

Legislation Text

File #: 140054-A, **Version:** 2

Amending Title 20 of The Philadelphia Code, entitled "Officers and Employees," including Chapter 20-600 ("Standards of Conduct and Ethics"), by prohibiting certain gifts, adding and modifying certain definitions, establishing penalties and making technical amendments, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 20 of The Philadelphia Code is hereby amended to read as follows:

TITLE 20. OFFICERS AND EMPLOYEES.

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CHAPTER 20-600. STANDARDS OF CONDUCT AND ETHICS.

§ 20-601. Definitions.

[(1) *Board*. Board of Ethics.

(2) *Officer or Employee*. Any person who is elected or appointed to a position in any branch of the government of the City and/or County of Philadelphia or to any elected or appointed position which serves the City and/or County of Philadelphia including, but not limited to, members of agencies, authorities, boards and commissions however elected or appointed; persons serving full-time or intermittently; persons serving with or without compensation.

(3) *Part-time Service*. Service rendered by any City officer or employee who is not employed by the City on a full-time basis in any capacity. This shall include members of agencies, authorities, boards and commissions who are paid on the basis of each meeting attended.

(4) *Transactions 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 the member of City Council, City officer or employee in question believes, or has reason to believe (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 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 member of City Council, City officer or employee.

(5) *Annual Salary*. Payment for services pursuant to Section 20-303, 20-304 and 20-305 of this Chapter except in those instances in which the rate of compensation is based upon the number of meetings attended or days worked.

(6) *Business*. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or legal entity organized for profit.

(7) *Commodity*. Any movable or tangible thing that is produced or used as the subject of barter or sale.

(8) *Gift*. A payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value, unless consideration of equal or greater value is received. "Gift" shall not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the individual's immediate family or from a relative within the third degree of consanguinity of the individual or of the individual's spouse or Life Partner, or from the spouse or Life Partner of any such relative.

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

(10) *Income*. Any money or thing or value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain or any other form of recompense or any combination thereof.

(11) *Indirect Interest in Real Estate*. Any business entity the assets of which are 80 percent or more in real property.

(12) *Life Partner*. A member of a Life Partnership that is verified pursuant to § 9-1123(1).

(13) *Person*. A business, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

(14) *Security*. Any contract, transaction or scheme whereby a person invests his money in a common enterprise and there is an expectation of profit solely through the efforts of a third party. The term security shall include, but not be limited to, any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, warrant or right to subscribe to or purchase, any of the foregoing.]

(1) *Agency*. Any office, department, board, commission, or other entity that is part of the government of the City, including City Council.

(2) *Annual Salary*. Payment for services pursuant to Section 20-303, 20-304 and 20-305 of this Chapter except in those instances in which the rate of compensation is based upon the number of meetings attended or days worked.

(3) *Board*. Board of Ethics.

(4) *Board or commission member*. A member of any City of Philadelphia board or commission established by The Philadelphia Home Rule Charter, The Philadelphia Code, or an Executive Order.

(5) *Business.* Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or legal entity organized for profit.

(6) *City.* City of Philadelphia.

(7) *Commodity.* Any movable or tangible thing that is produced or used as the subject of barter or sale.

(8) *Family member.* A parent, spouse, life partner, child, brother, sister or like relative-in-law.

(9) *Financial Interest.* An interest involving money or its equivalent or an interest involving any right, power or privilege that has economic value.

(10) *Gift.* A payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value given to, or for the benefit of, an officer or employee, unless consideration of equal or greater value is received. "Gift" shall not include a political contribution otherwise reportable as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a Family member of the individual or from a relative within the third degree of consanguinity of the individual or of the individual's spouse or Life Partner, or from the spouse or Life Partner of any such relative.

(11) *Government entity.* Any agency, office, department, board, commission, authority, or other entity that is part of the United States or a State, local, or foreign government.

(12) *Income.* Any money or thing or value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain or any other form of recompense or any combination thereof.

(13) *Indirect Interest in Real Estate.* Any business entity the assets of which are 80 percent or more in real property.

(14) *Life partner.* A member of a Life Partnership that meets the criteria set forth in Code Section 9-1102(1) (r) and is verified pursuant to § 9-1123(1) (relating to verification of life partnerships).

(15) *Major life event.* Marriage, separation from City employment, birth or adoption of a child, death or serious illness of a family member, 25th or 50th wedding anniversary, a ceremony celebrating a religious or cultural life cycle event such as baptism, first communion, or bar mitzvah, or a similarly rare and significant event in someone's life.

(16) *Money or monetary gifts.* Cash, checks, money orders, or the equivalent, including pre-paid debit or gift or credit cards.

(17) *Official action.* An act or omission taken by an officer or employee in his or her official capacity that requires discretion and is not ministerial in nature.

(18) *Officer or Employee.* Any person who is elected or appointed to a position in any branch of the government of the City and/or County of Philadelphia or to any elected or appointed position which serves the City and/or County of Philadelphia including, but not limited to, members of agencies, authorities, boards and

commissions however elected or appointed; persons serving full-time or intermittently; persons serving with or without compensation.

(19) Part-time Service. Service rendered by any City officer or employee who is not employed by the City on a full-time basis in any capacity. This shall include members of agencies, authorities, boards and commissions who are paid on the basis of each meeting attended.

(20) Person. A business, individual, corporation, non-profit, union, association, firm, partnership, committee, political committee, club, or other organization or group of persons.

(21) Reception. An afternoon or evening event at which only items such as appetizers, beverages, or light fare are served or a morning event at which items such as coffee, juice, pastries, or bagels are served.

(22) Relative within the third degree of consanguinity. An individual's family members and grandparent, grandchild, great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual.

(23) Security. Any contract, transaction or scheme whereby a person invests his money in a common enterprise and there is an expectation of profit solely through the efforts of a third party. The term security shall include, but not be limited to, any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, warrant or right to subscribe to or purchase, any of the foregoing.

(24) Solicit. To directly or indirectly request, ask, appeal for, or demand any gift, cash or otherwise, that falls within the confines and definitions of this Chapter.

(25) Subordinate. An officer or employee is the subordinate of his or her superior and of his or her superior's superiors.

(26) Superior. An officer or employee whose official duties include directing or evaluating the performance of an officer or employee and any superior of that officer's or employee's superior.

(27) Transactions 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 the City officer or employee in question believes, or has reason to believe (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 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.

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§ 20-604. Gifts, Loans and Favors to City Personnel.

(1) No [member of Council or other] City officer or [employee,] *employee* shall [solicit,] accept or receive [any] gifts *worth more than \$99.00 in the aggregate per calendar year or any gifts of money* [, loan, gratuity, favor or service of substantial economic value, that might reasonably be expected to influence one in his position in the discharge of his official duties,] from any person [, firm, corporation or other business or professional organization] *who is seeking official action from that officer or employee or who has a financial interest at the time, or in close proximity to the time the gift is received, which the officer or employee is able to substantially affect through official action. An officer or employee may not solicit gifts of any value from a person who is seeking official action from that officer or employee or who has a financial interest the officer or employee is able to substantially affect through official action.*

(2) No person[, firm, corporation or other business or professional organization] shall offer, make or render [any] gifts *worth more than \$99.00 in the aggregate per calendar year or any gifts of money* [, loan, gratuity, favor or service of substantial economic value] to any [member of Council or other] City officer or employee [which might reasonably be expected to influence such officer or employee in the discharge of his official duties] *if the person is seeking official action from that officer or employee or has a financial interest at the time, or in close proximity to the time the gift is received, which the officer or employee is able to substantially affect through official action.*

(3) *An officer or employee may accept, but not solicit, the following gifts, notwithstanding that the person giving the gift may be seeking official action from that officer or employee or may have a financial interest the officer or employee receiving the gift is able to substantially affect through official action:*

(a) Hospitality provided at a residence when the donor or a family member of the donor is present;

(b) Food, beverages, or entertainment provided at a reception for which attendees do not have to purchase a ticket;

(c) Rebates or discounts offered to members of the general public or a class of persons, including rebates or discounts offered to a class of officers or employees;

(d) Gifts resulting solely from the officer's or employee's membership in a bona fide charitable, professional, educational, labor, or trade organization;

(e) Free attendance at an event celebrating a major life event of another individual, for which attendees do not have to purchase a ticket;

(f) Food and beverages provided to all participants in the ordinary course of a meeting where the food and beverages are provided at the site of the meeting;

(g) Food and beverages provided by a superior, subordinate, or other co-worker and consumed as part of an office or agency event;

(h) Gifts resulting solely from the officer's or employee's outside employment;

(i) Gifts resulting solely from the officer's or employee's life partner's or spouse's business

or employment activities;

(j) Free admission to political events, including food and beverages, if the officer or employee is permitted to engage in political activity in coordination with candidates, political parties, or partisan political groups;

(k) Payment or reimbursement of an officer's or employee's reasonable expenses for admission, travel, lodging, or food and beverage related to attendance at an event, convention, conference, seminar, or fact-finding trip that will benefit the City and is reasonably related to the officer's or employee's official duties or expertise.

(l) Tickets for public events given to an elected officer or employee that the elected officer or employee does not personally make use of and gives to members of the public, who shall not include a family member of the officer or employee or a member of the officer's or employee's government or campaign staff.

(m) A gift from a government entity.

(4) Other Limitations On Gifts.

(a) No person shall give a gift to an officer or employee through another person if this Ordinance would prohibit the person from giving the gift directly to the officer or employee.

(b) A gift to another person is a gift to an officer or employee if the officer or employee solicits the gift and receives a financial benefit from it.

(c) If a person offers an officer or employee a gift prohibited by this Ordinance, the officer or employee shall not suggest or request an alternative recipient, such as a charity.

(5) Valuation Of Gifts.

(a) The value of a gift is the retail cost the officer or employee would incur to purchase the gift. An officer or employee who does not know the retail cost of a gift shall estimate the retail cost by reference to similar items of like quality.

(b) The value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket.

(6) Written Approval.

(a) Elected officers and board and commission members. An elected officer or a board or commission member does not need to obtain written approval in order to accept a gift pursuant to 3(k) of this Section.

(b) Heads of Executive Branch agencies. The head of an Executive Branch agency must obtain written approval from either the Mayor or the Mayor's designees prior to accepting a gift pursuant to 3(k) of this Section. The written approval must identify the date of the

receipt and nature of the gift and describe how the officer's or employee's participation or attendance will benefit the City and is related to his or her official duties and/or expertise.

(c) Most officers and employees. Any officer or employee not covered by §6(a) or §6(b) must obtain written approval from the head of his or her agency, or the agency head's designee, prior to accepting a gift pursuant to 3(k) of this Section. The written approval must identify the date of the receipt and nature of the gift and describe how the officer's or employee's participation or attendance will benefit the City and is related to his or her official duties and/or expertise.

(d) Factors relevant to determining whether an officer's or employee's attendance at an event, convention, conference, seminar, or fact-finding trip will benefit the City and is reasonably related to the officer or employee's official duties or expertise include but are not limited to:

i. Whether the officer or employee is scheduled to deliver a speech, make a presentation, serve on a panel, or otherwise represent the City in his or her official capacity; and

ii. Whether the officer or employee will receive training or information that he or she can use to fulfill his or her official duties.

(7) The Board shall not impose a civil penalty on an officer or employee who receives a gift restricted by this Ordinance if he or she within three days of receiving the gift:

(a) If the gift is perishable and it is not practicable to return it to the donor, donates the gift to charity, shares it with co-workers, or destroys it; or

(b) Notifies the Board's Executive Director by postal mail or e-mail that he or she has returned the gift to the donor or paid the donor the full value of the gift and provides the following information:

i. The officer's or employee's name and title;

ii. The source of the gift;

iii. The date the gift was received or accepted; and

iv. The date the gift was returned or paid for, and, if paid for, the amount paid.

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Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

