 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.

1.27 A candidate may transfer funds between his or her candidate political committee checking account and a single savings account so long as:

- a. The candidate establishes the savings account at the same bank that has his or her checking account;
- b. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account; 3
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- c. 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
- d. 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.

1.28 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 the information set forth in Paragraph 1.28(a) within three business days of the formation of the committee.

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- d. A candidate may satisfy the requirements of 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.
- e. If the information required by Paragraph 1.28 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.
- f. Information required by Paragraph 1.28 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1.29 Exercising control over another political committee. 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:

- a. The candidate is the treasurer or chair of the other political committee;
- b. The candidate established or registered the other political committee;
- c. The candidate is an authorized user or signer on the other political committee's bank account;
- d. The treasurer or chair of the other political committee 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.

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1.30 Exercising control over another political committee's expenditures. 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 candidate or the candidate's agent exercises control over a specific expenditure made by a political committee:

- a. The 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 selects the recipient of the expenditure; or
- c. The candidate, candidate political committee, or the candidate's agent decides or directs that the expenditure be made.

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 political committee controlled by the candidate, as defined in Paragraph 1.30, other than the candidate's litigation fund committee.

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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(d).

b. The name of a litigation fund committee shall include the term "Litigation Fund."

c. A litigation fund ~~The~~ committee shall have a treasurer who shall be responsible for keeping records of contributions and expenditures as described in Paragraph 1.22.~~the committee's transactions.~~

d. 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.

e. 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.

f. A candidate may make expenditures from his or her candidate political committee for the purposes described in Paragraph 1.35(d).

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 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 Paragraph 1.36 shall be sent to the attention of the Board's Executive Director by postal mail or email.

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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 When a person or political committee makes an expenditure that is coordinated with a candidate's campaign and is made to advocate or influence the election of the candidate, the expenditure is an in-kind contribution from the person or committee to the candidate and is subject to the contribution limits set forth in Subpart B.

1.39 An expenditure is coordinated with a candidate's campaign if:

The expenditure 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

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e.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 1.4039.

Example for 1.39(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 \$11,500 to set up the phone bank and telephones individuals provided on the list from Candidate A. The \$11,500 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 \$11,500 in-kind contribution to Candidate A.~~

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.~~

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1.4039 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.

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Example for 1.40(a) and (b): Three weeks before election day, 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 to and an excess in-kind contribution received by Candidate A.

- 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.

1.41

Example for 1.39(a) and (b): Three weeks before election day, 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.

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- 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 have an agent ~~in common~~ 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 in this Subpart regarding excess pre-candidacy contributions are relevant only if a political committee that is authorized to receive contributions on behalf of an individual who subsequently becomes a candidate for City office receives contributions, prior to that individual becoming a candidate for City elective office, an individual accepts contributions in excess of the limits set forth in Subpart B.

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- 1.4241** The provisions of this Subpart regarding excess pre-candidacy contributions apply only to contributions received during the accounting period.

Example: On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. The accounting period for Candidate A is January 1, 2012 through November 30, 2014. The last Mayoral election was held in 2011 so January 1, 2012 would be the first day of the year following that election.

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.

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1.4342 Prohibited Expenditures.

- a. A candidate or candidate political committee shall not:
 - a. Spend ~~any~~ 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. Spend ~~A former candidate or the political committee of a former candidate shall not spend any excess pre-candidacy contributions or post-candidacy contributions for the purposes of:~~
 - i. Transition or inauguration expenses to City elective office; or

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- ii. Retiring debt that was incurred either to (i) influence the outcome of an already completed a covered election in which he or she was a candidate; or (ii) cover for expenses related to transition or inauguration expenses related to an already completed covered election to City elective office.
- c. Transfer A candidate or candidate political committee shall not transfer excess pre-candidacy contributions to the candidate's litigation fund committee established as described in pursuant to Subpart G.

1.4443 Exclusion of excess pre-candidacy contributions upon becoming a candidate.

- a. Within 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 pre/post-candidacy excess contribution account; or
 - ii. Returning excess pre-candidacy contributions to the their contributors who made those contributions.
- b. **Calculation of amount to be excluded.** A candidate shall determine the amount to be excluded by using one of the following calculation methods:
 - i. **Dollar for dollar calculation.** Using this calculation method, a candidate shall exclude an amount equal to the total amount of excess pre-candidacy contributions his or her candidate political committee received during the accounting period.

Example: On November 1, 2014, Friends of Candidate A receives a contribution of \$3,000 from Person B (\$2,900 within limits, \$100 excess) and a contribution of \$3,000 from Person C (same). On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, Friends of Candidate A must exclude \$200 from its checking account.

Example: On November 1, 2014, 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, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, Friends of Candidate A must exclude \$1,000 (\$500 excess from Mr. B + \$500 excess from Ms. C) from its checking account.

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- ii. **Accounting-based calculation.** Using this calculation method, a candidate does not have to exclude any excess pre-candidacy contributions that he or she demonstrates, using a reasonable 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 must 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 must 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 must shall use incoming contributions to cover the amount that must shall be excluded.

1.4544 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 must 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 1.4443.

Example 1: On November 1, 2014, Friends of Candidate A receives a contribution of \$3,000 from Person B (\$2,900 within limits, \$100 excess) and a contribution of \$3,000 from Person C (same). On November 2, 2014, Candidate A transfers \$200 from the checking account of the candidate political committee to a SPEC account. On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral 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, 2014, Friends of Candidate A receives a contribution of \$3,000 from Person B (\$2,900 within limits, \$100 excess) and a contribution of \$3,000 from Person C (same). On November 2, 2014, Candidate A transfers \$200 from the checking account of the candidate political committee to a SPEC account. On November 30, 2014, Candidate A spends \$200 from the SPEC account on fliers to be used in the upcoming election. On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, Friends of Candidate A must exclude \$200 from its checking account. While Candidate A segregated Person B and Person C's \$200 in excess contributions, she spent \$200 from the SPEC account on pre-payment expenditures during the

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accounting period and must therefore exclude an amount equal to those pre-payments from the Friends of Candidate A checking account.

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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.

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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.

1.4746 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.

1.4847 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.

EXHIBIT C TO REGULATION NO 1 HEARING REPORT:

ALL CHANGES MADE BY AMENDMENT

SUBPART J. RETIRING DEBT

| **1.4948** Except as provided in Paragraph 1.5049, 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.

| **1.5049** 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

| **1.5150** **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.

| **1.5251** **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.

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DEPARTMENT OF JUSTICE

EXHIBIT C TO REGULATION NO 1 HEARING REPORT:

ALL CHANGES MADE BY AMENDMENT

1.5352 Safe harbor if an excess contribution is returned within 15 days. No civil monetary penalty shall be imposed on a contributor or recipient offor 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. Notifies the Board ofProvides the following information by postal mail or email sent to the attention of the Board's Executive Director by postal mail or email: the amount of the excess contribution, the identitiesidentity of the contributor and the candidate, the date of receipt, and the date of return.

1.5453 Failure to file campaign finance disclosures. If a-A civil penalty of \$250 shall be imposed for failure political committee fails to file a campaign finance or litigation fund committee report or statement with the Board as described inrequired 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.

b.—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.

1.5554 Material misstatements or omissions. If a campaign finance report filed with the Board contains material misstatements or omissions, the 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 uses a political committee or account in violation of the requirements set forth in Subpart F or G, he or she 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.

DEPARTMENT OF STATE
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EXHIBIT C TO REGULATION NO 1 HEARING REPORT:

ALL CHANGES MADE BY AMENDMENT

1.58 Other violations of the campaign finance law. All other violations of the campaign finance law, including the making of material misstatements or omissions in a campaign finance report filed with the Board, are subject to a civil monetary penalty of \$1,000, which may 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 depending on the presence of mitigating and aggravating factors as described in this Paragraph 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 is present:
 - i. Good faith effort to comply. The violator is found to have made a good faith effort to comply with the law.
 - 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.

DEPARTMENT OF ETHICS
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EXHIBIT C TO REGULATION NO 1 HEARING REPORT:

ALL CHANGES MADE BY AMENDMENT

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

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

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 contributions limits, covered elections, and reporting periods.

DEPARTMENT OF ELECTORAL
2016 NOV 21 PM 2:36

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EXHIBIT D

893113

DEPARTMENT OF RECORDS

2016 NOV 21 PM 2:36

IN RE:
CITY OF PHILADELPHIA BOARD OF ETHICS
HEARING ON PROPOSED REGULATION 1, CAMPAIGN FINANCE

- - -

TRANSCRIPT OF THE ABOVE MATTER, taken by
and before ERICA HEARN, Professional Court
Reporter and Notary Public, at the CITY OF
PHILADELPHIA BOARD OF ETHICS, One Parkway
Building, 1515 Arch Street, 18th Floor,
Philadelphia, Pennsylvania, on Wednesday,
October 19, 2016 commencing at 1:06 p.m.

893114

DEPARTMENT OF ETHICS
2016 NOV 21 PM 2:36

- - -
ERSA COURT REPORTERS
30 South 17th Street
United Plaza - Suite 1520
Philadelphia, PA 19103
(215) 564-1233

PROCEEDINGS

	2		4
1 APPEARANCES:		1 PROCEEDINGS	
2		2	
3 BOARD MEMBERS:		3	MR. REED: We are going to start
4		4	off with a public hearing on Board
5		5	Regulation No. 1. I will acknowledge the
6 MICHAEL H. REED, CHAIRMAN		6	presence of a quorum of the Board.
7 PHYLLIS W. BECK, VICE CHAIR		7	Welcome, everyone. I am Mike
8 JOANNE A. EPPS, ESQ., MEMBER		8	Reed. I am the Chair of the Board and our
9 SANJUANITA GONZALEZ, ESQ., MEMBER		9	first activity today is to hold a public
10 BRIAN J. MCCORMICK, ESQ., MEMBER		10	hearing on the proposed amendments to
11		11	Board Regulation No. 1 relating to
12		12	Campaign Finance.
13 BOARD STAFF:		13	I will note for the record that I
14		14	am joined by Vice Chair, Judge Beck; Board
15 J. SHANE CREAMER, JR., ESQ.		15	Members Brian McCormick and Joanne Epps,
16 MAYA NAYAK, ESQ.		16	and I believe we're expecting Board Member
17 NEDDA MASSAR, ESQ.		17	Sanjuanita Gonzalez.
18 MICHAEL COOKE, ESQ.		18	I further note for the record
19 DIANA LIN, ESQ.		19	that Lewis Rosman from the Law Department
20 JORDAN SEGALL, ESQ.		20	is present and welcome him.
21 THOMAS KLEMM, ESQ.		21	Today's hearing is an opportunity
22 LEWIS ROSMAN, ESQ.,		22	for members of the public and interested
23 City of Philadelphia		23	parties to provide comments and
24 Law Department		24	recommendations for modifications to
	3		5
1		1	proposed amendments to Board Regulation
2		2	No. 1, Campaign Finance. Copies of these
3		3	proposed amendments have been made
4		4	available electronically and hard copies
5		5	are available here today for anyone who
6		6	needs a copy.
7		7	As required by Philadelphia Home
8	---	8	Rule Charter Section 8-407, the Board
9		9	approved these proposed amendments for
10 EXHIBITS		10	public posting at the Records Department
11		11	during its September 21, 2016 public
12		12	meeting. The Law Department reviewed the
13 NUMBER	DESCRIPTION	13	proposed amendments and found the proposed
14	ATTACHED	14	amendments to Board Regulation No. 1 to
15		15	be, quote, "legal and in proper form,"
16 EXHIBIT 1	Law Department Approval	16	unquote.
17	Memorandum; Regular 1	17	The Department of Records
18	proposed amendments	18	advertised and gave public notice of the
19	approved for public	19	proposed amendments as required by the
20	comment	20	Charter. The Board also took action by
21		21	notifying members of the relevant email
22		22	distribution list, and by giving notice of
23		23	the proposed amendments on its website.
		24	The Board proactively scheduled

2 (Pages 2 to 5)

PROCEEDINGS

<p>1 this hearing on the proposed amendments 2 and provided notice of this hearing by 3 newspaper, and on the Board's website.</p> <p>4 The Board will not take action on 5 the proposed amendments at this hearing, 6 rather this hearing is an opportunity for 7 the public to make comments on the 8 proposed amendments or recommendations or 9 modifications to the proposed amendments 10 as presented.</p> <p>11 A hearing report will be 12 considered and approved by the Board at a 13 future Board meeting. The hearing report 14 will respond to testimony and is the 15 mechanism by which the Board may modify or 16 alter the proposed amendments -- welcome, 17 Board Member Gonzalez -- modify or alter 18 the proposed amendments to Board 19 Regulation No. 1 that are pending.</p> <p>20 A court reporter is present, we 21 welcome her, to transcribe this hearing.</p> <p>22 At this time, the proposed 23 amendments of Board Regulation No. 1 that 24 were filed with the Department of Records</p>	<p>6</p> <p>1 when the Board approved the proposed 2 amendments for public comment and posting, 3 Board staff have gone back through the 4 regulation and carefully reviewed it to 5 see if there are any additional changes we 6 thought were appropriate, or to look for 7 misspellings, typos, formatting problems, 8 issues with cross references and so on.</p> <p>9 As a result of that review, we 10 have caught a number of typos, some cross 11 references that are wrong now that 12 paragraph numbers have changed, formatting 13 issues and the like, as well as one or two 14 other changes we think should be made that 15 are not really to a substantive level but 16 a little more than a typo.</p> <p>17 What is in my testimony today I 18 do not intend to identify each typo, you'll 19 probably be relieved to hear, but 20 will instead only specifically note the 21 more significant changes that we are 22 testifying we would recommend that the 23 Board adopt to the proposed amendment.</p> <p>24 Next month, after this hearing</p>
<p>1 should be entered on the record of this 2 hearing and marked as Exhibit 1. 3 (At this time, the court reporter 4 marked the exhibit for identification as 5 Exhibit 1.)</p> <p>6 MR. REED: We'll now take 7 testimony.</p> <p>8 As that, I ask that the witnesses 9 sit at that table. Each witness should 10 identify himself or herself prior to 11 testifying. Before hearing from members 12 of the public, I would like to invite 13 Board staff to testify if they wish.</p> <p>14 I see Mr. Cooke showing signs of 15 an inclination to testify, and I will 16 recognize him for that purpose.</p> <p>17 MR. COOKE: Thank you, Mr. Chair.</p> <p>18 Good afternoon. My name is 19 Michael Cooke, I'm the Board's Director of 20 Enforcement and I will be testifying on 21 behalf of staff today regarding the 22 proposed amendments to Board Regulation 23 No. 1.</p> <p>24 Since the September Board meeting</p>	<p>7</p> <p>1 has been concluded and we have the 2 transcript, Board staff will prepare the 3 proposed hearing report for the Board to 4 review, and that hearing report will 5 address all of the testimony that you hear 6 today and make a recommendation by staff 7 in terms of how to respond to that 8 testimony, which may include making 9 changes to the regulation.</p> <p>10 The hearing report will include a 11 revised proposed amended regulation, as 12 well as a document that shows the changes 13 that have been made to the document since 14 the posting of records department. And so 15 we intend to, as we go through that 16 process, fix all the typos and formatting 17 problems, cross references, and so on and 18 that will be visible to the Board in the 19 documents appended to the hearing report, 20 and we will note that in the hearing 21 report as well.</p> <p>22 So unless Board members object to 23 that approach, I will proceed to not 24 identify all the typos and instead just</p>

DEPARTMENT OF RECORDS

PROCEEDINGS

<p>1 remark upon the one or two more 2 significant changes that we propose the 3 Board adopt.</p> <p>4 MR. REED: Please proceed.</p> <p>5 MR. COOKE: Making sure I don't 6 miss anything, the first thing is on page 7 ten in paragraph 1.19. The table there 8 that lists the filing deadlines, two 9 changes the staff propose be made are to 10 in the column headed "deadline," be 11 consistent and have all the numbers.</p> <p>12 For instance, the Thirty Day 13 Post-Primary Election to have 30 numeric 14 as opposed to spelled out to be consistent 15 with how we are in the rest of the 16 regulation, particularly the next column 17 over. So that would be in two places. 30 18 would be numeric as opposed to in written 19 form. And then also to some spacing 20 issues which aren't necessary to mention.</p> <p>21 MR. REED: Michael, I am probably 22 the only person in this room who is 23 totally lost as to where you are.</p> <p>24 MR. COOKE: Okay. So we are in</p>	<p>10</p> <p>1 number, \$11,500 as opposed to the current 2 limits which are \$11,900, so we will 3 change that there.</p> <p>4 Similarly, if you look on page 5 22, the example on that page was not 6 updated in terms of the years that are 7 referenced, so throughout the regulation 8 in these examples, and we will update the 9 years and the examples to fit with the 10 current election calendar, so the example 11 there would say, instead of on December 1, 12 2014, on December 1, 2016 Candidate A 13 declares her candidacy for the May 2017, 14 and then we propose saying Controller 15 primary election, since only the 16 Controller's Office and District 17 Attorney's Office are up in 2017, but we 18 will update the date and office references 19 to match the current election cycle. 20 And then we would on page 23-- 21 MR. REED: Wait a minute. In 22 that hypothetical, the other dates are 23 changing too? 24 MR. COOKE: All the dates will</p>
<p>11</p> <p>1 the proposed amendment to Regulation No. 1 2 on page ten.</p> <p>3 MR. REED: Some documents were 4 handed out this morning.</p> <p>5 MR. COOKE: That's for Regulation 6 9. So we're at Tab 1 in your Board books.</p> <p>7 MR. REED: Okay. That's why I'm 8 lost.</p> <p>9 Okay. Proceed.</p> <p>10 MR. COOKE: So just changing 30 11 to numeric as opposed to written.</p> <p>12 Moving ahead to page 12, in the 13 middle there, (d) Other political 14 committees and persons, subparagraph ii, 15 says in the second line, "that make 16 independent expenditures of \$500 or more 17 to influence a City election," we propose 18 City election should be changed to covered 19 election to be consistent with the defined 20 terminology in the regulation.</p> <p>21 If you turn to page 20, there is 22 an example box right above paragraph 1.39. 23 In this example, we mistakenly left the 24 contribution limits as the previous</p>	<p>13</p> <p>1 change in the example; everything will 2 move forward two years.</p> <p>3 JUDGE BECK: Why don't you just 4 give us the date. 5 MR. REED: Give us the date. 6 MR. COOKE: Sure. So it will now 7 read on December 1, 2016 Candidate A 8 declares her candidacy for the May 2017 9 Controller primary election. The 2016 10 accounting period for Candidate A is 11 January 1, 2014 through November 30th, 12 2016. The last Controller election was 13 held in 2013, so January 1, 2014 would be 14 the first day of the year following that 15 election. 16 MR. REED: Thank you. 17 MR. COOKE: Yep. Similar change 18 on page 23, the next page in the example 19 box there, we need to update the years in 20 each instance by two years in order to 21 match the current election cycle. 22 We also propose at the end of 23 that example, the end of the last 24 sentence, adding a parenthetical that</p>
<p>11</p> <p>1 the proposed amendment to Regulation No. 1 2 on page ten.</p> <p>3 MR. REED: Some documents were 4 handed out this morning.</p> <p>5 MR. COOKE: That's for Regulation 6 9. So we're at Tab 1 in your Board books.</p> <p>7 MR. REED: Okay. That's why I'm 8 lost.</p> <p>9 Okay. Proceed.</p> <p>10 MR. COOKE: So just changing 30 11 to numeric as opposed to written.</p> <p>12 Moving ahead to page 12, in the 13 middle there, (d) Other political 14 committees and persons, subparagraph ii, 15 says in the second line, "that make 16 independent expenditures of \$500 or more 17 to influence a City election," we propose 18 City election should be changed to covered 19 election to be consistent with the defined 20 terminology in the regulation.</p> <p>21 If you turn to page 20, there is 22 an example box right above paragraph 1.39. 23 In this example, we mistakenly left the 24 contribution limits as the previous</p>	<p>13</p> <p>1 change in the example; everything will 2 move forward two years.</p> <p>3 JUDGE BECK: Why don't you just 4 give us the date. 5 MR. REED: Give us the date. 6 MR. COOKE: Sure. So it will now 7 read on December 1, 2016 Candidate A 8 declares her candidacy for the May 2017 9 Controller primary election. The 2016 10 accounting period for Candidate A is 11 January 1, 2014 through November 30th, 12 2016. The last Controller election was 13 held in 2013, so January 1, 2014 would be 14 the first day of the year following that 15 election. 16 MR. REED: Thank you. 17 MR. COOKE: Yep. Similar change 18 on page 23, the next page in the example 19 box there, we need to update the years in 20 each instance by two years in order to 21 match the current election cycle. 22 We also propose at the end of 23 that example, the end of the last 24 sentence, adding a parenthetical that</p>
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PROCEEDINGS

14	16
<p>1 specifies that the reason Candidate A must 2 exclude \$1,000 is because she received two 3 \$500 excess pre-candidacy contributions. 4 So to make that as clear as possible, we 5 have included the parenthetical with the 6 relevant dollar amounts.</p> <p>7 The following page, 24, just to 8 note, is two more examples where the years 9 need to be updated and the relevant 10 office.</p> <p>11 That concludes my testimony, 12 unless Board members have any questions, 13 which of course I would be very happy to 14 answer.</p> <p>15 MR. REED: I will open the floor 16 to the Board for any questions of 17 Mr. Cooke.</p> <p>18 Let me just confirm, for the 19 record, that copies of this document have 20 been made available to everyone in the 21 audience.</p> <p>22 MR. COOKE: That is correct.</p> <p>23 MR. REED: Hearing none, I thank 24 you, Mr. Cooke, for your testimony.</p>	<p>1 MR. REED: Thank you. 2 MR. BONIN: My big issue is with 3 the Proposed Regulation 1.20(a)(i). 4 JUDGE BECK: Can you tell us what 5 page? 6 MR. BONIN: It is on page -- 7 MR. MCCORMICK: 11. 8 MR. BONIN: -- 11 of this draft. 9 As you can see, the proposed 1.20(a)(i) 10 proposes the candidate political 11 committees shall file with the Board a 12 campaign finance report or statement for 13 each of the reporting cycles listed in 14 1.19, if the individual by whom the 15 committee is authorized to accept 16 contributions is a candidate for City 17 elective office.</p> <p>18 While I understand the interest 8 19 behind this, I don't think that that's a 9 20 faithful implementation of what Council 10 21 passed. If you go back to Bill 150368, 11 22 which is the Bill from 2015 which added 12 23 the reporting cycles, and it added the 13 24 Tuesday pre-election reports, what it said 14</p>
15	17
<p>1 I would invite other witnesses to 2 appear and testify. 3 ---</p> <p>4 MR. BONIN: Good afternoon, 5 Mr. Chairman, Members of the Board. 6 My name is Adam Bonin. I am an 7 attorney who specializes in issues of 8 political law and political law 9 compliance, including within the City of 10 Philadelphia, however, my testimony today 11 is not on behalf of any clients past or 12 present, though of course it may help them 13 or hinder them in the future depending on 14 what the Board does here.</p> <p>15 I think the Board staff generally 16 did a good and faithful job in these 17 regulations. There are only three items I 18 want to discuss, one is an issue that I 19 have with the regulations, the other two 20 are merely in the way of suggestions.</p> <p>21 I already emailed my written 22 testimony to the staff that will be 23 distributed to the Board, so don't worry 24 too much about taking notes here.</p>	<p>1 there was that it was adding these reports 2 for any political committee, including the 3 candidate committee, which has made 4 expenditures within the eight months prior 5 to a covered election, and it requires 20 6 them to file the additional six Tuesday 11 7 pre-primary report. 12</p> <p>8 MR. CREAMER: So you're saying 13 9 there's an expenditure trigger in 14 10 addition? 11 MR. BONIN: Yes, exactly. 15</p> <p>12 And that's how the regulation 16 13 should be limited. If the candidate has 17 14 made expenditures towards that election, 18 15 then, yes, you buy the additional limits. 19 16 But, for example, if people have 20 17 authorized candidates, committees for next 21 18 year's District Attorney or City 22 19 Controller elections, but they haven't 23 20 made any expenditures towards this fall's 24 21 general election, I don't see where in 22 22 Council's enactment it allows the Board to 23 23 extend the regulation to require, you 24 24 know, pre-election reportings of this 25</p>

5 (Pages 14 to 17)

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<p>1 really going to be helpful for candidates 2 and for vendors and practitioners, I would 3 go to, it's on page 20, 1.39(c)(2).</p> <p>4 This was a further effort by the 5 staff to clarify what has been, you know, 6 what's known nationally as the McConnell 7 Loophole. Here it has been attributed to, 8 you know, a number of other candidates who 9 have benefited by putting b-roll or 10 pictures online that are later used by 11 outside groups.</p> <p>12 I'm not sure that this definition 13 is quite clear enough as to what it means, 14 a public source that is not -- you know. 15 It is not an in-kind contribution if it is 16 a photograph obtained from a public source 17 that is not controlled by the candidate's 18 campaign. Because, obviously, you know, 19 what is the public source? The candidate 20 doesn't control YouTube. A candidate 21 doesn't control Instagram. You can upload 22 things to those sites, and I think if 23 we're working on changing the definition, 24 that's where it should go. And what I</p>	<p>22</p> <p>1 intentionally go through a series of 2 actors, you know, the outside group knows 3 how to find it. But, I mean, that's going 4 to be a problem either way and you're 5 still dealing with -- I mean, that content 6 would still be covered by this definition 7 because it was provided to the site by the 8 campaign.</p> <p>9 MS. EPPS: The burden of proof 10 would be enormous. If that's, I guess, 11 what I'm thinking, is the definition would 12 be very difficult to prove.</p> <p>13 MR. BONIN: That it was provided 14 by the -- well, I mean, you have to prove 15 it either way though.</p> <p>16 And I think there is something in 17 the nature -- there is always going to be 18 something in the nature of the content 19 itself.</p> <p>20 MR. CREAMER: Right. And that 21 will leave a trail potentially.</p> <p>22 MR. BONIN: You know, we're not 23 talking about sort of like random pictures 24 from people's smartphones.</p>
<p>23</p> <p>1 proposed in my written testimony is the 2 photograph republished was not provided to 3 a public source by the candidate's 4 campaign. So you're just focusing on who 5 put the thing there, rather than what the 6 thing is that is out there.</p> <p>7 Finally, just a very quick note 8 on --</p> <p>9 MS. EPPS: Am I allowed to ask a 10 question, Mr. Chair?</p> <p>11 MR. REED: Yes, I believe -- yes, 12 ask a question.</p> <p>13 MS. EPPS: How would we know how 14 it got to YouTube under your definition, 15 for example?</p> <p>16 MR. BONIN: Well, that's -- if 17 it's under -- if the candidate puts it 18 under their channel, you know, on their 19 own page, then you know.</p> <p>20 I mean, it can -- look, I mean 21 the problem is it can certainly happen 22 that they sort of, you know, someone can 23 upload something to a private channel and 24 somehow -- well not somehow --</p>	<p>23</p> <p>1 When candidates are trying to set 2 these things up, and these are 3 professionally shot photographs or videos 4 in the first place.</p> <p>5 MS. EPPS: I understand, and I do 6 appreciate your point.</p> <p>7 I would just like to say from my 8 perspective controlled by the candidate's 9 campaign and provided by the candidate's 10 campaign to me seem like vastly different 11 burdens of proof.</p> <p>12 MR. BONIN: I guess my question 13 is sort of what is the thing that's 14 controlled by the campaign, because it's 15 not the whole site itself, we're just 16 talking about sort of a channel or a 17 folder on that site. And I think that as 18 written, it's ambiguous enough that I 19 would want to clarify it anyway.</p> <p>20 MS. EPPS: I'm not defending the 21 current way; I'm thinking we should keep 22 working.</p> <p>23 MR. BONIN: Yeah. 24 The third thing is on penalties.</p>
	<p>24</p> <p style="text-align: right;">7 (Pages 22 to 25)</p>

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<p>1 So the proposed 1.54, which is on page 26, 2 penalties for material misstatements and 3 omissions.</p> <p>4 I just find this, the notion that 5 the individual who filed the report is 6 subject to the penalty is too ambiguous, 7 because I don't know if the individual who 8 filed the report, if you mean the 9 treasurer, the candidate jointly and 10 severally, if it's a candidate's 11 committee, or if you literally mean the 12 compliance firm, you know, the person 13 there who transmitted the files to the 14 Board of Ethics to file the report. 15 Because I don't think you mean that. And 16 I would just suggest clarifying that 17 language to say instead of the individual 18 who filed the report, you know, the 19 treasurer, jointly and severally with the 20 candidate, if it is a candidate committee, 21 is liable or even the treasurer or the 22 candidate if it's a candidate committee. 23 But, either way, I think the 24 individual who filed the report doesn't</p>	<p>26</p> <p>1 prefer not to memorialize it in the 2 official record to the Board of Ethics. 3 I'm sure you have enough evidence of my 4 stupidity elsewhere. 5 In any event, I don't have any 6 substantive comments. I just wanted to 7 make a comment based on what Michael was 8 talking about in terms of changing the 9 date. 10 I guess just in terms of making 11 sure that these regulations are as 12 up-to-date and given out to campaigns and 13 candidates as quickly as possible, I'm 14 just going to suggest that if we try to 15 match the examples to specific elections, 16 we're going to be in this room changing 17 things every six months. 18 So my suggestion is just for 19 future regulations, if people understand 20 the point, and rather than saying the 21 primary election for City Controller and 22 the DA, which is going to be over fairly 23 shortly, if we can change examples that we 24 give to more generic examples or even</p>
<p>1 make it clear who the penalty is on. 2 MR. REED: You certainly don't 3 mean counsel now, do you? 4 MR. BONIN: Oh, I try to leave 5 the filing to others. I'm happy to review 6 anything. 7 MR. MCCORMICK: Counsel's 8 paralegal. 9 MR. BONIN: That's all I have. 10 If there are any other questions, 11 I'm happy to answer them, but otherwise I 12 appreciate the opportunity. 13 MR. REED: Your input and 14 guidance is always appreciated, Mr. Bonin. 15 MR. BONIN: Thanks. 16 MR. REED: Any questions? 17 Yes, Ms. Kaplan. 18 Ms. Kaplan, you're looking like I 19 looked many years ago when I dislocated my 20 shoulder. 21 --- 22 MS. KAPLAN: Well, I'm very happy 23 to talk off the record to anybody in this 24 room about the stupid accident, but I</p>	<p>27</p> <p>1 something four years from now, so we're 2 just not back in the room talking about, 3 oh, we need to change something in ten 4 different places because a particular 5 election, in this case it was the Mayor's 6 election, has already passed. 7 Obviously, we need to make 8 changes based on the changes in the 9 contribution limits and, you know, 10 obviously it will be up to the Law 11 Department to determine whether we have to 12 process a regulation approval process to 13 do that, but that really was just my 14 comment because you want these to have a 15 long shelf life. 16 MR. REED: In other words, you're 17 saying that we actually could leave the 18 dates the way they are. 19 MS. KAPLAN: Sure. 20 MR. REED: Because five years 21 from now those dates are going to be, you 22 know, five-year-old dates, and we're not 23 going to change the regulation because 24 those dates are different, right? I mean,</p>

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30	32
<p>1 that's your point.</p> <p>2 MS. KAPLAN: My point is just 3 what we're concerned about here is that 4 people understand what the rule is, the 5 substance of the rule and the actual date 6 is less material, and putting in a date 7 just requires you folks to make changes 8 continually. Now, in this particular 9 case, you had a number of changes to make, 10 so it's not -- you needed to --</p> <p>11 MR. REED: We're certainly not 12 going to merely change regulations to 13 change a date unless it's material.</p> <p>14 MS. KAPLAN: Right. And this 15 would apply to any regulations that you 16 folks are doing. So, again, that's my 17 only comment.</p> <p>18 MR. ROSMAN: Mr. Chairman --</p> <p>19 MR. REED: First of all, the 20 floor is open for any other questions for 21 Ellen. And hearing none, would you like 22 to testify Mr. Rosman?</p> <p>23 MR. ROSMAN: Yes, Lewis Rosman 24 from the Law Department.</p>	<p>1 do that.</p> <p>2 MR. CREAMER: Okay, great. We 3 need a similar footnote.</p> <p>4 MR. LEWIS: Yeah, I would add 5 something at the end of the regulation 6 that says something like that, but we can 7 work on it for the report.</p> <p>8 MR. CREAMER: Okay, great. Very 9 helpful. Thank you.</p> <p>10 MR. BONIN: It occurs to me that 11 the only thing that that does is, the 12 whole talk that the Board had last time 13 over the reporting dates, that sort of we 14 -- that the staff would have to just 15 update them in an addendum over and over 16 again, you could instead update it for the 17 regulation itself.</p> <p>18 MR. REED: Um-hum. Well, ⁸⁸ 19 certainly excellent comments and, you 20 know, all things considered I think we 21 came away fairly unscathed by our public. 22 So unless there are any other ¹¹² 23 comments by the Board or any other 24 witnesses --</p>
31	33
<p>1 I just want to make a suggestion 2 in that regard.</p> <p>3 You could add a sentence to the 4 regulation that says staff are authorized 5 to make changes to any of the examples set 6 forth in the regulation for purposes of 7 future publication, and then you don't 8 have to go back and formally amend it each 9 time, the staff can update the dates.</p> <p>10 MR. REED: Is that statement an 11 official guidance from the Law Department?</p> <p>12 MR. COOKE: It's on the record.</p> <p>13 MR. REED: Is that something you 14 want to reflect on?</p> <p>15 MR. ROSMAN: No, I think that 16 would be fine. I don't think --</p> <p>17 MS. KAPLAN: And the 18 Administration is in favor of Mr. Rosman's 19 suggestion.</p> <p>20 MR. CREAMER: Can we do the same 21 thing, Lewis, with the contribution limits 22 so they're adjusted on a quadrennial 23 basis?</p> <p>24 MR. LEWIS: Yeah, I think we can</p>	<p>1 MS. EPPS: I sort of have one 2 question.</p> <p>3 MR. REED: Absolutely.</p> <p>4 MS. EPPS: Do these regularly ² 5 reveal the date on which they were either ³ 6 adopted or most recently amended? ⁴ Because ⁵ 7 I like the suggestion, but it would ⁶ 8 require, to me, some date on it that ⁷ would ⁸ 9 allow me to know I'm holding the version ⁹ 10 that was in place in 2016 and you're ¹⁰ holding ¹¹ 11 the version that was in place in ¹¹ 2017. ¹²</p> <p>12 MR. COOKE: If you look on the ¹² 13 last page, we track all the amendment ¹³ 14 history, and so I think we could add ¹⁴ 15 something comparable there for that ¹⁵ 16 change.</p> <p>17 MS. EPPS: Okay.</p> <p>18 MR. REED: Any further business ¹⁶ 19 in terms of the public hearing? Hearing ¹⁷ 20 none.</p> <p>21 Are we going to admit that ¹⁸ 22 exhibit.</p> <p>23 MS. LIN: Yes, it is admitted.</p>

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1 MR. REED: We are going to deem 2 that exhibit admitted and close the public 3 hearing and thank everybody for their 4 participation. 5 (Hearing concluded at 1:36 p.m.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	1 EXHIBIT-1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24
1 C E R T I F I C A T I O N 2 3 4 5 I, ERICA HEARN, Professional Court 6 Reporter and Notary Public, do hereby certify that 7 the foregoing is a true and accurate transcript of 8 the stenographic notes taken by me in the 9 aforementioned matter. 10 11 12 --- 13 14 15 16 17 18 19 20 21 22 DATE: OCTOBER 21, 2016 _____ 23 24 ERICA HEARN	35 693123 DEPARTMENT OF STATE 2016 NOV 21 PM 2:37

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CITY OF PHILADELPHIA
BOARD OF ETHICS

MEMORANDUM

TO: Department of Records
Attn: Anthony Tann, Jr.

FROM: Maya Nayak, General Counsel *MN*

DATE: September 27, 2016

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

At a public meeting on September 21, 2016, 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 memo. I am forwarding the proposed amendments to Regulation 1 to the Records Department for advertising and public inspection.

The Board has already scheduled a public hearing on these proposed amendments, so the newspaper legal notice of these proposed amendments should also announce a public hearing to be held on October 19, 2016 at 1:00 pm at this location:

Philadelphia Board of Ethics
Room # 18-022
One Parkway Building,
1515 Arch Street, 18th floor
Philadelphia, PA 19102

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

Enclosures (Law Dept. approval memo; Reg. 1 proposed amendments approved for public comment)

cc: Lewis Rosman, Senior Attorney (via email)

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