



MONTCLAIR

## STANDARDS OF ETHICAL CONDUCT TO ADDRESS FRAUD, WASTE, AND ABUSE

### Policy

In the spirit of sound and ethical governance and consistent with California Government Code §53087.6; and other applicable laws and regulations, the City of Montclair's City Council believes that the ethical conduct of those in public service is of utmost importance. This policy is set forth in order to address fraud, waste, and abuse in City government and establishes reasonable standards of ethical conduct for all City employees and officers. It is the intent of this policy to establish minimum expectations relative to employee and officer behavior and conduct in the execution of their duties as representatives of the city.

### Scope

This policy applies to all City of Montclair employees and officers (hereinafter "employees"). This policy is not intended to be all-inclusive or address every possible eventuality or circumstance. Instead, it is intended to establish reasonable standards and provide guidance relative to the ethical conduct of City employees while fulfilling the expectations of City residents.

### Interpretation

This policy does not supplant any of the City of Montclair's labor contracts or Memoranda of Understanding (MOUs). Should this policy conflict with any law, regulation, or labor contract of which the city or its employees may be subject, that law, regulation, or contract shall take precedence. In the event this policy conflicts with any precedent or past practice of the city, management will resolve that conflict by means consistent with established procedures or practices.

### Definitions

**Fraud, waste, and abuse:** Any illegal, wasteful, or improper activity involving City assets or resources. It includes theft by means of deception, deceit, or trickery; willful misrepresentation to obtain something of value; and the extravagant, careless, or needless expenditure or consumption of City resources, whether intentional or not.

**Fraud:** Theft by means of deception, deceit, or trickery. Examples include, but are not limited to: forging or altering a City warrant or check; charging personal expenses to the City; or claiming overtime when not worked.



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**Waste:** The unnecessary or pointless consumption of resources, time, or labor. Examples include, but are not limited to: using more of something when less will do; performing tasks that do not need to be performed; or maintaining excessive inventories.

**Abuse:** Misuse of power, authority, or control. Examples include, but are not limited to: using one's authority to direct employees to perform non-City-related work; causing employees to work overtime without compensation; or using City assets for non-City business without proper permission.

Additional definitions of terms relating to fraud, waste, and abuse include:

**Asset:** Anything of value, whether tangible or intangible. Examples include, but are not limited to: cash, tools, equipment, fuel, office supplies, and time.

**Conflict of Interest:** Any circumstance in which the interests, duties, obligations, or activities of an employee or an employee's immediate family member are in conflict or incompatible with the interests of the city; the duties and obligations of the employee; or his or her capacity as an employee. Examples include, but are not limited to: City employees bidding on City contracts; influencing City policy or activities for personal gain; or disclosing confidential City information to a friend or relative in order to assist them or benefit themselves.

**Employee:** Any individual classified by the City's Human Resources Department as a full-time, part-time, seasonal, temporary full-time, temporary part-time, or per diem employee or officer of the City.

**Gifts:** Any payment or item that gives a personal benefit to the recipient to the extent that something of equal or greater value is not received and includes a discount or rebate, unless the discount or rebate is available to all members of the public.

**Immediate Family:** A spouse or dependent child of the employee.

**Reasonable Person:** Any person of average competence and ability to reason.

**Third party:** Any person or entity other than an employee of the City or the City itself.

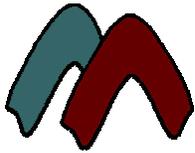
### Expectations

City employees shall adhere to and uphold this policy both in practice and in spirit. It is expected that employees act in the public's interest first and not their own. It is further



expected that their behavior, both on the job and off, reflects positively on the City, its reputation, and its employees. Pursuant to this policy, an employee's duties and responsibilities include, but are not limited to:

- a. **Duty to protect the reputation of the City:** It is the duty of every employee to uphold and protect the good reputation of the City and his or her fellow workers.
- b. **Duty to obey the law:** It is the responsibility of every employee to obey the law in the execution of his or her duties. Ignorance of the law or a particular regulation may not be considered an excuse for committing a violation or oversight.
- c. **Duty to comply with City policies:** It is the responsibility of every employee to comply with all City policies.
- d. **Conflicts of interest must be avoided:** In the broadest sense of the meaning, no employee shall engage in a behavior that may appear to be or give rise to a conflict of interest between him or herself and that employee's official capacity or duties. Should a conflict of interest arise, the employee involved shall report it in the manner described below.
- e. **Disqualification from acting on city business:** An employee shall disqualify him or herself and shall not act on any matter in which he or she, a member of his or her immediate family, or another employer of the employee has a financial interest.
- f. **Prohibition of certain financial interest or activity:** No employee, regardless of any prior disclosure, who has a material interest, personally or through a member of his or her immediate family, in any business entity doing or seeking to do business within the City shall influence or attempt to influence the selection of the business entity or the making of a contract between such business entity and the City. Employees may not have financial interests in contracts as prohibited by California Government Code § 1090, *et seq.*
- g. **Solicitation of gifts or loans is prohibited:** No employee shall solicit anything of monetary value (even such things which might be returned or repaid) if it would appear to have been solicited with the intent of obtaining something in return. Nothing shall prohibit contributions or gifts including political contributions, which are reported in accordance with applicable law or which are accepted on behalf of the City.



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- h. Gifts in excess of the annual gift limitation amount are prohibited:** No employee or family member of an employee shall accept gifts that exceed an aggregate value of the adjusted annual gift limitation amount in accordance with Government Code Section 89503 in any twelve (12) consecutive months from an individual or entity that is doing business with the City.
- i. Improper disclosure of privileged, personal, or confidential information:** Unless expressly authorized, no employee shall intentionally disclose privileged, personal, or confidential information obtained as a result of, or in connection with, his or her employment with the City for any purpose. Privileged, personal, or confidential information does not include information that is a matter of public knowledge or that is available to the public on request. Nothing in this policy is intended to prohibit or infringe upon any communication, speech, or expression that is protected or privileged under law. This includes speech and expression protected under state and federal constitutions as well as labor or other applicable laws.
- j. Improperly using one's City employment:** No employee shall use or permit the use of any City assets for a non-City purpose that is for the private benefit of the employee or any other person unless available on equal terms to the general public (such as the use of the library or parks).
- k. Improper influence:** No employee, except in the course of his or her official duties, shall assist any person in any transaction with the City when such employee's assistance would appear to a reasonable person to be enhanced by that employee's position with the City for their own personal benefit. This subsection shall not apply to any employee appearing on his own behalf or representing himself as to any matter in which he has a proprietary interest, if not otherwise prohibited by law.
- l. Duty to identify, report, and work to eliminate fraud, waste, and abuse:** It is the responsibility and duty of every employee to identify, report, and work to eliminate fraud, waste, and abuse at all levels of the City's administration and operations. Employees are encouraged to bring to the attention of management any opportunity to reduce or eliminate fraud, waste, and abuse.
- m. Duty to cooperate:** It is the duty of every employee to cooperate in an investigation involving a violation or an alleged violation of this policy. Upon the City's request, an employee will participate and fully cooperate in any investigation. This policy does not preclude an employee from exercising his or her Constitutional rights or those afforded to him or her by a City-recognized labor contract. However, the exercising of one's rights does not



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preclude City from disciplining an employee for his or her failure to participate or cooperate in an investigation if the City may lawfully do so.

- n. **Handling of anonymous complaints or allegations of violations of this policy:** Employees are prohibited from attempting to identify or intentionally exposing the identity of any party making an anonymous report or complaint pursuant to this policy.

### Reporting

Employees are expected to report all violations or suspected violations of this policy to management in a timely and professional manner. The City recognizes that the reporting party may desire or require anonymity. Thus, anonymous reports or concerns may be reported by any party to the City Manager or the City Council. It is the duty of every employee to report any known violation of this policy or what would appear to a reasonable person to be a violation of this policy. Employees are reminded that they may report anonymously any actions that detract from the efficiency and effectiveness of City operations including, but not limited to, fraud, waste, abuse, ethics violations, retaliation, discrimination, and safety violations. It is a violation of this policy to retaliate against an employee who makes a report anonymously under California Labor Code Sections 1102.5 and 1106. The California State Attorney General's Whistleblower Hotline number is (800) 952-5225.

### Investigation and Enforcement

All violations or alleged violations of this policy will be investigated. As stated above, it is the duty of every employee to cooperate in an investigation involving a violation or an alleged violation of this policy. Upon the request of the City, an employee will participate and fully cooperate in any investigation, whether conducted by the City or its agent(s). If as a result of a good faith investigation and a resultant reasonable conclusion that a violation of this policy has occurred, the offending employee may be subject to disciplinary action up to and including termination.

### Acknowledgement

Within 60 days of the City Councils' approval of this policy, department heads shall have all current employees provide written acknowledgement that they have received and read this policy. All employees hired after the City Councils' approval of this policy will be required to provide written acknowledgement that they have received and read this policy at the time of hire. The required acknowledgement form is provided as Attachment 1. Failure of an employee to acknowledge this policy (regardless of means) does not absolve that employee of his or her responsibilities pursuant to it nor does it preclude that employee from being disciplined or terminated for violating it.



**Attachment 1**

**Acknowledgement of City of Montclair's Standards of Ethical Conduct to Address Fraud, Waste, and Abuse**

I have received a copy of and I am fully aware of the City of Montclair's Standards of Ethical Conduct. I agree to abide by the terms of this policy.

Employee Name: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_

This form shall be retained in department files.