

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING THE REVISED COUNCIL POLICY 0-15, CODE OF ETHICS FOR OFFICIALS AND EMPLOYEES OF THE CITY OF SAN JOSE, AND REVISED CODE OF ETHICS POLICY IN CITY ADMINISTRATIVE POLICY MANUAL

WHEREAS, the Consolidated Open Government and Ethics provisions in Resolution No. 77135 provide the circumstances for disclosure of records pertaining to misconduct of City Officials;

WHEREAS, the Consolidated Open Government and Ethics provisions in Resolution No. 77135 provide the circumstances for disclosure of information pertaining to misconduct of employees in the regular Classified Civil Service in the form of a log containing anonymized information;

WHEREAS, given recent attention to misconduct involving City of San José employees in the regular Classified Civil Service, the proposed revisions to Resolution No. 77135 (Section 4.3.2.5 C) will clarify the circumstances under which disciplinary actions taken against regular Classified Civil Service Employees may be subject to disclosure; and

WHEREAS, the City administration proposes to modify the Code of Ethics for Officials and Employees of the City of San Jose Policy in Council Policy 0-15 and Code of Ethics Policy in the City Administrative Policy Manual to make clear an employee's obligation to report any violations of City policy that they know, or should have known, of.

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NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1.

The revised Council Policy 0-15 , entitled “Code of Ethics for Officials and Employees of the City of San Jose,” attached hereto as Attachment A and incorporated herein by reference as though fully set forth herein, is hereby approved and shall replace Council Policy 0-15 approved by the City Council on April 24, 2018.

SECTION 2.

The revised Code of Ethics Policy in Chapter 1.2.1 of the City Administrative Policy Manual, attached hereto as Attachment B and incorporated herein by reference as though fully set forth herein, is hereby approved and shall replace the Code of Ethics Policy in Chapter 1.2.1 of the City Administrative Policy Manual approved by the City Council on April 24, 2018.

ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

City of San José, California

COUNCIL POLICY

TITLE	TITLE CODE OF ETHICS FOR OFFICIALS AND EMPLOYEES OF THE CITY OF SAN JOSE	PAGE	1 of 3	POLICY NUMBER	0-15
EFFECTIVE DATE	August 19, 1980	REVISED DATE	April 24, 2018		
APPROVED BY COUNCIL ACTION 8/19/1980, Res. No. 53699; 10/14/1980, Res. No. 53971; 3/23/1982, Res. No. 55371; 6/25/1991, Item 9(j), Res. No. 63171; 6/28/2005, Item 10.1(a1), Res. No. 72837; 4/24/2018, Item 3.3, Res. No. 78560					

PURPOSE AND SCOPE

In order to best serve the citizens and customers of the City of San José, the elected and appointed officials, and employees of the City must act individually and collectively to create a City government that is responsible, fair, honest and open. City employees and officials are expected to demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees.

As stated in the City Charter, "The citizens of San José expect and must receive the highest standard of ethics from all those in the public service. City officers and employees must be independent, impartial and responsible in the performance of their duties and accountable to the members of the public."

The purpose of this Code of Ethics is to establish policy and guidelines, reflecting expected values and behaviors for use by and applicable to elected and appointed City officials, City officers, including Board and Commission members, and employees. Individuals employed by the City under contractual agreement must also observe the provisions of this policy for the term of their contract or as the contract may stipulate.

For additional regulations regarding ethics please refer to Title 12 of the San José Municipal Code.

POLICY

Elected and appointed officials and employees of the City of San José at all levels are guardians of the public trust. City officials and employees are required to be impartial and responsible in the fulfillment of their duties. The citizens and customers of San José expect and must receive the highest standard of ethics from all those in public service, regardless of personal consideration.

1. Responsibilities of Public Service

City officials and employees are obligated to uphold the Constitution of the United States and the Constitution of the State of California and to comply with Federal, State, and local laws and City policies. Recognizing the special responsibilities of serving the City and its citizens and customers, City officials and employees are required to maintain the highest standards of integrity and honesty, and they are expected to treat all members of the public and fellow City employees with respect, courtesy, concern and responsiveness. The conduct of City officials and employees in both their official and private affairs should be above reproach to assure that their City position is not used for personal gain.

Any employee who knows, or possesses sufficient information to recognize the potential of, a violation of any City policy by a City employee wherein the conduct has the potential to impact the safety or financial health of the community and/or other City employees (examples include, but are not limited to, alleged sexual misconduct, assault, theft or bribery, or other misconduct that a reasonable person should recognize would constitute a significant policy violation if true), and fails to report such conduct, may be subject to disciplinary action. Misconduct may be reported to a supervisor/manager, Department Director, Whistleblower Hotline, and/or the Office of Employee Relations. The City's Non-Retaliation Policy describes each employee's right to raise concerns in good faith without retaliation or reprisal.

2. Access to City Government, Services & Resources

The City of San José is committed to open and transparent government and strives to consistently meet the community's expectations by providing excellent service in a positive, timely, and transparent

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manner. City employees and officials are obligated to serve the public by reaching decisions and conducting activities in full view of the public in accordance with the Brown Act and the Consolidated Open Government and Ethics Resolution (Resolution #77135).

3. General Rule with Respect to Conflicts of Interest

City employees and officials are expected to avoid any conflicts of interest. Further, employees should avoid the appearance of conflicts of interest in order to ensure that City decisions are made in an independent and impartial manner.

All City officials, officers and employees are prohibited from making, participation in making, or attempting in any way to use his or her official position to influence a City decision in which the employee knows or has reason to know he or she has a financial interest as defined by law. For example, City employees and officials shall not make personal investments nor maintain any direct or indirect interest in enterprises, activities, or entities which they have or have reason to believe may be involved in decisions or recommendations to be made by them or persons under their supervision, or which may create a conflict between their private interests or may impair their independence of judgment in the accomplishment of their official duties. If, however, persons in the public service have financial interests in matters coming before them, or before the department in which they are employed, they shall remove themselves from making, participating in the making, or seeking to influence any decision regarding such matter. Employees who are designated in the City's Conflict of Interest Code, shall file the appropriate disclosure statements required under State Law.

A conflict of interest may arise when dealing with a current or prospective vendor, supplier, or other business. Please refer to Section 3 below and seek guidance from a supervisor or from the Employee Helpline at 535-8150.

4. Acceptance of Favors, Gratuities and Gifts

City employees and officials shall not accept money or other consideration or favors from anyone other than the City for the performance of an act which they would be required or expected to perform in the regular course of their duties; nor shall such persons accept any gifts as defined in the City's Gift Ordinance, gratuities or favors of any kind which be perceived or interpreted as an attempt to influence their actions with respect to City business.

This is just a summary of your obligations, for additional information regarding specific regulations on the acceptance of gifts; please refer to policy 2.02, titled Gift Policy in the City Policy Manual. Additionally, if there are any discrepancies between this Gift Policy and Title 12 of the San José Municipal Code, Title 12 of the San José Municipal Code supersedes.

5. Use of Confidential Information

City employees and officials shall not use confidential information acquired by or available to them in the course of their employment with the City for personal gain or for personal, non-City business related reasons. City employees and officials shall uphold the public's right to know, and in accordance with the Brown Act, uphold the public's right to know not only the decisions taken, but also the deliberations which shape public policies. Any employee or official, who is aware of a breach of confidentiality, is expected to bring forth that information to the appropriate officials in a timely manner.

6. Use of City Employment and Facilities for Personal Gain

City employees and officials shall not use City time, City funds or City facilities, equipment or supplies for personal use or personal gain or for campaign related political activities, nor shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.

This is just a summary of your obligations, for additional information please refer to policy 1.6.2, titled Personal Use of City Equipment, and 1.7.1, titled Use of E-Mail, Internet Services and Other Electronic Media, in the City Policy Manual.

7. Outside Employment

No employee shall engage in any work, employment or occupation outside City employment, which is detrimental to City service, which prevents or impedes the efficient performance of their duties in City employment, or which is in any way in conflict with their employment with the City. No employee shall engage in any work, employment or occupation outside City employment unless they have notified their

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department via an Outside Work Permit, and the permit has been approved by the Department Director.

This is just a summary of your obligations, for additional information please refer to policy 1.2.3, titled Outside Employment Policy, in the City Policy Manual.

8. Discussion of Future Employment

All offers or discussions of offers to City employees of future employment outside City service must be reported immediately to the employee's supervisor whenever such discussions occur with, or when such offer is made by, any person, firm or organization presently dealing with the City concerning matters directly within the employee's current areas of decision-making responsibilities. It shall be within the supervisor's discretionary powers to relieve said employee from further decision-making responsibilities in relationship to said person, firm or organization if he or she determines that the offer of employment or discussions of an offer of employment would impair the employee's independence or judgment or could be construed by others as a bid for favorable treatment.

9. Reporting of Improper Activities

The City of San José has a responsibility to conduct its affairs ethically and in compliance with the law. City employees and persons in City service are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State or Federal law with his/her immediate supervisor or another management employee within the employee's department. Employees may also call the Employee Helpline at 535-8150 or the Fraud and Audit Hotline at 535-8200.

It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of City policy or local, State or Federal law in retaliation for that reporting or participation. No officer or employee of the City shall directly or indirectly use or attempt to use the authority or influence of such officer or employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person's duty to disclose alleged violations of City policy or local, State or Federal law.

This is just a summary of your obligations, for additional information please refer to Policy 1.1.4, titled Non-Retaliation, in the City Policy Manual.

10. Discrimination and Harassment

City employees and officials shall not, in the performance of their duties, discriminate against any person on the basis of race, color, religion, national origin, ancestry, age, sex, gender, pregnancy, childbirth or related medical condition, sexual orientation, marital status, disability, medical condition and actual or perceived gender identity and they will reinforce the City of San José's commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment.

This is just a summary of your obligations, for additional information please refer to policy 1.1.1, titled Discrimination and Harassment Policy, in the City Policy Manual.

VIOLATIONS OF THE CODE OF ETHICS

In addition to any other penalty as provided by law, employees who violate the Code of Ethics will be subject to disciplinary action, up to and including termination. The violation of this Code of Ethics by a City official, elected or appointed, constitutes official misconduct. For additional information, please refer to Title 12 of the San José Municipal Code and the City Council Censure Policy.

Code of Ethics**1.2.1****PURPOSE AND SCOPE**

In order to best serve the citizens and customers of the City of San Jose, the elected and appointed officials, and employees of the City must act individually and collectively to create a City government that is responsible, fair, honest and open. City employees and officials are expected to demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees.

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Code of Ethics**1.2.1**

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Code of Ethics**1.2.1**

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9. Reporting of Improper Activities

Original Effective Date: August 19, 1980

Revised: ~~April 24, 2018~~

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Code of Ethics**1.2.1**

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This is just a summary of your obligations, for additional information please refer to policy 1.1.4, titled Non-Retaliation, in the City Policy Manual.

10. Discrimination and Harassment

City employees and officials shall not, in the performance of their duties, discriminate against any person on the basis of race, color, religion, national origin, ancestry, age, sex, gender, pregnancy, childbirth or related medical condition, sexual orientation, marital status, disability, medical condition and actual or perceived gender identity and they will reinforce the City of San Jose's commitment to equal employment opportunity and a work environment free of discrimination and harassment, including sexual harassment.

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Approved by the City Council
April 24, 2018

Approved for posting:

Original Effective Date: August 19, 1980
Revised: *April 24, 2018*
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Code of Ethics

1.2.1

/s/ Jennifer A. Maguire
~~Assistant~~ City Manager

~~April 30, 2018~~
Date