

*Exhibit B: Markup of all changes approved by Board on August 19, 2020
against November 7, 2019 version*

**PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 8
POLITICAL ACTIVITY**

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SUBPART A. SCOPE; DEFINITIONS

8.0 Scope. This Regulation, promulgated by the Board pursuant to its authority under Sections 4-1100 and 8-407 of the Philadelphia Home Rule Charter and Chapter 20-600 of The Philadelphia Code, interprets the requirements and prohibitions of Philadelphia Home Rule Charter Subsections 10-107(3) & (4) as applied to appointed City officers and employees, but not to elected officials. The examples and lists of permissible and prohibited behavior provided in this Regulation are for illustration and are not exhaustive.

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

- a. Appointed officer.** An individual who is appointed to any position in a City department, agency, office, board, or commission, whether paid or unpaid, but not including elected officials.
- b. Board.** Board of Ethics.
- c. Blog.** A website that displays in chronological order the postings of one or more individuals.
- d. Candidate.** An individual who:
 - i. Files nomination petitions or papers for public elective office; or
 - ii. Publicly announces candidacy for public elective office.
- e. City.** City of Philadelphia.
- f. Contribution intended for a political purpose.**
 - i. Money or things having a monetary value received by a candidate or their agent for use in advocating for or influencing the election of the candidate; and
 - ii. Money or things having a monetary value received by a political committee, political party, political campaign, or partisan political group.
- g. Election.** Any primary, general, or special election for public elective office.
- h. Employee.** An employee of the City, including those serving full-time, part-time, or seasonally, and those on leaves of absence with or without pay, but not including:
 - i. Elected officials; or
 - ii. An employee on unpaid leave to be a full-time elected officer or appointed staff representative of a City employee union.
- i. Family member.** A parent, spouse, life partner, child, brother, sister, or like relative-in-law.
- j. Life partner.** An individual who has a long-term committed relationship with another individual of any gender, provided that both individuals meet the same criteria as set out in The Philadelphia Code Section 9-1106(2)(a)(i)-(vi).

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k. Local elective office.

- i. Mayor, City Council, District Attorney, City Controller, City Commissioner, Sheriff;
- ii. Philadelphia Court of Common Pleas, Philadelphia Municipal Court, Register of Wills;
- iii. State Senator or State Representative for any seat that includes any part of Philadelphia in its district; and
- iv. Judge of Election, Majority Inspector, and Minority Inspector for a Philadelphia polling place.

k.l. On duty. An appointed officer or employee is on duty:

- i. During normal working hours, which for those with fixed work schedules includes the time between the start and end of the workday excluding a lunch break;
- ii. When performing the duties of the officer's or employee's City job or appointment; or
- iii. When acting in their official capacity as a City appointed officer or employee.

k.m. Partisan political group. Any committee, club, or other organization whose primary purpose is to promote the success or failure of a political party, candidate, or political campaign.

k.n. Political activity. An activity directed toward the success or failure of a political party, candidate, political campaign, or partisan political group.

k.o. Political campaign. A group of people organized by or on behalf of an individual in order to obtain that individual's nomination or election to public elective office.

k.p. Political party. Includes any national, state, or local political party, or any affiliate thereof, such as a ward committee.

k.q. Public elective office. Any public office for which candidates are nominated or elected as representing a political party.

k.r. Social media. Facebook, Twitter, Myspace, LinkedIn, Instagram, Reddit, a blog, SnapChat, or any similar website, application, or Internet platform.

8.2 Applicability. Except where expressly indicated otherwise, the provisions of this Regulation apply to all appointed officers and employees.

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SUBPART B. PROHIBITED ACTIVITY

8.3 No political activity on duty.

An appointed officer or employee shall not engage in political activity while:

- a. On duty;
- b. In uniform, or while wearing a badge or other insignia that identifies them as a City officer or employee; or
- c. In City Hall or in any other City-owned or City-leased building, property, or office space, except that an appointed officer or employee may, while not on duty, attend a political event held in a City-owned or leased building, property, or office space if the event is open to the public.

Examples for Paragraph 8.3

1) An employee may not display in her City workplace a sticker promoting a political party or candidate.

2) An employee may not wear a button promoting a candidate while in his uniform, even if he is not on duty.

3) An employee may not sign a nominating petition while in City Hall or in a City-owned or City-leased building or office.

4) An employee may not use a personal social media account to post content supporting or opposing a political party while on duty, even if the account uses an alias.

5) An appointed officer uses a photograph of herself with a candidate for President as a profile picture on her personal Twitter account. Because the profile photo will be reproduced with every tweet, comment, or retweet, she cannot use that account while on duty.

8.4 No political activity using City resources.

An appointed officer or employee shall not engage in political activity:

- a. Using any City-owned or City-leased resources, such as telephones, smart phones, tablets, vehicles, printers, computers, or other supplies or equipment.
- b. Via a City-owned or City-operated social media account or a social media account that presents itself as being for official City business. An account presents itself as being for official City business if it contains little to no personal content and primarily shares or promotes material related to official City activities.

Examples for Paragraph 8.4

1) An employee may not send an email that supports a candidate while using the City's email system, a City computer, or a City-provided smart phone.

2) An appointed officer may not make a post that supports a political party on the official Facebook page for the officer's department.

3) An employee may not use a City-owned photocopier to copy campaign literature.

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4) An employee whose personal Facebook profile photo depicts him with a current candidate for Mayor cannot share, post, or otherwise create content with that account using his City computer or City-provided smart phone.

5) An appointed officer may not use a Zoom account paid for by the City to host a virtual training for campaign volunteers.

6) An employee's personal Twitter account has occasional posts about family gatherings, but most of his posts are retweets of official City accounts and photographs of official events. The employee may not use this account for political activity.

8.5 No political activity using City title or position.

An appointed officer or employee shall not use their authority, influence, title, or status as a City officer or employee while engaging in political activity, such as:

- a. Using their City title or status as a City officer or employee while participating in political activity;*
- b. Using their authority or influence to coerce any individual to participate in political activity; **and**
- c. Requesting, directing, or suggesting that a subordinate officer or employee participate in political activity; or;
- d. Using their City title or status as a City officer or employee while participating in political activity on social media. Specifically, an officer or employee using a social media account for political activity cannot use text or images that identify, reference, or depict their City title or status as a City officer or employee:
 - i. in a post or other content that contains political activity;
 - ii. in an account profile on any social media platform that references, reproduces, or depicts that information alongside posts or other user-created content; or
 - iii. in a profile picture, handle, username, or other account identifier.

Paragraph 8.5(d) does not require an appointed officer or employee to remove social media content (1) created by someone else or (2) that they created before becoming a City officer or employee.

Examples for Paragraph 8.5

1) An employee may write a letter to the editor promoting a candidate for public office so long as he does not make reference to his title or his status as a City employee in that letter.

* Subparagraph 8.5(a) does not apply to City Council appointed officers and employees. See Paragraph 8.12.

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2) An employee uses a photo of herself in her uniform in her personal Google account profile. The employee may not send emails in support of a candidate from this account because her profile photo of herself in uniform will appear as part of each such email.

3) An employee uses ~~their~~ her City title in ~~her~~ the profile headline on ~~her~~ their ~~personal~~ LinkedIn account. Because a LinkedIn headline automatically accompanies almost every action on that platform, the employee may not post messages on LinkedIn supporting a candidate for public elective office.

4) An employee of the Managing Director's Office uses the Twitter handle @PhillyMDOGuy. He cannot use that account to tweet in support of a political party using that Twitter account unless he changes the handle to something that does not identify his City position.

5) An appointed officer is Facebook friends with several of her subordinates. If she uses her personal Facebook account to send a group message explaining why she supports a specific candidate, she cannot include her subordinates as recipients of that message.

6) Several subordinates follow an appointed officer's personal Twitter account. The appointed officer may tweet generally about his support of a candidate, but may not mention or tag a subordinate in such tweets.

8.6 No political fundraising.

An appointed officer or employee shall not:

- a. Be in any manner concerned in the collection, receipt, or solicitation of contributions intended for a political purpose, either directly or indirectly.
- b. Authorize or use a political committee to collect, receive, or solicit contributions intended for a political purpose on their behalf.
- c. Permit, authorize, or direct others to collect, receive, or solicit contributions intended for a political purpose for the appointed officer or employee's benefit or on behalf of the appointed officer or employee.

An appointed officer or employee of the Police Department shall not make a contribution to a candidate or a political committee affiliated with a candidate.

Examples for Paragraph 8.6

- 1) An employee may not sell tickets to a candidate's fundraiser event.
- 2) An employee may not be a treasurer of a political committee.
- 3) An employee may not promote a candidate's fundraiser event on Facebook.

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8.7 No involvement in ~~political campaigns or in the~~ management of political parties*, political campaigns, or partisan political groups.

~~An appointed officer or employee shall not:~~ No appointed officer or employee, other than an employee of City Council*, shall take any part in the management of any political party, political campaign, or partisan political group such as:

- a. Supervising or directing party or campaign workers or volunteers.
~~Take any part in the management or affairs of any political party.~~
- b. Having responsibility for or more than minimal input into the strategy, communications, compliance, or finances of a political party, political campaign, or partisan political group.
~~Take any part in any political campaign.~~
- c. Holding any paid position for a political party, political campaign, or partisan political group, including as an independent contractor.
~~Engage in political activity in coordination with a candidate, political party, or political campaign.~~
- d. Being a candidate for public elective office or political party office.
~~Republish or distribute any printed campaign literature that was produced or paid for by a candidate, political party, or political campaign.~~
- e. Being ~~Be~~ a member of any committee of a national, state, or local ~~committee of a~~ political campaign, political party, or partisan political group.
- f. Being a committee person, ward leader, delegate, or other officer of a political party or ~~Be~~ be an officer of a partisan political group ~~or a member of a committee of a~~ partisan political group.

Examples for Paragraph 8.7

- 1) An appointed officer may not serve as a delegate to a political party convention.
- ~~2) An employee may not participate in get-out-the-vote activities organized or sponsored by a political party.~~
- ~~3) An employee may not be a candidate for public elective office or political party office.~~
- ~~4) An appointed officer may not circulate nomination petitions for a candidate for public elective office.~~
- ~~5) An employee may not distribute campaign posters that she obtains from a political campaign.~~

* For permissible activity for City Council employees, see Paragraph 8.15.
~~Paragraph 8.7 does not apply to City Council appointed officers and employees. See Paragraph 8.12.~~

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~~6) An employee may not volunteer at a phone bank organized by a candidate's campaign.~~

2 7) An employee may not be a candidate for a position on an election board such as judge of election, majority inspector, ~~and/or~~ minority inspector, or serve in any such position.

~~8) An employee may not serve as a committee person or ward leader.~~

~~9) A representative of the campaign of a candidate for State Senate sends an appointed officer a direct message on Twitter asking the appointed officer to tweet about the candidate's upcoming rally. The appointed officer may not make such tweets at the request of the campaign.~~

3) An appointed officer may not serve as a campaign manager for a political campaign.

4) An employee may not develop or direct public relations strategies for a political campaign.

8.8 No involvement in any political campaign by appointed officers and employees of the Police Department, the Board of Ethics, or the Office of the City Commissioners, Sheriff, or District Attorney.

Appointed officers or employees of the Police Department, the Board of Ethics, or the Office of the City Commissioners, Sheriff, or District Attorney shall not:

- a. Take any part in any political campaign.
- b. Engage in political activity in coordination with a political party, political campaign, or partisan political group.
- c. Republish or distribute any printed campaign literature that was produced or paid for by a candidate, political party, or political campaign.

For any officer or employee temporarily assigned to one of the listed offices, this Paragraph shall apply for the entirety of each calendar day on which any such temporarily assigned duties are performed.

If, however, the officer or employee is temporarily assigned to perform duties relating to the administration of an election, this Paragraph shall also apply for the entirety of the day of the election and each of the ten (10) calendar days preceding that day through the end of the last calendar day on which all such temporarily assigned duties are completed with regard to that election.

Examples for Paragraph 8.8

1) An employee of the Commissioners' office may not volunteer for the campaign of a candidate for Governor.

2) An employee of the Police Department may not distribute palm cards printed by the campaign of a candidate for United States Senate.

3) An appointed officer of the Board of Ethics may not stuff envelopes for a friend running for state representative in Wisconsin.

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4) An employee of the Airport is temporarily assigned to the City Commissioners to assist with delivering supplies to polling places during the general election on November 3, 2020. They may not engage in volunteer activities for any campaign from 12:00 A.M. on October 24, 2020 through and including 11:59 P.M. on November 3, 2020.

8.9 No involvement in political campaigns for local elective office.

No appointed officer or employee, other than an employee of City Council*, shall:

- a. Take any part in any political campaign in support of a candidate for local elective office.
- b. Engage in political activity in coordination with a political party, political campaign, or partisan political group in support of a candidate for local elective office.
- c. Republish or distribute any printed campaign literature in support of a candidate for local elective office that was produced or paid for by a candidate, political party, political campaign, or partisan political group.
- d. Local elective office is:
 - i. Mayor, City Council, District Attorney, City Controller, City Commissioner, Sheriff;
 - ii. Philadelphia Court of Common Pleas, Philadelphia Municipal Court, Register of Wills;
 - iii. Pennsylvania State Senator or Representative for any seat that includes any part of Philadelphia in its district; and
 - iv. Judge of Election, Majority Inspector, and Minority Inspector for a Philadelphia polling place.

Examples for Paragraph 8.9

- 1) An appointed officer may not circulate nomination petitions for a candidate for Philadelphia Court of Common Pleas.
- 2) An employee may not distribute campaign posters that she obtains from the campaign of a candidate for Mayor.
- 3) An employee may not volunteer at a phone bank organized by a political party in support of a candidate for a State Senate seat in a district that includes part of Philadelphia.
- 4) An appointed officer may not volunteer to knock on doors as part of a partisan political group's efforts to support a candidate for State Representative in a district that includes neighborhoods in both Philadelphia and Montgomery counties.
- 5) A representative of the campaign of a candidate for a Philadelphia Court of Common Pleas judgeship sends an appointed officer a direct message on Twitter asking the appointed officer to tweet about the candidate's upcoming rally. The appointed officer may not make such tweets at the request of the campaign.

* For permissible activity for City Council employees, see Paragraph 8.15.

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SUBPART C. PERMISSIBLE ACTIVITY

8.-810 Appointed officers or employees may register and vote in any election and may be members of a political party or a partisan political group.

8.-911 So long as they comply with the restrictions set forth in Subpart B, all appointed officers and employees may:

- a. Publicly express their personal opinion on political matters or candidates.
- b. Campaign for or against referendum questions, constitutional amendments, federal or state laws, or municipal ordinances.
- c. Participate in civic, community, labor, or professional organizations, including seeking election to positions within such organizations.
- d. Circulate petitions related to referendum questions, constitutional amendments, federal or state laws, municipal ordinances, or other matters of public interest.
- e. Assist in voter registration drives that are not organized or sponsored by a political party, a candidate, or a political campaign.
- f. Sign a political petition, such as a nominating petition, including those that are circulated by a political party, candidate, or political campaign.
- g. Attend political rallies, conventions, fundraisers, or other political events as a spectator.
- h. Make contributions intended for a political purpose, except that appointed officers and employees of the Police Department may not make contributions to a candidate or to a political committee affiliated with a candidate.
- i. Participate in political activities organized or sponsored by a civic, community, labor, or professional organization or a partisan political group where the organization or group has not acted in coordination with a political party, candidate, or political campaign with regard to those activities.

Examples for Paragraph 8.-911

- 1) An employee may place in his yard a sign supporting a candidate.
- 2) An appointed officer may write a letter to the editor expressing their support for a candidate for City office.
- 3) An employee may wear a political party button when the employee is not on duty, at her City workplace, or in uniform.
- 4) An employee may volunteer at a phone bank that promotes a candidate and that is organized by the employee's union, where the union has not coordinated with a candidate's campaign.

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8.12 Participation in non-local campaigns permitted for some employees.

In addition to the activities listed in Paragraph 8.11, an appointed officer or employee who is not part of the Police Department, the Board of Ethics, or the Office of the City Commissioners, Sheriff, or District Attorney may volunteer in support of a candidate who is not running for local elective office, so long as they:

- a. Comply with the restrictions set forth in Subpart B;
- b. Do not participate in any tasks that involve the management, strategy, supervision, or direction of campaign work as set forth in Paragraph 8.7;
- c. Do not seek or accept any compensation for their participation, including:
 - i. Any salary, wages, stipend, or any other payment; or
 - ii. Any clothing, travel, lodging, entertainment, food, beverage, or any similar benefit, or reimbursement for the same, beyond what would reasonably be provided to volunteers by a campaign in the ordinary course of its activities.

Examples for Paragraph 8.12

1) An employee of the Streets Department may volunteer for a canvassing effort organized by a political party in support of a candidate for Attorney General of Pennsylvania.

2) A member of the Free Library Board of Trustees may distribute sample ballots on behalf of a candidate for City Council in Pittsburgh.

3) An employee of the Water Department may participate in a get-out-the-vote drive organized by a candidate for Montgomery County Commissioner.

4) An employee of the Health Department may volunteer to hand out campaign t-shirts at a rally in support of a candidate for United States Senate.

5) An employee of the Mayor's Office volunteers to staff a rally in support of a Presidential candidate. If the campaign offers cheesesteaks to all volunteers staffing the rally, the employee may accept the cheesesteak.

8.1013 Permissible activity involving social media.

So long as they ~~comply with the restrictions set forth~~ are using a personal social media account on their own time and using their own resources as further described in Subpart B, appointed officers and employees may:

- a. Use social media to express their personal opinion on political matters, including to express support for or opposition to a candidate, political campaign, or political party.
- b. Identify in their social media profile their title or status as a City officer or employee and the political party ~~he or she~~ they supports.
- c. Share, respond to, or follow the social media account, post, or page of a political party, candidate, or political campaign.

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As described in Paragraph 8.5, City officers and employees must ensure that their City title or status is not referenced, reproduced, or depicted in or with any social media content they create that expresses support for or opposition to a candidate, political campaign, political party, or partisan political group.

~~Appointed officers and employees must ensure that their City title or status is not referenced, reproduced, or depicted in any social media post they make that expresses support for or opposition to a candidate, political campaign, or political party.~~

~~If a social media platform automatically reproduces profile information alongside user actions, appointed officers or employees must choose between including their title or status in the profile for that platform or using that platform to express support for or opposition to candidates, political campaigns, or political parties.~~

Examples for Paragraph 8. ~~10~~13

- 1) An off-duty employee using her personal mobile phone and Instagram account may “like” an Instagram post made by a candidate for Mayor.
- 2) An off-duty employee using his personal mobile phone and Twitter account may retweet a tweet by a candidate for the U. S. Senate.
- 3) The campaign of a candidate for the U. S. House of Representatives publishes a post on Instagram that includes a picture of the candidate with Beyoncé and the statement “Hey everybody! Please share this amazing picture with all your friends!!” A City employee may share the photo on his personal social media accounts.

8. ~~11~~14 Family member of a candidate.

In addition to activity permitted by Paragraphs 8.10 through 8.13, an ~~An~~ appointed officer or employee who is the family member of a candidate may appear in photographs of the candidate’s family that appear in a political advertisement, broadcast, campaign literature, or similar material. A family member also may attend political events with the candidate, but may not engage in any other activity that would be prohibited by this Regulation.

Examples for Paragraph 8. ~~11~~14

- 1) An employee who is the spouse of a candidate may stand in the receiving line and sit at the head table during a political fundraising dinner honoring the spouse, but he may not organize, speak at, distribute invitations to, or sell tickets to the event.
- 2) An appointed officer who is the daughter of a candidate for City Council may appear in a family photograph that is printed in a campaign flier, but she may not distribute the flier at a campaign rally.

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8. ~~1215~~ City Council employees.

In addition to activity permitted by Paragraphs 8. ~~810~~ through 8. ~~1114~~, so long as they comply with the applicable restrictions set forth in Subpart B, appointed officers and employees of City Council may:

- a. Take part in the management or affairs of a political party or in a political campaign, including engaging in activity in coordination with a candidate, political party, or political campaign.
- b. Republish or distribute printed campaign literature that was produced or paid for by a candidate, political party, or political campaign.
- c. Be a member of any committee of a national, state, or local committee of a political campaign, political party, ~~or an officer of a partisan political group or a member of a committee of a partisan political group.~~
- ~~d. Use their title while engaging in political activity.~~

Examples for Paragraph 8. ~~1215~~

- 1) An employee of City Council may be a committeeperson.
- 2) An employee of City Council may be a candidate for political party office.
- 3) An employee of City Council may serve as the campaign manager for a candidate for City Council.
- 4) An employee of City Council may serve as a delegate to a political party convention.

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SUBPART D. MEMBERS OF CITY BOARDS AND COMMISSIONS

8.1316 Because the following entities exercise significant powers of City government, their members shall be fully subject to the provisions of this Regulation, except as provided in Paragraph 8.16-19:

- a. Air Pollution Control Board
- b. Art Commission
- c. Board of Building Standards
- d. Board of Ethics
- e. Board of Health
- f. Board of Labor Standards
- g. Board of Pensions and Retirement
- h. Board of Revision of Taxes
- i. Board of Safety and Fire Prevention
- j. Board of Surveyors
- k. City Planning Commission
- l. Civil Service Commission
- m. Commission on Human Relations
- n. Fair Housing Commission
- o. Free Library of Philadelphia, Board of Trustees
- p. Historical Commission
- q. Historical Commission Architectural Committee
- r. Historical Commission Committee on Historic Designation
- s. Licenses & Inspections Review Board
- t. Living Wage and Benefits Review Committee
- u. Philadelphia Gas Commission
- v. Police Advisory Commission
- w. Sinking Fund Commission
- x. Tax Review Board
- y. Vacant Property Review Committee
- z. Water, Sewer and Storm Water Rate Board
- aa. Zoning Board of Adjustment

8.1417 A member of a board or commission not listed in Paragraph 8.1316 shall only be subject to those provisions of this Regulation that prohibit (a) political activity while on duty (Paragraph 8.3), (b) political activity using City resources (Paragraph 8.4), or (c) the use of City position for political activity (Paragraph 8.5).

8.1518 Nominating Panels.

A member of the Educational Nominating Panel, Civil Service Panel, or Finance Panel shall be fully subject to the provisions of this Regulation, but only for those periods of time when the panel is convened, as provided in Home Rule Charter Sections 3-1003 and 12-207.

8.1619 A member of a board or commission who is separately a City officer or employee shall be subject to this Regulation without regard to their position on the board or commission.

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Examples for Paragraph 8. ~~16~~19

- 1) An employee of the Water Department is a member of the Commission for Women. The employee is subject to all parts of this Regulation that apply to City employees, even though the Commission is not listed in Paragraph 8. ~~16~~19.
- 2) An employee of City Council serves on an advisory Board formed by the Mayor. The City Council employee is subject to this Regulation as provided in Subparts B and C, not as provided by Paragraph 8. ~~17~~19.
- 3) A City of Philadelphia elected official serves on a commission listed in Paragraph 8. ~~16~~19. The elected official is not subject to this Regulation.

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SUBPART E. PENALTIES

~~8.17—The penalties for violations of Home Rule Charter Section 10-107 are set forth at Charter Sections 10-109 and 10-107(6). If an appointed officer or employee engages or participates in prohibited political activity, the Board may seek a maximum civil penalty of \$300 for each separate instance of prohibited political activity. The Board shall not seek imprisonment as a sanction if an appointed officer or employee engages or participates in prohibited political activity.~~

8.20 An appointed officer or employee who violates any of the restrictions set forth in this Regulation shall be subject to a civil penalty of up to \$2,000 for each such violation. In determining the appropriate amount of monetary penalty, the Board may consider both mitigating and aggravating factors. Mitigating factors that the Board may consider include: (i) a good faith effort to comply with the law; (ii) prompt corrective action; and (iii) prompt self-reporting to the Board of Ethics. Aggravating factors that the Board may consider include: whether the violator (i) acted knowingly; (ii) is a repeat offender; or (iii) obstructed the investigation of the Board of Ethics.

8.21 In addition to civil monetary penalties imposed by the Board or a court, an appointed officer or employee who violates any of the restrictions set forth in this Regulation shall, in the case of egregious conduct, as determined by the Board, be subject to removal from office or immediate dismissal.

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