

(Senate Resolution 3, adopted January 4, 2011)

A RESOLUTION

Providing for the adoption of Ethical Conduct Rules of the Senate.

RESOLVED, That Ethical Conduct Rules of the Senate be adopted for the government of the 195th and 196th Regular Session until amended, repealed or otherwise altered or changed.

(2011-2012)

ETHICAL CONDUCT RULES OF THE SENATE

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I. PRELIMINARY PROVISIONS

1. As used in these rules, the following words and phrases shall have the meanings given to them in this rule unless the context clearly indicates otherwise:

"Campaign activity." An activity on behalf of a political party, candidate, political committee or campaign, which is intended to advance the interests of a specific party, candidate, political committee or campaign for elective office, including any of the following:

(1) Organizing a campaign meeting, campaign rally or other campaign event, including a fund-raiser where campaign contributions are solicited or received.

(2) Preparing or completing responses to candidate questionnaires

that are intended solely for campaign use.

(3) Preparing a campaign finance report.

(4) Conducting background research on a candidate.

(5) Preparing or conducting a campaign poll.

(6) Preparing, circulating or filing a candidate nominating petition or papers.

(7) Participating in, preparing, reviewing or filing a legal challenge to a nominating petition.

(8) Preparing, distributing or mailing any campaign literature, campaign signs or other campaign material, including television and radio ads, website construction, e-mails, facsimiles and robocalls, on behalf of any candidate for elective office.

(9) Managing a campaign for elective office.

(10) Participating in, preparing, reviewing or filing any documents in any recount, challenge or contest of any election.

(11) Posting campaign-related information on a website, including social media websites such as Facebook and Twitter.

"Campaign contribution." A monetary or in-kind contribution made to an electoral candidate campaign.

"De minimis." An economic consequence which has an insignificant effect.

"Newsletter." A printed document more than one page in length that addresses more than one subject and is printed in quantities of 25,000 copies or more.

"Official mailing lists." Any list containing individuals, companies or vendors, including names, addresses, telephone numbers or e-mail addresses that are procured, compiled, maintained or produced with Senate funds.

"Own time." A Senate employee's time that is distinct from Senate work time and includes all leave.

"Senate employee." A person employed by the Senate, including the Chief Clerk and the Secretary of the Senate.

"Senate employee in a supervisory position." A Senate employee who has a general supervisory role within: a caucus; an individual Senator's office; or a Senate services office.

"Senate office." All Senate offices and Senate conference or meeting rooms located in the Capitol complex or any similar space contained within a district office.

"Senate resources." Senate-owned or Senate-leased equipment including telephones, computer hardware or software, copiers, scanners, fax machines, file cabinets or other office furniture, cell phones, personal digital assistants or similar electronic devices, and office supplies.

"Senate work time." Publicly paid work time consisting in the aggregate of 75 hours every two weeks for full-time employees and a lesser amount of publicly paid hours every two weeks for part-time employees.

"Senator." A person elected to serve in the Pennsylvania Senate from each of the fifty Senatorial districts.

II. PRACTICE

1. No campaign activity may be conducted by a Senate employee on Senate work time. The following shall apply:

(a) Senate employees are permitted to engage in campaign activities on their own time, as volunteers or for pay.

(b) Senate employees may work irregular hours often depending upon the time the Senate is in session. As a result, a staffer's own time can occur during what may be considered "normal" business hours.

(c) Sick leave, family and medical leave, work-related disability leave, parental leave, short-term disability leave, civil leave or military leave cannot be requested by a Senate employee to perform campaign

activities.

(d) No Senate employee may be allowed any amount of Senate work time for time spent doing campaign activities.

(e) Senate employees, with the permission of their employing Senator, may reduce their Senate hours with a commensurate reduction in pay (and benefits, as required) to perform campaign activities. These arrangements must be memorialized in writing and filed with the Chief Clerk.

(f) Any Senate employee who has reduced his or her Senate hours to perform campaign activities shall keep a daily written log outlining Senate hours and related work responsibilities.

2. No campaign activity may be conducted by a Senator or a Senate employee in a Senate office or with Senate resources.

(a) De minimis campaign activities may be unavoidable for a Senator or Senate employee in the course of their official duties. Examples include the following:

(1) In responding to inquiries from the public, a Senator or a Senate employee may need to address questions that relate to a Senator's or other person's campaign for elective office or a related legislative record.

(2) Scheduling assistance and information from the Senator or a Senate employee may be requested by campaign staff to ensure that no conflict occurs among the Senator's campaign schedule, official schedule and personal schedule.

(3) Engaging in political conversation in the natural course of personal communication.

(b) Unsolicited campaign-related communication on a personally owned cell phone, personal digital assistant or similar electronic device may occur on a de minimis basis in a Senate office but may not interfere with Senate work time.

(c) A Senator's official State website shall not contain a link to his or her campaign website. A Senator's principal campaign website shall not

contain a link to his or her official State website. A Senate employee who is on Senate work time and using Senate resources may post legislative materials, media advisories, news releases and announcements on social media websites such as Facebook and Twitter even if campaign-related information also exists on such a website. A Senate employee who is on his or her own time and using personal resources may post material involving or referring to campaign activity on a social media website.

3. The solicitation or receipt of campaign contributions on Senate work time or with Senate resources is prohibited.

(a) Solicitation or receipt of campaign contributions in a Senate office or with Senate resources is prohibited at any and all times.

(b) If an unsolicited contribution is sent to a Senate office through the mail or in an unidentifiable form, the employee who receives it shall turn it over to the campaign and notify the donor that campaign contributions should not be received at a Senate office within no more than seven days.

(c) No Senate employee may serve as an officer on a campaign committee or a campaign finance committee on behalf of any Senator, Senate candidate or Senate caucus.

(d) A Senate employee may help plan and may provide assistance at a campaign event on his or her own time.

4. No Senate employee may be required to perform any campaign activity or make any campaign contribution.

(a) No Senator, no Senate employee acting on the Senator's behalf and no Senate employee in a supervisory position may require a Senate employee to perform any campaign activity on Senate work time or on the employee's own time as a condition of employment.

(b) No Senator, no Senate employee acting on the Senator's behalf and no Senate employee in a supervisory position may require any Senate employee to make a campaign contribution as a condition of employment.

(c) A Senate employee who agrees or offers to participate in any

campaign activity on his or her own time or who makes a campaign contribution may not do so in consideration of receiving any additional Senate compensation or employee benefit in the form of a salary adjustment, bonus, compensatory time off, continued employment or any other similar benefit.

(d) A Senate employee who declines to participate in a campaign activity or to make a campaign contribution shall not be sanctioned for that refusal.

5. No Senate-funded newsletter may be printed or distributed within 60 days of the primary or general election for any Senate member running for the office of Senate or any other elective office.

(a) This rule shall apply to newsletters printed by the Senate or by an outside vendor paid for with public funds.

(b) The Chief Clerk of the Senate may not authorize the reimbursement or payment of any moneys expended for print, distribution or postage incurred after the 60-day deadline.

(c) Senators running for the office of the Senate or any other elective office shall submit to the Secretary of the Senate a final proof copy of any newsletters no less than 90 days prior to a primary or general election.

6. Official Senate mailing lists shall be used solely for legislative purposes.

(a) Official Senate mailing lists shall not be provided to any candidate, political party, political committee, campaign or campaign committee or used for any campaign purpose.

(b) Senate computers shall not be used to create, store or maintain any mailing list that identifies the listed individuals as campaign volunteers or contributors to any candidate, political party, political committee, campaign or campaign committee.

(c) No list may be developed by a Senator or a Senate employee for the purpose of monitoring or tracking campaign activity or campaign contributions of any Senate employee.

(d) Mailing lists may be purchased at fair market value from a private source with Senate funds if the lists are used solely for legislative purposes. A mailing list that is so acquired may not be used or redirected in the same or a modified form for campaign purposes.

7. No Senate employee may be required to perform any nonwork-related task.

(a) No Senator, no Senate employee acting on the Senator's behalf and no Senate employee in a supervisory position may require a Senate employee to perform tasks unrelated to their official duties as a condition of employment.

(b) An employee who agrees or offers to perform a task unrelated to that person's official duties on his or her own time may not do so in consideration of receiving any additional State Senate compensation or employee benefit in the form of a salary adjustment, bonus, compensatory time off, continued employment or any other public benefit.

(c) An employee who refuses to perform a task unrelated to that person's official duties cannot be sanctioned for that refusal.

III. ENFORCEMENT

1. There shall be a standardized process for reporting any alleged violation of these rules.

(a) A Senator or an employee who becomes aware of a violation of these rules should report the violation to any of the following:

(1) A Senator.

(2) The President Pro Tempore, or an appropriate designee.

(3) The Majority Leader of the Senate, or an appropriate designee.

(4) The Minority Leader of the Senate, or an appropriate designee.

(5) The employee's supervisor.

(6) The Secretary of the Senate.

(b) A verbal report by an employee is acceptable but must be followed up with a written statement that includes the date, time and place, names of possible witnesses and the nature of the ethical conduct violation. The written statement must be signed by the employee.

(c) Upon receipt of the written statement pursuant to subsection (b), the person to whom the violation is reported as provided in subsection (a) shall forward a copy of the written statement within five business days to the Secretary of the Senate or the Chief Clerk if the alleged violation involves the Secretary of the Senate or a person in the Secretary of the Senate's Office.

(d) A report of a possible violation of these rules must be filed within one year of the alleged conduct.

2. An inquiry and review of all properly submitted reports regarding an alleged violation of these rules shall be conducted.

(a) The Secretary of the Senate shall conduct a preliminary inquiry of any written statement forwarded under section 1(c). The subject of the report shall be notified within five business days by the Secretary of the Senate that a written statement has been forwarded to his office under section 1(c). The Secretary of the Senate shall also notify the President Pro Tempore, the Majority Leader and the Minority Leader within five business days that a written statement has been forwarded to his office under section 1(c). The Secretary of the Senate shall have 14 business days from the date of those notifications to complete a preliminary inquiry and determine whether there is more than a de minimis violation of these rules and whether there is a satisfactory basis for the initiation of a formal investigation and shall report that recommendation to the President Pro Tempore, the Majority Leader and the Minority Leader. If the Secretary of the Senate or a person in the Secretary of the Senate's office is the subject of an alleged violation, the responsibilities under this paragraph shall be performed by the Chief Clerk of the Senate.

(b) After receiving a recommendation from the Secretary of the Senate under subsection (a) that a formal investigation is warranted, if the subject is a Senator, the President Pro Tempore, the Majority Leader and the Minority Leader shall proceed to refer the report to the Senate Committee on Ethics for an investigation by that committee in

accordance with Rule XXXV of the Rules of the Senate of Pennsylvania. The provisions of Rule XXXV of the Rules of the Senate of Pennsylvania shall exclusively govern and apply in their entirety to any further proceeding involving a Senator under this rule.

(c) After receiving a recommendation from the Secretary of the Senate that a formal investigation is warranted, if the subject is a Senate employee, the President Pro Tempore, the Majority Leader and the Minority Leader shall proceed to obtain the services of an independent third party to conduct a formal investigation. Upon completion of the investigation, a report shall be prepared containing findings of fact and a conclusion as to whether a violation of these has occurred.

(d) After reviewing the findings of fact and the conclusion contained in the report prepared pursuant to subsection (c) regarding a Senate employee, the President Pro Tempore, the Majority Leader and the Minority Leader shall issue a final determination by unanimous vote regarding all of the following:

(1) Whether a violation of these rules by a Senate employee has occurred.

(2) Whether a sanction regarding that violation by a Senate employee is warranted.

(3) If a sanction is deemed warranted, the type of sanction that should be imposed.

(4) When and how the sanction should be imposed.

(e) During the course of an investigation of a Senate employee by the independent third party designated pursuant to subsection (c), the subject shall have the opportunity to be heard, to present evidence, to cross-examine witnesses and to be represented by counsel.

(f) Prior to the issuance of a final determination under subsection (d), the subject shall have an opportunity to submit a written presentation prepared by either the subject or the subject's counsel.

(g) All proceedings under this rule shall be confidential unless otherwise waived in writing by the subject of the proceeding.

(h) If the President Pro Tempore, the Majority Leader or the Minority Leader is the subject of a report, is a witness or, if for any reason is unavailable, the duties of the member shall be performed by the Senate Whip of the respective caucus.

(i) Retaliation against any Senate employee who files a written statement in good faith under section 1(c) or who testifies in good faith regarding an alleged violation of these rules is prohibited.

3. A violation of these rules may subject a Senate employee to disciplinary action that may include any of the following depending on the circumstances of the violation:

(a) A warning.

(b) A written reprimand.

(c) A permanent disciplinary action noted in the personnel record.

(d) Restitution for damages.

(e) Suspension of employment.

(f) Termination of employment.

4. A violation of these rules may subject a Senator to sanction by the full Senate and may include any of the following depending on the circumstances of the violation:

(a) A warning.

(b) A written reprimand.

(c) Restitution for damages.

(d) Any other sanction provided for under the Rules of the Senate of Pennsylvania or the Constitution of Pennsylvania.

IV. FILING OF FINANCIAL INTEREST STATEMENT

1. Compliance with the financial interest statement requirements and all

other requirements under the Public Official and Employee Ethics Act, 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure), shall be mandatory for all Senators and Senate employees who meet the criteria set forth in subsection (c) or (d).

(a) Financial interest statements covering the previous calendar year must be filed by May 1 of each year for every Senator and those Senate employees who make purchasing decisions or other official decisions or provide input that can influence a purchase or official decision.

(b) Senators must file their financial interest statements with the Secretary of the Senate, the Ethics Commission and any governmental agency, authority, board or commission on which they serve. Affected Senate employees must file their financial interest statements with the Secretary of the Senate.

(c) Filing a financial interest statement shall be required for employees who are responsible for taking or recommending official nonministerial action concerning any of the following:

(1) Contracting or procurement.

(2) Administering or monitoring grants or subsidies.

(3) Planning or zoning.

(4) Inspecting, licensing, regulating or auditing any person.

(5) Any other activity where the official or recommended official action has an economic impact of more than a de minimis nature on the interests of any person. For most employees on a Senator's staff or in a caucus office, this category would be most applicable, since recommending "official action" to a Senator as part of job responsibilities triggers the duty to file a financial interest statement. Official action would relate to a Senator's lawmaking duties especially as that relates to legislation and confirmations.

(d) A financial interest statement must be filed if a Senate employee's responsibility includes making a recommendation to a Senator as to any of the following:

(1) Advice regarding how to vote on the Floor or in Committee.

(2) The potential consideration of bills, resolutions or nominations in Committee.

(3) The drafting and preparation of legislation or resolutions, and any amendments to bills or resolutions, including advice on decisions regarding bill or resolution sponsorships.

(e) The requirement to file a financial interest statement shall apply to executive directors, counsels or any Senate employee responsible for a Committee and to Senate chiefs of staff. Executive, administrative and legislative assistants may be subject to the filing requirements depending on the nature and scope of the individual's employment responsibilities.

(f) A Senate employee who does nothing more than occasionally share a personal point of view with a Senator is not required to file a financial interest statement. In most cases, a Senate employee with job responsibilities not directly related to the actual lawmaking process, such as correspondence or scheduling, does not need to file a financial interest statement.

(g) A Senate employee assigned to a district office shall be subject to the same filing requirements as a Harrisburg-based Senate employee depending on the nature of that individual's employment responsibilities.

V. TRAINING

1. To assure compliance with these rules and other laws related to ethical behavior by Senators and Senate employees, appropriate training measures shall be implemented by the Senate. Training shall be provided annually for all Senators and Senate employees on various topics, which shall include, but are not limited to, all of the following:

(a) These rules.

(b) The Public Official and Employee Ethics Act, 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(c) 65 Pa.C.S. Ch. 13A (relating to lobbying disclosure).