

TASK FORCE ON MUNICIPAL ETHICS

Created Pursuant to
Public Act 07-201

Chairpersons:
Senator Gayle Slossberg
Representative James Spallone

Final Report

CHARGE

Section 1 of Public Act 07-201 established an eight member task force consisting of legislative appointees to study the Office of State Ethics' preliminary recommendations concerning the implementation of an ethics code for municipalities of the state. (*See Appendix 1 for Task Force Membership*). The act required the study to include the holding of hearings on the Office of State Ethics' preliminary recommendations as contained in such office's October 31, 2006 report to the joint standing committee of the General Assembly having cognizance of matters relating to ethics. (*See Appendix 2 for October 31, 2006 report of the Office of State Ethics*).

The October 31, 2006 report of the Office of State Ethics contained two preliminary recommendations. First, the office recommended that hearings be held to give the public at large an opportunity to contribute to the debate of how to address the issue of municipal ethics. Second, the office recommended that it develop a "best practices" ethics code which municipalities could voluntarily adopt. According to the October 31, 2006 report, the voluntary nature of such an approach would allow local governments to retain autonomy while avoiding a costly administrative impact on the state level.

METHOD

The task force met five times (includes one meeting to approve report) and held public hearings in the towns of West Haven, Westbrook and Waterbury. The committee received presentations from the Office of State Ethics, the Office of Legislative Research and the Connecticut Conference of Municipalities. The Office of State Ethics presented information to the committee concerning the components of the state code of ethics, the status of municipal codes of ethics, and options for the office's involvement in enforcing municipal ethics. Additionally, the Office of State Ethics provided the task force with an assessment of the fiscal impact that various legislative proposals concerning the enforcement of municipal ethics would have on the office. (*See Appendix 3 for Information Presented by the Office of State Ethics*). The Office of Legislative Research presented the task force with information from other states on how jurisdiction concerning municipal ethics is delegated and sample approaches to

municipal ethics administration and enforcement in other states. *(See Appendix 4 for Information Presented by the Office of Legislative Research)*. The Connecticut Conference of Municipalities presented the task force with information concerning its survey of municipalities on the issue of how municipal ethics is handled. *(See Appendix 5 for Information Presented by the Connecticut Conference of Municipalities)*. At the three public hearings, the task force received written and oral testimony from members of the public and municipal officials. The task force obtained samples of municipal codes of ethics which are provided for informational purposes only for members of the General Assembly and others utilizing this report. *(See Appendix 6 for sample municipal ethics codes)*.

FINDINGS

The task force finds that under the current voluntary law, approximately 124 of 169 towns have adopted some form of an ethics code. Approximately 70 municipalities have formed ethics commissions and another 78 have some other way of resolving ethics complaints. The methods used by such municipalities to hear and dispose of ethics complaints varies widely. In some municipalities there is a permanent board or commission that hears such complaints while other municipalities do not have a formal process for handling complaints.

From the public hearings held by the task force, it is found that, generally, private citizens testified in favor of having some means of submitting municipal ethics complaints and having these complaints resolved. The means favored by these private citizens varied. Some citizens indicated a desire to have such complaints heard and resolved by a board or commission on the town level that would be independent of the respective town officials. Other private citizens indicated a desire to have such complaints heard and resolved by the Office of State Ethics.

Additionally, based on the public hearing testimony by municipal elected officials, the task force finds that there are varying opinions on the need for and potential form of municipal ethics regulation. Generally, chief elected officials from small towns, especially those who testified at the Westbrook field hearing, expressed concern about the cost of municipal ethics regulation and the potential for abuse. Such officials were generally opposed to state-

mandated regulation. Additionally, elected and appointed officials from small towns expressed concern that requiring statements of financial interest from volunteers who serve on local boards and commissions would have a chilling effect on public service, and would make it more difficult than it already is to attract volunteers.

Overall, the task force finds that there is a wide range of opinion regarding structure and functioning of a state-wide municipal ethics system. The opinions received by the task force ranged from those who would make no changes to current law to those who would favor the Office of State Ethics handling all complaints from start to finish.

Accordingly, the task force finds that a one size fits all approach to a municipal code of ethics is not a practical, workable solution. Rather, sufficient flexibility and options must exist for towns in order to reflect the differences amongst the towns in terms of the size of such municipalities and the form of government in each such municipality.

FISCAL CONCERNS

The Task Force is aware that government at all levels is facing a fiscal crisis of historic proportions and that the state and nation are in the midst of a recession. As of the writing of this report, the Office of Fiscal Analysis calculates that the state is carrying a deficit of \$ 1.4 billion for FY 2009 (the current fiscal year), \$ 4 billion for fiscal year 2010 and \$ 4.7 billion for fiscal year 2011. The General Assembly is preparing a budget for FY 2010-2011 in that context. The Office of State Ethics has had \$ 384,000 trimmed from its budget in deficit reduction bills passed and signed into law in November 2008 and January 2009. Under these circumstances, the Task Force understands that new programs at the state level or new requirements at the local level are unlikely to be funded at this time. The Task Force's charge was to come up with recommendations for policy, and it has done so. It remains the task of the General Assembly to determine when such recommendations can be reasonably implemented.

RECOMMENDATIONS

The committee recommends the following concerning the implementation of an ethics code for municipalities of the state:

■ Municipalities should have the option to do one of the following three things within two years of the passage of the subject enabling legislation by the General Assembly: (1) Adopt a municipal code of ethics that, at a minimum, contains certain provisions listed below. Adoption of such code would require only a vote of the legislative body of such municipality, or in the case in which a town meeting is the legislative body, by the board of selectmen; (2) join a regional group of municipalities that has adopted a municipal code of ethics which includes, at a minimum, such standards; or (3) submit to a municipal code of ethics established and enforced by the Office of State Ethics. If a municipality fails to undertake either of the first two options by such date, the third option should automatically be activated. Such legislation should include a sample, but not a required, code of ethics that could be adopted by a municipality without any additional costs to such municipality.

■ The minimum provisions contained in any such municipal code of ethics shall include the following: (A) Conflict of interest provisions that prohibit a public official or employee from participating in a matter in which he or she has a personal or financial interest; (B) Disclosure and recusal provisions that require the written disclosure of conflicts of interest by public officials and employees and the recusal from participation in any decision-making concerning the matter at hand; (C) Gift provisions that prohibit public officials and employees from soliciting or accepting anything of value that could reasonably be expected to influence the actions or judgment of such official or employee; (D) Use of Property provisions that prohibit a public official or employee from using town property in any manner that benefits himself or herself to a degree that is greater than a member of the general public when such property is made available to the general public; (E) Representation of Private Interests provisions that prohibit representing a private interest before the board or commission on which such public official serves. Such provision would extend to a period of six months after the official terminated his or her service on such board; and (F) Use of Position provisions that prohibit the use of information acquired through a public official's or employee's position to further such official's or employee's own financial or personal interests.

■ The task force recommends that any such municipal code of ethics be applicable to all elected or appointed officials and all part-time or full-time employees of such municipality, whether paid or

volunteer. The task force recommends that the General Assembly carefully consider the implications of existing collective bargaining agreements or departmental codes when developing enabling legislation.

The task force makes the following recommendations with regard to the issue of municipal ethics enforcement:

- Municipalities should have options with respect to enforcement. By a date certain, each municipality should have to do one of the following, or a combination thereof: (1) Establish an ethics commission, (2) join a regional ethics commission, or (3) have the Office of State Ethics handle enforcement. If the town fails to enact either of the first two options, the third option should go into effect automatically after such date. The task force is concerned about potential consequences of appeals to the Office of State Ethics in terms of cost, burden and consistency. If the General Assembly provides for such appeals in enabling legislation, the task force suggests that such appeals be made on the record. The task force thinks that it is important to support and not undermine the difficult work of local ethics commissions. The authority of any such commission to levy a fine should be augmented to increase the amount of such permissible fine. However, municipal ethics commissions should not have the authority to remove any public official from office. A municipal ethics commission, following a full hearing on the matter by such commission, should have the ability to recommend to the appropriate authority, as determined by law, that an appointed official or employee or an elected official or employee be removed. A municipal ethics commission should have the authority to refer findings concerning any such recommended removal to the Chief State's Attorney's Office.

- The task force recommends that any municipal ethics enforcement body, municipal or regional, have: (1) Both the power and procedures in place for receipt of citizen complaints and adjudication and resolution of such complaints, and (2) the authority to issue advisory opinions.

- The task force recommends that special districts such as fire or water districts, which are not municipalities, be subject to any such municipal ethics code and enforced by a municipal board of ethics. Additionally, the task force recommends that the General Assembly

evaluate how other political subdivisions of the state, which are not municipalities, be regulated in the area of ethics.

- The task force recommends that the Office of State Ethics send out a reminder to all municipalities on the first anniversary of any such enabling legislation of such legislation's key provisions. On the second anniversary of such legislation, the Office of State Ethics should survey each municipality to determine which municipalities have met the requirements of the legislation. The task force further recommends that any municipality that meets the standards of the enabling legislation as to enforcement not be subject to state enforcement of its code and that any municipality that terminates its code should be subject to state enforcement of its code.

Appendix 1

MEMBER AND APPOINTING AUTHORITY

Representative James F. Spallone, appointed by House Speaker James Amann;

Senator Gayle Slossberg, appointed by Senate President Pro Tempore Donald Williams;

Linda C. Smith-Criddle, appointed by House Speaker James Amann;

Gerald Weiner, appointed by Senate President Pro Tempore Donald Williams;

Stephen Hudspeth, appointed by House Minority Leader Lawrence Cafero;

Robert Valentine, appointed by Senate Minority Leader John McKinney;

Lawrence Kendzior, appointed by House Majority Leader Christopher Donovan.

Appendix 2

Municipal Ethics and State Government:
Four Approaches and Their Application
To Connecticut State Government

October 31, 2006

STATEMENT OF PURPOSE

At present, the Connecticut Office of State Ethics (OSE) does not play a role in the drafting or administration of municipal ethics Codes and Statutes in Connecticut. Nevertheless, the OSE receives complaints about alleged violations of municipal ethics codes at least weekly. The majority of these local-level complaints do not relate to problems that implicate ethics issues. Rather, in many instances, they concern conduct that may be actionable under civil or even criminal laws. In recent Connecticut General Assembly sessions, legislators have proposed that the OSE become involved with municipal ethics. At the request of State Representative Christopher L. Caruso (D-Bridgeport), the OSE examined how some other state governments address municipal ethics. OSE's findings will be reported to the General Assembly.

The methods employed by other states to address ethics on a municipal level generally fall into four categories that are discussed in detail in the following pages. These categories represent four approaches to municipal ethics: (1) state ethics law includes municipalities, (2) partial inclusion of municipal ethics by the state, (3) application of strictest code, and (4) model code.

INTRODUCTION

Current Regulation of Municipal Ethics in Connecticut

Connecticut cities and towns have recently dealt with myriad highly-publicized ethics problems. In response, in 2004, Connecticut Common Cause prepared a municipal ethics survey that looked at all 169 towns in our state. The survey revealed that 107 out of 169 total municipalities in Connecticut (i.e., 59%) have some version of an ethics code in existence for

their officials and employees. The report portion of the Common Cause survey states, “A code of ethics is only as strong as the provisions it contains.” Even with such a code in place, these municipalities experienced well-documented ethics troubles involving matters pertaining to school construction¹, housing appraisals², zoning board and selectman conflicts of interest^{3,4} and gifts for, among other things, municipal soccer fields⁵.

Furthermore, there exists great variation among municipal codes regarding regulated conduct, prohibitions, investigations and enforcement. For example, in the Common Cause study cited above, only 10 (6%) of the municipalities with ethics codes were found to require statements of financial interests.⁶ Approximately 54 percent of Connecticut municipalities’ codes contained gift provisions⁷ and also required public officials to disclose conflicts of interest.⁸ Only 38 percent of municipal codes prohibited employees subject to such codes from appearing before the city or town for their private interests.⁹ Because of the very limited reach of some towns’ codes, Common Cause designated 17 of the 107 towns with municipal codes as having only partial codes.

FOUR BASIC APPROACHES TO STATE INVOLVEMENT IN MUNICIPAL ETHICS CODES

Some states¹⁰ have employed oversight by their state-level ethics commission rather than solely rely on local governments to devise, administer and enforce their own ethics codes. There are four primary approaches by which state government has dealt with municipal ethics.

Approach 1: State Ethics Law Includes Municipalities (Alabama)

In the first approach, the state government includes municipal public officials and/or employees in the pool of individuals subject to the state ethics code. Alabama's Code of Conduct, for example, defines those who are subject to such code as follows:

- (24) Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2

Alabama's Code of Ethics §§ 36-25-1 through 36-25-30 was enacted in 1975 and specifically includes all levels of government in its provisions. The primary advantage of this approach is that enforcement, education and disclosure regulations are applied uniformly across all levels of government. One disadvantage of the unified approach is the cost to the state. Another disadvantage is that applying ethics laws on both the state and local level can result in needless overlap and confusion, because of the unique ethics needs found at different levels of government. Finally, state administration of local ethics laws may cause local citizens to feel that they have little or no power in how their municipal ethics laws are administered.

Approach 2: Partial Inclusion of Municipal Ethics by the State (Massachusetts and Texas)

The Commonwealth of Massachusetts subjects local jurisdictions only partially to the state ethics law. Included in the Massachusetts ethics law are provisions for gifts, post-state employment, financial disclosure, conflicts of interest and outside employment that pertain to

local and state-level public officials and employees.¹¹ Moreover, some provisions apply only to local governments and not to the state government. Just as in the first approach, although making municipalities subject to the state law ensures a measure of uniformity across the state, it creates an increased financial burden on the state. For example, in Massachusetts there are 351 municipalities. The Massachusetts State Ethics Commission (MASEC) alone interprets and enforces the ethics laws for both state and local compliance.

Another state that uses this partial approach is Texas, although with a slightly different administrative structure. In Texas, violations at the municipal level are handled by the Municipal Affairs section of the Office of the Attorney General, in accordance with the Texas Penal Code. The Texas Ethics Commission, which deals with state level ethics violations, does not get involved with municipalities, except that it has enforcement authority for campaign finance and political advertising issues at both the state and municipal levels. Even though there is an ethics code, the Texas Attorney General's office appears to rely primarily on the Texas Penal Code, Chapter 36, to deal with issues of Bribery, Gift and Honorarium laws, and Chapter 39, covering Misuse of Government Resources.

Approach 3: Application of Strictest Code (Delaware and New Jersey)

A third approach, utilized in Delaware, requires municipalities to follow the state's ethics code only if the city or town has not developed a code of its own that is at least as stringent as the state's law. In 29 Del. C., Chapter 58 this "minimum standard" is clearly stated:

Code of Conduct – Ethical standards for all State Executive branch employees (rank and file), officers (Senior level & Elected officials) and honorary State officials (appointees to State Boards & Commissions). The standards apply to all local governments unless they adopt their own Code of Conduct which this Commission must approve as being at least as stringent as the State law.

By requiring that municipalities with their own codes adhere to a minimum standard (i.e., the state's code), the state encourages acceptable local ethics input and policies while minimizing state-level administration. But in fact, only seven of Delaware's 59 municipalities have drafted their own ethics laws, thus creating a burden on state government. In a conversation with a staff member at the Delaware Public Integrity Commission, a commonly-stated reason for this municipal inaction is the belief at the local level that a state agency will handle issues in a less biased manner than would local appointees.

A potential pitfall with this approach lies in the differences inherent between municipal and state ethics issues. For example, in Delaware, the Public Integrity Commission has had to address an abundance of land-use concerns which fall outside the realm of ethics law. Further, the Public Integrity Commission noted that enforcement often becomes backlogged due to insufficient attorney staffing. Attorney Janet Wright, Public Integrity Commission Counsel, stated that at the state-government level alone, she is responsible for education, compliance and enforcement for 58,000 employees and public officials. Because her staff consists of only one Administrative Assistant, it is unlikely that many (if any) ethical violations on the local level are addressed.

A similar approach is used in New Jersey, where municipalities and counties are addressed in N.J. Stat. § 40A:9-22.4. This separate statute tasks the Local Finance Board in the Division of Local Government Services, Department of Community Affairs, to "govern and guide" local government officers and employees. Here, as in Delaware, there is a caveat stating that the statute applies to: "local government officers and employees . . . who are not otherwise regulated by a county or municipal code of ethics promulgated by a county or municipal ethics board in accordance with the provisions of this act." In practice, only 42 out of 587 jurisdictions

in New Jersey have chosen to promulgate and enforce their own ethics codes. Paul Contillo, a prominent retired state legislator who also once served on the state's Local Government Finance Board, was quoted as calling the Board "a farce for enforcement."¹² Although it might seem that having a separate agency tasked only to administer municipal ethics codes and issues would result in efficiency and effectiveness, Contillo indicated in a newspaper interview that the opposite has occurred. Since 1991, the state Board has not pursued any complaints to completion relating to improper gifts received by city or town officials in exchange for influence. Echoing the Common Cause survey, Contillo further states, "The enforcement part of the law is the will. And there is no will on the Local Government Finance Board."

Approach 4: Model Code (Tennessee)

A fourth approach, only slightly different from the third, is being implemented currently in Tennessee. The new Tennessee law mandates that municipalities must adopt the Municipal Technical Advisory Service (MTAS) model code of ethics by July 1, 2007. Otherwise, they must draft a new local ordinance that meets the standards of the model code. The penalty for municipal governing bodies that do not comply is the ouster of local officials from office. The MTAS is a joint project of the University of Tennessee and the Tennessee Municipal League.

This model code gives municipalities substantive guidance without creating significant oversight burdens for the state. However, the mechanics of implementation have given rise to complaints from municipalities about duplication and waste of time and money. This is because municipalities cannot submit their existing codes for approval without significant readjustment to meet the state's standards and to adopt new effective dates."¹³ Those localities that opt for accepting the MTAS Model Code must simply send in a written statement that they have adopted

said code and provide the date of adoption. Some municipalities have complained that reworking their existing ethics ordinances to comport with the MTAS Model Code is too onerous and almost “forces” them to choose the quicker, cheaper path of adopting the MTAS Code.

Tennessee’s state provisions cover municipalities in two main areas: rules relating to gifts and disclosure of personal interests. On the enforcement side, the Model Code (Section 10) provides for enforcement by the City Attorney of the municipality raising the issue. A concern here is providing smaller jurisdictions with an alternative if they do not have a City Attorney. It should also be noted that the potential for conflicts of interest is great within smaller municipalities.

CONCLUSIONS

In all the states reviewed, as well as in the Common Cause study, citizens’ preference appears to strongly favor local government control of the formation and administration of ethics laws. Many local council members have also debated whether jurisdiction concerning ethics matters should rest with an independent regional or local ethics commission.¹⁴ Finally, trying to adopt a workable system to draft statutes, resolve local ethics issues and enforce a statewide code can create expense and confusion when regulators at the state level must take into account the disparities among the ethics concerns of large urban areas, affluent suburbs, and small rural towns.

QUESTIONS THAT MUST BE ANSWERED BY THE GENERAL ASSEMBLY

In dealing with the issue of the involvement of state government in local ethics regulation, the General Assembly must consider the following questions:

1. Would a system controlled by a state agency such as the Office of State Ethics be considered an interference rather than an assistance to municipal governments?
2. Would any state agency intervention or oversight interfere with or diminish already existing municipal ethics ordinances?
3. Who would bear the burden of the costs of municipal ethics administration, which, among others, include:
 - a. drafting the statutes;
 - b. educating the regulated parties;
 - c. administering the regulations; and
 - d. enforcement (auditing, investigating, holding hearings and collecting fines).

OSE PRELIMINARY RECOMMENDATIONS

The Office of State Ethics recommends that hearings be held to give the public at large an opportunity to contribute to this debate. Besides the general public, those encouraged to participate in these hearings should include representatives from similarly situated states, such as Massachusetts, experts from the college and university communities, and civic-minded members of the Connecticut bar. In addition, all affected branches of state government should also be consulted – notably the State’s Attorney and Attorney General’s Offices. We suggest that the hearings be completed by December 31, 2007, so that the best recommendations can be made to the General Assembly. The hearings would serve to develop a workable format for the relationship between state government and municipalities relating to the administration of ethics codes.

Beyond hearings for public comment and debate, it is the opinion of the Office of State Ethics that a workable solution may lie in OSE’s development of a “best practices” ethics code, which municipalities may voluntarily adopt. This will provide the guidance towns and municipalities need in order to move towards more transparency and consistency of standards in

municipal government. The voluntary nature of this approach would allow local governments to retain their autonomy while avoiding a costly impact at the state level.

Footnotes

¹ Bill Cummings, *Court Decision Points to Corruption in School Deal*, CONNECTICUT POST, June 7, 2006.

² Joseph Hachey, *Conflict of Interest*, JOURNAL INQUIRER, June 6, 2006.

³ Tommy Valuckas, *Watertown Council Gets Involved in Ethics Issue*, WATERBURY CONNECTICUT REPUBLICAN AMERICAN, May 18, 2006.

⁴ *In Case Against Marilyn Gould*, WILTON BULLETIN, July 13, 2006. (Second Selectman Gould was found not to have violated the municipality's Code of Ethics.)

⁵ Brian Gioiele, *Soccer Field Lights: Policy Troublesome But Boars OKS*, WESTON FORUM, May 17, 2006.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ A study from the Council on Governmental Ethics Laws (COGEL) Blue Book 2005 serves as the basis of some of the following information. The COGEL study sample included only those state government agencies that self-reported their direct involvement in municipal ethics. The sample also purposely excluded states whose primary involvement in municipal ethics dealt with campaign finance. The final sample in the COGEL study included 15 states, several of which are selected for discussion below based on their implementation of one or more of the four models of approach considered worthwhile for exploration in Connecticut.

¹¹ See MASS. GEN. LAWS ch. 268A §§ 1-25 (2006).

¹² Camden Staff COURIERPOST ONLINE, *Former Officials Say Whole Political System Corrupted by Campaign Fundraising*, Oct. 22, 2000. <http://www.southjerseynews.com/camden/m102200c.html>.

¹³ Under Public Chapter No. 1 of the Extraordinary Session of the 2006 General Assembly, each municipality must newly adopt an ethics code unless it opts to endorse the MTAS model code.

¹⁴ Lisa Backus, *Town Council Members Take a Close Look at Ethics Code*, FARMINGTON POST, July 7, 2006, at 1.

Appendix 3

June 4, 2008

Presented by the

Carol, Carson, Office of State Ethics

Municipal Task Force

"[N]o responsibility of government is more fundamental than the responsibility for maintaining the highest standards of ethical behavior by those who conduct the public business.... This principle must be followed not only in reality, but in appearance. For the basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter"

John F. Kennedy

Address to Congress

April 27, 1957

Introduction - 2006 "Municipal Ethics and State Government: Four Approaches and Their Application to Connecticut State Government" Report

Origins and content

- ☐ Proposed Legislation to have OSE become involved in local ethics
- ☐ Rep. Caruso asked for Report on other state models
- ☐ Legislature created Task Force to consider the OSE's recommendation that an ethics code for municipalities be implemented for voluntary adoption by municipalities and report back to the Legislature
- ☐ What I'd like to do is present information on the state of ethics at state level, then the state of ethics at the municipal level and finally some considerations for the task force about approaching the issue of municipal ethics codes

State of State Ethics

OSE Mission

- Provides guidance, advice and education about the Code of Ethics for Public Officials, State Employees and Lobbyists
- Enforces violations of the codes
- Collects and maintains Statements of Financial Interest
- Collects and maintains Lobbyist Registrations and Financial Reports

Code of Ethics for Public Officials

- Restrictions in 7 major areas
 - ☐ Gifts
 - ☐ Self-Dealing/Nepotism
 - ☐ Inside Track/Contracting with Government
 - ☐ Switching Sides
 - ☐ Revolving Door
 - ☐ Abuse of Position
 - ☐ Confidential Information

SFIs

- Statements of Financial Interest serve two purposes:
 - ☐ Transparency - Provide the public with knowledge of public officials' interests and relationships
 - ☐ Self-review - Require public officials to conduct an annual review of their own interests to avoid inadvertent conflicts of interest

Lobbying

- A **lobbyist** is any person or entity who is **communicating** directly or soliciting others to communicate with any official or his/her staff in the legislative or executive branch of government or in a quasi-public agency **for the purpose of influencing any legislative or administrative action.**
- Such individuals and entities are required to register as lobbyists if they
 - ☐ Expend or agree to expend \$2,000 or more in a calendar year on lobbying; *OR*

- ☐Receive or agree to receive \$2,000 or more in a calendar year for lobbying
- Serve two purposes
 - ☐Transparency - Provide the public with knowledge of who's influencing government action
 - ☐Regulates how lobbyists conduct themselves in influencing government action

State of Municipal Ethics

Connecticut General Statutes on Municipalities

- Presently, Connecticut municipalities have discretionary authority to
- adopt a municipal code of ethics
 - ☐No standards for what code should or should not include **except**
 - ☐restricts elected municipal officials from taking official action on any matter in which they may have a substantial conflict of interest.
- establish a board to investigate allegations of unethical conduct, corrupting influence or illegal activities
 - ☐confidentiality of investigations
 - ☐authority to issue subpoenas
- Civil penalties of up to \$250 for ethics violations (no ability to recoup financial benefits) (State \$10,000 +recoupment)

Model Code Law

- 1994 Former Commission to develop model code of ethics for any municipality or special district to adopt and accept Commission's jurisdiction; in 1995 law was amended to authorize Commission to draft and distribute model code but not administer or enforce its provisions, leaving that to municipalities
- N.B.: Deals with code for public officials/employees including SFIs but not lobbyists

(Our research indicates Bridgeport has lobbying code based on state code but our understanding it is not enforced)

Current state of ethics

■ As of today, while we don't have much information, we know that Connecticut municipalities

- ☐ Adopted the 1995 model code
- ☐ Modeled their code on the 2005 State Code of Ethics and/or modified elements of the State Code to suit the needs of the municipality
- ☐ Created their own code, which may contain elements of the 1995 or 2005 State code
- ☐ Do not have a code of ethics in place

Other States

■ Full Inclusion of Municipalities under State Ethics Boards (AL)

- ☐ Code of Ethics
- ☐ Statements of Financial Interest
- ☐ Lobbyists

■ Partial Inclusion of Municipalities under State Ethics Boards

- ☐ Only Code of Ethics in municipalities - not SFI or Lobbyist (MA)
- ☐ Other Agencies enforce municipal ethics

■ Application of Strictest Code (DE, NJ)

- ☐ municipalities follow state code (including enforcement) *unless* they have a code at least as restrictive as state code and it is approved by the Ethics Board

■ Model Code (TN)

- ☐ Adopt state model code or local code that meets state standards – local enforcement
- ☐ Penalty for failure to adopt is ouster of local officials from office

Models for Connecticut Municipal Ethics

■ We receive several calls a week from municipalities about ethics issues ranging from:

- ☐ municipal counsel seeking advice about how we would interpret a municipal code – which we have no authority to do
- ☐ complaint not related to ethics (FOI, police conduct, neighbor's dirty yard)
- ☐ complaints that may violate a local ethics code
- ☐ complaints that would be investigated were they about state officials or employees
- ☐ complaints about the local ethics board
 - ☐ The process for selecting Board members is not impartial
 - ☐ The process for investigating complaints is unfair

■ There are a number of alternatives that could strengthen and, perhaps just as important, standardize municipal ethics. Most effective alternatives would include a three-pronged approach that includes:

- ☐ education
- ☐ prevention through advice
- ☐ enforcement

Municipal-based proposals

■ Any municipal-based ethics program should address: (Bricks and Straws article)

- ☐ Board structure and independence (appointment process, who is appointed, who accountable to)
- ☐ integrity of process - safeguard from political pressure
- ☐ accountability of both
- ☐ Confidentiality
- ☐ Fair, clear, consistent advice and enforcement
- ☐ Finally, resources are needed to complete the three pronged approach, i.e., enforceability

■ **Model Code - Legislation**

- A single model code that is voluntarily adopted and enforced by towns
- A single model code that is mandated for adoption and enforcement by towns
- A three layer model code with provisions for large cities, medium sized cities and towns and small town (based on population)

■ **Regionalization**

- Cities and towns form regional ethics bodies
 - Decreases financial burden
 - Increases independence

The Role of the OSE in municipal ethics

■ **Full inclusion**

- OSE enforces current codes at municipal level
- OSE enforces new codes for municipal officials and state employees and municipal lobbyists

■ **Partial Inclusion**

- OSE enforces code of ethics but SFI and or lobbying is voluntary and local

■ **OSE creates model code – 3 layer codes by population size NOT each town adopting its own code if OSE is to enforce**

- Opt out - Towns are subject to enforcement by OSE **unless** they create code approved by OSE

- Opt in – Municipalities adopt model code **and** choose enforcement by OSE

■ **OSE serves as Board of Appeal for local ethics decisions**

■ **OSE oversees regional ethics boards**

■ **OSE travels a regional ethics circuit to avoid the expense/time of all hearings occurring in Hartford**

■ **Each municipality establishes an ethics liaison position to which the OSE provides education, guidance and resources**

Questions to consider

Code of Ethics

■What does municipal ethics mean?

☐Code of Ethics

☐SFI

☐Lobbyist

Code of Ethics

■What should the municipal code of ethics include? – 7 major areas (Gifts, Self-Dealing/Nepotism, Inside Track/Contracting with Government. Switching Sides

■Revolving Door, Abuse of Position, Confidential Information)

Financial Disclosure and Lobbyist Filings programs

SFIs

■Who should file?

☐Are SFIs of value for elected officials?

☐Which municipal employees should file?

☐Needs of Small towns vs. Large cities

■What should be filed?

☐Same as state or different?

■How will records be filed and maintained?

☐Online or paper

☐Centralized at OSE or city and town clerks

☐

Lobbyists

■Who should file?

☐Definition of municipal lobbyist?

☐\$2,000 threshold?

☐Needs of Small towns vs. Large cities

☐How to identify who should file?

■What should be filed?

☐Same as state or different?

- How will records be filed and maintained?
- Online or paper

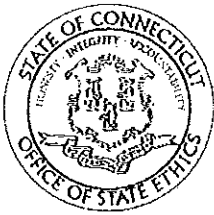
Centralized at OSE or city and town clerks

Resources

- State vs. Local impact -- who pays?
 - Implementation Costs
 - Ongoing Costs
 - Cost of Prevention vs. Cost of Enforcement

■The OSE is the expert on Government Ethics in CT

- We are able to provide advice, guidance and education, to enforce the code, to administer the financial interest filing and lobbyist filing
- We're not clamoring to take on municipal ethics but are willing to do so if it is the will of the legislative process
- Biggest need, should this task force recommend that the OSE have responsibility for municipal ethics, is resources; depending on the responsibilities and jurisdiction of any new laws, the size of the Office of State Ethics could as much as double from current staff of 21 full-time employees in order to fulfill the mandate for municipal ethics



STATE OF CONNECTICUT

OFFICE OF STATE ETHICS

MEMORANDUM

TO: Municipal Ethics Task Force

FROM: Carol Carson, Executive Director *(cc)*

SUBJECT: Impact of Legislative Proposals on the Office of State Ethics

DATE: December 2, 2008

I. INTRODUCTION

The Legislative Municipal Ethics Task Force has asked the Office of State Ethics (OSE) to outline the impact that various legislative proposals would have on the OSE:

- A. a mandate that each community adopt an ethics code which meets certain minimum standards
- B. a mandate that each municipality choose between one of three options:
 - 1. Adopt an ethics code with certain minimum standards and create a local ethics commission which would also have minimum standards mandated by state law regarding its makeup, powers and responsibilities for providing opinions and enforcing the code
 - 2. Adopt an ethics code with certain minimum standards and participate in a regional ethics commission
 - 3. Fall under OSE jurisdiction and opt to have the OSE serve as the board of first impression
- C. the establishment of the OSE as the appellate review board for all matters reviewed by local or regional commissions or following OSE "first impression" decisions
- D. a mandate that municipal public officials and employees attend training on the minimum standards

II. DISCUSSION

A. EACH MUNICIPALITY ADOPTS A CODE

- 1. Municipal code enforced at municipal or regional level

Presently, under section 7-148 of the Connecticut General Statutes, municipalities have the authority to adopt, in their discretion, a code of ethical conduct. The proposed mandate would require all municipalities to adopt a code that meets minimum legislative standards.¹

¹ Such a code could contain different options depending on the size of the population of the municipality. Attachment 2 is a memorandum to Rep. James Spallone dated October 27, 2008, which outlines such options.

Whether in addition to the mandated adoption of an ethics code, the proposal also includes a requirement that all municipalities establish an ethics advisory and enforcement mechanism through local or regional boards or commissions, such mandate would have no fiscal impact on the OSE.

ESTIMATED COST: \$0

2. 1995 Model Municipal Code as a Platform for Minimum Standards

In 1995, the State Ethics Commission, the predecessor of the OSE, created a model code (Attachment 1) pursuant to P.A. 94-172; amended by P.A. 95-291. The minimum standards in the 1995 model code address:²

- disclosure and recusal when a conflict of interest arises
- prohibitions on gifts which might influence the action or judgment of municipal officials or employees
- prohibitions on the use of municipal property for personal or political use
- restrictions on representing private interests before the board or commission on which one serves or by which one is employed while on the board and for a period after leaving such board or commission
- prohibitions on the use of position to advance private interests of oneself or others
- confidentiality restrictions
- prohibitions regarding contracting with the municipality

While the 1995 model code needs some updating, the impact of requiring the OSE to update the model code for adoption by municipalities would be minimal. However, if legislation requires municipalities to adopt a code that meets minimum standards and requires the OSE to review each code to ensure its compliance with such standards, the addition of an attorney to the staff of the Legal Division of the OSE would likely be required to conduct such reviews, particularly if the legislation required regular reviews of the codes by municipalities.

ESTIMATED COST: \$100,000 or more

B. EACH MUNICIPALITY TO CHOOSE BETWEEN ONE OF THREE OPTIONS:

1. Adopt an ethics code with certain minimum standards and create a local ethics commission which would also have minimum standards mandated by state law regarding its makeup, powers and responsibilities for providing opinions and enforcing the code

If municipalities choose to have local ethics boards or commissions there would be no fiscal impact on the OSE.

ESTIMATED COST: \$0

² Please note that an amendment of certain underlying state statutes applicable to municipalities would be required before a municipality could adopt some of the model code provisions. In the 1995 model code, these inconsistent provisions dealt with the disclosure and recusal process involving conflicts of interest, applicable penalties for violations of the ethics code, appeals process, and enforcement procedures.

2. Adopt an ethics code with certain minimum standards and participate in a regional ethics commission

If municipalities choose to have regional ethics boards or commissions there would be no fiscal impact on the OSE. (This assumes that the regional ethics boards would be instrumentalities of the member towns and that the OSE would have no involvement in them. If the OSE were to have responsibility for regional boards, the cost could be very significant and would depend on the number of regional boards and the level of involvement of the OSE.)

ESTIMATED COST: \$0

3. Fall under OSE jurisdiction and opt to have the OSE serve as the board of first impression

If municipalities that failed to meet the mandate to create a code by a date certain were then under the jurisdiction of the OSE and the model code, the OSE would need to expand its staff. Depending on the number of municipalities that choose, or by default fell under, the jurisdiction of the OSE, the OSE would need to add one or more attorneys and related support staff in both the enforcement division, to investigate and prosecute violations of the code, and the legal division to interpret the code and provide advice to officials and employees in those towns regarding the application of the code. Questions to consider include how and when municipalities that fall under OSE jurisdiction could opt to switch to their own code and how funding should be structured if many or few towns opt for OSE jurisdiction.

ESTIMATED COST: \$250,000 or more

C. OSE AS THE APPELLATE REVIEW BOARD

Establishing the OSE as the appellate review board would require additional staff, a minimum of an attorney, a paralegal and an office assistant, to manage the review process. Depending on the requirements of the legislation, the costs for hearings before a judge trial referee and/or the CEAB would also incur costs. Such factors could include whether the appellate review would be de novo, whether the appellate review would review the merits of the matter being reviewed or, as has been suggested, only the process to determine solely that the local or regional board properly reviewed the matter. Issues involving confidentiality should also be considered.

Note that municipalities would potentially incur costs if the OSE is the appellate review board because each matter would have to have a complete record in order for the OSE to conduct a review.

ESTIMATED COST: \$200,000 or more

D. ETHICS TRAINING MANDATE

Legislation requiring the OSE to provide municipalities with ethics training would require, at a minimum, the addition of a municipal trainer and a support staff position. While many municipalities would require only one or two training a year (one in the day for employees and one at night for board members and volunteers), larger towns and cities could require several trainings

to reach all municipal employees and public officials. Another factor that could affect costs would be whether each municipality had its own code that required training by the OSE or the training provided by the OSE would be related to the model code or minimum standards. In the latter case, municipalities would have to provide additional training. Other training considerations: Would the OSE provide training on the minimum standards? On the public policies that underlie the rules of the code? On ethical values and ethics-based decision making? Another training model to consider would be the establishment of 'ethics audits' provided to municipalities by the OSE. These audits would review local codes, commission records and other practices related to ethics. Such a model would involve increased costs.

The OSE could, at no additional cost, create and maintain an online training program similar to the state online training program now available at the OSE website and other electronic media, such as DVDs and streaming video could be created at minimal cost.

ESTIMATED COST: \$120,000 or more

III. SUMMARY

The Municipal Ethics Task Force has a wide range of options when taking into consideration the fiscal impact on both the OSE and municipalities. If the task force recommends a specific course of action, the OSE is ready to provide assistance to the legislature and all the interested parties in addressing specific legislative proposals regarding municipal ethics and their impact on the OSE.

CODE OF ETHICS
FOR MUNICIPALITIES AND SPECIAL DISTRICTS
MODEL CODE
August 21, 1995

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.

Section 1-1. Definitions.

(a) "Business" means any entity through which business for profit or not for profit is conducted including a corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, or self-employed individual.

(b) "Business with which he is associated" means a business of which the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stock of any class.

(c) "Confidential information" means information, whether transmitted orally or in writing, 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.

(d) "Commission" means the municipal ethics commission established in section 1-2.

(e) "Financial interest" means 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.

(f) "Gift" means 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:

(1) 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 9-333b;

(2) services provided by persons volunteering their time;

(3) a commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business;

- (4) a gift received from (A) an individual's spouse, fiancé or fiancée, (b) the parent, brother or sister of such spouse or such individual, or (C) the child of such individual or the spouse of such child;
- (5) goods or services which are provided to the municipality and facilitate governmental action or functions;
- (6) a certificate, plaque or other ceremonial award costing less than one hundred dollars;
- (7) 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;
- (8) printed or recorded informational material germane to governmental actions or functions;
- (9) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;
- (10) an honorary degree bestowed upon a public official or public employee by a public or private university or college;
- (11) 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 official capacity;
- (12) a meal provided in the home by an individual who resides in the municipality;
- (13) gifts in-kind of nominal value not to exceed \$25.00 tendered on gift-giving occasions generally recognized by the public including Christmas, Hanukkah, birthdays, the birth or adoption of a child, weddings, confirmations or bar/bat mitzvahs, provided the total value of such gifts in any calendar year do not exceed fifty dollars.
- (g) "Immediate family" means any spouse, child or dependent relative who resides in the individual's household.
- (h) "Individual" means a natural person.
- (i) "Individual with whom one is associated" means an individual with whom the person or a member of his immediate family mutually has an interest in any business.
- (j) "Official responsibility" means 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.
- (k) "Person" means an individual, sole proprietorship, trust, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

(l) "Personal interest" means an interest in any action taken by the municipality in which an individual will derive a nonfinancial benefit or detriment but which will result in the expenditure of municipal funds.

(m) "Public employee" means a person employed, whether part-time or full-time, by the municipality or a political subdivision thereof.

(n) "Public official" means 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 officer elected pursuant to Conn. Gen. Stat. §7-327.

(o) "Special district" means a district established pursuant to Conn. Gen. Stat. §7-324.

(p) "Municipality" shall include any special district contained therein.

Section 1-2. Municipal ethics commission. Members; appointment; qualifications; vacancies; political activity.

(a) There shall be a municipal ethics commission consisting of five members. The members shall be appointed by unanimous vote of the Board of Selectmen (Town Council) for a term of three (3) years, except that, of the initially appointed members, one (1) shall serve for one (1) year, two (2) for two (2) years; two (2) for three (3) years. No individual shall be appointed to more than one three-year term, provided that members may continue in office until a successor has been appointed. No more than three shall be members of the same political party.

(b) All members shall be electors of the municipality. No member shall (1) hold or campaign for any public office; (2) have held public office or have been a candidate for public office for a two-year period prior to appointment; (3) hold office in any political party or political committee; or (4) serve as a member of any other municipal agency.

(c)(1) Although any member or employee of the Commission shall have an unrestricted right to vote, make political contributions, attend fundraising or other political events, no member or employee shall publicly support any candidate for any municipal office subject to the Commission's jurisdiction. An individual would be publicly supporting a candidate by, for example, volunteering as a campaign worker, giving a speech at a political event or formally endorsing a candidate. (2) No candidate for political office may disseminate information which indicates that a Commission member or employee supports his or her candidacy.

(d) 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.

Section 1-3. Duties of commission re reports, advisory opinions, memoranda, and regulations. Employment of necessary staff.

(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 advisory opinions with regard to the requirements of this code upon the 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 advisory opinion concerning the person who requested the opinion and who acted in reliance thereon, in good faith, shall be an absolute defense in any matter brought under the provisions of this code; (3) report annually on or before February 1 to the [Board of Selectman or Town Council or Special district board] 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.

Section 1-4. Complaints. Procedures. Time limits. Investigation; notice; hearings. Damages for complaints without foundation.

(a)(1) 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. (2) Not later than ten (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. (3) If the complaint has been filed by a member of the public, the commission shall review the complaint to determine whether or not the allegations contained therein constitute a violation of any provision of the Code. If the commission determines that the complaint does not allege sufficient acts to constitute a violation, the commission shall dismiss the complaint and duly notify the complainant and respondent by registered or certified mail. (4) If the commission determines that the complaint alleges sufficient acts to constitute a violation, then within thirty (30) days after so determining, the commission shall fix a date for the commencement of the hearing on the allegation contained therein. The hearing date regarding any complaint shall be not more than sixty (60) days after the filing of the complaint.

(b)(1) In the conduct of its investigation of an alleged violation of this code, 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 which 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.

(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 rules of evidence.

(e) No complaint may be made under this code except within five years next 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. After receipt of information from an individual, the commission shall not disclose the identity of such individual without consent unless the commission determines that such disclosure is unavoidable during the course of an investigation.

Section 1-5. Confidentiality of complaints, evaluations of possible violations and investigations. Publication of findings.

(a) Unless the commission makes a finding of a violation, a complaint alleging a violation shall be confidential except upon the request of the respondent.

(b) Prior to the filing of 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 request of the respondent. If the investigation is confidential, any allegations and any information supplied to or received from the commission shall not be disclosed during the investigation to any third party by a complainant, respondent, witness, designated party, or commission or staff member.

(c) If the commission makes a finding of no violation, the complaint and the record of its investigation shall remain confidential, except upon the request of the respondent. No complainant, respondent, witness, designated party, or commission or staff member shall disclose 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.

(e) Any respondent aggrieved by a decision of the commission regarding a finding of a violation may, within thirty days, take an appeal to the superior court for the judicial district in which the municipality is located.

Section 1-6. Penalties.

(a) Violation of any provision of this Code shall constitute grounds for, and may be punished by (1) public censure and reprimand; (2) in the case of a public employee, dismissal from employment or suspension from employment for not more than 90 days without pay; (3) a civil penalty of not more than \$1,000 per violation; or (4) restitution of any pecuniary benefits received because of the violations committed.

Section 1-7. Conflicts of interest.

(a) No public employee or public official shall engage in or participate in any business or transaction, including outside employment with a private business, or have an interest, direct or indirect, which is incompatible with the proper discharge of his official responsibilities in the public interest or which would tend to impair his independent judgment or action in the performance of his official responsibilities.

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

(c)(1) A public employee or public official shall refrain from voting upon or otherwise participating in any matter on behalf of the municipality if he, a business with which he is associated, an individual with which he is associated, or a member of his immediate family, has a financial or personal interest in the transaction or contract, including but not limited to the sale of real estate, material, supplies or services to the municipality. (2) If such participation is within the scope of the public employee's or public official's official responsibility, he 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)(1) Except for a public official who receives no compensation for his 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 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 interest of the municipality in any litigation to which the municipality is a party.

(e) 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 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.

(f) No public employee or public official shall disclose confidential information concerning municipal affairs, nor shall he use such information for the financial interests of himself 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 is associated, or member of his immediate family shall enter into a contract with the municipality unless it is awarded through a process of public notice and competitive bidding.

(i) No public employee or public official may use his position or office for the financial benefit of himself, a business with which he is associated, an individual with which he is associated, or a member of his immediate family.

(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 official capacity.

(k) No public employee or public official, or member of such individual's immediate family or business with which he is associated, shall solicit or accept anything of value, including but not limited to, a gift, 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.

Section 1-8. Paid consultants of the municipality.

(a)(1) 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 duties as a consultant. (2) No paid consultant may represent anyone other than the municipality concerning any matter in which he participated personally and substantially as a consultant to the municipality. (3) No paid consultant shall disclose confidential information learned while performing his duties for the municipality nor shall he use such information for the financial interests of himself or others.

Section 1-9. Former public employees/officials.

(a) No former public employee or public official shall appear for compensation before any municipal board or agency in which he was formerly employed at any time within a period of one year after termination of his 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 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 official duties, for financial gain for himself or others.

(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 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.

Section 1-10. Statements of financial interests. Filing requirements.

(a)(1) All public officials and such public employees as the Mayor [First Selectman] shall designate shall file, under penalty of false statement, a statement of financial interests for the preceding calendar year with the commission on or before the May first next in any year in which he holds such a position. Any such individual who leaves his office or position shall file a statement of financial interests covering that portion of the year during which he held his office or position. The commission shall notify such individuals of the requirements of this subsection within thirty days after their departure from such office or position. Such individuals shall file such statement within sixty days after receipt of the notification.

(b) The statement of financial interests shall include the following information for the preceding calendar year in regard to the individual required to file the statement and his spouse and dependent children residing in the individual's household: (1) The names of all businesses with which associated; (2) the names of all individuals with which associated; (3) the names of all employers; (4) the names and addresses of specific clients, patients, and customers, except when such information is privileged against disclosure under the law or where the ethical standards of a professional group, society or organization of which the individual is a member, prohibit such disclosure without the consent of the client, patient or customer involved, without the consent of the client, patient or customer involved, who provided more than ten thousand dollars of net income including clients and customers who provided more than ten thousand dollars of net income to any business with which the individual was associated, amounts of income not to be specified; (5) the name of securities in excess of ten thousand dollars at fair market value owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children; (6) all real property located with the municipality whether owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children; (7) the names and addresses of creditors to whom the individual, his spouse or dependent children, individually, owed debts of more than ten thousand dollars; and (8) any leases or contracts with the municipality held or entered into by the individual or a business with which he was associated.

(c) The statement of financial interests filed pursuant to this section shall be a matter of public information.

(d) Any individual who is unable to provide information required under the provisions of subsection (b) of this section by reason of impossibility may petition the commission for a waiver of the requirements.

Section 1-11. Distribution of Code.

The Town Clerk 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 office or employment. A signed receipt for all copies shall be returned to the town clerk and retained on file.

Memo

To: Rep. James Spallone

From: Carol Carson, Executive Director (cc)

cc: Sen. Gayle Slossberg

Date: December 2, 2008

Re: Municipal Ethics Code

I appreciated meeting with you recently to discuss municipal ethics. As we discussed, a tiered ethics code would create one standard but allow municipalities, based on their size, different mechanisms to achieve compliance. Below is a brief description of a tiered code, as you requested.

Municipal ethics codes seek to protect the interests of government while at the same time attracting qualified citizens to serve the government. Codes generally address these concerns with three types of mechanisms: prohibition, permission from a higher authority, and disclosure. Connecticut has 169 municipalities: 72 have populations of 10,000 or fewer citizens, 80 have populations between 10,000 and 50,000 citizens and 17 have populations greater than 50,000¹

A three-tiered code

Currently, under Connecticut General Statutes § 7-148h (b), *elected* municipal officials who have a substantial conflict with the proper discharge of the official duties or employment may not take official action on a matter. Such a person has a substantial conflict "if he have reason to believe or expect that he, his spouse, a dependent child, or a business with which he is associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his official activity" unless "any benefit or detriment accrues . . . to no greater extent than any other member of such profession, occupation or group."

A code of ethics could establish consistent minimum standards for all municipalities but provide for a three-tiered system of addressing the substantial conflicts of interest restrictions through prohibition, permission from a higher authority and disclosure. Under the three-tiered code scheme, the aforementioned prohibition under § 7-148h (b) would remain in place with respect to all elected municipal officials, however for the remaining town or city officials and employees, whether hired or appointed, paid or unpaid, the following plan could be implemented.

For the 17 large cities, prohibitions would, for the most part, be absolute, as they are in state government for state employees. In the 80 medium-sized municipalities, the prohibitions would exist but the principle of permission from a higher authority would allow non-elected officials to participate provided that they disclose their interest and a higher authority – their appointing authority, often the city council, mayor or board of selectmen or the other members of the board on which they serve – decides whether the prohibition should stand or the non-elected official should be allowed to act. Specifically, in the medium-sized cities, this prohibition would hold, unless the official or employee 1) disclosed in writing the matter and the interest that is in substantial conflict and 2) his or her appointing authority or other members of the board or commission, approved an exception allowing the individual to take official action. The exception would be in writing if it is provided by an appointing authority or by vote if it is from a board or commission. Any written

exceptions relied on at public meetings would become part of the record of the meeting; those not related directly to a public meeting would be filed with the municipal clerk. Alternatively, an official or employee could abstain from the matter; an official or employee who abstains from a matter would not be required to disclose why he or she is abstaining.

In the remaining 72 municipalities with populations of less than 10,000, written disclosures, but no requirement for permission from a higher authority, would be sufficient to comply with the prohibition. In providing a written disclosure, the town official or employee would describe the matter requiring action and the nature of the conflict. Such disclosures would follow the filing protocol described above.

The prohibition standard in the large cities recognizes that their governments are complex operations where the risk of mischief is great. The mechanisms of disclosure and permission bring transparency and a great deal of local control to the medium- and small-sized municipalities.

Similarly, large municipalities could require the filing of statements of financial interests, medium sized municipalities could elect to require such filings and small towns would be exempt, except public officials would have to provide certain disclosures if a matter before them affected their employee or property, as outlined by the code.

Other states

The Massachusetts State Ethics Commission has jurisdiction over municipal officials and employees. It provides tiers based on whether municipal officials and employees, regardless of the size of the municipality, have significant connections and responsibilities to the municipality² and, in some instances, provides exceptions based on population.

The New York state ethics code requires financial disclosure in counties, cities, towns, and villages of 50,000 or more and requires additional disclosure in New York City. New York state law also mandates a local ethics code in counties, cities, towns, villages, school districts, and fire districts but not in other municipalities (water districts, etc.), which are nonetheless subject to certain state provisions (as are counties, cities, towns, villages, school districts, and fire districts).

In Texas, state law requires personal financial disclosure by city council members, city managers and city attorneys only in cities over 100,000 in population. In Ohio, there is no difference in the application of the law based on size of municipality but elected city officials who are compensated more than \$16,000/year for their public service have a higher level of financial disclosure than elected city officials whose compensation falls below that threshold and village officials are specifically exempted from the financial disclosure requirement.

In Maryland, the state ethics law requires that all municipalities have ethics laws that are "substantially similar" to the state's law except they "may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction." The state also has published two model laws in its regulations - one for larger jurisdictions that is 12 pages long and one for smaller ones that is four pages long. The municipality may choose the appropriate version. The prohibitions in the long version are significantly more restrictive than in the short version.³ In addition, the Commission, by statute, may exempt or modify the requirements as to a municipal corporation if the Commission finds that because its size the application would be an unreasonable invasion of privacy; would significantly reduce the availability of qualified individuals for public service; and is not necessary to preserve the purposes of the law. In the past, the Commission looked at the population, authority of the local government, size of municipal budget, and staffing as factors in determining whether a municipality would be totally exempt, or partially exempt, e.g. no lobbying registration requirement.

West Virginia and Alabama laws apply to all municipalities and make no distinction based upon the size of the city or town.

Conclusion

As you can see, other states have approached municipal ethics in many different ways. Minimum standards for all municipalities with different mechanisms for compliance based on the size of the town would provide a uniform body of law and address the needs of the various sized municipalities in Connecticut. In a separate memorandum, as requested by Sen. Slossberg, I will address the impact of various proposals on the Office of State Ethics.

¹ As of July 1, 2006. Source: State of Connecticut Department of Health.

² Massachusetts restrictions (place limits on what municipal employees can do on the job, after hours and when they leave public service. The definition of municipal employee is far-reaching and includes any person elected or appointed, paid or unpaid, full-time or part-time and, in some instances, consultants. It also defines a category of "special" municipal employees who face fewer restrictions. Special municipal employees are designated by the municipality's governing board if they meet certain qualifications. They are: unpaid; paid for less than 800 hours over 365 days; or by classification or by terms of contract allowed to do personal and private work during normal working hours. By statute, mayors, city councilors and selectmen in towns with a population greater than 10,000 may not be "special" municipal employees. While municipal employees generally may not represent third parties before the municipality or have a financial interest in contracts with the municipality, special municipal employees may, for example, represent third parties, except before the board they serve, and may have financial interests in contracts with the municipality with similar restrictions. All non-elected municipal employees may participate in matters affecting their or their families' or businesses' financial interest if 1) they disclose in writing and 2) their appointing authority approves in writing their participation. An exception allows any municipal employee to participate in matters of general policy if their interest is shared with a substantial segment of the population of the municipality.

Massachusetts' restrictions most clearly recognize the size of municipalities in addressing municipal employees holding financial interests in contracts. The general rule is that municipal employees can't hold such contracts. However, there are numerous exceptions, several of which make the prohibition less restrictive on specials who are not involved with the contracting agency or who receive permission from the selectmen or city council if they are involved with the contracting agency. Contracts include contracts for employment. The law also provides that an employee in a town having a population of less than 3,500 can hold more than one position with approval from the selectmen.

³ For example, the restriction on taking official action on matters affecting others is different in two respects: first, the scope of the family is spouse or dependent child in the short version and it is spouse, parent, child, brother or sister in the long version; second, the scope of the business is only "a business entity with which they are affiliated" in the short version, but includes in the long version any business in which the public official has a direct financial interest, is an officer, director, trustee, partner or employee, in which he or his family members is negotiating or has any arrangement concerning prospective employment, any entity that contracts with the official or his family members if it could result in a conflict, any entity doing business with the town in which a direct financial interest is owned by an entity in which the official has a direct financial interest, or an entity that would affect a creditor. A "knowing" element is part of most of the businesses in the long form. Finally this section goes on to allow participation if a quorum cannot be reached and the disqualified persons disclose the conflict.

Appendix 4



OLR RESEARCH REPORT

October 26, 2001

2001-R-0788

STATE AND MUNICIPAL ETHICS CODES

By: Kevin E. McCarthy, Principal Analyst

You requested a comparison of the State Ethics Code for public officials (CGS § 1-79 through 1-89a) with a sample of municipal ethics codes. This memo summarizes the state code and ethics codes of Hartford, New London, and Orange.

SUMMARY

The Connecticut General Statutes contain two ethics codes, one for public officials and one for lobbyists. The code for public officials is designed to prevent anyone from using his public position or authority for personal financial gain. It seeks to achieve this by, among other things, restricting the costs of gifts such individuals can receive, regulating their acceptance of outside employment and state contracts, and requiring them to file financial statements. The provisions prohibit officials and employees from engaging in behavior that poses a substantial conflict with their duties.

The code also restricts the types of positions that officials and employees in regulatory agencies can accept after they leave state service. The state code has specific provisions regarding the State Treasurer's Office, consultants, and independent contractors. It allows the Ethics Commission to issue advisory opinions and investigate complaints. Code violators are subject to criminal and civil penalties.

In general, the municipal codes that we summarized are less comprehensive than the state code. They generally have less extensive conflict of interest provisions than the state code. None of them restrict the employment of regulatory agency personnel after they leave municipal service. They impose fewer (in some cases no) reporting requirements on affected persons. On the other hand, all three municipal codes allow local ethics bodies to investigate alleged violations and issue advisory opinions.

Each of the municipal codes has provisions that do not have a parallel in the state code. For example, the Hartford code addresses conflicts of personal (i. e. non-financial) interests. The New London code requires officials and employees to conduct themselves with propriety, discharge their duties impartially and fairly, and make continuing efforts toward attaining and maintaining high standards of conduct. The Orange code bars officials and employees from granting any special consideration to one person that is not available to other. All three municipal codes bar the use of official property for other than official purposes.

The municipal codes also include provisions that are found in state statutes apart from the ethics code. For example, the Hartford code bars (1) employees from linking their official position with support for political candidates or issues and (2) employees and officials from compelling others to make or refrain from making political contributions. Orange generally bars one person from holding two offices. Similar provisions are found in the state's civil service and election laws. We have included copies of the city codes that we summarized.

STATE ETHICS CODE***Conflicts of Interest***

C s/Honoraria. A public official, state employee, political candidate, or such person's family or staff may not knowingly accept gifts from a registered lobbyist (CGS § 1-84(j)). Public officials include statewide elected officials, legislators, people appointed to office by the governor, and heads of quasi-public agencies, among others. State employees include employees of quasi-public agencies, but do not include judges. A "gift" does not include food and drinks that total less than \$ 50 per person per calendar year if consumed while the lobbyist or his employer is present. Nor does it include ceremonial awards costing less than \$ 100 and certain other items (CGS § 1-79(e)).

Additionally, an official or employee may not accept a gift from anyone he knows or has reason to know (1) is doing or trying to do business with his agency or (2) is engaged in activities that are directly regulated by his agency (CGS § 1-84(m)). He may not accept a fee or honorarium for a speech or appearance made, or article written, in his official capacity. But he may be reimbursed for necessary expenses (typically travel and lodging). The code includes a reporting requirement described below (§ 1-84(k)).

Outside Employment. An official or employee may not accept other employment that would impair his independence in his official duties or require or induce him to disclose official, confidential information (CGS § 1-84(b)). He or his employee may not accept employment or anything of value for lobbying before certain regulatory agencies or be in a partnership or professional corporation that does so. He may continue to receive a previously established salary that is not based on the firm's current or anticipated business involving the agencies. A legislator who neither takes a part in any matter involving these agencies nor shares in the compensation of those who do may be in or in a company that lobbies before the regulatory agencies. (CGS § 1-84(d)).

Accepting State Contracts. No official, employee, member of his immediate family, or an associated business may enter into a state contract worth \$ 100 or more unless he or it wins the contract through an open and public process including prior public offer and subsequent disclosure of other proposals and the contract itself (CGS § 1-84(i)).

Substantial Conflict. An official or employee may not have any financial interest in, or engage in, any business, transaction, or professional activity that is in "substantial conflict" with the proper performance of his job (CGS § 1-84(a)). He may not take official action on a matter involving substantial conflict (CGS § 1-85).

A person has a "substantial conflict" if he has reason to think he, his spouse, dependent child, or business with which he is associated will experience a direct financial gain or loss if he takes the action. If his (or their) gain or loss would be no more than the gain or loss to others in his (or their) profession, occupation, or group, it is not a substantial conflict (CGS § 1-85).

A "business with which he is associated" is one in which the person or member of his immediate family is a director, officer, owner, limited or general partner, beneficiary of a trust, or holder of 5% or more of any class of stock. "Officer" includes only president, executive or senior

vice-president, and treasurer. The provision does not apply to a person who serves only as an unpaid director or officer of a nonprofit agency. (CGS § 1-79(b)).

Other Conflict of Interest Provisions. An official or employee may not:

1. use his office or confidential information learned through his official duties for financial

gain for himself; an associated business; or his spouse, child, child's spouse, parent, brother or sister (CGS § 1-84(c));

2. solicit or take anything of value, including a promise of future employment, on the understanding that it will influence an official action (CGS § 1-84(g));

3. knowingly interfere with, influence, direct or solicit lobbying contracts, agreements, or business relationships for or on behalf of any person (CGS § 1-84(l)).

The second item also applies to political candidates. In addition, no legislator may be a lobbyist (CGS § 1-86 (c)).

Post-employment Restrictions

After leaving office, a former legislator, executive branch official, or state employee may not use or disclose confidential information acquired in office (CGS § 1-84a). If he participated substantially in negotiating or awarding a state contract of \$ 50,000 or more, or supervised the negotiations or award, he may not take a job with a party to the contract for a year after he leaves office (CGS § 1-84b (f)). A member or director of a quasi-public agency that engaged in these activities cannot seek or accept employment with a party within one year of the signing of the contract (CGS § 1-84b(g)).

Reporting Requirements

Statement of Financial Interests. All statewide elected officials, legislators, agency heads, and certain other individuals must file a statement of financial interests for the preceding calendar year with the Ethics Commission by May 1. Anyone who leaves office must file a statement covering the year of the year for which he served.

The statement must include detailed information, for the individual filing, his spouse, and dependent children living in his home. Among other things, these include:

1. the names of all associated businesses;
2. the category or type (not amounts) of all sources of income above \$ 1,000;
3. all real property and its location owned by the person, a spouse or dependent child, or held in the name of a corporation, partnership, or trust;
4. the names and addresses of creditors to whom the person owed more than \$ 10,000; and
5. any state leases or contracts held or entered into by the person or an associated business.

Any person who cannot provide the required information may petition the commission for a waiver. With the exception of the list of creditors, all of the information in the financial statements is open to the public. Creditor information is kept sealed, to be opened at the commission's discretion only after a complaint is filed (CGS § 1-83).

Expense Reimbursements and Honoraria. Officials and employees must disclose to the commission within 30 days any payment or reimbursement for necessary expenses incurred while giving a speech, making an appearance, or writing an article in their official capacity unless such payment or reimbursement was from the federal government or another state government. The report is required only when the reimbursement or payment is for lodging, out-of-state travel, or

both. Necessary expenses are limited to travel expenses; lodging for the nights before, of, and after the appearance, speech, or event; meals; and any related conference or seminar registration fees. The commission does not require itemization of the payment by such items as food, hotel bill, and entertainment (CGS §§ 1-79(q) and 1-84(k) and Conn. Agencies Reg. § 1-81-21).

Penalties

Intentional violations of the ethics code are punishable by imprisonment for up to two years, a fine of up to \$ 2,000, or both (CGS § 1-89). Anyone who knowingly acts in his financial interest in violation of the code or who knowingly benefits financially from such a violation is also liable for the damages. The commission can impose a civil penalty of up to \$ 10 per day for each violation of the code's reporting requirements, up to a maximum of \$ 2,000 (CGS § 1-88).

MUNICIPAL ETHICS CODES

Hartford

The city's code of ethics (§ 2-456 *et seq.* of Hartford's Municipal Code) applies to all officials and employees and was adopted in 1993. It has provisions regarding conflicts of interest, disclosure of confidential information, and representation by officials and employees on behalf of others before local agencies. It requires officials to file statements of financial interest. It does not have provisions restricting employment of former officials and employees,

The city's conflict of interest provisions are in some ways less comprehensive than the state code, for example with regard to the receipt of gifts. On the other hand, unlike the state code, the city code bars an official or employee from having a "personal interest" that is incompatible with the proper discharge of his duties in the public interest or that would impair his judgment. The code defines a personal interest as something that an official or employee or his relatives are involved in that may provide them with a non-financial advantage or benefit.

Similarly, the code states that a conflict of interest exists if the official, employee, or his relatives may receive a personal, as well as financial, gain from the outcome of any matter before him. It requires the employee or official to disclose to the city manager and city council all financial and personal interests that have the potential for a conflict of interest. The disclosure must be made whenever the potential for a conflict presents itself. The code states that a conflict of interest occurs whenever an official or employee engages in an act that advances his personal and financial interests over the public interest. The state code does not have comparable provisions with regard to personal interests and has less stringent disclosure requirements.

The city code's provisions regarding the disclosure of confidential information are similar to those in the state code. Its provision on representing others before a city agency has broader applicability than the parallel provision in the state code, in that it covers former city council members, while his provision of the state code does not cover former state legislators. On the other hand, while the state code imposes a permanent ban on former executive branch officials and employees representing others on matters in which they were personally and substantially involved, the city code restricts such representation for two years in the case of former officials and one year in the case of former employees. The ban begins to run as soon as the person leaves city service and applies only if the representation is for compensation. (In the case of people involved in contract negotiations, the restriction runs for the term of the contract.) The city code unlike the state code, does not restrict post-service employment of regulatory agency officials and employees.

Like the state code, the city code requires officials to file statements of financial interests. Unlike the state code, the city code does not require the reporting of the filer's sources of income,

securities, or creditors. However, the city code requires filers to name their business associates and employers, which the state code does not require.

Another provision contained in the city code that is not found in the state code is the duty to disclose violations. City employees and officials are required to report violations of the code to the city ethics commission. The city cannot retaliate against the reporter unless the report was false and malicious. A person who knows of a violation and fails to report is considered to have condoned the violation.

If the commission finds that there has been a violation, it must recommend disciplinary action to the appropriate authorities. The recommendations can include fines, termination of employment, suspension without pay, or censure.

New London

Section 170 of the city's charter requires the appointment of a board of ethics and requires the board to prepare a code of ethics to be adopted by the city council. The council adopted the code in 1984 (Code of Ordinances § 15-201). The code applies to all city officials and employees.

The code was modeled after the state's code and has similar, although less comprehensive, provisions on conflicts of interest, gifts, and disclosure and use of confidential information. In some ways the city code is less stringent than the state code. For example, it allows an official or employee to represent an individual or entity before a city agency if this is not against the city's interest. The employee or official can engage in representation that is against the city's interest if the matter is sufficiently remote from his official duties that no actual conflict of interest exists. The city code also does not have the post-employment restriction and reporting requirements of the state code.

On the other hand, the New London code goes beyond the state code in certain respects. It bars city officials and employees from using their positions to improperly influence another official, employee, or city contractor in the performance of his official duties.

The New London code gives the city Board of Ethics powers similar to those granted to the State Ethics Commission and has similar provisions for investigating complaints.

The board does not have the enforcement powers that the State Ethics Commission has. Instead, if it finds a violation of the city's code, it can recommend to the appropriate appointing or supervisory official that the guilty party be reprimanded, reduced in grade, suspended, dismissed, or subject to other disciplinary actions.

Orange

Orange adopted its ethics code in 1973 pursuant to § 6.80 of the town charter. The code applies to all town officials and employees. Its provisions are substantially less extensive than the state code's. For example, the code bars the receipt of gifts only if it is the donor's intent to influence the judgment of the official or employee. Similarly, it does not explicitly cover situations where the person's exercise of authority would only indirectly affect his financial interests. It does not address outside employment of officials or employees or their employment after leaving town service. It does not impose any reporting requirements. The Board of Ethics cannot impose any penalties for violations of the code, although it can provide its findings and recommendations to the Board of Selectmen.

Orange's code does have some provisions that are not found in the state code. It bars officials and

employees from granting one individual any special consideration, treatment, or advantage that is not provided others. It generally bars officials from holding more than one office.

KM: ro



OLR RESEARCH REPORT

March 11, 2003

2003-R-0259

MUNICIPAL ETHICS AND CORRUPTION

By: Sandra Norman-Eady, Chief Attorney

You asked for a section-by-section analysis of HB 6594, An Act Concerning Municipal Ethics, Municipal Whistleblower Protections and the Investigation of Municipal Corruption.

SUMMARY

The bill requires municipalities and special districts to establish an ethics commission and adopt the code of ethics contained in the bill. Towns (48 listed in the Blue Book) and districts that have exercised their statutory authority to establish a commission do not have to establish another but they may have to adopt the model code if its provisions are stricter than those in their existing code.

The bill extends to municipalities the whistleblower protections and procedures currently applicable to corruption, unethical practices, or law violations by state agencies.

The bill eliminates a requirement for the chief state's attorney or a state's attorney to include in any application for a grand jury to investigate allegations of municipal corruption reasons why (1) other normal investigative procedures that were tried failed or (2) normal

procedures are unlikely to succeed or are too dangerous to use. It also eliminates the grand jury panel's duty to find in these cases that other normal investigative procedures have failed, reasonably appear to be likely to fail, or appear too dangerous to try.

Sections 1 and 13. Applicability

Current law allows a town; city; borough; or fire, sewer, or other district to establish a board or commission to investigate allegations against a local public official or employee of unethical conduct, corrupting influence, or illegal activity. It also specifies provisions in the State Ethics Code applicable to allegations and investigations of municipal or district ethics violations. The bill eliminates the application of the State Ethics Code in these cases.

Instead, the bill requires all towns, cities, boroughs, and special districts to create an ethics agency, unless they already have an ethics agency or establishes one before October 1, 2003, the bill's effective date. They must comply with the bill's ethics code provisions, unless they already have or adopt a code that provides greater ethical protections than the bill.

Section 3. Municipal Ethics Commission—Membership

The bill requires each municipality or special district to establish a five-member ethics commission. Two or more municipalities or districts may instead establish a joint commission.

The legislative body of the municipality or district appoints the members by a unanimous vote to serve a three-year term. However the first appointees serve staggered terms of one (one member),

two (two members), and three (two members) years. No more than three members may be from the same political party.

Members cannot serve more than one three-year term, except they can continue in office until a successor is appointed.

Members must be electors of the municipality or special district establishing the commission. But no members can: (1) hold or campaign for public office, (2) have held or been a candidate for public office within the two years immediately prior to appointment, (3) hold office in a political party or political committee, or (4) be a member of any other municipal or district agency. Additionally, commission members and employees are prohibited from publicly supporting any candidate for municipal or special district office under the commission's jurisdiction, including volunteering as a campaign worker, speaking at a political event, or endorsing the candidate. The bill prohibits a candidate for municipal or district office from disseminating information indicating that a commission member or employee supports the candidate's candidacy.

Under the bill, commission members elect a chair who presides at meetings and a vice-chair who presides in the chair's absence. Three members constitute a quorum and the number of votes necessary for commission action. The chair or any three members may call a commission meeting.

Section 4. Municipal Ethics Commission—Duties

The commission must:

1. must compile and keep a record of all reports, advisory opinions, statements, and memoranda filed by or with the commission to facilitate public access;
2. must report annually, by February 1st, a summary of the commission's activities to the legislative body of the municipality or special district;
3. must issue advisory opinions; and
4. must investigate allegations of code violations.

The commission may adopt implementing rules and regulations, after a public hearing, that are not inconsistent with the code; and employ necessary staff or outside counsel within available appropriations.

Advisory opinions are binding on the commission until amended or revoked and must be deemed to be final commission decisions for the purpose of appeal. Any person who requests an advisory opinion and relies on it in good faith can assert his actions as an absolute defense to any alleged code violation.

Sections 5 and 6. Commission—Complaint, Investigation, and Hearing Procedures

Complaints alleging a code violation must be filed within five years after the alleged violation was committed. With respect to such allegations of code violations, the bill requires the commission to:

1. review any complaint filed by a member of the public to determine if it alleges a code violation.
2. investigate complaints made on its own initiative or on the complaint of any person.

Complaints filed with the commission must be on a commission-prescribed form and signed under penalty of false statement.

3. dismiss any complaint that fails to allege a violation and duly notify the complainant and the respondent by registered or certified mail.

4. send the (a) respondent named in the complainant notice and a copy of it by registered or certified mail and (b) complainant notice of receipt of the complaint.

5. schedule a date to hear any complaint within 30 days after determining that it alleges a violation receipt and hear the complaint within 60 days after it is received.

Investigations. When investigating an alleged code violation, the bill authorizes the commission to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and request anyone to produce books and papers relevant to the investigation for the commission's examination. The commission may ask local police for help in the exercise of its powers and the police must comply with the request.

The bill prohibits the commission from disclosing the complaint or record of the commission's investigation without the respondent's consent, unless it finds probable cause to believe a violation was committed. It prohibits a complainant, respondent, witness, designated party, or commission or staff member from disclosing to a third party any information learned during a complaint investigation, including knowledge that a complaint exists.

Hearings. Respondents have the right to appear, be represented by counsel, and examine and cross-examine witnesses at the hearings, which are governed by the Rules of Evidence. At least four members of the commission must agree to any finding of a code violation.

The commission must inform the complainant and respondent of its findings, including a summary of its reasons, regarding the complaint by registered or certified mail within three business days after the hearing terminates. At this time, the entire record of the investigation is open to public disclosure.

Respondent aggrieved by the commission's decision may file an appeal within 30 days to the Superior Court in the judicial district where the municipality or special district is located.

Retaliation Against Complainants. The bill prohibits anyone from taking or threatening to take official action against anyone because he informed the commission of a possible code violation. It prohibits the commission from disclosing the identity of anyone who gives the commission information, unless the person consents or disclosure is unavoidable.

Section 7. Penalty for Code Violations

The bill subjects code violators to (1) a civil penalty of up to \$ 5,000 per violation, (2) restitution of any pecuniary benefits resulting from the violation, (3) public censure and reprimand, or (4) up to a 90-day suspension or dismissal from employment if they public employees.

Section 8. Code—Prohibited Activities

No public official or employee can:

1. engage or participate in a business or transaction, including outside employment, or have

an interest that is incompatible with or that would tend to impair independent judgment in the proper discharge of the official's or employee's public responsibilities;

2. solicit or accept a gift from anyone he knows is interested in any pending matter within the official's or employee's official responsibility;
3. appear on behalf of private interests before, or represent private interests against, any municipal or special district board, agency, or committee if the official or employee receives compensation for the appearance or representation other than per diem payments;
4. disclose confidential information concerning municipal affairs or use such information for his own financial interests (interests with a monetary value of \$ 100 or more) or those of others;
5. ask or permit municipally-owned vehicles, equipment, facilities, materials, or property to be used for his own personal convenience or profit, except when this property is available to the general public or permitted for the employee's or official's use when conducting official business;
6. contract with the municipality or special district, unless the contract is awarded through a public notice, competitive bidding process;
7. use his position or office for his own financial benefit or that of an immediate family member (spouse, child, or dependent relative living in the household), or associated business;
8. accept a fee or honorarium for an article written, appearance or speech made, or for participation at an event in his official capacity; or
9. solicit or accept anything of value, including a gift, loan, political contribution, reward or contribution, reward or promise of future employment based on any understanding that the official's or employee's vote, official action, or judgment would be or had been influenced thereby.

A "gift" is generally anything of value given for less than its value. The bill contains 13 gift exceptions, including items valued at \$ 10 or less, certificates valued at less than \$ 100, and gifts up to \$ 25 given at gift-giving occasions such as Christmas and Hanukkah. In addition to exceptions to the gift rule, a gift is not received by a public official or employee who refuses it, returns it, pays the donor the full value of it, accepts it on behalf of the municipality or special district (i. e. , gift is intended to remain in the permanent possession of the municipality or special district), or donates it to a nonprofit organization. If donated, the official or employee cannot take a tax deduction or credit for it.

The bill also prohibits a public official or employee from voting on or otherwise participating in any matter on behalf of the municipality or special district if he, an associated business, or an immediate family member has a financial or personal interest in the matter greater than any other segment of the population, including the sale of real estate, material, supplies, or services to the municipality or special district. If the participation is within the scope of the official's or employee's official responsibility, he must give the commission a written explanation of the nature and extent of his interest.

Like public officials and employees, the bill prohibits their immediate family and associated businesses from entering into private contractual agreements with the municipality or special district.

The bill does not prohibit or restrict a public official or employee from appearing before any municipal or special district board or commission on his own behalf or from being a party in an action, proceeding, or litigation brought by or against the official or employee to which the municipality or special district is a party.

Section 9. Consultants

The bill prohibits paid consultants of a municipality or special district from:

1. representing a private interest in any action or proceeding against the interest of the municipality or special district that is in conflict with the consultant's performance of his duties;
2. representing anyone, other than the municipality or special district, in any matter in which the consultant participated personally and substantially on behalf of the municipality or special district; or
3. disclosing confidential information gained in his capacity as consultant or using it for his personal interests or those of others.

Section 10. Post-Employment Restrictions

The bill prohibits former public officials or employees from:

1. accepting compensation to appear before any municipal or special district board or agency where he was formerly employed for the first year after terminating his employment;
2. representing anyone, other than the municipality or special district, in any matter in which he participated personally and substantially while in municipal service;
3. disclosing or using confidential information gained in his official position for his own financial gain or those of others; or
4. working for a party to a contract, other than the municipality or special district, for one year after the contract is signed if he participated substantially in the contract negotiations or award and contract obligates the municipality or special district to pay \$ 100,000 or more.

Section 11. Statement of Financial Interests

The bill requires all public officials and any employees designated by the municipality or special district to file with the municipal ethics commission by May 1, annually, a statement of financial interests for the preceding calendar year. The statement must be filed under penalty of false statement.

Anyone who leaves his office or position before the year ends must file the statement for that portion of the year that he held his office or position. The commission must notify affected officials and employees of their duty to file the statement within 30 days after their departure and the person must file the statement within 60 days after receiving the notice.

The statement must include the following information regarding the official or employee, his spouse, and any dependent children living in his household:

1. the names of all business associates;
2. names of all employers;
3. names and addresses of clients, patients, and customers who provided more than \$ 10,000 in net income to the official's or employee's associated business, except when the law or the ethical standards of a professional group, society, or organization prohibit nonconsensual disclosure of the information;
4. all securities in excess of \$ 10,000 at fair market value, including those held in the name of a corporation, partnership, or trust for their benefit or the benefit of their spouse or dependent children;
5. all real property located within the municipality or special district owned by the official or employee, his spouse or dependent children, or held by a corporation, partnership, or trust for their benefit;
6. the names and addresses of creditors owed debts of more than \$ 10,000; or
7. any leases or contracts with the municipality or special district held or entered into by the person or an associated business.

The statement of financial interests is a public record, subject to disclosure under the Freedom of information Act. Anyone who finds it impossible to provide the information required in the statement may ask the commission for a waiver.

Section 12. Copies of the Code

The bill requires each municipal clerk to cause a copy of the code to be distributed to every public official and employee not later than December 1, 2003. Any public official or employee hired after that date must be given a copy of the code before entering office or the position. The officials and employees must sign a receipt for their copy, which the clerk must keep on file.

Section 14. Whistleblower Protections

The bill extends to municipalities the whistleblower protections and procedures currently applicable to corruption, unethical practices, or law violations by state agencies.

Reporting. Anyone who knows of any corruption; unethical practices; violations of state law or regulation, special act, municipal charter, or municipal ordinance; mismanagement; gross waste of funds; abuse of authority; or danger to public safety occurring in any municipal or special district department or agency or large municipal or special district contract may send information to the auditors of public accounts. A large municipal or special district contractor is an entity that enters into at least a \$ 5 million contract with a state or quasi-public agency, other than a contract to construct, alter, or repair a public building or public work.

Investigations. The auditors must review the matter and report their findings and recommendations to the attorney general, who must conduct any investigation he considers proper. The auditors may assist with the investigations.

After his investigation, the attorney general must, when necessary, report his findings to the governor. If the matter involves a crime, he must report it to the chief state's attorney. Neither

the auditors nor the attorney general may reveal the name of their informant without his consent, except where it is unavoidable during the course of the investigation.

Retaliation. Municipal, special district, or large contractor officers or employees may not take or threaten to take any negative personnel action against an employee in retaliation for disclosing information to the auditors or the attorney general. Any employee who knowingly or maliciously makes false charges can be disciplined or discharged. The bill creates a rebuttable presumption that any personnel action taken or threatened against an employee who makes a whistleblower complaint is retaliatory if it occurs within one year of the complaint.

The bill gives whistleblowers who believe they are being retaliated against (or threatened with retaliation) for their action the option of filing an appeal in accordance with their collective bargaining contract, where applicable. Employees of large contractors can avail themselves of administrative remedies and, if still unsatisfied, bring a civil cause of action.

Alternatively, the whistleblowers could notify the attorney general, who must conduct an investigation. After the investigation is concluded and apparently regardless of the outcome, the attorney general, employee, or the employee's attorney can file a complaint with the chief human rights referee.

The chief referee must assign it to a human rights referee who must conduct a hearing and determine whether the personnel action or threatened action was in retaliation for whistleblowing. If he finds that the action or threatened action was retaliatory, he may order the aggrieved employee to (1) be reinstated to his former position, (2) receive back pay, (3) have his benefits reestablished to the level for which he would have been eligible but for the violation, and (5) receive reasonable attorney fees and any other damages. Any party may appeal the referee's decision to Superior Court. For purposes of the act, the human rights referee is an independent hearing officer.

The bill requires the chief human rights referee to adopt regulations that establish the procedure for filing complaints and noticing and conducting the hearing.

Sections 15 and 16. Grand Jury Investigations

The bill eliminates a requirement for the chief state's attorney or a state's attorney to include in any application for a grand jury to investigate allegations of municipal corruption reasons why (1) other normal investigative procedures that were tried failed or (2) normal procedures are unlikely to succeed or are too dangerous to use. It also eliminates the grand jury panel's duty to find in these cases that other normal investigative procedures have failed, reasonably appear to be likely to fail, or appear too dangerous to try.

By law, Superior, Appellate, or Supreme Court judges, the chief state's attorney, or a state's attorney may apply to a panel of three Superior Court judges specially designated by the chief court administrator, for a grand jury investigation. The applicant must have a reasonable belief that the administration of justice requires an investigation to determine whether or not there is probable cause to believe a crime has been committed. And he must include in his application a statement of the facts and circumstances that justify this belief. If he is the chief state's attorney or a state's attorney, he also must include:

1. the status of the investigation and of the evidence collected by the application date,
2. why other normal investigative procedures that were tried failed or why normal procedures

are unlikely to succeed or are too dangerous to use, and

3. the reasons for the applicant's belief that an investigatory grand jury and the investigative procedures it employs will lead to a finding of probable cause that a crime was committed.

The panel reviewing applications may approve them and order an investigation if it finds that:

1. the administration of justice requires an investigation to determine if there is probable cause to believe that a crime was committed;

2. for applications submitted by the chief state's attorney or a state's attorney, other normal investigative procedures have failed, reasonably appear to be likely to fail, or appear too dangerous to try; and

3. the investigative procedures that an investigative grand jury uses appear likely to succeed in determining if there is probable cause to believe that a crime was committed.

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OLR RESEARCH REPORT

December 22, 2003

2003-R-0947

MUNICIPAL ETHICS

By: Sandra Norman-Eady, Chief Attorney

Brandon T. Hooker, Research Fellow

You asked us how our State Code of Ethics compares to codes in other states regarding its application to municipal officials and employees. Specifically, you wanted to know (1) the current ethics law in Connecticut for municipal employees and those doing business with municipalities; (2) which states have a statewide municipal code; (3) whether the codes in these states are enforced by a single state (or quasi-state) agency; (4) whether these state codes restrict municipal employees' political activities; and (5) whether the codes prohibit municipal employees from participating in certain government decision-making.

SUMMARY

The Connecticut State Ethics Code (the "code") for public officials (there is a separate code for lobbyists) is designed to prevent state officials and employees from using their public position or authority for their personal financial gain. The code does not apply to municipal officials or employees. Instead, municipalities have the authority to adopt their own code of ethical conduct (C.S. § 7-148(c)(10)(B)). Most municipalities have exercised this authority by establishing their own codes or adopting the model code of ethics for municipalities that the law required the State Ethics Commission to draft in 1995. A local ethics board or commission and not the state commission enforces any municipal code, model or otherwise.

We have identified 22 states with a statewide code of ethics that applies to public officials and employees, including those officials and employees at the municipal level. These states are: Alabama, Alaska, Arkansas, California, Colorado, Florida, Georgia, Kansas, Louisiana, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Washington, and West Virginia. Washington's statewide municipal code is separate from its statewide code for state officials and employees.

The codes in most of these states are applicable to all municipal officials and employees, but a few states, Colorado, Georgia, Missouri, Nevada, Ohio, and Pennsylvania, have codes that apply to only certain specified officials and employees.

In most of the 22 states, the codes are enforced by the equivalent of our State Ethics Commission. California, Kansas, Massachusetts, Montana, and Washington have local code enforcement.

None of the codes in these 22 states restrict municipal employees' political activities. In a few states, the code prohibits employees from engaging in partisan political activities while at work. In most states, like Connecticut, have likely codified this prohibition and other restrictions on such activities outside of the code.

Connecticut law allows municipal employees to run for and hold elective office with certain

exceptions (CGS § 7-421). Employees can receive an unpaid leave of absence to accept a full-time elective office for as long as two consecutive terms of office or four years whichever is shorter. The town may extend the leave and its terms and conditions, at its discretion. When the leave expires, the employee must be reinstated in his most recent position, given one with equivalent pay or another position, or a rehiring preference.

A municipal employee has the right to serve on any governmental body as an elected or appointed official in the town where he lives with some restrictions. An employee cannot serve on a body that is responsible for directly supervising him in his job. The law also bans service on (1) boards of finance; (2) bodies exercising planning, zoning, or land use powers; and (3) bodies regulating inland wetlands and watercourses. However, the ban on service on a board of finance does not apply if (1) a local charter or home rule ordinance explicitly allows it or (2) the official serves only in his capacity as a member of the town's legislative body. The prohibitions against service on the other bodies do not apply if (1) a local charter or home rule ordinance explicitly allows it,

(2) the town's legislative body adopts an ordinance permitting an employee to serve, or (3) the official serves only in his capacity as a member of the town's legislative body.

Additionally, regulations implementing the federal Hatch Act prohibit a local employee from being a candidate for elective public office in a partisan election when the individual's "principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency but does not include an individual who exercises no functions in connection with that activity" (5 CFR §§ 151. 101 et seq.).

Prohibitions against municipal employees participating in certain government decision-making vary by state. But generally state codes prohibit municipal officials or employees from taking official action on matters in which they or members of their immediate family or associated business stand to receive some type of financial advantage.

The remainder of this report consists of a comparison of the laws in the 22 states with a statewide municipal ethics code.

Table 1: Comparison of Statewide Municipal Ethics Codes

States	Officials' Code Covers*	Municipal Employee Participation in Government Decision-Making
Alabama § 36-25 et seq.	Local elected and appointed officials, and employees	No official or employee can be a member or employee of a state, county, or city board that regulates any business with which he is associated.
Alaska § 39. 50 et seq.	Local elected and appointed officials, and employees	No official or employee, other than a member of the governing body, can participate in an official action
Arkansas § 21-8 et seq.	Appears to apply to local elected and appointed officials, and employees	No board member of an entity receiving state funds can participate in, vote on, influence, or attempt to influence an official decision if he has a pecuniary interest in the matter under consideration by the entity. The board member may participate in, vote

		<p>on, influence, or attempt to influence an official decision if the only pecuniary interest that may accrue to him is incidental to his position or accrues to him as a member of a profession, occupation, or large class to no greater extent than the pecuniary interest could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.</p> <p>The member cannot participate in any discussion or vote on a rule or regulation that exclusively benefits the member.</p>
California Gov. Code § 81000 et seq.	Local elected and appointed officials, and employees*	Each agency must adopt a conflict of interest code, which must at a minimum prohibit anyone from taking action on a matter that would inure a special benefit to him or members of his immediate family or associated business.
Colorado § 24-18 et seq.	Yes, but only elected or appointed officials; not employees	A member of a local governing body who has a personal or private interest in any matter proposed or pending before such body must disclose the interest and refrain from voting thereon or attempting to influence other members' votes.
Florida Chapter 112	Local elected and appointed officials, and employees	No county, municipal, or other local public officer can vote on an official measure that would inure to his special private gain or loss.
Georgia § 21-5 et seq.	Yes, but only elected municipal officials and elected members of local boards of education	N/A
Kansas § 75-4304	Limited, single prohibition that applies to local elected and appointed officials, and employees*	No local governmental officer or employee can, in his capacity as an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.
Louisiana § 42-1101 et seq.	Local elected and appointed officials, and employees	No public servant can participate in any transaction that would personally benefit him or his immediate family or associated business.
Massachusetts Chapter 268A	Local elected and appointed officials, and	No member of a municipal commission or board is eligible for appointment or election by the members of such commission or board to

	employees*	any office or position under the supervision of such commission or board. The prohibition does not apply to a member of a town commission or board, if the appointment or election is first been approved at an annual town meeting of the town.
Mississippi § 25-4-1 et seq.	Local elected and appointed officials, and employees	N/A
Missouri §105-450 et seq.	Yes, but only officials, appointees, or employees of a municipal governing body with a general operating budget in excess of \$ 1 million	<p>Cannot attempt to influence any decision of any agency (1) in which he is an officer or employee or (2) over which he has supervisory power, when he knows the decision may result in the acceptance of a service contract or the sale, rental, or lease of any property to that agency for more than \$ 500 per transaction or \$ 1,500 per annum to him or his immediate family or associated business. The prohibition does not apply if the transaction is made pursuant to an award on a contract let or sale made after public notice and, in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.</p> <p>No member of any agency who (1) is empowered to adopt a rule or regulation, other than rules and regulations governing the internal affairs of the agency, (2) is empowered to fix any rate, adopt zoning or land use planning regulations or plans, or (3) participates in or votes on the adoption of any such rule, regulation, rate or plan can attempt to influence or participate in the decision-making if he or his immediate family or an associated business would receive a direct financial gain or loss.</p>
Montana § 2-2-101 et seq.	Yes, but the only local officers affected are those who are elected *	<p>An employee-member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority must disclose any potential conflict prior to taking official action on any matter that would create the appearance of impropriety regarding his influence, benefit, or detriment in regard to the matter.</p> <p>A public officer or employee cannot perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a</p>

		<p>substantial personal interest in a competing firm or undertaking. This prohibition does not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act.</p> <p>A public officer or employee may not participate in a proceeding when an organization in which he is an officer or director is:</p> <ol style="list-style-type: none"> 1. involved in a proceeding before the employing agency that is within the scope of his job duties or 2. attempting to influence a local, state, or federal proceeding in which he represents the state or local government.
Nebraska § 49-1401 et seq.	Yes, specifically includes elected or appointed members of school boards or institutions of higher education	A public official in a primary metropolitan area must disclose any financial benefit or detriment to himself, his immediate family, or an associated business caused by any action or decision he makes in his official capacity. This duty does not prevent such a person from (1) making or participating in the making of a governmental decision if his participation is legally required for the action or decision to be made or (2) making or participating in the making of a governmental decision if the potential conflict of interest is based upon a business association and the business association exists only as the result of his or her position on a commodity board.
Nevada § 281.411 et seq.	Yes, but only those working for state or local officers in a position to exercise public power, trust or duty. "Public officer" does not include: (1) court officers, (2) advisory board or commission members, (3) any member of a board of trustees for a general	A public officer or employee cannot participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.

	<p>improvement district or special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money, or</p> <p>(4 a county health officer.</p>	
<p>Ohio</p> <p>§ 102.01 et seq.</p>	<p>Does not apply to people appointed or elected to precinct wards, members of district council, or educators who do not perform administrative or supervisory functions</p>	<p>No public official or employee can participate, except on a ministerial level, in any license or rate-making proceeding that directly affects the license or rates of any (1) person, partnership, trust, business trust, corporation, or association in which the public official or employee or immediate family owns or controls more than five per cent or (2) person to whom the public official or employee or immediate family, or a partnership, trust, business trust, corporation, or association of which the public official or employee or the public official's or employee's immediate family owns or controls more than five per cent, has sold goods or services totaling more than \$ 1,000 during the preceding year, unless the public official or employee has filed a written statement acknowledging that sale with the clerk or secretary of the public agency and the statement is entered in any public record of the agency's proceedings.</p>
<p>Oregon</p> <p>Ch. 244</p>	<p>Local elected and appointed officials, and employees</p>	<p>City or county planning commission members cannot participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest:</p> <ol style="list-style-type: none"> 1. The member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member; 2. Any business in which the member is then serving or has served within the previous two years; or 3. Any business with which the member

		is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
Pennsylvania § 65 Pa. Cons. Stat. 1102	Only officials or employees responsible for taking or suggesting official action of a nonministerial nature regarding contracting or purchasing; administering or monitoring grants or subsidies; planning and zoning; inspecting, licensing, regulating, or auditing people; or other action with more than de minimus impact	N/A
Rhode Island §36-14 et seq.	Local elected and appointed officials, and employees	If a person or his immediate family or associated business would directly benefit from the person's exercise of his duties, he must disclose the nature of the conflict. If the person is not a legislator, his superior, if any, must take reasonable steps to assign the matter to another person who does not have a conflict of interest. If he has no immediate superior, he must take steps to remove himself from the influence he has over any action on the matter.
South Carolina § 8-13 et seq.	Local elected and appointed officials, and employees	<p>No public employee may make or participate in making a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. An employee who is so affected but who is required to take action in the discharge of his official responsibilities must disclose his interest.</p> <p>No person may be an employee of the regulatory agency which regulates a business with which he is associated if this relationship creates a continuing or frequent conflict with</p>

		the performance of his official responsibilities. A member of a regulatory agency that occasionally regulates an associated business must annually file a statement of economic interests.
Washington § 42. 23 et seq.	Local elected and appointed officials, and employees*	An officer cannot vote to authorize, approve, or ratify a contract that benefits him even though the contract is allowed by law.
West Virginia §6b-1-1 et seq.	Local elected and appointed officials, and employees	No employee may participate, except through ministerial functions, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation or association in which the employee or his immediate family owns or controls more than 10%. "Ministerial functions" means actions or functions performed by an individual under a given state of facts in a prescribed manner in accordance with a mandate of legal authority, without regard to, or without the exercise of, such individual's own judgment as to the propriety of the action being taken.

*A statewide board or commission enforces the code unless otherwise indicated.

California's Fair Practices Commission has local enforcement divisions.

In Kansas, failure to disclosure substantial conflicts of interest with the county elections official is a Class B misdemeanor.

Massachusetts' code violations are criminal acts. Complaints may be filed with the statewide commission, district attorney, or the city.

In Montana, the county attorney or a 3-member panel that municipalities have the authority to establish enforces the code.

In Washington, code violations by local officials or employees are enforced by the effected municipality.

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MUNICIPAL CODES OF ETHICS

By: Jennifer Nelson, Legislative Intern

You asked (1) which towns in Connecticut currently have a code of ethics, (2) if an independent board or commission is established to hear violations, (3) whether that board is full-time or part-time, (4) does it have an office, (5) the number of complaints filed within the last 5 years, and (6) any actions taken in relation to those complaints. The information in this report was gathered through telephone interviews, e-mail correspondence, and Internet research. Only Hamden responded that office space had been dedicated to the ethics commission, but it was not used.

Table 1 shows all the towns in Connecticut that currently have a code of ethics. The majority of legislative bodies of each town that administers the code of ethics meet only when a complaint has been filed or an advisory opinion has been requested. There are eight (8) municipalities that have regular meeting schedules, but the majority of those towns have only held regular organizational meetings once a year. The proposed meeting schedule for the eight towns is in parenthesis following the town in table 1. Under Hartford's new form of government, the board of ethics meets monthly. Before the adoption of the new form of government, Hartford's board only met when a complaint had been filed.

Table 2 lists the towns that have not had a complaint filed within the last 5 years.

Table 3 lists the towns that have had complaints filed. The number of complaints follows the town in parentheses. With the exceptions of East Hartford, Naugatuck and Orange, all the complaints have been dismissed as not a violation of the code. In East Hartford, a member of the Board of Education was instructed to recuse him/herself from any additional votes on an issue. In Naugatuck, one complaint was lodged in reference to the hiring practices employed by the golf commission. The ethics commission ruled the golf commission should adopt procedures that would be consistent with the town's hiring procedure. In Orange, a member of the board of selectmen was told he/she should have recused him/herself from a vote on town property that he/she later bid on as a private citizen.

Table 4 lists the towns that have had requests for advisory opinions only.

Table 5 lists towns that have had complaints filed, but have not reached a resolution yet.

Table 6 lists the towns that do not have an independent board or commission. When a complaint has been filed, the board of selectmen or town council appoints a committee to hear and rule on the complaint or request.

East Haven and Trumbull did not offer information on complaints. The nine (9) towns that make up the Northwestern Connecticut Council of Government are working with the COG to develop a code of ethics that will be offered for adoption to the individual towns. The member towns are: Canaan, Cornwall, Kent, North Canaan, Roxbury, Salisbury, Sharon, Warren, and Washington.

Table 1: Municipalities in Connecticut with a Code of Ethics ordinance:

Andover	Ansonia	Berlin
Bethel	Bloomfield	Branford
Bristol	Brookfield	Brooklyn
Burlington	Clinton	Colchester
Columbia	Coventry	Danbury
Darien	Derby	E. Hampton
East Hartford	East Haven	E. Windsor
Enfield	Fairfield	Farmington
Franklin	Glastonbury	Greenwich
Griswold	Guilford (1x/quarter)	Hamden (bi-monthly)
Hartford (monthly)	Litchfield	Manchester
Mansfield	Meriden	Middlebury
Middletown	Monroe	Montville
Naugatuck	New Canaan	New Fairfield
New Haven	New London	New Milford
Newtown	N. Haven	Norwalk
Norwich	Old Saybrook	Orange
Oxford	Plainville	Plymouth
Putnam	Redding (1x/quarter)	Ridgefield (1x/quarter)
Seymour (bi-monthly)	Shelton (monthly)	Simsbury
Somers (1x/quarter)	S. Windsor	Southbury
Southington	Stamford	Stonington
Stratford	Suffield	Torrington
Trumbull	Vernon	Wallingford
Waterford	Waterbury	West Hartford
W. Haven	Weston	Wethersfield
Wilton	Windham	Windsor
Woodbridge		

Table 2: Towns that have not had a complaint filed in the previous 5 years.

Berlin	Derby	Middlebury	South Windsor
Bethel	Farmington	Monroe	Southbury
Burlington	Franklin	Montville	Stonington
Colchester	Glastonbury	New Milford	Windham
Columbia	Griswold	Plainville	North Haven
Coventry	Mansfield	Redding	

Table 3: Towns that have received complaints and requests for opinions.

Bristol (1)	East Hartford (3)	Naugatuck (2)	Oxford (4)
Brookfield (1)	East Hampton (1)	New Fairfield (2)	Stratford ²
Brooklyn (1)	Fairfield (1)	Hartford ¹	W. Hartford (1)
Danbury (2)	Litchfield (1)	Orange (2)	Wethersfield (2)

Table 4: Towns that have received requests for advisory opinions only.

Bristol	East Windsor	Litchfield	Simsbury
East Hampton	Glastonbury	Meriden	

Table 5: Towns that have received complaints, but resolutions have not been issued yet.

Clinton	Fairfield	Norwich	Shelton
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Table 6: Towns that do not have separate boards or commissions.

Coventry	Farmington	Montville	Plainville	South Windsor
East Hampton	Middlebury	Norwich	Southbury	

1. Hartford responded that they have received complaints, but did not specify how many. Most were requests for opinions and clarifications of the code.

2. Stratford responded that there have been several complaints, but was unable to provide information regarding the outcomes.

Table 1: State Ethics Agencies: Jurisdictional Information Concerning Municipal Ethics

State Agency	Jurisdiction				Jurisdiction Over		
	Conflict of Interest	Financial Disclosure	Gift Restriction	Lobbying	Local Appointed Officials	Local Elected Officials	Local Employees
Alabama Ethics Commission	X	X	X	X	X	X	X
Arizona Citizens Clean Elections Commission		X				X	
Arkansas Ethics Commission	X	X	X	X	X	X	X
California Fair Political Practices Commission	X	X	X	X	X	X	X
Delaware Public Integrity Commission	X	X	X	X	X	X	X
Florida Commission on Ethics	X	X	X	X	X	X	X
Georgia State Ethics Commission		X	X	X		X	
Kansas Governmental Ethics Commission	X	X	X	X		X	
Louisiana Ethics Administration	X	X	X	X	X	X	X
Maine Commission on Governmental Ethics & Election Practices			X	X	X		
Massachusetts Ethics Commission	X	X	X		X	X	X
Michigan State Board of Ethics	X		X			X	
Minnesota Campaign Finance and Public Disclosure Board	X	X	X	X	X	X	X
Missouri Ethics Commission	X	X	X	X	X	X	X
Montana Commissioner of Political Practices		X		X		X	
Nebraska Accountability & Disclosure Commission	X	X	X	X	X	X	
Nevada Commission on Ethics	X	X	X		X	X	X
New Hampshire Attorney General's Office	X	X	X	X		X	
Ohio Ethics Commission	X	X	X	X	X	X	X
Oklahoma Ethics Commission	X	X	X	X	X	X	X
Oregon Government Standards and Practices Commission	X	X	X	X	X	X	X
Pennsylvania Ethics Commission	X	X		X	X	X	X
Rhode Island Ethics Commission	X	X	X		X	X	X
Texas Ethics Commission	X	X	X	X	X	X	X

State/Agency	Jurisdiction				Jurisdiction Over		
	Conflict of Interest	Financial Disclosure	Gift Restriction	Lobbying	Local Appointed Officials	Local Elected Officials	Local Employees
Utah Office of the Lieutenant Governor		X	X	X		X	
Washington State Public Disclosure Commission		X		X		X	X
West Virginia Ethics Commission	X	X	X	X	X	X	X
TOTAL: 27	21	25	24	23	19	26	18

SOURCE: COGEL Blue Book 2007 Ethics Update

Table 2: Sample Approaches to Municipal Ethics Administration and Enforcement

Agency	Approach	Who Receives Complaints?	Who Hears Complaints?	Where are Hearings Held?	Penalties	Issue Advisory Opinions	Provide Ethics Training?	Other
Arkansas Ethics Commission	State ethics covers local officials and employees	Commission	Commission	Commission (Little Rock)	State General Revenue Fund	Yes	Yes	About 100 complaints on average (more during election years).
Delaware Public Integrity Commission • New Castle County Ethics Commission	Application of strictest code (Local governments that adopt their own ethics code operate independent of the commission.)	Commission receives complaints for local governments that have not adopted their own code. Local governments that have adopted their own code operate independently	Commission, unless local government has adopted its own code.	Commission, unless local government has adopted its own code.	Commission imposes disciplinary actions, not civil penalties, or, refers criminal violations to the appropriate federal or state authority.	Yes, to local officials under its jurisdiction.	Yes, to local governments under its jurisdiction not to those with their own code.	Of the state's 57 local governments, 7 (including New Castle County) have adopted their own ethics code. A local government must receive approval from the commission to amend its ethics code. The commission receives roughly 12 to 25 complaints each year. During

Agency	Approach	Who Receives Complaints?	Who Hears Complaints?	Where are Hearings Held?	Penalties	Issue Advisory Opinions	Provide Ethics Training?	Other
		and receive their own complaints.						the last few years, the percentage of local complaints has increased. The majority of local complaints concern land use issues.
Louisiana Board of Ethics	State ethics covers local officials and employees	Board	Board	Board in Baton Rouge	State General Fund	Yes	Yes, voluntary training. Beginning 2010 and 2012 training is mandatory for elected officials and all public servants, respectively	N/A
Nebraska Accountability and Disclosure Commission	State ethics law partially includes local officials, and employees with some exceptions (e.g., nepotism) and slight variations for Omaha and Lincoln.	Commission	Commission	Authorized to hold hearings anywhere but generally hold them in Lincoln before an administrative law judge. Occasionally, they conduct hearings remotely.	State Campaign Finance Fund	Yes	Attend organizational meetings (e.g. Nebraska League of Municipalities or those for city, town, or county attorneys) to make informational presentations	The commission conducts about 50 ethics, lobbying, and campaign finance investigations a year. The majority of the ethics investigations are local.
Nevada Commission on Ethics	State ethics code covers local officials and employees	Commission	Commission	Commission in Carson City and video conferenced to Las Vegas	State General Fund	Yes	N/A	Approximately 50 complaints per year
Ohio Ethics Commission	State ethics law includes	Commission	Commission	Commission in Columbus	General Fund	Yes	Yes	About 85% of the complaints are local.

Agency	Approach	Who Receives Complaints?	Who Hears Complaints?	Where are Hearings Held?	Penalties	Issue Advisory Opinions	Provide Ethics Training?	Other
	local officials							In 2007, the Commission received 500 ethics complaints and conducted 131 investigations.
Oregon Government Ethics Commission	State ethics covers local officials and employees	Commission	Commission	Commission in Salem	State General Fund	Yes	Yes	About 150 complaints heard per year
Pennsylvania Ethics Commission	State ethics code covers municipal officials and employees. Municipalities may enact supplemental codes but they may not be less restrictive than the state law. Municipalities that adopt local codes enforce them. The state commission enforces the code even as to local officials.	Commission	Commission	Commission in Harrisburg unless the respondent requests Philadelphia or Pittsburgh	Commission may order penalties paid to the state or the municipality involved	Yes	Yes	400 complaints per year
Rhode Island Ethics Commission	State ethics code covers municipal officials and employees.	Commission	Commission	Commission in Providence	State General Treasury	Yes	Yes	Roughly 40-50 complaints per year

Agency	Approach	Who Receives Complaints?	Who Hears Complaints?	Where are Hearings Held?	Penalties	Issue Advisory Opinions	Provide Ethics Training?	Other
	Some municipalities have their own codes, but state code is supreme.							
City of Los Angeles Ethics Commission	Independent commission. Municipal Ethics Code (State approach is application of the strictest code.)	Commission	Commission	Commission	Yes (for violations of the city code)	Local officials are subject to advisory opinions that the state issues with respect to state law and those that the city issues concerning local law.	State law requires ethics training; thus, the municipal ethics code provides for it.	City commission has the authority to investigate alleged violations of state law. It sends findings to the state commission to assess penalties.

Appendix 5

STATUS OF LOCAL ETHICS POLICIES IN CONNECTICUT

Presented by:

Kachina Walsh-Weaver

Senior Legislative Associate

Connecticut Conference of Municipalities

• September 2008 •



THE VOICE OF LOCAL GOVERNMENT



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- Upon request, conduct dedicated ethics forums in individual communities

Survey of Municipalities

CCM began surveying *all* municipalities in June 2008

- Intent of Survey
 - Whether municipalities did or did not have an ethics policy in place
 - The content of such policy
 - Existence of any complaints
 - Update our searchable database of local ethics policies

Results of 2008 Survey

Of those with an ethics policy in place:

- **71%**, include a Conflict of Interest policy
- **Half** have had no ethics complaints filed in the last 12 months
- **75%** have a formal process for individuals to obtain guidance or opinions on ethics issues

Comparison to 2005 Survey

Municipalities with:

- Ethics policies **↑35%**
- Conflict of Interest policy **↑58%**
- Disclosure of Conflict of Interest **↑27%**
- Process for addressing complaints **↑14%**
- Ethics Commission or Board **↑38%**

Comparison to 2002 Survey

Municipalities with:

- Ethics policies **↑97%**
- Conflict of Interest policy **↑186%**
- Ethics Commission or Board **↑112%**

** Disclosure of conflict of interest and process for addressing complaints were not questions included in the 2002 survey.*

CCM – Past Advocacy

CCM has continually advocated that we can support requiring municipalities to:

- Adopt an ethics policy
- Establish a mechanism for addressing allegations of unethical behavior
- Report to the State, by a date certain, on what they implemented in response - or already had in place

CCM – Cannot Support

CCM has also always been clear that we *cannot*

support:

- One-size-fits-all approach to local ethics policies
- A blanket requirement for local officials and/or volunteers to disclose their financial interests.
- A mandated mechanism that provides the Office of State Ethics with investigative and hearing authority over local ethics issues

Local Accountability

Municipal officials are the *most accessible* officials in our federal, state, and local systems of government – **They are always local.**

- Shop at the local grocery stores
- Work-out at the local gym
- Bring their kids to the local schools
- Utilize the same local services

Local officials are always in the community!

Considerations

- Unfunded mandates are having a significant impact on local property-tax dollars
 - Cost factors of creating and implementing an ethics code:
 - Attorney Fees
 - Public Notice
 - Referendum and/or town meeting

Considerations

- One-size-fits all approach does not work
 - Municipalities vary greatly in size, with populations ranging from 693 to 140,000
 - Local governments vary in their structure
 - Constituencies of local governments vary in their priorities
 - Size and scope of communities varies greatly
 - What works in one community may not be as effective, or appropriate, in another

Considerations

- Municipalities rely on volunteerism
 - Local boards and commissions
- AND*
- Elected officials

Mandating such things as *financial interest disclosure* - or - disallowing local officials/volunteers/employees from conducting their own business before or with the town government, *could put a chilling effect on residents wanting to serve.*

Closing

- The initial thrust behind proposed ethics mandates were overreactions to a few isolated incidents, *all of which were already governed by local ethics codes and commissions* – **just as strong as the state code.**
 - These incidents were criminal in nature and were dealt with as such.

Closing

- At the same time, the state had similar incidents – *all of which* were governed by *the state code of ethics*.
 - Again, these incidents were criminal in nature and were dealt with as such.

Closing

The results of the survey, shows steady increases in the numbers of municipalities implementing local ethics policies...

➔ **Clearly indicates that no mandate is needed.**

CCM - CONNECTICUT'S STATEWIDE ASSOCIATION OF TOWNS AND CITIES



The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of cities and towns. CCM represents municipalities at the General Assembly, before the state executive branch and regulatory agencies, and in the courts. CCM provides member cities and towns with a wide array of other services, including management assistance, individualized inquiry service, assistance in municipal labor relations, technical assistance and training, policy development, research and analysis, publications, information programs, and service programs such as workers' compensation, liability-automobile-property insurance, risk management, and energy cost-containment. Federal representation is provided by CCM in conjunction with the National League of Cities. CCM was founded in 1966.

CCM is governed by a Board of Directors, elected by the member municipalities, with due consideration given to geographical representation, municipalities of different sizes, and a balance of political parties. Numerous committees of municipal officials participate in the development of CCM policy and programs. CCM has offices in New Haven (the headquarters) and in Hartford.

900 Chapel Street, 9th Floor
New Haven, Connecticut 06510-2807
Telephone (203) 498-3000 Fax (203) 562-6314

E-mail: ccm@ccm-ct.org

Web Site: www.ccm-ct.org

THE VOICE OF LOCAL GOVERNMENT

CCM SURVEY ON LOCAL ETHICS POLICIES

June 2008

This survey has been sent to all municipal Mayors and First Selectmen, please feel free to forward to the most appropriate person in your administration to **complete this survey and return it, along with the necessary documentation, ASAP** (was due on June 30th, 2008).

- ➔ Please be sure to *answer all questions completely and accurately* to the best of your knowledge - feel free to use extra sheets if needed to provide detailed answers and information.
- ➔ Please be sure to *return the survey with a copy of all local ordinances, policies, forms, etc* that apply to municipal ethics.

➔ **Return to:** Kachina Walsh-Weaver email: kweaver@ccm-ct.org
CCM, 900 Chapel Street fax: (203) 497-2476
New Haven, CT 06510 phone: (203) 498-3026

MUNICIPALITY: _____

Person Completing Survey: _____ Title: _____

Phone: _____ Email: _____

1. Does your municipality have a Code of Ethics or Ethics Policy? YES NO

** (If YES, please attach a copy) **

(1a) *If YES*, how was it established:

- ☐ Charter
- ☐ Ordinance
- ☐ Code
- ☐ Other (*describe*) _____

(1b) *If YES*, please check the appropriate boxes as to what is included in your Code/Policy/Charter:

- ☐ Conflict of Interest Policy
 - ☐ Disclosure of Conflict of Interest
 - ☐ Statement of Financial Interests
 - ☐ Ethics Commission or Board
 - ☐ Gift Policy
 - ☐ Policy for former public employees and officials
 - ☐ Process for addressing complaints or allegations of unethical conduct
 - ☐ Appeal mechanism for those aggrieved by the outcome of a municipal ethics decision
 - ☐ If so, describe: _____
 - ☐ Other (*describe*) _____
-

CCM SURVEY ON LOCAL ETHICS POLICIES

June 2008

(1c) *If YES*, whose is responsible for tracking allegations or complaints of unethical conduct?

Name

Title

Phone

Email

(1d) *If YES*, approximately how many complaints were received in calendar year 2007?

☐ 0

☐ 1-5

☐ 6-10

☐ 10-15

☐ 15+

(1di) *If complaints were received*, what types of situations were they for?

► Check all that apply:

☐ Conflict of Interest

☐ Gifts/Gratuities/Favors

☐ Nepotism

☐ Unauthorized/Personal use of municipal property

☐ Outside Employment

☐ Other (*describe*)

2. Does your municipality require any form of financial disclosure by municipal officials, employees or volunteers? YES NO

3. Does your municipality provide guidance or opinions on questions concerning ethics? YES NO

(3a) *If YES*, who is responsible for providing such response?

☐ Local Ethics Commission/Board

☐ Regional Ethics Commission/Board

☐ Municipal Attorney

☐ Legislative Body

☐ Other (*describe*)

4. Does your municipality participate in any form of regional ethics code, board, commission, or other type of body? YES NO

(4a) *If YES*,

Organization Name

Contact Person

Phone Number



900 Chapel St., 9th Floor, New Haven, Connecticut 06510-2807
Phone (203) 498-3000 • Fax (203) 562-6314 • www.com-ct.org

THE VOICE OF LOCAL GOVERNMENT

RESULTS OF CCM SURVEY ON LOCAL ETHICS POLICIES September 2008

MUNICIPALITIES WITH LOCAL ETHICS POLICY (100% response):

<u>YES</u>	<u>NO</u>	<u>IN PROCESS</u>
124	36	9

For those responding yes, what is included in the Local Ethics Policies:

120	Conflict of Interest Policy
99	Disclosure of Conflict of Interest
37	Statement of Financial Interests
91	Ethics Commission or Board
105	Gift Policy
45	Policy for former public employees and officials
98	Process for addressing complaints or allegations of unethical conduct

For those responding yes, how many complaints were received in the last 12 months?

<u>Number of Complaints</u>	
0	82
1-5	32
6-10	1
10-15	1
15+	0

For those with complaints, what were types complaints?

26	Conflict of Interest
4	Gifts/Gratuities/Favors
2	Nepotism
1	Unauthorized/Personal use of municipal property
3	Outside Employment
0	Other (describe)

Municipalities that require any form of financial disclosure by municipal officials, employees or volunteers. 26

Municipalities that provide guidance or opinions on questions concerning ethics. 128

Entity responsible for providing such response?

70	Local Ethics Commission/Board
0	Regional Ethics Commission/Board
67	Municipal Attorney
10	Legislative Body
1	Other (describe)

Municipalities participate in any form of regional ethics code, board, commission, or other type of body? NONE

Appendix 6

CHAPTER 3 CODE OF ETHICS

[HISTORY: Adopted by the Board of Selectmen of the Town of Wilton 7-16-2007, effective 9-15-2007.

Editor's Note: This ordinance supersedes former Ch. 3, Code of Ethics, adopted by Town Meeting 3-16-1983.

Amendments noted where applicable.]

§ 3-1 Applicability.

This Code of Ethics applies to all Town of Wilton officials and employees as defined in § 3-3A of the Code of Ethics.

§ 3-2 Preamble.

A.

The goal of this code is to establish clear standards of ethical conduct for all who serve the Town of Wilton, whether in a paid or volunteer capacity, without discouraging participation in Town government by the talented and committed individuals on whose service the Town relies.

B.

Specifically, this code seeks to deter conduct that is incompatible with the proper discharge of duties in the public interest or that would impair independence of judgment or action in the performance of those duties as set forth in this code's standards of conduct (§ 3-3), and to establish procedures for determining whether such conduct has occurred or would occur.

§ 3-3 Definitions; standards of conduct.

A.

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

BOARD

Any board, committee, commission, council, authority, agency or other body of Town government, including the Board of Selectmen and the Board of Education.

BUSINESS

Any business organization or operation of which an official or employee, or a relative, is an owner, director, officer, employee, compensated agent, or holder of 5% or more of the outstanding stock of any class.

COUNCIL

The Wilton Council on Ethics.

EMPLOYEE

Any person employed full- or part-time by the Town or by any board, excluding any person who is a member of a union having a collective bargaining agreement with the Town or any of its boards and who is covered by a board's code of conduct or a Town departmental code of conduct that:

[Amended 3-3-2008]

(1)

Contains provisions equivalent to, or stricter than, those contained in this chapter; and

(2)

Includes provision for the making of citizen complaints and for an adjudicative process for review and resolution of them.

FINANCIAL INTEREST

Any interest representing an actual or potential economic gain or loss, which is neither de minimis nor shared by the general public, that accrues to an official or employee, to a relative, or to a business.

OFFICIAL

Any elected or appointed person serving on any board, whether paid or unpaid and whether full- or part-time.

PERSONAL INTEREST

Any interest representing an actual or potential noneconomic benefit or detriment, which is neither de minimis nor shared by the general public, that accrues to an official or employee, to a relative, or to a business.

RELATIVE

Any person related to an official or employee by blood, adoption, or marriage.

TOWN

The Town of Wilton.

B.

Key provisions.

(1)

Conflict of interest. No official or employee shall participate in any Town or board matter in which he or she has a financial interest or a personal interest. A finding of violation of this provision shall require that:

(a)

The official or employee has a financial interest or a personal interest in a matter; and

(b)

The official or employee has the authority, either individually or collectively with others, to deliberate, decide or act for the Town or board, or to influence a decision or action by the Town or Board with respect to the matter.

(2)

Disclosure and recusal.

(a)

Whenever a matter arises with respect to which an official or employee may have a conflict of interest, the official or employee shall disclose it in writing to his or her board or supervisor and shall abstain from participation in the deliberation, decision-making and action with respect to the matter unless and until he or she procures an advisory opinion under this code that provides otherwise.

(b)

Candidates for Town or board elective or appointive office or for Town or board employment are encouraged to familiarize themselves with this code and to disclose during the process of

election, appointment or employment anything addressed in this code that might impair their ability to perform in the office or position that they seek or for which they are being considered.

(3)

Gifts and other things of value. No official, employee, relative, or business shall solicit or accept anything of value, including without limitation a gift, loan, service, reward, or promise of employment, that could reasonably be expected to influence the action or judgment of the official or employee in any Town or board matter.

(4)

Use of Town property. No official or employee shall use, or permit the use of, Town property of any nature, including vehicles, supplies and real property, for the benefit of himself or herself, except when such property is made available to the general public and then on terms and conditions not more favorable than those available to the general public.

(5)

Representation of private interests. No official shall appear or act in any material capacity on behalf of private interests before any board on which he or she serves, or represent any such interests in litigation involving an action of that board. Disclosure and recusal will not suffice to cure a violation of this provision. This prohibition shall continue for six months after the termination of the official's service to the Town or board. Nothing contained herein shall prevent an official from appearing in his or her own behalf on a matter before the Town or a board, provided he or she abstains from deliberating, deciding or acting with respect to the matter.

(6)

Use of Town position. No official or employee shall use his or her position, or knowledge acquired through that position which is not available to the general public, for the purpose of obtaining or furthering a financial interest or a personal interest.

§ 3-4 Council on Ethics organization and administration; distribution of code; amendments.

A.

Appointment and composition of Council on Ethics. The Council shall consist of five electors of the Town who shall serve without compensation. No more than three shall be registered in the same political party. No member shall serve on any board other than the Council or as an employee during his or her term of service on the Council. Members shall be appointed to the Council, and vacancies filled, by the Board of Selectmen.

B.

Terms of service. Except as otherwise provided in this and the following subsection, members shall serve for terms of three years. Service shall be limited to two successive full three-year terms. After a lapse of one year, a former member shall again be eligible for appointment. Terms shall commence on December 1. Members shall serve until their successors take office. Any term that would otherwise expire during the pendency of a Council proceeding shall automatically be extended to the end of that proceeding.

C.

Initial appointments. Initial appointments shall be for staggered terms ending as follows: two on November 30, 2010, two on November 30, 2009, and one on November 30, 2008.

D.

Election of officers. The Council shall elect annually a Chair, a Vice-Chair, and a Secretary.

E.

Frequency of meetings, quorum, and duties of officers. Meetings shall be held as needed and in any event at least semi-annually. A majority shall constitute a quorum for the conduct of business except as provided elsewhere in this Code. The Chair shall call and preside over meetings; the Vice-Chair shall preside over meetings in the absence of the Chair. The Secretary shall keep minutes of meetings and shall file agendas and minutes with the Town Clerk.

F.

No inquiry on Council's own initiative. The Council shall have no authority to present matters for inquiry or investigation on its own initiative.

G.

Access to Town records and personnel. In furtherance of its duties, the Council shall have access to Town records and personnel as permitted by law. The Council may request assistance from any official or employee and retain others to aid it in pursuing any investigation.

H.

Access to legal counsel. The Council shall have access to Town Counsel and to special legal counsel of the Council's choosing if Town Counsel is disqualified from assisting the Council or recuses, or if the Council deems it inadvisable to proceed with advice from Town Counsel in the circumstances. If special counsel is retained, the Town's Chief Financial Officer or his or her deputy shall negotiate terms of engagement for special counsel.

I.

Maintenance of Council's records. The Council's records shall be stored in Town Hall. Those records that are designated as confidential by the Council shall be stored accordingly and shall not be available for public review except as required by law.

J.

Notification of filings. The Town Clerk shall serve as the Council's agent for receipt of correspondence and filings and shall promptly notify the Council of all correspondence and filings.

K.

Delivery of this code to each official and employee. Within 30 days following the adoption of this code, a copy shall be furnished by the Town to each official and employee. Persons subsequently elected, appointed or employed shall receive a copy of this code at the time their service commences. Each recipient shall acknowledge, in a writing deposited with the Town Clerk, receipt of a copy of this code and agreement to abide by its terms.

L.

Amendment; adoption of rules. The Council may recommend to the Board of Selectmen amendment of this code and may also adopt rules in furtherance of, and not inconsistent with, its provisions.

§ 3-5 Procedure for advisory opinions.

Editor's Note: A Sample Request for an Advisory Opinion Form is included at the end of this chapter.

The procedure for advisory opinions concerning an official's or employee's own position shall be as follows:

A.

Making a request.

(1)

An official or employee or a candidate for Town office or employment may request an advisory opinion concerning the requirements of this code as applied to him or her.

(2)

The request shall be made in a writing filed with the Town Clerk in a sealed envelope addressed to the Council. The request shall state the name and address of the person making the request and all facts relevant to the matter in question.

B.

Issuance of advisory opinion. The Council may request further information from the person making the request. It shall issue its advisory opinion by majority vote of the full Council and shall do so as soon as practicable. The opinion shall be in writing and delivered to the Town Clerk, who shall mail it to the person making the request. Advisory opinions shall be available to the public except as prohibited by law.

C.

Reliance. A person requesting an advisory opinion may rely on that opinion, provided the person has disclosed all relevant facts and acts in good faith consistent with those facts.

§ 3-6 Procedure for complaints.

Editor's Note: A Sample Complaint Form is included at the end of this chapter.

The procedure for complaints shall be as follows:

A.

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

COMPLAINANT

The filer of a complaint.

COMPLAINT

A written request for determination made by an individual or a board regarding an alleged violation of this code by an official or employee.

DETERMINATION

A written final decision by the Council with respect to a complaint.

HEARING

A public proceeding before the Council following a finding of probable cause where testimony is taken and documents may be received.

RESPONDENT

The person against whom a complaint is filed.

RESPONSE

The respondent's written answer to the complaint.

B.**Procedure.**(1)**Filing of a complaint.**(a)

A complaint may be made by any individual or board. It shall be made in a writing signed under oath before a notary and shall state the name and address of the complainant, the identity of the official or employee and, if applicable, the relative or business involved in the complaint, the conduct that allegedly violates the code, and a summary of the relevant facts.

(b)

A complaint must be filed within two years after the matter in question has allegedly occurred.

(c)

The complaint shall be filed with the Council in a sealed envelope addressed to the Council and marked "confidential." It shall be delivered to the Town Clerk either by hand or by certified mail, return receipt requested. The complaint shall be deemed to have been filed on the date of its receipt by the Town Clerk and shall be treated by the Town Clerk as a confidential document.

(d)

The Town Clerk, upon direction of the Council, within three business days after the filing, shall notify the respondent by certified mail, return receipt requested, of the filing and date of the complaint and enclose copies of the complaint and this code.

(e)

Once the complainant has performed the function of raising a possible violation of this code, the Council shall decide, in the circumstances of the individual case, what further role, if any, the complainant should have in the matter.

(2)**Probable cause.**(a)

The Council shall review the complaint to determine whether probable cause exists for further proceedings and may conduct an investigation for this purpose. Any investigation conducted prior to a probable cause finding shall be confidential unless confidentiality is waived in writing by the respondent. The respondent may submit a preliminary written reply to the Council within 15 days after the filing of the complaint and before a probable cause finding issues.

(b)

If the Council decides by majority vote of members eligible to vote that the complaint does not warrant further investigation because of its lack of factual basis, its de minimis nature, or otherwise, it shall issue a finding of no probable cause dismissing the complaint. The finding and the complaint shall remain confidential unless confidentiality is waived in writing by the respondent. A finding of no probable cause shall be final. The Council shall direct the Town

Clerk to forward copies of the finding to complainant and respondent by certified mail, return receipt requested, within three business days thereafter.

(c)

If, by majority vote of members eligible to vote or by tie vote, the Council finds probable cause, the Council shall direct the Town Clerk to forward copies of the finding to complainant and respondent by certified mail, return receipt requested, within three business days thereafter. Upon a finding of probable cause, the complaint, the finding, and the information gathered during the investigation, if any, shall be made available to the public, and all filings and proceedings that follow shall be public except as required by law; provided, however, that deliberations may be held in executive session to the extent permitted by the Connecticut Freedom of Information Act.

(3)

Response. Respondent shall have 30 days after his or her notification of a finding of probable cause to file a response with the Town Clerk. The Council may, upon reasonable grounds, extend this deadline for filing.

(4)

Hearing.

(a)

The Council shall hold a hearing on any complaint as to which it has found probable cause unless respondent waives a hearing in writing and the Council decides not to hold one. The hearing shall be held on written notice of no less than 30 days to complainant and respondent sent by the Town Clerk by certified mail, return receipt requested. The Council may, upon reasonable grounds, extend the date of the hearing at the request of the respondent.

(b)

If a hearing is held, respondent shall have the opportunity to be represented by legal counsel, to present evidence, and to examine and cross-examine witnesses including the complainant. For purposes of its investigation and at the hearing, the Council is empowered to administer oaths or affirmations and may compel the attendance of witnesses by issuance of subpoenas. It may also require the production of documents, whether in hard copy or electronic format, by issuance of subpoenas for their production. The Council shall give effect to the rules of privilege recognized by the law. The Council may examine any witness who appears before it, including complainant and respondent. The Council may limit the number of witnesses and the scope of testimony to matters it believes relevant, material, not unduly repetitious, and necessary to reach a reasoned determination. A taped or stenographic record shall be made of all proceedings in the hearing.

(5)

Determination.

(a)

Following the hearing, the Council shall issue a determination as soon as practicable and file it with the Town Clerk, who shall mail copies to complainant and respondent within three business days thereafter. No member may vote on a determination unless he or she has attended the entire hearing, if any, and participated in all deliberations. Deliberations may be held in executive session to the extent permitted by the Connecticut Freedom of Information Act. A determination of violation requires a majority vote of members eligible to vote. In the

event of a tie vote, the determination shall be that there is no violation.

(b)

A determination of no violation of this code shall be final.

(c)

If a violation is found, the Council may, but need not, also recommend in its determination sanctions which may include, but need not be limited to, censure, required recusal, disclosure of conflicts, and removal from appointive office or employment. Any sanctions imposed under this code shall be separate from, and not in limitation of, any other actions that may be taken against respondent in any proceedings outside this Code.

(6)

Submission of determination of violation. A determination of violation of this code shall be submitted by the Town Clerk within three business days to the Board of Selectmen for such action as it deems appropriate; provided, however, that if the respondent is an official or employee of the Board of Education, the submission by the Town Clerk shall be to the Board of Education for such action as it deems appropriate.

§ 3-7 Effective date.

The effective date of this chapter shall be September 15, 2007. This ordinance supersedes the Town Code of Ethics dated March 16, 1983, in its entirety and any amendments to it and regulations issued under it.

3a Advisory Opinion 3b Complaint

Chapter 21
ETHICS, CODE OF

§ 21-1. Purpose.

§ 21-2. Definitions.

§ 21-3. Board of ethics; members, appointment, qualifications, variances, political activity.

§ 21-4. Duties of board re: reports, advisory opinions, memoranda, and regulations; employment of necessary staff.

§ 21-5. Complaints, procedures; time limits; investigation; notice, hearing.

§ 21-6. Confidentiality of complaints; evaluations of possible violations and investigations; publication of findings.

§ 21-7. Penalties; effect of violation.

§ 21-8. Conflicts of interest.

§ 21-9. Paid contractors.

§ 21-10. Former public employees/officials.

§ 21-11. Statements of financial interests; filing requirements.

§ 21-12. Exceptions.

§ 21-13. Legal representation in board proceedings.

§ 21-14. Delay in proceeding.

§ 21-15. Distribution of code.

[HISTORY: Adopted by the City Council of the City of Meriden 6-6-1996.¹
Amendments noted where applicable.]

¹ Editor's Note: This ordinance amended Ch. 21 in its entirety. Prior to amendment of 6-6-1996, this chapter derived from ordinances adopted 9-15-80; 3-6-89; 2-4-91; 2-18-92; 1-18-94; and 5-2-94.

GENERAL REFERENCES

Administration of government--See Ch. 3.

Board of Ethics--See Ch. 6, Art. I.

§ 21-1. Purpose.

The proper operation of democratic government requires that public officials and employees be independent and impartial, that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all city officials and employees is hereby adopted. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure of private financial or other interests by such officials and employees in matters affecting the city.

§ 21-2. Definitions.

Board of ethics: The board of ethics established in § 21-3.

Business: Any entity through which business for profit or not-for-profit is conducted including a corporation, partnership, proprietorship, firm, enterprise, franchise, association, limited liability company, trust organization, or sole proprietorship or self-employed individual.

Business with which he is associated: A business of which a person or a member of his immediate family is a director, officer, partner, owner, employee, compensated agent, or holder of stock which constitutes 5% or more of the total outstanding stock of any class.

Charter: The Charter of the City of Meriden.

City: The City of Meriden and any special district contained therein.

Confidential information: Information, whether transmitted orally or in writing, 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 \$1,000 or more or which generates a financial gain or loss of \$1,000 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 without consideration of equal or greater value therefor. A gift does not include:

- (1) A political contribution otherwise reported as required by law or a donation or payment as described in subdivision (9) or (11) of subsection (b) or § 9-333b of the Connecticut General Statutes, as amended;
- (2) A gift received from (a) an individual's spouse, fiancé, fiancée, (b) the parent, brother or sister of such spouse or such individual, or (c) the child of such individual or the spouse of such child;
- (3) An honorary degree bestowed upon a public official or public employee by a public or private university or college or a certificate, plaque or other ceremonial award costing less than \$100;
- (4) A rebate or discount on the price of anything of value made in the ordinary course of business without regard to the recipient's status;
- (5) Printed or recorded informational material germane to governmental action or functions, or items of nominal value not to exceed \$25, containing or displaying promotional material, received in the course of an individual's official duties, or 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 official capacity;
- (6) Gifts in-kind of nominal value not to exceed \$100 tendered on gift-giving occasions generally recognized by the public including Christmas, Hanukkah, birthdays, the birth or adoption of a child, weddings, confirmations or bar/bat mitzvahs, provided the total value of such gifts in any calendar year do not exceed \$200 per donor;
- (7) Items of nominal value, provided in social occasions, not to exceed \$25 per occasion, or a meal provided in the home by an individual who resides in Meriden.

Immediate family: An individual's spouse, fiancé or fiancée; the parent, brother or sister of such individual or spouse and the child of such individual or the spouse of such child.

Individual: A natural person.

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, club or other organization or group of persons.

Personal interest: An interest in any action taken by the city in which an individual will derive a nonfinancial benefit or detriment as the result of the expenditure of municipal funds.

Probable cause: Such facts as would reasonably persuade a reasonable person to believe that the respondent has violated the code.

Public employee: A person employed, whether part-time or full-time, by the city.

Public official: An elected or appointed official, whether paid or unpaid or full or part-time, of the City.

§ 21-3. Board of ethics; members; appointment; qualifications; vacancies; political activity.

A. There shall be a board of ethics consisting of five members. The members shall be appointed in conformity with § C3-3.J of the Charter of the City of Meriden for a term 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 more than two shall be members of the same political party.

B. All members shall be electors of the municipality. No member shall (1) hold or campaign for any elective public office; (2) have held elective public office, including office as a member of a political party committee, or have been a declared candidate for elective public office for a two-year period prior to appointment; (3) hold office in any political party or political committee; or (4) serve as a member of any other municipal agency or be a city employee, provided, however, that one such member shall be a member of the city council in conformity with § C7-8 of the Charter, unless and until said section is revised to eliminate such requirement.

C. Although any member or employee of the board shall have an unrestricted right to vote, make political contributions, attend fundraising or other political events, no member shall publicly support any candidate for municipal office. Publicly supporting a candidate includes, but is not limited to, giving a speech at a political event or formally endorsing a candidate. Limited volunteer activity as a campaign worker shall not constitute a violation of this section. This provision shall not apply to a member of the city council appointed to the board. A violation of this section shall be a violation of this code.

D. The board shall elect a chairperson who shall preside at meetings of the board and a vice-chairperson to preside in the absence of the chairperson. three members shall constitute a quorum. A majority vote of the members of the board present and voting shall be required for action of the board, except as hereafter set forth. The chairperson or any three members may call a meeting.

§ 21-4. Duties of board re: reports, advisory opinions, memoranda, and regulations; employment of necessary staff.

A. The board shall: (1) compile and maintain a record of all reports, advisory opinions, statements, and memoranda filed by and with the board; (2) issue advisory opinions with regard to the requirements of this code upon the request of any person subject to this code. Advisory opinions rendered by the board, until amended or revoked, shall be binding on the board and shall be deemed to be final decisions of the board. Any advisory opinion concerning the person who requested the opinion and who acted in reliance thereon, in good faith, shall be an absolute defense to a claimed violation of this code concerning any matter encompassed by such advisory opinion; (3) report annually on or before February 1 to the city council summarizing the activities of the board.

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

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

§ 21-5. Complaints, procedures; time limits, investigation; notice; hearings.

A. Complaints may be filed (1) by any five or more electors, (2) by the city manager or city attorney, (3) the mayor, and (4) by any member of the city council. Complaints may also be initiated by the board. Complaints shall be filed with the city clerk, who shall immediately seal said complaint and cause it to be delivered to the chairman of the board.

B. (1) Complaints shall be filed on a form prescribed by the board, and signed under penalty of false statement. The board shall investigate any alleged violation of this Code.

(2) Not later than 10 days after the receipt or issuance of such complaint, the board 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.

(3) The board shall review any complaint to determine whether or not the allegations contained therein, if proven, would constitute a violation of any provision of the code, and whether or not there is probable cause to believe that there has been a violation of the code. If the board determines that the complaint does not allege sufficient acts to constitute a violation, or that there is not probable cause to believe a violation of the code has occurred, the board shall dismiss the complaint and duly notify the complainant and respondent by registered or certified mail.

(4) If the board determines that the complaint alleges sufficient acts to constitute a violation, and that there is probable cause to believe that there has been a violation of the code, then within 30 days after so determining the board shall fix a date for the commencement of the hearing on the allegation contained therein. The hearing date regarding any complaint shall be not more than 60 days after the filing of the complaint

or said complaint shall be deemed dismissed. All hearings shall be concluded within 120 days of such hearing date.

C. (1) In the conduct of its investigation and hearing of an alleged violation of this code, the board, to the extent permitted by law, 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 board of 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 department of law, who shall provide the same upon the board'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.

D. The board shall make no determination of probable cause that there is a violation of any provision of the code, nor any finding that there is a violation, except upon the concurring vote of at least four of its members. No person shall be held to have violated this code except upon clear and convincing proof.

E. Any hearing conducted by the board shall be governed by the rules of evidence standard in administrative hearings.

F. No complaint may be made under this code except within five years next after the violation alleged in the complaint has been committed.

G. No person shall take or threaten to take official action against an individual in retaliation for such individual's disclosure of information to the board under the provisions of this code. The provisions of this section shall apply in addition to the provisions of § 31-51m of the Connecticut General Statutes, as amended. A violation of this section shall be a violation of this code.

§ 21-6. Confidentiality of complaint; evaluations of possible violations and investigations; publication of findings.

A. The board may conduct a preliminary investigation to determine whether the filing of a complaint on its own initiative is warranted. This preliminary investigation shall be confidential. Any allegations and any information supplied to or received from the board shall not be disclosed during the investigation to any third party by a complainant, respondent, witness, designated party, board, or any staff employed by or assigned to the board.

B. Unless the board upon investigation and review determines that there is probable cause to believe that there has been a violation of the code, a complaint alleging a violation and all proceedings prior to such determination shall be confidential except upon the written request of the respondent.

C. 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, respondent, witness, designated party, or board 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. A violation of this section shall be deemed a violation of this code.

D. The board shall make public a finding of probable cause 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 board 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.

E. Any respondent aggrieved by a decision of the board regarding a finding of a violation may, within 30 days, take an appeal to the Superior Court for the Judicial District of New Haven, or any court of competent jurisdiction.

F. Nothing herein shall prohibit the board of ethics from reporting the possible commission of a crime to the appropriate prosecutorial authority.

§ 21-7. Penalties; effect of violation.

A. Violation of any provision of this code shall constitute grounds for, and may be punished by (1) public censure and reprimand; (2) in the case of a public employee, a recommendation to the appropriate authority for such personnel action as appears appropriate; (3) a civil penalty of not more than \$100 per violation; or (4) restitution of any pecuniary benefits received because of the violation committed.

B. Any contract, transaction or official act or action which was entered into or taken in violation of this code shall be voidable by resolution of the city council.

§ 21-8. Conflicts of interest.

A. No public employee or public official shall engage in or participate in any business or transaction, including outside employment, or have an interest, direct or indirect, which is incompatible with the proper discharge of his official duties or responsibilities or which would tend to impair his independent judgment or action in the performance of his official responsibilities, as hereinafter defined in this section.

B. (1) No public employee or public official shall solicit or accept any gift from any person who to his knowledge is interested in any pending matter within such individual's official responsibility.

(2) If a prohibited gift worth more than \$100 is offered, it must be refused, and reported to the city manager, the city attorney, or chairman of the board of ethics. An unsolicited gift may be donated to a charitable organization or retained by the city at the discretion of the city manager.

C. (1) A public employee or public official shall refrain from voting upon or otherwise participating in any matter if he, a business with which he is associated, or a member of his immediate family, has a financial or personal interest in the matter.

(2) If such participation is within the scope of the public employee's or public official's official responsibility, he shall be required to provide written disclosure, which sets forth in detail the nature and extent of such interest, to the board.

(3) Notwithstanding the above, a public employee or public official may vote or otherwise participate in a matter if it involves a determination of general policy and any benefit or detriment accrues to him, a member of his immediate family, or a business with which he, or a member of his immediate family 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.

D. (1) Except for a public official who receives no compensation for his service to the city 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 city.

(2) Except for a public official who receives no compensation for his service to the city other than per diem payments and reimbursement of expenses, no public employee or public official shall represent private interests against the interest of the city in any litigation to which the city, or any of its insurers or indemnities is a party.

E. Nothing contained in this code shall prohibit or restrict a public employee or public official from appearing before any board, agency or commission of the city on his 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 city is a party, or from appearing before any board, agency or committee of the city in his official capacity in any matter in which he does not have a personal interest.

F. No public employee or public official shall disclose confidential information concerning municipal affairs, nor shall he use such information for the financial interests of himself or others.

G. No public employee or public official shall request or permit the use of city-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 city

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 is associated, or member of his immediate family shall enter into a contract with the city unless it is awarded in conformity with the provisions of § C-8 of the Charter, as amended.

I. No public employee or public official may use his position or office for the financial benefit of himself, a business with which he is associated, or a member of his immediate family.

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 official capacity.

K. No public employee or public official, or member of such individual's immediate family or business with which he is associated, shall solicit or accept anything of value, including, but not limited to, a gift, 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.

§ 21-9. Paid contractors.

A. No paid contractor of the city shall represent a private interest in any action or proceeding against the interest of the city which is in conflict with the performance of his duties pursuant to his contract.

B. No paid contractor may represent anyone other than the city or himself concerning any matter in which he participated personally and substantially as a contractor to the city.

C. No paid contractor shall disclose confidential information learned while performing his duties for the city nor shall he use such information for any purpose other than in performing under said contract.

§ 21-10. Former public employee/officials.

A. No former public employee or public official, except a public official who receives no compensation for his service to the city other than per diem payments and reimbursement of expenses, shall appear for compensation before any city board or agency by which he was formerly employed or provided service to, or a member of, at any time within a period of one year after termination of his service with the city.

B. No former public employee or public official shall represent anyone other than the city concerning any particular matter in which he 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 official duties, for financial gain for himself or others.

D. No former public employee or public official who participated substantially in the negotiation or award of a municipal contract obliging the city 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 city for a period of one year after such contract is signed, except for such contracts as may be awarded to the lowest bidder in conformity with § C-8 of the Charter.

§ 21-11. Statements of financial interests; filing requirements.

A. All public officials and employees shall disclose any financial or personal interest which he, or a business with which he is associated, or a member of his immediate family has in any matter within the scope of such official's or employee's duties and official responsibilities as required by § 21-8(c) of this code.

B. Such person shall disclose such other information as requested by the board which is reasonably likely to lead to the discovery of information relevant to whether or not a violation of this code has occurred.

§ 21-12. Exceptions.

No public official or employee shall be found to have violated any provision of this code by reason of (1) voluntary, uncompensated service to, membership in or affiliation with a social, fraternal, charitable, service, religious, philanthropic, cultural or similar nonprofit institution or organization; (2) a commercially reasonable loan made in the ordinary course of business by an institution or organization authorized by law to engage in the making of such loans; (3) one or more contractual relationships with any specific entity totaling less than \$1,000 within a one-year period.

§ 21-13. Legal representation in board proceedings.

A. The department of law shall provide representation to the board upon request and shall not represent any public official or employee in board proceedings.

B. Any public officer or employee, who is the respondent in any complaint filed with the board, and who wishes to be represented by an attorney with regard to said complaint

and to have the city pay the fees of such attorney, shall submit the proposed scope of work and hourly or other fee agreement of such attorney to the city attorney, who shall approve or disapprove same within seven days.

C. Provided that the city attorney shall have given prior written approval to such scope of work and hourly or other fee agreement, the city shall pay the fees of such attorney with respect to any matter alleged in such complaint upon which the board does not find the respondent to have violated this code.

§ 21-14. Delay in proceedings.

The city council shall inquire into any failure of the board of ethics to complete any action required of it within the time limits fixed by this code. The city council may order said board to so act, or refer the complaint to a committee of the city council to act thereon in accordance with this code.

§ 21-15. Distribution of code.

The city clerk 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 office or employment. A signed receipt for all copies shall be returned to the city clerk and retained on file. The city clerk shall make additional copies available without charge to any person engaged in any transaction with the city.

Appendix 7



State of Connecticut
DIVISION OF CRIMINAL JUSTICE
OFFICE OF THE CHIEF STATE'S ATTORNEY

KEVIN T. KANE
CHIEF STATE'S ATTORNEY

300 CORPORATE PLACE
ROCKY HILL, CONNECTICUT 06067
(860) 258 5800

January 8, 2009

The Honorable Gayle Slossberg
The Honorable James F. Spallone
Co-Chairs, Municipal Ethics Task Force
Legislative Office Building
Hartford, Connecticut 06106-1591

Dear Senator Slossberg and Representative Spallone:

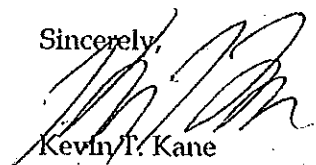
Thank you for your letter of December 15, 2008, requesting the input of the Division of Criminal Justice regarding the Municipal Ethics Task Force established pursuant to Public Act 07-201.

The Division of Criminal Justice recommended the enactment of legislation requiring all municipalities and special districts to establish an ethics commission and adopt a code of ethics in our 2004 Legislative Recommendations. Specifically, the Division endorsed the concept of LCO No. 73 as heard at a public hearing of the Government Administration and Elections Committee on January 23, 2004.

The Division believes such legislation should provide for the appropriate criminal sanctions in much the same fashion as now provided by the Code of Ethics for state employees and officials. The Division would be happy to review any specific proposals the Task Force has developed defining what constitutes criminal activity and the application of the accompanying criminal sanctions.

In closing, please allow me to commend the Task Force for your continued work in this important area.

Sincerely,


Kevin T. Kane
Chief State's Attorney