

Citizen's Guide to Filing a Complaint



2009

Filing a Complaint

INTRODUCTION

The Connecticut Office of State Ethics (OSE) is an independent regulatory agency for the state of Connecticut, charged with administering and enforcing Connecticut General Statutes, Chapter 10, Parts I and II, with limited jurisdiction over Part IV.

The Ethics Codes under the OSE's jurisdiction are comprised of:

- The Code of Ethics for Public Officials (Part I);
- The Code of Ethics for Lobbyists (Part II); and
- Limited jurisdiction over Ethical Considerations Concerning Bidding and State Contracts (Part IV).

This guide provides general information only. The descriptions of the law and the OSE are not intended to be exhaustive. Please contact the Legal Division of The OSE with any questions regarding interpretation of the law.

Please note that some statutory or other provisions discussed in this guide are not part of the Codes of Ethics and are provided strictly for informational purposes only.

For more information on the subjects discussed in this guide, call, write or visit:

Connecticut Office of State Ethics
18-20 Trinity Street
Suite 205
Hartford, CT 06106

860/263-2400
www.ct.gov/ethics



Citizen's Ethics Advisory Board:

G. Kenneth Bernhard, Chairperson (through September 2011)
Thomas E. Dooley, Vice Chairperson (through September 2012)
Ernest N. Abate (through September 2011)
Kathleen F. Bornhorst (through September 2012)
Rebecca M. Doty (through September 2007)
General David Gay, (Ret.) (through September 2013)
Dennis Riley (through September 2010)
Winthrop Smith, Jr. (through September 2013)
Shawn T. Wooden (through September 2013)

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Filing a Complaint

FILING A COMPLAINT

What constitutes a formal complaint?

Enforcement of the Codes is initiated by a complaint, filed by the Ethics Enforcement Officer or any member of the public. In most cases where the Ethics Enforcement Officer files a complaint, it is preceded by a confidential staff evaluation conducted by the Enforcement Division of the OSE.

A complaint from a member of the public must comply with certain requirements. It **must**:

- Be filed on the proper OSE complaint form, as prescribed by the Citizen's Ethics Advisory Board (Board) (pictured on page 5);
- Contain an original signature (signed under penalty of false statement); and
- Be delivered or mailed to the Office of State Ethics at 18-20 Trinity Street in Hartford;
- Clearly set forth facts that, if true, would constitute a violation of the Ethics Codes; and
- Identify a respondent (the person who is the subject of the complaint) with enough particularity that the complaint may be served on him or her.

In filling out the complaint form, it is best to complete the requested information with as much detail as possible. In other words, your complaint form **should**:

- If possible, cite to the specific statute or provision that is believed to have been violated;
- Clearly identify any known witness to the alleged violation or other persons with knowledge of the alleged violation;
- Include any documentation supporting the allegations, if available (listed and attached as "Exhibit 1," "Exhibit 2," and so on); and
- Identify the source of any statement made in the complaint that are not based on personal knowledge, when possible.

*The Enforcement Division receives many "tips" for review, but only a formal complaint initiates a formal action. A formal complaint is **not** an e-mail, a telephone call, a written statement on paper that is not the proper form, a form that is sent via fax or e-mail, an anonymous statement, or a form without the full name, address and phone number of the complainant (the person filing the complaint).*

The OSE's Jurisdiction

All **state officials and employees** (except judges) are covered by Part I of the Code of Ethics for Public Officials. Connecticut General Statutes Sections 1-79 – 1-90. Certain provisions of the Code also apply to public officials and state employees after they leave state service. These laws were enacted to prevent individuals from using their public position or authority for personal financial benefit.

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Connecticut General Statutes Sections 1-84 and 1-85, 1-86 and 1-86d contain specific rules that pertain to **legislators, public officials, and state employees**. These sections are intended to prevent one from using public position or authority for personal financial benefit.

Lobbyists are covered by Part II of the Code of Ethics. Connecticut General Statutes Sections 1-91 – 1-101a. Lobbying is generally defined as communicating directly, or soliciting others to communicate, with any official or his/her staff in the legislative or executive branch of government or in a quasi-public agency for the purpose of influencing any legislative or administrative action.

Current or potential **state contractors** are covered by Part IV of the Code of Ethics. Section 1-101nn specifically covers willful violation or attempts to circumvent state competitive bidding procedures and ethics laws. **Consultants and independent contractors** are covered by Connecticut General Statutes Section 1-86e.

Relevant statutes and regulations are available in hard copy by contacting the OSE and are also available on the OSE's Web site.

Note: The OSE does *not* have jurisdiction over local or municipal issues, or over individuals who are not state employees, public officials, registered lobbyists, or otherwise regulated by the Codes of Ethics.

Proper Complaint Form

The complaint form is pictured below and can be obtained in person at the OSE, 18-20 Trinity Street in Hartford, CT, 860-263-2400; or from our Web site, www.ct.gov/ethics.

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CONFIDENTIAL

Office of State Ethics
18-20 Trinity Street, Suite 205
Hartford, Connecticut 06106-1660

COMPLAINT

I wish to register a complaint alleging a violation of:

The Code of Ethics for Public Officials and State Employees, Chapter 10, Part I, General Statutes (if possible, please note the specific code section here: _____)

The Code of Ethics for Lobbyists, Chapter 10, Part II, General Statutes (if possible, please note the specific code section here: _____)

The Code of Ethics for State Contractors, Chapter 10, Part IV, General Statutes (if possible, please note the specific code section here: _____)

Name(s) and address(es) of respondent(s) (i.e., person(s) or organization(s) in alleged violation of the Code of Ethics):

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

The respondent(s) allegedly violated the Code of Ethics as follows (please be as specific as possible with regard to time, place, actions, and other persons involved):

(OVER)

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Complainant's contact information:

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

E-mail: _____

Phone: _____

I hereby certify under penalty of false statement that the foregoing statement describing a possible violation of the designated Code of Ethics is true and accurate to the best of my knowledge and belief.

Signature: _____ Date: _____

NOTE:

- 1) This complaint will not be considered filed without the name, address, and original signature of the Complainant. Mail or hand-deliver this complaint to:

Office of State Ethics
18-20 Trinity Street, Suite 205
Hartford, CT 06106

Complaints will **not** be accepted electronically or by fax.
- 2) Once filed, this complaint may not be withdrawn by the Complainant except with permission of the Citizen's Ethics Advisory Board.
- 3) In addition to the criminal penalties that may be imposed upon a Complainant who, under penalty of false statement, knowingly files a false complaint, the Code of Ethics provides that if any complaint is made with the knowledge that it is without foundation in fact, the person against whom the complaint is made (the Respondent) has a cause of action against the Complainant for double the amount of damages caused. If the Respondent prevails in the action, the cost of the action together with reasonable attorney fees may also be awarded to the Respondent by the court.
- 4) The Office of State Ethics' preliminary investigation of a complaint is confidential unless the Respondent requests that it be open. Unless the Office of State Ethics advises you otherwise, the allegations in the complaint and any information supplied to or received from the Office of State Ethics may not be disclosed to any third party by the Complainant, Respondent, witness, designated party, Office of State Ethics staff member(s), or the Citizen's Ethics Advisory Board.

Filing a Complaint

CONFIDENTIALITY

Overview

Any complaint alleging a violation of the Codes of Ethics will remain **confidential** except:

- After a judge trial referee makes a finding of probable cause (a determination by a judge trial referee that there is probable cause to believe that a public official, state employee, or lobbyist has violated a provision of the Codes);
- Upon request of the respondent; or
- Upon an agreed resolution of the matter by consent order.

Likewise, any investigation conducted prior to finding of probable cause remains confidential except upon the request of the respondent. This means that the allegations in the complaint and any information supplied to or received from the OSE during the investigation will not be disclosed to any third party. **While the investigation is confidential, no one – the complainant, respondent, witnesses, designated party, OSE Board member, OSE staff member – may disclose that a complaint has been filed, or any information related to the investigation of the complaint.**

Publication of Findings

If the Enforcement Division of the OSE finds there has been no violation of the Codes, the investigation will be terminated and the complaint dismissed. Within three days after an investigation is terminated, the Enforcement Division of the OSE will inform both complainant and respondent of its finding and provide each the summary of its reasons for making that finding. Upon the respondent's request only, the OSE may publish the findings and the accompanying summary.

No Probable Cause

Should a judge trial referee make a finding of no probable cause after a probable cause hearing, the initial complaint and all related OSE records will remain confidential, except upon the request of the respondent. No party involved may disclose any details of the investigation, including knowledge of the existence of the complaint itself.

Probable Cause

If a judge trial referee makes a finding of probable cause after a probable cause hearing, that finding must be made public within five days. This means that the entire record of the investigation will become public, unless the OSE postpones release of records for up to two weeks for the purpose of attempting to reach a consent order or settlement.

Note: While all parties must maintain confidentiality, the Enforcement Division of the OSE is permitted by law to report, at any time, the possible commission of a crime to the Chief State's Attorney or another prosecutorial authority.

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COMPLAINT STAGES AND PROCESS

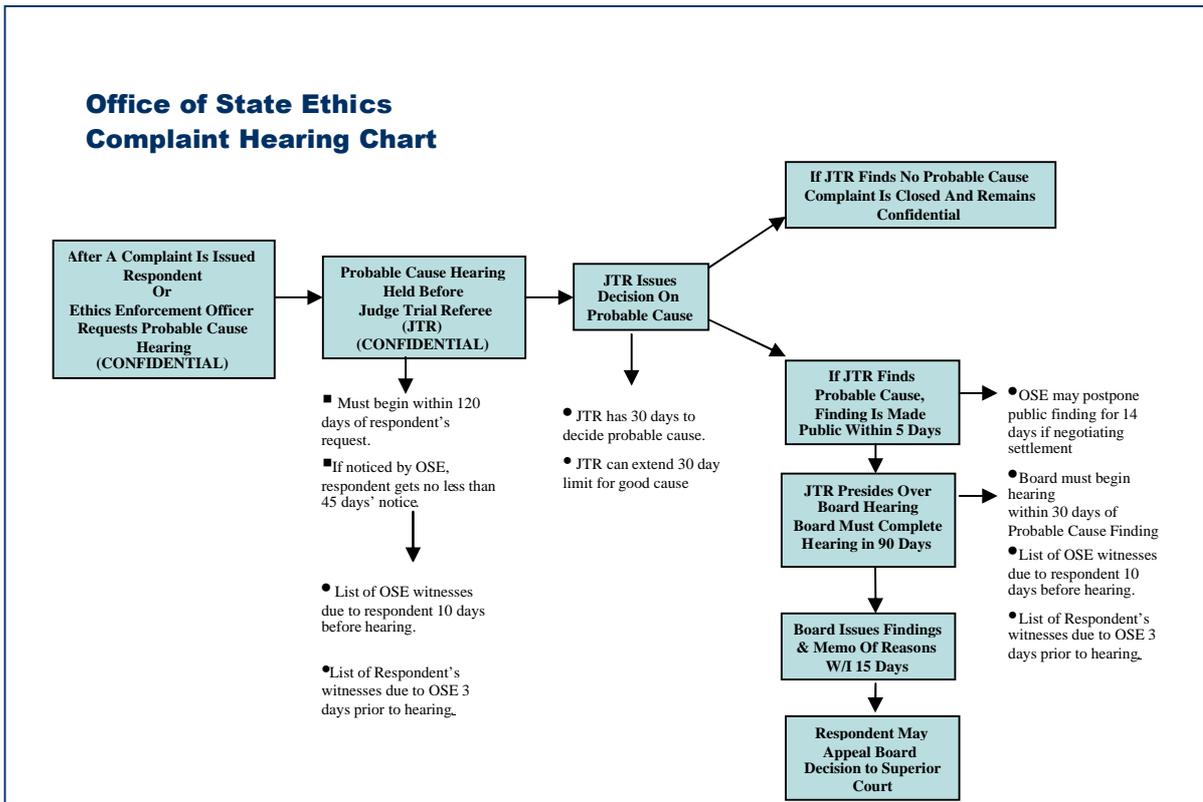
Procedure

The filing of a complaint triggers the following three-step process:

1. Enforcement Division completes a preliminary investigation, which may include informal interviews, subpoenas for documents and testimony under oath;
2. Upon completion of the preliminary investigation, a probable cause hearing may be held before a judge trial referee;
3. If the judge trial referee finds there is probable cause to believe a violation has occurred, the case is presented for administrative trial, at which a different judge trial referee presides, with the Citizen’s Ethics Advisory Board serving as the jury. (If the Board decides after a hearing that a violation has occurred, the respondent may appeal the decision to the Superior Court.)

At any stage of this process, the Enforcement Division and the respondent may attempt to negotiate the terms of an agreed order to *settle* the matter. Once approved, the **consent order** becomes public record.

Timeframes



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PENALTIES AND OTHER ACTIONS

After a finding or admission of a violation, the Citizen's Ethics Advisory Board can order the respondent to:

1. **Comply** with the Code in the future;
2. **File** any required report or statement; and/or
3. **Pay** a civil penalty of up to \$10,000 per violation.

The Board may also revoke a lobbyist's registration or ban a contractor from the approved contractors list if a violation has occurred.

In addition to the procedures described above, The Office may conduct hearings on its own accord, without filing of a formal complaint, if any lobbyist or public official has failed to file a report, statement, or other information as required by the Code. Following the hearing, the Board can, after a single hearing, impose a civil penalty of up to \$10 per day for each violation, not to exceed \$10,000 per violation.

The Office of State Ethics may refer matters to the Chief State's Attorney for criminal prosecution. An intentional violation of the Code is a misdemeanor for the first violation, unless the individual has derived a financial benefit of at least \$1,000. In that case, the violation is a class D felony.

The Attorney General may sue to recover any financial gain received by the respondent through knowingly committing or knowingly profiting from certain violations of the Code.

If a false complaint (without foundation in fact) is knowingly made, the respondent may have a cause of action against the complainant for double the amount of damage caused by the complaint. The respondent may also be awarded court costs and attorneys' fees. Connecticut General Statutes Section 1-82(c).

STATUTE OF LIMITATIONS

Per the Statute of Limitations, a complaint cannot be prosecuted if it is filed *five years* or more after the violation alleged in the complaint has been committed.

FOR MORE INFORMATION

This guide provides general information only. The descriptions of the law and the OSE are not intended to be exhaustive. For more information regarding the Code of Ethics as it pertains to filing a complaint, please contact the Office of State Ethics, Monday – Friday, 8:30 a.m. to 5:00 p.m.; 860-263-2400; www.ct.gov/ethics.