

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 228 Session of 2010

INTRODUCED BY SCARNATI, PILEGGI, MELLOW, BRUBAKER, FERLO,
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WASHINGTON, VANCE, EARLL, BAKER, YAW, MENSCH, BROWNE, VOGEL,
MUSTO AND LOGAN, JANUARY 19, 2010

REFERRED TO RULES AND EXECUTIVE NOMINATIONS, JANUARY 19, 2010

A RESOLUTION

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

3 RESOLVED, That Ethical Conduct Rules of the Senate be adopted
4 for the government of the 193rd and 194th Regular Session until
5 amended, repealed or otherwise altered or changed.

6 (2009-2010)

7 ETHICAL CONDUCT RULES OF THE SENATE

8 I. PRELIMINARY PROVISIONS

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

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

16 (1) Organizing a campaign meeting, campaign rally or

1 other campaign event, including a fund-raiser where campaign
2 contributions are received.

3 (2) Preparing or completing responses to candidate
4 questionnaires that are sent directly to the campaign and are
5 intended solely for campaign use.

6 (3) Preparing a campaign finance report.

7 (4) Conducting background research on a candidate.

8 (5) Preparing or conducting a campaign poll.

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

11 (7) Preparing, distributing or mailing any campaign
12 literature, campaign signs or other campaign material on
13 behalf of any candidate for elective office.

14 (8) Managing a campaign for elective office.

15 (9) Participating in any recount or challenge of any
16 election.

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

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

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

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

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

30 "Senate employee in a supervisory position." An employee who

1 has a general supervisory role within: a caucus; an individual
2 Senator's office; or a Senate services office.

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

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

11 "Senate work time." Publicly paid work consisting in the
12 aggregate of 75 hours every two weeks for full-time employees
13 and an equivalent but lesser amount of publicly paid hours every
14 two weeks for part-time employees.

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

17 II. PRACTICE

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

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

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

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

30 (d) No Senate employee may be allowed any amount of Senate

1 work time for time spent doing campaign activities.

2 (e) Senate employees, with the permission of their employing
3 Senator, may reduce their Senate hours with a commensurate
4 reduction in pay (and benefits, as required) to perform campaign
5 activities. These arrangements should not be permanent and must
6 be memorialized in writing and filed with the Chief Clerk.

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

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

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

15 (1) In responding to "official" inquiries from the press
16 or constituents, a Senator or a Senate employee may need to
17 address questions that relate to a Senator's or other
18 person's campaign for elective office.

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

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

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

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

1 campaign website shall not contain a link to his or her official
2 State website.

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

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

8 (b) If an unsolicited contribution is sent to a Senate
9 office through the mail or in an unidentifiable form, the
10 employee who receives it shall turn it over to the campaign
11 within no more than seven days.

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

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

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

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

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

28 (c) A Senate employee who agrees to participate in any
29 campaign activity on his or her own time or who makes a campaign
30 contribution may not do so in consideration of receiving any

1 additional Senate compensation or employee benefit in the form
2 of a salary adjustment, bonus, compensatory time off, continued
3 employment or any other similar benefit.

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

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

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

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

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

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

22 (a) Official Senate mailing lists shall not be provided to
23 any campaign committee or used for any campaign purpose.

24 (b) Senate computers shall not be used to store or maintain
25 any mailing list that identifies the listed individuals as
26 campaign volunteers or contributors to any campaign.

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

30 (d) Mailing lists may be purchased at fair market value from

1 a private source with Senate funds if the lists are used solely
2 for legislative purposes. A mailing list that is so acquired may
3 not be used or redirected in the same or an enhanced form for
4 campaign purposes.

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

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

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

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

20 8. There shall be a standardized process for reporting any
21 alleged violation of these rules.

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

25 (1) A Senator.

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

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

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

1 designee.

2 (5) The employee's supervisor.

3 (6) The Secretary of the Senate.

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

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

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

18 9. An inquiry and review of all properly submitted reports
19 regarding an alleged violation of these rules shall be
20 conducted.

21 (a) The Secretary of the Senate shall conduct an initial
22 preliminary inquiry of any report involving more than a de
23 minimis violation of these rules. The subject of the report
24 shall be notified within five business days that a written
25 report has been filed. The Secretary of the Senate shall also
26 notify the President Pro Tempore, the Majority Leader and the
27 Minority Leader within five business days that a written report
28 has been filed. The Secretary of the Senate shall have 14
29 business days from the date of those notifications to complete
30 an initial inquiry and determine whether there is satisfactory

1 information for the initiation of a formal investigation and
2 shall report that recommendation to the President Pro Tempore,
3 the Majority Leader and the Minority Leader. If the Secretary of
4 the Senate or a person in the Secretary of the Senate's office
5 is the subject of an alleged violation, the responsibilities
6 under this paragraph shall be performed by the Chief Clerk of
7 the Senate.

8 (b) After receiving a recommendation from the Secretary of
9 the Senate that a formal investigation of more than a de minimis
10 violation of these rules is warranted, if the subject of the
11 report is a Senator, the President Pro Tempore, the Majority
12 Leader and the Minority Leader shall proceed to refer the report
13 to the Senate Committee on Ethics for an investigation by that
14 committee in accordance with Rule XXXV of the Rules of the
15 Senate of Pennsylvania. The provisions of Rule XXXV of the Rules
16 of the Senate of Pennsylvania shall exclusively govern and apply
17 in their entirety to any further proceeding involving a Senator
18 under this rule.

19 (c) After receiving a recommendation from the Secretary of
20 the Senate that a formal investigation of more than a de minimis
21 violation of these rules is warranted, if the subject of the
22 report is a Senate employee, the President Pro Tempore, the
23 Majority Leader and the Minority Leader shall proceed to obtain
24 the services of an independent entity to conduct a formal
25 investigation. Upon completion of the investigation, a report
26 shall be prepared containing findings of fact and a conclusion
27 as to whether a violation of these has occurred.

28 (d) After reviewing the findings of fact and the conclusion
29 contained in the report prepared pursuant to subsection (c)
30 regarding a Senate employee, the President Pro Tempore, the

1 Majority Leader and the Minority Leader shall issue a final
2 determination by unanimous vote regarding all of the following:

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

5 (2) Whether an employee sanction regarding that
6 violation is warranted.

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

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

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

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

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

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

26 (i) Retaliation is prohibited against any Senate employee
27 who files a report in good faith or who testifies in good faith
28 regarding an alleged violation of these rules.

29 10. A violation of these rules shall be subject to
30 appropriate sanction under this rule when not otherwise subject

1 to penalty under other applicable laws or regulations.

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

5 (1) A warning.

6 (2) A written reprimand.

7 (3) A permanent disciplinary action noted in the
8 personnel record.

9 (4) Restitution for damages.

10 (5) Suspension of employment.

11 (6) Termination of employment.

12 (b) A violation of these rules may subject a Senator to
13 sanction by the full Senate and may include any of the following
14 depending on the circumstances of the violation:

15 (1) A warning.

16 (2) A written reprimand.

17 (3) Restitution for damages.

18 (4) Any other sanction provided for under the Rules of
19 the Senate of Pennsylvania or the Constitution of
20 Pennsylvania.

21 11. Compliance with the financial interest statement
22 requirements and all other requirements under the Public
23 Official and Employee Ethics Act, 65 Pa.C.S. Ch. 11 (relating to
24 ethics standards and financial disclosure), shall be mandatory
25 for all Senators and designated Senate employees.

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

1 (b) Senators must file their financial interest statements
2 with the Secretary of the Senate and the Ethics Commission.
3 Affected Senate employees must file their financial interest
4 statements with the Secretary of the Senate.

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

8 (1) Contracting or procurement.

9 (2) Administering or monitoring grants or subsidies.

10 (3) Planning or zoning.

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

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

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

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

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

30 (3) The drafting and preparation of legislation or

1 resolutions, and any amendments to bills or resolutions,
2 including advice on decisions regarding bill or resolution
3 sponsorships.

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

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

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

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

27 (1) These rules.

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

1 (3) 65 Pa.C.S. Ch 13A (relating to lobbying disclosure).