

Schedule A
Town of Rensselaerville Code of Ethics

Powers and Duties of the Town of Rensselaerville Board of Ethics

[A-F No Changes]

Receipt and Investigation of Complaints

(1) Any complaint must be in writing and signed by the complainant, must include the complainant's address, and must set forth reasonable detail and documentation, if any, of the facts alleged to constitute the violation(s). The complaint shall be filed with the Board of Ethics.

(a) Any complaint submitted later than 90 days after the conduct complained of shall be dismissed by the Board of Ethics, unless it finds that either (i) (a) the conduct could not reasonably be discovered at the time of commission; and (ii) the complaint was submitted no later than 30 days following discovery of the conduct; or (ii) the delay was the result of complainant's genuine and reasonable fear of retaliation.

(2) Within ~~37~~ days of receipt of the complaint, the Board of Ethics shall acknowledge receipt to the complainant in writing, and forward the complaint simultaneously to the officer or employee who is the subject of the complaint and the Town Attorney.

(3) Within ~~40~~14 days of receipt of the complaint, the Board of Ethics will hold an initial meeting to conduct a preliminary analysis of the complaint and determine whether there is probable cause for the complaint. The Board of Ethics shall render its probable cause determination in writing. In the event that the Board of Ethics should find no probable cause for the complaint, the complaint shall be dismissed by the Board of Ethics *sua sponte*. Such dismissal shall be decisive and binding with respect to the matter or matters set forth in the dismissed complaint.

(a) At the initial meeting, the Board of Ethics shall determine whether the services of the Town Attorney or any other counsel will be needed- (including, but not limited to, in any case in which a conflict of interest precludes the Town Attorney from such an engagement). If the Board of Ethics wishes to utilize any such services and such use would result in legal expenses not previously approved by the Town Board, the Board of Ethics must obtain approval from the Town Board prior to incurring any such expenses.

(4) Within 3 days of the initial meeting, the Board of Ethics shall forward to the Town Board a copy of its probable cause decision together with any information and documentation acquired by the Board of Ethics regarding the complaint. In the case of a

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dismissal, the Board of Ethics shall also notify in writing the complainant and the officer or employee who is the subject of the complaint of the disposition of the complaint.

(5) If the Board of Ethics finds probable cause, it shall then conduct an investigation and hearing on the complaint and issue a written decision within ~~30~~45 days from the date the Board of Ethics received the complaint. The Town Board may extend the time period upon a written request from the Board of Ethics setting forth the need for the additional time, but it may extend beyond 60 days from the date the Board of Ethics received the complaint only if it finds extenuating circumstances justifying such further extension. In determining whether extenuating circumstances exist, the Town Board may consider any reasonable request for an extension by the officer or employee who is the subject of the complaint or by such officer's or employee's counsel.

(6) The officer or employee who is the subject of the complaint shall have the right to be represented by counsel at his or her own expense at any required appearance before the Board of Ethics. The officer or employee shall also be entitled to review any evidence submitted to the Board of Ethics in support of the complaint, to cross-examine any witnesses called to testify before the Board of Ethics, and to call witnesses and offer evidence on his or her own behalf.

(7) The Board of Ethics may require the appearance of the officer or employee who is the subject of the complaint for testimony, or it may accept a written response in lieu of testimony. The Board of Ethics shall record all testimony at least by tape recording. If, however, the Board of Ethics requires the officer's or employee's testimony, the officer or employee shall be provided it shall record such testimony by stenographer and shall provide a transcript of such testimony to the officer or employee at no cost.

(8) The Board of Ethics may require the appearance of any officer or employee of the Town.

(9) The Board of Ethics shall find a violation of the Code of Ethics only if a ~~preponderance of the evidence supports a violation.~~ clear and convincing evidence supports a violation, meaning that it is substantially more likely than not that the official or employee engaged in the violation. The Board of Ethics shall not be bound by the rules of evidence.

(10) At the conclusion of its investigation and any hearing, the Board of Ethics shall prepare a written decision summarizing the evidence supporting its disposition of the complaint and any recommended actions with regard to the officer or employee who is the subject of the complaint. Such written decision shall be provided to the officer or employee who is the subject of the complaint, the Town Attorney and the Town Board.

(a) if at any stage any person attempts to unduly influence a Board of Ethics member regarding the pending complaint, the Board member shall report the

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substance of the communication to the Board of Ethics at the next regular meeting of the Board of Ethics.

(11) Upon receipt of any written decision of the Board of Ethics, the Town Board shall vote to accept, reject or modify the determination and any recommended actions.

(12) A violation of Article 18 of the General Municipal Law or any provision of this Code of Ethics may be grounds for reprimand, fine, suspension without pay, termination of employment or such other action as permitted by law or collective bargaining agreement.

G. All actions, decisions and recommendations of the Board of Ethics shall be by majority vote of the entire membership.

H. The Board of Ethics shall maintain the confidentiality of any complaint, and any meeting or hearing conducted by the Board of Ethics concerning a complaint shall be confidential and not open to the public, except as otherwise directed by the Town Board or as required by law.

I. Records of the Board of Ethics shall be stored in a separate locked file drawer designated for such in the Town Hall. All records pertaining to any pending or completed investigation shall be maintained in such locked file drawer and shall be discarded only in accordance with the Town's document management policy.

J. As used herein, "Town Attorney" shall apply to an individual designated as Town Attorney, as well as any law firm acting as the Town's attorney.

K. If any clause, sentence or provision of this Code of Ethics or the application thereof to any person or circumstance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity thereof shall not affect, impair or invalidate the remainder of the provisions of this chapter or the application thereof to other persons and circumstances.

~~K~~L. Appendix A hereto sets out a timeline for the investigation of an ethics complaint. It is solely for illustrative purposes and shall not be deemed to modify or supplement anything set forth in this Schedule A.

**APPENDIX A
TIMETABLE FOR BOARD OF ETHICS INQUIRIES**

DAYS FROM FILING	ACTION BY BOARD OF ETHICS
1-3	- Send acknowledgment of receipt of complaint to complainant

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	<ul style="list-style-type: none"> - Forward complaint to subject of complaint and Town Attorney
1-10	<ul style="list-style-type: none"> - Hold initial meeting - Make written determination either finding probable cause or dismissing <i>sua sponte</i> - Determine if services of counsel are needed; approval from Town Board will be required
3 Days from Initial Meeting	<ul style="list-style-type: none"> - In case of probable cause finding, forward decision, complaint and supporting materials to Town Board - In case of dismissal, notify complainant, subject of complaint and Town Board of disposition
11- 30 45	<ul style="list-style-type: none"> - Complete investigation and hearing - Issue written decision
30 45-60	<ul style="list-style-type: none"> - Additional time period to complete investigation and final written recommendation only if approved by Town Board; extension beyond 60 days from filing only upon finding of extenuating circumstances

Revised and approved by the Town Board (DATE) and approved by the Board of Ethics (DATE).