

CITY OF MILLBRAE

ADMINISTRATIVE STANDARD PROCEDURES	Number: 3-16-1	Page 1 of 5
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Subject: CODE OF ETHICS	Approved by: Tom Williams  Interim City Manager	Effective Date: <i>11/8/2018</i>

I. PURPOSE

The proper operation of democratic government requires that public employees be independent, impartial, and responsible to the people. The purpose of this Procedure is to establish ethical standards of conduct for all such persons and to direct disclosure by such public officers and employees of private, financial or other interests in matters affecting the City.

II. DEFINITIONS

Public employees of the City of Millbrae, whether Department Heads, management employees, temporary/part-time employees, or under the classified service, are "public employees" within the meaning and intent of this Procedure. A public employee is any person holding a position by appointment or employment in the service of the municipality, whether paid or unpaid. This specifically does not include elected officials or members of any board, committee, or commission thereof. It does include consultants acting as City Officers or employees of the City.

1. Responsibilities of Public Employment

- a. Public employees are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their position regardless of personal considerations, recognizing that the public interest and trust must be their primary concern. Their conduct in both their official and private affairs should be governed above reproach by the values of the community they serve.
- b. Public employees are bound to uphold the Constitutions of the United States and of the State of California, and to carry out impartially the laws of the nation, state, and municipality.
- c. Public employees are bound to follow and uphold City policies related to workplace conduct:

Workplace Harassment Policy

The City of Millbrae's Administrative Standard Procedure *Number 3-5, Workplace Harassment Policy*, states in part that "It is the policy of the City of Millbrae that harassment and discrimination are unacceptable and will not be condoned or tolerated on the part of any employee. The City shall take preventative, corrective and disciplinary action for behavior that violates this

policy or the rights and privileges it is designated to protect.” The policy provides examples of harassment in Section III.B., which includes “Hostile Environment” in addition to other forms of harassment (verbal, physical, visual, and sexual favors). Hostile environment is defined as “Conduct including the above-referenced behavior that has the purpose or effect of creating an intimidating, hostile or offensive environment.” The use of insulting, abusive, or obscene language in the workplace may create a hostile environment.

Use of Internet

The City of Millbrae’s Administrative Standard Procedure *Number 1-16, Use of Internet*, prohibits specific uses of the internet, including but not limited to: “B. 2. the transmission of unprofessional communications not associated with normal work responsibilities or using City resources for unsolicited advertising for personal gain.” Inappropriate language and dishonesty are examples of “unprofessional communications.”

2. Dedicated Service

Public employees shall not exceed their authority or breach law or ask others to do so. They should work in full cooperation with other public officials and employees – unless prohibited from doing so by law or by officially recognized confidentiality of their work.

3. Fair and Equal Treatment

- a. **Unilateral Communications.** No public employee should encourage, make, or accept any application or communication from any party made out of the presence and without the knowledge of other parties in a matter under consideration when such application or communication is designed to influence an official decision or in order to obtain favored treatment for special consideration to advance the personal or private interests of himself/herself or others.

Any written communication received by a public employee in matters where all interested parties should have equal opportunity for a hearing shall be made part of the record by the recipient. Any oral communication received under such condition shall be written down in substance by the recipient and also made a part of the record.

In the event of litigation or the likelihood of litigation, the City Attorney should be consulted as to whether this provision may be superseded by applicable law governing such communications in a litigation context.

- b. **Use of Public Property.** No public employee shall request, use, or permit the use of city owned vehicles, equipment, materials, or property for personal need, convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such employee in the conduct of official business.

4. Conflict of Interest

- a. No public employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their independence of judgment or action in the performance of their official duties. Personal as distinguished from financial interests include an interest arising from blood or marriage relationships, personal friendships, fraternal relationships, or close business or political associations.
- b. Specific conflicts of interests are enumerated below for the guidance of employees.

This list is merely illustrative and not exclusive:

- (1) **Incompatible Employment.** No public employee shall engage in or accept private employment from or render services to, private interests when such employment or services are incompatible with the proper discharge of his/her official duties or would tend to impair his/her independence of judgment or action in the performance of said official duties. In the event a public employee should possess a financial or personal interest in any business or transaction, any presumption of conflict of interest in his/her public duties shall be removed by disclosure of the nature and extent of such investment to the proper authority for the records of said authority. Additionally, the employee shall be disqualified from participating in the transaction in any manner on behalf of the City. Employees and Supervisors shall review the provisions of Government Code §1126 when discussing and determining if any employment activity or enterprise is incompatible with the discharge of their official duties.
- (2) **Disclosure of Confidential Information.** No public employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City, nor shall he/she use such information to advance the financial or other private interests of themselves over others.
- (3) **Gifts and Favors.** No public employee shall accept any gift at any time, whether in the form of a service, loan, physical item, or promise; from any person, firm or corporation, which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor influence him/her in the discharge of their duties, or grant in the discharge of his/her duties any improper favor, service or thing of value. The following exceptions may be permitted with the prior approval of the City Manager:
 - a. A gift of candy or food stuffs to the City or department, which is to be kept in the office or work area and shared by all employees.
 - b. A gift justified by a personal relationship which exists outside the realm of City business.

In situations where a public employee receives a gift which is extremely

embarrassing to return, or is given anonymously, the City Manager's office

has draft copies of letters which might be enclosed to return the gift to the City Manager's office for disposal to a local charity if it has no useful purpose to the City. Gifts shall be returned in accordance with Government Code § 82028(b).2 Regulation 18941.

(4) **Representing Private Interests Before City Agencies or Courts.** No public employee whose salary is paid in whole or in part by the City shall appear on behalf of private interests before any agency of the City; nor shall he/she represent private interests in any action or proceeding against the interest of the City or in any litigation to which the City is a party, unless compelled by court order.

(5) **Contracts with the City.** The public has a right to assume that public employees are given no special advantages by virtue of their employment. Whether or not any special advantage exists, a public employee's private involvement in any item or service bought or sold by the City is subject to criticism and misunderstanding and should be avoided. In accordance with Government Code § 1090, public employees are prohibited from bidding on or buying any items offered for sale by the City. This prohibition includes:

- (a) auction and sale of bicycles and other items confiscated by the City; and
- (b) use of intermediaries to purchase items for an employee.

No public employee shall become a vendor selling any item or service to the City. Further, said public employee shall not participate in City purchases to buy anything for themselves, friends, or relatives. Nor shall City purchases be used to secure personal price advantages.

Public employees are prohibited from accepting "discounts" or other advantages offered by vendors to "City employees." While these may be legitimate business promotions from ethical business, public employees should not accept such discounts to ensure that they are not compromising themselves or placing the City in a potentially embarrassing position through a conflict with their official duties. An exception to this would be if the discount were offered to a population beyond that of City of Millbrae employees, such as "all government employees" or "all city employees in the Bay Area."

(6) **Disclosure of Interest and Legislation.** Any public employee who appears before the City Council and has a financial or private interest in any pending City legislation should disclose such interest on the record of the City Council and thereafter abstain from participating in discussions with or giving an opinion to the Council. Under these circumstances public employees will be disqualified from participating in the legislation in any manner and at any time.

(7) **Lost or Stolen Property.** Public employees who discover lost or stolen property should immediately turn it in to the Police Department. If the property is discovered while on duty, the officer or employee is not entitled to receive unclaimed property in accordance with Civil Code § 2080.3. However, except for peace officers, unclaimed property discovered when off duty may be claimed in accordance with the law.

5. Political Activity

In accordance with State law (Government Code § 3207) and the Millbrae Municipal Code, (2.15.160) no public employee shall during hours of work or when dressed in uniform required in any department of the City or when wearing any City insignia required or permitted in any department of the City or while identifying themselves as an officer or employee of the City of Millbrae, participate in any City, District, County, State, Federal, or other political activity or participate in any nomination, campaign, or election.

This does not prevent any public employee from:

- a. Becoming or continuing to be a member of a political club or organization;
- b. Attendance at political meetings;
- c. Enjoying entire freedom from all interference in voting;
- d. Seeking or accepting election or appointment to public office with the City Manager's approval;
- e. Seeking signatures for any initiative or referendum petition directly affecting rates of pay, hours or work, retirement, civil service or other working conditions provided such activity is not carried out during hours of work;
- f. Distributing badges, pamphlets, or hand bills or other participation in any campaigning in connection with such petition if the activity is not carried on during hours of work or when dressed in the uniform required in any department of the City.

If there is any confusion or question regarding specific issues under this policy, the employee shall discuss the matter with his or her supervisor.