

COUNCIL OF THE DISTRICT OF COLUMBIA
CODE OF OFFICIAL CONDUCT
COUNCIL PERIOD 26

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I. CONFLICTS OF INTEREST

- (a) **GENERALLY.** No employee shall use his or her official position or title, or personally and substantially participate, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter, or attempt to influence the outcome of a particular matter, in a manner that the employee knows is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee.
- (b) **WAIVERS.** An employee other than a Councilmember may seek a waiver, and the prohibition in subsection (a) of this section shall not apply, if the employee:
 - (1) Advises the employee's supervisor and the Ethics Board of the nature and circumstances of the particular matter;
 - (2) Makes full disclosure of the financial interest; and
 - (3) Receives in advance a written determination made by both the supervisor and the Ethics Board that:
 - (A) The interest is not so substantial as to be deemed likely to affect the integrity of the services that the government may expect from such employee; or
 - (B) Another legally cognizable basis for waiver exists.
- (c)(1) An employee other than a Councilmember who, in the discharge of the employee's official duties, would be required to act in any matter prohibited under subsection (a) of this section shall make full disclosure of the financial interest and:
 - (A) Prepare a written statement describing the matter and the nature of the potential conflict of interest; and
 - (B) Deliver the statement to the employee's supervisor and to the Ethics Board.

- (2) Upon receipt of the statement provided in paragraph (1) of this subsection, the employee's supervisor shall assign the matter to another employee who does not have a potential conflict of interest.
- (d) RECUSAL STATEMENT.
 - (1) A Councilmember who, in the discharge of the Councilmember's official duties, would be required to act in any matter prohibited under subsection (a) of this section shall make full disclosure of the financial interest, prepare a written statement describing the matter and the nature of the potential conflict of interest, and deliver the statement to the Council Chairman.
 - (2) During a proceeding in which a Councilmember would be required to take action in any matter that is prohibited under subsection (a) of this section, the Chairman shall:
 - (A) Read the statement provided in paragraph (1) of this subsection into the record of proceedings; and
 - (B) Excuse the elected official from votes, deliberations, and other actions on the matter.
 - (3) No Councilmember excused from votes, deliberations, or other actions on a matter shall in any way participate in or attempt to influence the outcome of the particular matter in a manner that is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee.
- (e) SPECIFIC CONFLICT SITUATIONS.
 - (1) An employee shall not receive any compensation, salary, or contribution to salary, gratuity, or any other thing of value from any source other than the District government for the employee's performance of official duties.
 - (2) No employee or member of the employee's household may knowingly acquire:
 - (A) Stocks, bonds, commodities, real estate, or other property, whether held individually or jointly, the acquisition of which could unduly influence

or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities; or

- (B) An interest in a business or commercial enterprise that is related directly to the employee's official duties, or which might otherwise be involved in an official action taken or recommended by the employee, or which is in any way related to matters over which the employee could wield any influence, official or otherwise.

(f) DEFINITIONS. For the purposes of this Rule, the term:

- (1) "Affiliated organization" means an organization or entity:
 - (A) In which the employee serves as officer, director, trustee, general partner, or employee;
 - (B) In which the employee or member of the employee's household is a director, officer, owner, employee, or holder of stock worth \$1,000 or more at fair market value;
 - (C) That is a client of the employee or member of the employee's household; or
 - (D) With whom the employee is negotiating for or has an arrangement concerning prospective employment.
- (2) "Direct and predictable effect" means there is:
 - (A) A close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest; and
 - (B) A real, as opposed to a speculative possibility, that the matter will affect the financial interest.
- (3) "Member of the employee's household" means a person who resides in the same household as the employee and is:
 - (A) A spouse or domestic partner of the employee;

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- (B) A parent, sibling, or child of the employee or of any person in subparagraph (A) of this paragraph; or
 - (C) A spouse or domestic partner of any person in subparagraph (B) of this paragraph.
- (4) “Particular matter” is limited to deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.
- (5) “Person closely affiliated with the employee” means a spouse, dependent child, general partner, a member of the employee’s household, or an affiliated organization.

II. OUTSIDE ACTIVITIES

- (a) GENERALLY.
 - (1) No employee shall engage in outside employment or private activity that conflicts or would appear to conflict with the fair, impartial, and objective performance of the employee's official duties and responsibilities or with the efficient operation of the Council.
 - (2) Before engaging in outside employment, an employee other than a Councilmember shall obtain the approval of his or her supervisor.
- (b) LIMITATIONS ON PERMISSIBLE ACTIVITIES.
 - (1) An employee may engage in outside employment or activities such as teaching, writing for publication, consultative activities, and speaking engagements if the activities are:
 - (A) Consistent with subsection (a) of this Rule;
 - (B) Not otherwise prohibited by law or regulation; and
 - (C) Conducted outside of regular working hours, while the employee is on annual leave or leave without pay, or at a minimal level during work hours in a manner that does not interfere with the employee's official duties.
 - (2) The information used by an employee engaging in outside employment or activities shall not draw on official data or ideas that are not public information, unless the employee has written authorization from the employee's supervisor to use such information.
- (c) SPECIFIC RESTRICTION ON REPRESENTATION.
 - (1) Except as provided in paragraph (2) of this subsection, an employee shall not:
 - (A) Represent another person, have a financial interest, or provide assistance in prosecuting a claim against the District of Columbia before any regulatory agency or court of the District of Columbia; or

- (B) Represent another person before any regulatory agency or court of the District of Columbia in a matter in which the District of Columbia is a party or has a direct and substantial interest.
- (2) The prohibition in paragraph (1) of this subsection shall not apply to an employee, who, if not inconsistent with the faithful performance of the employee's duties, and acting without compensation, represents:
- (A) A person who is the subject of disciplinary or other personnel administration proceedings in connection with those proceedings; or
 - (B) A nonprofit cooperative, voluntary, professional, recreational, or similar organization or group, if a majority of the organization's or group's members are current officers or employees of the United States government or of the District of Columbia government, or their spouses or dependent children; provided, that this exception shall not apply to any matter that:
 - (i) Is a claim under paragraph (1)(A) of this subsection;
 - (ii) Is a judicial or administrative proceeding where the organization or group is a party; or
 - (iii) Involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of federal funds to the organization or group.

III. GIFTS FROM OUTSIDE SOURCES

- (a) Except as provided in subsection (c) of this Rule and Rule IV, an employee shall not solicit or accept, either directly or indirectly, any gift from a prohibited source.
- (b) An employee who receives a gift from a prohibited source shall:
 - (1) Return the gift to the donor;
 - (2) Reimburse the donor the market value of the gift; or
 - (3) If the gift is perishable and it would not be practical to return it to the donor, donate the gift to charity, share it with the office staff, or destroy it.
- (c) Notwithstanding subsection (a) of this Rule, an employee may accept the following gifts:
 - (1) Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;
 - (2) Loans from banks and other financial institutions on terms generally available to the public;
 - (3) Rewards and prizes given to competitors in contests or events, including random drawings, open to the public;
 - (4) Opportunities and benefits, including favorable rates and commercial discounts:
 - (A) Available to the public or to a class consisting of all District employees;
 - (B) Offered to members of a group or class in which membership is unrelated to District employment; or
 - (C) Offered to members of an organization, such as an employees' association or agency credit union, in which membership is related to District employment if the same offer is broadly available to large segments of the public through organizations of similar size;
 - (5) Pension and benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer;

- (6) Anything that is paid for by the Council or the District or the employee or secured by the Council or the District under contract;
 - (7)(A) Unsolicited gifts having an aggregate market value of \$50 or less per source per occasion; provided, that the aggregate market value of individual gifts received from any prohibited source under the authority of this paragraph shall not exceed \$100 in a calendar year;
 - (B) When the market value of a gift or the aggregate market value of gifts offered on any single occasion under this paragraph exceeds \$50, the employee may not pay excess value over \$50 in order to accept that portion of the gift or those gifts worth \$50;
 - (C) When the aggregate value of tangible items offered on a single occasion exceeds \$50, the employee may decline any distinct and separate item in order to accept those items aggregating \$50 or less; and
 - (D) This paragraph shall not apply to gifts of cash, stock, bonds, or certificates of deposit;
 - (8) Gifts given to an employee under circumstances that make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee. Relevant factors in making such a determination include the history of the relationship and whether the family member or friend personally pays for the gift;
 - (9) Reduced membership or other fees for participation in organization activities offered to all District employees by professional organizations if the only restrictions on membership relate to professional qualifications; or
 - (10) Gifts approved in advance by the employee's supervising Councilmember in exceptional circumstances that are disclosed on Sterling and posted on the Council's website.
- (d) A gift that is solicited or accepted indirectly includes a gift given:

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- (1) With the employee's knowledge and acquiescence to his parent, sibling, spouse, domestic partner, child, or dependent relative because of that person's relationship to the employee; or
 - (2) To any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee, except as permitted for the disposition of perishable items under subsection (b)(3) of this Rule.
- (e) **SPECIFIC GIFT RESTRICTIONS.** Except as provided in Rule IV, no employee shall:
- (1) Solicit or accept anything of value from a registered lobbyist that is given for the purpose of influencing the actions of the employee in making or influencing the making of an administrative decision or legislative action or
 - (2) Directly or indirectly demand, seek, receive, accept, or agree to receive or accept anything of value personally or for any other person or entity, in return for:
 - (A) Any official act performed or to be performed by the employee;
 - (B) Being influenced in the performance of any official act;
 - (C) Being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the District of Columbia; or
 - (D) Being induced to do or omit to do any act in violation of the employee's official duty.
- (f) **GOVERNMENT RESOURCES AVAILABLE TO THE PUBLIC.** Employees are not prohibited from accepting any material, article, or service that is available as part of any District government program or provided free to District residents or visitors.
- (g) **DEFINITIONS.** For the purposes of this Rule, the term:
- (1) "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. Gifts may also consist of training, transportation, local travel, lodgings and meals, whether provided

in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has incurred.

- (2) “Prohibited source” means any person or entity that:
 - (A) Has or is seeking to obtain contractual or other business or financial relations with the District government;
 - (B) Conducts operations or activities that are subject to regulation by the District government; or
 - (C) Has an interest that may be favorably affected by the performance or non-performance of the employee’s official responsibilities.

IV. CONFERENCES, TRAVEL, AND RECEPTIONS AND DONATIONS TO THE COUNCIL

- (a) CONFERENCES AND TRAVEL.
 - (1) Employees may accept reasonable expenses for food, travel, lodging, and scheduled entertainment to attend a meeting, conference, or to participate in educational travel, if:
 - (A) The donor is neither a registered lobbyist nor a prohibited source;
 - (B) The meeting or conference is an organized event;
 - (C) The topics or subjects are related to official Council business;
 - (D) The event is widely attended by a range of attendees other than District employees; and
 - (E) Other attendees are treated similarly in terms of the food, travel, lodging, and entertainment expenses that they are offered.
 - (2) Spouses and domestic partners of employees may share lodging with the employee who is attending an event under this subsection; however, the spouse or domestic partner may not accept food, travel, or entertainment expenses unless the spouse or domestic partner pays market value for the same.
 - (3) Employees are encouraged to submit a copy of the itinerary of the meeting, conference, or educational travel in advance to the General Counsel for review.
- (b) WIDELY ATTENDED EVENTS.
 - (1) An employee may accept:
 - (A) An offer of free attendance at a convention, conference, symposium, forum, panel discussion, dinner, gala, viewing, reception, or similar event; provided, that:

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- (i) At least 25 persons from outside the District government are expected to be in attendance;
 - (ii) Attendance at the event is open to members from throughout a given industry or profession, or to a range of persons interested in an issue; and
 - (iii) Attendance is connected to the attendee's official Council duties.
 - (B) Free attendance for one accompanying individual to the event described in subparagraph (A) of this paragraph; and
 - (C) A meal that is offered to all attendees as part of the event described in subparagraph (A) of this paragraph.
- (2) For the purposes of this subsection, the term "connected to the attendee's official Council duties" includes participation in the event as a speaker or a panel participant, presenting information related to the Council or matters before the Council, performing a ceremonial function appropriate to the official position of such individual, or attending when otherwise appropriate to the representative function of the Council.
- (c) GIFT BAGS. An employee may not accept a gift bag for an event under subsection (a) or (b) of this Rule if the organizing event sponsor is a prohibited source, unless the contents of the bag meet the requirements under Rule III.
- (d) DONATIONS TO THE COUNCIL.
- (1) An employee may solicit or accept, pursuant to D.C. Official Code § 1-329.01(a), a thing of a value as a donation made to the Council to carry out authorized functions or duties of the Council. Donations are considered Council property and may not be used for unauthorized purposes.
 - (2)(A) Recognition of Donors. Donors may be recognized for their donations through letters of acceptance and appreciation, press releases, certificates, and other items that commemorate the donation.
 - (B) Recognition of corporate donations must not give the impression of advertising or commercialization. A short, discreet unobtrusive donor

credit line may be used as recognition, but no product names or logos may be used.

(e) DISCLOSURE.

- (1) An employee accepting a thing of value under this rule shall disclose the acceptance in accordance with paragraph (2) of this subsection.
 - (2)(A) An employee accepting a thing of value under this rule shall, by the last business day of the month, disclose on Sterling a list of the following for each event and thing of value:
 - (i) Donor;
 - (ii) Date; and
 - (iii) Estimated value.
 - (B) Disclosures filed pursuant to this subsection shall be published on the Council's website on the first Friday in the first full week of each month or, if the Friday is a holiday, the next business day.
 - (C) Councilmembers who do not attend a qualifying event or accept a donation during the reporting period shall file a report indicating that nothing of value was accepted during the period.
- (3) For the purposes of this subsection, the term "thing of value" shall not include an offer of free attendance to an event if the employee does not attend the event.

V. GIFTS BETWEEN EMPLOYEES

- (a) Except as provided in subsections (c) and (d) of this Rule, an employee may not:
 - (1) Directly or indirectly, give a gift to or make a donation toward a gift for an official superior; or
 - (2) Solicit a contribution from another employee for a gift to either the employee's official superior or the other employee's official superior.
- (b) An employee may not accept a gift, directly or indirectly, from an employee receiving less pay unless:
 - (1) The 2 employees are not in a subordinate-official superior relationship; and
 - (2) There is a personal relationship between the 2 employees that would justify the gift.
- (c) On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
 - (1) Items, other than cash, with an aggregate market value of \$50 or less per occasion;
 - (2) Items such as food and refreshments to be shared in the office among several employees;
 - (3) Personal hospitality provided at a residence that is of a type and value customarily provided by the employee to personal friends; or
 - (4) Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions.
- (d) A gift appropriate to the occasion may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
 - (1) In recognition of special occasions of personal significance such as marriage, illness, or the birth or adoption of a child; or
 - (2) Upon occasions that terminate a subordinate-official superior relationship, such as retirement, resignation, or transfer.

VI. USE OF GOVERNMENT RESOURCES

- (a) **GENERALLY.** Employees shall not:
 - (1) Use Council time or government resources for purposes other than official business or other government-approved or government-sponsored activities, with the exception of *de minimis* use that does not interfere with an employee's official duties and responsibilities, including the incidental use of Council time or resources for purposes of scheduling;
 - (2) Order, direct, or request an employee to perform, during regular working hours, any personal services not related to official Council functions and activities, with the exception of incidental use of Council time or resources for purposes of scheduling; or
 - (3) Use or permit the use of government resources to support or oppose any candidate for elected office, to promote a political committee, or to support or oppose any initiative, referendum, or recall measure.
- (b) **PRESTIGE OF OFFICE.**
 - (1) An employee may not knowingly use the prestige of office or public position for that employee's private gain or that of another.
 - (2) The performance of usual and customary constituent services, without additional compensation, is not prohibited under paragraph (1) of this subsection.
 - (3) Council employees shall not use or permit the use of their position or title or any authority associated with their public office in a manner that could reasonably be construed to imply that the Council sanctions or endorses the personal or business activities of another, unless the Council has officially sanctioned or endorsed the activities.
 - (4) A Councilmember may serve as an honorary chair or honorary member, or speak or appear at of a nonprofit entity's fundraising event, so long as the entity for which funds are raised supports a nongovernmental bona fide charitable activity. Use of the Councilmember's name or title in fundraising

solicitations or announcements of general circulation shall be in accordance with such terms and limitations as the Councilmember may prescribe. The authority granted by this paragraph shall not extend to the use of the Councilmember's name or title in solicitations made by or on behalf of the Councilmember directly to individual contributors.

- (c) **SPECIAL RULES FOR LETTERS OF RECOMMENDATION.**
- (1) Employees may sign a letter of recommendation using their official titles only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual or entity with whom they have dealt in the course of their Council employment.
 - (2) Letters of recommendation may be written on Council letterhead if the applicant is a current or former Council employee or has worked with the Council in an official capacity and the letter relates to the duties performed by the applicant.
 - (3) If an employee does not have personal knowledge of an individual or entity's work ability or performance, the employee may sign a letter of recommendation on Council letterhead addressing only the character or residence of the individual or entity requesting the letter.
- (d) **DEFINITIONS.** For the purposes of this Rule, the term:
- (1) "Government Resources" means any property, equipment, or material of any kind, including that acquired through lease, and the personal services of an employee during his or her hours of work.
 - (2) "Usual and customary constituent services" includes an employee's representational activities, such as advocacy, communications, inquiry, oversight, and other actions, made on another person's behalf; provided, that the employee does not, directly or indirectly:
 - (A) Threaten reprisal or promise favoritism for the performance or nonperformance of another person's duties; or

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(B) Request that another person abuse or exceed the discretion available to that person under law.

VII. USE OF CONFIDENTIAL INFORMATION

Employees and former employees may not:

- (1) Willfully or knowingly disclose or use confidential or privileged information acquired by reason of their position without authorization or unless authorized or required by law to do so; or
- (2) Divulge information in advance of the time prescribed for its authorized issuance or otherwise make use of or permit others to make use of information not available to the general public.

**VIII . POST -GOVERNMENTAL EMPLOYMENT CONFLICTS
OF INTEREST**

- (a) PERMANENT RESTRICTIONS ON REPRESENTATION ON PARTICULAR MATTERS. No employee, after the termination of his or her service or employment with the Council, shall knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the District of Columbia, on behalf of any other person (except the District of Columbia) in connection with a particular matter:
 - (1) In which the District of Columbia is a party or has a direct and substantial interest;
 - (2) In which the person participated personally and substantially as such officer or employee; and
 - (3) Which involved a specific party or specific parties at the time of such participation.

- (b) TWO-YEAR RESTRICTIONS CONCERNING PARTICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY. No employee shall, within 2 years after the termination of his or her service or employment with the Council, knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the Council, on behalf of any other person (except the District of Columbia), in connection with a particular matter:
 - (1) In which the District of Columbia is a party or has a direct and substantial interest;
 - (2) Which the person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of one year before the termination of his or her service or employment with the Council; and
 - (3) Which involved a specific party or specific parties at the time it was pending.

- (c) SPECIAL RULES FOR FORMER COUNCIL EMPLOYEES. A former Council employee shall not, within one year after leaving government service or employment, knowingly make, with the intent to influence, any communication to or appearance before the Councilmember for whom the employee worked or any former subordinate employee, on behalf of any other person, other than the District of Columbia, in connection with any matter on which the former employee seeks action by a Councilmember or Council employee in his or her official capacity.
- (d)(1) EXCEPTIONS. The prohibitions contained in this Rule shall not apply to acts done in carrying out official duties on behalf of:
 - (A) The United States or the District of Columbia, as an elected official of a state or local government;
 - (B) An agency or instrumentality of a state or local government if the appearance, communication, or representation is on behalf of such government; or
 - (C) An accredited, degree-granting institution of higher education, as defined in the Higher Education Act of 1965, approved November 8, 1965 (79 Stat. 1219; 20 U.S.C. § 1001), or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.
- (2) Nothing in this Rule shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence, a former employee of the Council who is subject to the restrictions in subsection (a) of this Rule with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person, other than the District of Columbia, in that matter.

IX. POLITICAL ACTIVITIES

- (a) PROHIBITIONS. No Council employee shall:
- (1) Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
 - (2) Directly or indirectly solicit, accept, or receive a political contribution from any person, except if the employee has filed as a candidate for political office;
 - (3) Run for nomination or as a candidate for election to a partisan political office;
 - (4) Knowingly solicit or discourage the participation in any political activity of any person who:
 - (A) Has a measure pending before the Council; or
 - (B) Is the subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the Council; or
 - (5) Knowingly direct, or authorize anyone else to direct, that any subordinate employee participate in an election campaign or request a subordinate to make a political contribution.
- (b) No Council employee shall:
- (1) Engage in political activity:
 - (A) While the employee is on duty;
 - (B) In any room or building occupied in the discharge of official duties by an individual employed or holding office in the District government or in the Government of the United States or any agency or instrumentality thereof;
 - (C) While wearing a uniform or official insignia identifying the office or position of the employee; or
 - (D) Using any vehicle owned or leased by the District government or the Government of the United States or any agency or instrumentality thereof; or

- (2) Coerce, explicitly or implicitly, any subordinate employee to engage in political activity.
- (c) DESIGNATED EMPLOYEES. Each member of the Council may designate one employee while on annual or unpaid leave to perform any of the functions described in subsection (a)(2) of this Rule; provided, that:
 - (1) The employee shall not perform the functions in the circumstances described in subsection (b) of this Rule;
 - (2) The employee may only perform the functions for a principal campaign committee, exploratory committee, or transition committee;
 - (3) Any designation pursuant to this subsection shall be made in writing by the member of the Council to the Secretary to the Council; and
 - (4) Any designated employee shall file a report, in a form as prescribed by the Ethics Board, with the Ethics Board within 15 days after being designated.
- (d) DEFINITIONS. For the purposes of this Rule, the term:
 - (1) “Employee” shall not include members of the Council.
 - (2) “Political activity” means an activity that is regulated by the District directed toward the success or failure of a political party, candidate for partisan political office, partisan political group initiative, referendum, or recall. For the purposes of subsection (b) of this Rule, political activity is not limited to activities regulated by the District.
- (e) CONSTRUCTION. Nothing in this rule should be construed as prohibiting a Council employee from taking an active part in political management or in political campaigns unless the employee’s activity violates subsection (a) or subsection (b) of this Rule.

X. OFFICIAL MAIL RULES

- (a) DEFINITIONS. For the purposes of this rule, the term:
 - (1) “Electronic newsletter” means more than 500 substantially identical newsletters or similar types of materials, transmitted through the internet at public expense, during any 30-day period related to a Councilmember’s activities, including such matters as the impact of laws and decisions on the government and its citizens, reports on public and official action taken by a Councilmember, and discussions of proposed or pending legislation or governmental action.
 - (2) “Mass mailing” means more than 100 substantially identical newsletters or similar types of material, transmitted through the mails, during any 30-day period, but shall not include a response to a communication initiated by a constituent.
 - (3) “Newsletter” means the usual and customary correspondence that deals with such matters as the impact of laws and decisions on the government and its citizens, reports on public and official action taken by a Councilmember, and discussions of proposed or pending legislation or governmental action. The term “newsletter” includes a news release.
 - (4) “Official mail” means correspondence, including newsletters or similar types of materials, suitable to be mailed at public expense that pertains directly or indirectly to the legislative process or to a Council legislative function, including any matter related to a past or current Council, the performance of official duties by a Councilmember in connection with a Council function, or other related matters of public concern or public service.
- (b) PERMITTED CATEGORIES OF OFFICIAL MAIL. Except as otherwise provided in this Rule, an employee may not mail, as official mail, any matter, article, material, or document for any reason other than the following:
 - (1) A request for a matter, article, material, or document that has been previously received by the Council;

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- (2) The mailing of the document is required by law;
 - (3) The material or matter requests information pertinent to the conduct of the official business of the Council;
 - (4) The material contains information relating to the activities of the Council or to the availability of Council publications or other documents;
 - (5) The enclosures are forms, blanks, cards, or other documents necessary or beneficial to the administration of the Council;
 - (6) The materials are copies of federal, state, or local laws, rules, regulations, orders, instructions, or interpretations thereof; or
 - (7) The materials are being mailed to federal, state, or other public authorities.
- (c) OFFICIALLY MARKED ENVELOPES. An envelope or other material that is used to enclose official mail shall bear on its face the name and address of the Council and the words “official business.” Envelopes and other materials shall not be used to enclose materials, documents, or other articles except those enumerated in subsections (b) and (e) of this Rule or other materials not prohibited by subsection (d) of this Rule.
- (d) PROHIBITED USES OF OFFICIAL MAIL BY ELECTED OFFICIALS.
- (1) A Councilmember may not mail, as official mail, a mass mailing within the 90-day period that immediately precedes a primary, special, or general election in which the Councilmember is a candidate for office.
 - (2) A Councilmember may mail, as official mail, newsletters; provided, that these materials do not contain any of the following:
 - (A) Autobiographical articles;
 - (B) Political cartoons;
 - (C) Reference to past or future campaigns;
 - (D) Announcements of filings for reelection;
 - (E) Announcements of campaign schedules;
 - (F) Announcements of political or partisan meetings;

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- (G) Reports on family life;
 - (H) Personal references that are included for publicity, advertising, or political purposes;
 - (I) Pictures of the official members with any partisan label such as "Democrat," "Republican," "Statehood Party," or any other label that purports to advertise the member rather than to illustrate the accompanying text;
 - (J) Articles about community events that are unrelated to official government business; or
 - (K) Reports on non-official activities of the Councilmember that have the effect of lending the franking privilege to others, no matter how worthwhile or charitable the endeavors of those to whom the franking privilege would be loaned.
- (3) A Councilmember may not use official mail to solicit directly or indirectly funds for any purpose.
 - (4) A Councilmember may not use official mail for transmission of matter that is purely personal to the sender and is unrelated to the official duties, activities, and business of the member.
 - (5) A Councilmember may not mail, as official mail, cards or other materials that express holiday greetings from the Councilmember or the Councilmember's family.
- (e) **AUTHORIZED USES OF OFFICIAL MAIL.** The provisions of subsection (d) of this Rule do not prohibit a Councilmember or the Councilmember's staff from mailing, as official mail, any of the following:
- (1) The whole or part of a record, speech, debate, or report of the Council or a committee of the Council;
 - (2) The tabulation of a Councilmember's vote or explanation of the vote;
 - (3) An expression of condolences to a person who has suffered a loss or congratulations to a person who has achieved some personal or public

distinction; provided, that mass mailings of a congratulatory nature that are substantially the same except for individualized addresses are not authorized;

- (4) Information concerning the Councilmember's schedule of meeting constituents;
 - (5) Information concerning the meeting schedule and agenda for committees and subcommittees upon which the Councilmember serves;
 - (6) Information concerning financial disclosure information, whether or not required by law;
 - (7) Matter that consists of federal, state, or local laws, regulations, or publications paid for by public funds;
 - (8) Questionnaires that relate to matters on public policy or administration;
 - (9) Matter that contains a picture of the member or biographical or autobiographical data whenever the matter is mailed in response to a specific request.
- (f) USE OF ELECTRONIC NEWSLETTERS.
- (1) A Councilmember or Council employee shall not transmit an electronic newsletter within the 90-day period immediately before a primary, special, or general election in which the Councilmember is a candidate for office, unless the electronic newsletter conforms with the following requirements:
 - (A) The recipients have individually subscribed to receive the electronic newsletter;
 - (B) The electronic newsletter contains a clear and conspicuous notice of the method by which a recipient can request not to receive future electronic newsletters; and
 - (C) The proposed newsletter has been submitted for review by the General Counsel or the Office of Campaign Finance.
 - (2) An electronic newsletter shall comply with the requirements of subsection (d)(2) of this Rule.

- (3) An electronic newsletter shall not be transmitted at public expense unless, when viewed as a whole, it:
 - (A) Is informational rather than self-promotional; and
 - (B) Is directly related to a Councilmember's official legislative or representative duties.

- (g) PHOTOGRAPHS AND SKETCHES CONTAINED IN NEWSLETTERS. Each photograph or sketch contained in a newsletter or report on constituent service activities shall relate to the official legislative duties of the Councilmember and shall not, because of excessive use and size, have the effect of advertising or publicizing the Councilmember. In addition, to be mailed at public expense as official mail, a newsletter or report on constituent service activities may not contain any of the following:
 - (1) More than one photograph or likeness of the Councilmember appearing alone;
 - (2) A photographic likeness of the Councilmember appearing alone that covers more than 6% of a single page or that exceeds 6 square inches on 8 ½" x 11" paper;
 - (3) More than 2 photographs per page that include the Councilmember with other persons;
 - (4) Two photographs on a single page that include the Councilmember and exceed 20% of the page;
 - (5) A photograph of a Councilmember with a label such as "Democrat," "Republican," "Statehood Party," or any other label that purports to advertise the Councilmember rather than to illustrate the accompanying text; or
 - (6) A photograph that does not relate to, illustrate, or explain the accompanying text.

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- (h) **SIZE AND PRINT TYPES FOR NAMES.**
 - (1) A Councilmember's name in the masthead of a newsletter shall not appear in print type larger than ½" in height.
 - (2) A Councilmember's name in the text of a newsletter shall not appear in type style or size larger than the other matter, nor in print size larger than 1/4" in height.
- (i) **USE OF OFFICIAL MAIL BY OFFICIALS-ELECT.** In addition to Councilmembers, the Chairman elect and members elect of the Council may mail materials as official mail.
- (j) **GENERAL COUNSEL REVIEW.** The General Counsel shall be available to Councilmembers and their staff to review materials intended to be mailed as official mail to ensure that the materials comply with the laws and rules governing official mail. Upon written request of a Councilmember, the General Counsel shall provide a written opinion concerning whether the materials, submitted by the Councilmember and intended to be mailed as official mail, comply with the laws and rules governing official mail.

XI. DEFINITIONS, FINANCIAL DISCLOSURES, AND ETHICS COUNSELING

- (a) **DEFINITIONS.** For the purposes of the Code of Official Conduct, the term:
- (1) “Employee” shall include all Council staff and Councilmembers, unless specifically stated otherwise.
 - (2) “General Counsel” means the General Counsel to the Council of the District of Columbia, or a designated employee within the Office of the General Counsel to the Council of the District of Columbia.
- (b) **FINANCIAL DISCLOSURE.** An employee who is covered under section 224 or 225 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.24 or § 1-1162.25) (“Government Ethics Act”), shall file the required disclosures in accordance with the Government Ethics Act.
- (c) **ETHICS COUNSELING AND SAFE HARBOR.**
- (1) The General Counsel shall provide at the request of an employee confidential advice about compliance with the Code of Official Conduct and any other applicable laws and regulations.
 - (2)(A) An employee who, after providing full disclosure of all relevant facts, obtains advice from the General Counsel and acts in accordance with that advice, even if that action is later found to constitute a violation of this Code of Official Conduct, shall not, subject to subparagraph (B) of this paragraph, be found to have violated the provisions of the Code of Official Conduct.
 - (B) If the employee knows or has reason to know that the General Counsel’s advice was based upon fraudulent, misleading, or otherwise incorrect information provided by the employee, subparagraph (A) of this paragraph shall not apply.
 - (C) An employee is responsible for providing and maintaining appropriate documentation of the underlying facts.

XII. DECORUM OF COUNCILMEMBERS

- (a) **GENERALLY.** During any meeting of the Council that is open to the public, as defined by section 405 of the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-575), a Councilmember shall treat other Councilmembers with dignity and respect and refrain from using profane, indecent, or abusive language directed at another Councilmember or the Council as an institution.
- (b) **REMOVAL OF COUNCILMEMBERS.**
 - (1) The Chairman shall maintain order during any meeting of the Council. The Chairman may order the removal of a Councilmember from a meeting if:
 - (A) The Chairman determines that:
 - (i) The Councilmember has violated subsection (a) of this Rule; and
 - (ii) Removal of the Councilmember is necessary to maintain order; and
 - (B) The Chairman has warned the Councilmember to come to order.
 - (2) This subsection shall not be construed to apply to any regular, additional, or special meeting of the Council or Committee of the Whole held pursuant to Rules 231, 301, 302, or 303 of the Rules of Organization and Procedure for the Council of the District of Columbia.
 - (3) This subsection shall not be construed to otherwise limit the ability of the Council to enforce this Rule.
- (c) **CONSTRUCTION.**
 - (1) The conduct prohibited by subsection (a) of this Rule shall not be considered a violation of the Code of Official Conduct for purposes of discipline if a Councilmember promptly comes to order upon warning by the Chairman.
 - (2) This Rule shall not be construed to prohibit the exercise of a Councilmember's First Amendment rights.