



MONTGOMERY
C O U N T Y NY

Made of Something Stronger

Montgomery County

Code of Ethics

RESOLUTION No.201 of 2014

DATED: September 30, 2014

Montgomery County Code of Ethics

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ARTICLE 1 – CODE OF ETHICS

§101. PURPOSE.

Pursuant to the provisions of §806 of the General Municipal Law, the Montgomery County Legislature recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this article to promulgate these rules of ethical conduct for the officers and employees of Montgomery County. These rules shall serve as a guide for official conduct of the officers and employees of Montgomery County. The rules of ethical conduct of this article, as adopted, shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§102. DEFINITIONS.

As used in this article, the following terms shall have the meanings indicated:

- A. **AGENCY** - Any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, or committee of the County.
- B. **APPEAR** and **APPEAR BEFORE** – Communicating in any form, whether personally or through another person including by letter, by telephone or by electronic correspondence.
- C. **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.
- D. **CONFLICT OR CONFLICT 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.

- E. **COUNTY OFFICER OR EMPLOYEE** — An officer or employee of the County of Montgomery, whether paid or unpaid, including members of any administrative board, commission or other agency thereof who hold policy making positions or whose duties are not of a majority ministerial in nature, or which include duties involving the negotiation, authorization, or approval of:
- Contracts, leases, franchises, revocable consents, concessions, variances, special permits, licenses as defined in section seventy-three of the public officers law;
 - the purchase, sale, rental or 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

A list of “County Officers and Employees” shall be determined annually by the County Executive, the County Attorney and a member of the County Legislature, who shall be designated by the Legislature, who shall set forth in a written list which shall be promulgated by the County Executive, within 30 days of the effective date of this policy and prior to January 31st of each year. This list shall include the name of each officer, the office, department, agency and/or board in which he or she is a employee/member of and the title or job classification of such officers and employees.

“County officer or employee” shall not include a judge, justice, officer or employee of the Unified Court System. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a Chief or Assistant Chief.

- F. **GENERAL MUNICIPAL LAW** — The General Municipal Law of the State of New York.
- G. **GIFT** — Anything of more than nominal value 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.
- H. **INCOME** — Any money or thing of value received or to be received as a claim on future services or in recognition of services rendered in the past, whether in the form of a payment, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, reward, severance payment, proceeds from the sale of a financial interest in a corporation, professional corporation, partnership or other entity resulting from termination or withdrawal there from upon assumption of public office or employment or any other form of recompense or any combination thereof. The term refers to gross income and includes prize winnings and

tax- exempt income. The term does not include gifts, governmentally mandated payments or benefits, retirement, pension or annuity payments funded totally by contributions of the public official or employee or miscellaneous, incidental income of minor dependent children.

- I. **IMMEDIATE FAMILY MEMBER** — Spouse, child, parent, sibling, cousin, aunt, uncle, niece, nephew grandparent, grandchild (including step and in-law relationships), as well as any legal guardian of an officer or employee Montgomery County regardless of whether said person resides in the same household as the officer or employee. Immediate family member shall also include any other relative or person not listed above that resides in the same household as an officer or employee of the County.
- J. **INTEREST** — A pecuniary or material benefit accruing to a municipal officer or employee or to a municipal officer's or employee's immediate family member; or a firm, partnership or association of which such officer or employee is a member or employee; or a corporation of which such officer or employee is an officer or director; or a corporation, any stock of which is accrued or controlled, directly or indirectly, by such officer or employee.
- K. **MINISTERIAL ACT** — An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.
- L. **PERSON** — shall include individuals, entities, partnerships, associations whether incorporated or unincorporated, corporations, and organizations of whatsoever nature or form.
- M. **PUBLIC OFFICERS LAW** — The Public Officers Law of the State of New York.
- N. **SUBORDINATE** — of a County officer or employee shall mean another County officer or employee over whose activities he or she has direction, supervision, or control, except those who serve in positions that are in the exempt classification under section 41 of the Civil Service Law of the State of New York or in the unclassified service under subdivisions (a) through (f) of section 35 of that law.

§103. STANDARDS OF CONDUCT.

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

- A. **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:
 - (1) the County officer or employee;
 - (2) his or her outside employer or business;
 - (3) a member of his or her immediate family; or

(4) 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.

- B. **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; 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. 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.

The following are excluded from the definition of a gift:

- (1) **Awards, plaques, and other ceremonial items** which are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances, and further provided that the functionality of such items shall not determine whether such items are permitted under this paragraph;
- (2) **An honorary degree** bestowed upon a Montgomery County officer or employee by a public or private college or university;
- (3) **Promotional items** having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an organization's name, logo or message in a manner which promotes the organization's cause;
- (4) **Goods and services**, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as a Montgomery County officer or employee and offered on the same terms and conditions as the goods or services are offered to the general public or segment thereof;
- (5) **Gifts from a family member**, member of the same household, or individual with a personal relationship with the Montgomery County officer or employee, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor.

- (6) **Meals or refreshments** when participating in a professional or educational program and the meals or refreshments are provided to all participants;
 - (7) **A ticket or comparable authorization** entitling the holder to food, refreshments, entertainment, or any other benefit, if the ticket is widely available and not solely for the individual or group, or the one who takes the ticket has paid the face value of the ticket;
- C. **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 personal interest.
- D. **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.
- E. **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.
- F. **Investments in conflict with official duties.** He or she shall not invest or hold any investment, directly or indirectly, in any financial business, commercial or other private transaction which creates a conflict with his or her official duties.
- G. **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.
- H. **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.
- I. **Use of County property and resources.** He or she 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 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.

J. **Political solicitation.** A County officer or employee shall not knowingly request or knowingly authorize anyone else to request any subordinate of the officer or employee to participate in an election campaign or contribute to a political committee.

K. **Inducement of others.** A County officer or employee shall not induce or aid another officer or employee of the County to violate any of the provisions of this Code of Ethics.

L. **Nepotism.**

(1) 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.

(2) 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.

(3) 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.

M. **Advertisements by Elected by Elected Officials and Candidates.** Pursuant to the provisions of § 73-b of the Public Officers Law, no elected government official or candidate for elected local office in the County of Montgomery shall knowingly appear in any advertisement or promotion, including public or community service announcements, published or broadcast through any print or electronic media (including television, radio and internet) by any private or commercial entity or any other entity that publishes such advertisement for a fee, if the advertisement or promotion is paid for or produced in whole or in part with funds of the state, a political subdivision thereof or a public authority.

§104. DISCLOSURE OF INTEREST.

Required disclosures of Section A, B, and C of this section shall be filed with the Clerk of the Montgomery County Legislature who shall cause copy of that disclosure to be filed promptly with the Montgomery County Ethics Board.

- A. **Annual Financial Disclosure.** Within 60 days of the adoption of this local law and on or before March 1 of each year thereafter, a statement of financial disclosure, adopted by the Montgomery County Legislature, covering the preceding calendar year shall be filed by every County officer or employee designated pursuant to §102E of the Code of Ethics.

- B. **Transactional Disclosure.** To the extent that he or she knows thereof, any officer or employee of the County of Montgomery, whether paid or unpaid, 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 in the following manner by:
 - immediately refraining from participating further in the matter;
 - promptly informing his or her superior, if any; and
 - promptly filing with the Clerk of the Montgomery County Legislature a signed statement disclosing the nature and extent of the prohibited action.

- C. **Gift Disclosure Statement.** Within 60 days of the adoption of this local law and on or before March 1 of each year, all County officers and employees required to file an annual financial statement pursuant to §102E of the Code of Ethics shall, on an annual basis, complete a gift disclosure statement, adopted by the Montgomery County Legislature, 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.

§105. DISTRIBUTION OF CODE OF ETHICS AND TRAINING.

The County Executive of the County of Montgomery shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the County of Montgomery within 30 days after the effective date of this local law and shall further cause a copy of this local law to be posted in all County

owned or leased buildings. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his or her office or employment. Failure to distribute, post or receive a copy of this local law shall have no effect on the duty of compliance or the enforcement of the provisions of this local law.

All officials and employees subject to the requirements of the Code of Ethics are required to undergo annual training, to be implemented by the County Personnel Department, at the time of hire for new employees, and to be held between January 1 and March 30 of each year for existing employees, to inform and educate them as to the requirements of this Code. All those subject to the requirements of this Code are also to receive an updated and current version of this Code, or other appropriate training material, immediately prior to or during their annual training.

§106. SUITS AGAINST THE COUNTY.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the County of Montgomery or any agency thereof on behalf of himself or herself or any member of his or her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§107. PENALTIES FOR OFFENSES, FALSE STATEMENTS

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:

- A. **Disciplinary action.** Any County officer or employee who engages in any action that violates any provision of this local law may be subject to sanction as authorized by law or collective bargaining agreement, which may include, without limitation, warning, reprimand, suspension with or without pay, or removal from office or employment. Such sanctions may be imposed only by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this local law or in any other provision of law.
- B. **Damages.** Any person, whether or not a County officer or employee, who violates any provision of this local law shall be liable in damages to the County for any losses or increased costs incurred by the County as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this local law, other than a civil penalty pursuant to subdivision C. of this section.
- C. **Civil penalty.** Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this local law may be subject to a civil penalty to the County of up to three times the value of any financial benefit the person received as a result of the

conduct that constituted the violation. A civil penalty may be imposed in addition to any other penalty contained in any other provision of law or in this local law, other than damages pursuant to subdivision B. of this section.

- D. **Debarment.** Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this local law shall be prohibited from entering into any contract with the County for a period not less than five years. Nothing in this section shall be construed to prohibit any person from receiving a service or benefit, or from using a facility, which is generally available to the public. Under this section, a corporation, partnership, or other entity shall not be held vicariously liable for the actions of an employee. A corporation, partnership, or other entity shall not be debarred because of the actions of an employee unless the employee acted in the execution of company policy or custom. A store, region, division, or other unit of an entity shall not be debarred because of the actions of an employee of that unit unless the employee acted at the direction or with the actual knowledge or approval, of the manager of the unit.

- E. **Misdemeanor.** Any person, whether or not a County officer or employee, who intentionally or knowingly violates any provision of this local law may, in lieu of a civil penalty, be referred to the District Attorney for a violation and, upon such conviction, such violation shall be punishable as a Class A misdemeanor .

§108. 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.

ARTICLE II – BOARD OF ETHICS

§201. ETHICS BOARD: ESTABLISHMENT, APPOINTMENT & QUALIFICATIONS OF MEMBERS

Pursuant to the provisions of Article 18 of the General Municipal Law, there is hereby established a Board of Ethics consisting of five members to be appointed by the County Executive, subject to confirmation by the County Legislature. Said Board of Ethics shall consist of:

- A. Three members who shall not be, nor for a period of two years prior to appointment have been, officers or employees of Montgomery County or any municipality located in Montgomery County or employed or compensated by Montgomery County as a vendor/contractor.

- B. One member shall be an elected or appointed officer or employee of Montgomery County.

- C. One member shall be an elected or appointed officer or employee of a municipality located within Montgomery County.

Each member shall be a Montgomery County resident and remain so during the term of his or her appointment.

Each member of the Ethics Board shall, within fifteen (15) days of the date of his or her appointment, file with the Clerk of Legislature a financial disclosure statement as described in §104A. No Ethics Board member shall have any "interest" [as that term is defined by Section 801 of the General Municipal Law] in any contract or transaction with the County.

No Ethics Board member shall hold office in a political party or act as a lobbyist in the County. No member of the Board may make any political contribution or participate in any election campaign to any Covered Person or any candidates for County Office while a member of the Board of Ethics.

§202. TERMS OF OFFICE, VACANCIES, OFFICERS, MEETINGS.

- A. Within 30 days of the adoption of this local law, members of the Board of Ethics shall be appointed for terms of three years. The initial members shall be appointed as follows: Two members shall be appointed for a term of three (3) years; two members shall be appointed for a term of two (2) years; one member shall be appointed for a term of one (1) year. Thereafter, all members shall be appointed for terms of three (3) years.
- B. If the County Executive fails to make an appointment, on notice to the Clerk of the County Legislature, to fill a vacancy on the board within 60 days after such vacancy occurs, the County Legislature shall proceed to fill such vacancy by majority vote of its own number. If the County Legislature rejects an appointment of the County Executive to fill a vacancy on the Board, the County Executive shall have an additional 60 days after such rejection to make another appointment on notice to the Clerk of the County Legislature. If the County Legislature fails to act on an appointment of the County Executive within 60 days of submission of such appointment to the Clerk of the County Legislature, the appointment shall be deemed to have been confirmed. Whenever a vacancy occurs by expiration of a term, a member may continue his or her office until the vacancy is filled. No member shall serve more than two full consecutive terms except as set forth herein.
- C. Within 60 days of the adoption of this local law and by January 31st each year, the County Executive shall be responsible for convening the appointed members of the Board. The Board shall elect each year a Chairman and Secretary. The County Executive, or his designee, shall preside until a Board of Ethics Chairman is elected. Special meetings of the Board shall be held at the call of any member on at least three days' written notice, mailed to the last-known address of the members.

- D. Three members of the Board shall constitute a quorum for transaction of business. The Board of Ethics shall conduct no business except in the presence of a quorum.
- E. Within sixty days, the Board of Ethics shall adopt rules of proceeding for the conduct of its meetings, including the requirement that minutes shall be kept for every meeting, and establish regular meeting dates. Such records shall be kept and preserved in accordance with applicable law.
- F. The office of the County Executive shall provide such office space, equipment and clerical personnel as may be necessary to support the operation of the Board.

§203. COMPENSATION.

The members of the Board shall receive no salary or compensation for their services, but shall, within the appropriations provided therefor, be entitled to actual and necessary disbursements and expenses in performing the duties of their office.

§204. REMOVAL OF MEMBERS.

Members of the Board may be removed by the County Executive, subject to confirmation by the County Legislature.

§205. 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:

- A. Adopt, amend and rescind rules and regulations to govern procedures of the Board.
- B. 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.
- C. 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.
- D. Conduct hearings, determine violations, and assess penalties including: the recommendation of disciplinary action, imposition of any civil fine, referral of any matter to a prosecutor or render an advisory opinion.

- E. Prepare an annual report to the County Executive and the County Legislature summarizing the activities of the Board and recommending any changes in the laws governing the conduct of elected officials and officers and employees of the County. Said report shall be submitted by January 31st of the next fiscal year.

§206. COEXISTENCE WITH MUNICIPAL BOARDS OF ETHICS.

The Board of Ethics shall not act with respect to the officers and employees of any municipality located within the County, where such municipality has established its own Board of Ethics, except that a local Board of Ethics may refer matters to the County Board. However, the Ethics Board may provide advisory opinions regarding any transaction or activity involving any officer or employee of any municipality located within Montgomery County and the applicability of Article 18 of the General Municipal Law of the State of New York upon the written request of the governing board of such municipality.

§207. NOTICE OF FAILURE TO FILE STATEMENT(S).

If a person required to file disclosures of interest pursuant to Article I, §104 of the Code of Ethics has failed to file or has filed a deficient statement, the Board shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen-day period to cure the deficiency and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the Board shall direct the Clerk of the Legislature to send a notice of delinquency to the reporting person with copy to the County Executive and the County Legislature. The Board of Ethics shall direct the Clerk of the Legislature to produce a list of delinquent individuals who have failed to file their financial disclosure statement by June 1 and forward said list to all department heads as well as boards that have any members that are not in compliance.

§208. MAINTENANCE OF DISCLOSURES OF INTEREST.

The Clerk of the Montgomery County Legislature shall index and maintain on file for use by the Ethics Board each disclosure of interest filed pursuant to Article I, §104 of the Code of Ethics. Such files shall be maintained for at least seven years. Copies of all financial disclosure statements shall be public records and fully available under the Freedom of Information Law upon application to the County's records access officer.

§209. VIOLATIONS OF CODE OF ETHICS.

If a reporting person has filed a statement which reveals a possible violation of the Code of Ethics, or the Board receives a sworn complaint alleging such a violation, or if the Board determines on its own initiative to investigate a possible violation, the Board shall notify the reporting person in writing, describe the possible or alleged violation and provide the person with a fifteen-day period in which to submit a written response setting forth information relating to the activities cited as a possible or

alleged violation of law. If the Board thereafter makes a determination that further inquiry is justified, it shall give the reporting person an opportunity to be heard. If the Board determines at any stage of the proceeding that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the reporting person and the complainant, if any.

§210. PENALTIES.

A reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully, with intent to deceive, makes a false statement or gives information which such individual knows to be false on such statements of disclosure filed pursuant to Article I. §104 of the Code of Ethics may be assessed penalties as outlined in Article I. §107 of the Code of Ethics. Assessment of penalties hereunder shall be made by the Board of Ethics with respect to persons subject to its jurisdiction.

§211. FILING OF NOTICES.

A copy of any notice of delinquency or notice of violation sent pursuant to Article II. §207 or Article II. §209 hereof shall be included in the reporting person's file, copied to the County Legislature and the County Executive and be available for public inspection.

§212. ADDITIONAL POWERS AND DUTIES.

The Board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

§213. RECORDS AVAILABLE FOR PUBLIC INSPECTION.

- A. The records of the Board of Ethics which shall be available for public inspection for a period of seven years are:
- (1) The information set forth in an annual statement of financial disclosure filed pursuant to Article I. §104A of the Code of Ethics.
 - (2) The information set forth in the gift disclosure statement filed pursuant to Article I. §104B of the Code of Ethics.
 - (3) The information set forth in the contribution and gift sworn statements filed pursuant to Article I. §104C of the Code of Ethics.
 - (4) Notices of delinquency sent and delinquent list produced under Article II. §207 hereof.
 - (5) Notices of penalty assessments imposed under Article II. §210 hereof.
 - (6) Notices of violation sent under Article II. §209 and Article III. §307 hereof.

- B. No other records of the Board shall be available for public inspection. No meeting or proceeding of the Board shall be open to the public, except if expressly provided otherwise by the Board.

ARTICLE III – MONTGOMERY COUNTY PROFESSIONAL SERVICE AGREEMENT

§301. DEFINITIONS.

As used in this article, the following term shall have the meaning indicated:

PROFESSIONAL BUSINESS ENTITY — An entity seeking a public contract or agreement for professional service, public works, or purchase/lease of equipment, supplies and materials and which may be an individual, including the individual's spouse, if any, and any child living at home; a person; firm, corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity. The definition of business entity shall also include bargaining units that represent Montgomery County employees or affiliates of said bargaining units.

§302. CONTRIBUTIONS AND GIFTS.

- A. The County shall not enter into contracts or agreements for professional services, public works, or purchase/lease of equipment, supplies and materials with any professional business entity if and entity has solicited or made any contribution, including in-kind contributions, to any Montgomery County elected official which exceeded \$1,000 within one calendar year immediately preceding the date of the contract or agreement, without making said contribution known as outlined under §303 (A).
- B. It shall be a violation of the Montgomery County Code of Ethics for a professional business entity to:
 - (1) Make or solicit a contribution or gift in violation of Articles I or III of the Montgomery County Code of Ethics.
 - (2) Knowingly conceal or misrepresent a contribution or gift given or received.
 - (3) Make or solicit contributions or gifts through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

(4) Engage in the exchange of contributions or gifts that would circumvent the intent of Article III of the Montgomery County Code of Ethics.

(5) Directly or indirectly, through or by any other person or means, do any act which would subvert the provisions of Article III of the Montgomery County Code or the intent thereof.

§303. CONTRIBUTION & GIFT STATEMENT BY PROFESSIONAL BUSINESS ENTITY.

- A. **Contribution signed statements.** The County shall require a signed statement for any contract or agreement for professional services, public works, or purchase/lease of equipment, supplies and materials or any contract or agreement that requires formal bidding under the New York State General Municipal Law, the Montgomery County Charter or Local Law of Montgomery County that discloses all contributions made by the professional business entity within one calendar year immediately preceding the date of the contract or agreement which exceeded \$1,000.
- B. **Gifts signed statement.** The County shall require a signed statement for professional services, public works, or purchase/lease of equipment, supplies and materials or for any contract or agreement that requires formal bidding under the New York State General Municipal Law, the Montgomery County Charter or local law of Montgomery County, that discloses all gifts given, if any, by the professional business entity to any officer or employee of the County of Montgomery.
- C. **Reporting violations.** The professional business entity shall have a continuing duty to report any violations of Article III of the Montgomery County Code of Ethics that may occur during the negotiation or duration of a contract.

§304. CONTRIBUTIONS AND GIFTS MADE PRIOR TO EFFECTIVE DATE.

No contribution of money or any other thing of value, including in-kind contributions, and gifts made by a professional business entity shall be deemed a violation of this article; nor shall any contract or agreement be disqualified thereby, if that contribution or gift was given by the professional business entity prior to the effective date of this Ethics Code.

§305. RETURN OF EXCESS CONTRIBUTIONS.

A professional business entity, candidate for elected County office, officeholder, County party committee or political action committee (PAC) may cure a violation of Article III of the Montgomery County Code of Ethics if, within 60 days after the prohibited contribution is made known, the responsible party notifies the Board of Ethics in writing and seeks and receives reimbursement of the contribution.

§306. INSPECTION OF SIGNED STATEMENTS.

Contracts of agreement for professional services, public works, or purchase/lease of equipment, supplies and materials or any contract or agreement that requires formal bidding under the New York State General Municipal Law, the Montgomery County Charter or local law of Montgomery County shall have the contribution signed statement and the gift signed statement attached for inspection to ascertain whether any professional business entity subject to the reporting requirements of Article III of the Montgomery County Code of Ethics has filed a deficient statement or has filed a statement which reveals a possible violation of Article III of the Montgomery County Code of Ethics.

All statements that disclose contribution or gift-giving will be forwarded by the County Executive and to the office of the Clerk of the Legislature, who shall forward to the Board of Ethics for their review. A statement by the Board of Ethics will be returned to the Clerk of the Legislature who shall make copy available to the County Executive and County Legislature for any suspected violations.

§307. VIOLATIONS.

If the Board of Ethics determines a reporting professional business entity has filed a statement which reveals a possible violation of Article III of the Montgomery County Code of Ethics, the Board shall notify the reporting entity in writing, describe the possible or alleged violation and provide the entity with a fifteen-day period in which to submit a written response setting forth information relating to the activities cited as possible or alleged violations of law. If the Board thereafter makes a determination that further inquiry is justified, it shall give the reporting entity an opportunity to be heard. If the Board determines that a violation has occurred, it shall send notice of violation to the reporting person and to the County Executive and the County Legislature.

§308. PENALTIES FOR OFFENSES.

Any professional business entity that has been found by the Board of Ethics in violation of §302 through §303 of Article III of the Montgomery County Code of Ethics shall be disqualified from eligibility for future Montgomery County Contracts for a period not less than five years from the date of the violation.

§309. SEVERABILITY AND REPEALER.

- A. If any section, subsection, sentence, clause or phrase of the Montgomery County Code of Ethics is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of the Montgomery County Code of Ethics.
- B. All local laws or parts of local laws which are inconsistent with any provisions of this article are hereby repealed as to the extent of such inconsistencies.

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