

APPENDIX A - ARTICLE 4, MONTGOMERY COUNTY CHARTER MERIT SYSTEM AND CONFLICTS OF INTEREST.

Sec. 401. Merit System.

The Council shall prescribe by law a merit system for all officers and employees of the County government except: (a) members of the Council, the County Executive, the Chief Administrative Officer, the County Attorney; (b) the heads of the departments, principal offices and agencies, as defined by law; (c) any officer holding any other position designated by law as a non-merit position; (d) one confidential aide for each member of the Council; (e) two senior professional staff members for the Council as a whole as the Council may designate from time to time; (f) three special assistants to the County Executive as the Executive may designate from time to time; (g) special legal counsel employed pursuant to this Charter; (h) members of boards and commissions; and (i) other officers authorized by law to serve in a quasi-judicial capacity.

Any law which creates a new department, principal office, or agency, or designates a position as a non-merit position, requires the affirmative vote of six Councilmembers for enactment. Any law which repeals the designation of a position as a non-merit position requires the affirmative vote of five Councilmembers for enactment.

Officers and employees subject to a collective bargaining agreement may be excluded from provisions of law governing the merit system only to the extent that the applicability of those provisions is made subject to collective bargaining by legislation enacted under Section 510, Section 510A, or Section 511 of this Charter.

The merit system shall provide the means to recruit, select, develop, and maintain an effective, nonpartisan, and responsive work force with personnel actions based on demonstrated merit and fitness. Salaries and wages of all classified employees in the merit system shall be determined pursuant to a uniform salary plan. The council shall establish by law a system of retirement pay.

The Council by law may exempt probationary employees, temporary employees, and term employees from some or all of the provisions of law governing the merit system, but the law shall require these employees to be recruited, selected and promoted on the basis of demonstrated merit and fitness.

The Council by law may establish within the merit system a program to recruit and select qualified individuals with severe physical or mental disabilities on a noncompetitive basis.

Sec. 402. Personnel Administration.

The County Executive shall be responsible for adopting personnel regulations for the administration and implementation of the merit system law. These regulations shall be adopted in the manner provided for by law. The Chief Administrative Officer, under the direction of the

County Executive and subject to merit system laws and regulations, shall be responsible for administering the County's merit system.

Sec. 403. Merit System Protection Board.

There is established a Merit System Protection Board composed of three members who are qualified voters of the County appointed by the Council. One member shall be appointed each year for a term of three years. Any member appointed to fill a vacancy occurring prior to

the expiration of a term shall be appointed only for the remainder of that term. Appointment shall be made so that not more than two members of the Board shall be members of the same political party. No member shall hold political office or participate in any campaign for any political or public office during the member's term of office. Members of the Board shall be compensated as prescribed by law.

Sec. 404. Duties of the Merit System Protection Board.

Any employee under the merit system who is removed, demoted, or suspended shall have, as a matter of right, an opportunity for a hearing before the Merit System Protection Board, which may assign the matter to a hearing examiner to conduct a hearing and provide the Board with a report and recommendations. The charges against the employee shall be stated in writing, in such form as the Board shall require. If the Board assigns the matter to a hearing examiner, any party to the proceeding shall have, as a matter of right, an opportunity to present an oral argument on the record before the Board prior to a final decision. The Board shall establish procedures consistent with law for the conduct of its hearings. The decisions of the Board in such appeals shall not be subject to review except by a court of competent jurisdiction. The Council shall provide by law for the investigation and resolution of formal grievances filed under the merit system and any additional duties or responsibilities of the Board. The Board shall conduct on a periodic basis special studies and audits of the administration of the merit and retirement pay systems and file written reports of its findings and recommendations with the Executive and the Council. The Board shall comment on any proposed changes in the merit system law or regulations in a timely manner as provided by law.

Sec. 405. Political Activity.

No officer or employee of the County shall be prohibited from participating in politics or political campaigns; however, the Council may by law restrict political activities by County officers and employees (including members of boards and commissions) who serve in a quasi-judicial capacity. No County officer or employee shall be obligated to contribute to a political campaign or to render political service.

Sec. 406. Prohibition Against Private Use of Public Employees.

No member of the Council, the County Executive, or any officer or employee of the County shall detail or cause any officer or employee of the County to do or perform any service or work outside of the officer's or employee's public office or employment.

Sec. 407. Prohibition Against Additional Compensation.

No member of the Council and no officer or employee of the County whose salary is fixed, in whole or in part, by this Charter, the laws of the County, or its personnel regulations, shall be entitled, directly or indirectly, to any other salary, expenses, or compensation from the County for performance of public duties except expenses for travel and subsistence incident to the performance of official duties as prescribed by law.

Sec. 408. Work During Official Hours.

All officers and employees of the Executive or Legislative Branches who receive compensation paid in whole or in part from County funds shall devote their entire time during their official working hours to the performance of their official duties.

Sec. 409. Corrupt Practices.

No person whose salary or expenses are paid in whole or in part from County funds shall invite, accept, offer, give or promise to give any money or any valuable thing in consideration of appointment or employment by the County. Any person violating this Section shall be removed from any public office or employment held and be subject to such other penalties as may be prescribed by law.

Sec. 410. Code of Ethics.

The Council shall adopt by law a code of ethics applicable to all public employees. In this section, public employee includes each County employee, elected officer, and appointed officer, including a member of a board or commission, and any other person designated by law.

The code of ethics shall at a minimum regulate: (a) conflicts of interest; (b) solicitation and receipt of gifts; (c) other employment of present and former public employees; (d) lobbying; (e) financial disclosure by public employees; (f) the use of County property and County insignia; and (g) the use of the prestige of office.

The code of ethics shall:

- a) provide that each public employee owes a fiduciary responsibility to the County, which the public employee shall not breach by any public or private action;
- b) prohibit a public employee from obtaining an economic benefit as a result of public employment if the economic benefit is received on terms more favorable than those available to persons who are not public employees;
- c) allow waivers from restrictions and requirements of the code if a waiver is in the best interest of the County and all pertinent facts are disclosed to the public;
- d) authorize enforcement of the code and impose penalties for violations; and
- e) include any other provisions required by State law or that the Council finds serve the purposes of this section.

The Council by law shall prohibit corrupt practices by any individual or organization that attempts to obtain or is a party to a contract with the County, including kickbacks in the award of County contracts and using confidential information obtained in performing a contract with the County for personal gain or the gain of another without the approval of the County.

The Council may by law establish a commission to enforce and interpret the code of ethics and related laws. The Council by law may allow an ethics commission to retain legal counsel with the approval of the Council, subject to appropriation, and may exempt legal counsel for the commission from Section 213.