

# Citizen's Guide to the Deep River Code of Ethics and Ethics Commission

Amended 02 -08 -2023

## INTRODUCTION

This guide has been developed by the Ethics Commission to assist citizens who wish to file an ethics complaint in Deep River, as well as to inform the town of Deep River's officers and employees how to obtain an Ethics Advisory Opinion.

The intent of this pamphlet is to offer a more accessible guide to file a complaint or to request an advisory opinion and to explain the terminology and processes used by the Ethics Commission. Please refer to the Deep River Code of Ethics, the Ethics Commission General Procedures, the Ethics Complaint form, and the Advisory Opinion Request form, all available from the Town Clerk's Office or the Deep River website, for additional information.

[www.deepriverct.us](http://www.deepriverct.us)

## FREQUENTLY ASKED QUESTIONS ABOUT ETHICS COMPLAINTS

**How do ethics apply to local government?** Every official temporarily holds an office or position in a government, which is supposed to be used solely for the benefit of the community. When an official uses their office for the benefit of themselves or someone with whom they have a special relationship, this is a misuse of office. It is this view of ethical misconduct that underlies basic conflict provisions such as the Deep River Code of Ethics, which begins with "The purpose of this code is to establish suitable ethical standards for all such officials, officers, and employees by prohibiting acts that constitute a conflict of interest with the town of Deep River."

**Who may file a complaint?** Any person may file a complaint with the Deep River Municipal Ethics Commission (the "Commission"), alleging a violation of the Deep River Code of Ethics (see complaint form). The person filing the complaint is referred to as the *Complainant*.

**Who is subject to an ethics violation complaint?** The subject of a complaint (person against whom the complaint is made) can only be an officer, official or employee, paid or unpaid, elected or appointed, of the Town of Deep River. The subject of the complaint is referred to as the *Respondent*.

**When must a complaint be filed?** There is no statute of limitations on filing a complaint.

**What activities are prohibited?** Prohibited activities are defined in the Town of Deep River's Code of Ethics, Sections IV, V. (see Appendix A & B pages 9 & 10)

**Is the Deep River Municipal Ethics Commission the appropriate agency to handle your complaint?** If your complaint is directly related to one or more of the prohibited activities stated in the town of Deep River's Code of Ethics and the respondent is an officer, official or employee, paid or unpaid, elected or appointed, of the Town of Deep River, your complaint falls under the jurisdiction of the Commission.

**How does a person file a complaint?**

1. Obtain an Ethics Complaint Form from the Deep River's Town Clerk's Office or from the Deep River website at ([www.deepriverct.us](http://www.deepriverct.us)) If a complaint is being filed against more than one individual, a separate form is required for each respondent – each complaint form can name only one respondent.
2. Complete the complaint form and attached relevant documentation as described on the form.

Mail form to:

Chairman of the Ethics Commission

PO BOX 1033

Deep River, CT 06417

Complainants will be kept informed of the status of the complaint as stated in the town of Deep River's Code of Ethics

## **CONFIDENTIALITY**

To protect and preserve the reputations of all parties and to ensure the integrity of the investigation, confidentiality is an essential component of an ethics investigation until the investigation reaches the Public Hearing. No information about the complaint may be disclosed by anyone involved with the complaint or the investigation including the complainant. The Commission is also required to uphold confidentiality throughout the initial stages of an investigation.

The Respondent is the only party who may waive confidentiality by making an irrevocable (cannot be withdrawn) and unequivocal (unconditional) waiver of confidentiality to the Commission.

## **THE CONFIDENTIAL REVIEW AND INVESTIGATION**

Complaints will be reviewed monthly at the Commission's regular meeting in executive session. Upon receipt of a complaint, the Commission will determine whether the complaint is complete and in proper order. The Commission shall have fifteen (15) calendar days to determine if the complaint is in proper form.

If it is not or if the Commission determines that the allegations, even if true, would not constitute a violation of this Code, then the commission would notify the complainant of this along with the reasons.

Should the Commission determine the complaint is in proper order and the allegations, if true would constitute a violation of this Code, then the Commission shall, not later than five (5) business days after said determination, provide a copy of the complaint by certified or registered mail, to all the respondents against whom such complaint is filed and shall provide notice of the receipt of such a complaint to the complainants. The

respondent(s) shall have ten (10) business days from receipt to submit a response to the commission.

During this confidential investigation, the Commission may decide to: (1) seek additional information; (2) create a subcommittee of at least three (3) members of the Commission to investigate the relevant facts and issues in order to make a recommendation for consideration by the entire Commission; (4) decline to review the matter further pursuant to these procedures; (5) make a finding of probable cause; (6) make a finding of no probable cause.

The Commission may summon witnesses and obtain information that will aid in the investigation. These proceedings remain confidential during this investigation, the Respondent has the right:

- to appear
- to be heard
- to offer information or evidence that may eliminate the likelihood of probable cause that a violation of the Ethics Code occurred
- to be represented by legal counsel (at his/her expense) • to examine and cross-examine witnesses.

If there is no finding of probable cause the case ends and the complaint remains confidential unless the Respondent requests that the complaint be made public.

The complaint will advance to a **Public Hearing** if four (4) of five (5) (supermajority) of the Commission members determine there is probable cause to believe that an ethics violation occurred.

The Commission will make public its findings and its record of the investigation no later than five (5) business days after the termination of its investigation and its decision regarding probable cause. After this, the entire record of the investigation will be made public. The Commission will notify both the Complainant and Respondent of its findings within three (3) days and set a date for a public hearing, no more than thirty (30) days after the finding of probable cause, to determine whether or not a violation occurred. At the hearing, the complainant and the respondent will have the right to be represented by legal counsel at their own expense.

## **PUBLIC HEARING**

The Commission shall give notice of at least fourteen (14) days before the date of the hearing. The hearing(s) may be continued from time to time at the discretion of the Commission. Any information it considers relevant to the matter may be considered. The Commission records the proceedings, which are open to the public, and has the power to require attendance of witnesses, production of books, documents, records and papers relevant to the complaint.

A super-majority vote of four (4) out of five (5) members of the Commission is required to conclude that the Ethics Code has been violated.

The Commission will publish its finding and a memorandum of its reasons within fifteen (15) business days after the conclusion of the Public Hearing. When there has been a finding of a violation, the Commission shall report the finding and a recommendation for action to the appropriate appointing or supervisory authority. The Commission shall also report to such other officer or board of the town with the power granted by the Charter or state statute to remove the officer, official, or employee found to have committed the violation, when such power of removal exists. The Commission shall also publish notice of its findings of decision on the town website and with the Town Clerk.

Such findings and memoranda of decision shall constitute the Commission's final decision.

## ADVISORY OPINIONS

An advisory opinion is an interpretation of the law as it applies to a set of facts provided in writing by the individual requesting the opinion. The purpose of an advisory opinion is to provide guidance to an official or employee before the official or employee engages in an action that may be prohibited.

The Deep River Municipal Ethics Commission is authorized to issue written advisory opinions to public officials and employees on whether their proposed or ongoing conduct violates the Code of Ethics of the Town of Deep River. Officials and employees acting in good faith reliance upon an applicable advisory opinion issued by the Commission shall have an absolute defense in any matter brought under the provisions of the Code of Ethics, even if they did not request the opinion themselves.

**Who May Ask for an Opinion?** Any officer, official or employee, paid or unpaid, elected or appointed, of the Town of Deep River may request an opinion as to the application of any provision of this article to a particular situation or as to an interpretation of any such provision.

**How to Request an Opinion:** Individuals initiating a request for an advisory opinion must do so by completing a form available at the Deep River's Town Clerk's Office or from the Deep River website at ([www.deepriverct.us](http://www.deepriverct.us)) . The form must contain a statement clearly stating the advice requested and all the relevant facts known to the individual making the request so the Commission can reasonably understand the nature of the request. The individual making the request must sign and date the request.

Requests must be addressed to:

Chairman of the Ethics Commission

PO BOX 1033

Deep River, CT 06417

The Town Clerk will forward the request for Advisory Opinion to the Chairman of the Commission who will then present it to the Ethics Commission for consideration.

## **ADVISORY OPINION PROCESS**

Requests for advisory opinions will be reviewed in open session unless it is determined that the matter would be more appropriately treated as a complaint under the Commission's Code of Ethics.

The Commission will consider the request as promptly as possible and the individual submitting the advisory opinion request will be informed when the request will be presented to the Ethics Commission for consideration and review. When the Commission meets to review the request, it may decide to:

1. Seek additional information
2. Create a subcommittee of at least 3 Commission members to make a recommendation for consideration by the full Commission;
3. Hold an informal hearing to receive comments from the individual who requested the opinion;
4. Investigate the relevant facts and issues in order to render the opinion or
5. Treat the matter as a Complaint. At this meeting, the individual shall be provided with an opportunity to present his or her interpretation of the facts and applicable provisions of the Code of Ethics. If the Commission decides to request additional information then it shall meet to decide its future course of action within fifteen (15) days of the receipt of such information.

The Commission may decline to render an advisory opinion if: (1) the subject matter is not covered by the Code of Ethics; (2) the known facts are incomplete or incorrect and the omissions or misstatements are material to the opinion requested; (3) other reasonable grounds exist for not taking action. If the Commission decides to decline an opinion, it shall state its reasons in writing. In the event the Commission fails to achieve a majority vote for any proposal, such failure shall be construed as an affirmative vote to decline ruling on the matter.

Final advisory opinions will be rendered by the affirmative vote of four (4) out five (5) members of the Commission as expeditiously as possible. All advisory opinions will be in writing and sent to the individual making the request and filed with the Town Clerk. At which time they will be made available to the public.

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.

## **APPENDIX: A**

### Section IV- Conflict of Interest

1. Persons Governed by this Code shall not engage or participate in any Business or transaction, nor have a Financial Interest or Personal Beneficial Interest which is in conflict with the proper discharge of that person's official duties in the public interest or would impair that person's independent judgment or action in the performance of that person's official duties.
2. Persons Governed by this Code shall not have a Financial Interest or Personal Beneficial Interest in any contract or purchase order for supplies, materials, equipment, or contractual services furnished or used by the board, agency or commission of which that person is a member, or an employee.
3. Persons Governed by this Code shall not vote upon or otherwise participate in the decision on any matter on behalf of the municipality if they, or a member of their Immediate Family, have a Financial or Personal Beneficial Interest in the transaction or contract being considered, including but not limited to votes concerning the sale or purchase of real estate by the Town, material, supplies or services to the municipality.
4. Persons Governed by this Code shall not accept or receive any Gifts, or any promise, obligation, or contract for future reward or compensation directly or indirectly, from any person or Business to which a contract or purchase order may have been awarded or promised to be awarded by the Town on Deep River or any of its boards, agencies or commissions.
5. Persons Governed by this Code that have a Financial or Personal Beneficial Interest in any transaction or contract with the Town of Deep River, including but not limited to the sale of real estate, materials, supplies or services to the Town, on which transaction or contract that person may be called upon to act in that person's official capacity, shall disclose the conflict and shall not vote or otherwise participate in the transaction or contract on behalf of the Town.

6. Persons Governed by this Code shall not use Town owned vehicles, equipment, facilities, materials, or property for personal convenience or profit, except when such are available to the public generally or provided under a municipal policy for the use of such town official/employee in the interest of the Town.

## **APPENDIX: B**

### Section V- Former Public Officials/Employees

1. No former employee or town official shall represent private interests in dealing with the board or agency with which they were associated for a period of no less than 1 year after the termination of their service to the town.
2. No former employee or town official shall represent for compensation private interests in dealing with the board or agency with which they were associated within 1 year after the termination of service to the town. Nothing herein shall prohibit or restrict a former employee or town official from appearing before such board or agency in his or her own individual interest or the individual interest of an immediate family member.
3. No former employee or town official shall disclose or use Confidential Information acquired in the course of and by reason of their official duties for financial interest for themselves or others.
4. No former employee or town official who participated substantially in the negotiation or award of a town contract obligating the town to pay the amount of \$25,000 or more or who supervised the negotiation or award of such contract shall accept employment with a party to the contract other than the town for a period of no less than 1 year after such contract is signed.