

Chapter 53, ETHICS, CODE OF

[HISTORY: Adopted by the Town Meeting of the Town of Colchester 5-26-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Conflicts of interest and Board of Ethics -- See Charter §C-1408.

§ 53-1. Statement of purpose.

Public office is a public trust. The trust of the public is essential for government to function effectively. Public policy developed by government officials and employees affects every citizen of the municipality, and it must be based on honest and fair deliberations and decisions. This process must be free from threats, favoritism, undue influence and all forms of impropriety so that the confidence of the public is not eroded. By enacting this code, this municipality seeks to avoid any loss of trust and to maintain and increase the confidence of our citizens in the integrity and fairness of their government.

§ 53-2. Definitions.

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

BUSINESS -- Any entity through which business for profit or not for profit is conducted, including without limitation a corporation, partnership, proprietorship, firm, enterprise, limited liability company, franchise, association, organization or self-employed individual.

BUSINESS WITH WHICH HE/SHE IS ASSOCIATED -- A business of which the person or a member of his/her immediate family is a director, officer, owner, partner, member, employee, compensated agent or holder of stock which constitutes 5% or more of the total outstanding stock of any class.

CODE -- This Code of Ethics.

COMMISSION -- The Municipal Ethics Commission established in § 53-3.

COMPLAINT -- Any complaint received by the Commission alleging a violation of this Code of Ethics. See §§ 53-5 through 53-8.

COMPLAINANT -- A party that makes the complaint as described in §§ 53-5 through 53-8.

CONFIDENTIAL INFORMATION -- Information, whether transmitted orally, in writing or by any other means, which is obtained by reason of the public position or office held and is of such nature that it is not, at the time of transmission, a matter of public record or public knowledge.

FINANCIAL INTEREST -- Any interest with a monetary value of \$100 or more or which generates a financial gain or loss of \$100 or more in a calendar year.

GIFT -- Anything of value, including entertainment, food, beverage, travel and lodging, given or paid to a public official or public employee to the extent that consideration of equal or greater value is not received.

A gift does not include:

A. A political contribution otherwise reported as required by law or a donation or payment as described in Subdivision (9) or (11) of Subsection (b) of C.G.S. § 9-333b.

B. A commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business.

C. A gift received from an individual's spouse, significant other, fiancée or fiancé, the parent, brother or sister of such spouse or such individual, or the child of such individual or the spouse of such child.

D. Goods or services which are provided to the municipality and facilitate governmental action or functions.

E. A certificate, plaque or other ceremonial award costing less than \$100.

F. A rebate or discount on the price of anything of value made in the ordinary course of business without regard to that person's status.

G. Printed or recorded informational material germane to governmental action or functions.

H. Items of nominal value, not to exceed \$10, containing or displaying promotional material.

I. An honorary degree bestowed upon a public official or public employee by a public or private university or college.

J. A meal provided at an event and/or the registration or entrance fee to attend such an event, in which the public employee or public official participates in his/her official capacity.

K. A meal provided in the home by an individual who resides in the municipality.

L. Gifts of nominal value not to exceed \$25 tendered on generally recognized gift-giving occasions such as Christmas, Hanukkah, birthdays, the birth or adoption of a child, weddings, confirmations or bar/bat mitzvahs, provided that the total value of such gifts from any person in any calendar year does not exceed \$100.

IMMEDIATE FAMILY -- Any spouse, child or dependent relative who resides in the individual's household.

INDIVIDUAL -- A natural person.

INDIVIDUAL WITH WHOM ONE IS ASSOCIATED -- An individual with whom the person or a member of his/her immediate family mutually has an interest in any business.

MUNICIPALITY -- The Town of Colchester and shall include any special district contained therein.

OFFICIAL RESPONSIBILITY -- The direct administrative or operating authority, whether intermediate or final and whether exercisable personally or through subordinates, to approve, disapprove or otherwise direct government action.

PERSON -- An individual, sole proprietorship, trust, corporation, union, association, firm, partnership, committee, limited liability company, club or other organization or group of persons.

PUBLIC EMPLOYEE -- A person employed, whether part time or full time, by the municipality or a political subdivision thereof.

PUBLIC OFFICIAL -- An elected or appointed official, whether paid or unpaid or full or part time, of a municipality or political subdivision thereof, including candidates for the office, and shall also include a district office elected pursuant to C.G.S. § 7-327.

RESPONDENT -- One who answers to an allegation of a violation of this Code of Ethics contained in a complaint.

SPECIAL DISTRICT -- A district established pursuant to C.G.S. § 7-324.

§ 53-3. Municipal Ethics Commission.

A. There shall be a Municipal Ethics Commission consisting of five members. The members shall be appointed by vote of the Board of Selectmen for terms of three years, except that, of the initially appointed members, one shall serve for one year, two for two years and two for three years. No individual shall be appointed to more than two consecutive three-year terms, provided that any member may continue in office until a successor has been appointed. No more than three members shall be members of the same political party.

B. All members shall be electors of the municipality. No member shall:

(1) Have held public office or have been a candidate for public office for a two-year period prior to appointment;

(2) Hold office in any political party or political committee; or

(3) Be a public official in any other capacity other than a notary public or Justice of the Peace.

C. The Commission shall elect a Chairperson who shall preside at meetings of the Commission and a Vice Chairperson to preside in the absence of the Chairperson. Three members shall constitute a quorum. A majority vote of the Commission shall be required for action of the Commission. The Chairperson or any three members may call a meeting.

§ 53-4. Duties of Commission.

A. The Commission shall:

(1) Compile and maintain a record of all reports, advisory opinions, statements and memoranda filed by and with the Commission to facilitate public access to such reports and statements.

(2) Issue opinions with regard to the requirements of this code upon the written request of any person. Advisory opinions rendered by the Commission, until amended or revoked, shall be binding on the Commission and shall be deemed to be final decisions of the Commission. Any person who requested an advisory opinion and who acts in good-faith reliance on such advisory opinion shall be entitled to use such reliance as an absolute defense to any complaint brought under the provisions of the code in connection with the specific activities that were subject of the advisory opinion.

(3) Report annually on or before February 1 to the Board of Selectmen summarizing the activities of the Commission.

B. The Commission may adopt, after a public hearing, rules and regulations not inconsistent with this code for the administration and implementation of the code.

C. The Commission may employ necessary staff or outside counsel within available appropriations.

§ 53-5. Procedure for receiving complaint.

A. The Commission shall receive complaints from any person alleging violation of the code. Any complaint received by the Commission must be in writing on a form prescribed by the Commission and signed under penalty of false statement by the individual making said complaint before:

(1) A Judge of a court of record;

(2) A clerk or deputy clerk of a court having a seal;

(3) A Commissioner of Deeds or Town Clerk;

(4) A notary public;

(5) A Justice of the Peace; or

(6) An attorney admitted to the bar of the State of Connecticut.

B. If the complainant intentionally makes a false statement, he/she shall be subject to fines of up to \$ 1,000 and penalties of up to one year imprisonment under the provisions of C.G.S. § 53a-157b for a Class A misdemeanor.

§ 53-6. Investigation procedures; time limits; notice and hearings.

A. Upon the complaint of any person on a form prescribed by the Commission, signed under penalty of false statement, or upon its own complaint, the Commission shall investigate any alleged violation of this code. Until such time as the Commission makes a determination of probable cause, any allegations

and any information supplied to or received from the Commission shall not be disclosed to any party by a complainant, witness or Commission or staff member, except upon the written request of the respondent.

(1) Not later than 10 days after the receipt or issuance of such complaint, the Commission shall provide notice of such receipt or issuance and a copy of the complaint by registered or certified mail to any respondent against whom such complaint is filed and shall provide notice of the receipt of such complaint to the complainant. Complaints shall be noted as received at a scheduled meeting.

(2) If the complaint has been filed by a member of the public, the Commission shall review the complaint to determine:

(a) Whether the allegations contained therein if proved would constitute a violation of any provision of the code. If the Commission determines that the complaint does not allege sufficient facts to constitute a violation, the Commission shall dismiss the complaint and duly notify the complainant and respondent by registered or certified mail.

(b) If the Commission determines that the complaint alleges sufficient facts to constitute a violation, then within 30 days after so determining, the Commission shall fix a date for the commencement of the hearing on the allegation contained therein. Such hearing shall be conducted in two phases. In the first phase, the Commission will make a confidential determination as to whether there is probable cause to believe the facts alleged in the complaint actually occurred. If the Commission does not make a finding of probable cause, the complaint and all records for the hearing shall remain confidential except upon the written request of the respondent. If the Commission makes a finding of probable cause, the Commission shall proceed to the second phase, which shall be a public hearing to determine whether a violation has occurred. The hearing date regarding any complaint shall be not more than 60 days after the filing of the complaint.

B. In the conduct of an investigation of an alleged violation of this code:

(1) The Commission shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses and require the production for examination by the Commission of any books and papers that the Commission deems relevant in any matter under investigation or in question. In the exercise of such powers, the Commission may use the services of the municipal police, who shall provide the same upon the Commission's request.

(2) The respondent shall have the right to appear and to be represented by legal counsel and to examine and cross-examine witnesses. All witnesses will be sworn.

C. The Commission shall make no finding that there is a violation of any provision of the Code, except upon the concurring vote of at least four of its members.

D. Any hearing conducted by the Commission shall be governed by the Administrative Procedures Act, C.G.S. § 4-178.

E. No complaint may be made under this code, except within three years after the violation alleged in the complaint has been committed.

F. No person shall take or threaten to take official action against an individual for such individual's disclosure of information to the Commission under the provisions of this code.

§ 53-7. Confidentiality of complaints; evaluations of possible violations and investigations; publication of findings.

A. Unless the Commission makes a finding of probable cause, a complaint alleging a violation shall be confidential, except upon the written request of the respondent unless such information is required to be disclosed pursuant to the Freedom of Information Act, C.G.S. § 1-200 et seq.

B. Prior to any other action on a complaint, the Commission may conduct a preliminary investigation to determine whether the filing of a complaint is warranted. This preliminary investigation shall be confidential, except upon the written request of the respondent.

C. If the Commission makes a finding of no probable cause, the complaint and the record of its investigation shall remain confidential, except upon the request of the respondent. No complainant, witness, designated party or Commission or staff member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known. The Commission shall inform the complainant and the respondent of its finding by registered or certified mail not later than three business days after termination of the hearing or investigation.

D. The Commission shall make public a finding of a violation not later than five business days after the termination of the hearing. At such time, the entire record of the investigation shall become public. The Commission shall inform the complainant and the respondent of its finding and provide them a summary of its reasons for making such a finding by registered or certified mail not later than three business days after termination of the hearing.

§ 53-8. Penalties for offenses.

A. Upon determination that a violation of any provision of the code has occurred, the Commission will impose sanctions as follows:

- (1) Public censure and reprimand;
 - (2) A civil penalty of not more than \$100 per violation; and/or
 - (3) Restitution of any pecuniary benefits received because of the violation committed.
- B. Upon determination that a violation of any provision of this code has occurred, the Commission may also recommend to the Board of Selectmen the following actions:
- (1) In the case of a public employee, disciplinary action as provided for by town policy and/or collective bargaining agreement.
 - (2) In the case of an appointed official, removal from office as provided in the Town Charter. EN
 - (3) In the case of an elected official, removal from office as provided in Connecticut General Statutes.

§ 53-9. Public employees and officials.

A. No public employee or public official shall engage in or participate in any business or transaction, including but not limited to outside employment with a private business, or have an interest, direct or indirect, which is incompatible with the proper discharge of his/her official responsibilities in the public interest or which would tend to impair his/her independent judgment or action in the performance of his/her official responsibilities.

B. Gifts.

- (1) No public employee or public official shall solicit or accept any gift from any person which to his/her knowledge is interested in any pending matter within such employee's or official's official responsibility.
- (2) If a prohibited gift is offered, he/she must refuse it, return it, pay the donor the full value of the gift or donate it to a nonprofit organization, provided that he/she does not receive the corresponding tax benefit. Alternatively, it may be considered a gift to the municipality, provided that it remains in the municipality's possession permanently.

C. Voting.

- (1) A public employee or public official shall refrain from voting upon or otherwise participating in any matter on behalf of the municipality if that employee or official, a business with whom he/she is associated, an individual with which he/she is associated or a member of his/her immediate family has a financial or personal interest in the transaction or contract, including but not limited to the sale of real estate, materials, supplies or services to the municipality; provided, however, that the restrictions of this Subsection C(1) shall not apply if such financial or personal interest accrues to him/her, his/her spouse, a dependent child or a business with which he/she, his/her spouse or a dependent child is associated as a member of a profession, occupation or group to no greater extent than to any other member of such profession, occupation or group.
- (2) If such participation is within the scope of the public employee's or public official's official responsibility, he/she shall be required to provide written disclosure, which sets forth in detail the nature and extent of such interest, to the Commission.
- (3) Notwithstanding the prohibition in Subsection C(1), a public employee or public official may vote or otherwise participate in a matter if it involves a determination of general policy and the interest is shared with a substantial segment of the population of the municipality.

D. Appearance on behalf of private interests.

- (1) Except for a public official who receives no compensation for his/her service to the municipality other than per diem payments and reimbursement of expenses, no public employee or public official shall appear on behalf of private interests before any board, agency or committee of the municipality.
- (2) Except for a public official who receives no compensation for his/her service to the municipality other than per diem payments and reimbursement of expenses, no public employee or public official shall represent private interests against the interests of the municipality in any litigation to which the municipality is a party.

E. Appearance on own behalf.

- (1) Nothing contained in this code shall prohibit or restrict a public employee or public official from appearing before any board or commission of the municipality on his/her own behalf, or from being a party in any action, proceeding or litigation brought by or against the public employee or public official to which the municipality is a party.
- (2) No public official or public employee shall appear on behalf of private interests before any board, commission or agency of the municipality, nor shall he/she represent private interests in any action or proceeding against the town in any litigation, when such appearance or representation would be in conflict with or would impair his/her independence of judgment and action in the performance of his/her official duties as such officer or employee.

F. No public employee or public official shall disclose confidential information concerning municipal affairs, or use confidential information acquired in the course of and by reason of his/her official duties nor shall he/she use such information for the financial interests of himself/herself or others.

G. No public employee or public official shall request or permit the use of municipal-owned vehicles, equipment, facilities, materials or property for personal convenience or profit, except when such are

available to the public generally or are provided as municipal policy for the use of such public employee or public official in the conduct of official business.

H. No public employee or public official, or a business with which he/she is associated, or member of his/her immediate family shall enter into a contract with the municipality unless it is awarded through a process of public notice and competitive bidding; provided, however, that this restriction shall not apply to any contract the total value of which is \$1,000 or less.

I. No public employee or public official shall use his/her position or office to take any action that would benefit, financially or otherwise, such employee or official or any other person or organization in a manner that is not available to all similarly situated persons or organizations, nor shall any public employee or public official take any action in his/her official capacity in exchange for or as a quid pro quo for any benefit of any kind that he/she has received from any persons or organization.

J. No public employee or public official shall accept a fee or honorarium for an article, appearance or speech, or for participation at an event, in his/her official capacity.

K. No public employee or public official, or member of such individual's immediate family or business with which he/she is associated, shall solicit or accept anything of value, including but not limited to a loan, political contribution, reward or promise of future employment based on any understanding that the vote, official action or judgment of the public employee or public official would be or had been influenced thereby.

L. No public official or public employee shall grant or accept any special consideration, treatment or advantage to or from any person beyond that which is available to every other person.

§ 53-10. Paid consultants of municipality.

A. No paid consultant of the municipality shall represent a private interest in any action or proceeding against the interest of the municipality which is in conflict with the performance of his/her duties as a consultant.

B. No paid consultant may represent anyone other than the municipality concerning any matter in which he/she participated personally and substantially as a consultant to the municipality.

C. No paid consultant shall disclose confidential information learned while performing his/her duties for the municipality nor shall he/she use such information for the financial interests of himself/herself or others.

§ 53-11. Former public employees and officials.

A. No former public employee or public official shall appear for compensation before any municipal board or agency in which he/she was formerly employed or with which he/she formerly served at any time within a period of one year after termination of his/her employment or service with the municipality.

B. No former public employee or public official shall represent anyone other than the municipality concerning any particular matter in which he/she participated personally and substantially while in municipal service.

C. No former public employee or public official shall disclose or use confidential information acquired in the course of and by reason of his/her official duties, for any reason, unless compelled to do so by law.

D. No former public employee or public official who participated substantially in the negotiation or award of a municipal contract obliging the municipality to pay an amount of \$100,000 or more, or who supervised the negotiation or award of such a contract shall accept employment with a party to the contract other than the municipality for a period of one year after such contract is signed.

E. No former public official or public employee shall appear before any board, commission, committee or agency of the municipality in relation to any case, proceeding, application or contract in which he/she personally participated during the period of his/her service or employment, or which was under his/her active consideration for a period of 12 months from the date of termination of his/her employment with or service to the town.

§ 53-12. Conflict of interest statement; filing requirements.

A. All appointed members of town boards and commissions, elected officials and department heads shall file, under penalty of false statement, on a form designated by the Ethics Commission, a statement declaring any conflict of interest or potential conflict of interest as defined in §§ 53-9 through 53-11 of this code.

B. All appointed members of town boards and commissions, elected officials and department heads must recuse themselves from any decision that would incur a conflict of interest or potential conflict of interest. Failure to do so will constitute a violation of this code.

C. Failure to file this conflict of interest statement as required by this section of this code shall constitute a violation of the code, subject to penalties as defined in § 53-8.

§ 53-13. Distribution of code.

The Commission shall cause a copy of this Code of Ethics to be distributed to every public employee and public official within 60 days after enactment of this code. Each public employee and public official shall be furnished a copy before entering upon the duties of his/her office or employment. A signed receipt for all copies shall be returned to the Chair of the Commission and retained on file.