

Town of Canton

Board of Ethics



Policy and Procedures Manual

2009

**Policy and Procedure Manual
Canton Board of Ethics
Canton, Connecticut**

INTRODUCTION

On April 23, 2009, the town of Canton enacted a code of ethics that created standards for ethical conduct of public officials, officers, employees and consultants of the town of Canton. The code also created the Board of Ethics that is an appointed body of citizens responsible for administering the code.

The Board of Ethics is responsible for: (1) advising public officials, officers, employees and consultants of the town who seek guidance about ethical issues connected with their service to the town; (2) evaluating ethical issues and concerns initiated by a complaint of a citizen of the town and (3) rendering decisions regarding compliance with the code.

These procedures are designed to guide public officials, officers, employees, consultants and Canton residents of the process to be followed if they seek advice or question the conduct of those in or affiliated with town government.

Section 1. (**Advisory Opinions**) describes a process for town officers, officials, employees or consultants of the town who are seeking advice about their own conduct or the conduct of a town office or function.

Section 2. (**Complaints**) describes a formal procedure whereby the Board of Ethics investigates an alleged violation of the code brought to its attention by a town resident or member of the Board.

Section One

ADVISORY OPINIONS

1.1 Initiation of Advisory Process

- a. Any current Town of Canton employee, officer, official or consultant for the town may request an advisory opinion from the Board on whether the conduct of that person or entity would violate the Code of Ethics. Any current town official may request an advisory opinion concerning the activities of any department over which he or she has jurisdiction or board or commission on which he or she serves.
- b. Individuals initiating a request for an advisory opinion must do so by completing a form available through the Canton Town Clerk's office or through the town's website: www.townofcantonct.org . The form must contain a statement clearly stating the advice requested and all the relevant facts known to the individual making the request so the Board can reasonably understand the nature of the request. The individual making the request must sign it with the date of the request.
- c. Requests must be addressed to the Chairman of the Board of Ethics, c/o the Canton Town Clerk, 4 Market Street, Collinsville, CT 06019. The town clerk will forward the request to the Chairman of the Board who will then bring it to the attention of the Board of Ethics at a meeting scheduled after all information is received.
- d. The date a request is received by the Chairman of the Board will mark the official date of receipt for purposes of deadlines for decisions. The Board will meet within fifteen (15) days of receipt of all information and shall render its opinion within thirty (30) days of the meeting, at which time written opinion shall be sent to the one requesting it and filed with the Town Clerk.
- e. The Town Clerk will maintain each request for an advisory opinion in a confidential, indexed file until the request has been reviewed by the Board Chairman, Vice Chairman or subcommittee of the Board to determine that it does not contain any allegation of a code of ethics violation which would subject it to confidentiality requirements.
- f. Upon finding that no violation exists, the file will be made available to the public by request. The Board Chairman will apprise the Town Clerk in writing which files should and should not be made available to the public.

1.2 Procedure

- a. The Chairman will present the request to the Board at a special meeting called if the regularly scheduled meeting of the Board is more than fifteen (15) days away and no agenda has yet been filed with the Town Clerk.

- b. The Board will meet to review the request. At that time, it may decide to: (1) seek additional information; (2) create a subcommittee of at least two Board members to make a recommendation of consideration by the full Board; (3) hold an informal hearing to receive comments from the individual who requested the opinion; (4) investigate the relevant facts and issues in order to render the opinion and treat the matter as a *Complaint* under Section Two. At this meeting, the individual shall be provided with an opportunity to present their interpretation of the facts and applicable provisions of the Code of Ethics.
- c. If the Board decides to request additional information pursuant to Section 1-2(b), then it shall meet to decide its future course of action within fifteen (15) days of the receipt of such information.

1.3 **Decisions**

- a. Final advisory opinions will be rendered by the affirmative vote of three (3) members of the Board.
- b. The Board will issue an advisory opinion as expeditiously as possible but in any event, within thirty (30) days from the meeting where the advice request and all relevant material had been received and discussed.
- c. All advisory opinions must be in writing and sent to the individual making the request in addition to being filed with the Town Clerk.
- d. The Board may decline to render an advisory opinion if: (1) the subject matter is not covered by the Code of Ethics; (2) the known facts are incomplete or incorrect and the omissions or misstatements are material to the opinion requested; (3) other reasonable grounds exist for not taking action. If the Board decides to decline an opinion, it shall state its reasons in writing.

1.4 **Confidentiality**

- a. Requests for advisory opinions will be reviewed in open session unless, upon review by the Chairman or Vice Chairman, it is determined that the matter would be more appropriately be treated as a complaint under **Section Two** of this Policy and Procedures Manual.
- b. Once the advisory opinion has been rendered, it shall be filed with the Canton Town Clerk in writing and sent to the individual making the request. No opinion shall be filed or otherwise made public until deletions as may be necessary have been made to prevent disclosure of the identity of the person involved so as to protect the personal privacy of that individual as required by law.

Section Two

COMPLAINTS

2.1 Initiation of Complaint Process

- a. Any Canton resident may make a complaint which will result in the Board investigating the alleged violation of the Code to determine whether or not there is probable cause to believe that a violation has occurred. The Board may itself initiate a complaint regarding a possible violation of the Code. A majority vote of the Board of Ethics on an alleged violation of the Code is required to result in an investigation.
- b. Residents initiating a complaint must do so by completing a form, available through the Canton Town Clerk's office or through the town's website at: www.townofcantonct.org . The initiating individual must sign the form with regard to false statements under penalty of the laws of perjury. The form must contain a description of the relevant facts in sufficient detail so that the Board and any person who is subject of the complaint can reasonably be expected to understand the nature of the allegations.
- c. The complaint form requires that the complainant acknowledges that the complaint and its contents are confidential unless and until the Board makes a finding of probable cause or the subject of the complaint requests that it be made public.
- d. Complaints must be addressed to the Chairman of the Board of Ethics, c/o the Canton Town Clerk, 4 Market Street, Collinsville, CT 06019 who will forward a copy of the communication promptly to the Chairman.
- e. The Town Clerk will maintain all original complaints in a confidential indexed file.
- f. The date a complaint is received by the Chairman of the Board will mark the official date of receipt for purposes of deadlines and decisions.
- g. No complaint may be made under the Code of Ethics except within two (2) years after the violation alleged in the complaint has been committed.

2.2 Notice and Response

- a. The Board will notify any respondent who is the subject matter of the complaint within fifteen (15) days of the Chairman's receipt of the complaint by registered, certified mail or any other manner by which service of process may be made. The Board will provide the person with a copy of the completed form, the Code of Ethics and this Policy and Procedures document. The Board will confirm in writing to the complainant that the complaint was received by the Board.
- b. The respondent(s) may file a written response with the Chairman or request a hearing within thirty (30) business days after receiving the notice.

Proceedings

- a. The Chairman will present the complaint and any response received from the accused to the Board at its next regular meeting held after receipt of the complaint, the mailing of notice to the accused and the passage of at least thirty (30) days. However, if the agenda for such meeting has been posted already with the Town Clerk, the Chairman will present the complaint and any response to the Board at its next following regular meeting.
- b. The Chairman may also call a special meeting to consider the complaint after the passage of such thirty (30) day period.
- c. The Board will meet at least once in executive session, from which the public is excluded, to review the complaint and to determine whether or not there exists probable cause that the Code has been violated. In that session, it may decide to: (1) seek additional information; (2) create a subcommittee of at least two Board members to investigate the relevant facts and issues in order to make a recommendation for consideration by the entire Board; (3) decline to review the matter further, pursuant to Section 2.3(e) of these Procedures; (4) endeavor to resolve the matter by convening a confidential meeting that includes the individual who is the subject of the complaint and others relevant to the issue; (5) make a finding of probable cause; (6) make a finding of no probable cause.
- d. If the Board proceeds under steps (1), (2) or (4) in Section 2.3(c), it will establish a schedule of meetings for consideration of the complaint.
- e. A finding of probable cause means that based on a review of the available information the Board determines that reasonable grounds exist to believe that a violation of the Code occurred.
- f. The Board may decline to continue to review a matter for any of these reasons:
 1. The alleged facts do not prove the existence of probable cause of a violation of the code.
 2. The person who is subject of the complaint is a minor.
 3. The person who is the subject of the complaint is no longer an official, officer or employee of the town or a consultant for the town.
 4. The alleged violation occurred more than two (2) years earlier or before the enactment of the Code by the town of Canton.
 5. The alleged violation is judged to be frivolous, groundless or brought for the purpose of harassment.
 6. The accused has already taken corrective action and the Board believes the action taken was appropriate in the circumstances and the matter should not be pursued.
 7. The Board has already taken action on the matter.
 8. There are other reasonable grounds for not taking action.
- g. The Board shall notify the complainant and the accused of its finding and provide a summary of its findings within three (3) days of dismissing the complaint for any of the reasons in Section 2.3(f).

2.4 **Decisions**

No finding of the existence of probable cause may be made except upon the vote of at least three (3) of the members of the board.

2.5 **Confidentiality**

If the Board does not make a finding for probable cause, the complaint and the record of the Board's investigation shall remain confidential, except on the request of the person who was the subject of the complaint.

2.6 **Process**

- a. After conducting an investigation of any complaint under Part 2 and the Board finds probable cause exists, it will then make public its findings and its record of the investigation not later than five (5) business days after the termination of its investigation and its decision. After this, the entire record of the investigation will be made public
- b. The findings and record of the investigation shall include: (1) the complaint; (2) the evidence received and considered; (3) a reference to the particular section of the Code of Ethics involved; (4) a short statement of the Board's reason for finding probable cause.

3.1 **Public Hearings**

- a. If the Board decides, after its investigation under Part 2, that probable cause for a violation of the Code exists; it will determine a date and conduct a public hearing within sixty (60) days, to determine whether or not a violation occurred. At the hearing, the accused will have the right to be represented by legal counsel, to present evidence and witnesses and compel attendance of witnesses and the production of books, documents, records and papers, and to examine and cross-examine witnesses and inspect and copy relevant and material records, papers and documents not in such person's possession.
- b. The Board shall give notice of the date fixed for the hearing at least fourteen (14) days before the date of the hearing. The hearing may be continued from time to time at the Board's discretion. The Board will provide the accused with a list of intended witnesses not later than ten (10) days before the start of the hearing. The hearing shall be open to the public. The Board will make a record of the proceedings.

3.2 **Powers and Conduct of Hearings**

- a. For the hearing, the Board will have the power to administer oaths, question witnesses, consider oral and documentary evidence, subpoena witnesses under procedural rules adopted by the Board in accordance with the provisions of Chapter 54 of the Connecticut General Statutes (Uniform Administrative Procedure Act) to compel attendance before the Board and require the production for examination by the Board of any books and papers which it deems relevant in any matter under investigation or in question.

- b. The Board may require witnesses to testify under oath administered by the presiding officer or any other duly qualified person. The hearing shall be recorded by a stenographer or a recording device provided by the Board. If the Board does not provide a stenographer, the complainant or respondent may employ a stenographer at his or her own expense.
- c. If a transcript of the hearing is made, a copy shall be supplied to the Board and another made available to the other party upon payment of one-half (1/2) of the cost of obtaining the transcript. If there is more than one other party, additional copies will be supplied upon payment of the proportionate share of the cost of obtaining the transcript.
- d. Hearings are not governed by the legal rules of evidence and any information relevant to the matter may be considered. The Board will respect the rules of privilege recognized by the law. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available, and, upon request, parties and the Board will be given an opportunity to compare the copy with the original.

3.3 **Decisions and Findings**

- a. Decisions by the Board that a person is in violation of the Code of Ethics must result from the affirmative vote of three (3) members of the Board.
- b. The Board shall render its finding and memorandum of decision in writing within thirty (30) days after the conclusion of the hearing on the complaint. The Board shall send the complainant and respondent a copy of the finding and memorandum of decision. The Board shall also send a copy to the Board of Selectmen, except with respect to individuals under the jurisdiction of the Board of Education, in which cases, the finding and memorandum of decision shall be filed with the Board of Education. In the case of a consultant, the finding and memorandum of decision shall also be filed with the agency retaining the consultant. The Board shall also publish notice of its findings and memorandum of decision on the town website and with the Town Clerk.
- c. Such findings and memorandums of decision shall constitute the Board's final decision and shall be subject to appeal to the Superior Court in accordance with the provisions of Connecticut General Statutes 4-183.

3.4 **Penalties**

- a. If the Board determines the respondent has violated the provisions of the Code of Ethics, it shall file a memorandum of decision which shall include a recommendation for action with the Board of Selectmen and the appropriate agency, if any. The authority affected will report back within thirty (30) days to the Board of the action taken or lack of action and the reasons therefore. In the case of a consultant, it shall also be filed with the contracting agency.

- b. The recommended action may include:
 - 1. Reprimand and public censure;
 - 2. Termination, suspension of compensation for elected positions, or suspension of employment for not more than 90 days without pay;
 - 3. Termination of contractual status and/or disbarment or suspension from being a contractor or subcontractor under Town of Canton contracts;
 - 4. A civil penalty of not more than \$1000.00 per violation
 - 5. Restitution of any pecuniary benefits received because of the violation committed.

- c. The Board shall not recommend any action which would violate the provisions of state or federal law. In the case of union employees, such recommended action shall limit the authority of the Board of Selectmen under the charter of the town or under any ordinance, statute or any law.

3.5 **Definitions and Miscellaneous**

- a. As used in this Policy and Procedures Manual, the word ‘day’ refers to ‘business day’ and means a day other than a Saturday, Sunday or other day on which the office of the Canton Town Clerk is closed to the public for business.

- b. Any proceeding undertaken by the Board to render an advisory opinion or investigate a possible violation of the Code of Ethics will be governed by the Code and these Policies and Procedures. If there is a conflict between these Policies and Procedures and the Code, the Code of Ethics will govern.

- c. The Board may publish decisions in whole or in part if it decides that publication would serve the public interest and publication can be made in such a way as to protect the personal identity and privacy of persons who were the subject of any evaluation of a possible violation of the Code of Ethics.

NOTICE

These Policies and Procedures are subject to change. They will apply to any Board proceedings or to any request or complaint received by the Board in the form in effect at that time. Those wishing to initiate action are asked to refer to the Town of Canton’s website at www.townofcantonct.org to obtain the latest publications and form for this purpose.

Appendix

Board of Ethics Complaint Form 01

Board of Ethics Advisory Form 02

Canton Board of Ethics Ethics Violation Complaint Form

This form is to be used by **residents of the Town of Canton only.**

Name _____
Address _____
Zip Code _____ Phone _____ e-mail _____

Complaint:
Name of person accused _____

List the specific acts alleged in violation of the Canton Code of Ethics. Include dates when these acts occurred.

Under what section(s) of the Canton Ethics Code is this complaint made?
The Code is available from the Canton Town Clerk or Canton's website: www.townofcantonct.org/board_of_ethics

Attachments included? Yes ___ No ___

This complaint and its contents shall remain confidential until such time as the Board makes a finding of probable cause or the person that is the subject of this complaint requests that it be made public.

Under penalty of perjury, I hereby certify that the information included in this complaint is true and correct to the best of my knowledge and all pertinent documentation is submitted as required by the Canton Board of Ethics.

Signature Date

Date received by Board of Ethics _____
Date that acknowledgement of receipt was sent _____

