

CITY OF WATERVLIET BOARD OF ETHICS PROCEDURE UPON RECEIPT OF COMPLAINT

When a written complaint is made to the Board of Ethics alleging violations of Chapter 28. Code of Ethics of the Code of the City of Watervliet and/or the General Municipal Law (GML) of New York State, the Board of Ethics shall follow these procedures in carrying out its duties under NYS GML Article 18 and Chapter 28 of the Code of the City of Watervliet.

General Protocol

1. Complaints will be reviewed by the Board of Ethics in a closed session within one month of receipt.
2. The Board of Ethics may undertake an investigation to obtain additional information on matters before it.
3. The Board of Ethics investigation shall be confidential until such time that a final determination of the Board of Ethics has been made.
4. Discussions held in closed session shall remain confidential and will not be disclosed.
5. Board of Ethics members shall recuse themselves from participation in discussions, deliberations, or voting in any matter in which they have an actual or potential conflict of interest, or where there may be the appearance of a conflict of interest.
6. All actions, decisions and recommendations of the Board of Ethics shall be by majority vote.
7. Except to the extent such records must be disclosed under the Freedom of Information Law, the complaint records shall remain confidential.

The procedure for Receipt and Investigation of Complaints shall be as follows:

A. Receipt of Complaints

A written complaint should be signed and duly sworn, include the individual complainant's address, and set forth reasonable detail and any documentation of the facts alleged to constitute a violation of Chapter 28. Code of Ethics of the Code of the City of Watervliet. The form to be utilized in requesting an investigation of an alleged violation of Chapter 28. Code of Ethics shall be the form available in the office of the City Clerk and on the City website.

After the complaint has been filed and prior to any investigation undertaken of a complaint before the Board of Ethics, no member of the Board of Ethics or any of the Board's authorized agents may communicate directly or indirectly with any party or other persons about any issue of fact or law regarding the complaint, except that:

1. The members of the Board of Ethics may discuss the complaint among themselves;
2. The members of the Board may interview witnesses and experts in its investigation;
and
3. The members of the Board may obtain legal advice from the Corporation Counsel or special counsel, as appropriate.

If any person attempts to contact or influence any member of the Board of Ethics regarding a pending complaint, the Board member shall report the substance of the communication to the Board of Ethics at or before its next regular meeting.

B. Initial Review of Complaint

The Board of Ethics shall conduct an Initial Complaint Review resulting in one of the following actions:

1. Incomplete Complaint – Complaint is returned for more information or clarification;
2. Dismiss – In the event the Board of Ethics finds no substance to the complaint, it will be dismissed;
3. Refer to the Council of the City of Watervliet, hereinafter referred to as “City Council” – Should the written complaint allege a violation of law under the jurisdiction of the District Attorney or other law enforcement agency, the matter shall be forwarded to the City Council to take the appropriate action;
4. Refer any matter within its jurisdiction to the County Ethics Board in its discretion.
5. Accept Complaint for Investigation - The Board proceeds to Complaint Review.

C. Informal Complaint Review

1. The Board of Ethics shall conduct an Informal Complaint Review and determine whether it warrants further investigation.
2. If the complaint is determined in the informal review to be within the jurisdiction of the Board of Ethics and provides a factual basis for investigation, the complainant will be notified of the receipt of the complaint. Otherwise, the Board of Ethics will advise complainant that the complaint does not warrant investigation.
3. If the complaint is accepted, the Board of Ethics shall then proceed to the Formal Complaint Review.

D. Formal Complaint Review

1. The Board of Ethics shall then conduct an investigation of the complaint against the officer, employee, or member of the City Council.
2. The officer, employee, or member of the City Council who is the subject of the complaint, shall have the right to be represented by counsel at any required appearance before the Board of Ethics.
3. The officer, employee, or member of the City Council who is the subject of the complaint, shall be afforded an opportunity to present evidence to the Board of Ethics. In the absence of such evidence, the Board may conduct its investigation and reach its conclusions based on the evidence available.

E. Recommendation

At the conclusion of its investigation, the Board of Ethics shall state, in writing, its disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reason for the disposition to the City Council. Any findings of violations of Chapter 28. Code of Ethics or other applicable law shall be served upon the subject of the investigation within seven days of such service of any findings of violations of Chapter 28. Code of Ethics, and violations shall be made a public record and shall be indexed and maintained on file by the City Clerk.

In its discretion and after a hearing in accordance with Article 3 of the State Administrative Procedures Act (SAPA), and subject to §75 of the Civil Service Law and any collective bargaining agreements, to the extent practicable, the Board of Ethics may recommend for action appropriate disciplinary action which may include a written warning or reprimand, forfeiture of accrued leave with pay, required attendance at ethics training seminars, suspension or termination of employment to the authority or person or body authorized by law to impose such sanctions.

The Board of Ethics shall conduct and complete the hearing with reasonable promptness and shall not act without notice and opportunity to be heard and shall observe appropriate due process.

F. Confidential Ethics Advisory Opinions

The Board of Ethics shall render confidential advisory opinions to officer and employees of the City of Watervliet with respect to Article 18 of the General Municipal Law and Chapter 28. Code of Ethics. The Board of Ethics will maintain a confidential, indexed file of all advisory opinions issued by the Board.