



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 040761

Introduced September 23, 2004

Councilmember Blackwell

**Referred to the
Committee on Law and Government**

AN ORDINANCE

Repealing Chapter 20-600 of The Philadelphia Code, entitled "Standards of Conduct and Ethics," and enacting a new Chapter 20-600 of The Philadelphia Code, entitled "Standards of Conduct and Ethics."

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 Chapter 20-600 of The Philadelphia Code, entitled "Standards of Conduct and Ethics," is hereby repealed in its entirety.

SECTION 2. A new Chapter 20-600 of The Philadelphia Code, entitled "Standards of Conduct and Ethics," is hereby enacted as follows:

TITLE 20. OFFICERS AND EMPLOYEES

* * *

CHAPTER 20-600. STANDARDS OF CONDUCT AND ETHICS

§20-601. Definitions.

(1) *Business. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or other legal entity organized for profit or not-for-profit. The term does not include a governmental entity.*

(2) *Business with which a City Officer or Employee Is Affiliated. Any Business in which an Officer or Employee or a member of the Officer's or Employee's Immediate Family is a director, officer or employee or has a financial interest which comprises more*

City of Philadelphia

BILL NO. 040761 continued

than 5% of the equity of the Business or more than 5% of the assets of the economic interest in indebtedness.

(3) *City Agency. Any office, department, board, commission or other entity that is part of any branch of the government of the political subdivision that is the City of Philadelphia.*

(4) *Gift. Something provided for free or for less than equal value in exchange. A Gift may include an object, service, payment, subscription, advance, forbearance, rendering or deposit of money or anything of value, unless consideration of equal or greater value is received. For purposes of this chapter, a Gift shall not include a political contribution which has been reported as required by law.*

(5) *Honorarium. Payment made in recognition of published works, appearances, speeches and presentations that are based solely on the recipient's capacity as an Officer or Employee. The term does not include payment for services provided in the individual's private capacity and that reflect an occupational or professional expertise or training that is not related to the public office or position. The term also does not include a plaque, memento or gift of nominal value.*

(6) *Immediate Family. A spouse or Life Partner residing in the individual's household and minor dependent children.*

(7) *Income. Any money or thing of value received that would qualify as "gross income" for federal tax purposes.*

(8) *Indirect Interest in Real Estate. A financial interest of more than 5% of the equity in any Business entity the assets of which are 80 percent or more in real property.*

(9) *Inspector General. Such official as the Mayor shall designate to be responsible for investigating violations of City rules by City officers and employees.*

(10) *Life Partner. A member of a Life Partnership that is verified pursuant to Section 9-1106(2) of this Code.*

(11) *Officer or Employee. Any person who is elected or appointed to any office or position in a City Agency, whether serving full-time or part-time and whether serving with or without compensation, including, but not limited to, members of agencies, boards and commissions.*

(12) *Official Action. Any act or omission in the exercise of an Officer or Employee's official duties or any use of his or her official authority of public office in a City*

City of Philadelphia

BILL NO. 040761 continued

Agency. The phrase includes not only making final decisions, but also making recommendations, participating in preliminary decisions (such as writing an RFP), engaging in discussions with decision-makers, and lobbying for a particular result.

(13) Person. A natural person or a Business, governmental body, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons, or agents thereof.

(14) Quasi-Public Agency. Any board or commission to which the Mayor or the Council is entitled to an appointment; and, any authority or quasi-public corporation that either:

(a) Receives appropriations from the City; or

(b) Has entered into a continuing contractual relationship with the City;

or

(c) Operates under legal authority granted to it by City ordinance.

(15) Relative. A spouse, parent, grandparent, great grandparent, child, grandchild, great grandchild, sibling, aunt, uncle, nephew, niece, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half-sister, Life Partner, or the Relative of a spouse or Life Partner.

(16) Transaction Involving the City. Any proceeding, application, submission, request for a ruling, or other determination, contract, lease, claim, case, award, decision, decree, judgment or legislation including ordinances and resolutions or other particular matter which (a) is or will be the subject of City action; or (b) is one to which the City is or will be a party; or (c) is one in which the City has a direct proprietary interest. This phrase shall not include routine applications or requests for routine information or other matters which are of a ministerial nature and do not require the exercise of discretion on the part of any City Officer or Employee.

§20-602. Gifts, Gratuities, Favors, and Honoraria.

(1) General Prohibition on solicitation, receipt, or acceptance. No Officer or Employee shall solicit or accept, directly or indirectly, anything of value, including any Gift, gratuity, favor, entertainment or loan, from any of the following sources:

(a) A Person seeking to obtain business from, or who has financial relations with, the City;

City of Philadelphia

BILL NO. 040761 continued

(b) A Person whose operations or activities are regulated or inspected by any City Agency;

(c) A Person engaged, either as principal or attorney, in proceedings before any City Agency or in court proceedings in which the City is an adverse party;

(d) A Person seeking legislative or administrative action by the City; or

(e) A Person whose interests may be substantially affected by the performance or nonperformance of the officer's or employee's official duties.

(2) General Prohibition on Offer or Delivery of Gift. No Person, including any Person doing or seeking to do any business with the City, shall offer or give anything of value to an Officer or Employee under circumstances where the receipt of such item would violate the provisions of this Section.

(3) Exceptions. The prohibitions of subsections (1) and (2) of this section shall not apply to:

(a) The solicitation or acceptance of something of monetary value from a friend or Relative when the circumstances make it clear that the motivation for the action is a personal or family relationship;

(b) Acceptance of food and refreshment of nominal value on infrequent occasions in the ordinary course of a meeting, if served to all participants at the meeting and for the purpose of permitting work at the meeting to continue. This exception shall not apply to meals served at any restaurant, club or other establishment outside a place of business at which a meeting is held, even if the meeting continues at such restaurant, club, or other establishment.

(c) Acceptance of food and refreshment at a public event or ceremony sponsored by a non-profit, community or civic organization, and attended by the Officer or Employee in his or her official capacity.

(d) The acceptance of loans from banks or other financial institutions on customary terms of finance for proper and usual activities, such as home mortgage loans;

(e) A voluntary Gift of nominal value or donation in a nominal amount made by a City Officer or Employee to another City Officer or Employee on a special occasion such as marriage, illness, retirement, or a holiday on which the exchange of gifts is customary; or

City of Philadelphia

BILL NO. 040761 continued

(f) A plaque, memento or gift of nominal value offered as a token of esteem or appreciation on the occasion of a public appearance, visit, speech or the like.

(4) *Prohibited Gratuities for Official Action/Omission.* As provided in Section 10-105 of the Home Rule Charter, no Officer or Employee may accept any Gift or gratuity that is specifically offered as a reward, tip, or gratuity in response to any act or omission in the course of the employee's public work. Except for the exception in subsection (3)(f) above, there are no exceptions to this prohibition.

(5) *Prohibited Honoraria.* No Officer or Employee shall accept any Honorarium.

(6) *Additional departmental restrictions.* Heads of departments may prescribe further limitations on gifts or meals beyond those detailed in Subsections (1) through (5).

(7) *Procedure to Follow Upon Receipt of Prohibited Gift.*

(a) Any Officer or Employee who receives a Gift or gratuity that is prohibited by this section shall forward the Gift or gratuity to the head of the employee's department or agency, together with a written explanation of the circumstances surrounding the Gift or gratuity.

(b) A department or agency head shall return all Gifts and gratuities received from employees pursuant to subsection (7)(a) to the donor, with a written explanation why the return is necessary. If return of a Gift or gratuity to the donor is not possible, the Gift or gratuity shall be deemed to be a gift to the City, and shall be forwarded, together with a written explanation why return to the donor is not possible, to the Procurement Department for appropriate disposition pursuant to Section 6-500(d) of the Philadelphia Home Rule Charter. Where neither return to the donor nor forwarding to Procurement is practicable, the department or agency head shall make the Gift generally available to members of the department or agency on a non-discriminatory basis, and provide a written explanation of this decision to the Inspector General.

(c) Notwithstanding the foregoing, any Officer or Employee who receives a Gift or gratuity under circumstances suggesting an intent to influence any Official Action, or suggesting that it is specifically offered as a reward, tip, or gratuity in response to any Official Action, shall immediately notify his or her supervisor; shall, together with his or her supervisor, immediately notify the Inspector General of the receipt and the circumstances; and shall immediately transmit the Gift or gratuity to the Inspector General.

(d) A copy of all written explanations prepared pursuant to subsections (7)(a) and (7)(b) shall be sent to the Inspector General.

§20-603. *Conflicts of Interest*

City of Philadelphia

BILL NO. 040761 continued

(1) General Prohibition. No Officer or Employee shall take any Official Action in a Transaction Involving the City if any possible result of that transaction could result in a financial benefit to any of the following:

(a) the Officer or Employee personally;

(b) a Relative;

(c) any Person or Business for which the Officer or Employee is an attorney, agent, broker, employee, director, trustee, or consultant, or any Business with which a City Officer or Employee Is Affiliated or has been Affiliated within the past 12 months; or

(d) any Person or Business that has, within the past 12 months, given to the Officer or Employee a Gift that, if given at the time of the Official Action, would be a prohibited Gift under section 20-602.

(2) Use of City government resources. No Officer or Employee shall use any City property, equipment, office space, supplies (including letterhead), personnel, or City work time for the personal or private use of the Officer or Employee, either on his or her behalf or on the behalf of any other Person, where the resources are not used to carry out the official duties of the Officer or Employee.

(3) Interest in City contracts. No Officer or Employee shall benefit from or be interested directly or indirectly in any contract for the purchase of property of any kind, nor be interested directly or indirectly in any contract for the erection of any structure or the supplying of any services to be paid for out of the City Treasury; nor shall any Officer or Employee solicit any contract in which he or she may have any such direct or indirect interest.

(4) Non-Disclosure of Confidential Information. No Officer or Employee shall directly or indirectly disclose or make available confidential information concerning the property, government or affairs of the City without proper legal authorization.

§20-604. Political Activity.

(1) No Person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the civil service.

(2) No Person shall, for the purpose of influencing the vote or political action of any Person, or for any consideration, use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to

City of Philadelphia

BILL NO. 040761 continued

secure for any person an appointment or advantage in appointment to a position in the civil service, or an increase in pay or other advantage in employment in any such position.

(3) *No Officer or Employee of the City and no officer or employee of any governmental agency whose compensation is paid out of the City Treasury shall, from any Person, and no officer or member of a committee of any political party or club shall, from any civil service employee, directly or indirectly demand, solicit, collect or receive, or be in any manner concerned in demanding, soliciting, collecting or receiving, any assessment, subscription or contribution, whether voluntary or involuntary, intended for any political purpose whatever. No officer or member of the Philadelphia Police shall pay or give any money or valuable thing or make any subscription or contribution, whether voluntary or involuntary, for any political purpose whatever.*

(4) *No appointed Officer or Employee of the City shall be a member of any national, state or local committee of a political party, or an officer or member of a committee of a partisan political club, or take any part in the management or affairs of any political party or in any political campaign, except to exercise his or her right as a citizen privately to express his or her opinion and to cast his or her vote.*

(5) *No Officer or Employee of the City, except elected officers running for re-election, shall be a candidate for nomination or election to any public office unless he or she shall have first resigned from his or her then office or employment.*

§20-605. Post-employment Representation.

(1) *Permanent Ban. After separation from employment with a City Agency, no former Officer or Employee may communicate with or appear before any City Agency or before any Officer or Employee on behalf of him- or herself or another Person (except another government agency) in connection with a particular matter that the individual personally and substantially worked on while an Officer or Employee of the City Agency, and in which the City is a party or has a direct or substantial interest.*

(2) *One Year Ban. During the period of one year after separation from employment with a City Agency, no former Officer or Employee may represent him- or herself or another Person (except another government agency) before the City, with respect to any matter. For this purpose, "represent" shall include, but not be limited to, personal appearances, negotiations, lobbying, and submitting bid or contract proposals that are signed by or contain the name of the former Officer or Employee.*

(3) *Two year Ban. During his or her term of office or employment and continuing through the period of two years after separation from employment with a City Agency, no*

City of Philadelphia

BILL NO. 040761 continued

Officer or Employee may become financially interested, after final action, in any legislation, including any ordinance or resolution, or any award, contract, lease, case, claim, decision, decree or judgment made by that Officer or Employee in his or her official capacity.

(4) Licensed attorneys. Representations by a licensed attorney within the scope of subsection (1) or (2) above shall not be governed by the provisions of subsection (1) or (2) but instead shall be governed by the applicable Rules of Professional Conduct.

§20-606. Conflicted Outside Employment.

(1) No Officer or Employee may have another job or paid position besides his or her government job, including as attorney, agent, broker, employee, officer, director, trustee, or consultant, with any Person or Business if the Officer or Employee knows, or could reasonably learn, that

(a) the Person or Business is currently doing business with the City; or

(b) the Person or Business has submitted a proposal to the City, is negotiating a proposed Transaction Involving the City, or has otherwise initiated discussions concerning potential business with the City or grant or benefit from the City.

(2) The provisions of this Section shall not apply to a teaching position at a high school, college or graduate school, so long as the outside employment is approved in writing by the Officer or Employee's appointing authority as presenting no conflict with the Officer or Employee's official duties.

§20-607. Public Disclosure and Disqualification.

(1) Whenever any Officer or Employee has a conflict of interest prohibited under Section 20-603(1), the Officer or Employee must remove the conflict as soon as possible, either by removing the outside interest or removing his or her responsibility for taking Official Action. If an Officer or Employee has a financial interest or becomes aware of a financial interest held by a Relative or Business that would create a conflict of interest under Section 20-603, the Officer or Employee must publicly disclose the interest and disqualify himself or herself from taking Official Action in the matter, as follows:

(a) Disclosure. In the event that any financial interest in a present or potential Transaction Involving the City resides in any of the persons or entities identified in Section 20-603(1), the affected Officer or Employee shall immediately disclose the conflict and announce his or her intention to be disqualified from any future Official Action in the matter, by sending a signed notice in writing to:

City of Philadelphia

BILL NO. 040761 continued

(.1) *the head of the department, agency, board or commission, or in the case of such heads, that person's appointing authority. In the case of members of City Council, notice shall be provided to all other members of Council and the Chief Clerk.*

(.2) *the Department of Records, where the notice shall be a public record, available to the public; and*

(.3) *the Board of Ethics.*

(b) *Disqualification. Disqualification shall mean that the affected officer or employee shall take no Official Action in the matter, including participating in discussions, drafting proposals, making recommendations, determining procedural questions, as well as making final decisions on substantive matters.*

(c) *Form of Disclosure and Disqualification. The notice provided under (a) above shall state:*

(.1) *that the purpose of the letter is to publicly disclose a potential conflict of interest;*

(.2) *the letter-writer's public position (and description of duties relevant to the conflict, if not obvious);*

(.3) *the letter-writer's private position or financial interest (or that of a Relative or Business of the discloser or Relative) that presents the conflict;*

(.4) *how the letter-writer's public duties may intersect with the private interest (if not obvious from .2 & .3 above); and*

(.5) *the letter-writer's intention to immediately disqualify himself or herself from any Official Action in matters affecting the private interest (should indicate that such disqualification precedes any Official Action being taken in any such matter).*

(2) *If the disclosing Officer or Employee is a member of a legislative body or of a board or commission, disclosure and disqualification shall also be set forth on the official public record of the body or the board or commission.*

(3) *No Officer or Employee shall take any retaliatory or adverse personnel action against an Officer or Employee on account of his or her timely compliance with this section.*

§20-608. *Representation During Employment by Officers and Employees.*

City of Philadelphia

BILL NO. 040761 continued

(1) *No Officer or Employee shall represent directly or indirectly any Person or entity other than the City in a Transaction Involving the City.*

(2) *No Officer or Employee shall accept any referral fees or any type of compensation for any matter where he or she would be barred from assisting or representing any Person or entity under this Code.*

(3) *No member or employee of any Business in which an Officer or Employee is a member or employee shall represent directly or indirectly any Person or entity with respect to any matter in which the Officer or Employee has the authority to act.*

(4) *Subsections (1), (2) and (3) do not apply where the assistance of a Person or entity is part of the official duties of the Officer or Employee, or the representation is of the individual's self or a Relative, so long as the Officer or Employee has no official authority to act with respect to the matter or the Officer or Employee has disqualified him- or herself from participation in the matter pursuant to Section 20-607.*

§20-609. Ex parte communication.

No Officer or Employee of any City Agency shall communicate, directly or indirectly, with any member of any board, agency or commission of the City about any matter pending before that entity for the purpose of influencing said member, unless a full disclosure of the communication is made simultaneously, or as soon as practicable, to the other parties or parties in interest to the matter. This rule does not apply to any communication by any Officer or Employee made in the performance of his or her official duties.

§20-610. Nepotism

(1) *No person whose salary is established under Section 20-303 or 20-305 of The Philadelphia Code shall hire or advocate for hiring a Relative for a job in any City Agency.*

(2) *No Officer or Employee with supervisory authority shall hire or advocate for hiring a Relative for a job in the department or agency where the Officer or Employee is employed.*

(3) *No Officer or Employee shall knowingly assign, transfer or promote a City employee to a department where a member of the assigned employee's Immediate Family will control his or her work.*

City of Philadelphia

BILL NO. 040761 continued

(4) *No Officer or Employee shall use his or her official position to secure or attempt to secure any form of special consideration, treatment, exemption or advantage for a member of his or her immediate family, beyond what is lawfully available to other people.*

§20-611. *Statement of Financial interests*

(1) *Every Officer or Employee is required to file with the Department of Records a statement of financial interests for the preceding calendar year if the Officer's or Employee's position falls into one of the following categories:*

(a) *The individual is paid an annual salary pursuant to the provisions of Sections 20-303, 20-304, or 20-305 of The Philadelphia Code; or*

(b) *The individual is a member of a board or commission, whether paid or unpaid.*

(2) *The individual must file the statement of financial interests no later than the first day of May of each year in which the individual holds office and no later than the first day of May of the year after he or she leaves office. If the individual takes office after May 1st or less than thirty (30) days before May 1st, the individual must file a statement of financial interest within thirty (30) days of taking office.*

(3) *The individual must sign the statement of financial interests under the penalty of perjury. After signing the form, but before filing it, the individual must give it to his or her immediate supervisor for that supervisor's signature.*

(4) *The individual must include the following information for the prior calendar year with regard to his or her own financial interests:*

(a) *The individual's name, address and position;*

(b) *The individual's occupation or profession;*

(c) *Any direct or Indirect Interest the individual had in any real estate which was:*

(.1) *sold to or purchased from,*

(.2) *leased to or leased from, or*

(.3) *subject to a condemnation proceeding by,*

City of Philadelphia

BILL NO. 040761 continued

the City of Philadelphia, any of its departments, boards or commissions, or any Quasi-Public Agency;

(d) The name and address of each creditor to whom the individual owes more than six thousand five hundred dollars (\$6,500) and the interest rate thereon. The filing individual does not need to include loans or credit extended between members of his or her Immediate Family or mortgages on real property which is either the principal residence or secondary residence of the filing individual;

(e) The name and address of any Person from whom the individual received direct or indirect Income totaling one thousand, three hundred dollars (\$1,300) or more. If, to identify such Person, the filer would need to disclose confidential information protected by statute or professional codes of ethics, the filer need only identify the fact of receipt.

(f) The name and address of any Person, other than a Relative, from whom the individual received a Gift, and the value and circumstances of that Gift;

(g) The source of any Honorarium received and its amount;

(h) Any office, directorship or employment of any nature in a Business that the individual held in the previous calendar year; and

(i) Any financial interest the individual held in any Business, including any holdings of common stock.

(5) The filing individual is not required to include specific amounts for any of these items, except the reporting of Gifts.

(6) All Statements of Financial Interest filed pursuant to this Section shall be made available by the Department of Records to the public for inspection and copying during regular business hours.

§20-612. Inducement of Violations.

No Person, including any Officer or Employee, shall encourage, assist, order or recommend another Officer or Employee to do anything that would violate any provision of this Code, and no Person shall attempt to intimidate any Officer or Employee to overlook, waive, or fail to report a violation of any provision of this Code or of any applicable ethics provision.

§20-613. Distribution Of Ethics Code

City of Philadelphia

BILL NO. 040761 continued

Every member of City Council and the head of every City Agency shall be familiar with the provisions of this Ethics Code and shall give a copy of this Ethics Code or, if available, any Ethics Handbook produced by the Board of Ethics, to every employee under his or her direction.

§20-614. Penalties

Any Person in violation of any provision of this Chapter shall be subject to the following penalties:

- (1) Public reprimand, suspension, or dismissal;*
- (2) A fine of \$300, or, if so authorized by the General Assembly, a fine not to exceed \$1,000 for a first violation and not to exceed \$2,500 for any subsequent violation;*
- (3) Debarment from any contract with the City for a period of up to three (3) years.*

§20-615. Severability

(1) If any provision of this Chapter is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of any provision of this Chapter to any Person or circumstance is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this code which can be given effect without the invalid or unconstitutional provision or application.

Explanation:

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

City of Philadelphia

BILL NO. 040761 continued