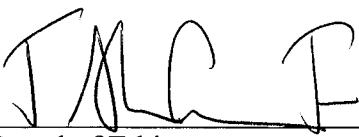


Report on public hearing held October 17, 2018 by the Philadelphia Board of Ethics
Regarding a proposed amendment to Regulation No. 1 "Campaign Finance"

Dated: 11/29/18


Board of Ethics
J. Shane Creamer, Jr.
Executive Director

Dated: 10/25/18

Approved: 
338580
Law Department
Richard Feder
Chief Deputy City Solicitor
(Legislation) and Counsel to the
Solicitor

DEPARTMENT OF RECORDS

2018 NOV 29 PM 3:16

A. Legal Authority

The Board of Ethics 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 12, 2018, 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 26, 2018, the Board filed the proposed amendment with the Records Department. The Board scheduled a hearing on the proposed amendment for October 17, 2018, 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 17, 2018 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 26, 2018 is attached as Exhibit B. A blackline showing all changes made to the Regulation by the regulatory process initiated on September 12, 2018, and being approved by the Board through this Report, is attached as Exhibit C.

C. The October 17, 2018 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. Richard Feder, Chief Deputy City Solicitor (Legislation) and Counsel to the City Solicitor, 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, and Adam Bonin, attorney. The Campaign Legal Center submitted written testimony in advance of the hearing, which is an attachment to Exhibit D.

D. Summary of Testimony and Board Response

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

a. Paragraph 1.1(h)

Mr. Cooke proposed that subpart (i) of Paragraph 1.1(h) be modified as follows (underline indicates addition, strikethrough indicates deletion):

Any money, gifts, loans, forgiveness of debts, ~~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;

Board Response

The Board agrees that Paragraph 1.1(h) should be modified as proposed.

b. Table at Paragraph 1.19

Mr. Cooke proposed that the entry in the "Deadline" column for Cycle 7 be changed to "January 31" and that the entry in the "Complete As Of" column for Cycle 7 be changed to "December 31 of the previous year."

Board Response

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

c. Paragraph 1.30(a)

Mr. Cooke proposed that Paragraph 1.30(a) be modified to clarify that the restriction applies to the manner in which a candidate spends personal funds and does not impose a limit on the amount of personal funds a candidate may spend. He also proposed adding further explanation regarding types of permissible and impermissible expenditures.

Board Response

The Board agrees and modifies Paragraph 1.30(a) as follows (underline indicates addition, strikethrough indicates deletion):

A candidate or an agent of a candidate's campaign shall not use ~~personal~~ funds held in a personal account to make expenditures for campaign activities, such as payments to vendors or staff, except that a candidate or an agent of a candidate's campaign may make minor purchases, such as for postage stamps or parking fees, on behalf of the campaign so long as he or she is reimbursed by the candidate political committee within a reasonable amount of time.

d. Paragraph 1.30(b)

Mr. Cooke proposed that Paragraph 1.30(b) be modified for greater clarity.

Board Response

The Board agrees and modifies Paragraph 1.30(b) as follows (underline indicates addition, strikethrough indicates deletion):

A candidate's campaign shall not make expenditures for campaign activities through a vendor's account, except when incidental to the vendor's provision of services to the campaign, as required by standard business practice, such as placement of advertisements by when a campaign uses an advertising agency to create and place advertisements.; ~~except that a When a vendor makes expenditures pursuant to the foregoing exception, a candidate's campaign may reimburse a vendor for costs that are incidental to the vendor's provision of services to the campaign. such expenditures.~~

2. Testimony of Adam Bonin

a. Paragraph 1.30

Mr. Bonin testified that, in his view, the Regulation should not prohibit candidates or agents of a campaign from making general purchases on behalf of the campaign using their personal funds. He opined that, in the absence of reimbursements, campaigns will be forced to issue debit cards to multiple people which could lead to misappropriation of campaign funds. He observed that if the Board has concerns about the transparency of reimbursements, it can submit a voucher request and obtain copies of a campaign's receipts.

Board Response

The purpose of Paragraph 1.30 is to provide guidance on the application of Philadelphia Code Section 20-1003, which directs that candidates for City elective office must use no more than one committee and account to make campaign expenditures. Code Section 20-1003 is a critical component of the City's Campaign Finance Law because it (1) prevents circumvention of the contribution limits, (2) ensures full disclosure to the public in a single campaign finance report of a campaign's financial activities during a reporting period, and (3) allows the Board to readily monitor compliance.

While the plain language of Code Section 20-1003 could be read to preclude any campaign expenditures whatsoever being made from any source other than the candidate's committee's checking account, Paragraph 1.30 clarifies that candidates and agents of campaigns may use personal funds to make minor purchases, such as stamps or parking fees. To also permit candidates and agents of campaigns to use personal funds to pay for significant campaign activities would be contrary to both the language and intent of Section 20-1003. The Board notes that the ability to submit a voucher request to a campaign is not a substitute for timely, public, campaign finance disclosures. As such, the Board declines to eliminate Paragraph 1.30.

b. Paragraph 1.25(c)(ii)

Mr. Bonin suggested that campaigns be permitted to make expenditures using PayPal if the campaign directly links its PayPal account to the candidate committee's checking account.

Board Response

The Board agrees and modifies Paragraph 1.25(c)(ii) as follows (underline indicates addition, strikethrough indicates deletion):

A candidate's campaign ~~shall not~~ may use a Payment Service Provider to make expenditures ~~so long as any funds used for such expenditures are drawn directly from the candidate political committee's checking account.~~

c. Paragraph 1.23(a)(iii)

Mr. Bonin suggested that the Board limit the requirement to itemize credit card expenditures to candidates for City elective offices. He noted that committees from outside of Philadelphia typically do not itemize credit card expenditures.

Board Response

The Board acknowledges the concerns Mr. Bonin raises but does not believe that they warrant a change to the text of proposed Paragraph 1.23(a)(iii). The plain language of the State Election Code requires that filers disclose “[e]ach and every expenditure” made during the reporting period. *See 25 P.S. § 3246(b)(4).* The State Election Code does not distinguish among expenditures made by cash, check, wire transfer, or credit card. Therefore, because the City’s Campaign Finance Law requires that reports filed with the Board contain all the information required for reports filed pursuant to the State Election Code, filers must itemize all of their expenditures, including those made by credit card.

That said, in recognition of the concerns Mr. Bonin raises, absent extraordinary circumstances, the Board will only enforce the second subparagraph of Paragraph 1.23(a)(iii) (which concerns itemization of purchases made by credit or charge card) against the following filers: (1) a candidate for City elective office or his or her candidate political committee; (2) any political committee or other filer that in the reporting period spent more than \$5,000 to influence a covered election; and (3) any filer who refuses to itemize such expenditures despite a specific request to do so by Board staff.

3. Campaign Legal Center

a. Overlap between Subpart F and Subpart H

In its written testimony, the Campaign Legal Center noted that the proposed changes found at Paragraphs 1.28 and 1.29 in Subpart F regarding a candidate's use of political committees appear to overlap with the rules regarding coordinated expenditures found at Subpart H. The Campaign Legal Center offered its view that if the provisions of Paragraphs 1.28 and 1.29 are intended to broaden the coordination rules, they should be incorporated into Subpart H.

Board Response

While conduct that violates Paragraphs 1.28 or 1.29 may result in coordinated expenditures, the purpose of the proposed changes found at Paragraphs 1.28 and 1.29 is not to broaden the coordination rules. Rather, the purpose is to provide guidance on the application of Philadelphia Code Section 20-1003, which directs that candidates for City elective office must use no more than one committee to make campaign expenditures. Accordingly, the Board does not believe it is necessary to revise the proposed amendment in response to the testimony by the Campaign Legal Center.

b. Additional recommendations

The Campaign Legal Center suggests numerous changes to Paragraph 1.10(f) (now renumbered 1.11(f)) (Incidental Expenditures Related to Internet Activity) and Subpart H (Coordinated Expenditures).

Board Response

The Board did not propose any changes to these Paragraphs of the Regulation when it approved the proposed amendment for public comment on September 12, 2018. The Law Department advises that the Board cannot make substantive modifications to sections of the Regulation that were not covered by the proposed amendment the Board approved for public comment. As such, while the Board appreciates the Campaign Legal Center's thoughtful suggestions, it cannot accept them at this time. The Board will keep these suggestions in mind when it next proposes amendment of the Regulation.

E. Approval

At a public meeting on November 28, 2018, the Board voted 3-0 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.

Exhibit A

Exhibit A to Hearing Report - Final amended

PHILADELPHIA BOARD OF ETHICS REGULATION NO. 1 CAMPAIGN FINANCE

Table of Contents

Subpart A.	Scope; Definitions	pg. 2
Subpart B.	Contribution Limits	pg. 5
Subpart C.	Date of Acceptance of Contributions with Respect to the Contribution Limits.....	pg. 9
Subpart D.	Attributing Contributions Made by Check for the Purpose of the Contribution Limits	pg. 9
Subpart E.	Campaign Finance Disclosures.....	pg.10
Subpart F.	Use of Political Committees and Checking Accounts by Candidates	pg.13
Subpart G.	Litigation Fund Committees	pg.16
Subpart H.	Coordinated Expenditures	pg. 17
Subpart I.	Excess Pre-Candidacy Contributions; Excess Post-Candidacy Contributions.....	pg. 19
Subpart J.	Retiring Debt	pg. 22
Subpart K.	Penalties	pg. 22

DEPARTMENT OF RECORDS
NOV 29 PM 3:17

SUBPART A. SCOPE; DEFINITIONS

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

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

- a. **Accounting period.** The period from January 1 of the year following the previous election that was held for the City elective office a candidate is seeking through 5:00pm of the day before he or she became a candidate.
- b. **Agent.** An individual who acts at the direction of or is authorized to act on behalf of a candidate, a chair or treasurer of a political committee, or a political committee.
- c. **Board.** The body of members of the Board of Ethics appointed pursuant to Section 3-806 of the Home Rule Charter.
- d. **Candidate.** An individual who (i) files nomination papers or petitions for City elective office, or (ii) publicly announces his or her candidacy for City elective office, including a former candidate who receives post-candidacy contributions or makes post-candidacy expenditures.
- e. **Candidate's campaign.** A candidate, the candidate's candidate political committee (or litigation fund committee), or an officer or an agent of any of the foregoing.
§ 806
- f. **City elective office.** The offices of Mayor, District Attorney, City Controller, Sheriff, City Commissioner, or City Council.
§ 806
- 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, loans, forgiveness of debts, 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;
§ 806
 - ii. An in-kind contribution, as defined at Paragraph 1.1(q);
§ 806
 - iii. Any post-candidacy contribution, as defined at Paragraph 1.1(u); or
§ 806
 - 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.
§ 806
- i. **Contributor.** A person or political committee who makes a contribution to a candidate, litigation fund committee, or political committee.

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

- o. Former candidate.** An individual who was a candidate for City elective office becomes a former candidate:
 - i. On the day after a general election, if he or she was unopposed in that election;
 - ii. On the day after a primary election, if he or she concedes that election;
 - iii. When his or her opponent concedes, if he or she was opposed in a general election; or
 - iv. If an election is contested, when that contest is resolved.
 - p. Independent expenditure.** An expenditure to influence the outcome of a covered election that is made without the cooperation or consultation of any candidate's campaign and that is not made in concert with or at the request or suggestion of any candidate's campaign.
 - q. In-kind contribution.**
 - i. The provision of any goods or services directly to a candidate's campaign without charge or at a charge that is less than the usual and normal charge for such goods or services;
 - ii. The payment or agreement to pay a third party to provide goods or services to a candidate's candidate political committee, if the goods and services are in fact provided; or
 - iii. Any expenditure that advocates or influences the nomination or election of a candidate that is coordinated with that candidate's campaign, as provided in Subpart H.
 - The term "in-kind contribution" does not include volunteer labor as described in Paragraph 1.10(g).

 - r. Litigation fund committee.** The committee established by a candidate to receive contributions and make expenditures solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of a candidate's election campaign or participation in an election, as described in Subpart G.
 - s. Person.** An individual, a political committee, a corporation, a partnership, a sole proprietorship, or any other for profit or not-for-profit organization.
 - t. Political committee.** Any committee, club, association, political party, or other group of persons, including the candidate political committee of a candidate for office in a covered election, which receives contributions or makes expenditures for the purpose of influencing the outcome of a covered election.
 - u. Post-candidacy contribution.** Money, gifts, forgiveness of debts, loans, or things having a monetary value, received by a former candidate or his/her agent for use in retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office.

- v. **Post-candidacy expenditure.** An expenditure made by a candidate, former candidate, or candidate political committee to defray the candidate's cost of transition or inauguration to City elective office or to retire debt that the candidate incurred to: (i) influence the outcome of a covered election; or (ii) cover transition or inauguration expenses.
- w. **Pre-candidacy contribution.** A contribution made to a political committee that: (i) has been transferred to, or otherwise becomes available for expenditure by, a candidate for City elective office; and (ii) was made before such candidate became a candidate.
- x. **Pre-payment.** A payment made during the accounting period for any thing used or to be used by a candidate's campaign, including but not limited to: printed or produced campaign materials, such as sample ballots, shirts, signs, flyers, brochures, websites, photographs, audio or video recordings; advertising time or space; office space; or services or labor.
- y. **SPEC account.** A segregated pre/post-candidacy excess contribution account, as described in Subpart I.
- z. **Sample ballot.** A ballot distributed by a political committee that lists more than one candidate in a specific covered election and recommends that voters vote for the listed candidates.

SUBPART B. CONTRIBUTION LIMITS

1.2 Limits on contributions from individuals.

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

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

- a. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than \$11,900 to a candidate for City elective office, including contributions made through one or more political committees.
- b. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than \$11,900, including contributions made through one or more political committees, to a candidate's litigation fund committee.
- c. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total post-candidacy contributions to a former candidate, including contributions made through one or more political committees, of more than \$11,900 between the general election and the end of that calendar year (or, in the case of candidates who do not win nomination, between the primary election and the end of that calendar year), and in each calendar year that follows the year of the general election.
- d. In order to qualify for the \$11,900 contribution limit described in this Paragraph, the finances of a sole proprietorship, partnership, or other form of organization shall be distinct and segregated from the personal finances of its proprietor or partners.

1.4 Contributions made through one or more political committees.

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

1.5 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 1.5(b).
- b. The limits for post-candidacy contributions (Paragraphs 1.2(c) and 1.3(c)) and for contributions to litigation fund committees (Paragraphs 1.2(b) and 1.3(b)) do not double if a candidate contributes \$250,000 or more to his or her candidate political committee.
- c. A contribution that exceeds the contribution limits at the time it is accepted by a candidate exceeds the contribution limits described in this Subpart even if the contribution limits subsequently double and the contribution is less than the doubled limits.
- d. If a candidate political committee returns, repays, or refunds to a candidate any money the candidate had contributed from his or her personal resources prior to reaching the \$250,000 threshold, the returned amount shall not count toward the amount required to trigger doubling of the limits.
- e. Once the contribution limits double, they remain doubled even if:
 - i. The candidate whose contributions from his or her personal resources triggered the doubling ceases to be a candidate; or
 - ii. After the limits have doubled, a candidate political committee returns, repays, or refunds to the candidate a portion of the money contributed from the candidate's personal resources.
- f. If a candidate contributes \$250,000 or more of his or her personal resources to his or her candidate political committee, 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.

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

1.7 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.

1.8 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.

1.9 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.

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

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

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

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

1.12 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.

1.13 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.

1.14 In-kind contributions.

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

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

1.15 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.

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

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

SUBPART E. CAMPAIGN FINANCE DISCLOSURES

1.18 Electronic filing of campaign finance reports. Any campaign finance report or statement required by this Subpart shall be electronically filed with the Board and shall be submitted in a format required by the Board. Upon receipt of any filing, the Board shall provide a printable receipt.

Information on how to electronically file a report or statement is available at:
<http://www.phila.gov/ethicsboard/campaignfinance/Pages/Filecinformation.aspx>

1.19 Campaign finance reporting schedule.

	Deadline	Complete As Of
Cycle 1	Sixth Tuesday Pre-Primary Election	50 days before the Primary Election
Cycle 101	Fourth Tuesday Pre-Primary Election	The Sunday preceding the deadline
Cycle 2	Second Friday Pre-Primary Election	The Monday preceding the deadline
Cycle 201	Final Tuesday Pre-Primary Election	The Sunday 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 401	Fourth Tuesday Pre-General Election	The Sunday preceding the deadline
Cycle 5	Second Friday Pre-General Election	The Monday preceding the deadline
Cycle 501	Final Tuesday Pre-General Election	The Sunday 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	January 31	December 31 of the previous year

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

1.20 Required filings for covered City elections.

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

1.21 Electioneering communications.

- a. Any person required to file a campaign finance report with the Board because it made, or promised to make, electioneering communications of \$5,000 or more during a reporting cycle as specified in Paragraph 1.20 shall include all transactions that have not previously been disclosed in a report filed with the Board and that occurred from eight months prior to the election through the "complete as of" date.
- b. If an organization other than a political committee that files a report pursuant to this Paragraph has used funds in segregated accounts to make expenditures for electioneering communications, that organization is only required to disclose sources of contributions that were deposited into the segregated accounts used to make those expenditures.
- c. An individual who files a report pursuant to this Paragraph is only required to disclose contributions that he or she receives or solicits in order to fund the expenditures disclosed in the report.

1.22 A litigation fund committee established pursuant to Subpart G shall electronically file with the Board for any reporting cycle for which the committee is required to file with the Department of State or City Commissioners.

1.23 Content of campaign finance reports and statements.

- a. A campaign finance report filed with the Board shall disclose all contributions and other receipts received, each expenditure made, any debt incurred during the relevant reporting period, and the cash balance at the beginning and end of the reporting period.
 - i. For each contribution of more than \$50, the report shall disclose the date and amount of the contribution and the contributor's name and address.
For each contribution of more than \$250, the report shall disclose the date and amount of the contribution, the contributor's name and address, and, in the case of contributions from individuals, the contributor's occupation, employer, and employer's address.
 - ii. For each receipt other than a contribution (such as interest income, returned checks, or refunds), the report shall disclose the name and address of the source of the funds and a description of the receipt.
 - iii. For each expenditure, the report shall disclose the date, amount, and recipient of the expenditure, and the recipient's address and the purpose of the expenditure.
If the filer has used a credit or charge card to make expenditures, the filer shall disclose and itemize each purchase made with such a card, not merely a lump sum payment.
 - iv. For each unpaid debt, the report shall disclose the name and address of the creditor, the amount of debt owed, and the date the debt was incurred, as well as a description of the debt.

- b. If, during a reporting period, a filer has accepted contributions, made expenditures, or incurred debt of less than \$250, the filer may file a statement attesting to that fact in lieu of a full report. The statement shall set forth the filer's starting and ending balance for the reporting period.

1.24 Affirmation required for campaign finance filings. Any candidate, treasurer, or other individual submitting a campaign finance report or statement to the Board shall affirm that the information set forth therein is true and correct. The individual who submits the report or statement shall be liable for civil penalties if it contains any material misstatements or omissions. The affirmation required by this Paragraph shall be submitted as required by the Board.

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

1.25 One committee and one checking account.

- a. A candidate's campaign shall use no more than one political committee and one checking account for the City elective office the candidate is seeking. All contributions and post-candidacy contributions for that office shall be deposited into the candidate political committee's checking account. All expenditures and post-candidacy expenditures for that office shall be made from the candidate political committee's checking account.
- b. If a candidate maintains other political or non-political accounts for which contributions are solicited, such funds collected in those accounts shall not be used for the purpose of influencing the outcome of a covered election or to make post-candidacy expenditures.
- c. Payment Service Providers.
 - i. A candidate's campaign may use a Payment Service Provider (such as PayPal) to accept contributions so long as all such contributions are promptly transferred to the candidate political committee's checking account.
 - ii. A candidate's campaign may use a Payment Service Provider to make expenditures so long as any funds used for such expenditures are drawn directly from the candidate committee's checking account.
- d. **Use of savings account.** A candidate's campaign may transfer funds between the candidate political committee's checking account and a single savings account so long as:
 - i. The savings account is at the same bank as the checking account;
 - ii. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account;
 - iii. 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

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

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

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

- a. A candidate who has a candidate political committee when he or she becomes a candidate shall, within three business days of becoming a candidate, notify the Board of the following information:
 - i. The committee's name and street address (other than a P.O. box);
 - ii. The name of the bank where the committee's checking account is established; and
 - iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the committee.
- b. If a candidate does not have a candidate political committee when he or she becomes a candidate, he or she shall notify the Board of this fact within three business days of becoming a candidate and shall provide the Board with his or her street address (other than a P.O. box), telephone number, and email address.
- c. If a candidate establishes a candidate political committee after he or she has become a candidate, he or she shall provide the information required by this Paragraph within three business days of the formation of the committee.
- d. If the information required by this Paragraph changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.
- e. Information required by this Paragraph shall be provided on a form required by the Board and available on the Board's website at <https://www.phila.gov/ethicsboard/PDF/CandidateCommitteeInformationForm.pdf> and shall be sent to the attention of the Board's Executive Director by postal mail or email.

1.28 Exercising control over another political committee or bank account. Other than the candidate's designated candidate political committee or a litigation fund committee established pursuant to Subpart G, or a checking account of such committees, a candidate's campaign shall not exercise control over any political committee or checking account that makes expenditures to influence a covered election.

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

- a. The candidate or an agent of the candidate's campaign is the treasurer or chair of the political committee or a signer on, or authorized user of, the account;

- b. The candidate or an agent of the candidate's campaign established or registered the political committee or account; or
- c. The treasurer or chair of the political committee, or a signer on or authorized user of the account, is an employee of the candidate.

1.29 Other than expenditures made by the candidate's designated candidate political committee or a litigation fund committee established pursuant to Subpart G, a candidate's campaign shall not exercise control over an expenditure made to influence a covered election.

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

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

1.30. Reimbursed expenditures.

- a. A candidate or an agent of a candidate's campaign shall not use funds held in a personal account to make expenditures for campaign activities, such as payments to vendors or staff, except that a candidate or an agent of a candidate's campaign may make minor purchases, such as for postage stamps or parking fees, on behalf of the campaign so long as he or she is reimbursed by the candidate political committee within a reasonable amount of time.
- b. A candidate's campaign shall not make expenditures for campaign activities through a vendor's account, except when incidental to the vendor's provision of services to the campaign, as required by standard business practice, such as when a campaign uses an advertising agency to create and place advertisements. When a vendor makes expenditures pursuant to the foregoing exception, a candidate's campaign may reimburse a vendor for such expenditures.

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.

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 a political committee controlled by the candidate, other than the candidate's litigation fund committee.

SUBPART G. LITIGATION FUND COMMITTEES

1.35 Litigation fund committee requirements.

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

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

- a. Within three business days of the formation of a litigation fund committee, a candidate shall notify the Board of the following information:
 - i. The litigation fund committee's name and street address (other than a P.O. box);
 - ii. The name of the bank where the litigation fund committee's checking account is established; and
 - iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the litigation fund committee.
- b. If the information required by this Paragraph changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.
- c. Information required by this Paragraph shall be provided on a form required by the Board and available on the Board's website at <https://www.phila.gov/ethicsboard/PDF/CandidateCommitteeInformationForm.pdf> and shall be sent to the attention of the Board's Executive Director by postal mail or email.

1.37 Termination of a litigation fund committee.

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

SUBPART H. COORDINATED EXPENDITURES

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

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

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

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

- a. Shall be considered an in-kind contribution made by the person making the expenditure.
- b. Shall be considered an in-kind contribution received by the candidate if the person making the expenditure obtains the communication or materials directly from the candidate's campaign or from another source with the consent of the candidate's campaign.
A campaign communication or campaign material is obtained with the candidate's consent if the candidate provides it to a third party for the purpose of enabling another person to obtain the communication or material from that third party and subsequently republish some or all of it.
- c. Shall not be considered an in-kind contribution if:
 - i. The communication or material is incorporated into a communication that advocates the defeat of the candidate that prepared the material;
 - ii. The item republished is a photograph obtained from a public source that is not controlled by the candidate's campaign; or
 - iii. The person's expenditures for republication of a candidate's communications or materials are less than \$100 in the aggregate per reporting period.

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

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

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

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

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

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

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

1.42 Prohibited Expenditures.

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

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

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

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

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

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

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

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

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

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

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

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

SUBPART J. RETIRING DEBT

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

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

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

If the creditor has provided all the necessary information, the Executive Director shall present the request to the Board at a public meeting. The Board shall either approve or disapprove the proposed debt forgiveness. The Executive Director shall inform the creditor in writing whether or not the Board has approved the forgiveness of debt.

The forgiveness of debt is subject to the post-candidacy reporting requirements set forth in Subpart E.

SUBPART K. PENALTIES

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

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

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

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

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

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

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

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

1.56 Excess pre-candidacy and post-candidacy contributions.

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

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

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

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

- a. Mitigating factors. The civil monetary penalty of \$1,000 shall be reduced by \$500 if one of the following mitigating factors is present and shall be reduced by \$750 if more than one of the following mitigating factors are present:
 - i. Good faith effort to comply. The violator is found to have made a good faith effort to comply with the law.
 - ii. Prompt corrective action. The violator is found to have taken prompt corrective action where corrective action was possible to remedy the violation.
 - iii. Prompt self-reporting. The violator is found to have reported promptly the violation to the Board of Ethics.
- b. Aggravating factors. The civil monetary penalty of \$1,000 shall be increased by \$1,000 for each of the following aggravating factors that is present, provided that the total civil monetary penalty that may be imposed for one violation shall not exceed \$2,000:
 - i. Intent. The violator is found to have acted knowingly. An act is done knowingly if done voluntarily and intentionally and not because of mistake or accident or other innocent reason.
 - ii. Repeat violation. The violator previously has been found by the Board of Ethics in an administrative adjudication or by a court of competent jurisdiction to have violated the same provision.
 - iii. Obstruction of investigation. The violator is found to have obstructed the investigation of the Board of Ethics into the same violation.

Approved for public comment by the Board December 18, 2006

Effective January 17, 2007

Amendment approved by Board August 21, 2007

Effective September 21, 2007

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

Public hearing held September 8, 2010

Adopted by Board with modifications September 15, 2010

Effective September 27, 2010

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

Public hearing held June 15, 2011

Adopted by Board July 20, 2011

Effective August 11, 2011

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

Effective March 2, 2012

Proposed amendments approved for public comment by Board on December 19, 2012
Public hearing held January 23, 2013

Adopted by Board with modifications February 20, 2013

Effective March 8, 2013

Proposed amendments approved for public comment by Board on July 16, 2014
Public hearing held September 17, 2014

Adopted by Board with modifications October 15, 2014

Effective October 31, 2014

Proposed amendments approved for public comment by Board on September 21, 2016
Public hearing held October 19, 2016

Adopted by Board with modifications November 16, 2016

Effective December 2, 2016

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

Proposed amendments approved for public comment by Board on September 12, 2018
Public hearing held October 17, 2018

Adopted by Board with modifications November 28, 2018

Effective

338587

DEPARTMENT OF ELECTIONS
2018 NOV 29 PM 3:18

Exhibit B

Exhibit B- changes made via hearing report to proposed amendment

Brackets indicates matter removed; italic indicates new matter

Proposed amendment approved by Board on September 12, 2018 for public comment posting

Strikethrough indicates matter removed; underline indicates new matter

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

Table of Contents

Subpart A.	Scope; Definitions.....	pg. 2
Subpart B.	Contribution Limits.....	pg. 5
Subpart C.	Date of Acceptance of Contributions with Respect to the Contribution Limits.....	pg. 9
Subpart D.	Attributing Contributions Made by Check for the Purpose of the Contribution Limits.....	pg. 9
Subpart E.	Campaign Finance Disclosures.....	pg.10
Subpart F.	Use of Political Committees and Checking Accounts by Candidates	pg. ^{CP1} ₃ - ¹³ ₁₃
Subpart G.	Litigation Fund Committees	pg. ³³ ₁₆
Subpart H.	Coordinated Expenditures.....	pg. ³⁸ ₁₇
Subpart I.	Excess Pre-Candidacy Contributions; Excess Post-Candidacy Contributions	pg. 20- <u>19</u>
Subpart J.	Retiring Debt.....	pg. 23- <u>22</u>
Subpart K.	Penalties	pg. ²⁸ ₁₈ - ²² ₂₁

SUBPART A. SCOPE; DEFINITIONS

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

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

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

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

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

q. **In-kind contribution.**

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

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

- r. **Litigation fund committee.** The committee established by a candidate to receive contributions and make expenditures solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of a candidate's election campaign or participation in an election, as described in Subpart G.
- s. **Person.** An individual, a political committee, a corporation, or a partnership, a sole proprietorship, or any other form of business or nonprofit for-profit or not-for-profit organization.
- t. **Political committee.** Any committee, club, association, political party, or other group of persons, including the candidate political committee of a candidate for office in a covered election, which receives contributions or makes expenditures for the purpose of influencing the outcome of a covered election.
- u. **Post-candidacy contribution.** Money, gifts, forgiveness of debts, loans, or things having a monetary value, received by a former candidate or his/her agent for use in retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office.
- v. **Post-candidacy expenditure.** An expenditure made by a candidate, former candidate, or candidate political committee to defray the candidate's cost of transition or inauguration to City elective office or to retire debt that the candidate incurred to: (i) influence the outcome of a covered election; or (ii) cover transition or inauguration expenses.
- w. **Pre-candidacy contribution.** A contribution made to a political committee that: (i) has been transferred to, or otherwise becomes available for expenditure by, a candidate for City elective office; and (ii) was made before such candidate became a candidate.

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

SUBPART B. CONTRIBUTION LIMITS

1.2 Limits on contributions from individuals.

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

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

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

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

1.4 Contributions made through one or more political committees.

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

1.5 During a non-election year:

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

| **1.65 Doubling of Contribution Limits.**

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

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

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

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

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

| 1.4410 Transactions that do not count toward the contribution limits. The following are not subject to the contribution limits set forth in this Subpart:

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

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

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

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

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

1.1514 In-kind contributions.

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

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

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

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

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

2018 NOV 29 PM
DRAFT AMENDMENT
- 9 -

SUBPART E. CAMPAIGN FINANCE DISCLOSURES

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

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

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

1.19 Campaign finance reporting schedule:

	Deadline	Complete As Of
Cycle 1	Sixth Tuesday Pre-Primary Election	50 days before the Primary Election
Cycle 101	Fourth Tuesday Pre-Primary Election	The Sunday preceding the deadline
Cycle 2	Second Friday Pre-Primary Election	The Monday preceding the deadline
Cycle 201	Final Tuesday Pre-Primary Election	The Sunday 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 401	Fourth Tuesday Pre-General Election	The Sunday preceding the deadline
Cycle 5	Second Friday Pre-General Election	The Monday preceding the deadline
Cycle 501	Final Tuesday Pre-General Election	The Sunday 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] <i>January 31</i>	[January 31 of the year after the Election] <i>December 31 of the previous year</i>

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

1.20 Required disclosures filings for covered City elections.

<u>Reporting Cycle</u>	<u>Who must file</u>
<u>Cycle 1</u>	➤ <u>The candidate political committee</u> of a candidate for City elective office, if the committee has made expenditures in the reporting period.
<u>Cycle 4</u>	➤ <u>A political committee</u> that in the reporting period has made expenditures to influence the outcome of a covered election, including contributions made to a candidate for City elective office or for electioneering communications. ➤ <u>Any other person, including an individual or a not-for-profit organization</u> , that, in the reporting period, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.
<u>Cycle 2</u>	➤ <u>The candidate political committee</u> of a candidate for City elective office, if that candidate is required to file for that cycle with the City Commissioners.
<u>Cycle 3</u>	➤ <u>A candidate</u> for City elective office, if that candidate is required to file for that cycle with the City Commissioners.
<u>Cycle 5</u>	➤ <u>A political committee</u> , including a <u>political committee of a former candidate</u> , that is required to file for that cycle with the Department of State or City Commissioners if, in the reporting period, the committee:
<u>Cycle 6</u>	○ <u>Has made expenditures or incurred debt to influence the outcome of a covered election, including contributions made to a candidate for City elective office or for electioneering communications.</u> ○ <u>Is carrying debt incurred to influence the outcome of a covered election or has made expenditures to pay down such debt.</u> ○ <u>Has accepted contributions or made expenditures to pay for transition or inauguration to City elective office or to pay down debt incurred for such transition or inauguration.</u>
<u>Cycle 7</u>	➤ <u>Any other person, including an individual or a not-for-profit organization</u> , that (1) is required to file a campaign finance report with the City Commissioners or Department of State that discloses expenditures to influence a covered election or, (2) in either Cycle 2 or Cycle 5, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.
<u>Cycle 101</u>	➤ <u>A political committee or other person, including an individual or a not-for-profit organization</u> , but not a candidate political committee, that, in the reporting period, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.
<u>Cycle 201</u>	
<u>Cycle 401</u>	
<u>Cycle 501</u>	
<u>Cycle 10</u>	➤ During the 24 hour reporting period, a <u>candidate political committee</u> that receives contributions or pledges of \$500 or more shall electronically file with the Board reports disclosing those contributions or pledges within 24 hours of receipt.
<u>Cycle 11</u>	➤ During the 24 hour reporting period, a <u>political committee or other person</u> that makes independent expenditures of \$500 or more to influence a covered election (or incurs debts for such expenditures) shall electronically file with the Board reports

	disclosing those independent expenditures within 24 hours.
--	--

a. For candidates and candidate political committees.

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

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

- ii. ~~Candidates~~ shall electronically file with the Board reports or statements for any cycle for which the candidate was required to file such a report or statement with the City Commissioners.
- iii. ~~24 hour reporting period.~~ During the 24 hour reporting period preceding a covered election in which the individual who has authorized that committee is a candidate, a candidate political committee that receives contributions or pledges of \$500 or more shall electronically file with the Board reports disclosing those contributions or pledges within 24 hours of receipt.

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

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

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.

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

d. Other political committees and persons.

- i. ~~A political committee~~ shall electronically file with the Board a campaign finance report or statement for any reporting cycle listed at Paragraph 1.19 in

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

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

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

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

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

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

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

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

with the Board and that occurred from eight months prior to the election through the “complete as of” date.

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

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

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

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

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

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

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

1.22 1.23 Content of campaign finance reports and statements.

- a. A campaign finance report filed with the Board shall disclose all contributions and other receipts received, each expenditure made, and any debt incurred during the relevant reporting period. The report shall also disclose, and the cash balance at the beginning and end of the reporting period.
 - i. For each contribution of more than \$50, the report shall disclose the date and amount of the contribution and the contributor's name and address.
For each contribution of more than \$250, the report shall disclose the date and amount of the contribution, the contributor's name and address, and, in the case of contributions from individuals, the contributor's occupation, employer, and employer's address.
 - ii. For each receipt other than a contribution (such as interest income, returned checks, or refunds), the report shall disclose the name and address of the source of the funds as well as and a description of the receipt.
 - iii. For each expenditure, the report shall disclose the date, amount, and recipient of the expenditure as well as, and the recipient's address and the purpose of the expenditure.

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

- iv. For each unpaid debt, the report shall disclose the name and address of the creditor, the amount of debt owed, and the date the debt was incurred, as well as a description of the debt.

- b. If, during the relevant reporting period, the filer has spent, received, and accepted contributions, made expenditures, or incurred debt of less than \$250, the filer may file a statement attesting to that fact in lieu of a full report. The statement shall set forth the filer's starting and ending balance for the reporting period.

1.24 Sworn statement~~Affirmation~~ required for campaign finance filings

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

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

1.25 One committee and one checking account.

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

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

c. **Payment Service Providers.**

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

- ii. A candidate's campaign [shall not] may use a Payment Service Provider to make expenditures so long as any funds used for such expenditures are drawn directly from the candidate committee's checking account.

- 1.27** d. **Use of savings account.** A candidate's campaign a candidate may transfer funds between his or her candidate political committee the candidate political committee's checking account and a single savings account so long as:
- ai. The candidate establishes the savings account is at the same bank ~~that has his or her~~ as the checking account;
 - bii. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account;
 - eiii. The candidate does not make any expenditures or withdrawals directly from the savings account, but first transfers funds to the checking account in order to make expenditures or withdrawals; and
 - div. Within three business days of the establishment of the savings account, the candidate shall notify the Board by postal mail or email sent to the attention of the Board's Executive Director that he or she has established a savings account.

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

- 1.28 1.27 Requirement to provide information to the Board about a candidate political committee.**
- a. A candidate who has a candidate political committee when he or she becomes a candidate shall, within three business days of becoming a candidate, notify the Board of the following information:
 - i. The committee's name and street address (other than a P.O. box);
 - ii. The name of the bank where the committee's checking account is established; and
 - iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the committee.
 - b. If a candidate does not have a candidate political committee when he or she becomes a candidate, he or she shall notify the Board of this fact within three business days of becoming a candidate and shall provide the Board with his or her street address (other than a P.O. box), telephone number, and email address.
 - c. If a candidate establishes a candidate political committee after he or she has become a candidate, he or she shall ~~notify the Board of~~ provide the information set forth in Paragraph 1.28(a) required by this Paragraph within three business days of the formation of the committee.
 - d. ~~A candidate may satisfy the requirements of this Paragraph 1.28 by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners as long as the information described in Paragraph 1.28(a)(i)-(iii) is included.~~

- | e.d. If the information required by this Paragraph 1.28 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.
- | f.e. Information required by this Paragraph 1.28 shall be provided on a form required by the Board and available on the Board's website at [LINK] and shall be sent to the attention of the Board's Executive Director by postal mail or email.

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

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

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

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

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

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

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

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

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

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

1.30. Reimbursed expenditures.

- a. A candidate or an agent of a candidate's campaign shall not use [personal] funds held in a personal account to make expenditures for campaign activities, such as payments to vendors or staff, except that a candidate or an agent of a candidate's campaign may make minor purchases, such as for postage stamps or parking fees, on behalf of the campaign so long as he or she is reimbursed by the candidate political committee within a reasonable amount of time.
- b. A candidate's campaign shall not make expenditures for campaign activities through a vendor's account, except when incidental to the vendor's provision of services to the campaign, as required by standard business practice, such as [placement of advertisements by] when a campaign uses an advertising agency to create and place advertisements. [except that a] When a vendor makes expenditures pursuant to the foregoing exception, a candidate's campaign may reimburse a vendor for [costs that are incidental to the vendor's provision of services to the campaign.] such expenditures.

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

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

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

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

1.34 This Subpart does not prohibit a candidate from making a contribution within the contribution limits to his or her candidate political committee from any other a political

Proposed amendment approved by Board on September 12, 2018 for public comment posting

Strikethrough indicates matter removed; underline indicates new matter

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

338590

DEPARTMENT OF JUSTICE

10 NOV 29 PM 3:18

SUBPART G. LITIGATION FUND COMMITTEES

1.35 Litigation fund committee requirements.

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

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

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

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

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

1.37 Termination of a litigation fund committee.

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

SUBPART H. COORDINATED EXPENDITURES

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

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

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

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

- a. Shall be considered an in-kind contribution made by the person making the expenditure.
- b. Shall be considered an in-kind contribution received by the candidate if the person making the expenditure obtains the communication or materials directly from the candidate's campaign or from another source with the consent of the candidate's campaign.
A campaign communication or campaign material is obtained with the candidate's consent if the candidate provides it to a third party for the purpose of enabling another person to obtain the communication or material from that third party and subsequently republish some or all of it.
- c. Shall not be considered an in-kind contribution if:
 - i. The communication or material is incorporated into a communication that advocates the defeat of the candidate that prepared the material;
 - ii. The item republished is a photograph obtained from a public source that is not controlled by the candidate's campaign; or
 - iii. The person's expenditures for republication of a candidate's communications or materials are less than \$100 in the aggregate per reporting period.

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

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

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

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

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

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

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

1.42 Prohibited Expenditures.

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

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

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

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

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

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

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

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

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

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

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

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

SUBPART J. RETIRING DEBT

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

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

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

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

SUBPART K. PENALTIES

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

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

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

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

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

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

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

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

1.56 Excess pre-candidacy and post-candidacy contributions.

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

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

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

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

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

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

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

Approved for public comment by the Board December 18, 2006

Effective January 17, 2007

Amendment approved by Board August 21, 2007

Effective September 21, 2007

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

Public hearing held September 8, 2010

Adopted by Board with modifications September 15, 2010

Effective September 27, 2010

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

Public hearing held June 15, 2011

Adopted by Board July 20, 2011

Effective August 11, 2011

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

Effective March 2, 2012

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

Public hearing held January 23, 2013

Adopted by Board with modifications February 20, 2013

Effective March 8, 2013

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

Public hearing held September 17, 2014

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

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

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

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

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

338591

2018 NOV 29 PM 3:18
DEPARTMENT OF STATE
U.S. GOVERNMENT

Exhibit C

PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 1
CAMPAIGN FINANCE

Table of Contents

Subpart A.	Scope; Definitions.....	pg. 2
Subpart B.	Contribution Limits.....	pg. 5
Subpart C.	Date of Acceptance of Contributions with Respect to the Contribution Limits	pg. 9
Subpart D.	Attributing Contributions Made by Check for the Purpose of the Contribution Limits.....	pg. 9
Subpart E.	Campaign Finance Disclosures.....	pg.10
Subpart F.	Use of Political Committees and Checking Accounts by Candidates	pg. 14 ¹³ 15
Subpart G.	Litigation Fund Committees	pg. 15 ¹⁶
Subpart H.	Coordinated Expenditures.....	pg. 18 ¹⁷ 22
Subpart I.	Excess Pre-Candidacy Contributions; Excess Post-Candidacy Contributions	pg. 20- <u>19</u>
Subpart J.	Retiring Debt.....	pg. 23- <u>22</u>
Subpart K.	Penalties	pg. 23-22 20-21 22 23 24

SUBPART A. SCOPE; DEFINITIONS

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

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

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

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

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

q. In-kind contribution.

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

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

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

- s. Person.** An individual, a political committee, a corporation, or a partnership, a sole proprietorship, or any other form of business or nonprofit for-profit or not-for-profit organization.
- t. Political committee.** Any committee, club, association, political party, or other group of persons, including the candidate political committee of a candidate for office in a covered election, which receives contributions or makes expenditures for the purpose of influencing the outcome of a covered election.
- u. Post-candidacy contribution.** Money, gifts, forgiveness of debts, loans, or things having a monetary value, received by a former candidate or his/her agent for use in retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office.
- v. Post-candidacy expenditure.** An expenditure made by a candidate, former candidate, or candidate political committee to defray the candidate's cost of transition or inauguration to City elective office or to retire debt that the candidate incurred to: (i) influence the outcome of a covered election; or (ii) cover transition or inauguration expenses.
- w. Pre-candidacy contribution.** A contribution made to a political committee that: (i) has been transferred to, or otherwise becomes available for expenditure by, a candidate for City elective office; and (ii) was made before such candidate became a candidate.

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

SUBPART B. CONTRIBUTION LIMITS

1.2 Limits on contributions from individuals.

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

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

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

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

1.4 Contributions made through one or more political committees.

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

1.5 During a non-election year:

- 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.

| **1.65 Doubling of Contribution Limits.**

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

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

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

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

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

| **1.4410 Transactions that do not count toward the contribution limits.** The

following are not subject to the contribution limits set forth in this Subpart:

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

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

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

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

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

| **1.1514 In-kind contributions.**

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

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

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

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

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

SUBPART E. CAMPAIGN FINANCE DISCLOSURES

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

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

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

1.19 Campaign finance reporting schedule:

	Deadline	Complete As Of
Cycle 1	Sixth Tuesday Pre-Primary Election	50 days before the Primary Election
Cycle 101	Fourth Tuesday Pre-Primary Election	The Sunday preceding the deadline
Cycle 2	Second Friday Pre-Primary Election	The Monday preceding the deadline
Cycle 201	Final Tuesday Pre-Primary Election	The Sunday 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 401	Fourth Tuesday Pre-General Election	The Sunday preceding the deadline
Cycle 5	Second Friday Pre-General Election	The Monday preceding the deadline
Cycle 501	Final Tuesday Pre-General Election	The Sunday 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	<u>Annual Report January 31</u>	<u>January 31 of the year after the Election</u> <u>December 31 of the previous year</u>

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

1.20 Required disclosures filings for covered City elections.

<u>Reporting Cycle</u>	<u>Who must file</u>
<u>Cycle 1</u>	➤ <u>The candidate political committee</u> of a candidate for City elective office, if the committee has made expenditures in the reporting period.
<u>Cycle 4</u>	➤ <u>A political committee</u> that in the reporting period has made expenditures to influence the outcome of a covered election, including contributions made to a candidate for City elective office or for electioneering communications.
	➤ <u>Any other person, including an individual or a not-for-profit organization</u> , that, in the reporting period, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.
<u>Cycle 2</u>	➤ <u>The candidate political committee</u> of a candidate for City elective office, if that candidate is required to file for that cycle with the City Commissioners.
<u>Cycle 3</u>	➤ <u>A candidate</u> for City elective office, if that candidate is required to file for that cycle with the City Commissioners.
<u>Cycle 5</u>	➤ <u>A political committee</u> , including a <u>political committee of a former candidate</u> , that is required to file for that cycle with the Department of State or City Commissioners if, in the reporting period, the committee:
	○ <u>Has made expenditures or incurred debt to influence the outcome of a covered election, including contributions made to a candidate for City elective office or for electioneering communications.</u>
	○ <u>Is carrying debt incurred to influence the outcome of a covered election or has made expenditures to pay down such debt.</u>
	○ <u>Has accepted contributions or made expenditures to pay for transition or inauguration to City elective office or to pay down debt incurred for such transition or inauguration.</u>
	➤ <u>Any other person, including an individual or a not-for-profit organization</u> , that (1) is required to file a campaign finance report with the City Commissioners or Department of State that discloses expenditures to influence a covered election or, (2) in either Cycle 2 or Cycle 5, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.
<u>Cycle 101</u>	➤ <u>A political committee or other person, including an individual or a not-for-profit organization</u> , but not a candidate political committee, that, in the reporting period, makes expenditures of \$5,000 or more for electioneering communications, as described at Paragraph 1.21.
<u>Cycle 201</u>	
<u>Cycle 401</u>	
<u>Cycle 501</u>	
<u>Cycle 10</u>	➤ During the 24 hour reporting period, a <u>candidate political committee</u> that receives contributions or pledges of \$500 or more shall electronically file with the Board reports disclosing those contributions or pledges within 24 hours of receipt.
<u>Cycle 11</u>	➤ During the 24 hour reporting period, a <u>political committee or other person</u> that makes independent expenditures of \$500 or more to influence a covered election (or incurs debts for such expenditures) shall electronically file with the Board reports

disclosing those independent expenditures within 24 hours.

a. For candidates and candidate political committees.

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

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

- ii. ~~Candidates~~ shall electronically file with the Board reports or statements for any cycle for which the candidate was required to file such a report or statement with the City Commissioners.
- iii. ~~24 hour reporting period.~~ During the 24 hour reporting period preceding a covered election in which the individual who has authorized that committee is a candidate, a candidate political committee that receives contributions or pledges of \$500 or more shall electronically file with the Board reports disclosing those contributions or pledges within 24 hours of receipt.

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

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

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.

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

d. Other political committees and persons.

- i. ~~A political committee~~ shall electronically file with the Board a campaign finance report or statement for any reporting cycle listed at Paragraph 1.19 in

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

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

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

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

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

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

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

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

~~with the Board and that occurred from eight months prior to the election through the “complete as of” date.~~

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

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

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

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

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

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

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

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

- ~~a. A campaign finance report filed with the Board shall disclose all contributions and other receipts received, each expenditure made, and any debt incurred during the relevant reporting period. The report shall also disclose, and the cash balance at the beginning and end of the reporting period.~~

- i. For each contribution of more than \$50, the report shall disclose the date and amount of the contribution and the contributor's name and address.

~~For each contribution of more than \$250, the report shall disclose the date and amount of the contribution, the contributor's name and address, and, in the case of contributions from individuals, the contributor's occupation, employer, and employer's address.~~

- ii. For each receipt other than a contribution (such as interest income, returned checks, or refunds), the report shall disclose the name and address of the source of the funds ~~as well as~~ and a description of the receipt.

- iii. For each expenditure, the report shall disclose the date, amount, and recipient of the expenditure ~~as well as~~ and the recipient's address and the purpose of the expenditure.

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

- iv. For each unpaid debt, the report shall disclose the name and address of the creditor, the amount of debt owed, and the date the debt was incurred, as well as a description of the debt.

- b. If, during the relevant reporting period, the filer has spent, received, and accepted contributions, made expenditures, or incurred debt of less than \$250, the filer may file a statement attesting to that fact in lieu of a full report. The statement shall set forth the filer's starting and ending balance for the reporting period.

1.24 Sworn statementAffirmation required for campaign finance filings

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

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

1.25 One committee and one checking account.

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

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

c. **Payment Service Providers.**

- i. A candidate's campaign may use a Payment Service Provider (such as PayPal) to accept contributions so long as all such contributions are promptly transferred to the candidate political committee's checking account.
 - ii. A candidate's campaign may use a Payment Service Provider to make expenditures so long as any funds used for such expenditures are drawn directly from the candidate committee's checking account.
- 1.27 d. Use of savings account.** A candidate's campaign a eandidate may transfer funds between his or her candidate political committee the candidate political committee's checking account and a single savings account so long as:
- ai. The candidate establishes the savings account is at the same bank that has his or hers the checking account;
 - bii. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account;
 - eiii. The candidate does not make any expenditures or withdrawals directly from the savings account, but first transfers funds to the checking account in order to make expenditures or withdrawals; and
 - div. Within three business days of the establishment of the savings account, the candidate shall notify the Board by postal mail or email sent to the attention of the Board's Executive Director that he or she has established a savings account.

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

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

- a. A candidate who has a candidate political committee when he or she becomes a candidate shall, within three business days of becoming a candidate, notify the Board of the following information:
 - i. The committee's name and street address (other than a P.O. box);
 - ii. The name of the bank where the committee's checking account is established; and
 - iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the committee.
- b. If a candidate does not have a candidate political committee when he or she becomes a candidate, he or she shall notify the Board of this fact within three business days of becoming a candidate and shall provide the Board with his or her street address (other than a P.O. box), telephone number, and email address.
- c. If a candidate establishes a candidate political committee after he or she has become a candidate, he or she shall notify the Board of provide the information

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

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

- | d. A candidate may satisfy the requirements of this Paragraph 1.28 by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners as long as the information described in Paragraph 1.28(a)(i) (iii) is included.
- | e. d. If the information required by this Paragraph 1.28 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.
- | f. e. Information required by this Paragraph 1.28 shall be provided on a form required by the Board and available on the Board's website at [LINK] and shall be sent to the attention of the Board's Executive Director by postal mail or email.

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

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

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

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

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

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

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

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

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

1.30. Reimbursed expenditures.

- a. A candidate or an agent of a candidate's campaign shall not use funds held in a personal account to make expenditures for campaign activities, such as payments to vendors or staff, except that a candidate or an agent of a candidate's campaign may make minor purchases, such as for postage stamps or parking fees, on behalf of the campaign so long as he or she is reimbursed by the candidate political committee within a reasonable amount of time.
- b. A candidate's campaign shall not make expenditures for campaign activities through a vendor's account, except when incidental to the vendor's provision of services to the campaign, as required by standard business practice, when a campaign uses an advertising agency to create and place advertisements. When a vendor makes expenditures pursuant to the foregoing exception, a candidate's campaign may reimburse a vendor for such expenditures.

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

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

- b. The candidate does not exercise control over the political committee as defined in Paragraph 1.29.

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

SUBPART G. LITIGATION FUND COMMITTEES

1.35 Litigation fund committee requirements.

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

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

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

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

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

1.37 Termination of a litigation fund committee.

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

SUBPART H. COORDINATED EXPENDITURES

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

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

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

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

- a. Shall be considered an in-kind contribution made by the person making the expenditure.
- b. Shall be considered an in-kind contribution received by the candidate if the person making the expenditure obtains the communication or materials directly from the candidate's campaign or from another source with the consent of the candidate's campaign.
A campaign communication or campaign material is obtained with the candidate's consent if the candidate provides it to a third party for the purpose of enabling another person to obtain the communication or material from that third party and subsequently republish some or all of it.
- c. Shall not be considered an in-kind contribution if:
 - i. The communication or material is incorporated into a communication that advocates the defeat of the candidate that prepared the material;
 - ii. The item republished is a photograph obtained from a public source that is not controlled by the candidate's campaign; or
 - iii. The person's expenditures for republication of a candidate's communications or materials are less than \$100 in the aggregate per reporting period.

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

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

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

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

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

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

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

1.42 Prohibited Expenditures.

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

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

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

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

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

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

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

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

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

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

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

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

SUBPART J. RETIRING DEBT

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

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

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

If the creditor has provided all the necessary information, the Executive Director shall present the request to the Board at a public meeting. The Board shall either approve or disapprove the proposed debt forgiveness. The Executive Director shall inform the creditor in writing whether or not the Board has approved the forgiveness of debt.

The forgiveness of debt is subject to the post-candidacy reporting requirements set forth in Subpart E.

SUBPART K. PENALTIES

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

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

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

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

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

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

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

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

1.56 Excess pre-candidacy and post-candidacy contributions.

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

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

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

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

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

DEPARTMENT OF STATE
REGISTRATION AND LICENSING

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

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

Approved for public comment by the Board December 18, 2006

Effective January 17, 2007

Amendment approved by Board August 21, 2007

Effective September 21, 2007

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

Public hearing held September 8, 2010

Adopted by Board with modifications September 15, 2010

Effective September 27, 2010

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

Public hearing held June 15, 2011

Adopted by Board July 20, 2011

Effective August 11, 2011

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

Effective March 2, 2012

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

Public hearing held January 23, 2013

Adopted by Board with modifications February 20, 2013

Effective March 8, 2013

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

Public hearing held September 17, 2014

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

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

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

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

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

00
00
00
00
00
00

00 NOV 29 PM 3:19
2016
REGULATIONS
OF THE STATE OF CALIFORNIA
DEPARTMENT OF ELECTORAL AFFAIRS

Exhibit D

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

TRANSCRIPT OF THE ABOVE MATTER,
taken by and before WILLIAM USHER,
Professional Reporter and Notary Public, at
the CITY OF PHILADELPHIA BOARD OF ETHICS, 1515
Arch Street, Philadelphia, Pennsylvania, on
Wednesday, October 17th, 2018, commencing at
2:00 p.m.

330597

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

2018 NOV 29 PM 3:19
DEPARTMENT OF CIVIL SERVICE
SACRIMONI, SCOTT

HEARING OF PROPOSED REGULATION 1

1

A P P E A R A N C E S:

2

3

4

BOARD MEMBER:

5 MICHAEL M. REED, CHAIRMAN

PHYLLIS W. BECK, VICE CHAIR

6 JOANNE A. EPPS, ESQ., MEMBER

SANJUANITA GONZALEZ, ESQ., MEMBER

7 BRIAN J. MCCORMICK, ESQ., MEMBER

8

9

BOARD STAFF:

10

SHANE CREAMER, JR, ESQ.

11 MAYA NAYAK, ESQ.

NEDDA MASSAR, ESQ

12 MICHAEL COOKE, ESQ.

DIANA LIN, ESQ.

13 JORDAN SEGALL, ESQ.

THOMAS KLEMM, ESQ.

14 LEWIS ROSMAN, ESQ.

City of Philadelphia Law Department

15

16

17

18

19

20

21

22

23

24

HEARING OF PROPOSED REGULATION 1

3

1	E X H I B I T S		
2		PAGE	PAGE
3	NUMBER	DESCRIPTION	MARKED ATTACHED
4	Exhibit-1	Public notification	7 31
5		Of hearing	
6	Exhibit-2	Proposed amendments	8 32
7		To regulation 1	
8		-----	
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			

HEARING OF PROPOSED REGULATION 1

1

PROCEEDINGS

2

3 MS. BECK: I'm going to call the
4 meeting to order. Welcome everyone. As
5 you can see my name is Judge Phyllis W.
6 Beck and I am vice chair of the
7 Philadelphia Board Of Ethics. Our first
8 activity today is to hold a public hearing
9 on proposed amendments to board regulation
0 number 1, campaign finance. I note for the
11 record that I am joined by board members
12 Sanjuanita Gonzalez and Brian McCormick.
13 Our board chair Mike Reed, and our member
14 Joanne Epps have another commitment and
15 will be with us as soon as possible. I
16 further note for the record that Richard
17 Fader, welcome, who serves as the Law
18 Department's chief deputy of counsel to the
19 City Solicitor is present. Today's hearing
20 is an opportunity for members of the public
21 and the interested parties to provide
22 comments and recommendations for
23 modification to the proposed amendment to
24 Board Regulation number 1 on campaign

HEARING OF PROPOSED REGULATION 1

5

1 finance. If you don't have copies of the
2 proposed amendments, they are available
3 electronically and hard copies are
4 available here today for anyone that would
5 like a copy. The Board is following the
6 process required by the Philadelphia Home
7 Rule Charter section 8-407 for these
8 proposed amendments. The Board approved
9 these amendments for public posting at the
10 Records Department during its September
11 12th, 2018 public meeting. The Law
12 Department reviewed the proposed amendments
13 and found the proposed amendments to Board
14 Regulation number 1 to be legal within the
15 Board's authority and in proper form. The
16 Department of Records advertised and gave
17 public notice of the proposed amendment.
18 The Board also took action by notifying
19 members of the relevant e-mail distribution
20 and by giving notice of the proposed
21 amendments on it's website. The Board
22 proactively scheduled this hearing on the
23 proposed amendments and provided notice of
24 this meeting by newspaper and on the

HEARING OF PROPOSED REGULATION 1

6

1 Board's website. The Board will not take
2 action on the proposed amendments at this
3 hearing, rather, this hearing is an
4 opportunity for the public to make comments
5 on the proposed amendments or
6 recommendations for modification to these
7 proposed changes to the Board Regulation
8 number 1. The Board members may ask
9 questions of the witnesses if they wish.
10 Our hearing report will be considered and
11 approved by the Board at a future Board
12 meeting. The hearing report will respond
13 to testimony and is a mechanism by which
14 the Board may modify the proposed amendment
15 to the Board Regulation number 1 that are
16 pending. Also note the court reporter is
17 present to transcribe the hearing. At this
18 time, the document that the Board filed
19 with the Department of Records on September
20 26th, 2018, including the proposed
21 amendments to Board Regulation number 1
22 should be entered on the record in this
23 hearing and marked as Exhibit-1. We will
24 now take testimony. I ask the witnesses to

HEARING OF PROPOSED REGULATION 1

7

1 sit at the table and each witness identify
2 him or herself prior to testifying. Before
3 hearing from members of the public, I would
4 like to invite the Board staff to testify
5 if they wish. So that is now open and we
6 will hear testimony.

9 MR. COOKE: Good afternoon Board
10 members and all those in attendance. My
11 name is Michael Cooke. I am the Board's
12 director of enforcement. It is my pleasure
13 today to present testimony on behalf of
14 Board staff regarding the proposed
15 amendment to Board Regulation number 1.
16 Before I do, I would like to note that we
17 received some written testimony from the
18 Campaign Legal Center, they are not here
19 today, but they ask that their written
20 testimony be made part of the record. So I
21 would like to do that before I begin my
22 testimony.

23 MS. BECK: Will you tell us who
24 this group is?

HEARING OF PROPOSED REGULATION 1

8

1 MR. COOKE: The Campaign Legal
2 Center. It's a non-profit organization in
3 Washington D.C. that is sort of a think
4 tank and a policy center for a variety of
5 issues that are similar to what we cover
6 for ethics, campaign, and finance matters.
7 They have testified regarding our
8 regulations before as well as legislation
9 at City Council.

10 MS. BECK: Did we ask them for
11 this testimony?

12 MR. COOKE: We did not. They
13 curtailed I guess and submitted it. And I
14 think I got it on Monday that they sent it
15 in. So unless there is any objection from
16 Board members I'll pass this down to the
17 reporter to make a part of the record.

18 (At this time, Exhibit-2 was
19 marked for identification.)

20 MR. COOKE: So with that
21 preliminary handled, I will turn to the
22 testimony I present on behalf of Board
23 staff, which is minimal today. A few
24 proposed changes to the proposed amendment

HEARING OF PROPOSED REGULATION 1

9

1 that came out of review that we've done in
2 the past month since the proposed amendment
3 was proposed or approved by the Board, as
4 well as consultation with the Law
5 Department regarding the proposed amendment
6 and various discussions with them and some
7 others about the provisions that are
8 proposed to be changed in here. I will
9 begin on page 2 and the definition of
10 contribution, which is at 1.1H. And it's
11 actually 1.1HI, which reads, any money
12 gifts, forgiveness of debts, loans, or
13 things having a monetary value, et cetera.
14 We recommend that the words, forgiveness of
15 debt and loans be flipped so that it would
16 read, any money, gifts, loans, forgiveness
17 of debt, or things having a monetary value,
18 and so on. That is all for that page.
19 Moving on to page 10, in the chart about
20 the reporting deadlines, the entries for
21 cycle 7 are incorrect. The column that
22 says deadline, in that column, the entry
23 for cycle 7 currently reads annual report,
24 the deadline for the cycle 7 report is

HEARING OF PROPOSED REGULATION 1

10

1 actually January 31st of the year -- well,
2 of every year, January 31st. It should be
3 changed to that. And then in the complete
4 as of column it currently reads January
5 31st, which is the deadline. Instead it
6 should read December 31st of the prior
7 year. That's just some cleanup to make
8 sure that's correct. And then the last
9 provision that I have testimony on is a
10 paragraph 1.30, the reimbursed
11 expenditures.

12 MS. BECK: What page is that?

13 MR. COOKE: I apologize, page 18.

14 The 1.30, the reimbursed expenditure
15 provisions that are proposed to be added,
16 some slight modifications. For A, the
17 first thing where it states a campaign or
18 an agent of a candidate shall not use
19 personal funds to make expenditures.

20 That should be reworded to clarify that
21 they shall not use personal accounts to
22 make expenditures. Candidates, of course,
23 can spend an unlimited amount of their
24 personal funds on a campaign but they have

HEARING OF PROPOSED REGULATION 1

11

1 to do it through their campaign committee.
2 So we propose a rewording to clarify that
3 point. And then also propose or it has
4 been suggested to us that it would be
5 helpful to add a little bit more by way of
6 example for what constitutes minor
7 expenditures or the types of expenditures
8 that would not be minor as such that would
9 cause an issue under this rule. So for the
10 hearing report, staff will add some
11 additional examples or language to help
12 clarify that point.

13 MS. BECK. You don't have that
14 language.

15 MR. COOKE: We do not have that
16 language today. And then in B, it was
17 noted that the sentence has two accept as's
18 in it, which can be somewhat confusing if
19 an exception and then an exception to the
20 exception. So noting, that is a good
21 point, we will do a proposed rewording for
22 the hearing report to try and eliminate
23 that ambiguity or confusion in this
24 particular section. None of this would

HEARING OF PROPOSED REGULATION 1

12

1 change the substantive meaning of this
2 provision, but again, the goal is to make
3 it as easy as possible for people to
4 understand. And that concludes the
5 testimony that I have at this time with
6 regards to the proposed amendment.

7 MR. REED: The judge insists that
8 I take over at this time. I thought she
9 was doing a great job, but my name is Mike
10 Reed. I'm chair of the Board and I would
11 personally like to thank Judge Beck for
12 getting the hearing started. Board member
13 Epps and I had the honor of attending the
14 still unfinished and ongoing memorial
15 service for the great Jerry Linfest.

16 MS. BECK: It started at 11:00
17 this morning.

18 MR. REED: It's probably going to
19 go until about 2:00 maybe, but that's why
20 we're late. And I very much appreciate the
21 Board going forward in a timely fashion. I
22 would like to thank Mr. Cooke for his
23 testimony. And first thing I would do is
24 open up the floor to the Board for any

HEARING OF PROPOSED REGULATION 1

13

1 other questions for Mr. Cooke or staff
2 concerning his testimony? And hearing none
3 I would then ask if there are any other
4 witnesses who wish to offer testimony about
5 the proposed amendments for Board
6 Regulation number 1. Thank you. Could you
7 please state your name for the record.

8 MR. BONIN: Thank you Mr. Chair.
9 My name is Adam Bonin. I'm an attorney in
10 solo practice here in the City of
11 Philadelphia whose practice specializes in
12 political law, whether it's campaign,
13 finance, and election law, lobbying
14 compliance, investigations. I honestly
15 have many clients that are interested in
16 this for various reasons. My testimony
17 today is solely personal. It is not on
18 behalf of any particular client. I wish I
19 had written testimony today, normally I do
20 under these circumstances, however, it
21 being twenty days before a federal
22 election, things are a little bit busy
23 right now. So I appreciate the presence of
24 the court reporter here. But if I think of

HEARING OF PROPOSED REGULATION 1

14

1 anything afterwards I will submit brief
2 written testimony as well. I want to cover
3 three areas in the proposed amendments.
4 Reimbursed expenditures, the use of online
5 service providers, and then credit cards.
6 As a general matter, I understand what the
7 Board is seeking through all three areas,
8 they would increase transparency in the
9 expenditures which a campaign is making as
10 well as putting greater teeth into the
11 single checking account which of course
12 comes from a city ordinance and says that
13 campaigns shall only have one checking
14 account for receiving contributions and
15 making expenditures. With that being said,
16 I believe that these regulations may be
17 pursuing some of these goals in ways that
18 cause unnecessary unintended consequences,
19 and in many cases the transparency goals
20 can be accomplished through other means.
21 As to reimbursed expenditures, which really
22 is of the three areas the one that causes
23 me the most concern.
24 MS. BECK: Refer first back to

HEARING OF PROPOSED REGULATION 1

15

1 the page and the paragraph you were
2 referring to.

3 MR. BONIN: Sure. This is from
4 section 1.30 for reimbursed expenditures,
5 page 18. I think I'm working off the
6 original draft, not republished draft. So
7 I didn't want to misstate what things pages
8 were on. I understand and appreciate Mr.
9 Cooke's amendment as to changing it for
10 personal funds and personal accounts, I
11 think that is valuable. The idea that if
12 you are a self-funding candidate, you know,
13 just running all the expenditures
14 personally rather than putting money into
15 the account and then spending it up, I
16 think that is a laudable amendment. But
17 where I really take issue is where it comes
18 to disallowing candidates or agents of a
19 campaign to making general purchases on
20 behalf of the campaign and then being
21 reimbursed. The reason for that is that I
22 think that it violates a number of things
23 with best practices with campaigns. When
24 you have people who have to seek

HEARING OF PROPOSED REGULATION 1

16

1 reimbursement for campaign expenses, that
2 gives the campaign's treasurer, gives the
3 head campaign staff a check on those
4 expenses to make sure that you're only
5 reimbursing those expenses which are
6 campaign related and not personal expenses.
7 Forcing all of these expenditures to be
8 made by the campaign directly means that
9 you're going to have to distribute debit
10 cards or credit cards to all of the
11 staffers that are going to be making
12 purchases. I have seen personally, and you
13 know, the Board is aware of, you know, at
14 least one devastating circumstance in which
15 a campaign staffer who had a campaign debit
16 card blew tens of thousands of dollars at
17 Sugar House Casino from a gambling
18 addiction. He had the card, the money went
19 straight out of the accounts. I mean
20 that's obviously an extreme example, but
21 you lose any, you know -- most of your real
22 control of where your campaign is spending,
23 if you're giving lots of staffers direct
24 access to the account. Allowing for them

HEARING OF PROPOSED REGULATION 1

17

1 to make expenditures off of their own
2 credit cards that come out of their own
3 checking accounts and then being
4 reimbursed, it gives campaigns a check
5 against abusive and personal use. The
6 other thing, you know, that I would say to
7 that, to the extent that the question is
8 about transparency of reimbursements and
9 all you're seeing is the line item of the
10 name of an individual who is being
11 reimbursed, but without any detail as to
12 what these reimbursements are. The same
13 goes on for the credit card expenditures.
14 There is an additional remedy that also
15 exists under the law, and that is voucher
16 request. Under the Pennsylvania Election
17 Code every committee, including candidate
18 committee, is required to keep vouchers and
19 receipts for all expenditures made and they
20 have to produce them upon a request filed
21 with the relevant election authority, for
22 city races it would be the City
23 Commissioner's Office. I have been through
24 this a number of times with my clients. I

HEARING OF PROPOSED REGULATION 1

18

1 think almost exclusively when members of
2 the press has made such requests, but you
3 know, if that is the kind of information
4 which the Board wants to have better access
5 to, you know, more detailed information as
6 to what these reimbursed expenditures are.
7 There is nothing stopping Board staff,
8 Members of the Board, members of the public
9 from making these voucher requests through
10 the City Commissioner's Office. They are
11 enforceable as a matter of law. Obviously,
12 failure to comply with them does come with
13 court sanctions. And while it would not be
14 as immediate a process as required within
15 campaign financial court itself, it
16 certainly does give access to that
17 information, that's number one. Number two
18 as the PM and service providers.

19 MS. BECK: Tell us where you
20 were.

21 MR. BONIN: This is section 1.26
22 now, page 15. In which the proposed
23 regulations state that a campaign may use
24 PayPal or similar service to accept

HEARING OF PROPOSED REGULATION 1

19

1 contributions so long as the contributions
2 are promptly transferred in the committee's
3 checking account, that much is fine and
4 good and perfect and wonderful. Although,
5 to be honest, most campaign to be honest
6 most campaigns don't use these sorts of
7 service to receive contributions because
8 PayPal, unlike services like Act Blue or
9 NGP, does not itself require the full
10 information that's required for the
11 election committee but for reporting. You
12 still have to go back to your contributors
13 to get the address information, the
14 employer information. So while I have seen
15 some campaigns use these services because
16 PayPal is very easy to set up, it is
17 uncommon. My real concern is in not
18 allowing a candidate's campaign to use
19 PayPal to make expenditures. As a primary
20 matter, you know, let's think about how
21 PayPal works, that's one of these providers
22 that I'm most familiar with. You attach
23 PayPal to a checking account, you can
24 attach it to your campaign's checking

HEARING OF PROPOSED REGULATION 1

20

1 accounts and as long as funds are in there,
2 there is really no meaningful difference
3 between using PayPal to pay vendors or
4 campaign employees as it would be to write
5 them checks or to use a credit card to make
6 expenditures. In fact, compared to cash,
7 which is certainly another way of paying,
8 you know, election day workers and
9 canvassers for example, you have better and
10 clearer information of the transactions
11 that are taking place through PayPal than
12 you would if these transactions are on more
13 of a casualty basis. So I think the -- I'm
14 not sure that this is the sort of
15 regulation that needs to be pursued at all
16 at this point. I think we are dealing
17 with, you know, a modernizing economy, and
18 to close a drawer to a means of paying
19 campaign staff, paying vendors, where there
20 is no real problem being solved so long as
21 we're dealing with PayPal funds that are
22 really being transferred into an account
23 before being expended. I would just move
24 away from this altogether and just allow

HEARING OF PROPOSED REGULATION 1

21

1 campaigns to use Paypal as a means of
2 paying employees and paying vendors. And
3 appreciating that you're getting better
4 data on those transactions, again, via
5 voucher request if necessary. Although,
6 I don't know that you would need that. I'm
7 thinking that if you're paying campaign
8 staffers through Paypal, then the
9 expenditure that you report on your
10 campaign finance report is the payment to
11 that individual anyway. It's not a payment
12 to PayPal. So this is an area that I would
13 disregard altogether. Finally --

14 MR. REED: You're saying you
15 would eliminate 1.25C, is that what you're
16 saying?

17 MR. BONIN: I would just
18 eliminate it. I would just allow campaigns
19 and political committees to use PayPal --
20 or at least I would get rid of subparagraph
21 two. And that way you're fulfilling the
22 single account rule while not getting into
23 that problem. Finally, as to the use of
24 credit cards to make expenditures. This is

HEARING OF PROPOSED REGULATION 1

22

1 section 1.23, sub A, sub III, page 14 in my
2 version. And Mr. Cooke and I have had
3 lengthy discussions in between the Board
4 meetings about this topic. And we have a
5 healthy but friendly difference of opinion,
6 but the difference is narrowing somewhat on
7 this. The first thing I would note is that
8 this is not a requirement which exists
9 under the Pennsylvania Election Code. I am
10 aware, you know, Mr. Cooke and staff have
11 been in contact with the Department of
12 State as to this, and that they have stated
13 that this is a requirement of the election
14 code, it's never been introduced. If a
15 state rep, if a candidate for state office,
16 if a pact is making credit card
17 expenditures and just lists the payment to
18 Amex or Visa or whatnot as the expenditure,
19 I have never seen any kind of enforcement
20 or clarified actions of this. So this is a
21 new requirement under the Pennsylvania
22 Election Code.

23 MR. REED: What section are you
24 referring to?

HEARING OF PROPOSED REGULATION 1

23

1 THE WITNESS: 1.23, A3. It says
2 if the filer has used a credit or charge
3 card to make expenditures, the filer shall
4 disclose and itemize each purchase. I have
5 a few issues with this. Number one, let's
6 recall that the filers with the Board Of
7 Ethics are not only for candidates for city
8 office, it's also anyone who makes a
9 contribution to a candidate for city office
10 has to file with the Board of Ethics.
11 Imposing this requirement as written means
12 that a state rep from Erie running for City
13 Council in Philadelphia or a pact from
14 elsewhere in the state, now has to itemize
15 all it's other credit card expenditures in
16 it's report to make any contribution over
17 \$50 to a city candidate. You can solve
18 that problem by itself by eliminating this
19 requirement. Instead of saying if the
20 filer has used a credit or a charge card,
21 you say if a city candidate has used a
22 credit or a charge card. In that way
23 you're at least eliminating the universe of
24 the people who are faced with this and

HEARING OF PROPOSED REGULATION 1

24

1 really -- and in that way you're focussing
2 on the people who are actually subject to
3 the single account rule. With everyone
4 else in the state there is no question that
5 they can use credit cards, and since the
6 only expenditure that the city really has
7 an interest in is the contribution to the
8 candidate and whoever the sources were for
9 that contribution, you're not really
10 providing any additional relevant
11 information and only imposing a burden on
12 people outside the City of Philadelphia,
13 committees and candidates outside of the
14 city who wish to make a contribution to
15 city candidates. The next level concerns
16 all deal with implementation. Even if
17 you're limiting this to city candidates --
18 Mr. Chairman, you look like you wanted to
19 ask me a question.

20 MR. REED: Well, I'm just
21 reflecting on the last statement you made.
22 With all of the outside money that's coming
23 into campaigns. The notion that we are
24 affecting people outside of Philadelphia,

HEARING OF PROPOSED REGULATION 1

25

1 actors, is not really impressive to me
2 personally.

3 MR. BONIN: What is the
4 information that you care about those
5 outside actors? You care about what have
6 they contributed to city candidates, you
7 care about where does their money come
8 from. I'm not sure that any of their
9 expenditures that don't deal with city
10 candidates are a matter of --

11 MR. REED: Oh, you're saying it's
12 overly broad?

13 MR. BONIN: Yeah.

14 MR. CREAMER: What about, if I
15 may, what about independent expenditure
16 groups. Let's say they put all their TV
17 ads or whatever expenditures to influence a
18 covered election on a credit card and then
19 they disclose a payment to their payment to
20 their credit card and we don't know
21 anything about the expenditure information.

22 THE WITNESS: That is a fair
23 question. I mean that's -- as you know,
24 that's generally not how these expenditures

HEARING OF PROPOSED REGULATION 1

26

1 flow. It's payments to the vendors
2 themselves, who believe me, want that money
3 wired in before they do what they have to
4 do whether it's ads or print or whatnot. I
5 see where you're coming from. I'm not sure
6 that if in the way that expenditures
7 actually work that credit cards are a real
8 issue. They might be more of an issue to
9 the extent that you're talking about
10 independent expenditure committees, you
11 know, who are involved in -- I'm trying to
12 -- I guess it's hard to think of a type of
13 independent expenditure for which a vendor
14 would be happy with a credit card as
15 opposed to we need the check, we need the
16 wire before we can do anything. Like I
17 said, my other set of concerns deal with
18 implementation on this, you know, because
19 these regulations do not specify, and we
20 would certainly need guidance on, you know,
21 the discrepancy between when an expenditure
22 is made and when it's billed and when it's
23 reported. If you're making the expenditure
24 through a credit card, the campaign isn't

HEARING OF PROPOSED REGULATION 1

27

1 sending out the check until it's billed.
2 And when it sends it out it makes the
3 payment. In the meantime, it has all of
4 these expenditures. You would wind up with
5 a situation in which, you know, the
6 campaign is reporting expenditures which
7 have not touched it's bank account yet.
8 And, you know, you would have a really
9 meaningful discrepancy between the cash on
10 hand as reported and the cash in hand which
11 really exists. There's also the question
12 of whether you would treat the outstanding
13 unpaid bill as campaign debt when it, as a
14 true matter, the campaign hasn't paid it
15 yet, but you're already listing it as an
16 expenditure so in a way you're double
17 counting it. Because when it does get
18 paid, you're not putting out an additional
19 expenditure. It's also a question of what
20 do you do if a campaign is not paying it's
21 balance in full every month and it is
22 carrying debt. In that case right now,
23 you would certainly list that unpaid
24 balance as a campaign debt. I'm just not

HEARING OF PROPOSED REGULATION 1

28

1 quite sure how this all works out if the
2 idea is that instead of reporting the
3 transactions with the credit card company,
4 you're reporting the underlying
5 transactions as well. I do think here, as
6 with the reimbursement issue, vouchers are
7 a less immediate but none-the-less a way
8 for the Board, for the public to get access
9 to the same data. I'm not just entirely
10 sure -- I get the need for transparency
11 here. It is frustrating as someone who
12 looks at opposing campaigns to see an
13 expenditure to American Express and not
14 know what's in there. I am also aware that
15 the FEC has guidelines for credit card
16 expenditures and requires that disclosure
17 there. I do think that the Board needs to
18 think through and give much more specific
19 guidelines as to if it's going to implement
20 something like this, what are the dates of
21 the relevat expenditures. What do you do
22 with the gap between when a transaction
23 takes place and when it is billed. It
24 needs to really think through how it wants

HEARING OF PROPOSED REGULATION 1

29

1 to implement something like this. With
2 that, I'm happy to take any questions from
3 the Board.

4 MR. REED: Thank you for your
5 excellent comments as always. Are there
6 any witnesses who wish to offer testimony
7 about proposed amendment to Board
8 Regulation 1? In the absence of any other
9 witnesses I am going to declare the public
10 hearing on Board Regulation number 1
11 closed. Thank you all for attending. And
12 we will study the testimony of the hearing
13 and the record amongst ourselves
14 accordingly.

15 (The hearing concluded at 2:42 p.m.)
16

DEPARTMENT OF POLICE
2016 NOV 29 PM 3:2

HEARING OF PROPOSED REGULATION 1

30

1

2 C E R T I F I C A T I O N

3

4

5 I, WILLIAM USHER, Court Reporter,
6 certify that the foregoing is a true
7 and accurate transcript of the
8 foregoing deposition, that the witness
9 was first sworn by me at the time,
10 place and on the date herein before
11 set forth.

12 I further certify that I am
13 neither attorney nor counsel for, not
14 related to nor employed by any of the
15 parties to the action in which this
16 deposition was taken; further, that I
17 am not a relative or employee of any
18 attorney or counsel employed in this
19 case, nor am I financially interested
20 in this action.

21

22

23 William Usher

24 Court Reporter

and Notary Public

Dated: _____

HEARING OF PROPOSED REGULATION 1

31

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

HEARING OF PROPOSED REGULATION 1

32

1

Exhibit-2

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

HEARING OF PROPOSED REGULATION 1

33

A A3 23:1 absence 29:8 abusive 17:5 accept 11:17 18:24 access 16:24 18:4,16 28:8 accomplished 14:20 account 14:11,14 15:15 16:24 19:3,23 20:22 21:22 24:3 27:7 accounts 10:21 15:10 16:19 17:3 20:1 accurate 30:7 Act 19:8 action 5:18 6:2 30:15 30:20 actions 22:20 activity 4:8 actors 25:1,5 Adam 13:9 add 11:5,10 added 10:15 addiction 16:18 additional 11:11 17:14 24:10 27:18 address 19:13 ads 25:17 26:4 advertised 5:16 afternoon 7:9 agent 10:18 agents 15:18 allow 20:24 21:18 allowing 16:24 19:18 altogether 20:24 21:13 ambiguity 11:23 amendment 4:23 5:17 6:14 7:15 8:24 9:2,5 12:6 15:9,16 29:7 amendments 3:5 4:9 5:2,8,9,12,13,21,23 6:2,5,21 13:5 14:3 American 28:13	Amex 22:18 amount 10:23 annual 9:23 anyway 21:11 apologize 10:13 appreciate 12:20 13:23 15:8 appreciating 21:3 approved 5:8 6:11 9:3 Arch 1:10 area 21:12 areas 14:3,7,22 as's 11:17 attach 19:22,24 ATTACHED 3:2 attendance 7:10 attending 12:13 29:11 attorney 13:9 30:13 30:18 authority 5:15 17:21 available 5:2,4 aware 16:13 22:10 28:14	board 1:1,9 2:4,9 4:7 4:9,11,13,24 5:5,8 5:13,18,21 6:1,7,8 6:11,11,14,15,18,21 7:4,9,14,15 8:16,22 9:3 12:10,12,21,24 13:5 14:7 16:13 18:4,7,8 22:3 23:6 23:10 28:8,17 29:3 29:7,10 Board's 5:15 6:1 7:11 Bonin 13:8,9 15:3 18:21 21:17 25:3,13 Brian 2:7 4:12 brief 14:1 broad 25:12 burden 24:11 busy 13:22	<hr/> C C 2:1 30:2,2 call 4:3 campaign 1:2 4:10 4:24 7:18 8:1,6 10:17,24 11:1 13:12 14:9 15:19,20 16:1 16:3,6,8,15,15,22 18:15,23 19:5,18 20:4,19 21:7,10 26:24 27:6,13,14,20 27:24 campaign's 16:2 19:24 campaigns 14:13 15:23 17:4 19:6,15 21:1,18 24:23 28:12 candidate 10:18 15:12 17:17 22:15 23:9,17,21 24:8 candidate's 19:18 candidates 10:22 15:18 23:7 24:13,15 24:17 25:6,10 canvassers 20:9 card 16:16,18 17:13 20:5 22:16 23:3,15 23:20,22 25:18,20
address 19:13 ads 25:17 26:4 advertised 5:16 afternoon 7:9 agent 10:18 agents 15:18 allow 20:24 21:18 allowing 16:24 19:18 altogether 20:24 21:13 ambiguity 11:23 amendment 4:23 5:17 6:14 7:15 8:24 9:2,5 12:6 15:9,16 29:7 amendments 3:5 4:9 5:2,8,9,12,13,21,23 6:2,5,21 13:5 14:3 American 28:13	back 14:24 19:12 balance 27:21,24 bank 27:7 basis 20:13 Beck 2:5 4:3,6 7:23 8:10 10:12 11:13 12:11,16 14:24 18:19 behalf 7:13 8:22 13:18 15:20 believe 14:16 26:2 best 15:23 better 18:4 20:9 21:3 bill 27:13 billed 26:22 27:1 28:23 bit 11:5 13:22 blew 16:16 Blue 19:8	balance 27:21,24 bank 27:7 basis 20:13 Beck 2:5 4:3,6 7:23 8:10 10:12 11:13 12:11,16 14:24 18:19 behalf 7:13 8:22 13:18 15:20 believe 14:16 26:2 best 15:23 better 18:4 20:9 21:3 bill 27:13 billed 26:22 27:1 28:23 bit 11:5 13:22 blew 16:16 Blue 19:8	circumstance 16:14 circumstances 13:20 city 1:1,9 2:14 4:19 8:9 13:10 14:12 17:22,22 18:10 23:7 23:9,12,17,21 24:6 24:12,14,15,17 25:6 25:9 clarified 22:20 clarify 10:20 11:2,12 cleanup 10:7 clearer 20:10 client 13:18

HEARING OF PROPOSED REGULATION 1

34

clients 13:15 17:24 close 20:18 closed 29:11 code 17:17 22:9,14 22:22 column 9:21,22 10:4 come 17:2 18:12 25:7 comes 14:12 15:17 coming 24:22 26:5 commencing 1:11 comments 4:22 6:4 29:5 Commissioner's 17:23 18:10 commitment 4:14 committee 11:1 17:17,18 19:11 committee's 19:2 committees 21:19 24:13 26:10 company 28:3 compared 20:6 complete 10:3 compliance 13:14 comply 18:12 concern 14:23 19:17 concerning 13:2 concerns 24:15 26:17 concluded 29:15 concludes 12:4 confusing 11:18 confusion 11:23 consequences 14:18 considered 6:10 constitutes 11:6 consultation 9:4 contact 22:11 contributed 25:6 contribution 9:10 23:9,16 24:7,9,14 contributions 14:14 19:1,1,7 contributors 19:12 control 16:22 Cooke 2:12 7:9,11 8:1,12,20 10:13 11:15 12:22 13:1	22:2,10 Cooke's 15:9 copies 5:1,3 copy 5:5 correct 10:8 Council 8:9 23:13 counsel 4:18 30:13 30:18 counting 27:17 course 10:22 14:11 court 1:22 6:16 13:24 18:13,15 30:5,23 cover 8:5 14:2 covered 25:18 CREAMER 2:10 25:14 credit 14:5 16:10 17:2,13 20:5 21:24 22:16 23:2,15,20,22 24:5 25:18,20 26:7 26:14,24 28:3,15 currently 9:23 10:4 curtailed 8:13 cycle 9:21,23,24	Department's 4:18 deposition 30:8,16 deputy 4:18 DESCRIPTION 3:2 detail 17:11 detailed 18:5 devastating 16:14 DIANA 2:12 difference 20:2 22:5 22:6 direct 16:23 directly 16:8 director 7:12 disallowing 15:18 disclose 23:4 25:19 disclosure 28:16 discrepancy 26:21 27:9 discussions 9:6 22:3 disregard 21:13 distribute 16:9 distribution 5:19 document 6:18 doing 12:9 dollars 16:16 double 27:16 draft 15:6,6 drawer 20:18	22:19 entered 6:22 entirely 28:9 entries 9:20 entry 9:22 Epps 2:6 4:14 12:13 Erie 23:12 ERSA 1:22 ESQ 2:6,6,7,10,11,11 2:12,12,13,13,14 et 9:13 ethics 1:1,9 4:7 8:6 23:7,10 example 11:6 16:20 20:9 examples 11:11 excellent 29:5 exception 11:19,19 11:20 exclusively 18:1 Exhibit-1 3:3 6:23 7:7 31:1 Exhibit-2 3:5 8:18 32:1 exists 17:15 22:8 27:11 expended 20:23 expenditure 10:14 21:9 22:18 24:6 25:15,21 26:10,13 26:21,23 27:16,19 28:13 expenditures 10:11 10:19,22 11:7,7 14:4,9,15,21 15:4 15:13 16:7 17:1,13 17:19 18:6 19:19 20:6 21:24 22:17 23:3,15 25:9,17,24 26:6 27:4,6 28:16 28:21 expenses 16:1,4,5,6 Express 28:13 extent 17:7 26:9 extreme 16:20
<hr/> D <hr/> D.C 8:3	<hr/> data 21:4 28:9	<hr/> E <hr/> E 2:1,1 3:1 30:2	<hr/> F

F 30:2 faced 23:24 fact 20:6 Fader 4:17 failure 18:12 fair 25:22 familiar 19:22 fashion 12:21 FEC 28:15 federal 13:21 file 23:10 filed 6:18 17:20 filer 23:2,3,20 filers 23:6 Finally 21:13,23 finance 1:2 4:10 5:1 8:6 13:13 21:10 financial 18:15 financially 30:19 fine 19:3 first 4:7 10:17 12:23 14:24 22:7 30:9 flipped 9:15 floor 12:24 flow 26:1 focussing 24:1 following 5:5 Forcing 16:7 foregoing 30:6,8 forgiveness 9:12,14 9:16 form 5:15 forth 30:11 forward 12:21 found 5:13 friendly 22:5 frustrating 28:11 fulfilling 21:21 full 19:9 27:21 funds 10:19,24 15:10 20:1,21 further 4:16 30:12,16 future 6:11	general 14:6 15:19 generally 25:24 getting 12:12 21:3,22 gifts 9:12,16 give 18:16 28:18 gives 16:2,2 17:4 giving 5:20 16:23 go 12:19 19:12 goal 12:2 goals 14:17,19 goes 17:13 going 4:3 12:18,21 16:9,11 28:19 29:9 Gonzalez 2:6 4:12 good 7:9 11:20 19:4 great 12:9,15 greater 14:10 group 7:24 groups 25:16 guess 8:13 26:12 guidance 26:20 guidelines 28:15,19	idea 15:11 28:2 identification 7:8 8:19 identify 7:1 III 22:1 immediate 18:14 28:7 implement 28:19 29:1 implementation 24:16 26:18 imposing 23:11 24:11 impressive 25:1 including 6:20 17:17 incorrect 9:21 increase 14:8 independent 25:15 26:10,13 individual 17:10 21:11 influence 25:17 information 18:3,5 18:17 19:10,13,14 20:10 24:11 25:4,21 insists 12:7 interest 24:7 interested 4:21 13:15 30:19 introduced 22:14 investigations 13:14 invite 7:4 involved 26:11 issue 11:9 15:17 26:8 26:8 28:6 issues 8:5 23:5 item 17:9 itemize 23:4,14	judge 4:5 12:7,11
			K
			keep 17:18 kind 18:3 22:19 KLEMM 2:13 know 15:12 16:13,13 16:21 17:6 18:3,5 19:20 20:8,17 21:6 22:10 25:20,23 26:11,18,20 27:5,8 28:14
			L
			language 11:11,14,16 late 12:20 laudable 15:16 law 2:14 4:17 5:11 9:4 13:12,13 17:15 18:11 legal 5:14 7:18 8:1 legislation 8:8 lengthy 22:3 let's 19:20 23:5 25:16 level 24:15 LEWIS 2:14 limiting 24:17 LIN 2:12 line 17:9 Linfest 12:15 list 27:23 listing 27:15 lists 22:17 little 11:5 13:22 loans 9:12,15,16 lobbying 13:13 long 19:1 20:1,20 look 24:18 looks 28:12 lose 16:21 lots 16:23
			M
			M 2:5 making 14:9,15 15:19 16:11 18:9 22:16 26:23

HEARING OF PROPOSED REGULATION 1

36

<p>marked 3:2 6:23 7:8 8:19 MASSAR 2:11 matter 1:6 14:6 18:11 19:20 25:10 27:14 matters 8:6 MAYA 2:11 McCormick 2:7 4:12 mean 16:19 25:23 meaning 12:1 meaningful 20:2 27:9 means 14:20 16:8 20:18 21:1 23:11 mechanism 6:13 meeting 4:4 5:11,24 6:12 meetings 22:4 member 2:4,6,6,7 4:13 12:12 members 4:11,20 5:19 6:8 7:3,10 8:16 18:1,8,8 memorial 12:14 Michael 2:5,12 7:11 Mike 4:13 12:9 minimal 8:23 minor 11:6,8 misstate 15:7 modernizing 20:17 modification 4:23 6:6 modifications 10:16 modify 6:14 Monday 8:14 monetary 9:13,17 money 9:11,16 15:14 16:18 24:22 25:7 26:2 month 9:2 27:21 morning 12:17 move 20:23 Moving 9:19</p> <hr/> <p style="text-align: center;">N</p> <p>N 2:1 30:2 name 4:5 7:11 12:9 13:7,9 17:10</p>	<p>narrowing 22:6 NAYAK 2:11 necessary 21:5 NEDDA 2:11 need 21:6 26:15,15 26:20 28:10 needs 20:15 28:17,24 neither 30:13 never 22:14,19 new 22:21 newspaper 5:24 NGP 19:9 non-profit 8:2 none-the-less 28:7 normally 13:19 Notary 1:8 30:23 note 4:10,16 6:16 7:16 22:7 noted 11:17 notice 5:17,20,23 notification 3:3 notifying 5:18 noting 11:20 notion 24:23 number 3:2 4:10,24 5:14 6:8,15,21 7:15 13:6 15:22 17:24 18:17,17 23:5 29:10</p> <hr/> <p style="text-align: center;">O</p> <p>O 30:2 objection 8:15 obviously 16:20 18:11 October 1:11 offer 13:4 29:6 office 17:23 18:10 22:15 23:8,9 Oh 25:11 ongoing 12:14 online 14:4 open 7:5 12:24 opinion 22:5 opportunity 4:20 6:4 opposed 26:15 opposing 28:12 order 4:4</p>	<p>ordinance 14:12 organization 8:2 original 15:6 outside 24:12,13,22 24:24 25:5 outstanding 27:12 overly 25:12</p> <hr/> <p style="text-align: center;">P</p> <p>P 2:1,1 p.m 1:12 29:16 PA 1:23 pact 22:16 23:13 page 3:2,2 9:9,18,19 10:12,13 15:1,5 18:22 22:1 pages 15:7 paid 27:14,18 paragraph 10:10 15:1 part 7:20 8:17 particular 11:24 13:18 parties 4:21 30:15 pass 8:16 pay 20:3 paying 20:7,18,19 21:2,2,7 27:20 payment 21:10,11 22:17 25:19,19 27:3 payments 26:1 PayPal 18:24 19:8,16 19:19,21,23 20:3,11 20:21 21:1,8,12,19 pending 6:16 Pennsylvania 1:10 17:16 22:9,21 people 12:3 15:24 23:24 24:2,12,24 perfect 19:4 personal 10:19,21,24 13:17 15:10,10 16:6 17:5 personally 12:11 15:14 16:12 25:2 Philadelphia 1:1,9,10 1:23 2:14 4:7 5:6</p>	<p>13:11 23:13 24:12 24:24 Phyllis 2:5 4:5 place 20:11 28:23 30:10 Plaza 1:23 please 13:7 pleasure 7:12 PM 18:18 point 11:3,12,21 20:16 policy 8:4 political 13:12 21:19 possible 4:15 12:3 posting 5:9 practice 13:10,11 practices 15:23 preliminary 8:21 presence 13:23 present 4:19 6:17 7:13 8:22 press 18:2 primary 19:19 print 26:4 prior 7:2 10:6 proactively 5:22 probably 12:18 problem 20:20 21:23 23:18 PROCEEDINGS 4:1 process 5:6 18:14 produce 17:20 Professional 1:8 promptly 19:2 proper 5:15 propose 11:2,3 proposed 1:2 3:5 4:9 4:23 5:2,8,12,13,17 5:20,23 6:2,5,7,14 6:20 7:14 8:24,24 9:2,3,5,8 10:15 11:21 12:6 13:5 14:3 18:22 29:7 provide 4:21 provided 5:23 providers 14:5 18:18 19:21</p>
---	--	---	--

<p>providing 24:10 provision 10:9 12:2 provisions 9:7 10:15 public 1:8 3:3 4:8,20 5:9,11,17 6:4 7:3 18:8 28:8 29:9 30:23 purchase 23:4 purchases 15:19 16:12 pursued 20:15 pursuing 14:17 put 25:16 putting 14:10 15:14 27:18 </p>	<p>Reed 2:5 4:13 12:7 12:10,18 21:14 22:23 24:20 25:11 29:4 Refer 14:24 referring 15:2 22:24 reflecting 24:21 regarding 7:14 8:7 9:5 regards 12:6 regulation 1:2 3:6 4:9,24 5:14 6:7,15 6:21 7:15 13:6 20:15 29:8,10 regulations 8:8 14:16 18:23 26:19 reimbursed 10:10,14 14:4,21 15:4,21 17:4,11 18:6 reimbursement 16:1 28:6 reimbursements 17:8,12 reimbursing 16:5 related 16:6 30:14 relative 30:17 relevant 5:19 17:21 24:10 relevat 28:21 remedy 17:14 rep 22:15 23:12 report 6:10,12 9:23 9:24 11:10,22 21:9 21:10 23:16 reported 26:23 27:10 reporter 1:8 6:16 8:17 13:24 30:5,23 REPORTERS 1:22 reporting 9:20 19:11 27:6 28:2,4 republished 15:6 request 17:16,20 21:5 requests 18:2,9 require 19:9 required 5:6 17:18 18:14 19:10 </p>	<p>requirement 22:8,13 22:21 23:11,19 requires 28:16 respond 6:12 review 9:1 reviewed 5:12 reworded 10:20 rewording 11:2,21 Richard 4:16 rid 21:20 right 13:23 27:22 ROSMAN 2:14 rule 5:7 11:9 21:22 24:3 running 15:13 23:12 </p>	<p>24:3 sit 7:1 situation 27:5 slight 10:16 solely 13:17 Solicitor 4:19 solo 13:10 solve 23:17 solved 20:20 somewhat 11:18 22:6 soon 4:15 sort 8:3 20:14 sorts 19:6 sources 24:8 South 1:22 specializes 13:11 specific 28:18 specify 26:19 spend 10:23 spending 15:15 16:22 staff 2:9 7:4,14 8:23 11:10 13:1 16:3 18:7 20:19 22:10 staffer 16:15 staffers 16:11,23 21:8 started 12:12,16 state 13:7 18:23 22:12,15,15 23:12 23:14 24:4 stated 22:12 statement 24:21 states 10:17 stopping 18:7 straight 16:19 Street 1:10,22 study 29:12 sub 22:1,1 subject 24:2 submit 14:1 submitted 8:13 subparagraph 21:20 substantive 12:1 Sugar 16:17 suggested 11:4 Suite 1:23 sure 10:8 15:3 16:4 </p>
<p>Q</p> <p>question 17:7 24:4,19 25:23 27:11,19</p> <p>questions 6:9 13:1 29:2</p> <p>quite 28:1</p> <p>R</p> <p>R 2:1 30:2 races 17:22 read 9:16 10:6 reads 9:11,23 10:4 real 16:21 19:17 20:20 26:7 really 14:21 15:17 20:2,22 24:1,6,9 25:1 27:8,11 28:24</p> <p>reason 15:21</p> <p>reasons 13:16</p> <p>recall 23:6</p> <p>receipts 17:19</p> <p>receive 19:7</p> <p>received 7:17</p> <p>receiving 14:14</p> <p>recommend 9:14</p> <p>recommendations 4:22 6:6</p> <p>record 4:11,16 6:22 7:20 8:17 13:7 29:13</p> <p>Records 5:10,16 6:19</p>	<p>S</p> <p>S 2:1 3:1</p> <p>sanctions 18:13</p> <p>Sanjuanita 2:6 4:12</p> <p>saying 21:14,16 23:19 25:11</p> <p>says 9:22 14:12 23:1</p> <p>scheduled 5:22</p> <p>section 5:7 11:24 15:4 18:21 22:1,23</p> <p>see 4:5 26:5 28:12</p> <p>seeing 17:9</p> <p>seek 15:24</p> <p>seeking 14:7</p> <p>seen 16:12 19:14 22:19</p> <p>SEGALL 2:13</p> <p>self-funding 15:12</p> <p>sending 27:1</p> <p>sends 27:2</p> <p>sent 8:14</p> <p>sentence 11:17</p> <p>September 5:10 6:19</p> <p>serves 4:17</p> <p>service 12:15 14:5 18:18,24 19:7</p> <p>services 19:8,15</p> <p>set 19:16 26:17 30:11</p> <p>SHANE 2:10</p> <p>similar 8:5 18:24</p> <p>single 14:11 21:22</p>		

HEARING OF PROPOSED REGULATION 1

38

20:14 25:8 26:5 28:1,10 sworn 30:9	touched 27:7 transaction 28:22 transactions 20:10 20:12 21:4 28:3,5 transcribe 6:17 transcript 1:6 30:7 transferred 19:2 20:22 transparency 14:8,19 17:8 28:10 treasurer 16:2 treat 27:12 true 27:14 30:6 try 11:22 trying 26:11 turn 8:21 TV 25:16 twenty 13:21 two 11:17 18:17 21:21 type 26:12 types 11:7	vendors 20:3,19 21:2 26:1 version 22:2 vice 2:5 4:6 violates 15:22 Visa 22:18 voucher 17:15 18:9 21:5 vouchers 17:18 28:6	X X 3:1
T T 3:1 30:2,2 table 7:1 take 6:1,24 12:8 15:17 29:2 taken 1:7 30:16 takes 28:23 talking 26:9 tank 8:4 teeth 14:10 tell 7:23 18:19 tens 16:16 testified 8:7 testify 7:4 testifying 7:2 testimony 6:13,24 7:6,13,17,20,22 8:11,22 10:9 12:5 12:23 13:2,4,16,19 14:2 29:6,12 thank 12:11,22 13:6 13:8 29:4,11 thing 10:17 12:23 17:6 22:7 things 9:13,17 13:22 15:7,22 think 8:3,14 13:24 15:5,11,16,22 18:1 19:20 20:13,16 26:12 28:5,17,18,24 thinking 21:7 THOMAS 2:13 thought 12:8 thousands 16:16 three 14:3,7,22 time 6:18 7:7 8:18 12:5,8 30:9 timely 12:21 times 17:24 today 4:8 5:4 7:13,19 8:23 11:16 13:17,19 Today's 4:19 topic 22:4	treasurer 16:2 treat 27:12 true 27:14 30:6 try 11:22 trying 26:11 turn 8:21 TV 25:16 twenty 13:21 two 11:17 18:17 21:21 type 26:12 types 11:7	W W 2:5 4:5 want 14:2 15:7 26:2 wanted 24:18 wants 18:4 28:24 Washington 8:3 way 11:5 20:7 21:21 23:22 24:1 26:6 27:16 28:7 ways 14:17 we're 12:20 20:21 we've 9:1 website 5:21 6:1 Wednesday 1:11 welcome 4:4,17 went 16:18 whatnot 22:18 26:4 William 1:7 30:5,22 wind 27:4 wire 26:16 wired 26:3 wish 6:9 7:5 13:4,18 24:14 29:6 witness 7:1 23:1 25:22 30:8 witnesses 6:9,24 13:4 29:6,9 wonderful 19:4 words 9:14 work 26:7 workers 20:8 working 15:5 works 19:21 28:1 write 20:4 written 7:17,19 13:19 14:2 23:11	1 1 1:2 3:6 4:10,24 5:14 6:8,15,21 7:15 13:6 29:8,10 1.1H 9:10 1.1HI 9:11 1.23 22:1 23:1 1.25C 21:15 1.26 18:21 1.30 10:10,14 15:4 10 9:19 11:00 12:16 12th 5:11 14 22:1 15 18:22 1515 1:9 1520 1:23 17th 1:11,22 18 10:13 15:5 19103 1:23
		2 2 9:9 2:00 1:12 12:19 2:42 29:15 2018 1:11 5:11 6:20 215 1:24 26th 6:20	
		3 30 1:22 31 3:3 31st 10:1,2,5,6 32 3:5	
		4	

HEARING OF PROPOSED REGULATION 1

39

5			
50 23:17			
564-1233 1:24			
6			
7			
7 3:3 9:21,23,24			
8			
8 3:5			
8-407 5:7			