

Town of Southbury Ethics Commission

Statement of Procedures

Adopted: November 16, 2012

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Section 1. Purpose and Scope.

The purpose of the Ethics Commission is to carry out the duties assigned to it in Southbury Code of Ethics and Conflict of Interest Ordinance, as authorized by Section 7-148h of the Connecticut General Statutes and as amended from time to time. In this regard, the Commission has advisory, investigative and reporting functions and is responsible to make findings and recommendations to the Board of Selectmen. The scope of these duties extends to all violations of the Code. The Commission's investigative duties are limited to Complaints and Requests for Advisory Opinions properly filed with the Commission; it is not charged with monitoring any individual, department, board or other body of the Town or with making decisions as to the general conduct of Town government. In addition to the Code, Town employees may be subject to additional requirements intended to promote ethical behavior and instill public confidence.

Section 2. Definitions.

For purposes of this Statement, the following words and terms have the following meanings, unless the context requires otherwise:

“Commission” means the Ethics Commission of the Town of Southbury, established under the Code.

“Chair” means the person duly elected by the Commission to serve as Chairman of the

Commission at any particular time.

“Code” means the Southbury Code of Ethics and Conflict of Interest Ordinance, as amended from time to time.

“Complaint” means a complaint identifying a specific violation of the Code by a Town Officer, Employee, or Member of any Town board, committee or commission, submitted to the Commission as provided in Section J of the Code.

“Freedom of Information Act” means Chapter 14 of Title 1 of the Connecticut General Statutes, as amended from time to time.

“Secretary” means the person duly elected by the Commission to serve as Secretary of the Commission.

“Town” means the Town of Southbury, Connecticut.

Section 3. Functions of the Commission.

The primary function of the Commission is to make findings and recommendations concerning actual or potential violations of the Code. In discharging this responsibility, the Commission may function in an investigatory or advisory role. The Code charges the Commission with responsibility for investigating any Complaint that one or more specific violations of the Code have occurred. The Commission is required to make findings and recommendations as to the results of its investigations and hearings into any such Complaint. In addition, the Commission is authorized to respond to Requests for Advisory Opinions as to hypothetical violations of the Code when requested by any Town employee and to otherwise issue Advisory Opinions when deemed warranted by the Commission.

Section 4. Regular and Special Meetings.

Prior to the commencement of each calendar year, the Commission shall establish a schedule of regular meetings for the year. Any such regular meeting may be cancelled or rescheduled in the discretion of the Chair. In addition, the Chair may provide for a special meeting of the Commission whenever appropriate to ensure the proper functioning of the Commission. Notice of the time of each meeting, the place at which it is to be held, and the proposed agenda for such meeting shall be given in accordance with the requirements of the Freedom of Information Act, as amended from time to time.

Section 5. Filings with the Commission; Time Limitations

(A) Complaints under the Code shall be filed in writing with the Commission on the official Ethics Commission Complaint Form within the time limitations set forth in subsection (C), below, and in accordance with the following procedure:

- (i) In all cases, the Complaint and all supporting documents must be enclosed in a sealed envelope clearly marked as follows:

CONFIDENTIAL: *To be delivered unopened to the Chairman of the Southbury Ethics Commission.*

- (ii) Filing of the aforesaid sealed envelope may be accomplished by in-hand delivery to the Town Clerk at Town Hall during normal business hours. The Town Clerk shall stamp a filing date on the face of the envelope and provide a signed and dated receipt to the filing party.
- (iii) Filing of the aforesaid sealed envelope may also be accomplished by Certified Mail, addressed as follows.

Southbury Ethics Commission
c/o Town Clerk, Southbury Town Hall
501 Main Street South
Southbury, Connecticut 06488
CERTIFIED MAIL/RETURN RECEIPT REQUESTED

The Town Clerk shall maintain all sealed Complaints in a secure location and promptly deliver them to the Chair of the Commission.

(B) The Commission will take reasonable steps to protect the confidentiality of the person making the Complaint. However, the Freedom of Information Act requires that the Commission maintain records of all Complaints received and that such records be available for public inspection and copying at a certain stage in the investigation process. Finally, the Act requires that hearings conducted after a finding of Probable Cause be held in public. Therefore, there are limitations to the confidentiality of the Complainant.

(C) The Commission's authority to consider a Complaint is subject to the following time limits:

- (i) the Commission may consider a Complaint filed within two (2) years following the date of the acts or omissions that form the basis for the Complaint; and
- (ii) the Commission may consider a Complaint filed within one (1) year following the date on which complainant knew or should have known of the acts or omissions that form the basis for the Complaint, provided the Complaint is filed within five (5) years following the date of the acts or omissions that form the basis for the Complaint; and
- (iii) the Commission may consider all acts and omissions alleged in a

Complaint that alleges a continuing course of conduct, provided that one or more acts or omissions forming a part of such continuing course of conduct occurred within the time limits set forth in (I) or (ii), above.

A Complaint is considered filed on the date of its receipt by the Town Clerk, as set forth in subsection (A), above. If the last day for filing Complaint falls on a Saturday, Sunday, legal holiday, or a day on which the Town Clerk's office is not open for business, the last date for filing a Complaint shall be extended to the next day on which the Town Clerk's office is open for business.

Section 6. Advisory Opinions.

(A) The Commission is authorized to respond to a Request for an Advisory Opinion by a Town employee or elected or appointed Town Official. In order to be considered a Request for an Advisory Opinion, the request must be submitted to the Commission in writing and in accordance with the procedure described for the submission of Complaints in Section 5, part A and state:

- (i) the hypothetical facts and circumstances under which a future violation of the Code may be considered to occur;
- (ii) the nature of the potential violation and a reference to the Section of the Code in question;
- (iii) a statement of the basis on which the Town employee is submitting the request.

Unless a submission is sufficiently clear as to the nature of the advice requested, it may not be considered as a Request for an Advisory Opinion within the jurisdiction of the Commission for purposes of the Code. Requests for Advisory Opinions must be made on an official Form, a copy of which is included in the Appendix. A submission purporting to be a Request for an Advisory Opinion may be deemed a Complaint if the Commission determines that it meets the requirements of a Complaint under the Code.

(B) The Freedom of Information Act requires that the Commission maintain Requests for Advisory Opinions in its records and that these records generally be available for public inspection and copying. A Town employee may file a Request for Advisory Opinion on behalf of another Town employee only if the filing party has obtained the prior signed and written permission of such other employee. A Town employee's direct submission of a Request for an Advisory Opinion or the disclosure of any personally identifying information of the requesting party in any Request for an Advisory Opinion is deemed consent to disclosure of the requesting party's identity.

(C) The Commission may also issue an Advisory Opinion on its own initiative

without a formal Request.

Section 7. Preliminary Evaluation and Investigation of Complaints.

(A) Promptly after receipt of a Complaint, the Chair shall notify the members of the Commission of the receipt of a Complaint and provide a copy of the Complaint to all members of the Commission. Within a reasonable time after the receipt of a Complaint, the Chair shall also provide notice of such filing and a copy of the Complaint to any Town employee identified in the Complaint as having involvement in a violation of the Code; provided that nothing herein shall prevent the Commission, in appropriate circumstances, from: (I) commencing an investigation of a Complaint prior to such notification; or (ii) withholding such notification until appropriate prior to commencing an investigation. The Secretary shall also provide notice of the receipt of the Complaint to the complainant.

(B) The Commission shall meet within a reasonable period of time in closed session, to evaluate any Complaint filed with the Commission. These initial meetings are deemed “non-meetings” under the Freedom of Information Act and will be conducted accordingly. As part of this evaluation, the Commission will confirm that:

- (i) the Commission has jurisdiction over the subject matter;
- (ii) the Commission has jurisdiction over the person (respondent) or persons involved;
- (iii) the Complaint provides sufficient specificity to determine that one or more particular violations of the Code may have occurred and
- (iv) the Complaint deals with issues or circumstances that are appropriate to be addressed by the Commission in light of the remedies available.

At its initial meeting to review any Complaint, the Commission will evaluate whether the Complaint alleges a violation of the Code by a Town Officer, employee or member of a board, committee or commission (or an individual who was a Town Officer, employee or member of a board, committee or commission at the time the Complaint was filed); and whether the Commission has jurisdiction over the subject matter of the Complaint or the persons identified as violating the Code in the Complaint. As a result of such evaluation, the Commission shall make a finding as to whether the Complaint should be further investigated or whether the Complaint should be dismissed because it fails to state a specific violation of the Code over which the Commission has appropriate jurisdiction. The Secretary shall promptly inform the complainant and respondent of its finding and provide a summary of its reasons for making that finding.

(C) Unless the Commission finds that the Complaint should be dismissed, it shall conduct a further investigation of the allegations contained in each Complaint filed with the Commission. Prior to conducting a hearing in open session, the Commission shall conduct

a preliminary investigation and a hearing in closed session (deemed a “non-meeting” under the Freedom of Information Act), unless waived by the respondent, to determine if probable cause exists that a violation of the Code may have occurred. At such hearing in closed session the Commission shall:

- (i) examine witnesses and receive oral and documentary evidence it deems relevant to the matter under investigation.
- (ii) provide any complainant, if known, with the opportunity to appear before the Commission to present corroborating evidence and witnesses in support of their allegations in the Complaint.
- (iii) provide any respondent with the right to appear and be heard and offer any evidence or testimony that may establish that no probable cause of a violation of the Code exists.
- (iv) provide all respondents and complainants the right to be represented by legal counsel and to examine and cross-examine witnesses.

(D) No later than ten days prior to the commencement of any hearing conducted pursuant to subsection (C), the Commission, and all complainants and respondents shall exchange written submissions as to the facts and issues on which they intend to provide evidence or information at the hearing, including copies or descriptions of relevant exhibits and lists of intended witnesses. The Commission shall consider the adequacy of any such submission as a factor in determining whether fairness requires that the hearing be rescheduled or a continuance granted to permit a party to properly respond to materials provided at a hearing. These submissions shall remain confidential to the extent permitted by the Freedom of Information Act.

(E) At the completion of its preliminary investigation and closed hearing pursuant to subsection (C), the Commission shall make a finding as to whether or not there is probable cause to believe a violation of the Code may have occurred. If the Commission finds that no probable cause to believe a violation of the Code exists, the Complaint shall be dismissed. Promptly after such a finding, the Commission shall inform any affected complainant or respondent that has filed a written request for such notice, a notice of its finding together with a summary of its reasons for making that finding. If the Commission finds that there is probable cause to believe that a violation of the Code may have occurred, the entire record of its findings shall be made available to the public, except that the Commission may postpone examination or release of such public records for a period not to exceed 14 days, or as required by the Freedom of Information Act for the purpose of attempting to reach a stipulation agreement.

Section 8. Investigations and Hearings.

(A) In connection with any preliminary investigation or further investigation of any Complaint, the Commission may exercise the power to subpoena witnesses and compel attendance before the Commission and to require the production for examination by the Commission of any books and papers that the Commission deems relevant to the investigation to the full extent provided in the Connecticut General Statutes. Except as otherwise required by law, all evidence received in connection with an investigation shall be kept confidential prior to the time that it is introduced into evidence at a hearing following a determination of probable cause.

(B) In connection with any preliminary investigation or further investigation into any Complaint, the Commission may hold one or more hearings and examine witnesses. The Chair of the Commission shall be responsible to conduct the hearing and the Chair, subject to the direction of the Commission, shall determine the order of evidence produced, provided that any respondent shall be provided a reasonable opportunity for rebuttal evidence prior to the time that any findings are made by the Commission with respect to a Complaint. The Chair, subject to the direction of the Commission, may establish reasonable time limits for the submission of evidence at any particular hearing and rule out the submission of any evidence that is not relevant, competent or material to the deliberations of the Commission.

(C) The following shall apply to any hearing conducted by the Commission in connection with the preliminary or any further investigation into any Complaint:

- (i) Any identified complainant shall have the opportunity to appear before the Commission and to present corroborating evidence and witnesses in support of the allegations in the Complaint.
- (ii) The respondent will have the opportunity to appear before the Commission to rebut any evidence or witnesses previously presented or to offer evidence and witnesses, with information that may tend to show the respondent did not violate the Code.
- (iii) The respondent and complainant shall have the right to be represented by legal counsel and to examine and cross-examine witnesses.
- (iv) At the request of any member of the Commission, or of any complainant or respondent, the testimony of any witness at a hearing shall be provided under oath administered by the Town Clerk or another duly authorized official.
- (v) The Commission may impose reasonable limitation on the scope of the evidence and the time permitted to present evidence and testimony.

(D) Failure of a respondent to appear before the Commission shall not preclude the

Commission from proceeding with any investigation or hearing or from making a final determination on the merits of any Complaint.

Section 9. Proceedings Following a Determination of Probable Cause.

(A) If, pursuant to Section 8 hereof, the Commission finds that there is probable cause to believe that a violation of the Code may have occurred, the Commission shall initiate hearings to determine whether there has been a violation of the Code. In the course of such hearings, all relevant oral and documentary evidence received by the Commission in connection with the Complaint shall be placed into the public record. Any such hearing shall be held on notice provided in accordance with the Freedom of Information Act and shall be open to the public.

(B) Prior to any hearing following a determination of probable cause, the respondent may request the opportunity to review all evidence held by the Commission that is relevant to the testimony to be given at the hearing. Upon any such request, respondent shall be provided with copies or other reasonable access to such evidence and given an appropriate period of time to review such evidence prior to the hearing. Upon the timely request of the respondent, the Commission, complainant and respondent shall, no later than 10 days prior to the commencement of any such hearing, exchange lists notifying the other of their intended witnesses. Failure to give such notice will act as a waiver of omitting parties' right to present testimony from a witness not on their witness list. The Commission may waive this requirement or reschedule the hearing for good cause shown.

(C) Both the complainant or complainants and any respondent, or their legal counsel, shall be afforded the opportunity to summarize their respective positions at the conclusion of the presentation of any evidence or testimony the Commission deemed relevant. Such summations will be presented by the complainant first and followed by the respondent.

(D) Any complainant or respondent may, at its own expense and on such reasonable terms and conditions as the Commission may prescribe, have a transcript of any hearing held after a determination of probable cause made, provided that the firm or individual preparing such transcript is obligated to provide, without expense, copies of such transcript to the Commission and any other party to the proceedings.

(E) The Commission shall adopt and publish findings and recommendations within a reasonable period following the conclusion of its investigations into any Complaint and provide a memorandum of the reasons for such findings and recommendations. Such findings and recommendations may include any of the penalties provided for in Section K of the Code. Such findings, recommendations and memorandum shall be deemed to be the final decision of the Commission and shall be transmitted to the Board of Selectmen for further action, as appropriate, in accordance with Section J of the Code.

Section 10. Records and Reports.

(A) The Secretary of the Commission shall be responsible to maintain the records of the Commission, including minutes of its meetings, records of its votes and public hearings and copies of notices sent by the Secretary as provided herein.

(B) In connection with any Complaint that is dismissed prior to a determination of probable cause, or if the Commission makes a finding of no probable cause:

- (i) The Complaint and the record of its evaluation and investigation shall remain confidential, except upon the written request of all of the respondents and except that some or all of the record may be used in subsequent proceedings if deemed relevant and
- (ii) No complainant, respondent, witness, designated party or Commission member may disclose to any third party any information learned from the Commission's investigation, without the consent of all respondents named in the Complaint. Any disclosure by a respondent with respect to a Complaint or the investigation thereof shall be deemed a waiver of this limitation as to such respondent. Any person filing a Complaint with the Commission thereby agrees to observe this limitation on disclosure, whether or not the Complaint is made anonymously.

(C) All investigative materials received by the Commission subsequent to a finding of probable cause shall be confidential to the extent permitted by law, unless the Commission determines to release them upon the written request of the respondent. However, all such materials that are relevant to the investigation must be entered into the record of the investigation of the Complaint at the hearing or hearings held in connection with the Complaint prior to the making of any findings or recommendations as to the Complaint by the Commission.

Section 11. Forms.

The required forms for a Request for an Advisory Opinion and for a Complaint are contained in the attached Appendices A and B.

APPENDIX A

**TOWN OF SOUTHBURY, CONNECTICUT
ETHICS COMMISSION**

Complaint

This Complaint must be enclosed in a sealed envelope clearly marked: “CONFIDENTIAL: To be delivered unopened to the Chairman of the Southbury Ethics Commission.”

**Submit by Hand-delivery or U.S. Postal Service (e-mail not accepted) to:
Town of Southbury Ethics Commission, c/o Town Clerk, 501 Main Street South, Southbury, CT 06488**

Section J of the Code of Ethics (as amended) requires the Commission to investigate complaints of violations of the Code by any Town Officer, employee or member of any board, commission or committee, whether elected or appointed, paid or unpaid, and whether full or part time.

Name and Phone: _____

Address: _____

(Failure to include your name and contact information is likely to limit the Commission’s ability to investigate your complaint because it will not be able to contact you for clarification of any questions concerning the complaint. The Connecticut Freedom of Information Act requires all complaints filed with the Commission to be made available to the general public upon request in the event that a determination of probable cause is made following a preliminary investigation of the complaint.)

Concisely, but in reasonable detail, please describe the violation you are concerned about below, or attach a statement describing it. You must identify the specific provision of the Town of Southbury Code of Ethics/Conflict of Interest Ordinance you believe has or possibly has been violated. If possible, please include the name and position of the Town Employee(s) or Officer(s) or Board, Commission or Committee Member(s) involved and give the details of any votes, actions or transactions involved and their financial interest in the matter or thing of value accepted by such individual(s) which might influence their behavior. Include dates, places and corroborating witnesses or documents, if any.

NOTICE

No complainant, respondent, witness, designated party or Board member may disclose to any third party any information learned from the investigation of a complaint without the consent of all respondents named in the complaint, unless a finding of probable cause is made following a preliminary investigation. By filing a complaint, the complainant agrees not to violate this requirement.

APPENDIX B

**TOWN OF SOUTHBURY, CONNECTICUT
ETHICS COMMISSION**

Request for Advisory Opinion

This Request must be enclosed in a sealed envelope clearly marked: “CONFIDENTIAL: To be delivered unopened to the Chairman of the Southbury Ethics Commission.”

**Submit by Hand-delivery or U.S. Postal Service (e-mail not accepted) to:
Town of Southbury Ethics Commission, c/o Town Clerk, 501 Main Street South, Southbury, CT 06488**

Section J of the Code of Ethics (as amended) authorizes the Ethics Commission to render advisory opinions with respect to the Code of Ethics upon the written request of any Town Officer, Employee, or Member of any Town Board, Committee or Commission, whether elected or appointed, paid or unpaid, full or part-time.

Name: _____

Town Office: _____

Request on Behalf of Another: Yes _____ No _____

(The Commission’s policy is to render advisory opinions that do not name the individual requesting the opinion. However, the Connecticut Freedom of Information Act requires all filings with the Board to be made available to the general public upon request. One Town Officer may file a request on behalf of another Town Officer.)

(1) Substantial financial interest in one or more transactions:

- a. **The interest or interests involved.**
- b. **How the Town is involved in the transaction or actions relating to the interest.**
- c. **The nature of the action or vote that may be influenced.**
- d. **How the Town Official involved might be influenced.**

(2) Acceptance of a thing of value:

*(Please note that a gift with an actual cost under \$10 is not relevant under the Code)
(Please indicate if member of immediate family is involved.)*

- a. **The gift, favor, load, promise or other thing that might be accepted.**
- b. **The official duty or duties that might be influenced.**
- c. **How the Town Official involved might be influenced.**

(3) Definitions of interpretation:

- a. The word or phrase in the Code that is ambiguous.**
- b. The circumstances under which it might be ambiguous.**
- c. Possible alternative interpretations.**