

NO. _____

ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending Article 1013 of the Administrative Code, which is known as the “Accountability, Conduct and Ethics Code of Allegheny County” in order supplement the provisions pertaining to political activity as set forth in §5-1013.09.O, as well as to clarify certain definitions in §5-1013.03 and the applicability of the County’s annual financial disclosure requirements in §5-1013.05.

WHEREAS, a stated purpose of the Ethics Code is: “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 [and] to communicate to all County personnel the ethical conduct, that is expected...” Administrative Code of Allegheny County, §5-1013.02 B; and

WHEREAS, pursuant to §5-1013-09 A (1) of the Ethics Code, all “covered persons”, including all County employees are to “dedicate themselves to the highest ideals of honor and integrity in all public relationships in order to merit the respect and confidence of the public; and

WHEREAS, it is the judgment of Council that maintaining the respect and confidence of the public in County government is of paramount importance; and

WHEREAS, it is further the judgment of Council that avoidance of even the appearance of any potential conflict of interest between individuals elected to County office’s duties to the residents of Allegheny County and their duties pursuant to certain categories of employment with other governmental entities is necessary in order to foster this confidence; and

WHEREAS, it is also Council’s desire to clarify the applicability of the County’s annual disclosure of financial interest requirements; and

WHEREAS, the Council of Allegheny County has determined, by this Ordinance, to give direction to covered persons under the Ethics Code specification as to the extent of permitted activity thereunder, consistent with Council's duty pursuant to §5-1013.02 of the Ethics Code to communicate to all covered persons the conduct that is expected of them; and

WHEREAS, in so doing, Council intends to foster the highest ideals of honor and integrity in all public relationship in order to merit the respect and confidence of the public in keeping with Section 5-1013.09 of the Ethics Code.

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

SECTION 1. Incorporation of the Preamble.

The preamble to this Ordinance is hereby incorporated in its entirety herein.

SECTION 2. Amendment of the Code.

The Administrative Code of Allegheny County, Article 1013, known as the “Accountability, Conduct and Ethics Code of Allegheny County,” §5-1013.03, §5-1013.05, and §5-1013.09.O are hereby amended as follows:

§ 5-1013.03. Definitions.

The following words and phrases, when used in this code, shall have the meanings 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 AGENCY - Any County department or County-related board, commission, district, committee, council, or other governmental or quasi-governmental entity previously created or established by the County or that may be created or established in the future by the County.

COUNTY AUTHORITY – A body corporate and politic and an instrumentality of the Commonwealth of Pennsylvania singularly or jointly created by the County to perform an important governmental function. The term “authority” specifically shall include those entities listed in § 5-203.01 of the County’s Administrative Code.

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.

DOMESTIC PARTNER – A person who cohabitates or resides with an unrelated person in the same dwelling.

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.

NONMINISTERIAL 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 fundraising 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 nonministerial 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.

§ 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, domestic partner or close personal friend when it is clear that the motivation for the gift is based on the ~~family~~ relationship or traditional practices among the family members, the domestic partner, or close friends valued over \$100 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 5% of the equity or more than 5% of the assets of the economic interest of indebtedness;
- (3) Every office or directorship held in any entity, either public or private, including any nonprofit 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 or domestic partner who is employed by Allegheny County or any ~~of its affiliated boards, agencies, or authorities~~ County agency or County authority, the first and last given name and address of the domestic partner or the names and addresses of those family members and their relationship to the individual.

§ 5-1013.09 Standards of conduct.

All covered persons shall set and follow an example of proper conduct that shall include the following:

* * *

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 nonworking 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 if he or she:

[1] 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;

[2] 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;

[3] Is appointed to any cabinet-level post in federal or state government;

[4] Holds the post of Municipal Manager or an equivalent position in any municipality within Allegheny County;

[5] 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.~~

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SECTION 3. Effective Date.

This Ordinance shall be deemed effective upon the date of final approval, provided, however, that the amendment to §5-1013.09.O(4) made herein shall not apply during the current term of office of any member of Council seated as of the date of final approval.

SECTION 4. Severability. 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. Repealer. 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.

PRIMARY SPONSOR: COUNCIL MEMBER DeMARCO

CO-SPONSORS: COUNCIL MEMBER MACEY

Enacted in Council, this _____ day of _____, 2022,

Council Agenda No. _____

President of Council

Attest: _____

**Jared E. Barker, Chief Clerk
Allegheny County Council**

Chief Executive Office _____, 2022

Approved: _____

**Rich Fitzgerald
Chief Executive**

Attest: _____

**Sonya Dietz
Executive's Secretary**