

Bill No. 1923-05

No. 24-05-0R

## AN ORDINANCE

Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending Part 10, Article 1013, of the Administrative Code by amending the Accountability, Conduct and Ethics Code to clarify terms and to reinforce the intent of particular provisions of the Code.

**WHEREAS**, the Accountability, Conduct and Ethics Code was enacted in April of 2001 as Ordinance No. 35-01; and

**WHEREAS**, the Accountability, Conduct and Ethics (ACE) Commission has been in place since December of 2002; during its tenure, the Commission Members and corresponding staff have received questions on various items found within the Code that are unclear or confusing; and

**WHEREAS**, it is the desire of the ACE Commission that amendments be made to the Administrative Code that would clarify existing terms, clear up any confusion on the intent of particular provisions, and make other general improvements to the ACE Code;

***The Council of the County of Allegheny hereby enacts as follows:***

### ***SECTION 1.***

Article 1013, § 1013.03 is amended as follows:

#### **§ 5-1013.03. Definitions.**

The following words and phrases when used in this ~~Code~~ Article shall have the meaning given to them in this Section:

**AUTHORITY OF OFFICE OR EMPLOYMENT** – The actual power provided by law, the exercise of which is necessary to the performance of duties and responsibilities unique to a particular public office or position of public employment.

**BUSINESS** – Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

**BUSINESS WITH WHICH HE/SHE IS ASSOCIATED** – Any business in which the person or a member of the person's immediate family is a director, officer, owner, employee or has a financial interest.

**CANDIDATE** – Any person seeking an elected public office, who has filed the required nominating petitions with the appropriate Board of Elections, or in the case of a special election, has received the nomination of his or her respective nominating party. The term shall include individuals nominated or elected as write-in candidates unless they resign such nomination or elected office within 30 days of having been nominated or elected.

**COMMISSION or ACE COMMISSION** – The Accountability, Conduct and Ethics Commission.

**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.

**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 holding public office or employment for the benefit of himself, a member of his immediate family or a business or organization with which he/she or a member of his immediate family is associated. The term does not include an action having a de minimis economic 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.

**CONTRACT** – An agreement or arrangement for the acquisition, use or disposal by the County of consulting or other services or of supplies, materials, equipment, land or other personal or real property. The term shall not mean an agreement or arrangement between the County as one party and a public official or public employee as the other party, concerning his expense, reimbursement, salary, wage, retirement or other benefit, tenure or other matters in consideration of his current public employment with the County.

**COUNTY OFFICIALS** – Independently Elected Officers having powers, duties and responsibilities over a separately constituted County Office. The term “County Officials” shall be synonymous with the term “Row Offices” or “Independently Elected County Officials.”

**COUNTY OFFICERS** – The Chief Executive and Members of County Council.

**COVERED PERSONS** – All elected and appointed County Officers, County Officials and all County employees and members of County Agencies.

**DE MINIMIS ECONOMIC IMPACT** – An economic consequence that has an insignificant effect.

**IMMEDIATE FAMILY MEMBER** – Parent, step-parent, spouse, spouse’s parent, spouse’s step-parent, child, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, cousin, aunt, uncle, grandchild and grandparent.

**FINANCIAL INTEREST** – Any financial interest in a legal entity engaged in business for profit, which comprises more than 5% of the equity of the business or more than 5% of the assets of the economic interest in indebtedness.

**GIFT** – Anything that is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reported as required by law or a commercially reasonable loan made in the ordinary course of business.

**HONORARIUM** – Payment made in recognition of published works, appearances, speeches and presentations and which is not intended as consideration for the value of such services which are nonpublic occupational or professional in nature. The term does not include tokens presented or provided which are of de minimis economic impact.

~~**IMMEDIATE FAMILY** – Parent, step-parent, spouse, spouse's parent, spouse's step-parent, child, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandchild and grandparent.~~

**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 therefrom 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.

**MINISTERIAL ACTION** – An action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to or the exercise of the person's own judgment as to the desirability of the action being taken.

**NOMINEE** – Any person whose name has been submitted to a public official or governmental body vested with the power to finally confirm or reject proposed appointments to public office or employment.

**NONMINISTERIAL ACTIONS** – An action in which the person exercises his own judgment as to the desirability of the action taken.

**POLITICAL CONTRIBUTION** – Any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, purchase of a ticket to a testimonial or similar fund-raising affair, or subscription of money or anything of value, except volunteer services, in connection with a political campaign or for any partisan political purpose, and any contract, agreement, promise or other obligations, whether or not legally enforceable, to make a political contribution.

PUBLIC EMPLOYEE – Any individual employed by the County who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

- A. Contracting or procurement;
- B. Administering or monitoring grants or subsidies;
- C. Planning or zoning;
- D. Inspecting, licensing, regulating or auditing any person; or
- E. Any other activity where the official action has an economic impact of a greater than de minimis nature on the interests of any person.

REPRESENT – To act on behalf of any other person in any activity which includes, but is not limited to, the following: personal appearances, negotiations, lobbying and submitting bid or contract proposals which are signed by or contain the name of a former public official or public employee.

## **SECTION 2.**

Article 1013, § 1013.05 is amended as follows:

### **§ 5-1013.05. Initial/annual disclosure of interest.**

A. All elected and appointed County Officers, County Officials and Public Employees shall file with the County Manager a written statement in a form determined and published by the ~~Ethics~~ ACE Commission, and listing at a minimum:

1.A.—All gifts, except those from a family member or close personal friend when it is clear that the motivation for the gift is based on the family relationship or traditional practices among close friends, valued over \$100.00 and the name of the person or entity that gave the gift;

2. B.—The names and addresses of corporations, fictitious names, partnerships, ~~persons~~ business entities, or enterprises in which the ~~employee- individual~~ has a substantial financial interest or investment resulting in holding valued at more than \$5,000; five percent (5%) of the equity or more than five percent (5%) of the assets of economic interest in indebtedness;

3.C.—Every office or directorship held in any entity, either public or private, including any non-profit entity;

4.D.—~~Legal descriptions or popular Street~~ addresses of all real property owned in Allegheny County; upon application to the ACE Commission by an individual, this requirement may be waived for good cause; and

5.E.—If the individual has a family member who is employed by Allegheny County or any of its affiliated boards, agencies, or authorities, the first and last given names and addresses of all those immediate family members and their relationship to the individual

~~and an indication of whether any relative is employed by Allegheny County or any of its affiliated boards or authorities;~~

BF. The initial disclosure statement must be filed with the County Manager within ninety (90) days of the adoption and publication of a disclosure form by the Ethics ACE Commission., ~~or, in the case of a~~ New employees who are required to file a disclosure statement shall do so, ~~within thirty (30) days of their hire date., whichever~~ date is later.

GC. The annual disclosure statement must be filed with the County Manager on or before ~~April 15~~ May 1 each calendar year.

HD. The requirements set forth in this Code do not replace those in the State Elections Law and do not constitute the Filing of Financial Interest Forms or Expense Reports as is otherwise required by law.

E. Any individual who fails to file the disclosure statement required in this Article by the established deadline shall be given thirty (30) days to file such statement and thereafter shall be subject to disciplinary actions found within § 5-1013.28, which could include the withholding of compensation until such time that the disclosure statement is filed with the County Manager.

### **SECTION 3.**

Article 1013, § 1013.09-D is amended as follows:

#### **§ 5-1013.09. Standards of conduct.**

D. Disclosure of financial interests.

- (1) The requirements for disclosure of financial interests shall be those set forth in ~~the Public Official and Employee Ethics Law, Act 93, Chapter 11, of 1998~~ § 5-1013.05 and any other applicable state or federal law.

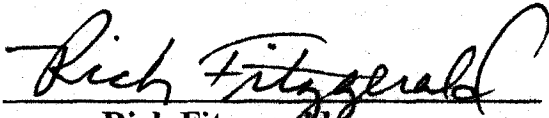
**SECTION 4.** *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

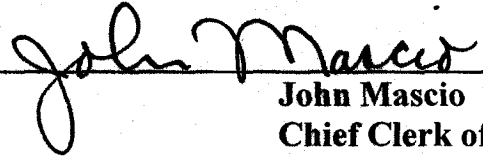
**SECTION 5.** *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

**SPONSORED BY COUNCIL MEMBER FAWCETT**

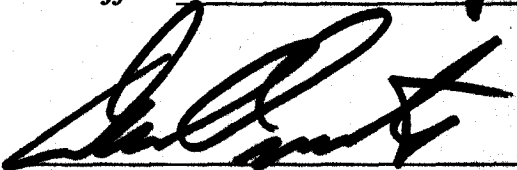
Enacted in Council, this 3<sup>rd</sup> day of May, 2005


Council Agenda No. 1923-05

  
Rich Fitzgerald  
President of Council

Attest:   
John Mascio  
Chief Clerk of Council

Chief Executive Office MAY 9, 2005

Approved:   
Dan Onorato  
Chief Executive

Attest:   
Donna Beltz  
Executive's Secretary