

Bill No. 3590-07

NO. 60-07-0R

ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending the Allegheny County Code of Ordinances, Division 1, entitled "Administrative Code," Article 1013 entitled "Political Activity; Accountability, Conduct and Ethics Code," in order to render the Article internally consistent.

WHEREAS, the Accountability, Conduct and Ethics Code of Allegheny County, contained within Article 1013 of the Administrative Code, contains numerous linguistic and typographical inconsistencies; and

WHEREAS, it is the desire of Council to remedy these technical inconsistencies;

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

SECTION 1.

The Administrative Code of Allegheny County, Article 1013, entitled "Political Activity; Accountability, Conduct and Ethics Code," is hereby amended as follows:

ARTICLE 1013

POLITICAL ACTIVITY; ACCOUNTABILITY, CONDUCT AND ETHICS CODE

§5-1013.01. Short title.

This Ordinance and all amendments hereto shall be known and may be cited as the "The Accountability, Conduct and Ethics Code of Allegheny County" or simply the "Ethics Code."

§5-1013.02. Purpose.

A. The purpose of this Accountability, Conduct and Ethics Code is to set forth the details for the accountability, conduct and ethics of Allegheny County (County) government consistent with the provisions of the Home Rule Charter of Allegheny County as adopted on May 19, 1998 and all applicable laws of the Commonwealth of Pennsylvania.

B. Allegheny County's elected and chief appointed officials set the ethical tone and environment that will prevail in the County. It is the special obligation of these officials to set the example of proper comportment, to communicate to all County personnel the ethical conduct that is expected, and to hold supervisors accountable for the enforcement of this Accountability, Conduct and Ethics Code.

§5-1013.01. Definitions.

The following words and phrases when used in this Code 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 or her 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 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 or her expense, reimbursement, salary, wage, retirement or other benefit, tenure or other matters in consideration of his or her 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.

“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.

“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.

“Non-Ministerial Actions.” An action in which the person exercises his or her 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:

1. Contracting or procurement;
2. Administering or monitoring grants or subsidies;
3. Planning or zoning;
4. Inspecting, licensing, regulating or auditing any person; or
5. 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.

§5-1013.04. Rules of construction.

For the purposes of this Accountability, Conduct and Ethics Code, the following rules of construction shall be observed unless otherwise provided in this Code and unless the context clearly indicates otherwise and unless the application of such rules would result in a construction inconsistent with the manifest intent of Council:

- A. “Shall” is mandatory and “May” is permissive;
- B. The singular includes the plural, and the plural includes the singular. Words used in the masculine gender include the feminine and neuter. Words used in the past or present tense include the future;
- C. The arrangement and classification of the Code have been made for the purpose of a convenient and orderly arrangement. No inference, implication or presumption of legislative construction shall be drawn because of the location of any provision, nor shall any outline, analysis, index or descriptive matter relating to the contents of the Code be given any legal effect;

- D. Any word not specifically defined shall be construed according to its common usage unless the context or the manifest intent of Council clearly indicates otherwise;.
- E. Title, article, chapter, section and section subdivision names are part of this Code. However, reference to titles, articles, chapters, sections or section subdivisions are not intended to be exclusive, or to exclude other titles, articles chapters, sections or section subdivisions which may be applicable;.
- F. Whenever a provision appears requiring the director of a Department or Division of the County to do something, is it to be construed to authorize the head of the Department to designate, delegate and authorize subordinates to perform the required act unless the terms of the provision or section require otherwise.

§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 Commission, and listing at a minimum:
 - 1. 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. The names and addresses of corporations, fictitious names, partnerships, business entities or enterprises in which the individual has a financial interest or investment resulting in holding more than five percent (5%) of the equity or more than five percent (5%) of the assets of the economic interest of ~~indebtedness~~ indebtedness;
 - 3. Every office or directorship held in any entity, either public or private, including any non-profit entity;
 - 4. 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. 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 those family members and their relationship to the individual;.
- B. 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 ACE Commission. New employees who are required to file a disclosure statement shall do so within thirty (30) days of their hire date;.
- C. The annual disclosure statement must be filed with the County Manager on or before May 1 each calendar year;.

- D. 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 Code by the established deadline shall be given thirty (30) days to file such statement and thereafter shall be subject to disciplinary actions found within Section 105.07, which may include the withholding of compensation until such time that the disclosure statement is filed with the County Manager.

§5-1013.06. Applicability of Code of Accountability, Conduct and Ethics.

All Covered Persons shall be subject to the provisions on restricted activities/standards of conduct set forth in this Chapter.

§5-1013.07. General ethical obligations.

A. All Covered Persons will be held accountable for adherence to the standards set forth in this Accountability, Conduct and Ethics Code. In matters of ethical dilemmas and conduct not covered under this Code, all Covered Persons are expected always to reflect on, and serve, what they believe to be in the public interest and not to serve personal interests and gain.

B. All Persons are subject to and are expected to be familiar with this Accountability, Conduct and Ethics Code, and the Pennsylvania Public Official and Employee Ethics Law, Act 93, Chapter 11, of 1998.

C. Individual ~~D~~departments and ~~A~~agencies may, as necessary, recommend conduct and procedures not inconsistent with this Code specifically applicable to the work of the ~~D~~department or ~~A~~agency. Such standards and procedures shall be forwarded to the County Manager for submission to County Council for approval.

§5-1013.08. Notification to covered persons.

A. The County Manager shall be responsible for communicating to all Covered Persons the provisions of this Chapter. These provisions shall be covered as part of orientation for new and current employees and included in the employee handbook.

B. Part of each orientation should be devoted to a discussion of the Accountability, Conduct and Ethics Code, and each person shall receive a personal copy. As a condition of continued employment, each person shall sign a statement to the effect that he or she has received such copy, understands its contents, and agrees to abide by established policies.

§5-1013.09. Standards of conduct.

All Covered Persons shall set and follow an example of proper conduct that shall include the following:

- A. Honor and Integrity

1. Dedicate themselves to the highest ideals of honor and integrity in all public relationships in order to merit the respect and confidence of Covered Persons, and the public.
- B. Serve the Public Interest
1. Serve the best interests of the public at all times with the recognition that this is the chief function of government.
 2. Seek to employ efficient and economical ways of accomplishing necessary tasks and functions.
- C. Confidentiality and Disclosure
1. Other than in the performance of his or her official duties, no Covered Person shall disclose, for his or her benefit, or the benefit of others, confidential information acquired by reason of his or her public position. Confidential information shall include information concerning and related to personnel matters, collective bargaining and arbitration, the purchase or lease of real estate, litigation and potential litigation, investigations of violations of the law and quasi-judicial deliberations, and the non-property tax records of individuals.
- D. Disclosure of Financial Interests
1. The requirements for disclosure of financial interests shall be those set forth in Section 102.01 and any other applicable state or federal law.
- E. Gifts, Loans, Benefits, and Considerations; Accepting Improper Influence
1. No Covered Person shall solicit, directly or indirectly, a gift, loan, reward, promise of future employment, benefit or consideration 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.
- F. Private Business/Financial Interests; Exerting Improper Influence

1. No Covered Person shall engage in any business transaction or private employment, or have any financial or other private interest, direct or indirect, which is to the detriment of the proper discharge of his or her official duties.
2. No Covered Person shall use, or attempt to use, his or her position to obtain financial gain, a loan, a contract, license, privilege, or other personal advantage, either direct or indirect.
3. No Covered Person shall attempt to influence the course of proposed County Council legislation in which / or she, or a family member or business associate has a present or potential conflict of interest or private interest, direct or indirect.

G. Patronage/Nepotism

1. No Covered Person shall unduly exert, negatively or positively, his or her influence to gain, or attempt to gain, preferential treatment on behalf of an applicant for employment or advancement with the County.
2. No family member of a County Official or County Officer shall be permitted to obtain full-time employment with the County or Agency except through the election to a public office.
3. No Covered Person shall supervise a family member.
4. Exceptions:
 - a. Where the family member is employed by the County prior to the election of a related County Officer or County Official or appointment of a related Agency member;
 - b. Where, after the County Officer or County Official has obtained elected office, or an Agency member has been appointed, an individual employed by the County becomes a family member;
 - c. Where individuals were employees prior to the adoption of this Code; or
 - d. For good cause shown, as established under this ordinance, where the County would suffer hardship as a result of the prohibition.

H. Fees for Service Restriction

1. No Covered Person shall, for a fee or other compensation, use the influence of his or her position to provide a special service or favor to an individual.

I. Offering Special Benefits

1. No Covered Person shall grant, offer, or provide any privilege or service beyond that which is available to all other similarly situated persons, businesses or entities.

J. Honoraria

1. No Covered Person shall accept an honorarium for any activity related to his or her official capacity. Covered Persons may accept normal travel, meals and awards from civic or business groups.

K. Contracts

1. No Covered Person, or a family member of a Covered Person, or a business or organization with which such individual is associated, may have an interest in a public contract if the Covered Person is authorized to exercise discretion over the contract.

L. Former Association

1. No former Covered Person shall represent a person, corporation or business with promised or actual compensation, on any governmental matter before the County government or any of its Aagencies with which he or she has been associated for one year after he/~~she~~ or she leaves that body.

M. Voting Conflict

1. Every Covered Person shall publicly disclose any direct or indirect financial or other private interest in any proposed legislation on which he or she would be required to vote. Covered Persons, who, in the discharge of their official duties, would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of the interest as a public record.

N. Misuse of County Resources

1. No Covered Person shall use, request, or permit the use of County resources, including, but not limited to, motor vehicles, equipment, and materials, except for County purposes.
2. No Covered Person shall use County mail to transmit mail that is personal or political in nature.
 - ia. Official mail is mail which relates to the official duties of all applicable employees of the Government of Allegheny County and which is authorized to be transmitted in the mail through the Department of Administrative Services, or through an

outside vendor under contract with the County or County employee.

- ii**b**. Official mail and prohibitions thereof shall also include those definitions provided for within Ordinance No. 52-03-OR.

O. Political Activity

1. Employees shall have the right to hold membership in a political party, to vote, to express publicly or privately opinions on political subjects and candidates, to maintain political neutrality, and to otherwise participate in political meetings and activities. Employees must engage in all such activities as private citizens, away from County workplaces, out of uniform and during non-working hours, except union officers in the normal conduct of union activities.
2. No Covered Person shall use the authority or influence of his or her office for the purpose of interfering with the result of an election.
3. No Covered Person shall solicit, directly or indirectly, any employee reporting to such Covered Person to engage in political activity or to suggest that such covered employee engage in such political activity. No Covered Person shall solicit, directly or indirectly, campaign contributions from a person reporting to such Covered Person.
4. County Council Members are prohibited from being employed, in a confidential administrative capacity, in local, state or federal government. For the purposes of this section:
 - (a) An individual shall be deemed to be employed in government in a confidential administrative capacity on if he or she:
 - (i) Is employed on the personal staff of any elected official in local, state or federal government, or is employed by any legislative body to function as personal staff for any elected official;
 - (ii) Is appointed to any post in federal or state government for which confirmation by either house of the United States Congress or the Pennsylvania General Assembly is required;
 - (iii) Is appointed to any cabinet-level post in federal or state government;
 - (iv) Holds the post of Municipal Manager or an equivalent position in any municipality within Allegheny County;

(v) Is an individual elected to any office in federal or state government or in any municipality or school district located in Allegheny County.

(b) No individual shall be deemed to be employed in a confidential administrative capacity by virtue of employment with a government agency for the purpose of performing nondiscretionary or purely ministerial functions. Individuals subject to and protected by federal, state or local civil service regulations shall be deemed to perform purely ministerial functions within the scope of such civil service employment for the purposes of this section.

(c) Notwithstanding the provisions of this section pertaining to the ability of individuals to hold elected or appointed office, County Council members shall remain bound by all rules governing abstention or other ethical guidelines as they apply to the members' other government employment.

P. Discrimination

1. No Covered Person shall, in any way, engage in discrimination on the basis of race, religion, creed, national origin, age, disability, sexual preference or gender. Nor shall any official or employee engage in any actions which are oppressive or which constitute harassment.

Q. Whistleblowing

1. Every Covered Person is encouraged to disclose any information which he or she believes evidences a violation of any law, rule or regulation.
2. Every Covered Person is encouraged to disclose any information which he or she believes evidences a clear misuse or waste of County funds, or an abuse of official authority, or which can result in a substantial and specific danger to the public's health or safety.
3. No Covered Person shall be penalized for, nor take any action to punish another, for whistleblowing.
4. Every Covered Person is encouraged to expose corruption wherever discovered.

§5-1013.10. Establishment of Accountability, Conduct and Ethics Commission.

A. There is hereby established a five (5) member Accountability, Conduct and Ethics Commission, hereinafter the ACE Commission. The ACE Commission generally shall be empowered to receive, investigate and make findings and recommendations concerning

complaints alleging the violation of this Accountability, Conduct and Ethics Code. The make-up of the ACE Commission shall consist of three (3) members of the majority party of Council and two (2) members of the minority party of Council.

- B. The minority caucus of County Council shall nominate candidates for two (2) members and the majority caucus of Council shall nominate candidates for three (3) members. Names of the nominees are to be submitted to the Chief Clerk for placement on Council's Regular Meeting Agenda. Nominees shall be appointed by an affirmative vote of at least a majority of the seated members of Council.

§5-1013.11. Member qualifications.

- A. Members of the Commission shall be voters of the County.
- B. No more than three (3) of the members shall have the same political party affiliation.

§5-1013.12. Prohibitions.

- A. Members of the Commission shall not be, nor for a period of four years prior to appointment have been, County Officers or employees or employed or compensated by any County contractor.
- B. No member of the Commission may make any political contribution to any Covered Person or any candidate for County Office while a member of the ACE Commission.

§5-1013.13. Terms of office.

The initial members of the ACE Commission shall be appointed to the following terms of office: One member shall be appointed for a term of five (5) years; one member shall be appointed for a term of four (4) years; one member shall be appointed for a term of three (3) years; one member shall be appointed for a term of two (2) years; and one member shall be appointed for a term of one (1) year. Thereafter, all members shall be appointed for terms of five (5) years.

§5-1013.14. Filling of vacancies.

In the case of a vacancy, the respective appointing body shall, within ninety (90) days of the vacancy, make an appointment to fill the unexpired term.

§5-1013.15. Removal.

ACE Commission members may be removed only for cause by County Council. Any ACE Commission member so removed may request, and be granted, a hearing before the County Council at which time such member may show cause why he or she should not be removed.

§5-1013.16. Organization of the ACE Commission.

Within thirty (30) days of the appointment of the ACE Commission, the President of the County Council shall be responsible for convening the appointed members of the ACE Commission. At this meeting, the ACE Commission shall elect one of its members as ~~Chairman~~ Chairperson. The

President of the County Council, or his designee, shall preside until an ACE Commission ~~Chairman~~ Chairperson is elected.

§5-1013.17. Quorum.

Three (3) ACE Commission members shall constitute a quorum for the transaction of business. The ACE Commission shall conduct no business except in the presence of a quorum.

§5-1013.18. Compensation.

Members of the ACE Commission shall receive no compensation for the performance of their duties. Members of the ACE Commission shall be reimbursed for travel and other necessary expenses incurred in the course of the performance of their duties.

§5-1013.19. Minutes and records.

The ~~Chairman~~ Chairperson of the ACE Commission shall ensure that appropriate measures are taken to keep minutes of the Commission's proceedings and records of other official actions. Such records shall be kept and preserved in accordance with applicable law.

§5-1013.20. Rules and procedures.

The ACE Commission shall adopt procedures and rules of conduct for its activities within sixty (60) days of its first organizational meeting.

§5-1013.21. Administrative Support

The County Manager shall furnish to the Commission such clerical assistance and supplies as may be deemed reasonable.

§5-1013.22. Complaint.

- A. Any individual who believes that an action or omission of a covered person is in violation of this Ethics Code shall have the right to lodge a formal complaint with the ACE Commission.
- B. A Complaint alleging a violation of this Article shall be in writing and filed with the Office of the Manager and the Chairperson of the ACE Commission, and shall contain the following before it will be considered by the ACE Commission:
 - 1. The name of the covered person (the ~~r~~Respondent) and the position or office held by the ~~r~~Respondent;
 - 2. The name, address and phone number of the person filing the complaint (~~e~~Complainant);
 - 3. A statement of alleged facts and circumstances that the complainant believes in good faith constitutes a violation of this Ethics Code; and

4. A sworn verification signed by the eComplainant.

B. Within five (5) days of the receipt of the Complaint, the Office of the Manager shall:

1. Date stamp the Complaint;
2. Acknowledge, in writing, the receipt of the Complaint to the complainant;
3. Keep the substance of the Complaint confidential; and
4. Submit the Complaint to the ACE Commission; and
5. Notify the Respondent.

§5-1013.23. Preliminary inquiries.

- A. The ACE Commission shall commence a preliminary inquiry regarding an alleged violation of Chapter 105 within thirty (30) days of the receipt of a Complaint.
- B. A preliminary inquiry shall be terminated or opened as a full investigation within forty-five (45) days of the initiation thereof. A preliminary inquiry is considered initiated at the time when it is officially docketed with the ACE Commission.
- C. The Commission shall keep information, records and proceedings relating to a preliminary inquiry confidential.
- D. If, after preliminary inquiry, there is reason to believe that the Code of Accountability, Conduct and Ethics has been violated, the Commission shall commence an investigation. An investigation will be considered commenced when the respondent is notified.
- E. If the preliminary inquiry establishes reason to believe that the Code of Accountability, Conduct and Ethics was violated, the Commission may initiate a full investigation.
- F. The Commission shall close the preliminary inquiry if any of the following applies:
 1. The occurrence giving rise to the complaint occurred prior to the adoption of the Accountability, Conduct and Ethics Code;
 2. There is no reason to believe that the Code of Accountability, Conduct and Ethics has been violated; or

3. The respondent is not a person subject to the Code of Accountability, Conduct and Ethics; ~~or~~.

G. If the preliminary inquiry is closed, the Commission shall notify the ~~e~~Complainant and the ~~r~~Respondent within five (5) days.

§5-1013.24. Conduct of investigation

- A. The Commission shall have the authority to conduct interviews, take statements, receive and inspect documents and records and otherwise obtain evidence and gather information by lawful means, including subpoena power.
- B. Within sixty (60) days of commencing the investigation, the Commission will do one of the following:
 1. Terminate the investigation and notify the ~~e~~Complainant and the ~~r~~Respondent;
 2. Extend, upon a showing of need, the investigation for a period not to exceed sixty (60) days; or
 3. Issue a findings report that sets forth the pertinent facts and affords the ~~r~~Respondent an opportunity to reply to the findings and to request an evidentiary hearing; or
- C. The ~~r~~Respondent shall file a response to the findings report of the Commission within thirty (30) days, unless an application for an extension is made to the Commission and granted for good cause shown. The ~~r~~Respondent shall admit to or deny the allegations; or.
- D. If an investigation indicates that no violation has been committed, the Commission will immediately terminate the investigation and send written notice of the determination to the ~~e~~Complainant and the person who was the subject of the investigation; or.
- E. The ACE Commission shall develop such other procedures and rules of conduct for its activities as it deems necessary.

§5-1013.25. Hearings.

- A. The Commission will conduct hearings upon the request of a ~~r~~Respondent. A ~~r~~Respondent shall request a hearing in his or her response to the findings report. Failure to request a hearing within the time period will be deemed a waiver.
- B. A hearing will be held within forty-five (45) days after the ~~r~~Respondent's answer to the findings report unless the time is extended upon application for good cause shown.

- C. A notice of hearing will be issued to the rRespondent, unless represented by counsel, in which case to counsel, within a reasonable period of time prior thereto. The notice will advise of the date, time and location of the hearing, and of the hearing rights, privileges, process and procedures in this section.
- D. The Commission may establish such rules of conduct for hearings, as it deems advisable in accordance with the normal procedures of due process.

§5-1013.26. Discovery.

- A. Upon request, the rRespondent will be given access to evidence the Commission intends to use at the hearing, as well as any exculpatory evidence developed during the investigation.
- B. Access to evidence does not include information that is otherwise privileged.

§5-1013.27. Confidentiality.

The hearing and papers, records and disclosures therein will be confidential except for the contents of the final order.

§5-1013.28. Final Action of Commission.

The Commission shall, upon finding of wrongdoing under the provisions of this ordinance, recommend penalties as provided by this subsection:

- A. In cases where the violation of this ordinance is also a violation of federal or state law, the matter shall be turned over to the proper authority for criminal prosecution.
- B. In cases where the violation is a violation of the rules of this ordinance, the following penalties shall be available to the Commission:
 - 1. Admonition. A letter to the rRespondent, the eComplainant, County Council, and the Chief Executive or appropriate elected County Official, indicating that the rRespondent has been found to have violated this ordinance;.
 - 2. Censure. Notification to the rRespondent, the eComplainant, County Council, and Chief Executive, or appropriate elected County Official, indicating that a violation of this ordinance took place, and expressing strong disapproval of the rRespondent's actions;.
 - 3. Suspension. County and agency employees may be suspended without compensation in compliance with existing personnel practices and collective bargaining agreements;.

4. Expulsion/Dismissal. Revoke employment or contract with the County in compliance with existing personnel practices and collective bargaining agreements;
5. Removal. Recommend the removal of elected officials under provisions of the Home Rule Charter or by law.

§5-1013.29. Disposition.

Upon receiving any findings, conclusions and recommendations from the ACE Commission for the imposition of sanctions or penalties under this provision, the County Council and Chief Executive or appropriate elected County Official shall take appropriate action. The Chief Executive or appropriate elected County Official shall notify the County Council and ACE Commission of the disposition of all recommendations within thirty (30) days of receipt.

§5-1013.30. Appeal.

Upon disposition of the Commission's recommendation, any aggrieved party within thirty (30) days may file an appeal to the Court of Common Pleas in accordance with applicable law.

§5-1013.31. Summary report to Council and Chief Executive.

The Commission shall report its conclusions and recommendations on all Complaints to County Council and the Chief Executive. The Chairman of the Commission shall be required to provide Council with an annual report.

§5-1013.32. Severability.

The provisions of this Accountability, Conduct and Ethics Code are severable, and if any provision is held illegal, such illegality shall not affect the remaining provisions. It is the legislative intent of the Council that the Code would have been adopted if such illegal provision had not been included.

§5-1013.33. Effective date.

Unless otherwise provided, this Accountability, Conduct and Ethics Code shall become effective immediately upon its approval in accordance with the provisions of the Home Rule Charter and the Administrative Code.

§5-1013.34. Application.

Nothing herein shall be construed or interpreted to in any way make the provisions of the Accountability, Conduct and Ethics Code applicable on a retroactive basis. All provisions of this Code shall be applied on a prospective basis.

SECTION 2.

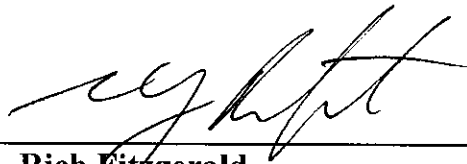
If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

PRIMARY SPONSOR: COUNCIL MEMBER FAWCETT

CO-SPONSOR:

Enacted in Council, this 18th day of December, 2007,

Council Agenda No. 3590-07.



Rich Fitzgerald
President of Council

Attest:

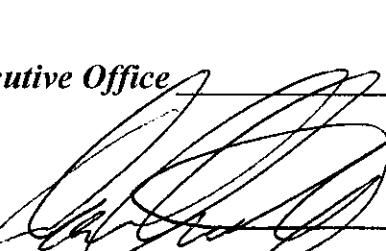


John Mascio
Chief Clerk of Council

Chief Executive Office

December 20, 2007

Approved:



Dan Onorato
Chief Executive

Attest:



Donna Beltz
Executive's Secretary