



TOWN OF MANSFIELD
Ethics Board

Date: January 17, 2013 (Revised); March 5, 1997 (Original)
Subject: Ethics Board Complaint Procedures

Introduction

In addition to the procedures set forth in the Mansfield Code of Ethics and the rules and regulations of the Board of Ethics the following will be applicable:

- A. The procedures of the Mansfield Board of Ethics (herein after referred to as the “Board”) will be governed by the relevant state law, Sections 7-148 (10)(B, 7-148h, and 7-479 of the Connecticut General Statutes (C.G.S.), Chapter 25 of the Mansfield Code of Ordinances, and Robert's Rules of Order.
- B. The Board of Ethics will uphold the law regarding confidentiality, consistent with the requirements of the State of Connecticut Freedom of Information Laws and Sections 1-82(a) to (3) of the C.G.S.

Submission of Complaint

Any person, hereinafter referred to as the “complainant,” who believes an employee or public official has violated the Code of Ethics may submit a complaint in writing to the Board. The Board may also initiate a complaint. No complaint may be made under this Code except within two years of the date of knowledge of the alleged violation, but no more than four years after the date of the alleged violation.

The complainant must sign their written submission under penalty of false statement; this can be completed at the Town Clerk’s Office, before a notary public, judge of court of record, a clerk or deputy clerk of court having a seal, a justice of the peace, or an attorney admitted to the Connecticut Bar.

The completed complaint shall be submitted in a sealed envelope to the Town Manager's Office. The mailing address of the Board is: Chairperson, Board of Ethics c/o Town Manager's Office, 4 South Eagleville Road, Mansfield, CT, 06268. The Town Manager's Office will forward the complaint, with seal intact, to the Chairperson of the Board of Ethics. The Chairperson, Vice Chairperson in the Chairperson’s absence, or the Secretary of the Board will notify the complainant that it has been received by the Board of Ethics.

Complaints not submitted as provided for in these Procedures will be considered incomplete. If a complaint is incomplete, the Chairperson, Vice Chairperson in the Chairperson’s absence, or Secretary will follow-up with the complainant and inform the person of the omitted information or

procedural error. If the complaint is not properly submitted, no investigation or further action by the Board will occur.

Notification to Respondent Public Officials and Employees of Complaints

No later than ten (10) days after the receipt or issuance of a complaint of an alleged violation of the Code, the Chairperson, Vice Chairperson in the Chairperson's absence, or Secretary will notify the person about whom the complaint has been filed, hereinafter referred to as the "respondent." Prior to issuance of notification the Board shall consult with its legal counsel. Notification will be provided to the respondent in writing via certified or registered mail. The respondent will be advised of the specific nature of the complaint being investigated by the Board as well as their rights to due process and representation. The respondent will be provided a copy of the complaint, the Code of Ethics, and the Complaint Procedures.

Investigation

The Board will make an initial investigation of the complaint to determine whether there is probable cause to believe that its allegations may constitute a violation of the Code. An investigation conducted prior to a probable cause finding shall be confidential except upon the request of the respondent. If the investigation is confidential, any allegations and any information supplied to or received by the Board shall not be disclosed to any third party by a complainant, witness, designated party, Board or staff member.

During an investigation the Board shall have the power to hold investigative hearings, administer oaths, examine witnesses, receive oral, documentary and demonstrative evidence, subpoena witnesses and require by subpoena duces tecum the production for examination by the Board of any books and papers which the Board deems relevant in any matter under investigation. Investigative proceedings will be presided over by the Chairperson or Vice Chairperson in the Chairperson's absence. In the exercise of such powers, the Board may use the services of police, who shall provide the same upon the request of the Board. Any such subpoena is enforceable upon application to Superior Court. If any such investigative hearing is scheduled, the Board shall consult forthwith with the town attorney or outside counsel authorized per section 25-7D of the Code. The respondent shall have the right to appear, to be represented by legal counsel and to examine and cross-examine witnesses.

Except for the parties, i.e. the complainant and the respondent, no witnesses will be permitted to attend investigatory proceedings at any time they are not being questioned about the case under oath. Non-party witnesses being interviewed by the Board during investigatory proceedings are only allowed to be present while being questioned. At the conclusion of questioning, a witness will be excused and will be required to leave the investigatory proceedings. No more than one witness at a time will be questioned and allowed to be present during the investigatory proceedings. After receipt of information from an individual, the Board shall not disclose the identity of such individual without his or her consent unless the Board determines that such disclosure is unavoidable during the course of an investigation. There will be no audio recordings or transcripts of interviews or other investigatory proceedings.

Finding of No Probable Cause & Dismissal of Complaint

The Board shall dismiss the complaint if it finds there is no probable cause. No later than three (3) days after the determination to dismiss the complaint has been made, the Chairperson, Vice Chairperson in the Chairperson's absence, or Secretary will notify the complainant and respondent.

Notification will be provided to the complainant and respondent in writing via certified or registered mail.

If the Board 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 Board or staff member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of the complaint, which the disclosing party would not otherwise have known.

Evidentiary Hearing

No later than three (3) days after the determination of probable cause has been made, the Chairperson, Vice Chairperson in the Chairperson's absence, or Secretary will notify the complainant and respondent. Notification will be provided to the complainant and respondent in writing via certified or registered mail.

If the Board finds probable cause for the complaint it shall conduct an evidentiary hearing on the allegations of the complaint. A hearing will be held within thirty (30) days of the date of issuance of a probable cause notice to the complainant and respondent. The Chairperson, Vice Chairperson in the Chairperson's absence, or Secretary will make a reasonable effort to schedule a hearing date that is mutually agreeable to Board members, the respondent and complainant. If a hearing is to be convened the Chairperson, Vice Chairperson in the Chairperson's absence, or Secretary will notify the respective parties of the date, time and location. The hearing date regarding any complaint shall be not more than sixty (60) calendar days after the filing of the complaint. If any such hearing is scheduled, the Board of Ethics shall consult forthwith with the town attorney or outside counsel authorized per section 25-7D of the Code.

A hearing conducted by the Board shall not be governed by formal rules of evidence but must be conducted in a manner which is fundamentally fair to the parties in the case. The Chairperson or Vice Chairperson in the Chairperson's absence will preside over the Board in conducting the hearing. Any such hearing shall be closed to the public unless the respondent requests otherwise. During the hearing the Board shall have the power to administer oaths, examine witnesses, receive oral, documentary and demonstrative evidence, subpoena witnesses and require by subpoena duces tecum the production for examination by the Board any books and papers which the Board deems relevant in any matter under investigation or in question. In the exercise of such powers, the Board may use the services of the police, who shall provide the same upon the request of the Board. Any such subpoena is enforceable upon application to Superior Court. The respondent shall have the right to appear, to be represented by legal counsel and to examine and cross-examine witnesses.

Except for the parties, i.e. the complainant and the respondent, no witnesses will be permitted to attend hearing proceedings at any time they are not being questioned about the case under oath. Non-party witnesses being interviewed by the Board during hearing proceedings are only allowed to be present while being questioned. At the conclusion of questioning, a witness will be excused and will be required to leave the hearing room. No more than one witness at a time will be questioned and allowed to be present during the hearing proceedings. After receipt of information from an individual, the Board shall not disclose the identity of such individual without his or her consent unless the Board determines that such disclosure is unavoidable during the course of a hearing. There will be no audio recordings or transcripts of interviews or other hearing proceedings.

Finding of Ethics Code Violation

After probable cause hearing(s) are complete, and at least four (4) Board members determine that a violation of the Code has occurred, the Board shall submit a memorandum of decision. Prior to issuance of a memorandum of decision the Board shall consult with its legal counsel. Such memorandum may include recommendations for action, to the Town Council, Town Manager, and any other appropriate Town agency for such actions as they may deem appropriate. The recommendations of the Board may include, but not be limited to, any combination of the following: recusal, reprimand, public censure, termination or suspension of employment, removal or suspension from appointive office, termination of contractual status, or the pursuit of injunctive relief. No such recommendation may be acted upon in violation of federal or state law or the Charter, ordinances, legally adopted policies, or collective bargaining agreements of the Town of Mansfield. Any discussion by the Town Council or other Town agency regarding any such memorandum of decision shall be in executive session, subject to the requirements of state law, unless the affected respondent requests that such discussion be held in open session.

The Board shall make public any finding of a violation not later than five (5) business days after the termination of the hearing. At such time, the entire record of the investigation and hearing shall become public. The Chairperson, Vice Chairperson in the Chairperson's absence, or Secretary shall inform the complainant and the respondent of the Board's finding and provide them a summary of its reasons for making such finding. Prior to finalizing and sending the correspondence to the complainant and respondent, the Board shall consult with its legal counsel. Notification will be provided in writing by registered or certified mail not later than three (3) business days after termination of the hearing.

Records Management

Unless and until the Board makes a finding of a violation, a complaint alleging a violation of this Code shall be confidential except upon the request of the respondent. All confidential records of the Board will be kept in the Town Manager's Office and not be subject to public disclosure. Citizens interested in viewing or obtaining records subject to disclosure may direct their request to the Town Clerk's Office via a Freedom of Information Act request. Disclosed records may be publicly inspected or received via hardcopy for a fee as determined by the Connecticut General Statutes and the policy of the Town of Mansfield. Complaint records are maintained in compliance with the State of Connecticut records retention schedule. Complaint records will be maintained for at least two years after the complaint has been closed or resolved, after which they will be destroyed once approval has been received from the State Records Administrator.

No Retaliation

No person shall take or threaten to take official action against an individual for such individual's good faith disclosure of information to their supervisor, any town official or the Board under the provisions of the Code.