



**CITY OF PHILADELPHIA
BOARD OF ETHICS**

MEMORANDUM

TO: Department of Records, City Hall Room 156
Attn: James Leonard
Kattie Anderson
Anthony Tann, Jr.

FROM: Michael Cooke, General Counsel

DATE: October 29, 2021

SUBJECT: Board of Ethics Regulation 3 (“Statement of Financial Interest”)

CC: Lewis Rosman, Chief Deputy City Solicitor (via email)
Reynelle Brown Staley, Law Department (Senior Attorney)

At a public, virtual meeting on October 27, 2021, the Board of Ethics voted to approve for public comment the proposed amendments to Regulation 3 ("Statement of Financial Interest") that are attached. In accordance with Section 8-407 of the Home Rule Charter, the proposed amendments have been submitted to the Law Department, which has given approval as reflected in the attached Law Department memorandum. Please advertise these proposed amendments to Regulation 3 and make them available for public inspection.

In accordance with past practice that our Office has previously discussed with Commissioner Leonard, the Board has already scheduled a public hearing on these proposed amendments to be held on November 17, 2021 at 1:00 p.m. Due to the ongoing COVID-19 crisis, this hearing will be conducted virtually through the Zoom teleconferencing platform. In the following weeks, instructions on how members of the public may participate in the public hearing will be posted on the Board’s website at: <https://www.phila.gov/ethicsboard/pages/default.aspx>.

It would be very helpful for the Department of Records’ newspaper legal notice of these proposed amendments to include the time and virtual nature of the November 17, 2021 public hearing on these proposed amendments. The Board will also separately arrange for newspaper and website notice of the November 17, 2021 public hearing.

Please let me know if you have any questions. Thank you for your assistance with this matter.

Enclosures: Law Department Approval Memorandum
Board Regulation No. 3, Proposed Amendments Approved for Public Comment

Enclosure 1

Memorandum

TO: J. Shane Creamer, Executive Director, Board of Ethics

FROM: Reynelle Brown Staley, Senior Attorney//rbs

DATE: October 29, 2021

SUBJECT: Amendment to Philadelphia Board of Ethics Regulation No. 3 (“Statement of Financial Interest”)

I have reviewed the enclosed “**Amendment to Philadelphia Board of Ethics Regulation No. 3 (“Statement of Financial Interest”)**” that were submitted to the Law Department and find them to be legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may forward these Amended Regulations to the Department of Records where they will be made available for public inspection.

Enclosure 2

Proposed amendment for Public Comment Posting
Strikethrough indicates matter removed; underline indicates new matter

PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 3
STATEMENT OF FINANCIAL INTERESTS

Table of Contents

Subpart A.	Scope; Definitions.....	pg. 2
Subpart B.	Who Must File a Statement of Financial Interests.....	pg. 4
Subpart C.	<u>Filing</u> When Statement <u>Statements</u> of Financial Interests is Due	pg. 6
Subpart D.	Content of Statement of Financial Interests.....	pg. 7
Subpart E.	Penalties	pg. 8 <u>11</u>

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SUBPART A. SCOPE; DEFINITIONS

3.0 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 Code Section 20-610 (Statement of Financial Interests). The examples provided in this Regulation are for illustration and are not exhaustive.

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

- a. **Board.** Board of Ethics.
- b. **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.
- c. **City.** City of Philadelphia.
- d. **City-related agency.** Any governmental entity, such as SEPTA or the Philadelphia Redevelopment Authority, or other body established by federal, state, or City law that receives appropriations from the City or has board members or directors who are appointed by the Mayor or City Council or are City officers or employees serving *ex officio*.
- e. **City-related non-profit.** Any not-for-profit entity established by the City, such as the Delaware River Waterfront Corporation, Community Behavioral Health, the Philadelphia Housing Development Corporation, and the Philadelphia Industrial Development Corporation.
- f. **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.
- g. **Family member.** A parent, spouse, life partner, child, brother, sister, or like relative-in-law.
- h. **Filer.** An individual required to file a ~~statement of financial interests~~ Statement of Financial Interests pursuant to this Regulation.
- i. **Financial ~~Interest~~interest.** An interest involving money or its equivalent or an interest involving any right, power, or privilege that has economic value, including interests in property or investments.

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- j. 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.
- k. 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.
- l. Honorarium.** Payment made in recognition of published works, appearances, speeches, or presentations and which is not intended as consideration for the value of such services. The term does not include tokens presented or provided which are of de minimis economic impact.
- m. Immediate family member.** A parent, spouse, life partner, child, or sibling.
- n. Income.** Any money or thing ~~of~~ 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. As used in this Regulation, amounts of income refer to gross income, i.e. the amount before any costs, taxes, fees, benefit premiums, or other deductions or offsets are applied.
- o. Life partner.** An individual who has a long-term committed relationship with another individual of any gender.
- p. Officer.** An individual who is elected or appointed to any position under the Charter or in a City department, agency, office, board, or commission, whether paid or unpaid.
- q. Person.** A business, individual, corporation, non-profit, union, association, firm, partnership, committee, political committee, club, or other organization or group of persons.
- r. Reporting year.** The calendar year immediately preceding the year in which a Statement of Financial Interests must be filed.

3.2 Applicability. Except where expressly indicated otherwise, the provisions of this Regulation apply to all officers and employees of the City who are required to file a ~~statement of financial interests~~ Statement of Financial Interests.

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SUBPART B. WHO MUST FILE A STATEMENT OF FINANCIAL INTERESTS

3.3 Elected Officers. Mayor, City Councilmember, City Controller, District Attorney, City Commissioner, and Sheriff.

3.4 Executive Branch Officers and Employees.

- a. The Managing Director, City Solicitor, Mayor's Chief of Staff, Finance Director, Chief Administrative Officer, Commerce Director, Director of Planning and Development, Director of Labor, City Representative, Chief Integrity Officer, Chief Diversity, Equity, and Inclusion Officer, Chief Education Officer, Inspector General, City Treasurer, and any other deputy mayor or member of the Mayor's cabinet not specifically listed herein.
- b. The Police Commissioner, Health Commissioner, Fire Commissioner, Streets Commissioner, Parks and Recreation Commissioner, Commissioner for the Department of Human Services, Water Commissioner, Commissioner of Public Property, Commissioner of Licenses and Inspections, Commissioner of Records, Revenue Commissioner, Procurement Commissioner, Prisons Commissioner, Commissioner for the Department of Behavioral Health and Intellectual disAbilities, and Director of the Free Library.
- c. The heads of the following offices: Office of Policy; Office of Communications; Office of LGBT Affairs; Office of People with Disabilities; Office of Public Engagement; Mayor's Office of Black Male Engagement; Mayor's Office of Civic Engagement and Volunteer Services; Mayor's Office of Engagement for Women; Mayor's Office of Youth Engagement; Office of Faith-~~Based~~based and Interfaith Affairs; Office of Worker Protections; Office of Labor Standards; Office of Labor Relations; Office of Violence Prevention; Office of Homeless Services; Office of Emergency Management-; Office of Community Empowerment & Opportunity; Office of Arts, Culture, and the Creative Economy; Office of Special Events; Office of Immigrant Affairs; Office of Transportation, Infrastructure, and Sustainability; Office of Complete Streets; Office of Sustainability; Office of Fleet Management; ~~Office of Homeless Services~~; Office of Economic Opportunity; Office of Administrative Review; Office of Innovation and Technology; Office of Human Resources; Office of Grants and Recovery; Office of Budget and Program Evaluation; Office of Risk Management; Office of Property Assessment; Finance Program Management Office; and Office of Children and Families.
- d. Any executive branch employee whose position is designated by the Mayor in writing to the Board's Executive Director via email or letter. The Board shall maintain a list of all such designated positions.

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3.5 Boards and Commissions. Members and executive directors of the following boards and commissions:

- 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. Citizen's Police Oversight Commission**
- m. ~~l.~~ Civil Service Commission
- n. ~~m.~~ Commission on Human Relations
- o. ~~n.~~ Fair Housing Commission
- p. ~~o.~~ Free Library of Philadelphia, Board of Trustees
- q. ~~p.~~ Historical Commission
- r. ~~q.~~ Historical Commission Architectural Committee
- s. ~~r.~~ Historical Commission Committee on Historic Designation
- t. ~~s.~~ Licenses & Inspections Review Board
- u. ~~t.~~ Living Wage and Benefits Review Committee
- v. ~~u.~~ Philadelphia Gas Commission
- w. ~~v.~~ Police Advisory Commission
- x. ~~w.~~ Sinking Fund Commission
- y. ~~x.~~ Tax Review Board
- z. ~~y.~~ Water, Sewer and Storm Water Rate Board
- aa. ~~z.~~ Zoning Board of Adjustment

3.6 Nominating Panels. A member of the Educational Nominating Panel, Civil Service Panel, Citizen's Police Oversight Commission Selection Panel, or Finance Panel, but only when the panel is convened.

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SUBPART C. ~~WHEN STATEMENT OF FINANCIAL INTERESTS IS DUE~~ FILING STATEMENTS OF FINANCIAL INTERESTS

3.7 Filing Deadline

- a. An individual who is required to file a Statement of Financial Interests must do so by the first day of May in any year in which they hold office and by the first day of May of the year after they leave such office.
- b. An individual who takes office after the first day of April shall file within 30 days of taking office.
- c. An employee that the Mayor designates to file a Statement pursuant to Paragraph ~~3.4(e)~~3.4(d), shall do so either by May 1st or within 30 days of the designation.

Examples for Paragraph 3.7

- 1) An individual accepts a position as the head of a City Department on April 28, 2021. They must file a Statement of Financial Interests with the Board by May 28, 2021. The information in the Statement will relate to calendar year 2020.
- 2) An individual is appointed to a board listed in Paragraph 3.5 on August 3, 2021. They must file a Statement of Financial Interests with the Board by September 2, 2021. The information in the Statement will relate to calendar year 2020.
- 3) An individual steps down as a member of a board listed in Paragraph 3.5 on January 2, 2021. They must file a Statement of Financial ~~Interest~~Interests with the Board by May 1, 2021 disclosing information related to calendar year 2020. They must also file a Statement of Financial ~~Interest~~Interests with the Board by May 1, 2022 disclosing information related to calendar year 2021.
- 4) A nominating panel listed in Paragraph 3.6 convenes on September 15, 2021 and concludes its work on November 1, 2021. The panel's members must each file a Statement of Financial ~~Interest~~Interests with the Board by October 15, 2021 disclosing information related to calendar year 2020. They must also each file a Statement of Financial ~~Interest~~Interests with the Board by May 1, 2022 disclosing information related to calendar year 2021.

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3.8 Filing Requirements & Responsibilities

- a.** A Statement of Financial Interests is considered filed when it is received by the Department of Records. Electronic filings are filed when successfully submitted through the electronic filing system. Paper filings are filed when received by the Department of Records at the address specified on the form during business hours.
- b.** A Statement of Financial Interests ~~filed with the Board shall be signed under penalty of perjury,~~ must certify that the information is true and correct under Pennsylvania criminal law prohibiting false statements to authorities, 18 Pa. C.S. § 4904. Both the electronic filing system and the paper form must include such a certification.
- c.** A Statement of Financial Interests must include all the information required by Subpart D.

3.9 Amendments. Filers shall promptly amend a previously filed Statement of Financial Interests upon learning that any information required therein is missing or incorrect. Amendments may be submitted electronically using the “Amend” button next to any existing filing. Only Statements previously filed electronically may be amended using the electronic filing system. Amendments made using paper forms must check the “Amended Statement” box.

SUBPART D. CONTENT OF STATEMENT OF FINANCIAL INTERESTS

3.8 3.10 A Statement of Financial Interests shall include the information described in Paragraphs 3.11 through 3.18 as follows:

- a. Reporting year.** Any information required to be disclosed in a Statement of Financial Interests shall be for the calendar year preceding the year in which it is filed, unless the filing is late or is amending a report from an earlier year. A late Statement must provide information for the reporting year for which it is overdue. An amended Statement must disclose information for the same reporting year as the initial filing.
- b. Reportable interests.** A filer must disclose all financial interests held by the filer at any time during the reporting year, even if no longer held at the time of filing.
- c. Interests responsive to multiple categories.** If a filer holds an financial interest that is covered by more than one disclosure category, the filer shall include the relevant information in all applicable categories.

Example for Paragraph 3.10(c)

During the reporting year, you received a property worth \$200,000 as a gift, collected rents of \$4,500 on that property for part of the year, and then sold the property to a State agency for \$250,000. The property must be addressed in the gift, real estate, and income categories.

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~~3.10~~ **3.11** Identifying information. ~~A Statement of Financial Interests~~ filer shall include the following identifying information:

- a. Name. The filer's first name, last name, and middle initial.
- b. Public position or office. Each position or office the filer holds (or at any time during the reporting year held). If the filer holds more than one City position or office, they shall list each such position and office.
- c. City entity. For each position or office listed, provide the City department, agency, board, or commission within which that position or office resides.
- d. Occupation or profession. The filer's occupation or profession. This should reflect the work performed by the filer as their primary role or employment, whether or not they perform that work for the City. The filer's occupation or profession may be different from the title of the filer's position or office.

e.—**3.12** Real estate interests. A filer shall disclose ~~Any~~ any real estate directly or indirectly owned in whole or in part by the filer that was sold or leased to, purchased or leased from, or subject to any condemnation proceeding by the City of Philadelphia or any other government entity or any City-related non-profit or agency.

For each such property, the filer shall disclose:

- a. the physical address of the property, and
- b. the nature of the financial interest the filer holds (or at any time during the reporting year held), including the type and percentage of ownership.

d.—**3.13** Creditors. A filer shall disclose ~~The name and address of~~ each creditor to whom the filer ~~owes~~ owed more than \$5,000 at any time during the reporting year.

a. For each such creditor, the filer shall disclose:

1. the creditor's name;
2. the creditor's address; and
3. the interest rate(s) ~~thereon~~ applied to the debt(s) owed to that creditor.

b. Disclosure of creditors is not required for:

1. ~~Loans~~ loans or credit extended between members of the filer's immediate family and; or
2. mortgages securing real property which is the principal residence of the individual filing filer shall not be included.

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e.—3.14 **Income.** A filer shall make disclosures related to sources of income as follows:

- a. Gross income of \$500 or more. A filer shall disclose the name of any person who is the direct or indirect source for the filer of income totaling in the aggregate \$500 or more for the calendar year.*
- b. Gross income of more than \$5,000. In addition to disclosing the name of the source as required in Paragraph 3.14(a), a filer shall disclose the gross amount of any income totaling more than \$5,000 in the aggregate received from a single source.
- c. A filer must disclose income from any business entity in which the filer holds a financial interest if during the reporting year the entity:
 1. distributes money to the filer;
 2. agrees to distribute funds to the filer at some point in the future; or
 3. makes any payment for the personal financial benefit of the filer.

In making such disclosures, ~~A~~ the filer need not divulge any confidential information protected by statute or existing professional codes of ethics.

Example for 3.14(c)

You are the Vice President of and have a 50% interest in a limited liability company that owns several commercial properties. Tenants of those properties pay rent to the LLC.

1a) During the reporting year, you receive a distribution of \$3,000 from the LLC. You must report the LLC as a source of income, but because the amount you received was less than \$5,000 you need not disclose the amount of income.

1b) During the reporting year, you make a payment of \$10,000 from the LLC's bank account to purchase a new car for yourself. You must report the LLC as a source of income and must disclose \$10,000 as the amount of income received.

1c) During the reporting year, the LLC uses all rents and other funds received to pay the ownership and maintenance costs of its existing properties, as well as purchase a new property for the LLC. It does not make a distribution to you, nor does it make any payments for your personal financial benefit. As a result, you need not disclose the LLC as a source of income (although you do need to disclose the LLC, as provided by Paragraph 3.17).

~~*As of January 1, 2022, filers will also be required to disclose the amount of any income of more than \$5,000 from a single source.~~

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~~f.~~ **3.15 Gifts.** ~~The name of any~~ For each person who gave the filer any gifts worth \$200 or more in the aggregate in the calendar year ~~and~~, the filer shall disclose the name of the person, the value of the gift(s), and the circumstances of each gift. Disclosure is required regardless of whether the gift was permissible under City Code Section 20-604, an Executive Order, or other applicable gift rule.

a. Gifts to others. A gift to another person is a gift to the filer if the filer solicits the gift and receives a financial benefit from it.

b. Gift exceptions. The following are not “gifts” for the purposes of this Regulation and need not be disclosed:

1. a political contribution otherwise reportable as required by law;

2. a commercially reasonable loan made in the ordinary course of business; or

3. 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.

c. Valuation of gifts. Except as provided in Paragraph 3.15(d)(4) relating to tickets, 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.

d. Tickets.

1. Tickets from the City. A filer need not disclose any tickets received from the City.

2. Tickets received by City elected officials. A filer who is a City elected official must disclose tickets for public events received from a third party only if the filer:

i. sells the tickets;

ii. attends the event themselves; or

iii. gives the tickets to a family member or a member of their campaign staff.

The elected official ~~but~~ need not disclose ~~such~~ tickets received from a third party when if those tickets are distributed to constituents or others for free.

3. Records of tickets. Records of the receipt and distribution of tickets ~~not subject to disclosure~~ must be maintained by the filer regardless of whether those tickets are subject to disclosure on the filer's Statement of Financial ~~Interest~~ Interests.

4. Valuation of tickets. The value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket.

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~~g.—~~3.16 **Honoraria.** ~~The source of any~~ For each honorarium of more than \$100~~†~~ received by the filer in the reporting year, the filer shall disclose the name of the source and the amount of the honorarium.

~~h.—~~3.17 **Offices, directorships, and employment.** ~~The name of any~~ For each business or nonprofit entity in which the filer holds any office, directorship, or employment of any nature whatsoever, the filer shall disclose:

a. the legal name of the entity and

b. the position(s) held.

3.18 **Interests in for-profit businesses.** ~~The legal name of any business~~ For each entity engaged in business for profit in which the filer holds a financial interest of more than 5%, the filer shall disclose the legal name of the entity.

SUBPART E. PENALTIES

~~3.13.19~~ An ~~appointed~~ officer or employee of the City 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.

Approved for public comment by Board: March 17, 2021

Posted for public comment by Records: March 19, 2021

Effective: April ~~2019~~, 2021

Approved for public comment by Board: October 27, 2021

Posted for public comment by Records:

Hearing held:

Adopted by Board:

Effective:

~~† As of January 1, 2022, filers will also be required to disclose the amount of any honorarium of more than \$100.~~