

REGULATIONS OF BALTIMORE CITY ETHICS BOARD

CHAPTER 01. DEFINITIONS; RULES OF CONSTRUCTION

Authority: City Code Article 8, § 3-6(a)

R 01.01. Terms defined in Ethics Code.

The definitions stated in Ethics Code Subtitle 2 {“Definitions; General Provisions”}, Part I {“Definitions”}, apply to these Regulations.
(Effective 11/09/05.)

R 01.02. Other terms defined.

A. In general.

In these Regulations, the following additional terms have the meanings indicated.

B. Terms defined.

(1) Ethics Code; Code.

“Ethics Code” or “Code” means the Baltimore City Public Ethics Law, as codified in City Code Article 8.
(Effective 11/09/05.)

R 01.03. Rules of construction.

The rules of construction stated in Ethics Code Subtitle 2 {“Definitions; General Provisions”}, Part II {“Rules of Construction”}, apply to these Regulations.
(Effective 11/09/05.)

BOARD REGULATIONS

CHAPTER 02. *{RESERVED}*

CHAPTER 03. *{RESERVED}*

CHAPTER 04. *{RESERVED}*

CHAPTER 05. COMPLAINTS***PART I. {RESERVED}******PART II. HEARING PROCEDURES***

Authority: City Code Article 8, §§ 3-6(a) and 5-6(c)

R 05.21. Scope of Part.

This Part applies whenever:

- (1) the Ethics Board proposes to take any final action against a person for a violation of the Ethics Code; or
- (2) a person is aggrieved by a notice, order, decision, or other action of the Ethics Board.
(Effective 11/09/05.)

R 05.22. Opportunity for hearing.

A. Proposed action for violation.

- (1) Before the Ethics Board takes any final action against a person for a violation of the Ethics Code, the Board must notify the person against whom the action is contemplated of the proposed action.
- (2) The notice must:
 - (i) be in writing; and
 - (ii) state that a hearing will be provided if, within 10 days of the notice (or any longer period specified in the notice), the person files with the Board a written request for a hearing.

B. Other situations.

- (1) In all other situations, any person aggrieved by a notice, order, decision, or other action of the Ethics Board may request a hearing on the matter.
- (2) The request must:
 - (i) be in writing;
 - (ii) state the grounds on which the person is contesting the notice, decision, order, or other action; and
 - (iii) unless a different time is specified by law or in these Regulations, be filed with the Board within 10 days of the notice, decision, order, or other action.
(Effective 11/09/05.)

R 05.23. Delegation of hearing authority.*A. In general.*

Hearings may be conducted by:

- (1) the Ethics Board; or
- (2) a hearing officer designated by the Board.

B. Scope of delegation.

The Ethics Board may delegate to a hearing officer the authority to issue one or more of the following:

- (1) proposed findings of fact.
- (2) proposed conclusions of law.
- (3) proposed orders.

(Effective 11/09/05.)

R 05.24. Conduct of hearing.*A. Notice.*

- (1) The Ethics Board must provide all parties reasonable written notice of the hearing.
- (2) The notice must state:
 - (i) the date, time, place, and nature of the hearing;
 - (ii) the right of a party to be represented, at the party's own expense, by an attorney or, if permitted by law, other representative;
 - (iii) the right of a party to call witnesses and submit documents or other evidence under R 05.25 of these Regulations; and
 - (iv) that failure to appear for the scheduled hearing may result in an adverse action against the party.

B. Hearings to be informal.

Except as otherwise provided by law or these Regulations, all hearings must be conducted in an orderly but informal manner.

(Effective 11/09/05.)

R 05.25. Evidence.**A. *In general.***

Except as otherwise provided by law or these Regulations, formal rules of evidence and trial procedures do not apply.

B. *Right to submit.*

On a genuine issue of fact, a party is entitled to:

- (1) call witnesses;
- (2) offer evidence, including rebuttal evidence;
- (3) cross-examine any witness that another party or the Ethics Board calls; and
- (4) present summation and argument.

C. *Scope.*

The Ethics Board or hearing officer:

- (1) may admit probative evidence that reasonable and prudent individuals commonly accept in the conduct of their affairs and give probative effect to that evidence;
- (2) may not exclude evidence solely on the basis that it is hearsay;
- (3) must give effect to a privilege recognized by law;
- (4) may receive documentary evidence in the form of copies or excerpts or through incorporation by reference;
- (5) may take official notice of a fact that is judicially noticeable or that is general, technical, or scientific and within the specialized knowledge of the Ethics Board; and
- (6) may exclude evidence that is:
 - (i) incompetent;
 - (ii) irrelevant;
 - (iii) immaterial; or
 - (iv) unduly repetitious.

(Effective 11/09/05.)

R 05.26. Final decisions.

A. Form and contents.

A final decision must:

- (1) be in writing; and
- (2) contain separate statements of:
 - (i) the findings of fact;
 - (ii) the conclusions of law; and
 - (iii) the decision or order.

B. Distribution.

A copy of the final decision must be mailed or delivered to each party or that party's attorney of record.

(Effective 11/09/05.)

CHAPTER 06. CONFLICTS OF INTEREST

PARTS I - II. {RESERVED}

PART III. RESTRICTIONS ON EMPLOYMENT AND INTERESTS

Authority: City Code Article 8, §§ 3-6(a) and 6-12

R 06.12.1. Specific employment and interests exempted by authority of Ethics Code § 6-12.

A. In general.

The Board finds that outside employment of public servants of the type described in this regulation would not create a conflict of interest or the appearance of a conflict of interest. Accordingly, under the authority of Ethics Code § 6-12 {"Exceptions – Board regulation"}, the Board excepts employment of this nature from the provisions of Ethics Code § 6-11 {"Prohibited employment, interests"}.

B. Adjunct faculty.

A public servant may accept employment as an adjunct faculty member with an accredited university or college that does business with the public servant's agency so long as the public servant:

- (1) adheres to the requirements of Ethics Code § 6-6 {"Prohibited participation"} by disqualifying himself or herself from any matter involving his or her agency to which the college or university is a party, and
- (2) otherwise conforms to all other relevant provisions of the Ethics Code as well as other applicable laws and policies, such as the City's personnel policies.

C. Industries, etc., required to be represented on boards.

- (1) In this Section C, "board" has the meaning stated in Ethics Code § 2-3 {"Board"}.
- (2) The prohibitions in Ethics Code § 6-11 {"Prohibited employment, interests"} do not apply to members of a board who are appointed pursuant to a requirement that the member represent certain industries, persons, classes, entities, practitioners, or communities who are subject to the jurisdiction of, or assisted or potentially assisted by, the board, so long as the member:
 - (i) adheres to the requirements of Ethics Code § 6-6 {"Prohibited participation"} by disqualifying himself or herself from any matter described in that section, and
 - (ii) otherwise conforms to all other relevant provisions of the Ethics Code.

(Sections A and B adopted effective 11/13/12; Reg. No. and Section A amended, effective 04/03/19; Section C added effective 09/05/18.)

R 06.12.2. Employment and interests requiring express pre-approval by Board.*A. In general.*

- (1) Subject to the criteria set forth in Section B of this regulation, the Board may grant a public servant an exception to Ethics Code § 6-11 {"Prohibited employment, interests"} for employment not specifically exempted by law, rule, or regulation.
- (2) In order to be considered for an exception under this section, the public servant must submit a written request to the Board detailing the nature of the public servant's duties with the City and the nature of the outside employment requested.

B. Criteria.

- (1) The Board may grant a public servant an exception under Section A of this regulation for outside employment if the Board finds that:
 - (i) the public servant's duties do not significantly impact on the outside employer or a contract or proposed contract between the outside employer and the public servant's agency;
 - (ii) the public servant is not directly supervised by a person who has duties that significantly impact on the outside employer or the contract or proposed contract;
 - (iii) the public servant does not supervise a person who has duties that significantly impact on the outside employer or the contract or proposed contract;
 - (iv) the public servant is not affiliated with the specific unit within the public servant's agency that exercises authority over the outside employer or is involved in contracts with the outside employer;
 - (v) the public servant has complied with relevant other provisions of the Ethics Code as well as other applicable laws and policies, such as the City's personnel policies;
 - (vi) the public servant's outside employment involves no substantive, non-ministerial duties significantly relating to the public servant's agency's authority over the outside employer;
 - (vii) the public servant's outside employment does not involve negotiating or carrying out a contract involving the outside employer and the public servant's agency, other than contracts involving broad reimbursement payments that are based on a generally applicable standard and that do not involve substantial negotiation or discretion;
 - (viii) the public servant's private compensation is not directly funded by a City contract or contracts; and
 - (ix) the public servant's specific employment circumstances do not otherwise raise a conflict of interest or appearance of conflict, as contemplated by the Ethics Code.

- (2) The public servant bears the sole burden of persuasion to demonstrate that the criteria set forth in subsection (1) of this section are satisfied and that the proposed outside employment would not raise a conflict of interest or appearance of conflict as contemplated by the Ethics Code.
- (3) Notwithstanding an exception granted under this regulation, the public servant must nonetheless adhere to the requirements of Ethics Code § 6-6 {"Prohibited participation"} by disqualifying himself or herself from any matter described in that section.

(Regulation adopted effective 04/03/19.)

PART IV. GIFTS

Authority: City Code Article 8, §§ 3-6(a), 6-26(b), 6-28, and 6-29

R 06.26.1. Official governmental or City-endorsed charitable solicitations – In general.*A. Definitions.**(1) In general.*

In this Regulation, the following terms have the meanings indicated.

(2) “Controlled donor”.

“Controlled donor” means any person described in Ethics Code § 6-26(a)(1), (2), (3), or (4).

*(3) “Fiscal sponsor”.**(i) In general.*

“Fiscal sponsor” means the person who is responsible for the custody, accounting, and distribution of donations.

(ii) Exception.

The fiscal sponsor may not be an individual employed by the sponsoring agency.

(4) “Sponsoring agency”.

“Sponsoring agency” means:

- (i) the City agency conducting a solicitation under this Regulation; or
- (ii) if more than one agency is involved, the City agency designated to coordinate the solicitation.

B. General standards for Ethics Board approval.

The prohibition in Ethics Code § 6-26(a) against the solicitation of gifts from controlled donors does not apply to a solicitation if:

- (1) the solicitation is for the exclusive benefit of a governmental or charitable function, program, or activity;
- (2) the program, function, or activity to be benefitted and the proposed solicitation campaign has been endorsed by the Board of Estimates or its designee(s);
- (3) the solicitation is directed at a broad range of potential donors and does not specially target controlled donors;

- (4) the campaign is designed and conducted so as to avoid any suggestion that contributors might receive special access or favored treatment from any City agency or official;
- (5) the proposed solicitation has been approved in advance by the Ethics Board, on written request of the sponsoring agency; and
- (6) the solicitation is conducted in accordance with the terms and conditions of the Ethics Board's approval.

C. Request for approval.

- (1) The sponsoring agency must submit its written request for approval to the Ethics Board at least 45 days before any controlled donor is solicited. (The Ethics Board may waive the 45-day requirement in its discretion.)
- (2) The request must contain the following information:
 - (i) the specific governmental or charitable function, program, or activity for which the solicitation will be made;
 - (ii) the specific purposes to which all receipts will be applied;
 - (iii) when and from whom the endorsement required by subsection B(2) of this Regulation were obtained, and a description of any conditions or limitations imposed on that endorsement;
 - (iv) when, how, and by whom the solicitation will be conducted;
 - (v) the categories of persons to be solicited;
 - (vi) measures to ensure that:
 - (A) the solicitation will be directed at a broad range of potential donors and does not specially target controlled donors; and
 - (B) the campaign will avoid any suggestion that contributors might receive special access or favored treatment from any City agency or official;
 - (vii) the identity of the individual who will be responsible for the custody, accounting, and final distribution of donations;
 - (viii) the aggregate value of the donations sought; and
 - (ix) any other information that the Ethics Board requests.

D. Report.

- (1) The sponsoring agency must periodically report solicitation activities to the Ethics Board, as follows:
 - (i) A Final, Cumulative Report must be filed within 30 days after all solicitations have been made and anticipated donations received.
 - (ii) Interim Reports must be filed on the following schedule, depending on the aggregate value of donations sought by the campaign:
 - (A) for campaigns seeking \$50,000 or more in donations, once every 3 months;
 - (B) for campaigns seeking between \$5,000 and \$50,000, once every 6 months; and
 - (C) for campaigns seeking less than \$5,000, only the Final, Cumulative Report is required.
- (2) The report must be filed in the form that the Ethics Board requires.
- (3) The report must contain the following information:
 - (i) all changes in any of the information contained in the request to the Ethics Board or in the Board's approval;
 - (ii) the aggregate amount or value of donations received from all persons;
 - (iii) a list of all donors and the amount or value of their respective donations;
 - (iv) the identity of each controlled donor that was solicited, whether that person donated or not;
 - (v) an accounting of how all donations and other income have been expended; and
 - (vii) any other information that the Ethics Board requires.
- (4) The report must be signed as accurate by the fiscal sponsor, and the data provided in the report must be in a form consistent with generally accepted standards in the practice of accounting.

E. Public record.

All requests, approvals or denials, and reports filed under this Regulation are public records, available for public inspection and copying during regular office hours.

(Effective 03/01/10; Amendments to Sections C(2) and D(1), effective 01/01/15; Additions of Sections A(3) and D(4), effective 02/12/20.)

R 06.26.2. Official governmental or City-endorsed charitable solicitations – Workplace Campaigns.

The prohibition in Ethics Code § 6-26(a) and the required procedures in R 06.26.1 of these Regulations do not apply to a workplace charitable-giving campaign that:

- (1) is primarily concerned with soliciting charitable donations from City employees;
- (2) offers a broad choice of charities to which donations can be made; and
- (3) is approved by the Board of Estimates and the Ethics Board.

(Effective 07/13/16.)

R 06.28. Gifts of “insignificant” or “significant” value.**A. “Insignificant value”.**

In Ethics Code § 6-28(2) {“Qualified exemptions”}, the qualified exemption for “gifts or awards that have insignificant monetary value” applies only to:

- (1) a gift or award with a value of not more than \$20; or
- (2) a gift or award in a series of gifts and awards with a cumulative value of not more than \$60, if given by or on behalf of the same person during the reporting period.

B. “Significant value”.

In Ethics Code § 6-29(2) {“Exemption limitations”}, the limitation for “gift[s] of significant value” applies to:

- (1) any gift with a value of more than \$20; or
- (2) a gift in a series of gifts with a cumulative value of more than \$60, if given by or on behalf of the same person during the reporting period.

(Effective 10/11/11.)

R 06.28.5 Gifts exempted under Ethics Code § 6-28(5).**A. In general.**

The Board finds that the acceptance of the gifts described in this rule would not be detrimental to the impartial conduct of City business. Accordingly, under the authority of Ethics Code § 6-28(5) {“Qualified exemptions[: By Board]”}, the Board exempts these gifts from the provisions of Ethics Code § 6-27 {“Acceptance prohibited”}.

B. Pharmaceutical samples.

Unsolicited pharmaceutical samples may be accepted from a pharmaceutical sales representative if:

- (1) the samples are being given to or for the benefit of a City-owned or -operated health-care facility; and
- (2) the samples are of a type and quantity generally given to similar public or private health-care facilities.

C. Invitations from public educational institutions.

Unsolicited tickets or free admissions to attend a specific charitable, cultural, or sporting event that is sponsored or conducted by an educational institution may be accepted by an elected official if:

- (1) the educational institution is a federal, state, or local governmental entity; and
- (2) the tickets or free admission are being offered by the educational institution that is sponsoring or conducting the event.

D. Invitations from State Officials.

Unsolicited tickets or free admissions to attend a specific charitable, cultural, or sporting event may be accepted by an elected official if the tickets or free admission are being offered by or on behalf of an instrumentality or unit of State government.

(Secs. A - C effective 04/20/12; Sec. D added effective 04/10/15.)

CHAPTER 07. FINANCIAL DISCLOSURE***PART I. GENERAL PROVISIONS***

Authority: City Code Article 8, §§ 3-6(a), 7-2(c), and 7-3

R 07.02. Electronic filing.***A. Required.***

Except as otherwise provided in Section B of this regulation, an individual required to file a financial disclosure statement under Ethics Code Subtitle 7 {“Financial Disclosure”} must file the statement using the Board’s electronic filing system.

B. Exceptions.***(1) Candidates for office.***

This regulation does not apply to a candidate for office who, as provided in Ethics Code § 7-13(c) {“Candidates...: Filing ... Place”}, initially files his or her statement with the Baltimore City Board of Elections.

(2) Payment of scanning/processing fee.***(i) General.***

An individual may opt to submit the statement on a paper form provided by the Board as long as the submission is accompanied by payment of a \$10 scanning/processing fee (in addition to any applicable late fee).

(ii) Disability exemption.

On submission of a verified application for disability exemption, using the form and containing the information that the Board requires, and approval of that application by the Board’s Executive Director, an individual who has a disability that prevents him or her from using the electronic filing system is exempt from the scanning/processing fee when submitting a statement in paper form.

(Effective 02/20/15; Amended effective 04/10/15.)

R 07.03. Disclosure by official of proposed action that might create conflict.***A. How made.***

The disclosure required by Ethics Code § 7-3 must be made in writing, stating the nature and circumstances of the employment or interests that raise a potential conflict of interest in connection with the proposed action by the official.

B. *To whom made.*

The disclosure must be made:

- (1) to the Ethics Board;
- (2) to the official's appointing authority; and
- (3) if the official is acting as a member of a board or other multi-member body, to that board or other body.

(Effective 10/11/11.)

PART II. {RESERVED}

PART III. CONTENTS OF STATEMENTS

Authority: City Code Article 8, §§ 3-6(a) and 3-25

R 07.16. Modified requirements for board members.

A. *In general.*

At the request of a board, the members of that board who are not otherwise officials or employees required to file financial disclosure statements may file, instead of the statement otherwise required for officials and employees, a modified statement that discloses information limited to interests, gifts, compensated positions, and liabilities that may create a conflict between the member's personal interests and the member's duties on the board.

B. *Form; Disclosures.*

Statements filed under this regulation:

- (1) must be filed on the form that the Ethics Board provides; and
- (2) must disclose all information required by that form.

(Effective 08/08/06.)

CHAPTER 08. LOBBYING***PART I. {RESERVED}******PART II. REGISTRATION REQUIRED***

Authority: City Code Article 8, § 3-6(a)

R 08.06 to 08.07 *{Reserved}*

R 08.08. Executive Lobbying.

R 08.08.01 to 08.08.02 *{Reserved}*

R 08.08.03. Procurement.

A. In general.

(1) Background.

Subject to certain exceptions [see Section B of this regulation], Ethics Code § 8-8(c)(1) requires registration as an executive lobbyist by any person who:

- (i) communicates with any public servant “for the purpose of *influencing executive action on a procurement contract* that exceeds \$50,000”; and
- (ii) in furtherance of or in connection with all communications, and all related activities, for that or any other executive action, either:
 - (A) is compensated, in any amount, for his or her services; or
 - (B) whether or not compensated, expends \$100 or more for gifts (including meals, beverage, or special events) to 1 or more public servants.

(2) Purpose of this regulation.

This regulation is intended to clarify certain distinctions between:

- (i) communications and related activities undertaken to “influence” a procurement; and
- (ii) those that might have some relationship to a procurement but do not “influence” or seek to “influence” that procurement.

B. Statutory Exemptions.

(1) Exemption for in-house salesperson or agency.

- (i) Ethics Code § 8-8(c)(2) exempts from the procurement-lobbyist registration requirement a “bona fide salesperson or commercial selling agency employed or maintained by an employer for [procurement] purposes”.

- (ii) However, this exception only applies if, during the reporting period, the salesperson or agency “engages in no other acts ... that require registration”.

(2) *General exemptions.*

- (i) Ethics Code § 8-31 lists certain specific activities that are exempt from any requirement to register as a legislative or executive lobbyist.
- (ii) These exemptions apply to procurement activities as well.

(3) *Qualified exemptions – Appearances on request.*

- (i) Ethics Code § 8-32(a) lists two qualified exemptions from any requirement to register as a legislative or executive lobbyist:
 - (A) appearances by an individual before a City agency “at the specific request” of that agency; and
 - (B) appearances by an individual before a City agency “at the specific request of a [registered] lobbyist, if the [individual] notifies the [agency] that he or she is testifying at the request of the lobbyist”.
- (ii) Either of these exemptions can apply to procurement activities – e.g., an appearance before a procuring agency (including the Board of Estimates) during a protest or challenge, at the “specific request” of that body or at the “specific request” of a registered lobbyist who is also appearing before that body.
- (iii) However, neither exemption applies to any person unless, during the reporting period, the person “engages in no other acts ... that require registration”.

(4) *Qualified exemptions – Student activities.*

See Ethics Code § 8-32(b) for certain exemptions applicable to student activities.

(5) *Dispelling myths.*

The Ethics Code extends no *per se* exemption to lawyers.

C. *Procurement-related activities that constitute lobbying.*

Except as exempted under Section B of this regulation or as otherwise provided in Section D of this regulation, the following communications (whether oral or written) and other related activities by or on behalf of a vendor or contractor (including an affected subcontractor) constitute activities “for the purpose of *influencing* executive action on a procurement contract”:

- (1) any communication by or on behalf of a potential vendor or contractor that is designed or intended to implicate or affect any of the following factors:

- (i) the ultimate identification or choice of the vendor or contractor to be awarded the contract;
 - (ii) the definition or application of contract specifications (including any requirement for MBE, WBE, or other subcontractor involvement); or
 - (iii) the creation or modification of contract terms and conditions;
- (2) participation by or on behalf of a vendor or contractor in a bid protest or challenge that is designed or intended to implicate or affect any of the factors described in item (1) of this Section C;
 - (3) any ex parte communication by or on behalf of a potential vendor or contractor to an City official or employee involved in the procurement process that is made at any time during the selection process or during any bid protest or challenge; and
 - (4) during the course of an awarded contract, any communication by or on behalf of the vendor or contractor that is designed or intended to significantly change the terms and conditions of that contract.

D. *Procurement-related activities that do not constitute lobbying.*

The following communications and other related activities do not constitute activities “for the purpose of *influencing* executive action on a procurement contract”— but only if the vendor or contractor (or its representative) engages in no other communication or act that requires registration:

- (1) providing limited factual, technical, and objective information at the request of the procuring agency (e.g., providing price quotes for a specific product or service);
- (2) requesting information on or clarification of the procurement process and its requirements (e.g., deadlines, form of documentation, and other procedural matters) or information on or clarification of collateral, but clearly separate regulatory matters – but only if that request and consequent communications are made in a manner and within the scope available to all potential vendors or contractors;
- (3) participation in a formal bid protest or challenge by or on behalf of a person who has no direct or indirect financial interest in the contract or in the ultimate outcome of the protest or challenge;
- (4) any formal bid protest or challenge made to the Board of Estimates by or on behalf of a potential vendor or contractor, as long as that protest or challenge is limited solely to technical legal issues;
- (5) participation in a bid protest or challenge by or on behalf of the proposed vendor or contractor at the specific request of the procuring agency defending the protest or challenge; or

- (6) during the course of an awarded contract, any communication by or on behalf of the vendor or contractor that is limited to contract implementation or separate regulatory matters.

*(Effective 01/01/15 - **subject, however, to the following applications:***

This Regulation and the applicable registration and reporting requirements of the Ethics Code apply to all procurement-lobbying activities occurring on or after January 1, 2013. Late fees will be waived for registrations for and reports on procurement-lobbying activities that occurred on or after January 1, 2013, but before the effective date of this Regulation, as long as the registrations and reports have been filed with the Board on or before April 30, 2015.)