

City of Philadelphia



(Bill No. 051024)

AN ORDINANCE

Amending Chapter 20-600 of The Philadelphia Code, entitled "Standards of Conduct and Ethics," by providing for the powers and duties of the Board of Ethics and the imposition of civil penalties, and providing for the compensation of the members of the Board of Ethics, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 20-600 of The Philadelphia Code, entitled "Standards of Conduct and Ethics," is hereby amended to read as follows:

CHAPTER 20-600. STANDARDS OF CONDUCT AND ETHICS

* * *

§20-606. Board of Ethics.

[(1) In enacting this ordinance the Council does so in recognition of the fact that the Mayor has created a Board of Ethics and for the purpose of providing legislative standards for the operation of that Board in performing the following functions:

(a) Rendering advisory opinions to officers and employees with respect to ethical standards in the municipal service pursuant to written request by the officer or employee concerned or by an appropriate superior of the officer or employee concerned; and publishing advisory opinions with such deletions as may be necessary to prevent disclosure of the identities of the officers or employees concerned.

(b) Making recommendations to the Mayor and to the Council directed to improvement in ethical standards in the City service or to organization and procedure related to administration and enforcement of such standards.

(c) The Board of Ethics shall hold meetings open to the public at least four (4) times during each calendar year and shall make an annual report of its actions and recommendations to the Mayor and City Council.]

(1) *Powers and Duties.*

(a) *Rules and Regulations.* *The Board shall promulgate rules and regulations as are necessary to implement and interpret the provisions of this Chapter*

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consistent with the goal of providing clear guidance regarding standards of conduct and ethics.

(b) Mandatory Training and Education.

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

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

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

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

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

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(d) *Advisory Opinions.*

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

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

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

(e) *Financial Disclosure.*

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

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

(f) *Complaints.*

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

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

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

(.2) *Investigate internally;*

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

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

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

(g) *Investigations and Referrals.*

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

(ii) *Whenever a City agency receives a complaint alleging a violation of the provisions of this Chapter or determines that a violation of this Chapter may have occurred, it shall refer such matter to the Board. Such referral shall be reviewed and acted upon by the Board in the same manner as a complaint received by the Board under paragraph (e) of this Section.*

(h) *Adjudication. The Board shall, by regulation, provide for adjudication of alleged violations of this Chapter, insuring that notice and an opportunity to be heard are provided prior to any final decision by the Board. If the Board finds that there has been a violation of this Chapter it may impose penalties pursuant to Section 20-612. Findings and decisions of the Board on any actions taken by the Board shall be final and there shall be no further appeal other than to court as provided by law.*

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

(j) *Retaliation Prohibited. No officer or employee shall discharge, or change the official rank, grade or compensation, or deny a promotion or threaten to do so*

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of an officer or employee for filing a complaint with or providing information to the Board, or for testifying in any Board proceeding.

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

(l) *Annual Report and Recommendations.*

(i) *The Board shall submit an annual report to the Mayor and City Council. The report shall include a summary of the proceedings and activities of the Board, a description of the education and training conducted, a summary and evaluation of complaints and referrals received and their disposition, such legislative and administrative recommendations the Board deems appropriate, the rules of the Board, and an index of opinions and orders of that year. The report, which shall be made available to the public, shall not contain any information which, if disclosed, would constitute an invasion of the privacy of a City officer or employee.*

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

(2) *Mandatory Cooperation with the Board.*

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

* * *

§20-612. Penalties.

(1) In addition to the penalties as presently provided by law, any person in violation of this Chapter shall be [punishable by fine not exceeding three hundred (300) dollars] *subject to a civil penalty of seven hundred dollars (\$700) for each violation committed during calendar year 2005; eleven hundred dollars (\$1,100) for each violation committed during calendar year 2006; fifteen hundred dollars (\$1,500) for each violation committed during calendar year 2007; nineteen hundred dollars (\$1,900) for each violation committed during calendar year 2008; and two thousand dollars (\$2,000) for each violation committed thereafter.* Except with respect to Section 20-610, any person in violation of this

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Chapter is forever disqualified from holding any elected or appointed City office or employment with the City, its agencies, authorities, boards or commissions.

* * *

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

(1) *The following provisions of the Code are incorporated by reference as part of this Chapter and shall be subject to the jurisdiction of the Board of Ethics under §20-606 (including, but not limited to, the Board's powers and duties relating to education, training, issuance of advisory opinions, receipt of complaints, investigations, referral, and adjudication), and violations of these provisions shall be subject to the penalties set forth in §20-612:*

(a) *The provisions of §17-1207(2) prohibiting certain persons from making material misrepresentations or omissions in disclosures required by Chapter 17-1200 (relating to Non-Competitively Bid Contracts) and by Chapter 17-1300 (relating to Competitively Bid Contracts).*

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

[§20-613.] §20-614. Severability.

* * *

[§20-614.] §20-615. Repealer.

* * *

SECTION 2. Section 20-304 of The Philadelphia Code, entitled "Compensation for Members of Boards, Commissions, Committees, and Councils," is amended as follows:

§20-304. Compensation for Members of Boards, Commissions, Committees, and Councils.

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[(38) Board of Ethics. Each member of the Board of Ethics shall receive thirty (30) dollars compensation for each meeting of the Board which he attends; provided that, the total compensation paid to each member in any year shall not exceed one hundred twenty (120) dollars.]

SECTION 3. Effective Date. This Ordinance shall take effect upon the certification of the approval by the electors of the amendment to the Philadelphia Home Rule Charter providing for the creation and appointment of a Board of Ethics.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 1, 2005. The Bill was Signed by the Mayor on December 15, 2005.



Patricia Rafferty
Chief Clerk of the City Council