

FINAL DRAFT 1/7/25

**FAQ: Frequently Asked Questions
Shelter Island Ethics Board and Code**

Who does the Town ethics code apply to?

Why do we have an ethics code?

What is the main purpose of the Ethics Code?

Financial conflicts of interest? That sounds bad.

What about non-financial conflicts of interest?

[How would I do a disclosure and recusal to try to solve a conflict of interest?](#)

What does the Board of Ethics do?

What are the three types of investigations under the code?

How do I contact the Board of Ethics?

Who is on the Board of Ethics?

Are Board of Ethics meetings open to the public?

Are findings public?

Who does the Town ethics code apply to?

The ethics code applies to all Town “officers and employees.”

That term includes full-time and part-time board members and employees, as well as unpaid advisory committee members.

The Code will most frequently apply to officers and employees who have “discretionary authority” over a decision, meaning a decision that requires the exercise of judgment. Examples would include contracting or purchasing decisions or issuing a permit, or a waiver from the Town’s permit requirements.

Non-discretionary actions are purely functionary, like issuing fishing and hunting licenses, beach permits, and other situations in which, as long as an applicant meets the requirements, they are entitled to the permit or license.

Why do we have an ethics code?

Because it’s required by state law under Chapter 18 of New York General Municipal Law. That law contains minimum standards regarding conflicts of interest. While a town may develop its own rules addressing issues not covered by state law, it may not ignore any element of the state law. As the state allows, Shelter Island has established a Board of Ethics to advise on and interpret these rules.

Shelter Island had a non-conforming ethics code from 1971 until 2023 and then adopted one that follows the state law.

The goal in revising Shelter Island’s Ethics Code was to establish clear rules regarding conflicts so that the public can have more confidence in their local government – and also so that well-meaning employees can be protected from unfair or uninformed accusations.

The 2023 Ethics Code, for the first time, allows people to file complaints regarding conflicts of interest, and permits the Board of Ethics to initiate action on its own where appropriate. The previous ethics code was strictly a confidential employee advisory service, and employees could ignore the advice.

What is the main purpose of the Ethics Code?

To identify and solve potential financial conflicts of interest in ways that are spelled out in the state law and local code. **This does not mean general ethics in a broad, vague, subjective sense, but specific financial conflicts of interest. (CUT?)**

In general, town officers and employees are prohibited from using their town positions to gain a financial benefit for themselves or their family or certain private organizations that they own or control or to which they belong as members.

To be more specific, in most cases “family” includes their spouse, parent, sibling, child or the spouses of those relatives. Private organizations would include any in which the employee, spouse or close relative is an owner, partner, member, director, officer or employee.

There are broad common-sense exceptions to conflict-of-interest recusal for the town’s annual budget or for decisions affecting all employees or all residents.

In addition, employees can't acquire new investments that pose conflicts of interest after going to work for the Town. But they don't have to give up pre-existing investments that may pose conflicts.

There are also restrictions on moonlighting and a cooling-off period for future employment. This doesn't mean Town employees can't take outside work. The problem arises if that job conflicts with their official duties in some ways the Code spells out. For example, they are restricted from pursuing or taking new jobs if it will involve them using their discretionary powers as a town employee with their new private employer.

These financial conflicts-of-interest are all specified in the state law as well as the Town code.

Financial conflicts of interest? That sounds bad.

Not necessarily. It's not unusual and not unethical to have a financial conflict-of-interest. In a small town like ours, it is not unusual for a Town board, for example, to consider a matter that might involve a board member or a member of their family.

When this occurs, the Ethics Code simply requires the board member to disclose the potential conflict, and to remove themselves from all discussions and voting on the matter (this is called "recusal").

In most matters, this disclosure and recusal solves the potential conflict.

In some cases, though, recusal cannot cure a financial conflict of interest. An official is prohibited from agreeing to receive compensation for a matter pending before their own board or agency.

It isn't always obvious if a conflict exists. One main job of the Ethics Board is respond to requests for advice from Town officers and employees who are concerned that they might have a conflict, or might be accused of having one. The Board will confidentially provide advice to the officer or employee, both to help them avoid conflicts and protect themselves from unfair accusations.

If you're unsure, you can ask the board for confidential guidance. Asking is the ethical thing to do.

What about non-financial conflicts of interest?

That's a more subjective area of ethics law guided by common law, court cases and common sense, but not always by the bright-line financial conflicts-of-interest standards of state law. A guiding principle of those rules is that it is important to avoid the appearance of impropriety in order to maintain the public's confidence in their government.

The Board of Ethics' best general advice focuses on the potential for strong bias, personal connections, and the appearance of impropriety that meet a high threshold of significance.

As the Board of Ethics advised the Town Board in 2023:

Recusal is mandatory for potential financial conflicts-of-interest under state law and our Town code of ethics. Recusal is optional for town officials in instances where for any reason they may

feel they have a bias or personal connection that would potentially make it harder for them to put the public interest above any private interest.

Recusal from discussion and voting should be considered in occasions where a reasonable person would foresee an appearance of impropriety.

This standard would have to be interpreted case-by-case depending on specific facts and circumstances. Common law conflicts should be clear and obvious; not petty or speculative.

How would I do a disclosure and recusal to try to solve a conflict of interest?

Disclosure: If you're an employee, talk to your supervisor. If you're a member of a Town board, inform your other board members and put it in the minutes of the board.

Describe your potential conflicting interest in clear terms like "My sister owns the company" or "I've worked for the applicant" or "He's my neighbor." Then you may discuss the size and significance of the conflict and whether or not it is de minimis. You should disclose as soon as you know there may be a conflict (or appearance of a conflict) and talk about it.

Recusal: that means staying completely out of the deliberations and/or proceedings.

This includes formal or informal discussions or involvement. As our Code says, A Town official with a financial conflict-of-interest should not be in the room (or videoconference) when the matter is being discussed or voted on, nor may they participate in any discussions or communications regarding it, whether by phone, conversation, e-mail or text.

In most, but not all, cases, disclosure and recusal under these rules will allow Town employees and officers to continue in their public roles despite the existence of a particular conflict.

However, there are some conflicts that cannot be cured by recusal. For instance, Town officials are prohibited from agreeing to receive or receiving compensation for a matter before their own board or agency, whether or not they recuse themselves. If an official is unwilling to comply with these rules, they may be put to the choice of either giving up the conflicting interests or resigning as a public official.

What does the Board of Ethics do?

The Board is charged with implementing the Shelter Island Code of Ethics in the following ways:

- Rendering confidential advisory opinions to Town employees upon request.
- Rendering advisory opinions responding to complaints or inquiries about an employee. These opinions are sent to the Town Board for possible action.
- Rendering opinions on investigations initiated by the Board of Ethics itself. These opinions are also sent to the Town Board.
- Reporting annually and recommending ethics code improvements to the Town Board.

Generally the Board of Ethics will decide whether to initiate an inquiry or investigation depending on the seriousness and relevance of a situation, then contact all relevant parties, and issue an Opinion which describes the facts, standards and conclusions.

Its annual reports are listed on the [Board's website](#). Its Opinions and advice are summarized on the [Advisory Opinions web page](#) to try to inform other officials and employees about these often complicated issues.

What are the three types of investigations under the code?

One is officer or employee-initiated requests for advice. Town officers and employees can request the confidential advice of the Board concerning their own personal compliance with the Code. That Opinion will be kept strictly confidential.

A second is responding to outside complaints. A third party can file complaints with the Board regarding a particular officer or employee's conduct that they believe constitutes a violation of the Code. They should provide as much detail as possible. They may request confidentiality, explaining why, but granting confidentiality is at the discretion of the board. Elements of the complaint will be shared with the subject. If the Board issues an Opinion, it would be shared with the subject, complainant and Town Board.

A third type of investigation starts with the Board of Ethics itself. If the Board has a reasonable basis to believe that there is probable cause that a Town officer or employee may have violated a provision of the Code, the Board may undertake an investigation of the matter, even if no employee query or outside complaint has been made regarding it. The Board will provide written notice to the people involved and conduct the investigation confidentiality. Any final Opinion will be shared with the subject and the Town Board.

[The Board of Ethics anticipates the voluntary cooperation of subjects in these investigations. But it also has the legal authority to administer oaths, compel attendance, and require the production of records it may deem relevant.](#)

How do I contact the Board of Ethics?

Requests to the Board should be sent by email to boe@shelterislandtown.gov, or by telephone call or email to the administrative assistant, Kristina Martin Majdisova, at kmartin@shelterislandtown.gov or 631-749-0291 ext. 2108.

There is no specific form for such a request, but it should describe the issue in as much detail as possible. An employee advisory request asking about themselves is strictly confidential.

The Board will acknowledge receipt of the request as soon as practicable, by email. It may request additional information. The Board will endeavor to issue an opinion with reasonable promptness.

Who is on the Board of Ethics?

The Board consists of five members appointed by the Town Board, all of whom reside in the Town of Shelter Island and who serve without compensation. One member must be a Town employee.

To protect them from political interference, Ethics Board members are appointed to overlapping five-year terms and may only be removed for specific causes laid out in the ethics code.

These are the current members. The board is also advised by a confidential attorney and confidential administrative assistant.

Are Board of Ethics meetings open to the public?

Yes, to the extent allowed by state law and employee confidentiality. You can sign up for ethics board meeting notices at TK

Policy discussions are always open to the public at Board of Ethics meetings.

But when the discussion focuses on particular employees and their financial or employment situations, state law requires the board to go into executive session, which is not open to the public.

Are findings public?

Opinions responding to employee questions are not generally public. This is designed to encourage employees to seek the board's advice. But they may be made public if the employee or official gives their permission.

The Advisory Opinions page on the Board of Ethics website contains full Opinions where employees have agreed to make them public and summaries of the other Opinions to help guide other employees.

Further, Ethics Board opinions issued in response to a complaint or on the Board's own initiative are referred to the Town Board, which is not bound by confidentiality and may or may not make them public.

Finally, there are types of non-confidential guidance that the Board has given to broader groups or offices in an effort to make the standards as clear as possible. These are also listed on the Advisory Opinions page.

[These distinctions are intended to strike a balance between the strict confidentiality of employee requests and the management responsibility of the Town Board to respond to other investigations.](#)