

## **I. STATEMENT OF PURPOSE**

This Employee Code of Ethics (the “Code”) is intended to set forth, and govern, the ethical conduct of all individuals employed by Montgomery County (the “County”). In addition to the provisions of this Code, all employees are subject to and are expected to be familiar with the Pennsylvania Public Official and Employee Ethics Law, Act 93, Chapter 11 of 1998, as amended, 65 P.S. §§ 1101, et seq.

## **II. GENERAL PROVISIONS**

- A.** Reference to Montgomery County or the “County” herein shall not include the Judicial Branch or the elected Row Officers. Each Row Office operates independently and has the right to adopt its own policies, including this Code or its own Ethics Policy or Code of Conduct.
- B.** This Code of Conduct applies only to employees over which the Board of Commissioners has supervisory authority.
- C.** The Chief Operating Officer shall be responsible for communicating to all employees the provisions of this Code. These provisions will be covered as part of the orientation provided to all new and current employees and shall be included in the employee handbook.
- D.** As a condition of continued employment with the County, each person shall sign a statement to the effect that he/she has received a copy of this Code, understands its contents, and agrees to abide by established policies.
- E.** From time to time, the Chief Operating Officer may require additional training and/or orientation on issues related to ethics and employee conduct. Each employee shall be required to participate in any such additional training and or orientation.
- F.** Each employee of the County is charged with knowledge of this Code of Conduct and is expected to follow its mandates and intent. Should any employee of the County have reason to doubt the applicability of any provision to his/her conduct, it is the duty of that person to seek clarification from the Commissioners, the Chief Operating Officer, or their Department Manager.

- G. The Commissioners may modify all or part of this Code at their sole discretion.

### **III. CONFLICTS OF INTEREST: ACTUAL & POTENTIAL**

#### **A. Actual Conflict of Interest**

An actual conflict of interest is defined as the receipt of some personal benefit in exchange of the employee doing his/her job or in an effort to influence the employee's performance of his/her job. Employees shall not engage in behavior that creates an actual conflict of interest. An actual conflict of interest can arise when an employee exploits their employment in some way for his/her personal benefit.

#### **B. Potential Conflict of Interest/Appearance of Impropriety**

Employees must take all necessary steps to avoid potential conflicts of interest or the appearance of impropriety. A potential conflict of interest arises when an employee has the opportunity to exploit their employment for his/her personal benefit or when circumstances exist that create the impression that an employee is mis-using or abusing his/her position. Recognizing that certain potential conflicts of interest are unavoidable, all such potential conflicts of interests must be reported to the Commissioners, the Chief Operating Officer, and the County Solicitor immediately upon discovery.

#### **C. Specific Prohibitions**

Specific types of conduct create unacceptable actual or potential conflicts of interest. This conduct is prohibited. It includes but is not limited to, the following behavior by County employees:

1. Engaging in outside employment which might in any way interfere with or be in conflict with their duties as employees of the County;
2. Engaging directly or indirectly in any business transaction or private arrangement for profit which arises from or is based upon the employee's official position or authority;

3. Soliciting or receiving any benefit resulting in personal gain to him/herself (excluding County remuneration) or someone on his/her behalf, the receipt of which influences, or would be reasonably likely to influence, the performance of that employee's job within the County;
4. Representing or acting as agent for any private interest, whether for compensation or not, in any transaction in which the County has a direct and substantial interest and which could be reasonably expected to result in a conflict between a private interest of the employee and his/her official public responsibility;
5. Engaging in any personal business transaction which would be reasonably likely to negatively influence the performance of that employee's job within the County;  
or
6. Acting in violation of state and/or federal law, including but not limited to the Pennsylvania Public Official and Employee Ethics Law, Act 93, Chapter 11 of 1998, as amended, 65 P.S. §§ 1101, et seq.

#### **IV. POLITICAL ACTIVITY**

- A.** Employees of the County may participate in an individual capacity in political activities (such as campaigning, solicitation, fundraising, canvassing or poll watching) on their own personal time (personal time may not include any time during an employee's working hours, including, but not limited to compensatory time provided by the County), but only to the extent that such participation does not conflict or interfere with the performance of his/her duties and provided that such participation does not conflict with any applicable law, statute, regulation, management directive or other order. However, to the extent a County employee participates in any form of political activity on their own personal time, such employee shall not use their County title or identification in connection with such activities.
- B.** Employees of the County are prohibited from participating in any political activities during the employee's working hours,

and are prohibited from using County supplies, stationary, equipment, uniforms, and all other County resources in connection with any political activity. Moreover, County employees are prohibited from using any information obtained by them as a result of their employment with the County in connection with any political activity.

- C.** Employees of the County are prohibited from participating in any political activities on any property owned or leased by Montgomery County, except for those areas which are considered public spaces and which are generally open to members of the public.
- D.** No employee shall solicit or be solicited for political contributions as a condition of employment or with the intent of receiving a personal favor or other benefit related to their County employment.
- D.** An employee of the County who is a candidate for any public office to which remuneration is or is not attached must notify the Commissioners, the Chief Operating Officer, their immediate supervisor and the County Solicitor of same in writing at least two business days before any general public announcement of the candidacy or the filing of appropriate documents, whichever is earlier.
- E.** An employee of the County may not accept appointment to another governmental position without first notifying the Commissioners, the Chief Operating Officer and the County Solicitor of same in writing at least two business days before any general public announcement of the appointment. Included in these positions are appointments to state and local offices which may have no set term and which are uncompensated and advisory, but which are nonetheless charged with a governmental purpose.
- F.** No employee at any time shall be compelled, whether directly or indirectly, to perform political activity of any kind.
- G.** An employee of the County may participate in charitable, religious and any other public service volunteer work without limitation, subject to the other requirements of this Code.
- H.** No employee may be given a benefit in his/her job in

exchange for the performance of a political task.

**V. GIFTS**

- A.** No employee shall accept gifts, gratuities, favors, loans or any another item(s) from:
  - a. A person or business having a financial relationship with the County;
  - b. A person or business whose operations or activities are regulated or inspected by the County;
  - c. A principal and/or attorney in proceedings in which the County is an adverse party; or
  - d. Any person or business where the performance or non-performance of any official duty may be influenced or affected.
- B.** Gifts motivated solely by a family relationship or personal friendship may be accepted and are not prohibited by this Code.
- C.** Food and perishable items of nominal value may be accepted. Nominal value is considered One Hundred Dollars or less.
- D.** Those items intended to memorialize community events, special award presentations, unique occasions and other public appearances (i.e., plaques, medals, t-shirts, flowers, candy, baked goods and other perishable items) are assumed to have nominal value and therefore may be accepted.
- E.** If an employee is uncertain whether a gift offered from a member of the public is acceptable or considered of nominal value, the gift may be conditionally accepted, and the Commissioners, Chief Operating Officer, or County Solicitor shall be consulted as soon as practical regarding whether the gift may be kept, given to charity, or returned to the giver.

## **VI. MISUSE OF PERSONAL SERVICES AND COUNTY PROPERTY**

- A.** No employee shall receive, request, encourage or otherwise allow any employee to provide services of a personal nature to them during work hours. This includes any act of intimidation, undue influence or coercion. However, employees may voluntarily provide services of a personal nature for co-workers on personal time.
- B.** County materials and equipment are intended to be utilized for official county purposes. Personal usage is allowed only if “de minimus” in nature and reasonable under the totality of circumstances, as determined by the Commissioners, the Chief Operating Officer, or the County Solicitor. *However, under no circumstances shall any county materials or equipment be utilized for political purposes, even if considered “de minimus” in nature.*

## **VII. CONFIDENTIALITY**

- A.** All information, no matter how acquired during the course of employment with the County, is deemed strictly confidential unless such information has been previously made available to the public, and is not to be disseminated to the public unless expressly authorized to do so by Commissioners or Communications Director. Public dissemination includes information provided to family members, friends and the press. No County documents shall be removed from the office where the person is employed unless express permission has been granted. No County documents except public records may be copied, including electronic copies, unless express permission has been granted.
- B.** Social Media:
  - 1. The use of various social media platforms (Facebook, Twitter, MySpace, etc.) has become a part of everyday life for many people as a quick and inexpensive way to communicate with friends, coworkers, and others. However, employees should be aware that any items they post on social media platforms must comply with the Confidentiality policy, and all other policies, contained herein.

2. Employees that use social media platforms should be mindful that any items they post online may cause the public to reflect negatively not only upon the employee, but upon the County as well.
3. Employees are prohibited from posting any items on social media platforms that expressly or implicitly reference or relate to their employment with the County, including but not limited to, messages regarding personnel or policy matters. Employees are also prohibited from posting any items that may negatively affect the County.

#### **VIII. PERSONAL RELATIONSHIPS AFFECTING EMPLOYMENT**

No employee may directly supervise another employee with whom he/she has a familial or close intimate relationship, including marriage, domestic partners, co-habitation or dating.

#### **IX. ETHICAL VIOLATIONS – REPORTING/ENFORCEMENT/PENALTIES**

- A.** All employees are under an ethical obligation to disclose any violations of this Code to their immediate supervisor, who shall then report the alleged violation to each of the Commissioners, the Chief Operating Officer, and the County Solicitor. The obligation to report applies to any alleged violation which is either:
  1. Personally witnessed by the employee; or
  2. Where the employee has received reasonably reliable information that a violation has occurred.
- B.** Attorneys in supervisory roles must pay special attention to Pennsylvania Rule of Professional Conduct 5.1, infra, Responsibilities of Partners, Managers and Supervisory Lawyers, which holds certain individuals in supervisory positions accountable for the ethical violations of others (See Appendix “A”).
- C.** When a violation of the Code of Ethics is alleged to have occurred, the Chief Operating Officer, together with the Solicitor, shall gather all pertinent information related to any

alleged violation, make a determination as to whether a violation of the Code of Ethics has occurred, and report their findings in a written report (the "Findings of Fact") to the employee alleged to have committed the violation, with a copy to each of the Commissioners. In the event such employee disputes the Findings of Fact as determined by the Chief Operating Officer and the Solicitor, he/she may request that the Commissioners conduct a review of that determination. Such a request shall be made within 3 business days of receipt by the employee of the Findings of Fact. If at least one Commissioner determines that a review of the determination is warranted, the Commissioners shall then conduct a review of the alleged violation. In that event, the Commissioners, by a majority vote shall make a written determination as to whether a violation of the Code of Ethics has occurred

- D.** A determination of a violation of the Code of Ethics shall become final and unappealable:
  - a.** In the event the employee alleged to have committed the violation does not seek a review by the Commissioners of the Findings of Fact within 3 business days of receipt thereof; or
  - b.** In the event the Commissioners deny the request of the employee to review the determination of the Chief Operating Officer and Solicitor; or
  - c.** In the event the Commissioners conduct an review of the reported findings of the Chief Operating Officer and Solicitor and make a determination that a violation has occurred.
- E.** When a violation of the Code of Ethics is found to have occurred, and that determination is final as defined in Article IX.D. above, the discipline procedure applicable to that employee will be followed. Depending upon the seriousness of the violation, an employee may be reprimanded, suspended or terminated.
- F.** Any employee who reports a violation of this Code of Ethics shall be afforded all of the protections provided by the Pennsylvania Whistleblower Law, 43 P.S. 1421, et seq.

**X. SPECIAL RULES FOR ATTORNEYS**

Attorneys employed by the County:

- A.** Shall not refer to private attorneys any claims or actual cases which involve the County as an actual or potential adverse party, nor advise private attorneys regarding such matters;
- B.** Shall conduct themselves in accordance with 204 Pa. Code Chapter 81 (relating to the Rules of Professional Conduct) and, upon termination of County employment, shall carefully adhere to Pennsylvania Rule of Professional Conduct Rule 1.11, infra, Special Conflicts of Interest for Former and Current Government Offices and Employees;
- C.** If subject to the Pennsylvania Public Official and Employee Ethics Law, Act 93, Chapter 11 of 1998, as amended, 65 P.S. §§ 1101, et seq., shall follow the provisions of such law and any regulations thereunder;
- D.** Shall make timely payment of the annual registration fee to the Pennsylvania Supreme Court as a prerequisite to the practice of law in Pennsylvania and thus a condition of continued employment in the County; and
- E.** Shall ensure that they are complaint with the annual requirements of the Pennsylvania Continuing Education Board as a prerequisite to the practice of law in Pennsylvania and thus a condition of continued employment in the County.