

Rules and Procedures of Ethics Commission of the Town of East Hampton

Rules applicable to Advisory Opinions

The Ethics Commission may issue advisory ethics opinions in either of the following circumstances:

- On its own initiative, by majority vote of all of the full members of the Commission; or
- Upon written request by an official or employee of the Town of East Hampton.

A request for an advisory ethics opinion shall be made in writing on a form prescribed by the Commission and signed by the Town official or employee submitting the request. The Commission may require further information of said Town official or employee before voting whether to render an advisory ethics opinion. The Commission may decline to render an advisory ethics opinion in response to a request without setting forth a reason therefore.

Once the Commission votes to initiate or render an advisory ethics opinion, it will strive to render such opinion, in writing, within sixty (60) calendar days of such vote. However, this period may be extended at the Commission's option.

All advisory ethics opinions shall be filed in the Office of the East Hampton Town Clerk.

A Town official or employee who acts in good faith in reliance upon the advice given by the Commission in an advisory ethics opinion shall not subsequently be recommended by the Commission for discipline if such action is later found by the Commission to constitute a violation of the Town's Code of Ethics and Code of Conduct.

Rules applicable to Ethics Complaints

Filing the Complaint

- The Complaint must be filed on the form approved by the Commission.
- All sections of the Complaint form must be completed in full by the Complainant. Incomplete forms will not be processed.
- The Complaint form must be signed by the Complainant and sworn to under penalty of perjury.
- The Complaint may be filed by mailing same via regular U.S. Mail or hand delivery to:

Town of East Hampton Ethics Commission
c/o Town Manager's Office
~~20 East High Street~~ 1 Community Drive
East Hampton, CT 06424

- All Complaints will be assigned a docket number and treated confidentially until such time as the Commission shall make a finding of probable cause OR the Respondent requests that the probable cause proceedings be conducted in the open session.
- Complainant must keep the Ethics Commission informed in writing of any changes to Complainant's mailing address and other contact information. Failure to do so may jeopardize the prosecution of the Complaint.

Processing the Complaint

Notice of Receipt of an Ethics Complaint shall be mailed within 10 calendar days of receipt, via Certified Mail Return Receipt Requested and regular U.S. Mail, to Complainant and Respondent.

Respondent has 15 calendar days from the mailing of the Notice of Receipt of an Ethics Complaint within which to do the following:

- provide to the Chairman a written response, including supporting documentation; and/or
- request that the probable cause proceedings be conducted in the open session; and/or
- request of the Commission in writing an opportunity to address the Commission personally during the probable cause proceedings.

Respondent must keep the Ethics Commission informed in writing of changes to Respondent's mailing address and other contact information. Failure to do so may jeopardize Respondent's defense to the Complaint.

Complainant has 15 calendar days from the mailing of the Notice of Receipt of an Ethics Complaint within which to request of the Commission in writing an opportunity to address the Commission personally during the probable cause proceedings.

The Probable Cause Proceedings

The Commission may choose to limit the probable cause proceedings to a documentary review of the Complaint and submissions by Complainant and Respondent, or, in its discretion, may allow Complainant and/or Respondent to address the Commission in person.

Determination with regard to Probable Cause

As expeditiously as possible, but in no event later than 120 calendar days following the mailing of the Notice of Receipt of an Ethics Complaint, the Commission will decide whether there is probable cause to believe that a violation of the Town's Code of Conduct and/or Code of Ethics has occurred.

The Commission may determine that no probable cause exists for any one or a number of reasons, including but not limited to, that the alleged facts do not evidence the existence of probable cause that a violation of the Code of Conduct and/or Code of Ethics has occurred; that the Respondent is a minor; that the three year statute of limitations for filing the Ethics Complaint has expired; that the matter is judged to be frivolous, groundless, or brought for the purpose of harassment; that the Respondent is not a Town employee or official; that the Respondent has already taken corrective action and the Commission believes the action taken was appropriate under all of the circumstances; that the Commission has already taken action on the matter; that there are other reasonable grounds for not taking action.

Within 5 calendar days of making a probable cause determination, the Commission shall cause a Notice of Probable Cause Determination to be mailed via Certified Mail Return Receipt Requested and regular U.S. Mail to both Complainant and Respondent.

If no probable cause is found, the Complaint shall be dismissed and all proceedings to date shall remain confidential and shall be treated confidentially by the Commission, Complainant and Respondent. The only exceptions to this rule are if the probable cause proceedings have been conducted in the open session at Respondent's request or, in the case of a closed session, if Respondent requests in writing that the complaint and the probable cause determination be made public.

If the determination is a finding of no probable cause, Complainant shall have one opportunity to re-file the Complaint, provided the re-filed Complaint is based upon the same alleged ethics violation and new or additional information not previously presented to the Commission accompanies the re-filed Complaint. If there will be a re-filing, Complainant's deadline to do so is 10 calendar days following the mailing of the Notice of Probable Cause Determination. The method of submittal of the re-filed Complaint shall be the same as for the original Complaint and the rules for processing Complaints and Probable Cause rules shall apply.

If the determination is a finding of probable cause, then the entire record of the proceedings thus far shall become public.

Scheduling the Commission Hearing

If the Commission has determined that probable cause exists, it shall open the Commission hearing within 30 calendar days of the mailing of the Notice of Probable Cause Determination.

The Commission shall cause a Notice of Public Hearing to be sent via Certified Mail Return Receipt Requested and regular U.S. Mail to Complainant and Respondent.

Upon written agreement between Complainant and Respondent, and with the written approval of the Chairperson of the Ethics Commission (in the absence of the Chair, the Vice Chairperson may approve), one extension of the hearing date may be granted. The extension will be granted to the next regular meeting of the Ethics Commission only. A list of the regular meetings of the Ethics Commission is available in the Office of the East Hampton Town Clerk.

THE COMPLAINANT AND RESPONDENT MUST EXCHANGE A LIST OF WITNESSES AND PROVIDE A COPY OF SAME TO THE COMMISSION AT LEAST TEN (10) CALENDAR DAYS BEFORE THE HEARING. THE SAME RULE APPLIES TO WRITTEN WITNESS STATEMENTS, WHICH MUST BE SWORN TO UNDER OATH. WITNESSES OTHER THAN THOSE APPEARING ON THE WITNESS LISTS WILL BE ALLOWED TO TESTIFY ONLY UPON A SHOWING OF GOOD CAUSE.

Both the Complainant and Respondent must be prepared to provide the Commission with proof of timely mailing of witness lists and witness statements at the commencement of the hearing.

The Commission Hearing Rules

- The rules of evidence shall not be strictly applied at the Commission Hearing.
- All public documents which are submitted to the Commission must be certified.
- All evidence, including certified copies of records and documents which the Commission is asked to consider, shall be retained by the Commission and made exhibits in the case.
- All testimony before the Commission, whether oral or written, shall be made under oath.

- Submission of written testimony under oath does not preclude the witness from also giving oral testimony at the hearing.
- The determination of the Commission relative to the admissibility of evidence shall be final.
- The Commission Hearing shall be recorded by a recording device by the Commission. The Complainant and/or Respondent may also provide a stenographer or record the Commission Hearing at his or her own expense.
- At all times during the Commission Hearing, both Complainant and Respondent shall be entitled to be represented by counsel of his or her own choosing at his or her own expense.
- The Commission's file shall be open and available to the Complainant and the Respondent, including any exculpatory evidence located therein.
- The Complainant and Respondent shall have a reasonable opportunity to examine all documents and records in the Commission's file at a reasonable time before the date of the Commission Hearing as well as during the hearing, to present witnesses to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.
- The Commission shall have the power to compel the attendance of witnesses and to issue subpoenas for books, records, documents or papers designated therein under the authority granted by law.
- The Commission may order testimony to be taken by deposition before any individual designated by the Commission.
- The Commission may require any person to submit, under oath, written reports and written answers to questions as the Commission deems relevant.

The Commission shall close the Commission Hearing within 60 calendar days of opening it.

The Decision following the Commission Hearing

The Commission shall decide whether there has been a violation of the Code of Ethics and/or Code of Conduct within 60 days of closing the Commission Hearing.

The Commission shall issue a Memorandum of Decision setting forth its complete findings and recommendations within 20 calendar days of its decision. Copies of said Memorandum shall be mailed to Complainant and Respondent via Certified Mail Return Receipt Requested and regular U.S. Mail immediately after issuance. A copy of the Memorandum shall also immediately be provided to the Town Manager and Town Council.

Adopted October 11, 2007
 Revised November 17, 2010
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