

Ethics 2021



MONTGOMERY
COUNTY MD
Made of Something Stronger

Nicole Yaggle
Personnel Officer

Human Resources ◦ Personnel ◦ Civil Service ◦ Employee Benefits

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Deputy Personnel Officer



PURPOSE

- Training on Ethics, integrity and anti corruption is being provided by the Montgomery County Personnel Department and is a mandatory component of the Ethic's Policy established by resolution 201 of 2014 and pursuant to Section 806 of the General Municipal Law.
- Ethics training for public officials and employees as defined by resolution 201 of 2014, is essential for building integrity in government and ensuring quality public service as well as establishing rules of conduct which are to be observed with high degree of morality.

“No responsibility of government is more fundamental than the responsibility of maintaining the highest standards of ethical behavior by those who conduct the public business. There can be no dissent from the principle that all officials must act with unwavering integrity, absolute impartiality and complete devotion to the public interest. This principle must be followed not only in reality but in appearance. For the basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter.”

John F. Kennedy

Special Message to the Congress on Conflict-of-Interest Legislation
and on Problems of Ethics in Government.

April 27, 1961

County Officer/Employee Defined

- Defined by the Ethics Policy
- Paid or unpaid
- Members of Boards, Commissions, or other agency
- Policy making or
- Whose duties are not ministerial in nature or

County Officer/Employee Defined

- Who participate in negotiations, authorization or approval of contracts, leases franchises, revocable consents, concessions, variances, special permits, licenses (sec. 73 of POL)
- Purchase, sale, rental, lease of real property goods or services, or a contract therefore
- The obtaining of grants of money or loans or
- The adoption or repeal of any rule or regulation having the force and effect of law

County Officer/Employee

- County officers and employees are identified by the County Executive's office, County Attorney and a Member of the County Legislature
- A list of county officers and employees is compiled prior to January 31st of each year.
- County officers and employees shall NOT include;
 - Judges, Justice, Officer or employees of the Unified Court System.

Standards of Conduct



Every officer or employee of Montgomery County shall be subject to and abide by the following standards of conduct:

General prohibition:

A county officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal financial benefit for any of the following persons:

- The county officer or employee
- His or her outside employer or business
- A member of his or her immediate family or
- A person or from whom the officer or employee has received election campaign contributions of more than \$1,000 in the aggregate during the past twelve months

Gifts



Gifts

- No officer or employee of the County, whether paid or unpaid, shall directly or indirectly solicit, accept, or receive any gift or gratuity having a value of \$75 or more from any person, firm, corporation or bargaining unit that represents Montgomery County employees or affiliates of said bargaining unit which is directly or indirectly, in any manner whatsoever, in any business or professional transaction or dealing with the County or any agency thereof;

Gifts

- Nor shall any officer or employee, whether paid or unpaid, accept or receive, in any one calendar year, a combination of two or more gifts where the gifts individually are worth less than \$75 but in the aggregate are equal to or exceed a value of \$75 from a person, firm, corporation or bargaining unit that represents Montgomery County employees or affiliates of said bargaining unit which is directly or indirectly in any manner whatsoever in any business or professional transaction or dealing with the County or any agency thereof.

Gifts

- A gift, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise, ticket or in any other form, cannot be accepted under any circumstances in which it could reasonably be inferred that the gift was intended to influence in the performance of official duties or intended as a reward for any official action.

Gifts

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- General Area of Oversight – Gifts
 - A **gift** is defined as anything of more than \$75.00 given to a public official in any form, including, but not limited to, money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance, or promise, having a monetary value. (not only the gift itself, but accepting the opportunity to make use of the gift as well)
 - If you receive the gift and you pass it on to a colleague, you have still received the gift.....
 - The law has 7 gift exceptions.... Some of the gifts you are able to receive are.....

Excluded Gifts

1. Awards, plaques, and other ceremonial items.
2. An honorary degree.
3. Promotional items having no substantial resale value.
4. Goods and services or discounts for goods and services offered to the general public.
5. Gifts from a family member or member of the same household.
6. Meals or refreshments when participating in a professional or educational program when provided to all participants.
7. A ticket or comparable authorization if the ticket is widely available.

Confidential Information



Confidential Information

- He or she shall not disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her own personal interest.
- “In the course of your work, you may acquire information which is confidential. You are not to discuss this information with other employees or with anyone outside county government. Even casual conversation with other employees may be overheard and thereby violate our client’s right to privacy.” (Montgomery County Handbook (Rev. 2/2010) page 13.)

Confidential Information

- Information that is acquired in the course of official duties which is not available as a matter of public knowledge or public record or is not available by making inquiry to a publicly available source of information.
- Confidential information – any information that is not available to the general public and it can be in any form:
 - Written
 - Recorded
 - Computerized
 - Verbally transmitted, conversations or negotiations



Conflicts of Interest

- Use by a public official or public employee of the authority of his office or employment or any confidential information received through his or her holding public office or employment for the benefit of himself or herself, a member of his or her immediate family or a business or organization with which he/she or a member of his or her immediate family is associated.
- The term does not include an economic consequence that has an insignificant impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he/she or a member of his immediate family is associated.



Conflicts of Interest

- Conflicts of interest can cause an employee to act out of interests that are divergent from those of his or her employer or coworkers.
- Conflicts of interest are difficult to describe in a definition, so the following additional examples will illuminate the range of behaviors and actions that can fall within the definition of conflicts of interest.
- A male supervisor dates a female employee who reports to him or vice versa.
- A lawyer represents a client in a civil dispute while accepting fees from litigants who hold the opposing point of view.
- A purchasing agent hires a family member to provide vending services to the county.
- A department head accepts trips and gifts from a contractor and then selects the contractor to provide services to the county.
- An employee accepts free gifts and free products from a training and development company and then recommends the purchase of these products without comparing them to comparable products from other vendors.

Representation Before One's Own Agency

- ***Representation before one's own agency***, he or she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee.
- ***Representation before any agency of officer's or employee's municipality***, he or she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his or her municipality.

Private employment.

- He or she shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a ***conflict*** with or impairs the proper discharge of his or her official duties.

Outside Employment

- Cannot impair your independence of judgment
- One cannot disclose confidential information
- Absolutely no use of county time, materials or personnel

Revolving Door



Revolving Door

- A County officer or employee, after the termination of service or employment with such municipality, shall not appear before any board, agency, department or other administrative unit of the County of Montgomery in relation to any case, proceeding or application in which he or she personally participated, worked on and/or voted on during the period of his or her service or employment or which was under his or her active consideration for a period of two years.
- **Example:** On April 1, 2015, employee Y participated substantially in the negotiation and award of a contract valued at \$50,000 with vendor Y. On May 1, 2015, employee X left county service – because the contract was signed within two years from the date employee X left county service, employee X could not accept a job with Vendor Y until May 1, 2017– 2 years after employee X resigned from county service.

County Property

- Employees shall not directly or indirectly use or allow the use of property of any kind owned by the County of Montgomery, including property leased to the county, for anything other than official county business; nor shall he or she use Montgomery County resources or use his or her position as an officer or employee of the County of Montgomery to do anything or cause anything to be done that results in the securing of unwarranted benefits, privileges or exemptions for himself or herself or for any third party.
- Unauthorized or improper use of property or machinery, including County telephones, is conduct that may result in disciplinary action, per the Montgomery County Employee Handbook (Rev. 2/2010), p.12, Employee Conduct and Work Rules #7.

Nepotism

In hiring, he or she shall not take part in any hiring or employment decision relating to an immediate family member . If a hiring or employment matter arises relating to an immediate family member, then the officer or employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

In supervising, an immediate family member of an officer or employee may not be employed in a position where an immediate supervisor/subordinate relationship would exist.

Nepotism

In contracting. He or she shall not take part in any contracting decision:

- a. Relating to an immediate family member; or
- b. Relating to any entity in which an immediate family member is an officer, director or partner, or in which an immediate family member owns or controls 10% or more of the stock of such entity. If a contracting matter arises relating to an immediate family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

Disclosures

- **Annual Financial Disclosure**

- Before March 1 of each year, a statement of financial disclosure covering the preceding calendar year shall be filed by every county officer or employee designated pursuant to §102E of the Code of Ethics.

- **Transactional Disclosure**

- Every County officer or employee designated, who participates in the discussion or gives official opinion to the County Legislature or any board, agency, department or other administrative unit of Montgomery County shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest or conflict of interest he or she has in such discussion/legislation.

Gift Disclosure Statement

- On or before March 1 of each year, all County officers and employees shall be required to file, on an annual basis, a gift disclosure statement, covering the preceding calendar year affirmatively stating that they have neither accepted nor received any gift or gratuity from any person, firm, corporation or bargaining unit that represents Montgomery County employees or affiliates of said bargaining unit which is directly or indirectly, in any manner whatsoever, involved in any business or professional transaction or dealing with the county or any agency thereof during that time period or that he or she has accepted a gift or gratuity from any of the above-mentioned sources.
- All accepted gifts will be itemized on the gift disclosure statement.
- All completed gift disclosure statements will be forwarded to the Office of the Clerk of the Legislature.
- The Office of the Clerk of the Legislature will file all received gift disclosure statements with the Board of Ethics who will investigate pursuant to Article II of the Montgomery County Code of Ethics.



Penalties

- In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law. In addition, a violation of this local law may result in the imposition of the following penalties:
 - Disciplinary action
 - Damages
 - Civil penalty
 - Debarment
 - Misdemeanor

Void Contracts

- Any contract or agreement entered into by or with the County, which results in or arises from a violation of any provision of this local law shall be void unless ratified by the Montgomery County Legislature, local law or any other provision of law.

POWERS AND DUTIES, JURISDICTION

- The Ethics Board may act only with respect to elected officials, officers and employees of the County as well as such persons who engage in transactions with the County.
- The Board shall:
- Adopt, amend and rescind rules and regulations to govern procedures of the Board.
- Review completed disclosures of interest filed in accordance with the Article 1. §104 of the Code of Ethics no later than 90 days after the adoption of this local and by May 15 each year thereafter to ascertain whether any person subject to the reporting requirements of the Code of Ethics has failed to file such statement(s), has filed deficient statement(s) or has filed statement(s) which reveal a possible violation of the Code of Ethics.
- Receive, review, index and maintain on file (in the office of the Clerk of the Montgomery County Legislature) complaints alleging a violation of the Code of Ethics.

Violations of the Ethics Policy

- In the event the Ethics board receives a sworn complaint alleging a violation or;
 - If the Ethics board determines on its own initiative to investigate a possible violation the board shall;
 - Notify the reporting person in writing, describing the possible or alleged violation and;
 - Provide the person with a fifteen-day period in which to respond in writing.
 - If the board makes a determination that further inquiry is justified the board shall
 - Give the reporting person an opportunity to be heard.
 - If the board determines there is no violation or that a potential conflict of interest violation has been rectified, it shall so advise the reporting person and the complainant, if any.

Conclusion

- High ethical standards are essential for building integrity in government and ensuring quality public service!
- When ethical dilemmas arise, be sure that the decision you are making is in accordance with the Ethics Policy.
- When in doubt, seek assistance from the Ethics Board, HR and/or the County Attorney.
- This training reviewed only parts of the Ethics policy and therefore, it is essential that the policy is reviewed in its entirety.
- A signed acknowledgement sheet, has been attached and is to be returned to the Personnel Officer no later than **April 2, 2021**.
- Please retain a copy of the acknowledgment for your records.

Contact Information

- Meghan Manion, County Attorney (518) 853-4304
- Nicole Yaggle, Personnel Officer (518) 853-8368
- Joseph Emanuele, Deputy Personnel Officer (518) 853-8215
- Cheryl Reese, Clerk of the Legislature (518) 853-8338
- Reference ~
 - Ethics Policy resolution 201 of 2014
 - Montgomery County Handbook