

TOWN OF SOUTHAMPTON BOARD OF ETHICS

PROCEDURES FOR CONDUCTING FACT FINDING HEARINGS

1) Purpose

Chapter 23 (the “Code of Ethics”), Section 23-24 of the Code of the Town of Southampton authorizes the Board of Ethics to adopt rules of procedure for the discharge of its duties. In conducting investigations of alleged ethics violations, it is the intention of the Board of Ethics to afford due process to all parties, to afford whistle blower protection where applicable, to protect all parties from unwarranted invasion of their personal privacy, and to achieve a fair, just and timely resolution of all matters. These procedures are intended to advance those purposes.

2) Complaints

- An investigation by the Board of Ethics may be initiated upon receipt of a complaint from an identified complainant, upon receipt of an anonymous complaint, or by the Board of Ethics on its own motion.
- The Board of Ethics will promptly acknowledge the receipt of all complaints.
- Upon receipt of a complaint, the Board will make a preliminary determination whether the facts alleged, if proved, would constitute an ethics violation.
- If the Board of Ethics determines that the facts alleged in the complaint, if proved, would not constitute an ethics violation, the complaint shall be dismissed and notice of the dismissal shall be provided to the complainant and others deemed necessary by the Board of Ethics.

3) Notice of Hearing

- If the Board of Ethics determines that a complaint alleges facts that, if proved, would constitute an ethics violation or, if the Board on its own motion determines that an investigation is warranted, the Chairperson shall provide the respondent with written notice that a fact finding hearing will be conducted (the “Notice of Hearing”) and shall notify others deemed necessary by the Board of Ethics.

- The Notice of Hearing shall state:
 - a) the statutory or other legal authority under which the hearing is to be held;

 - b) the date, time, place, and purpose of the hearing;

 - c) the allegations to be considered at the hearing;

 - d) that the respondent may appear and participate;

 - e) that if the respondent does not participate in the hearing in accordance with the Notice of Hearing, the hearing may proceed without the respondent’s participation and the respondent will not be entitled to any further notice in the proceeding; and

 - f) any other information the Chairperson considers necessary for the proper conduct of the hearing.

- The Notice of Hearing shall be accompanied by:
 - a) a copy of the written complaint, if any; and

 - b) a copy of these Procedures for Conducting Fact Finding Hearings.

4) Hearing Procedures

- A fact finding hearing will be conducted by the Board of Ethics with reasonable promptness.
- Adjournments will be granted by the Chairperson at his or her discretion for good cause shown.
- The Board of Ethics may issue subpoenas to compel the attendance of witnesses or the production of books or records that it deems relevant and material.
- The respondent will have an opportunity to be present.
- The respondent may be represented by counsel or another representative if the respondent so chooses.
- The Chairperson shall preside over the hearing and shall rule on all objections.
- All witnesses will be examined under oath.
- The respondent will be given the opportunity to present a statement, produce witnesses and introduce documentary evidence in accordance with the evidentiary standards set forth below.
- Witnesses will be called by the Chairperson at the discretion of the Board of Ethics.
- At the discretion of the Chairperson, witnesses may be permitted to give narrative testimony.
- Witnesses may be questioned by Chairperson, Board of Ethics members, the Board's counsel.

- The hearing shall be closed to the public except upon the request of the respondent or as required by the provision of Article 7 of the New York Public Officers Law or other federal, state or local law or regulation.

5) Rules of Evidence and Record of Hearing

- Formal rules of evidence shall not apply with respect to any hearings under the jurisdiction of the Board of Ethics.
- All evidence offered by the respondent will be accepted at the discretion of the Board of Ethics.
- In the discretion of the Chairperson, the Respondent may submit all or part of the evidence in written form.
- The respondent shall provide eight copies of any documentary evidence offered by the respondent.
- A record of the hearing will be kept by stenographic, audio, video or such other media as the Chairperson shall determine.
- Except as otherwise provided by Article 6 and Article 7 of the New York Public Officers Law, the record shall be maintained as confidential, except that:
 - (i) any information deemed by the Board of Ethics to concern a possible criminal violation may be referred to the appropriate prosecutor or law enforcement agency;
 - (ii) the complaint, if any, shall be disclosed to the respondent;
 - (iii) a decision disposing of a complaint shall be disclosed to the complainant, if any, and to the respondent;

(iv) the Board of Ethics shall publish its decisions disposing of complaints in which it reached a determination that an ethics violation occurred, such civil fine as it may assess, and any referral or recommendation for disciplinary action or other sanctions that it may make;

(vi) the Board of Ethics shall publish its decisions disposing of complaints in which it reached a determination that no violation occurred, provided that the published version of any such decision shall be in a form that removes personal identifying information concerning the subject individual; and

(vii) upon a recommendation to the Town Board for disciplinary action, the Board of Ethics shall turn over all related information, including the record, to the Town Board.

- At the conclusion of the hearing, the Board of Ethics may close the record, or it may set a date on which the record will be closed and prior to which written submissions will be received by the Board of Ethics.

6) Decisions

- The Board of Ethics shall state in writing the disposition of every complaint that it receives and every investigation that it conducts, and shall set forth the reasons for the disposition.
- A copy of the written decision shall be provided to the complainant, if any, and to the respondent.
- All dispositions, including negotiated dispositions, in which the Board of Ethics finds an ethics violation to have occurred shall be available for public inspection and copying.

7) Amendments to Rules for Conducting Fact Finding Hearings

- These Rules for Conducting Fact Finding Hearings are subject to change by a majority vote of the Board of Ethics at any time, and from time to time.