

**TOWN OF COLCHESTER  
ETHICS COMMISSION**

**CITIZEN'S GUIDE TO THE ETHICS COMPLAINT PROCESS**



## CONTACT US

<b>Contact:</b>	Daniel Henderson, Chairman
<b>Commission Address:</b>	127 Norwich Avenue Colchester, CT 06415
<b>Telephone:</b>	(860) 537-7220
<b>Website:</b>	<a href="http://www.colchesterct.gov">www.colchesterct.gov</a>
<b>Meeting Dates:</b>	1 <sup>st</sup> Tuesday of every even numbered month. Check with the Town Clerk's Office for additional details.

## WHO WE ARE & WHAT WE DO

The Colchester Ethics Commission is charged with administering the Town's Code of Ethics. The Commission receives complaints about suspected violations of the Ethics Code, holds fact-gathering hearings and issues advisory opinions and final decisions about whether the Code has or would be violated. The Commission has bi-monthly meetings and meets as needed to address pending complaints and requests for advisory opinions.

The five member Commission is made up of town electors that have been appointed to the Commission by the Board of Selectmen. Other than a strong sense of fair-mindedness and a willingness to uphold the Code, there are no special qualifications to serve on the Commission. If you are interested in being a member of the Ethics Commission, please contact the First Selectperson's office and consult Code of Ethics section 53-3.

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## FILING A COMPLAINT

### What Constitute a Formal Complaint?

Enforcement of the Colchester Code of Ethics is initiated by a complaint filed by any member of the public.

A complaint from a member of the public must comply with certain requirements.

It **must**:

- ✓ Be filed on the proper Colchester Ethics Commission complaint form, as prescribed by Colchester Code of Ethics section 53-5;
- ✓ Contain an original signature;
- ✓ Be signed under the penalty of false statement in front of a judge of a court of record, a clerk or deputy clerk having a seal, a Commissioner of Deeds or Town Clerk, a notary public, a Justice of the Peace, or an attorney admitted to practice law in the State of Connecticut;
- ✓ Be delivered or mailed to the Colchester Ethics Commission at Colchester Town Hall, 127 Norwich Avenue, Colchester, CT 06415
- ✓ Clearly set forth facts that, if true, would constitute a violation of the Code of Ethics;
- ✓ Identify the respondent(s) (the person(s) who is the subject of the complaint) with enough particularity that the complaint may be served on him or her; and
- ✓ Be filed within 3 years of the alleged violation. Sec. 53-6 E

In filling out the complaint form, it is best to complete the requested information with as much detail as possible. In other words, your complaint form **should**:

- If possible, cite to the specific section of the Ethics Code that you believe has been violated;
- Clearly identify any known witnesses to the alleged violation or other persons with knowledge of the alleged violation and identify the date(s) of said violation;
- Include any documentation supporting the allegations, if available (listed and attached as “Exhibit 1,” “Exhibit 2,” and so on); and
- Identify the source of any statements made in the complaint that are not based on personal knowledge, when possible.

**Note:** *Only a formal complaint initiates formal action by the Commission. A formal complaint is not an e-mail, a telephone call, a written statement on paper that is not the proper form, a form that is sent via fax or e-mail, an anonymous statement, or a form without a full name, address and phone number of the complainant (the person filing the complaint.)*

## Responding to a Complaint

Any individual identified in a complaint as having violated the Ethics Code is considered a “respondent” in the matter. The respondent may submit a response to the complaint at any time after the complaint is filed, although they are not required to do so. It would be advisable for the respondent to respond fully, accurately, and in good faith to the complaint.

If the respondent elects to submit a response to the complaint, the Commission recommends that they review the Code of Ethics, before and during the preparation of their response so that they can better understand the Commission’s procedures and ethical standards. The Code of Ethics may be found on the Commission’s website.

Pursuant to the Code, any information submitted to the Commission for review in connection with a complaint (including any submissions by the respondent) shall be treated as confidential unless the Commission makes a finding of probable cause. *See page 5.* Please note, while this is a confidential process, the complainant may be made aware of the respondent’s submissions as part of the investigatory and hearing processes.

The respondent may provide the following information in response to a complaint:

- **Contact Information:** Contact information including the respondent’s name, address, telephone number and email address;
- **Statement of Defense:** A statement of what the respondent considers to be the essential facts involved in the alleged ethics violation. This statement can be a summary of the most important facts the respondent believes support his/her defense to the complaint. Put more simply, the facts that refute the allegations in the complaint. Please be thorough and, if possible, answer each specific alleged violation;
- **Supporting Documentation:** include any documentation that the respondent believes supports his/her defense to the complaint; and
- **Potential Witnesses:** A list of all persons the respondent believes have knowledge of the matters asserted in the complaint and the response and a brief description of what each person’s knowledge is regarding the alleged violation. Please provide the individual’s full name and contact information.

**Note:** The Commission is permitted to contact any individual listed or other individuals as part of its review of the complaint.

## CONFIDENTIALITY

### Overview

Any complaint alleging a violation of the Code of Ethics will remain **confidential** except:

- After the Commission makes a finding of *probable cause* (a determination by the Commission that there is probable cause to believe that the respondent(s) (the person(s) against whom the complaint is made) has violated a provision of the Code – *see page 5*;
- Upon request of the respondent; or
- Upon an agreed resolution of the matter by consent agreement.

Likewise, any investigation conducted prior to the finding of probable cause remains confidential except upon the written request of the respondent. This means that the allegations in the complaint and any information supplied to or received from the Commission during the investigation will not be disclosed to any third party.

**Note:** *While the investigation is confidential, no one – the complainant, respondent, witnesses, Commission member, staff member – may disclose that a complaint has been filed, or any information related to the investigation of the complaint.*

# COMPLAINT PROCESS

## Procedures and Stages

The filing of a complaint triggers enforcement of the Code.

A three-stage process may follow:

1. **Initial Complaint Review**: The Commission determines whether the allegations set forth in the complaint would constitute a violation of any provision of the code. Commission assumes the allegations are true at this stage and no additional investigation conducted.
  - a. If the Commission determines that the complaint does not allege sufficient facts to constitute a violation, the complaint will be dismissed and will remain confidential. *Section 53-6 (2)*.
  - b. If not, the Commission will proceed to stage 2 – the probable cause determination.
2. **Probable Cause Determination**: Commission conducts a confidential investigation and hearing to determine whether there is probable cause to believe that the facts alleged in the complaint actually occurred;
  - a. No Probable cause - the complaint is dismissed and remains confidential unless the respondent waives confidentiality in writing.
  - b. Probable Cause - the Commission will proceed to stage 3 – a public administrative hearing where the Commission presides as judge and jury.
3. **Public Hearing**: an administrative hearing whereby the case is presented to the Commission by the complainant and the Commission decides whether the evidence establishes that a violation of the Code of Ethics has occurred. This hearing is open to the public.

At any stage in the process, the Commission and the Respondent may attempt to negotiate the terms of an agreed order to **settle** the matter. Once approved, the consent order becomes public record.

## 3 STAGE COMPLAINT PROCESS CHART

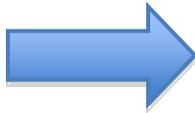
### AFTER A COMPLAINT IS FILED WITH THE COMMISSION

#### **STEP 1**

##### **INITIAL COMPLAINT REVIEW:**

Commission determines whether the allegations set forth in the complaint would constitute a violation of any provision of the Code. Commission assumes the complainant's allegations are true at this stage so no additional investigation is conducted.

If the Commission determines sufficient facts are alleged.



#### **STEP 2**

##### **PROBABLE CAUSE DETERMINATION & HEARING:**

Commission conducts a confidential investigation and hearing to determine whether there is probable cause to believe the facts alleged in the complaint actually occurred.

The respondent can be present at the hearing, examine and cross-examine witnesses, and be represented by a lawyer.

If the Commission determines that there is probable cause to believe a violation has occurred.



#### **Step 3**

##### **PUBLIC HEARING:**

An administrative hearing is held whereby the complainant presents its case to the Commission. The hearing is open to the public.

The respondent can be present at the hearing, examine and cross-examine witnesses, and be represented by a lawyer.

## The Public Hearing Process

Once the Commission makes determines that there is probable cause to believe that the facts alleged in the complaint actually occurred a public hearing on the matter must be held. The hearing must be held no more than 60 days after the date the complaint is deemed filed with the Commission. The Commission will designate a hearing officer from its members to preside over the hearing while the rest of the Commission acts as the jury. While the complainant has the burden of presenting the case against the respondent, they are not required to attend the hearing. The Commission will notify the complainant of the date, time, location of the hearing as well as the name of the designated hearing officer. The respondent has the right to be represented by counsel at the hearing and may examine and cross-examine witnesses.

Prior to the hearing, the Commission will provide the respondent with the following:

1. The specific provisions of the Code that the respondent is alleged to have violated;
2. The hearing date, time and location;
3. The name of the hearing officer designated by the Commission;
4. Copies of all exhibits that it anticipates will be entered into evidence by the complainant during the direct presentation of their case; and
5. The witness list provided by the complainant.

The respondent shall notify the Commission of the name of their counsel (if any) and provide a witness list and potential exhibits no later than ten (10) business days before the hearing. The complainant shall provide the Commission with copies of all exhibits it anticipates as well as the names of the individuals that will be serving as witnesses at the hearing within ten (10).

Please note, with respect to the hearing, the Commission has the power to administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses and require the production of any books or papers it deems relevant to the matter. Furthermore, the evidence presented at the hearing will be governed by section 4-178 of the Connecticut Administrative Procedures Act. The hearing will be recorded.

The Commission cannot find a violation of the Code unless four of the members present at the hearing agree. The Commission will inform the complainant and respondent of its decision and provide them with a written summary of its reasons for making such a finding not later than three (3) business days after termination of the hearing. If the Commission finds the respondent violated the Code of Ethics, it will make that finding public no later than five (5) business days after the termination of the hearing. At that time, the entire record of the matter becomes public.

## Penalties for Offenses

After a finding or admission of a violation, the Commission can impose the following sanctions:

1. Public Censure and reprimand;
2. A civil penalty of no more than \$100 per violation; and/or
3. Restitution of any pecuniary benefits received because of the violation committed.

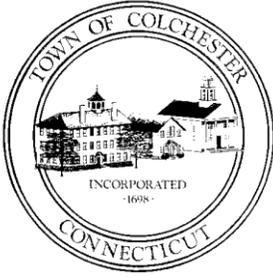
The Commission may also recommend the following actions to the Board of Selectman:

1. For **public employees** – removal from office as provided in the Town Charter;
2. For **appointed officials** – removal from office as provided in the Town Charter; and
3. For **elected officials** – removal from office as provided in the Connecticut General Statutes.

Per section 53-6, a complaint cannot be enforced if it is filed three (3) years or more after

## Statute of Limitations

the violation alleged in the complaint has been committed.



# Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

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**CONFIDENTIAL**

*VIA MAIL OR HAND DELIVERY ONLY*

## **COMPLAINT**

I WISH TO REGISTER A COMPLAINT ALLEGING A VIOLATION OF THE COLCHESTER CODE OF ETHICS, §§ 53-1, ET. SEQ.

**THE FOLLOWING SPECIFIC PROVISION(S) HAS BEEN VIOLATED (IF KNOWN):**

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**DATE OF OCCURRENCE(S):** \_\_\_\_\_

**NAME(S) AND ADDRESS(ES) OF RESPONDENT (I.E., PERSON THAT HAS ALLEGEDLY VIOLATED THE CODE OF ETHICS):**

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**STREET ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

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**THE RESPONDENT(S) ALLEGEDLY VIOLATED THE CODE OF ETHICS AS FOLLOWS: (PLEASE BE AS SPECIFIC AS POSSIBLE WITH REGARD TO TIME, PLACE, ACTIONS, AND OTHER PERSONS INVOLVED, INCLUDING PROVIDING ANY CONTACT INFORMATION FOR KNOWN WITNESSES):**

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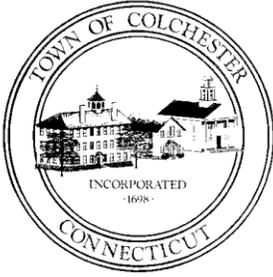
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**ADDITIONAL DOCUMENTATION/EXPLANATION MAY BE ATTACHED HERETO**

*(CONTINUED ON PAGE 2)*



# Town of Colchester, Connecticut

127 Norwich Avenue, Colchester, Connecticut 06415

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**COMPLAINANT'S CONTACT INFORMATION:**

NAME: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

TELEPHONE NOS. \_\_\_\_\_

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**I HEREBY CERTIFY UNDER THE PENALTY OF FALSE STATEMENT THAT THE FOREGOING STATEMENT DESCRIBING A POSSIBLE VIOLATION OF DESIGNATED CODE OF ETHICS IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

***\* IN ORDER TO BE CONSIDERED, THIS COMPLAINT MUST BE SIGNED UNDER THE PENALTY OF FALSE STATEMENT IN FRONT OF A JUDGE OF A COURT OF RECORD, A CLERK OR DEPUTY CLERK HAVING A SEAL, A COMMISSIONER OF DEEDS OR TOWN CLERK, A NOTARY PUBLIC, A JUSTICE OF PEACE, OR AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE STATE OF CONNECTICUT.***

**ADDITIONAL DOCUMENTATION MAY BE ATTACHED HERETO**