



# **Montgomery County Ethics Commission**

## **Code of Ethics Training**

# *Montgomery County Ethics Commission Training*

- Welcome to the County of Montgomery Ethics Commission training. This program is intended to give you a general overview of the Code of Ethics (or “Ethics Code”) governing your conduct as a county public servant or county lobbyist or vendor.
- As you proceed with this training, please note that ethical conduct involves more than merely following the code. As a public servant, the public’s image of the county is based on your conduct. Therefore, the county expects you to conduct yourself in a fair and honest manner. You should avoid creating even the slightest appearance of impropriety.
- For further guidance, please contact the County Human Resources Department or County Attorney’s Office.

# *Montgomery County Ethics Commission Training*

## **The following topics will be covered in this training:**

- Enabling Legislation
- Who the Code applies to
- Types of Violations
- Some Important Definitions
- Lobbyists
- Vendors
- Conflicts of Interest in:
  - Procurement
  - Employment
  - Outside Employment
- Post Employment Restrictions
- Gifts and/or Benefits
- Statements of Financial Interest
- Political Activity
- Campaign Contributions
- Reporting Violations
- Complaint Filing Procedures

# *Montgomery County Ethics Commission Training*

- The Texas State Legislature in 2019 expanded Chapter 161 of the Local Government Code making Montgomery County subject to its provisions. In December of 2019 the Montgomery Commissioners Court created the Montgomery County Ethics Commission.

**LOCAL GOVT. CODE CHAPTER 161**

# *Montgomery County Ethics Commission Training*

**The following are subject to Montgomery County's Code of Ethics pursuant to the Local Government Code, Chapter 161:**

- **County Public Servant** means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for or assumed the duties of office:
  - a County Officer or County Employee;
  - a person appointed by the Commissioners Court or a County Officer to a position on one of the following, whether the position is compensated or not:
    - an authority, board, bureau, commission, committee, council, department, district, division, or office of the county; or
    - a multi-jurisdictional board;
  - an attorney at law or notary public when participating in the performance of a governmental function;
  - a candidate for nomination or election to an elected County Office; or
  - a person who is performing a governmental function under a claim of right although the person is not legally qualified or authorized to do so.

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- As provided by Local Government Code 161.002(8)(b), any person appointed by the commissioners court to a position on a board or commission, whether the position is compensated or not, is subject to the Ethics Code. Such boards include, but are not limited to the:
  - Montgomery County Airport Advisory Board
  - Montgomery County Animal Shelter Advisory Board
  - Montgomery County Bail Bond Board
  - Montgomery County Civil Service Commission
  - Montgomery County Ethics Commission
  - Montgomery County Historical Commission
  - Montgomery County Hospital District Board
  - Montgomery County Housing Authority Board
  - Montgomery County Investment Committee
  - Montgomery County Library Advisory Board
  - Montgomery County Public Health District Board
  - Montgomery County Towing Advisory Board
  - Montgomery County Veterans Advisory Board
  - All Montgomery County Emergency Service District Board Appointments
  - Montgomery Central Appraisal District (only Montgomery County appointment(s))

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Two basic types of Ethics violations exist under the Local Government Code:

- A Category One Violation means a violation of the Ethics Code that is generally not difficult to ascertain whether the violation occurred or did not occur. For example Category One Violations include:
  - Failing to file a required statement or report;
  - Failing to file a required statement or report in a timely manner;
  - A misrepresentation in a required report; and
  - Failure to respond to a notice as required under the Local Government Chapter 161.

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- A Category Two Violation is any violation of the Ethics Code that is not a Category One violation. For example Category Two Violations include:
  - Recommending a purchase be made from a business that the county employee has a substantial financial interest in;
  - Accepting a prohibited gift; and
  - Utilizing a county printer for political flyers.



# Montgomery County Ethics Commission Training

## Important Definitions:

- Family members include:

RELATIVES BY DEGREES		
1st Degree	2nd Degree	3rd Degree
Spouse	Granddaughter and spouse	Great-grandmother and spouse
Mother and spouse	Grandson and spouse	Great-grandfather and spouse
Father and spouse	Grandmother and spouse	Great-granddaughter and spouse
Daughter and spouse	Grandfather and spouse	Great-grandson and spouse
Son and spouse	Sister and spouse	Niece and spouse
Mother-in-law	Brother and spouse	Nephew and spouse
Father-in-law	Sister-in-law	Aunt and spouse
Stepdaughter	Brother-in-law	Uncle and spouse
Stepson	Grandmother-in-law	Half-aunt and spouse
	Grandfather-in-law	Half-uncle and spouse
	Step-granddaughter	Great-grandmother-in-law
	Step-grandson	Great-grandfather-in-law
	Half-sister and spouse	Aunt-in-law
	Half-brother and spouse	Uncle-in-law
	Stepsister and spouse	Niece-in-law
	Stepbrother and spouse	Nephew-in-law
		Step-great-granddaughter
		Step-great-grandson
		Step-niece and spouse
		Step-nephew and spouse
		First cousins

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## **Important Definitions:**

- Substantial financial interest means:
  - A person has a substantial financial interest in a business entity if:
    - the person owns ten percent (10%) or more of the voting stock or shares of the business entity; owns either ten percent (10%) or more, or \$15,000.00 or more of the fair market value of the business entity; or
    - funds received by the person from the business entity exceed ten percent (10%) of the person's gross income for the previous year.
  - A person has a substantial financial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500.00 or more.
  - A local public official is considered to have a substantial financial interest under this section if a person related to the official pursuant to the definition of “family member”, has a substantial financial interest.

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## **Important Definitions:**

- Local Procurement Officer (LPO) means:
  - a County Employee who has influence in preparing, reviewing, or awarding bids/Requests for Proposals (“RFPs”), Requests for Qualifications (“RFQs”), or other County Procurements. LPO includes the County Judge, Commissioners Court members, and any County Officer or County Employee who exercises discretion in the planning, recommending, selection, or contracting of a Vendor (also known as “Agents”). Agents will vary, depending on which Department is seeking the Procurement and the purpose of the Procurement.
  
- Agents may include:
  - a) the Purchasing Agent and/or designees
  - b) the Auditor and/or designees
  - c) applicable department head and/or designees
  - d) applicable evaluation committee members
  - e) Assistant County Attorneys who assist with Procurement or contracts

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## **Important Definitions:**

- Lobbyist means any individual:
  - who is employed or retained to conduct lobbying activities for financial or other compensation; and
  - whose lobbying activities constitute 26 hours or more of their service time during any 3-month period; or
  - any individual otherwise currently registered or registered within the previous two year period as a lobbyist with any other jurisdiction, whether local, state, or federal.

\*\*\***Note:** A Lobbyist must complete all training and registration requirements in the Code.

- The term Lobbyist does not include:
  - an attorney who communicates directly with a County Officer or County Employee to the extent that such communication relates to the attorney's representation of a party in a civil or criminal proceeding;
  - a governmental entity or its officers or employees engaged in discussing matters related to its own governmental interest; or
  - a person who lobbies as an unpaid volunteer or represents only himself.

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## **Meeting with Lobbyists:**

- County Officers and department heads shall not permit any Lobbyist, including a Lobbyist's representative or employee, to communicate with them regarding any Official Matter before being presented with a current Lobbyist Registration Card verifying that the Lobbyist is registered with the County.
- If the person identifies him/herself as a Lobbyist, he or she must sign their name on the lobbyist sign-in log and provide you with a current Lobbyist Registration Card issued by Montgomery County. This log shall be submitted on June 30<sup>th</sup> and December 31<sup>st</sup> annually to Human Resources Department and be made available for review by the Ethics Commissioner or their designee upon request.
- If the Lobbyist does not have a Registration Card, please direct them to the County Human Resources Department so that they can register them in accordance with the Local Government Code, before they meet with you or others.

NOTE: A sign notifying any person regarding the registration requirements for any person desirous of Lobbying a County Officer or department head shall be posted in the lobby of each office of the County Officer or department head.

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## **Vendors:**

- Vendor means any person or their representative or employee whose goods and services are purchased under the terms of a purchase order or contractual agreement with the county.
- The term Vendor does not include a governmental entity or its officers or employees engaged in discussing matters relating to its own governmental interest, including interlocal agreements between the government entity and the county.
- Before considering a Vendor's procurement submission such as a bid, contract, or proposal, County Personnel must verify that the Vendor has completed the Vendors ethics training requirement under the Code.
- When considering a Vendor's procurement submission, County Public Servants must excuse themselves from exercising influence, participating in, discussing, recommending, and/or granting any County purchase, bid, contract, or participating in any official act on a matter if they or a family member have a substantial financial interest in this matter.
- All County Public Servants must inform themselves about their financial interests and must make a reasonable effort to inform themselves about the financial interests of their family members before considering a Vendor's procurement submission.

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## **Form CIS (CONFLICTS DISCLOSURE STATEMENT):**

- If a County Public Servant is involved in a Procurement for the County, the County Public Servant may be a Local Procurement Officer. If so, the County Public Servant must disclose family relationships, employment or business relationships, and/or gifts from prospective Vendors.
- When a Local Procurement Officer (LPO) knows or learns that one or more of the following situations apply regarding a prospective Vendor, the LPO must disclose the following information by completing and filing a Conflicts Disclosure Statement Form (“FORM CIS”) with Human Resources within seven (7) business days. The Disclosure Requirements only apply to the particular Procurement in which the LPO is involved as a LPO.
  - Family Relationship with prospective vendor
  - Gifts from the prospective vendor
  - Employment or other business relationship with prospective vendor

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## **Conflicts of Interest: Procurement**

- County Public Servants must not acquire a financial interest at a time when they believe or have reason to believe that it will directly affect their official act in a procurement matter. They cannot profit by any knowledge they gained solely from their official position with the County because this information is not available to the public.
- Any County Public Servant with a conflict in a procurement matter must complete a Conflicts Disclosure Statement Form stating the nature and extent of the financial interest and file with the Human Resources Department within seven (7) days of knowledge or before the matter is discussed and any decision is made.
- Once a bid, Request for Proposal (RFP), or Request for Quote (RFQ) is released, a County Public Servant should not communicate privately with any Vendor, its lobbyists, representative, or employee regarding the procurement of items by the County until the procurement process is complete.
- Not knowing that the bid, RFP, or RFQ has been released or what the Vendor or their representative wants to discuss privately is not a defense to the no private communication requirement.



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## **Conflicts of Interest: Employment**

- Hiring decisions shall not be made on the basis of race, gender, religion, national origin, sexual orientation, age, or disability.
- County elected officials and department heads shall not advocate the employment, appointment, promotion, transfer, or advancement of a paid County position to a family member. In addition, they shall not supervise or manage a family member, unless the employee was employed prior to the election or appointment of the department head.
- Non-elected department heads are prohibited from knowingly hiring any person who has served as an elected official in the previous two years.

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## **Conflicts of Interest: Outside Employment**

- County public servants are prohibited from engaging in outside employment or activities that are incompatible with the full and proper discharge of their duties and responsibilities within the County, or which might impair their independent judgment in the performance of their public duty.
- It shall not be a Violation of this Code and shall be a defense to a complaint submitted under this section if a County Public Servant receives approval to engage in the outside employment from his authorized supervisor pursuant to the Montgomery County Civil Service Rules, or other Montgomery County or departmental policy.

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## **Post Employment Restrictions:**

- County Officers and Department Heads are prohibited from knowingly conducting County business with a former County Officer or Department Head that has been separated from office or employment within the previous two (2) years in which the former County Officer is currently being compensated as a representative by another person or entity.
- This prohibition includes all business matters in which the former County Officer or Department Head was either personally involved or for which the matter was within his responsibility while a County Officer or Department Head.

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## **Gifts & Benefits:**

- A County public servant, their family members, or any business organization in which they have a substantial financial interest, may not solicit or accept a prohibited gift or benefit valued at more than **Fifty and No/100 Dollars (\$50.00)** on behalf of themselves or any other person.
- For purposes of this Code, a “prohibited gift or benefit” refers to anything of value, including cash or cash equivalent, goods or services.
- Gifts from Vendors or prospective Vendors that are not prohibited, must be disclosed on Form CIS by any Local Procurement Officer (LPO) in accordance with Section VI.5, Disclosure Requirements of the Code of Ethics.

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## **Gifts:**

### ■ **Examples of gifts include**

- Loans
- Travel
- Entertainment
- Meals & beverages
- Tickets for fundraisers, professional or intercollegiate sporting events or artistic/cultural events

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## **When a Gift is not Prohibited:**

- If the solicitation or acceptance of contributions to a political campaign if such contribution is subject to reporting under state law.
- A gift that is given on account of kinship or on account of a professional relationship independent of the public duties of the recipient.
- Commercially reasonable loans made in the ordinary course of the lender's business.
- Awards, such as plaques, certifications, trophies or similar mementos, and incidental items not exceeding a value of \$50.00, when publicly presented in recognition of their public service.
- Gifts cards not exceeding \$35.00 presented by the Montgomery County Employee Committee to a county employee recognized as the Employee of the Month.
- Items for which the County, another governmental entity, or nonprofit operating on behalf of and in support of governmental entities, reimburses expenses.
- Gifts that are perishable, such as flowers, fruit, or candy, may be accepted if placed in a common area of the office and shared with co-workers or other County employees.

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## **When a Gift is not Prohibited:**

- Invitations or tickets to public fundraising dinners or public charitable benefit events.
- Reasonable entertainment, meals or refreshments furnished in connection with local public events, appearances, meetings, engagements or ceremonies related to official county business.
- Registration, transportation, lodging and meal expenses in connection with a conference or similar event in which the County Public Servant renders services, such as addressing an audience, engaging in a seminar, or serving as an officer or committee member of an organization.
- A gift to the County Public Servant that is not personal, but a gift to the County for a County public purpose that was accepted by the Commissioners Court pursuant to Texas Local Government Code, Section 81.032.

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## **When a Gift is not Prohibited:**

- Gifts of tickets or free admission to local school or local sporting events or local artistic or cultural events, if the attendance is appropriate to the performance of the official duties or representative function of the official or employee.
- Gifts of tickets or free admission to political campaign events or campaign fundraisers with a value not exceeding \$250.00 given on account of kinship or a personal, professional, co-worker, or business relationship independent of the public duties of the recipient (notwithstanding political contributions subject to reporting under Texas Ethics Commission Rules).
- Any other exceptions authorized by the current Texas Ethics Commission Rules or other applicable law.
  
- PLEASE NOTE: No provision provided herein is intended to authorize, permit, or encourage conduct that would otherwise be in violation of Texas Penal Code Chapter 36 or any other local, state, or federal law. All provisions relating to donor(s)/donee(s), including reasons for gift(s), mandatory attendance at event(s) or dinner(s), etc., as outlined in Chapter 36 and referenced in various Texas Ethics Advisory Opinions must be followed and adhered to at all times. Gifts from Vendors or prospective Vendors including those identified above as non-prohibited, must also be disclosed on Form CIS by any LPO in accordance with Section VI.5, Disclosure Requirements.



# *Montgomery County Ethics Commission Training*

## **Political Activity:**

- Non-elected County Public Servants must not engage in political activities during regular working hours where they are paid by the county. They may take vacation leave or leave without pay for political purposes if approved according to County policy.
- County Public Servants must not utilize county equipment or supplies of any kind for political purposes.
- County Public Servants shall not use or threaten to use their discretionary authority in a manner to:
  - Reward or coerce any person to participate in political activities, election campaigns, or fundraising efforts; or
  - Discourage, prevent, or discriminate against any person who chooses to participate in political activities, election campaigns, or fundraising efforts.

# *Montgomery County Ethics Commission Training*

## **Complaints & Reporting Violations:**

- County public servants and all others who are subject to the Ethics Code have a duty to cooperate in investigations, inquiries, and hearings conducted by the Ethics Commission.
- A County Public Servant may not suspend or terminate the employment of or take other adverse action against a County Employee who in good faith: a) submits a complaint or otherwise reports to the Commission or a law enforcement authority a Violation of this Ethics Code; b) participates in the complaint processing, investigation, inquiry or any other aspect of the Commission review of an alleged Violation of the Ethics Code and related recommendation.
- Frivolous and bad-faith complaints may result in a civil penalty of up to \$4,000.00 pursuant to Section 161.205 of the Texas Local Government Code.

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## **Filing a Complaint:**

- An individual who is 18 years of age or older may file a sworn complaint.
- The complaint must be filed in accordance with the rules of the Commission. The complaint must be filed with the Ethics Commission using the form adopted by the Commission which can be obtained on the Montgomery County Ethics Commission web page.
- The complaint should be submitted to the address listed on the complaint form.
- A complaint must be filed within one hundred eighty (180) days from the date the alleged conduct is discovered. The Standing Preliminary Review Committee may waive the one hundred eighty (180) days filing deadline for good cause shown. In no event may a complaint be filed later than two (2) years from the date of the alleged conduct.

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## **Advisory Opinions:**

- Any person covered by the Ethics Code may request an advisory opinion regarding the application of the Ethics Code to a specific existing or hypothetical situation. However, the Commission decides which requests will receive a written response.
- The name of the person requesting the opinion shall be deemed confidential.

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- The Montgomery County Ethics Commission Code of Ethics does not replace or supersede any other County policy or regulation including, but not limited to:
  - The Rules of Conduct and the Harassment Policy set forth in the Montgomery County Employee Policy Manual
  - The Nondiscrimination Policy Statement
  - The Fraud Policy
  
- If an agreement authorized by Chapter 174, Texas Local Government Code, or a civil service statute applicable to a County Employee, conflicts with this Code of Ethics, said agreement or civil service statute shall prevail (pursuant to Section 161.003, Texas Local Government Code).

# CERTIFICATE *of* COURSE COMPLETION

## Code of Ethics Training

I, \_\_\_\_\_, certify that I have completed the Montgomery County training course on the Code of Ethics that satisfies the legal requirements of the Local Government Code, Section 161.

Certificate is issued effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.



***NOTICE TO CERTIFICATE HOLDER:*** You are responsible for returning this document to the Montgomery County Human Resources Department for inclusion in your permanent file as evidence that you have completed this Code of Ethics Training. The Local Government Code Section 161 requires the governmental body with which you serve to maintain this Certificate of Course Completion and make it available for public inspection.

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