

Chapter 31, ETHICS, CODE OF

[HISTORY: Adopted by the Board of Selectmen of the Town of Guilford 5-26-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Board of Ethics -- See Ch. 9, § 9-6.

§ 31-1. Establishment; purpose.

There is hereby established a Code of Ethics (hereinafter referred to as "the Code") for all officials of the Town of Guilford (hereinafter referred to as "the Town"). The purpose of the Code is to establish ethical standards of conduct for all such officials that will:

- A. Ensure that the affairs, decisions, and actions of the Town be conducted without favoritism or conflict of interest, consistent with the highest ethical standards;
- B. Outline acceptable practices and conduct for all those who serve the Town in any capacity, or who engage in or may engage in business with the Town; and
- C. Provide orderly procedures for the receipt and consideration of complaints, requests for advisory opinions, or other issues which may arise from time to time.

§ 31-2. Applicability and Gender Neutral Interpretation.

The Code shall be applicable to all officials of the Town. The term "official," when used throughout the Code, shall mean with respect to the government of the Town, any holder of public office, elected or appointed, paid or unpaid, any employee of the Town and any member of any board, commission, authority or committee of the Town, including the members of the Board of Education and its employees. Words of gender shall be interpreted interchangeably and, whenever practicable, shall be interpreted gender neutral.

§ 31-3. Consultants.

Any independent contractor, professional person, or representative of an entity engaged by and receiving compensation from the Town or any of its boards, commissions, authorities, committees or officials and who is in a position to influence any decision of any board, commission, authority, committee or official, shall be bound to avoid the prohibited activity set forth in § 31-5 of the Code. Any complaint received claiming a violation of the Code by a Consultant shall be processed by the Board of Ethics in accordance with § 31-6 of the Code. A Consultant shall be entitled to all of the rights of an official under § 31-6.

§ 31-4. Disclosure of interest.

An official shall disclose to the Chairperson of the board, commission, authority or committee on which such official serves or, if such official is then acting as Chairperson, to another officer of such board, commission, authority or committee or, if such official is an employee of the Town, to the person in charge of such official's department when such official or any member of such official's immediate family has a substantial financial interest in any matter under consideration by such board, commission, authority, committee or department, and such official shall recuse himself or herself from any participation in the consideration of such matter. The term "immediate family" shall include a spouse, siblings, children, parents, spouse's parents and others who are members of such official's household. [Amended 12-15-1997 by the Board of Selectmen]

§ 31-5. Prohibited activity.

A. Conflict of interest.

No official shall accept any employment or have any substantial financial interest in, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of such official's duties on behalf of the Town or which will tend to impair such official's independence of judgment or action in the performance of official duties. "Substantial financial interest," as used in this Code, shall mean an interest of a greater than nominal value that is not common to the general public or a large segment thereof.

B. Use of Town assets, services or property.

No official shall use or permit the use of Town funds, accounts, services, property, equipment, owned or leased vehicles or materials for personal convenience or profit, except when such uses or services are available to the public generally or are provided in conformance with established Town policies or written agreement with respect to such official.

C. Impartiality.

No official shall grant any exceptional consideration, treatment or advantage to any person beyond that which is available to every other person in a similar situation.

D. Confidentiality.

No official shall willfully disclose any confidential information obtained in an official capacity to any person, except when required in the performance of such official's official duties, or use any such confidential information for the purpose of advancing the financial or personal interest of such official or others. This obligation shall continue for as long as the information remains confidential.

E. Prohibited gifts and compensation.

No official or member of such official's immediate family shall solicit or accept any gift having a greater-than-nominal value, whether in the form of service, cash, loan, thing, promise or any other form, except for campaign contributions as regulated by state or federal law, from any person who, to such official's knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the board, commission, authority or committee on which such official is then serving or, if such official is an employee of the Town, with the Town.

F. Prohibited business solicitation.

No official shall solicit any business, directly or indirectly, from another official over whom such official has any direct or indirect control or influence with respect to tenure, compensation or duties.

G. Whistleblower Protection.

No official shall take or threaten to take official or personal action, directly or indirectly, against any person (or member of his family), including but not limited to discharge, discipline, personal attack, harassment, intimidation or change in job, salary or responsibilities, because that person, or a person acting on his behalf files a complaint with the Board.

H. Use of Influence.

1. No official shall use his position or personal influence to effect favoritism, nepotism or cronyism.
2. No official shall use his position or personal influence to obtain a personal advantage for himself, a friend, or family member (hereinafter "personal advantage") in an effort to obtain employment with the Town.
3. No official shall use his position or personal influence to gain personal advantage by varying from the hiring, retention, or promotional opportunity policies of record of the Town and its Board of Education.
4. No official shall use his position or personal influence to gain personal advantage in doing business with the Town, including the awarding of contracts and issuance of purchase orders, by varying from the business policies of record of the Town and its Board of Education.

§ 31-6. Board of Ethics.

- A. A Board of Ethics (hereinafter referred to as "the Board") has been created pursuant to the Town Charter and is charged with the administration of the Code.
- B. The Board shall be composed of five resident electors, and at no time shall more than two members be of the same political party. The Board of Selectmen shall appoint all members to the Board for terms of four years. Upon the expiration of the term of any member of the Board or in the event that a vacancy exists on the Board, the Board of Selectmen shall appoint a new member to fill the office. In no event may any member of the Board serve on said Board for a period of more than two consecutive four-year terms. Any member having served for two consecutive four-year terms shall be ineligible for reappointment to the Board for a period of one year after such member last served on the Board. Each member shall serve until such member's successor has been appointed. [Amended 6-2-1997 by the Board of Selectmen]
- C. The Board shall elect a Chair, Vice Chair and a Secretary and may, from time to time, adopt and promulgate rules and regulations for the administration of its proceedings. The rules and regulations so promulgated and all amendments thereto shall be made available at the office of the Town Clerk. Three members shall constitute a quorum at all regular meetings of the Board. [Amended 6-2-1997 by the Board of Selectmen]
- D. Complaints. Any complaint to be considered by the Board must be in writing, signed by the individual making such complaint and forwarded to- Chairman of the Board of Ethics, Town of Guilford, 31 Park Street, Guilford, CT 06437.

The Board will take the following actions upon receiving a written and signed complaint of a violation of the Code:

1. The Chairman shall acknowledge receipt of the complaint to the complainant and furnish in writing, by certified mail, return receipt requested, a copy of the complaint to any person against whom the complaint has been directed (hereinafter "respondent").
2. The Chairman shall distribute a copy of the complaint to all members of the Board for review and shall schedule a meeting to decide if in the opinion of the majority of the entire Board, the complaint warrants a hearing.
3. If as a result of the meeting, it is determined by a majority of the entire Board that no hearing is warranted, the Board will dismiss the complaint and the Chairman will notify the complainant in writing with an explanation and furnish a copy thereof to the respondent.
4. If such majority of the Board votes to proceed to a hearing, the Chairman will schedule a hearing to determine whether probable cause exists that a violation of

this Code has occurred. Both the complainant and respondent will be invited to attend. Both the complainant and the respondent shall have the right to appear and be represented by legal counsel. In such hearing the Board, the complainant, and the respondent shall be entitled to call, examine, and cross-examine witnesses, present exhibits and other documentary evidence, and make arguments as to whether a violation of the Code has occurred. The Board shall administer oaths to any witnesses.

5. An affirmative vote by a majority of the entire Board shall be necessary for a finding of probable cause that a violation of the Code has occurred. If the complainant fails to obtain three affirmative votes for a finding of probable cause that a violation of the Code has occurred, the Board shall dismiss the complaint. The respondent shall be notified of such action.

6. If the Board finds probable cause that a violation has occurred, as aforesaid, the Board shall report to the Board of Selectmen or the Board of Education, as appropriate, its findings, together with recommendations as to the disposition to be made. The Board of Selectmen or the Board of Education, as the case may be, shall thereupon take such action as it may deem appropriate.

7. The Board shall at all levels of its consideration of a written complaint act in accordance with the provisions of Section 1-82a of the Connecticut General Statutes as the same may be amended from time to time, to the extent that such statute is applicable at the Town level. Specifically, the confidentiality provisions of Section 1-82a shall apply. Absent a finding of probable cause, all records concerning the complaint in the possession of the Board, including but not limited to any complaint, information, and documentation alleging a violation, any investigation conducted prior to a probable cause finding, and any hearing or process associated with the consideration of the complaint shall remain confidential except at the request of the respondent, transmitted in writing.

8. If the complaint, investigation or hearing is confidential, no complainant, respondent, witness, designated party, or Board or staff member shall disclose any records, information or documentation related to the existence, investigation, or processing of the complaint to any third party or entity. If such disclosure is improperly made and if the respondent is not the source of the disclosure, the Board may, at the request of the respondent, publish its findings and a summary of the reasons therefor. Nothing herein shall preclude the Board from reporting the possible commission of a crime to appropriate authorities.

9. If the Board makes a finding of probable cause, it shall within five business days after such finding make public the finding and a summary of its reasons therefor. At such time, the entire record of the complaint process shall become public, except that the Board may make such deletions as it finds necessary or desirable and as permitted by law, including but not limited to the Connecticut Freedom of Information Act.

- E. Advisory Opinions. The Board may, at the written request of any official, render written advisory opinions as to matters relating to the Code. The purpose of the process is to advise the official as to his present or potential compliance with the Code. Requests for an advisory opinion must be specific as to a particular situation and address a specific provision of the Code. Requests for an advisory opinion regarding the conduct or compliance of another official covered by the Code will not be entertained, but the requestor will be referred to the complaint process by the Chairman.
- F. Unless the Chairman has so referred the requesting official to the complaint process, he shall upon receipt from an official of a request for an advisory opinion acknowledge receipt of the same to the requestor, distribute the request to the members of the Board, and schedule a meeting in which the requestor shall be invited to participate. At such meeting, the Board will determine whether the criteria set forth in Subsection E above for issuing an advisory opinion have been met, and if so, determine by a vote of a majority of the entire Board the contents of the opinion.
- G. All opinions, findings and recommendations of the Board which are no longer confidential and are therefor matters of public record, whether advisory or at the request of a complainant, shall be kept on file in the office of the Town Clerk.
- H. No complaint may be made under this Code except within two years next after the alleged violation has become known to the complainant. [Added 6-2-1997 by the Board of Selectmen; amended 12-15-1997 by the Board of Selectmen]

§ 31-7. Conflict with statutory provisions.

Should any provisions of the Code be found with finality by a court of competent jurisdiction to be prohibited by the Connecticut General Statutes, the provisions of such statutes shall prevail.