



# CITY OF PHILADELPHIA

BOARD OF ETHICS  
ONE PARKWAY BUILDING  
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May 6, 2019

Honorable Darrell L. Clarke  
President  
Philadelphia City Council  
City Hall, Room 494  
Philadelphia, Pennsylvania 19107

Dear President Clarke:

Enclosed please find Fiscal Year 2020 Budget Testimony prepared by Board of Ethics Chair Michael H. Reed, Esq. We would appreciate it if you would share this testimony with your fellow Council Members.

Chair Reed and I are available to meet with you and other Council Members at your convenience to discuss any questions you may have concerning this testimony.

Please do not hesitate to contact me if I can be of any assistance.

Yours truly,

A handwritten signature in dark ink, appearing to read "J. Shane Creamer, Jr.", written over a horizontal line.

J. Shane Creamer, Jr., Esq.  
Executive Director

Encl.



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**FY20 Operating Budget Testimony**  
**Michael H. Reed, Esquire, Chairman**  
**Philadelphia Board of Ethics**  
**Prepared for City Council**  
**April, 2019**

## **Introduction**

As Chair of the Board of Ethics, I appreciate the opportunity to present this testimony to you, Council President Clarke, and to the Members of City Council, on the FY2020 budget of the Board of Ethics. As you know, the Board of Ethics of the City of Philadelphia is an independent, five-member City board established in 2006 through voter approval of an amendment to the Philadelphia Home Rule Charter. Our current Board members are proud to report on the Board's accomplishments and to outline our plans and needs for FY2020.

## **Department Mission and Plans for FY2020**

The mission of the Board of Ethics is to promote public confidence in City government through the administration and enforcement of the City's Public Integrity Laws which include the Campaign Finance, Ethics, Lobbying, and Financial Disclosure Laws and the Charter provisions on political activity. Administration and enforcement of these laws advance honesty, integrity and transparency in City government. The Board also promotes transparency in City government by making detailed campaign finance and lobbying information easily accessible to the public on its website.

Training and advice provided by the Board are intended to promote compliance with and avoid violations of the Public Integrity Laws by City officers and employees, candidates and their treasurers, political committees, and those involved in lobbying. However, when necessary, the Board investigates complaints and enforces these laws to protect the public's interest in a fair and effective City government.

During FY20, the Board expects to maintain and hopes to expand the frequency and variety of its training and outreach activity and to timely respond to all requests for formal and informal advice. With the conversion during FY20 of a vacant entry level staff position to a Staff Attorney position, as discussed further below, the Board expects to explore new training technology and to increase its training capacity. The additional Staff Attorney will also enhance the Board's ability to propose new regulations and to expand the educational materials and content on its website. Clear rules and plain language guides are important tools to promote compliance with the Public Integrity Laws.

## Accomplishments

Training remained a primary focus for the Board during the past year. To date in FY19, Board staff members have conducted 50 ethics training classes and expect to conduct 20 more before the end of the fiscal year. These ethics classes include training for new City employees, “refresher” ethics classes for current City employees, ethics classes for members of City boards and commissions, and train-the-trainer classes for several City departments.

In preparation for the 2019 Primary Election, there have been eight campaign finance training sessions for candidates, treasurers, and other interested individuals. Each session was presented jointly with staff from the Office of the City Commissioners and covered the basic requirements of the State Election Code and Philadelphia’s campaign finance law, as well as the “nuts and bolts” of the mandatory electronic filing process. These classes are especially important this year because of the unusually high number of candidates on the 2019 Primary Election ballot and because many of the candidates and political committees have never participated in an election before.

The Board also provides advice to City officials and employees through informal general guidance and written advisory opinions. At every opportunity, staff encourages City officials, employees, candidates, campaigns, and lobbyists to ask for advice before they act because this is the most effective tool to prevent potential violations of the Public Integrity Laws. A heavy demand for informal guidance continued in FY18 with 1,672 informal guidance contacts. The six formal advisory opinions issued in FY2018 are indicative of the analysis and complexity of the Public Integrity Laws. The questions covered financial disclosure, application of the Public Integrity Laws to the newly-reestablished Board of Education and Educational Nominating Panel, and whether or not coordination would be present under the City Campaign Finance Law in several different scenarios involving an entity and a candidate’s campaign.

In addition to the Board’s core training and advice functions, Board staff members have been engaged in two major projects that began over a year ago to revamp and upgrade the City’s legacy Campaign Finance and Financial Disclosure electronic filing systems.

The new Campaign Finance system was launched in March 2019 and will allow for simultaneous filing of campaign finance reports with both the Board of Ethics and the City Commissioners. The new system is compatible with both Macs and PCs and works on Internet Explorer, Edge, Chrome, Safari, and Firefox. While the new system is still being refined, it is a marked improvement over the 12-year-old legacy system. Board staff conducted an extensive outreach and education effort in order to ensure that candidates, political committees, and other filers are able to access and use the new system. The outreach included four Saturday classes at high schools throughout the City to demonstrate use of the new system.

The Financial Disclosure project, which should be completed in FY20, involves development of a replacement for the existing Financial Disclosure online filing system. It, too, will be compatible with Macs, as well as PCs, and browsers other than Internet Explorer. Board staff will provide trainings and outreach in FY20 to introduce the new Financial Disclosure system to

users, including City employees and board and commission members, who must file or assist others to file annual disclosure reports.

In another technology project completed during FY19, major enhancements were made to the registration and reporting processes for lobbyists, lobbying firms, and principals using the Philadelphia Lobbying Information System (PLIS). On an almost daily basis, Board staff members assist entities engaged in lobbying City officials to register and to file quarterly expense reports using PLIS. They also help members of the public with access to the searchable online lobbying database to generate reports of (i) the entities engaged in lobbying of City officers and employees, (ii) who was lobbied, (iii) how much the entity spent on lobbying in Philadelphia, and (iv) the subject matter of the lobbying activity.

In pursuit of its goal to provide clear rules for compliance with the Public Integrity Laws, the Board proposed and adopted amendments to its Political Activity Regulation (Regulation No. 1) in advance of the 2019 City Elections for Mayor, City Council, City Commissioners, and Sheriff. The amendments addressed real-world issues faced by candidates and treasurers, including guidance on issues such as the date of acceptance of in-kind contributions, disclosure of expenditures made via credit card, and use of payment service providers such as PayPal. The amendments became effective on December 10, 2018, in advance of the 2019 Primary Election.

In FY 2018, the Board engaged in enforcement activity that resulted in approval of seven settlement agreements that resolved violations of the Campaign Finance and Lobbying Laws. It is also important to note that in FY 2018, Board enforcement staff terminated nine investigations after determining that probable cause did not exist to believe a violation had occurred. Those investigations included six involving potential violations of the City’s Ethics Code, one involving potential violations of the City’s Campaign Finance Law, one involving potential violations of the City’s Lobbying Law, and one involving potential violations of the Charter’s restrictions on political fundraising and political activity.

**Proposed Budget Summary and Overview**

The Board’s FY20 budget of \$1,101,630, as originally proposed by the Administration, included the following: \$991,630 in Class 100; \$96,000 in Class 200; \$7,000 in Class 300; and \$7,000 in Class 400. The FY20 budget now before you now totals the same \$1,101,630, but reflects the Board’s initiative to transfer funds totaling \$50,000 from Classes 200, 300 and 400 to Class 100. The change, as reflected below, was made at the Board’s request because it has determined that it cannot continue to fulfill its statutory mandates without additional Class 100 funds to hire a much-needed Staff Attorney.

<b>Class</b>	<b>FY20 Proposed</b>	<b>FY20 Revised</b>	<b>Change</b>
100	991,630	1,041,630	50,000
200	96,000	52,500	-43,500
300	7,000	5,200	-1,800
400	7,000	2,300	-4,700
	<b>1,101,630</b>	<b>1,101,630</b>	<b>0</b>

The Board's FY20 budget now includes: \$1,041,630 in Class 100; \$52,500 in Class 200; \$5,200 in Class 300; and \$2,300 in Class 400. The Board had requested additional Class 100 funding in Fiscal Years 2017, 2018, and 2019 to hire a Staff Attorney, but received no such funds. The Board understands that the transfer of funds from Classes 200, 300, and 400 will have an impact on its ability to purchase goods, services and equipment, but has determined that the need for proper and adequate staffing outweighs the risks.

The Staff Attorney will support administration of the City's Public Integrity Laws and increase the Board's capacity to meet its Home Rule Charter responsibility to administer and enforce the Campaign Finance, Ethics, Lobbying, and Financial Disclosure Laws and the political activity restrictions. The Board expects the Staff Attorney position to have a significant impact on its delivery of mandated core functions by quickly enabling the Board to expand the frequency and variety of training, to enact new regulations, and to create new and updated educational materials in plain language to encourage compliance with the Public Integrity Laws.

As an example of unmet needs, the Board notes that it has not yet prepared a Language Access Plan. Although it has not to date needed outside translation services, the Board understands the importance of such a plan and that it may need such services in the future. However, existing staff members have not been able to dedicate time to this project. A new Staff Attorney will be able to draft and implement a Language Access Plan.

The Board's staffing level of 12 positions remains unchanged from FY19 and will not be affected by moving funds into Class 100. The Board does not request any additional positions, but will instead use the funds transferred into Class 100 to convert a vacant position into the Staff Attorney.

### **Challenges**

The Board is concerned that reduced funding in Class 200 may have an impact in two major areas. First, it may affect technology needs. For example, if changes are made to either the Lobbying or Campaign Finance Law that would require modification of the lobbying or campaign finance online filing systems, FY20 Class 200 funds may not cover costs of necessary enhancements or upgrades. Similarly, the Board is concerned that costs of annual maintenance and support for all of its online filing systems might not be met.

Second, the reduction in Class 200 funds might affect the Board's ability to conduct investigations to enforce the City's Campaign Finance Law and contribution limits. Based upon its experience in prior elections, the Board anticipates that it may need accounting, computer and other forensic professional services in FY20 for complex election-related investigations. The current FY20 Class 200 appropriation may be inadequate to cover such costs.

If either of these two contingencies occurs, the Board will consult with the Finance Department on funding alternatives.

### **Initiatives**

During FY20, the Board expects to increase the frequency and variety of its training offerings and to implement online training solutions to expand its training capacity. Board staff will draft and propose new regulations, including a regulation on conflicts of interest, to provide plain language guidance for City officers and employees and board and commission members. Staff will continue its work with the Office of Innovation and Technology (OIT) to complete the development of the new version of the Financial Disclosure online filing system and to test and launch the system in advance of the May 2020 filing deadline.

### **Conclusion**

The Board wishes to emphasize that the transfer of funds into Class 100 for FY20 is only a temporary solution to a long term problem caused by inadequate funding despite increasing responsibilities. The Board continues to need increased funding and must have additional Class 100 funding so that its staff can support its responsibilities which include operation of three separate online filing systems for campaign finance, financial disclosure, and lobbying. It must also restore funding in Classes 200, 300, and 400 so that it can pay for services such as software upgrades and support when necessary.

The Board and the members of our staff remain proud of the role we play in City government. We believe in the importance of our mission to promote public confidence and honesty, integrity and transparency in Philadelphia government, and we look forward to continuing to serve our City.

Thank you for receiving this testimony. I will be happy to respond to any questions you may have. We would also be pleased to meet with you at your convenience if you wish to discuss any of these matters.