

**Frequently Asked Questions  
about the  
Code of Ethics of the Town of Greenwich**

**E. REQUESTS FOR ADVISORY OPINIONS**

**Q. Who can request an advisory opinion?**

**A.** Only a Town Officer may request an advisory opinion. Town Officers include all Town employees, elected or appointed officials and agents or consultants for the Town.

**Q. Is a Town Officer limited with respect to the subject matter of a request?**

**A.** A Town Officer is not limited to requesting opinions that specifically relate to his or her own circumstances. Therefore they may request clarification of the application of the Code on behalf of another individual or on behalf of the general public. Except in the case of the Board of Selectmen, however, an advisory opinion must relate to a question specifically related to the Greenwich Code of Ethics, rather than ethical issues in general. Requests by the Selectmen for information or opinions of the Board as to topics outside of the specifics of the Code need not be made in the form of a formal request for an advisory opinion.

**Q. What types of questions can be raised in a request?**

**A.** A request for an advisory opinion can deal with any matter relating to the Code of Ethics. Typically, requests for advisory opinions ask the Board of Ethics for an opinion as to whether a violation of the Code would occur in a hypothetical fact situation. However, advisory opinions may be requested concerning the procedures of the Board or the requirements of the Code concerning annual financial disclosure forms.

If the Board receives a formal request for an advisory opinion that deals with ethical matters outside of the scope of the Code of Ethics, it will respond accordingly. Although it may undertake to assist the individual making the request in dealing with the issue, any advice it provides will be unofficial in nature.

**Q. How long does it take to receive an advisory opinion?**

**A.** There is no requirement that the Board of Ethics render an advisory opinion within a specific period of time. However, the Board appreciates that persons requesting the opinions have a need for prompt responses and will make every effort to conclude their deliberations in an expeditious manner. One factor that has a great deal to do with the speed

with which the Board can address a request for an advisory opinion is the nature of the request. If the facts are stated clearly and concisely and the question or questions raised are articulated with precision, it is far more likely that the Board will be able to reach a conclusion at the first meeting held to discuss the request.

One way to ensure that a request is clearly articulated, and that all the relevant facts are contained in the request, is to be sure that the specific language of the Code that gives rise to the question is identified. There are often ethical issues that are not clearly within the requirements of the Code. The Board must therefore assess each request and determine how it relates to the Code. It is almost inevitable that a request that does not clearly identify how it relates to the specific provisions of the Code will require additional clarification from the person making the request. Similarly, the fact pattern stated in the request should relate specifically to the question presented. It should include all assumptions that would normally appear relevant to the request, but should not include extraneous detail.

**Q. How much detail should be contained in a request for an advisory opinion?**

**A.** The types of requests that are most expeditiously dealt with are those that state the facts concisely, *i.e.* that don't leave out facts that are pertinent but don't include details that are unrelated to the issue raised. In determining what is pertinent, one should consider all logical questions that might be asked about the fact pattern as it relates to the provisions of the Code that are in question. So, for example, if one is describing a gift that is received and the issue is whether the gift has value, it is not necessary to give extensive details about the person giving the gift, but it is important to identify the details about the gift that are relevant to its value. It would be useful for the request to contain information about significant restrictions attached to the gift, the assumed market or appraised value, the specific qualities of the gift that might make it valuable to one person vs. another or the available avenues of sale or exchange, should the individual receiving the gift wish to recognize the value of it. Having these details will avoid the need for the Board to request additional information and will assist the Board in reaching a decision more quickly, as well as in rendering a more useful opinion. Prior to submitting a written request for an advisory opinion, a Town Officer may wish to contact one of the members of the Board of Ethics to discuss the issues involved. Individual members of the Board cannot speak for the Board as a whole. However, based on their familiarity with the issues involved, the member may be able to assist the person considering requesting the opinion in formulating the questions that might exist under the Code and the facts that would be relevant for the Board to render its opinion expeditiously.

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**Q. Is there a required form for filing a request for an advisory opinion?**

**A.** There is no requirement to use a particular form. However, the Board has provided a suggested form for the convenience of the persons considering making a request for an advisory opinion.

**Q. Must an advisory opinion be requested in writing?**

**A.** Yes. The Board is authorized to render opinions when the request is made in writing.

**Q. May a request for an advisory opinion be made anonymously?**

**A.** The Code of Ethics contains two requirements with respect to advisory opinions that have come to be in conflict through the passage of time. First, it stipulates that only a Town Officer may request an advisory opinion. Obviously, this requires the Board to be aware of the identity of the person requesting the opinion. Second, it provides for the Board to maintain the confidentiality of the persons who are the subject of an advisory opinion. With the passage of the Freedom of Information Act by the State, these provisions became difficult to reconcile and the Board is required to give precedence to the State law insofar as making the request available for public inspection. This will reveal the identity of the person making the request.

However, it is not required that the person making the request be the person who is the subject of the inquiry, only that they be a Town Officer. Therefore, one Town Officer may request another to make a request on their behalf in a confidential manner. After a confidential conversation with an individual seeking guidance with respect to the Code, a member of the Board of Ethics may agree to submit a request on behalf of the individual in question, since members of the Board are also Town Officers. (Such member may, however, be prevented from participating in the discussions and voting on the request.) Using these procedures can allow the Board to meet both the spirit and the letter of the apparently conflicting state and local laws.

**Q. Is the person who requests an advisory opinion bound to follow the recommendation of the Board?**

**A.** No. The purpose of advisory opinions is to provide guidance to Town Officers. This guidance can be useful not only to the person requesting an opinion, but also to other persons who are dealing with similar issues. However, the individual requesting the opinion may disagree with the result or decide to proceed with the transaction in a different manner than described in the opinion. Indeed, one of the functions of the advisory opinion process is to allow Town Officers to consider alternative ways to deal with transactions that reduce any appearance that a conflict of interest might exist.

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**Q. What is the effect of an advisory opinion in the event of a complaint?**

**A.** It may be assumed that, if a complaint is filed based on the specific facts stated in an advisory opinion, the Board will reach a conclusion with respect to the complaint that is consistent with the advisory opinion. However, each complaint is investigated on its own merits and the facts will be reviewed in detail. If the facts are different from those stated in the request or summarized in the advisory opinion, the result may be different.

**Q. Is a request for an advisory opinion ever treated as a complaint?**

**A.** Whenever the Board receives a formal request for an advisory opinion it treats the information contained in the request as hypothetical in nature. If after consideration of the hypothetical situation it determines a possible violation of the Code of Ethics may occur, it will include that conclusion in its advisory opinion. The Code of Ethics requires the Board to report the conclusions of its advisory opinions to the Selectmen and the RTM. In addition, the proceedings and results of the requests for advisory opinions received by the Board are reflected in the minutes of the Board. If an individual feels that circumstances described in an advisory opinion as potentially violative of the Code of Ethics have actually occurred, they may make a complaint to the Board establishing the facts that indicate that those circumstances have actually occurred.

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