

## **Chapter 30**

### **ETHICS, CODE OF**

#### **§ 30-1. Declaration of policy.**

- A. Public service is a public trust, and the trust of the public is essential for government to function effectively. The public has a right to expect that every official and employee, whether appointed or elected, paid or unpaid, will behave in a manner that will tend to preserve public confidence and foster respect for the government the official or employee represents. Therefore, every official and employee is expected to treat all citizens in an impartial, honest, responsible, open, and courteous manner at all times.
- B. Further, officials and employees shall make governmental policies and decisions through proper channels of government and free from coercion or other improper influence; and they shall use their office or employment in the best interests of the Town and its residents rather than for personal interest, and avoid both actual and potential conflicts between their individual self-interest and the public interest.
- C. Town employees, elected officials and appointed board and commission members are expected to adhere to high ethical standards in the performance of their duties as officials and employees. However, by accepting the duties and obligations of public service, officials and employees, particularly those who volunteer their time and talents to help make North Haven a better Town, do not relinquish their right to be treated with the same dignity and respect as other citizens.
- D. One of the objectives of this Code is to help all citizens better understand the ethical obligations expected of officials and employees; and to help officials and employees achieve the goals set forth in this statement of policy.

#### **§ 30-2. Applicability.**

- A. This Code shall apply to all current officials and employees, whether elected or appointed, paid or unpaid, full time or part time, as well as former officials and/or employees when specifically stated in this Code.
- B. If one or more sections or provisions of this Code conflicts with any state or federal law, statute, rule, regulation or order, the law, statute, rule, regulation or order shall prevail.
- C. If any section, subsection, paragraph, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remainder of the Code, which shall remain valid, applicable and in effect.

**§ 30-3. Definitions; word usage.**

A. Note: Throughout this Code, any word used in the singular or plural, and in the masculine, feminine or neuter, shall be either singular or plural, and masculine, feminine or neuter, as the context may indicate or require.

B. As used in this chapter, the following terms shall have the meanings indicated:

ADVISORY OPINION — A formal, written opinion of the Board of Ethics with respect to the applicability and/or interpretation of this Code of Ethics, issued in response to a formal, written request.

BOARD — The Board of Ethics of the Town of North Haven.

BUSINESS — Any entity through which business for profit or not for profit is conducted, including a corporation, partnership, limited liability company, proprietorship, enterprise, franchise, association, trust organization, consultant or sole proprietorship, or self-employed individual.

CHAIR — The Chair of the Board of Ethics.

CODE — This Code of Ethics as the same may be amended from time to time.

COMMISSION — Any board, commission, committee, or authority created and existing pursuant to, or by authority of, the Charter and/or Ordinances of the Town of North Haven.

COMPLAINANT — Any individual who files a complaint pursuant to this Code.

COMPLAINT — A written statement, including any exhibits thereto, filed pursuant to this Code, alleging that an official or employee or a former official or employee has engaged in unethical conduct.

CONFIDENTIAL INFORMATION — Any and all information, oral or written, including electronic files, which the official or employee comes to have as a result of his office or employment, except information in the public domain; information generally available to the public by publication or otherwise, or information that becomes general knowledge.

CONSULTANT — An independent contractor or professional person or firm that is engaged by and/or receives compensation from the Town or the Board of Education for the purpose of providing professional, scientific, technical or other specialized opinion and is in a position to influence any decision of a commission, official or employee.

CUSTOMER OR CLIENT — In § 30-4C means:

- (1) Any person or entity to which an official has supplied goods or services during the previous two years, having, in the aggregate, a value greater than \$1,000; or

- (2) Any person or entity to which an official's outside employer or business has supplied goods or services during the previous two years, having, in the aggregate, a value greater than \$1,000, but only if the official knows or has reason to know the outside employer or business supplied the goods or services.

DEPARTMENT — The Police Department; Fire Department; Community Services and Recreation Department; Public Works Department; Finance Department and Library Services Department of the Town.

DOMESTIC PARTNER — An adult, unrelated by blood, with whom an unmarried or separated official or employee has an exclusive, committed relationship, maintains a mutual residence, and shares basic living expenses.

EMPLOYEE — Any paid employee of the Town.

GIFT — Anything of value, money, benefit, favor, loan or promise, including, but not limited to, entertainment, tickets, food, beverage, travel and lodging, to the extent that the giver does not receive consideration of equal or greater value. **[Amended 6-25-2018 STM]**

HOUSEHOLD — Includes anyone whose primary residence is in the official's home, including non-relatives who are not rent payers or employed in the official's home.

IMMEDIATE FAMILY — Includes a spouse or domestic partner, children, stepchildren, parents, stepparents, brothers and sisters, stepbrothers and stepsisters, and grandparents and grandchildren.

INTEREST — A relationship to a contract, transaction or decision such that a direct or indirect financial or other material benefit has been, will be, or might be received as a result of that contract, transaction or decision. The employee or official does not need to be a party to the contract, transaction or decision to have an interest in it. Indirect benefit includes a benefit to any of the parties listed in § 30-4C.

OFFICIAL — Any holder of public office, elected or appointed, paid or unpaid, including any member of a board, commission, authority, or committee of the Town.

OUTSIDE EMPLOYER OR BUSINESS — Includes:

- (1) Any substantial business activity, other than service to the Town;
- (2) Any entity, other than the Town, of which the official is a member, official, director or employee;
- (3) Any entity located in the Town or which does business with the Town, in which the official has an ownership interest, except a public corporation in which the official's ownership interest is the lesser of:
  - (a) Stock valued at less than \$50,000; or
  - (b) Five percent of the outstanding stock; and

- (4) Any entity to which the official owes, or by which the official is owed, more than \$10,000, either in the form of a note, a bond, a loan, or any other financial instrument.

**PARTICIPATING** — Includes any discussion, correspondence, rendering of advice, investigation, approval, disapproval, making motions, voting, or otherwise influencing or being involved with a decision or action.

**RESPONDENT** — An official or employee or a former official or employee who is alleged to have violated this Code.

**TOWN** — The Town of North Haven, Connecticut, and includes the Board of Education and the Volunteer Fire Companies and Associations.

#### **§ 30-4. Specific provisions.**

- A. **Impartiality.** All officials and employees shall discharge their duties and responsibilities impartially. No official or employee shall use or attempt to use his position to obtain any special treatment or advantage, for himself or others, beyond that which is available to the general public or to any other member of a profession, occupation, organization or group.
- B. **Use of Town property.** No official or employee shall request, use or permit the use of any Town property, vehicle, equipment, material, labor or service, either for himself or another, beyond that which is available to the general public or to any other member of a profession, occupation, organization or group. This provision shall not preclude the use of any Town property that is provided or entrusted to the official or employee as a matter of stated public policy or public convenience in the conduct of Town business.
- C. **Conflicts of interest.** An official or employee shall not use his office or position, or take any action, or attempt to influence others to take any action, in a manner which he has reason to believe or expect may result in a personal or financial benefit or a personal or financial detriment that is not shared with a substantial segment of the Town's population, for or on behalf of any of the following persons or entities:
- (1) Himself or his outside employer or business;
  - (2) A member of his immediate family, his dependents, nieces or nephews, aunts or uncles, or the employer or business of any of these people;
  - (3) A customer or client;
  - (4) A nongovernmental civic group, union, social, charitable, or religious organization of which he (or a member of his immediate family) is an officer or director.
- D. **Disclosure of interest and recusal.** An official or employee who has an interest in any pending matter shall abstain from participating in any

proceedings on the matter, except to disclose that he has such interest and recuse himself as follows:

- (1) A member of a commission should inform the Chair, and then join the public or leave the room, if the recusal occurs at a public meeting; or leave the room if it is not a public meeting.
  - (2) If the Chair of the commission is conflicted, he should turn over the proceedings to the Vice Chair; inform the Vice Chair and then join the public or leave the room, as the case may be.
  - (3) If another person, including another member of the commission, believes that a member of the commission should recuse himself because of a conflict of interest, that person should raise the issue as soon as practicable.
  - (4) If a conflict develops or is discovered by the member after proceedings on the matter have begun, the conflicted member should inform the chair and recuse himself as soon as possible after such development or discovery occurs. Notwithstanding the foregoing, this provision shall not preclude an official or employee from participating as a member of the public or offering testimony before any commission, including a commission of which he is a member.
  - (5) If the conflict is unrelated to his duties as a member of a commission, and the official or employee was hired or appointed by the First Selectman, he should inform the First Selectman.
  - (6) If the conflict is unrelated to duties as a member of a commission, and the official or employee was not hired or appointed by the First Selectman, he should inform the department head or Superintendent of Schools, as the case may be.
  - (7) The Superintendent of Schools should inform the chair of the Board of Education if the Superintendent has a conflict.
  - (8) If a consultant has a conflict, he should inform the chair of the commission or the head of the department, or agency that hired him.
  - (9) If a contractor or bidder for a contract, he should inform the Finance Director and/or the Purchasing Agent of the Town or the Board of Education, as the case may be.
- E. Confidentiality. No official or employee, nor any former official or employee, shall disclose any confidential information or use any such confidential information to further his own or any other person or entity's personal or financial interest. This obligation remains in perpetuity.
- F. Prohibited gifts. No official or employee nor any member of his immediate family shall solicit or accept any gift that would not be

offered or given to him if he were not an official or employee; however, this section does not prohibit:

- (1) Performance or merit awards, retirement gifts, plaques or other items given by the Town pursuant to a program or practice of the Town;
  - (2) Recognition awards having a value of \$100 or less from other governmental agencies or charitable organizations.
- G. Prohibited compensation. Other than that which is paid or reimbursed by the Town, no official or employee shall solicit or accept any remuneration, gift or other compensation for performing his work or duties as an official or employee. This provision does not prohibit acceptance of gifts or gratuities having a value of less than \$20 per donor in any one calendar year; nor does this provision prohibit acceptance of campaign contributions that are otherwise legal under state and federal law.
- H. Prohibited representation.
- (1) Except for representing constituents in the course of his responsibilities as an official, no official or employee, nor any business by which he is employed, shall represent any person or entity, other than himself or a member of his immediate family, before the commission or Town department of which he is a member; by which he is employed; or over which he has supervisory authority.
  - (2) Full-time employees, lawyers with the Town Attorney's firm, and members of the Board of Selectmen, Board of Finance, Board of Assessment Appeals, Planning and Zoning Commission, and Zoning Board of Appeals shall not represent any person or entity, other than the Town, before any Town commission or department while he is an official or employee, and for a period of one year following the end of his term as a member of the commission or the termination of his employment.
- Note: In addition, attorneys who represent, or have represented, the Town or any of its commissions or departments, in any capacity, are governed by the Rules of Professional Conduct as set forth in the Connecticut Rules of Court. See specifically Rule 1.11, Special Conflicts of Interest for Former and Current Government Officers and employees.
- I. Prohibited contracts.
- (1) No official or employee shall accept employment with a party to a contract with the Town, within a year after the contract was signed, if he participated substantially in the negotiation or award of the contract and the contract obligated the Town to pay at least \$50,000.

- (2) No official or employee shall award a contract to or participate in an action benefiting a person or entity that employed him within one year prior to his Town employment or service.

J. Nepotism.

- (1) Unless waived pursuant to the provisions of § 30-6 of this Code, no official or employee shall appoint or hire a member of his immediate family or household for any type of employment with the Town, including by contract (unless competitively bid).
- (2) Unless waived pursuant to the provisions of § 30-6 of this Code, no official or employee shall supervise or be in a direct line of supervision over a member of his immediate family or household.
- (3) The provisions of this § 30-4J shall not apply to persons who are officials or employees on the effective date of this chapter; however, such provisions will apply to hires, transfers and promotions that occur after the July 1, 2009, effective date of this chapter. **[Amended 6-25-2018 STM]**

K. Periodic disclosure of ownership of real estate and business interests. Written disclosure statements shall be filed and maintained in the office of the Town Clerk, and be available for inspection by the public during the Town Clerk's regular business hours, as follows:

- (1) At the beginning of each term, each elected official, as well as each member of the Inland Wetlands Commission, the Economic Development Commission and the Board of Ethics, shall file a written statement of real property in North Haven in which he has a legal or equitable interest, and a statement of all business entities of which he serves as an officer or director, or in which he owns an interest of 10% or greater, on a form provided by the Board of Ethics.
- (2) Within 30 days after being hired by the Town, all department heads and those authorized to act on their behalf (deputies and assistant department heads), including the Superintendent of Schools, Assistant Superintendent(s) of Schools, and Director of Business and Operations of the Board of Education, shall file a written statement of real property in North Haven in which he has a legal or equitable interest, and a statement of all business entities of which he serves as an officer or director, or in which he owns an interest of 10% or greater, on a form provided by the Board of Ethics.
- (3) The officials and employees identified in Subsections K(1) and (2) on the effective date of this Code shall file said disclosure statements on or before September 30, 2009.
- (4) Such disclosure statement shall be signed by the official or employee who is required to file it and he shall sign and file an

amendment thereto within 60 days following any change in the information contained in the most recently filed disclosure or amendment.

- (5) The Board of Ethics shall mail timely written notice to each official or employee who is required to file a disclosure statement, so that the official or employee will be able to comply within the time limits set forth herein. The Board of Ethics shall mail written notice by certified mail, return receipt requested, to any official or employee who is required to file a disclosure statement, but who is more than 30 days late in so filing. Failure to file such disclosure statement within 30 days after receipt of such notice shall be a violation of this Code, unless:
  - (a) The official or employee is contesting his obligation to file such disclosure statement, and has not received a final decision from the applicable court or commission; or
  - (b) The official or employee has requested and received a waiver by the Board of Ethics, pursuant to the provisions of § 30-6 of this Code.

L. Mandatory distribution and acknowledgement of Code.

- (1) Every official and employee shall be furnished a copy of this Code within 10 days after entering upon the duties of his position.
- (2) Within 30 days after receipt of the Code, every official and employee shall sign a statement that he has received and read the requirements of the Code and promises to fulfill them, and must file that statement with the office of the First Selectman if an official and with the Finance Department if an employee. **[Amended 6-25-2018 STM]**
- (3) Failure of the Town to comply with the provisions of this section or failure of any official or employee to receive a copy of this Code, or to sign and file such statement with the Board, shall have no effect on the duty to comply with the Code.

M. Whistle-blower protection. No official or employee shall take or threaten to take, directly or indirectly, official or personal action, including, but not limited to, discharge, discipline, personal attack, harassment, intimidation or change in job, salary or responsibilities, against any person (or against any member of his family) because that person or a person acting on his behalf:

- (1) Reports, verbally or in writing, or files a complaint with the Board; or
- (2) Is requested by the Board to participate in an investigation or hearing, or presents evidence as part of a Board investigation or hearing, or is involved in a court action relating to an alleged

violation of this Code. The provisions of this subsection are not applicable when the complainant, witness or reporter of a violation knew that the allegations of such complaint, testimony or report were false or were made with reckless disregard for the truth.

**§ 30-5. Board of Ethics.**

- A. There shall be a Board of Ethics ("the Board"), which shall administer this Code.
- B. The Board shall consist of five members, plus two alternate members, appointed by unanimous vote of the Board of Selectmen. The term of office of members and alternate members of the Board of Ethics ("the Board") is three years, and runs from January 1 through December 31, except that of the initially appointed members, one shall serve for one year; two shall serve for two years; and two shall serve for three years. One initially appointed alternate member shall serve for two years, and the other shall serve for three years. Notwithstanding the expiration of their terms, members and alternates shall serve until their successors have been appointed.
- C. In the event the Board of Selectmen cannot fill a vacancy on the Board of Ethics by unanimous vote within 60 days after the occurrence of the vacancy, such vacancy shall be filled by the Annual or Special Town Meeting next occurring, as follows:
  - (1) The Board of Selectmen, by majority vote, may nominate a person to the Town Meeting to fill the vacancy.
  - (2) In addition to the nomination of the Board of Selectmen, the Town Meeting may receive nominations from the floor.
  - (3) The Town Meeting shall fill the vacancy by majority vote.
  - (4) In the event there are more than two nominees and none of the nominees receives a majority vote, there shall be a second vote, at which only the nominees who received the highest and second highest number of votes shall be eligible; and at the second vote, the Town Meeting shall fill the vacancy on the Board by majority vote.
- D. Qualifications and limitations.
  - (1) All members and alternate members of the Board of Ethics shall be registered to vote in the Town of North Haven.
  - (2) No more than two regular members may be registered in the same political party, and the alternate members may not be registered in the same political party.
  - (3) No member of the Board may be, or have been within one year of appointment, an official of the Town.

- (4) No member of the Board may hold office in a political committee.
  - (5) No member of the Board shall serve for more than two consecutive three-year terms, except that a one- or two-term alternate member may thereafter serve two terms as a regular member.
- E. Selection process.
- (1) In November of each year in which the terms(s) of a member(s) of the Board of Ethics is due to expire, the Board of Selectmen shall publish and disseminate a notice requesting that any Town resident interested in serving on the Board of Ethics may submit his name, political affiliation, and resume to the Board of Selectmen. **[Amended 6-25-2018 STM]**
  - (2) No later than December 31 each year, as the terms of members of the Board of Ethics expire, the Board of Selectmen shall make the appointments to the Board of Ethics in conformity with this Code.
- F. Compensation. Board members shall not receive compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties.
- G. Quorum; meetings; and officers.
- (1) Three members of the Board shall constitute a quorum.
  - (2) At the first meeting of each year, the Board shall elect a Chair who shall preside at meetings of the Board; a Vice Chair who shall preside in the absence of the Chair; and a Secretary.
  - (3) Regular meetings shall be scheduled on a quarterly basis. Subject to the notice requirements of the Freedom of Information Act (Connecticut General Statutes, Chapter 14), special meetings may be called at any time by the Chair, or by a written request signed or e-mailed by at least three members of the Board. A meeting shall also be called for as soon as possible after the receipt of a complaint. All meetings relating to a complaint, before a finding of probable cause has been made, shall be held separately from other meetings, as meetings on a complaint, not as executive sessions during an ordinary meeting pursuant to Connecticut General Statutes §§ 7-148h and 1-82a. However, ordinary meetings may be held on the same day at a different time. Before a finding of probable cause has been made by the Board, all discussions related to a complaint or discussions related to its own investigations of unethical conduct by an official or employee or a former official or employee shall be confidential except upon the request of the respondent. **[Amended 6-25-2018 STM]**
  - (4) The Board shall have the power, by a unanimous vote of the other members, to dismiss any member who has been absent from three Board meetings during a year without good cause. Good cause shall

include vacations, ill health, and unexpected family-related commitments.

H. The Board of Ethics shall:

- (1) Compile and maintain a record of the doings of the Board.
- (2) Receive and investigate complaints.
- (3) Institute its own complaint, and investigate such complaint, when unethical conduct by an official or employee or a former official or employee comes to the attention of the Board.
- (4) Make a determination of probable cause on each complaint of unethical conduct, as well as each of its own investigations of unethical conduct that comes to the attention of the Board.
- (5) Maintain the confidentiality of all complaints and investigations of unethical conduct until such time as the Board has made a determination that a particular official or employee or a former official or employee has probably engaged in unethical conduct, as defined in this Code.
- (6) Destroy all records of all complaints and investigations of unethical conduct that do not result in a finding of probable cause.
- (7) Conduct a public hearing on each complaint or investigation that resulted in a determination of probable cause.
- (8) Issue advisory opinions regarding the interpretation and applicability of the Code upon the written request of any person without unreasonable delay.
- (9) Act on applications for waivers pursuant to the provisions of Section § 30-6 of this Code without unreasonable delay.
- (10) Distribute copies of this Code to officials and employees, and make copies available to the public.
- (11) Formulate and implement an ethics training program for officials and employees, within available appropriations.
- (12) Submit an annual report of the activities of the Board to the Board of Selectmen on or before the first business day of March of each year.

I. The Board of Ethics may:

- (1) After public hearing, adopt rules and regulations for the administration and implementation of this Code, not inconsistent with the Code.
- (2) Develop and distribute such forms as may be necessary or convenient to administer this Code.

- (3) Within available appropriations, the Board as a whole, or its individual members, may attend seminars and training programs to enhance the knowledge, skills and effectiveness of the Board.
- (4) Employ necessary staff or outside counsel, within available appropriations.

J. Receipt and processing of complaints.

- (1) Any person may file a complaint alleging that an official or employee or a former official or employee has engaged in unethical conduct. The complaint shall include the name, address, and telephone number(s) of the complainant.
- (2) No complaint may be made under this Code except within three years after the violation is alleged to have occurred.
- (3) The complaint shall state the specific section or sections of the Code that the complainant alleges had been violated; contain a concise statement of the facts that constitute the violation; and may include corroborative exhibits.
- (4) All complaints must be in writing, signed, and made under oath before a person authorized to administer oaths in the State of Connecticut; or signed under penalty of false statement (Connecticut General Statutes § 53a-157b).
- (5) Complaints, including any exhibits, shall be filed in a sealed envelope with the Town Clerk;
- (6) The envelope containing the complaint shall be conspicuously marked "ETHICS COMPLAINT - CONFIDENTIAL" and shall include the date of filing. The Town Clerk shall issue a dated, signed receipt to the complainant, upon request.
- (7) The Town Clerk shall not open the sealed envelope, but shall notify the Chair within 24 hours after receipt, and arrange for its prompt delivery to the Chair.
- (8) After receipt of a complaint, the Chair shall confirm that the complaint:
  - (a) Is in writing;
  - (b) Is signed;
  - (c) Is made under oath before a person authorized to administer oaths in the State of Connecticut or signed under penalty of false statement; and
  - (d) Contains the name, address, and telephone number(s) of the complainant.

- (9) If the complaint is deficient with respect to any one or more of the requirements set forth above, the Chair shall promptly:
- (a) Return the complaint to the complainant together with a copy of this Code;
  - (b) Inform him that the complaint does not comply with the requirements of the Code in one or more respects; and
  - (c) Notify him that he may resubmit the complaint in conformity with the requirements of the Code.
- (10) If the complaint is in writing, signed, made under oath or signed under penalty of false statement, and contains the name, address and telephone number of the complainant, within 72 hours of his receipt of the complaint, the Chair shall forward a copy to the Board, or a subcommittee thereof, to determine if the complaint alleges an action or inaction that, if true, would constitute a violation of this Code, and that at least one person accused of a violation is a person covered by this Code.
- (11) If the Board, or a subcommittee thereof, determines that the complaint alleges an action or inaction that, if true, would constitute a violation of this Code, and that at least one person accused of a violation is a person covered by this Code, the Chair shall call a special meeting, which shall be held separately from other meetings, pursuant to Connecticut General Statutes §§ 7-148h and 1-82a, as meetings on a complaint, not as executive sessions during an ordinary meeting to investigate, discuss and make a determination as to whether there is probable cause to make a finding that the respondent(s) had engaged in unethical conduct. Said special meeting shall be held not sooner than 14 days, nor later than 28 days thereafter.
- (12) Within 72 hours after the determination that the complaint alleges an action or inaction that, if true, would constitute a violation of this Code, and that at least one person accused of a violation is a person covered by this Code, the Chair shall forward to the complainant and the respondent(s):
- (a) A copy of the complaint [shall be forwarded to the respondent(s) only]; **[Amended 6-25-2018 STM]**
  - (b) A copy of this Code;
  - (c) Notice of the date and time of the special meeting, which notice shall include notice that the special meeting will be held pursuant to Connecticut General Statutes §§ 7-148h and 1-82a, to investigate, discuss and make a determination as to whether there is probable cause to make a finding that the respondent(s) had engaged in unethical conduct; and that unless and until a finding of probable cause is made, said

investigation, discussion and determination will remain confidential except upon the request of the respondent; and

- (d) Notice that the respondent may respond to the complaint, in writing, no later than 72 hours prior to the Special Meeting.
- (13) If the Board, or a subcommittee thereof, determines that the complaint does not allege an action or inaction that would constitute a violation of this Code, and/or that at least one person accused of a violation is a person covered by this Code, the Chair shall notify the complainant, in writing.
- (14) Nothing in this section shall be construed to permit the Board to conduct an investigation of itself or of any of its members or staff. The Town Attorney and members of his firm are not to be considered staff. If the Chair receives a complaint alleging that the Board or any of its members or staff has violated any provision of this Code, the Chair shall promptly transmit a copy of the complaint to the First Selectman, who shall forthwith designate the Board of Selectmen as a Special Ad Hoc Board of Ethics, and the First Selectman shall serve as Chair thereof. The Special Ad Hoc Board of Ethics shall process the complaint as set forth herein, except that three votes shall be required to make any finding or decision required or permitted herein.

K. Settlement agreements.

- (1) At any time after a complaint has been filed, the Board may seek and enter into a settlement agreement with the respondent(s). The settlement agreement will, to the extent relevant, include the nature of the complaint, findings of fact, conclusions of law, the Board's reasons for entering into the agreement and a waiver of the right to a hearing; and may include an admission of violation by the respondent(s), a promise by respondent(s) not to do certain actions, the imposition of a public reprimand, remedial action to be taken, oral or written statements to be made.
- (2) In determining whether a matter is appropriate for settlement, the Board should consider the following factors, as well as other factors it considers relevant:
  - (a) The severity of the alleged conduct;
  - (b) The respondent's apparent level of knowledge and willfulness regarding the alleged conduct;
  - (c) Whether the alleged conduct appears to be an isolated event or part of a pattern of conduct;
  - (d) Whether the alleged conduct appears to indicate a violation of criminal law;

- (e) The complexity of issues or evidence, and the likely scope of an investigation and hearings;
  - (f) The involvement of other agencies in the investigation of the respondent's conduct;
  - (g) The existence of Board precedent concerning the alleged conduct;
  - (h) The age of the facts alleged in the complaint;
  - (i) The resources and priorities of the Board; and
  - (j) Whether the respondent self-reported the alleged conduct or sought an advisory opinion regarding it.
- (3) Any settlement agreement approved, by at least three members of the Board, will be a public record. However, all meetings held and documents relating to the settlement negotiations will be kept confidential, unless the parties agree otherwise.
- (4) If a settlement agreement is breached by the respondent, the Board may rescind the agreement and reinstitute the proceeding. However, no information obtained from the respondent in reaching the settlement, which is not otherwise discoverable, may be used in the proceeding.
- L. Meeting to make a determination of probable cause.
- (1) The Board shall investigate all complaints submitted in conformity with this Code as well as all unethical conduct by an official or employee or a former official or employee that comes to its attention. The affirmative vote of three members of the Board is required to make a finding of probable cause. Subject to the provisions of Connecticut General Statutes § 1-200(6)(A), unless and until the Board makes a finding of probable cause, the doings of the Board with respect to its investigations of a complaint shall remain confidential; however, nothing herein shall preclude the Board or its individual members from reporting the commission of a crime to the police or to an appropriate prosecutorial authority.
  - (2) The purpose of the investigation is to determine whether there is probable cause to believe that the respondent has violated this Code. As used herein, "probable cause" means that it is more likely than not that a violation has occurred.
  - (3) If the Board does not make a finding that there is probable cause to believe that a violation of this Code has occurred, it shall dismiss the complaint; notify the complainant and the respondent within three business days; and destroy all records of the complaint or its own investigation of unethical conduct, as the case may be, in accordance with the Connecticut General Statutes. **[Amended 6-25-2018 STM]**

## M. Public hearing following a finding of probable cause.

- (1) If the Board makes a finding that there is probable cause to believe that a violation of this Code has occurred, it shall notify the complainant and the respondent within three business days, and set a date for commencement of a public hearing to determine whether a violation has occurred. Except for compelling reasons, such public hearing shall be commenced within 35 days of such finding; and shall be closed within 95 days thereafter; and the Board shall make a decision within 35 days after the close of the hearing.
- (2) In the conduct of the public hearing, the Board shall have the power to administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, including the issuance of subpoenas duces tecum to require production of any books, records and papers that the Board deems relevant in any matter under investigation or in question. The Board may examine any witness who appears before it, including the complainant and the respondent. The Board may limit the number of witnesses and scope of testimony to matters it believes relevant, material, not unduly repetitious, and necessary to make a fair and reasoned decision.
- (3) The hearing shall be governed not by the strict rules of judicial evidence, but by an administrative standard, with a liberal introduction of testimony and documentary evidence.
- (4) Sound recordings of all public hearings shall be kept.
- (5) All witnesses shall be sworn.
- (6) The respondent shall have the right to appear and to be represented by legal counsel and to examine and cross-examine witnesses.
- (7) The affirmative vote of no less than four members of the Board shall be required to make a finding that there has been a violation of this Code.
- (8) If the Board does not make a finding that there has been a violation of this Code, it shall dismiss the complaint.
- (9) Dismissal of the complaint shall be final, either after hearing, or because the Board did not make a finding of probable cause.
- (10) If the Board makes a finding that there has been a violation of this Code, it shall report such finding, in writing, within three days, to the Board of Selectmen and to the Commission and/or Department head having supervisory authority over the official or employee. Such report shall include a summary of the reasons for making the

finding, and may include a recommendation of action(s) against the official or employee or former official or employee.

(11) In addition, the Board may issue a public reprimand.

- N. Advisory opinions. The Board shall issue an advisory opinion with respect to the requirements and/or applicability of this Code upon the written request of any person. Until amended or revoked, an advisory opinion of the Board shall be deemed to be a final decision of the Board. Any person who acts in good faith reliance on an advisory opinion of the Board shall be entitled to use such reliance as an absolute defense to any complaint brought under the provisions of this Code in connection with the specific activities that were the subject of the advisory opinion. If the Board believes it needs additional information and/or documentation in order to issue its advisory opinion, it shall request such additional information and/or documentation as soon as possible.
- O. Annual report. The Board shall submit an annual report to the Board of Selectmen on or before the first business day of March each year. Such report shall include the following information for the immediately preceding calendar year: **[Amended 6-25-2018 STM]**
- (1) The number of complaints received by the Board;
  - (2) The number of investigations of unethical conduct that were instituted by the Board without having received a complaint;
  - (3) The number of findings of no probable cause that were made by the Board;
  - (4) The number of findings of probable cause that were made by the Board, including the specific sections of the Code that were alleged to have been violated;
  - (5) The number of findings of violation of the Code that were made by the Board, including the specific sections of the Code that were found to have been violated;
  - (6) The number of advisory opinions issued by the Board;
  - (7) The number of waivers applied for, granted and denied.
  - (8) The nature and extent of ethics training programs for officials and employees that the Board implemented;
  - (9) The cost of operation of the Board, including personnel costs of any staff or outside counsel; and training programs and seminars attended by members of the Board; and
  - (10) Recommendations to improve ethics education, awareness, and compliance among officials and employees.

### § 30-6. Waiver.

- A. Upon written application and upon a showing of compelling need by the applicant, at an open session after public notice, the Board may grant the applicant a waiver of any of the provisions of this Code.
- B. Waivers must be in writing and must state the grounds upon which they are granted. The records of the Board shall set forth the name of the person or entity requesting the waiver and a general description of the nature of the waiver.
- C. When acting on a request for a waiver of § 30-4J, Nepotism, rather than a showing of compelling need, the applicant must show that the benefits to the Town outweigh the likelihood of abuse; and the Board may impose such reasonable conditions as it considers appropriate to ensure that the spirit and intent of this Code are not frustrated.

**§ 30-7. Amendment.**

This Code of Ethics may be amended only by ordinance passed by a majority at a Town Meeting.