



BOARD OF ETHICS

PROCEDURES FOR CONDUCTING DUE PROCESS FACT FINDING HEARINGS

Effective: January 1, 2022

1) Purpose

Chapter 883 of the Laws of Westchester County (the “Code of Ethics”), authorizes the Board of Ethics at Section 883-402 to adopt rules of procedure for the discharge of its duties. In conducting investigations of alleged ethics violations, it is the intention of the Board of Ethics to afford due process to all parties, afford whistle blower protection where applicable, protect all parties from unwarranted invasion of their personal privacy, and achieve a fair, just and timely resolution of all matters. These procedures are intended to advance those purposes.

2) Complaints

- An investigation by the Board of Ethics may be initiated upon receipt of a complaint from an identified complainant, upon receipt of an anonymous complaint, or by the Board of Ethics on its own motion. All complaints shall be in writing.
- The Board of Ethics will promptly acknowledge the receipt of all complaints other than anonymous complaints.
- Upon receipt of a complaint, the Board may make such inquiries as it deems necessary to enable it to determine whether the facts alleged and such inferences as may be reasonably drawn from those facts, if proved, would constitute an ethics violation or give rise to a reasonable belief that an ethics violation may have occurred.

- If the Board of Ethics determines that the facts alleged in the complaint, if proved, would neither constitute an ethics violation nor give rise to a reasonable belief that an ethics violation may have occurred, the complaint shall be dismissed and notice of the dismissal shall be provided to the complainant and others deemed necessary by the Board of Ethics.

3) **Notice of Hearing**

- If the Board of Ethics determines that the facts alleged in the complaint, and such inferences as may be reasonably drawn from those facts, if proved, would constitute an ethics violation or give rise to a reasonable belief that an ethics violation may have occurred or, if the Board on its own motion determines that an investigation is warranted, the Chairperson shall cause the respondent to be provided with written notice that a fact-finding hearing will be conducted (the “Notice of Hearing”) and shall notify others deemed necessary by the Board of Ethics.
- The Notice of Hearing shall state:
 - a) the statutory or other legal authority under which the hearing is to be held;
 - b) the date, time, place, and purpose of the hearing;
 - c) the allegations to be considered at the hearing and the sections of the Code of Ethics that are alleged to have been violated;
 - d) that the respondent may file a written response to the allegations;
 - e) that the respondent may appear and participate;
 - f) that if the respondent does not participate in the hearing in accordance with the Notice, the hearing may proceed without the respondent’s participation and the respondent will not be entitled to any further notice in the proceeding; and

g) any other information the Chairperson considers necessary for the proper conduct of the hearing.

- The Notice of Hearing shall be accompanied by:

a) a copy of the written complaint; and

b) a copy of these Procedures for Conducting Fact Finding Hearings.

4) Hearing Procedures

- A fact-finding hearing will be conducted by the Board of Ethics with reasonable promptness.
- Adjournments will be granted by the Chairperson at his or her discretion for good cause shown.
- The Board of Ethics may issue subpoenas to compel the attendance of witnesses or the production of books or records that it deems relevant and material.
- The respondent may appear and participate at the hearing.
- The respondent may be represented by counsel or another representative if the respondent so chooses.
- The Chairperson shall preside over the hearing and shall rule on all objections.
- All witnesses will be examined under oath.
- The respondent will be given the opportunity to present a statement, produce witnesses and introduce documentary evidence in accordance with the evidentiary standards set forth below.
- Witnesses will be called by the Chairperson at the discretion of the Board of Ethics.

- At the discretion of the Chairperson, witnesses may be permitted to give narrative testimony.
- Witnesses may be questioned by the Chairperson, Board of Ethics members, and the Board's counsel.
- At the discretion of the Chairperson, witnesses may be cross-examined by the Respondent or Respondent's counsel or other representative, if any.
- The hearing shall be closed to the public except upon the request of the respondent or as required by the provision of Article 7 of the New York Public Officers Law or other federal, state or local law or regulation.

5) Rules of Evidence and Record of Hearing

- Formal rules of evidence shall not apply with respect to any hearings under the jurisdiction of the Board of Ethics.
- In the discretion of the Chairperson, the Respondent may submit all or part of the evidence in written form.
- The respondent shall provide three (3) copies of any exhibits offered in evidence by the respondent.
- A record of the hearing will be kept by stenographic, audio, video or such other media as the Chairperson shall determine.
- Except as otherwise provided by Article 6 and Article 7 of the New York Public Officers Law, the record shall be maintained as confidential, except that:
 - (i) any information deemed by the Board of Ethics to concern a possible criminal violation may be referred to the appropriate prosecutor or law enforcement agency;

(ii) the complaint, if any, shall be disclosed to the respondent;

(iii) a decision disposing of a complaint shall be disclosed to the complainant, if any, and to the respondent;

(iv) the final decision of the Board of Ethics in which it reached a determination that a violation occurred, such civil fine as it may assess, and any referral or recommendation for disciplinary action or other sanctions that it may make (other than a referral to a prosecutor or law enforcement agency) shall be available for public inspection and copying;

(v) the decisions of the Board of Ethics in which it reached a determination that no violation occurred shall be available for public inspection and copying, provided that the version of any such decision made available for public inspection and copying shall be in a form that removes personal identifying information concerning the respondent; and

(vi) upon a referral to the appointing authority for disciplinary action, the Board of Ethics shall turn over all related information, including the record, to the appointing authority.

- At the conclusion of the hearing, the Board of Ethics may close the record, or it may set a date on which the record will be closed and prior to which written submissions will be received by the Board of Ethics.

6) **Decisions**

- The Board of Ethics shall state in writing the disposition of every fact-finding hearing that it conducts, and shall set forth the reasons for the disposition.
- A copy of the written decision shall be provided to the complainant, if any, and to the respondent.

- All dispositions, including negotiated dispositions, in which the Board of Ethics finds that a violation of the Code of Ethics has occurred, shall be available for public inspection and copying.

7) **Amendments to Rules for Conducting Fact Finding Hearings**

- These Rules for Conducting Fact Finding Hearings are subject to change by a majority vote of the Board of Ethics at any time, and from time to time.