

Chapter 17

ETHICS

GENERAL REFERENCES

Defense and indemnification — See Ch. 11. Officers and employees — See Ch. 27.

§ 17-1. Intent and purpose.

Pursuant to the provisions of § 806 of the General Municipal Law and § 10 of the Municipal Home Rule Law, the Town of Niskayuna recognizes that there are standards of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of Town government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Town of Niskayuna. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Niskayuna. The rules of ethical conduct of this chapter, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 17-2. Construal of provisions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflict of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the conduct of Town officers to the extent that the same are more severe in their application than this chapter.

§ 17-3. Definitions.

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

APPEAR and APPEAR BEFORE — Communicating in any form, including, without limitation, personally, through another person, by letter, facsimile, electronic mail, or by telephone.

CONFIDENTIAL INFORMATION — Any data acquired through the course of employment or public office which the Town has protected from disclosure by law or that is not protected from disclosure by law but poses or may pose a conflict of interest.

CONFLICT OF INTEREST — Any action or omission which is in conflict or gives or may reasonably give the appearance of conflict with the performance of official Town business or government.

CORPORATION — An artificial person or being, endowed by law with the capacity of perpetual succession, and shall include corporations organized as public, private, charitable, civil, domestic, foreign, close, open, municipal and not-for-profit institutions.

CUSTOMER or CLIENT —

- A. Any person to whom a Town officer or employee has supplied goods or services during the previous 24 months having, in the aggregate, a value of greater than \$1,000; or
- B. Any person to whom a Town officer's or employee's outside employer or business has supplied goods or services during the previous 24 months having, in the aggregate, a value greater than \$1,000, but only if the officer or employee knows or has reason to know the outside employer or business supplied the goods or services.

GIFT and FINANCIAL BENEFIT — Except as specifically set forth in § 17-4D, includes any money, service, license, permit, contract, authorization, loan, travel, entertainment, hospitality, privilege, exemption or any promise thereof, or any other gratuity or promise thereof or anything of value. A financial transaction may be a financial benefit but shall not be a gift unless it is on terms not available to the general public. "Gift" and "financial benefit" do not include campaign contributions authorized by law.

MINISTERIAL ACT — An action performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the act.

OUTSIDE EMPLOYER OR BUSINESS —

A. Means:

- (1) Any activity, other than service to the Town, from which the Town officer or employee receives compensation for services rendered or goods sold or produced;
- (2) Any entity, other than the Town, of which the Town officer or employee is a member, officer, director, or employee and from which he or she receives compensation for services rendered or goods sold or produced; or
- (3) Any entity in which the Town officer or employee has an ownership interest, except a corporation of which the Town officer or employee owns less than 5% of the outstanding stock.

B. For purposes of this definition, "compensation" shall not include reimbursement for necessary expenses, including travel expenses.

PERSON — Includes both individuals and entities.

PROFESSIONAL LICENSE — A privilege granted by the State of New York to conduct an occupation or trade.

PUBLIC BENEFIT CORPORATION — A corporation organized to construct or operate a public improvement that is located partially or totally in New

York State and the profits from this corporation benefit New York State or other states or the people of New York State.

RELATIVE — A spouse, child, stepchild, brother, sister, or parent of the Town officer or employee, or a person claimed as a dependent on the Town officer's or employee's latest individual state income tax return, or the spouse of any such person.

TOWN — The Town of Niskayuna, but shall not include the Town Court.

TOWN AGENCY — Any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, unit or committee of the Town other than the Town Court.

TOWN OFFICER OR EMPLOYEE — Any officer or employee of the Town, whether elected or appointed, paid or unpaid, and includes, without limitation, all members of any office, board, body, advisory board, council, commission, agency, department, district, administration, division, bureau, unit or committee of the Town. Any attorney who is a partner in a law firm or a principal in a professional corporation whose legal opinion concerning the validity of the issuance of any debt instrument is generally provided in connection with the issuance of any bond or other instrument by the Town or any public benefit corporation whose members are appointed by the Supervisor or the Town Board shall be deemed a Town officer or employee. "Town officer or employee" shall not include:

- A. A judge, justice, officer, or employee of the unified court system; and
- B. No entity established pursuant to the General Municipal Law of the State of New York shall be deemed an advisory board for purposes of this subsection.

§ 17-4. Code of Ethics.

- A. General prohibition. A Town officer or employee shall not use his or her official position or office, or take or fail to take any action, in a manner which he or she knows, or has reason to know, may result in a personal financial benefit for any of the following persons:
 - (1) The Town officer or employee;
 - (2) His or her outside employer or business;
 - (3) A member of his or her household;
 - (4) A customer or client;
 - (5) A relative; or
 - (6) Any firm, corporation, association, partnership or other organization in which the Town officer or employee, or a relative, serves as an officer or director, whether compensated or not compensated.
- B. Specific Town officers and employees.

- (1) Responsibilities.
 - (a) Professionally licensed. All Town officers and employees with professional licenses are prohibited from knowingly exercising any discretion in any matter of Town interest which shall involve any person, firm or corporation which is a client of his/her or a client of his/her firm or has been a client within the immediate past one year and shall not knowingly have any interest in or accept compensation, direct or indirect, from any person, firm or corporation which has an interest in matters coming before any Town agency or before any public benefit corporation whose members are appointed by the Supervisor or the Town Board.
 - (b) Authorized to conduct inspections and issue permits. All Town officers and employees with the authority to conduct inspections or issue permit approvals shall not engage in a business or have a financial interest in any firm engaged in a business within the Town where said business conducts, as a regular and significant part of its business, matters requiring such inspections or such permits.
 - (c) Public safety. No public safety officer shall have any interest in or be employed in the Town by any company, corporation, partnership, association or individual for the purpose of providing private investigations, accident reconstruction, fire prevention, or fire inspection or any other activity related to such public safety officer's employment with the Town. This shall not be construed as prohibiting membership or service in volunteer fire or emergency medical organizations. Additionally, public safety officers may be employed in the Town for the purpose of providing security or traffic services.
- (2) The foregoing Town officers and employees are listed due to the unique nature of their offices and positions which, in turn, raise ethical conflicts unique to those offices and positions. This list is not to be deemed all-inclusive. Every Town officer and employee shall endeavor to pursue a course of conduct consistent with the spirit of this chapter as well as the actual provisions and strive to act so as not to raise suspicion among the public that he/she is likely to be engaged in activities that are in violation of his/her trust.
- C. Recusal. A Town officer or employee shall promptly recuse himself or herself from acting on a matter before the Town when acting on the matter, or failing to act on the matter, may financially benefit any of the persons or organizations listed in Subsection A of this section.
- D. Gifts. A Town officer or employee shall not solicit anything of value from any person who has received or sought a financial benefit from the Town, nor accept anything of value from any person who the Town officer or employee knows or has reason to know has received or sought

a financial benefit from the Town within the previous 24 months. The purpose of this provision is to avoid circumstances where it could reasonably be inferred that the gift was intended to influence such Town officer or employee, or could reasonably be expected to influence such Town officer or employee in the performance of his or her official duties, or was intended as a reward for any official action taken by such Town officer or employee. This restriction shall not be construed as applying to the following situations in which gifts or benefits are:

- (1) Received by the officer or employee from his or her parent, spouse, child, or sibling;
 - (2) Accepted on behalf of the Town and transferred to the Town;
 - (3) Received as refreshments or meals at a widely attended gathering;
 - (4) Received for the solemnization of a marriage by an officer or employee of the Town of Niskayuna listed in § 11 of the Domestic Relations Law at a place other than his or her normal place of business or at a time other than his or her normal hours of business and which have a value of \$75 or less;
 - (5) Received as nonmonetary awards from charitable organizations; or
 - (6) Received as Town services or benefits, or the use of Town facilities, generally available on the same terms and conditions to residents or a class of residents in the Town; or
 - (7) Having an aggregate value of \$75 or less during any twelve-month period;
- E. Use of Town property. No Town officer or employee shall use or permit the use of Town property (including land, vehicles, equipment, materials and any other property) for personal convenience or profit, except when such use is available to Town citizens generally or is provided as a matter of written Town policy.
- F. Confidential information. Town officers and employees and former Town officers and employees shall not disclose any confidential information or use it to further anyone's personal interests.
- G. Revolving door. A Town officer or employee shall not appear or practice before the particular Town agency in which the Town officer or employee served or by which he or she was employed, except on his or her own behalf, or receive compensation for working on any matter before the particular Town agency in which the Town officer or employee served or by which he or she was employed, for a period of one year after the termination of his or her Town service or employment; however, the bar shall be permanent for any Town officer or employee as to particular matters on which the Town officer or employee personally worked while in Town service that are still pending after the termination of his or her Town service or employment.

- H. Avoidance of conflicts. Town officers and employees shall not knowingly acquire, solicit, negotiate for, or accept any interest, employment, or other thing of value which would put them in violation of this Code of Ethics.
- I. Inducement of others. A Town officer or employee shall not induce or aid another officer or employee of the Town in violating any of the provisions of this Code of Ethics.
- J. Conflict with other codes of conduct.
 - (1) Recognizing the need for professional integrity and the fact that various professional associations have adopted standards of conduct for their members, the Town hereby requires that each Town officer or employee who is affected by a professional code of conduct be bound, in addition to the within chapter, by his/her respective Codes of Ethics. Any conflict between the provisions of this chapter and a given professional code of conduct of a Town officer or employee is to be resolved by the Ethics Board. However, the Ethics Board must at all times give the greatest latitude to said individual's professional code of conduct and, whenever possible, reconcile this to complement and respect the individual's professional code of conduct.
 - (2) Substantial consideration shall be given to the effect deviation from an individual's professional code of conduct will have on that individual's ability to practice his/her profession. If need be, the Ethics Board is authorized and required to obtain advisory options from the appropriate professional association to clarify any given situation.
- K. Appearances.
 - (1) Except as provided in Subsection K(3) of this section, a Town officer or employee or the outside employer or business of a Town officer or employee shall not appear before the particular agency in which the Town officer or employee serves or by which he or she is employed.
 - (2) Except as provided in Subsection K(3) of this section, a Town officer or employee or the outside employer or business of a Town officer or employee shall not appear before any other Town agency if the Town officer or employee has the authority to appoint any officer, employee, or member of the agency or to review, approve, audit, or authorize any budget, bill, payment, or claim of the agency, or if there exists any likelihood that such Town officer or employee may derive, directly or indirectly, a financial benefit as a result thereof.
 - (3) Nothing in this section shall be construed to prohibit the outside employer or business of a Town officer or employee from:

- (a) Appearing on its own behalf, or on behalf of the Town, before a Town of Niskayuna agency;
 - (b) Seeking or obtaining a ministerial act; or
 - (c) Receiving a Town service or benefit, or using a Town facility, which is generally available to the public.
- L. Disclosure of interest in legislation. To the extent that he or she knows thereof, a member of the Town Board and any officer or employee of the Town, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she has in such legislation, including any involvement in current or past litigation.
- M. Investments in conflict with official duties. A Town officer and/or employee shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his or her official duties.
- N. Right to engage in political activity; prohibition on coercion; prohibition on political solicitation in a Town workplace. Unless otherwise prohibited by law, Town officers and employees shall not be denied the right to support or refuse to support a political party or committee, or a candidate for public office, outside of the workplace. Officers or employees shall not coerce, or request or authorize another to coerce, any officer or employee to support or refuse to support a political party or committee or a candidate for public office. Officers or employees shall not make use of a Town workplace to request, or authorize another to use a Town workplace to request, that any officer or employee participate in an election campaign or a political event or contribute to a political party or committee. Officers or employees shall not display, distribute or otherwise utilize election campaign literature or materials at a Town workplace.
- O. Interests in contracts with the Town.
 - (1) Prohibited interests. No Town officer or employee shall have an interest in a contract with the Town, or an interest in a bank or trust company, that is prohibited by § 801 of the General Municipal Law of the State of New York. Any contract willfully entered into by or with the Town in which there is an interest prohibited by that section shall be null, void, and wholly unenforceable, to the extent provided by § 804 of that law.
 - (2) Disclosable interests. Any Town officer or employee who has, will have, or later acquires an interest in any actual or proposed contract with the Town shall disclose in writing the nature and extent of that interest in accordance with § 803 of the General Municipal Law and promptly file such written disclosure with the

Town Clerk. The Town Clerk shall cause a copy of that disclosure to be filed promptly with the Ethics Board.

- (3) Violations. Any Town officer or employee who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by § 805 of the General Municipal Law.

§ 17-5. Transaction disclosure.

- A. Whenever a Town officer or employee is required to recuse himself or herself pursuant to § 17-4 of this chapter, he or she shall:
 - (1) Immediately refrain from participating further in the matter;
 - (2) Promptly inform his or her superior, if any; and
 - (3) Promptly file with the Town Clerk a signed statement disclosing the nature and extent of the prohibited action or, if a member of a board, shall state that information upon the public record of the board.
- B. A Town officer or employee shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed with the Town Clerk a disclosure statement complying with requirements of § 17-4O of this chapter.

§ 17-6. Exclusions.

- A. The provisions of §§ 17-4 and 17-5 shall not prohibit, or require, recusal or transactional disclosure as a result of:
 - (1) An action specifically authorized by statute, rule, or regulation of the State of New York or of the United States; or
 - (2) A ministerial act.

§ 17-7. Maintenance of disclosure statements.

- A. The Town Clerk shall transmit promptly to the Ethics Board each transactional and applicant disclosure statement filed pursuant to §§ 17-4O, 17-5, 17-8, and 17-9 of this chapter.
- B. The Ethics Board shall index and maintain on file for at least seven years all disclosure statements filed with the Ethics Board pursuant to §§ 17-4O, 17-5, 17-8, and 17-9.

§ 17-8. Applicant disclosure.

- A. Where a person requests the Town or a Town officer or employee to take or refrain from taking any action (other than a ministerial act) that may result in a financial benefit both to such person and to either any officer or employee of the Town, or to one of the other persons

listed in § 17-4A of this chapter, such person shall disclose the names of any such persons, including Town officers or employees, that may financially benefit from such action or inaction by the Town or a Town officer or employee, to the extent known to such person at the time of the request.

- B. If the request is made in writing, the disclosure shall accompany the request. If the request is oral and made at a meeting of a public body, the disclosure shall be set forth in the public record of the body. If the request is oral and not made at a meeting of a public body, the disclosure shall be set forth in a writing filed with the Town Clerk.
- C. A person shall not be required to file a disclosure statement pursuant to this section if he or she, with respect to the same matter, has filed a disclosure statement complying with requirements of § 17-9 of this chapter.

§ 17-9. Applicant disclosure for land use applications.

- A. Disclosure. Every application, petition, or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license, or permit, pursuant to the provisions of any ordinance, local law, rule, or regulation constituting the zoning and planning regulations of the Town shall state the name, residence and nature and extent of the interest of any Town officer or employee in the person or entity making such application, petition or request, to the extent known to such applicant and as otherwise required by § 809 of the General Municipal Law of the State of New York.
- B. Violations. Any person who willfully and knowingly violates the provisions of this section shall be guilty of a misdemeanor, to the extent provided by § 809 of the General Municipal Law.

§ 17-10. Void contracts.

Any contract or agreement entered into, by or with the Town which results in or from a violation of any provision of §§ 17-4, 17-4K and 17-5 of this chapter shall be void unless ratified by the Town Board. Such ratification shall not affect the imposition of any criminal or civil penalties pursuant to this chapter or any other provision of law.

§ 17-11. Penalties for offenses.

- A. Disciplinary action. Any Town officer or employee who engages in any action that violates any provision of this chapter may be warned, reprimanded, suspended or removed from office or employment, or be subject to any other sanction authorized by law or collective bargaining agreement, by the person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this chapter or in any other provision of law.

- B. Civil fine. Any Town officer or employee who violates any provision of this chapter may be subject to a civil fine of up to \$500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this chapter.
- C. Damages. Any person, whether or not a Town officer or employee, who violates any provision of this chapter shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this chapter.
- D. Misdemeanor. Any person, whether or not a Town officer or employee, who intentionally or knowingly violates any provision of this chapter shall be guilty of a Class A misdemeanor and, upon conviction thereof, if a Town officer or employee, shall forfeit his or her Town office or employment.

§ 17-12. Injunctive relief.

- A. Any resident, officer, or employee of the Town may initiate an action or special proceeding, as appropriate, in the court of appropriate jurisdiction for injunctive relief to enjoin an officer or employee of the Town from violating this chapter or to compel an officer or employee of the Town to comply with the provisions of this chapter. In lieu of, or in addition to, injunctive relief, the action or special proceeding, as appropriate, may seek a declaratory judgment.
- B. No action or special proceeding shall be prosecuted or maintained pursuant to Subsection A of this section, unless:
 - (1) The plaintiff or petitioner shall have filed with the Ethics Board a sworn complaint alleging the violation by the officer or employee;
 - (2) It shall appear by, and as an allegation in, the complaint or petition filed with the court that at least six months have elapsed since the filing of the complaint with the Ethics Board and that the Ethics Board has failed to file a determination in the matter; and
 - (3) The action or special proceeding shall be commenced within 10 months after the alleged violation occurred.

§ 17-13. Board of Ethics.

- A. Ethics Board established. The Board of Ethics for the Town of Niskayuna is hereby established. The Town Attorney, or Deputy Town Attorney in his or her stead; shall serve as counsel to the Board of Ethics.
- B. Qualifications of members of Ethics Board.
 - (1) No Board member shall hold office concurrently in a political party or be employed or act as a lobbyist or hold elective office in any

local, state or federal government. A Board member may make campaign contributions and may participate in any election campaign.

- (2) Ethics Board members must be residents of the Town of Niskayuna throughout their tenure as Board members; provided, however, that a member appointed because he or she is an officer or employee of the Town shall not be subject to this requirement.

C. Appointment of Ethics Board members; term of office.

- (1) The Board of Ethics shall consist of five members.
- (2) Of the total membership of the Board, no more than two shall be registered in the same political party. Of the total membership of the Board, no more than one shall be Town officers or employees.
- (3) Within 30 days after the effective date of this chapter, and no later than December 31 each year thereafter, the Town Board shall appoint members to the Board.
- (4) An Ethics Board member shall serve until his or her successor has been appointed. Consecutive service on an Ethics Board shall not exceed two full terms; initial terms, as defined in § 17-13C(5), may not be used in calculating the number of terms served.
- (5) The term of office of Ethics Board members shall be three years and shall run from January 1 through December 31, except that of the members first appointed two members shall serve until December 31 of the year in which the Ethics Board is established, two shall serve until the second December 31, and one shall serve until the third December 31.
- (6) The members of the Board shall not receive compensation but are authorized to incur any and all expenses necessary to effectuate the purposes of the Board within amounts which are to be appropriated by the Town Board annually.

D. Ethics Board vacancies. Vacancies on the Board of Ethics shall be filled by Town Board appointment for the unexpired term of the member.

E. Removal of Ethics Board members. An Ethics Board member may be removed from office by the Town Board for failure to meet the qualifications set forth in this chapter, substantial neglect of duties of office, or violation of this chapter, after written notice and opportunity for reply.

F. Ethics Board meetings. The Town Board shall select a Chairman, and, at its first meeting each year, the Ethics Board shall elect a Vice Chairman and Secretary from among its members. The Ethics Board shall meet quarterly. A quorum shall be three members, and a majority of the full Board shall be required for the Board to take formal action. The Chair or any member may call a meeting of the Board.

G. Jurisdiction, powers and duties of Ethics Board.

- (1) The Ethics Board may act only with respect to officers and employees of the Town of Niskayuna subject to the Board's jurisdiction.
- (2) The termination of a Town officer's or employee's term of office or employment with the Town (on a voluntary or involuntary basis) shall not affect the jurisdiction of the Board with respect to the requirements imposed by this chapter on a former officer or employee. However, in no event shall the Board have jurisdiction over a former officer or employee where a hearing has not been commenced pursuant to the provisions of this chapter within one year of the termination of a Town officer's or employee's term of office or employment with the Town.
- (3) The Board shall have the following powers and duties:
 - (a) To prescribe and promulgate rules and regulations by resolution of the Board, governing its own internal organization and procedures in a manner consistent with this, and to cause to be filed with the office of the Town Clerk and the office of the Town Attorney a copy of those rules and regulations and any amendments thereto;
 - (b) To review, index, maintain on file, and dispose of written complaints and to make notifications and conduct inquiries pursuant to this chapter;
 - (c) To conduct hearings, recommend disciplinary action to the appropriate appointing authority, pass resolutions of censure where appropriate, make referrals, and initiate appropriate actions and proceedings pursuant to this chapter;
 - (d) To render, index, and maintain on file advisory opinions pursuant to this chapter;
 - (e) To provide for training, assistance to, and education of officers and employees pursuant to this chapter, including the development and distribution of a plain-language ethics guide for use by Town employees and officers, including all forms developed by the Ethics Board;
 - (f) To report annually to the Supervisor and Town Board regarding the Board's operations of the previous year, and to make recommendations to the Supervisor and Town Board, as needed, for changes to this chapter;
 - (g) To request that the Supervisor appoint such staff as is necessary to carry out its duties under this chapter, and to delegate authority to such staff to act in the name of the Ethics Board between meetings of the Ethics Board, provided that the

delegation is in writing and the specific powers to be delegated are enumerated, and further provided that the Ethics Board shall not delegate the power to conduct hearings, determine violations, recommend disciplinary action, refer any matter to a prosecutor, or render any advisory opinion.

H. Review of lists and disclosure statements.

(1) The Ethics Board shall review:

(a) The lists of officers and employees, prepared pursuant to this chapter, who must file annual disclosure statements to determine whether the lists are complete and accurate.

(b) All other disclosure statements.

(2) If the Ethics Board determines that a disclosure statement is deficient or reveals a possible or potential violation of this chapter, the Ethics Board shall notify the person in writing, state the deficiency or possible or potential violation, provide the person with a thirty-day period to cure the deficiency, and advise the person of the penalties for failure to comply with this chapter. Such notice shall be confidential to the extent permitted by the Public Officers Law. If the person fails to cure the deficiency within the specified time period, the Commission shall send a notice of delinquency:

(a) To the reporting person; and

(b) In the case of the Supervisor or a Town Board member, to the entire Town Board; and

(c) In the case of all other Town officers and employees, to the appointing authority for such person.

I. Inquiries.

(1) Upon receipt of a written complaint by any person alleging a violation of this chapter or upon determining on its own initiative that a violation of this chapter may exist, the Ethics Board shall have the power and duty to conduct any inquiry necessary to carry out the provisions of this chapter. The Ethics Board may administer oaths or affirmations. In conducting any inquiry pursuant to this section and after first having sought and been denied cooperation and voluntary compliance with the course of its inquiry, the Ethics Board may subpoena witnesses, compel their attendance, and require the production of any books or records which it may deem relevant and material.

(2) Nothing in this section shall be construed to permit the Ethics Board to conduct an inquiry of itself or of any of its members or staff. In the event the Ethics Board receives a complaint alleging that the Ethics Board or any of its members or staff has violated any

provision of this chapter, or any other law, the Board shall promptly transmit a copy of the complaint to the Supervisor and the Town Board.

- (3) The Ethics Board shall state in writing the disposition of every written complaint it receives and of every inquiry it conducts and shall set forth the reasons for the disposition. All such statements and all written complaints shall be indexed and maintained on file by the Ethics Board.
- (4) Any person filing a written complaint with the Ethics Board shall be notified in writing of the disposition of the complaint.

J. Hearings; disciplinary action.

- (1) Disciplinary action. In its discretion, after a hearing providing for due process procedural mechanisms and subject to any applicable provisions of law and collective bargaining agreements, the Ethics Board may recommend appropriate disciplinary action pursuant to the provisions of this chapter. In the case of a hearing held by the Board, the due process procedural mechanisms shall be substantially similar to those set forth in Article 3 of the State Administrative Procedure Act. The recommendation of the Ethics Board shall be made to the appointing authority or person or body authorized by law to impose such sanctions. The Ethics Board shall conduct and complete the hearing with reasonable promptness, unless, in its discretion, the Ethics Board refers the matter to the authority or person or body authorized by law to impose disciplinary action or unless the Ethics Board refers the matter to the appropriate prosecutor. If such a referral is made, or if a matter is the subject of another governmental inquiry investigation or judicial proceeding, the Ethics Board may adjourn the matter pending a final determination of such matter by the other authority, person, body, or prosecutor.
- (2) Prosecutions. The Ethics Board may refer to the appropriate prosecutor possible criminal violations. Nothing contained in this chapter shall be construed to restrict the authority of any prosecutor to prosecute any criminal violation.
- (3) Construction as to Ethics Board. Nothing in this section shall be construed to permit an Ethics Board to take any action with respect to any alleged violation of this chapter, or of any other law, by an Ethics Board member or members. Any inquiries regarding Ethics Board members shall be conducted by the Town Board under procedures consistent with the procedures set forth in this chapter.

K. Advisory opinions.

- (1) Upon the written request of any Town officer or employee, the Ethics Board shall render a written advisory opinion with respect to the interpretation or application of this chapter or of Article 18

of the General Municipal Law of the State of New York. Any other person may similarly request an advisory opinion, but only with respect to whether his or her own action might violate a provision of this chapter or Article 18, or such request may be made through a Town officer or employee.

- (2) In rendering advisory opinions, the Ethics Board may request the advice and counsel of the attorney employed by the Ethics Board or, if none, the Town Attorney.
 - (3) An advisory opinion rendered by the Ethics Board, until and unless amended or revoked, shall be binding on the Ethics Board in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced and shall be a defense in any criminal or civil action. Such requests shall be confidential, but the Ethics Board may publish such opinions, provided that the name of the requesting person and other identifying details shall not be included in the publication.
 - (4) Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board.
 - (5) Any person aggrieved by an advisory opinion of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.
 - (6) Any person who has submitted to the Ethics Board a written request for an advisory opinion may bring a special proceeding pursuant to Article 78 of the Civil Practice Law and Rules for an order compelling the Ethics Board to issue the advisory opinion. In addition to, or in lieu of, such injunctive relief, the person may seek a judgment in accordance with § 3001 of the Civil Practice Law and Rules determining the question posed in the request for the advisory opinion. No action or special proceeding shall be prosecuted or maintained pursuant to this subsection unless:
 - (a) It shall appear by, and as an allegation in, the petition or complaint that at least six months have elapsed since the filing of the request and that the Ethics Board has failed to file any determination in the matter; and
 - (b) The action or special proceeding shall be commenced within 10 months after the submission of the request for the advisory opinion.
- L. Public inspection of records; public access to meetings.

- (1) Notwithstanding the provisions of Article 6 of the Public Officers Law of the State of New York, the only records of the Ethics Board which shall be available for public inspection are:
 - (a) Notices of reasonable cause set under this chapter;
 - (b) Redacted advisory opinion prepared as provided in § 17-13M of this chapter; and
 - (c) Assessments of civil penalties, sanction, discipline or other action taken or imposed as provided in §§ 17-11 and 17-13J of this chapter.
 - (2) Notwithstanding the provisions of Article 7 of the Public Officers Law or by other applicable state or federal law or regulation, no meeting or proceeding of the Ethics Board, including any such proceeding contemplated under § 17-13H through J of this chapter, shall be open to the public, except upon the request of the Town officer or employee under investigation, or as expressly provided otherwise by the Town Board.
- M. Judicial review. Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

§ 17-14. Miscellaneous.

- A. No existing right or remedy shall be lost, impaired, or affected by reason of this chapter.
- B. Nothing in this chapter shall be deemed to bar or prevent a present or former Town officer or employee from timely filing any claim, account, demand, or suit against the Town on behalf of himself or herself or any member of his or her family arising out of personal injury or property damage or any lawful benefit authorized or permitted by law.
- C. If any provision of this chapter is held by a court of competent jurisdiction to be invalid, that decision shall not affect the validity and effectiveness of the remaining provisions of this chapter.

§ 17-15. Distribution and posting of copies of provisions.

- A. Within 30 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Supervisor and Town Clerk, in a form suitable for posting, copies of those provisions of this chapter which the Town Board deems necessary for posting in the Town. Within 10 days after receipt of those copies, the Town Clerk shall cause the copies to be posted conspicuously in a place designated for the posting of public notices.
- B. Within 30 days after the effective date of this section, and thereafter as appropriate, the Ethics Board shall transmit to the Supervisor, or

other Town officer or employee as designated by the Supervisor, in a form suitable for distribution, copies of those provisions of this chapter which the Town Board deems necessary for distribution to the Town officers and employees. Within 10 days after receipt of those copies, the Supervisor, or his or her designee, shall cause the copies to be distributed to every Town officer and employee, and made readily available to the public. Every Town officer or employee elected or appointed thereafter shall be furnished a copy of those provisions within 10 days after entering upon the duties of his or her position.

- C. Failure of the Town to comply with the provisions of this section or failure of any Town officer or employee to receive a copy of the provisions of this chapter shall have no effect on the duty of compliance with this chapter or on the enforcement of its provisions.