

**SUMMARY OF
POLICIES AND PROCEDURES
CAMBRIDGE ETHICS COMMISSION**

TABLE OF CONTENTS

Page 2	City Code Requirements
Pages 3-7	Commission Organization and Meetings
Pages 8 -9	Processing of Complaints
Pages 10-12	Alternate Dispute Resolution Process
Pages 13-14	Communication with Commission and Parties Pending the complaint and hearing process prior to final hearing
Pages 15-17	Commission Hearing Process
Pages 18-19	Advisory Opinions
Pages 20	Public Review of Financial Disclosure Forms

**ADOPTED UNANIMOUSLY BY THE CAMBRIDGE ETHICS COMMISSION
ON February 27, 2013.**

**THE POLICIES AND PROCEDURES ADOPTED BY THE CAMBRIDGE
ETHICS COMMISSION ARE SUBJECT TO MODIFICATION BY THE
CURRENT OR FUTURE ETHICS COMMISSIONS. THIS SUMMARY MAY
BE RELIED ON BUT IS SUBJECT TO CLARIFICATION BY THE
COMMISSION ON SPECIFIC MATTERS THAT MAY BE BEFORE THE
COMMISSION.**

**Katie Daye
Chairperson**

Cambridge Ethics Commission

City Code Requirements

Pursuant to Section 2-14 (3) of the Code of the City of Cambridge, the Ethics Commission was directed in part as follows:

The commission shall:

3. Devise, receive and maintain all forms and establish all procedures required by this section including the enforcement of such procedures.
4. Develop procedures and policies for advisory opinion requests and provide published advisory opinions to and about persons subject to this section regarding the applicability of the provisions of this section to them.
5. Develop procedures and policies for the processing of complaints in order to make appropriate determinations regarding complaints filed by any person alleging violations of this section.

...

9. Adopt such other policies and procedures to assist in the implementation of the commission's programs established in this section beyond those directed in this section as the members of the commission so determine are appropriate and necessary.

Pursuant to the above directive, the Ethics Commission of the City of Cambridge hereby adopts the following policies and procedures:

Commission Organization and Meetings

1. The Duties of the Commission are as follows:

- a. Make recommendations to the City Council regarding proposed updates to the City Ordinance regarding Ethics.
 - b. Develop and maintain a system for all Ethics forms including the printing, distribution, collection, and securing of them and providing them upon request as may be required by law.
 - c. Maintain annual lists of all contracts over \$1,000 made with the City during the prior calendar year.
 - d. Develop and maintain a system for the public to review of all forms submitted to the Commission except any Complaints that are either dismissed deemed confidential by the Commission, or resolved through the ADR process and are deemed confidential by the Commission. .
 - e. Issue Ethics Advisory Opinions when requested.
 - f. Hold hearings regarding complaints filed against covered officials and employees, make findings regarding those complaints, and render decisions on them
 - g. Establish and modify as necessary a system of enforcement of Commission decisions.
 - h. Develop and provide periodic City training programs for both covered positions and the public.
 - i. Issue an annual report on Lobbying
 - j. Issue an annual compliance certification to the State Ethics Commission.
2. Pursuant to the City Code, only the Chair of the Commission may call a meeting of the Commission. The Chair may call a meeting pursuant to paragraph 7 below.
 - a. Any two members of the Commission , including the alternate commissioner shall be entitled to request the Chair to call a

meeting. Upon such request the Chair shall call a meeting of the Commission within 20 days.

3. Only Commissioners can vote on any issue placed before the Commission except in the case of any proposed modification of these policies and procedures, in which event the Alternate Member of the Commission shall also have a vote. In the case of an absent Commissioner or the recusal of a Commissioner because of a conflict of interest or having served as the liaison in the Alternative Dispute Resolution (ADR) process described in section C of these Policies and Procedures, the Alternate Commissioner shall be entitled to vote and will have the full authority of a Commissioner.
4. The Commission shall have a Chairperson serving a one-year term, elected at the beginning of the calendar year. The Chairperson can serve more than one term and can succeed him/herself. The Chairperson for each year shall be elected at the first meeting in the New Year.
5. The duties of the Chairperson include but are not limited to:
 - a. Calling Commission meetings and leading such meetings.
 - b. Calling for official votes of the Commission
 - c. Appointing a recorder of the minutes for each meeting
 - d. Signing all official correspondence from the Commission
 - e. Being the contact point with City officials
 - f. Being the lead Commissioner at Complaint Hearings
6. When the Chair of the Commission is absent or recused due to a conflict of interest, the Chair will be the Commissioner present in person at the meeting with the longest tenure on the Commission. While acting as Chair, the substitute Chair will have the authority of the elected Chair.

- a. For contested hearings of Complaints, the Chair shall preside at any hearing unless s/he assigns another member of the Commission to be the presiding officer.
7. An official meeting will be called by the Chairperson and consist of at least 2 members in attendance in person or by suitable electronic means of communication or a member and the alternate attending in person or by suitable electronic means of communication. Notice of a meeting shall be by e-mail at an e-mail address provided by each Commission member and shall occur no later than 3 days prior to the date of the scheduled meeting. The notice shall provide the date, time, and location of the meeting. Commission members can override the 3 day notice period only upon unanimous vote of all three members.
 - a. If a Commission member does not have an email address or other means of receiving electronic communication, the Chair may provide notice in person, by telephone, or by voicemail message.
 - b. If a member is unable to attend a meeting in person, s/he may participate in the meeting by telephone or other suitable electronic means of communication and may vote as though s/he was physically present at the meeting.
 - c. A quorum required for action to be taken by the Commission is two members or a member and the alternate member present in person or by suitable electronic means of communication.
8. Internal Commission meetings are confidential and are not open to the public unless the Commission decides by majority vote to have a public meeting to discuss a specific issue. Hearings on Complaints are not open to the public.
9. Except with regard to any vote to modify these Policies and Procedures, the Commission may not take action on a matter unless

at least two out of the three members or one member and the alternate who is acting for an absent member or recused member of the Commission vote in favor of the proposed action.

- a. Changes to these Policies and Procedures may occur upon proper and timely notice to the Commission members of the proposed changes and three affirmative votes of the Commission members including the alternate commissioner, who shall be entitled to vote regarding this issue.

10. Members of the Commission are encouraged to attend meetings in person.

11. If a member of the Commission is more than 15 minutes late for a called meeting or fails to call in to the meeting or otherwise use some other suitable electronic means of communication within 15 minutes of its official start as noted in the minutes of the meeting, the alternate member will act for that missing Commission member for the entire meeting even if that missing member shows up or calls in or otherwise connects to the meeting at a later time. The late member can participate in the meeting and any discussion that occurs, but the alternate will retain the voting right until the end of the meeting.

12. During any meeting of the Commission, the alternate member shall be entitled to fully participate in the discussion of matters pending before the commission unless s/he has been the member involved in the ADR process described in these policies and procedures. Otherwise s/he shall not be entitled to vote unless s/he becomes the member pursuant to these rules.

13. The recorder of the minutes of an official meeting should record all important topics discussed and record all votes by name. The minutes should be available by the next meeting to be reviewed and corrected. A compilation of all minutes should be kept by the Commission for three years.

Initial Steps in Process of the Ethics Commission upon the filing of a Complaint:

- A. Upon receipt of an Ethics Complaint, the Ethics Commission shall meet and determine the following:
1. Does the Complaint state a prima facie claim as required by Chapter 2 Section 2-14 of the Code of the City of Cambridge (the Ethics Code)?
 2. If the Complaint does not state a prima facie claim under Section 2-14, the Ethics Commission may dismiss the Complaint and notify the Complainant of the dismissal or may notify the Complainant of apparent deficiencies in the Complaint and allow an amendment to the Complaint or the filing of a new Complaint as the Complainant may choose within a time set by the Commission.
- B. Steps of the Commission upon a finding by the Commission of a prima facie claim under Section 2-14 of the City Code:

If the Complaint states a prima facie claim under Section 2-14, the Ethics Commission shall meet and determine the following:

1. Does the Complaint need further clarification?
2. If so, the Commission may inquire further of the Complainant in writing to obtain more specifics regarding the Complaint or may direct the City Attorney, retained counsel in the event of a conflict, or a designated member of the Commission, who would then be a non-voting member regarding the Complaint, to further investigate the matter by speaking with the Complainant and making other inquiries so as to identify more clearly the specifics of the Complaint. Thereafter the members of the Ethics Commission entitled to vote shall be briefed on the outcome of the investigation in order to establish the specifics of the Complaint that the

Ethics Commission determines fall within its jurisdiction to be addressed.

3. If a member of the Commission is designated to further investigate the Complaint to help in its clarification *and* does not participate in any Alternative Dispute Resolution (ADR) process later described in these Rules and Regulations, that non-voting member may be called to testify before the Ethics Commission regarding his/her investigation of the Complaint.
4. If a proper Complaint is before the Ethics Commission, the Commission may either direct counsel for the Commission to informally contact the Complainant and Respondent named in the Complaint or send formal notice to the parties advising them of the opportunity to consider the use of an Alternative Dispute Resolution (ADR) process to determine if some informal resolution of the Complaint can be reached to the satisfaction of the parties and the Ethics Commission.
5. The Commission may also appoint one of its members, including a member who might otherwise be unable to participate in the determination of the matter or the member who may have investigated the matter, to act as a liaison to the parties to seek some informal or formal alternative resolution of the matter.

The use of an Alternative Dispute Resolution Process by the Parties:

1. The Ethics Commission shall determine in its sole discretion if the use of Alternative Dispute Resolution (ADR) is appropriate in a matter that is properly before the Commission. If it determines that it is appropriate, it shall provide notice to the parties that the ADR process is available and offer it as an alternative to a formal hearing. Either party may accept or reject the use of ADR at any time prior to any final agreement being reached and approved by the Commission. The Commission shall determine who from the Commission – Counsel or a designated member - shall lead that process and shall not otherwise involve itself in that process except for administrative updates on progress being made unless or until some proposed agreement is brought to the Commission for approval and action.
 - a. In the event a member of the Commission is designated to lead the ADR process as the liaison for the Commission, then the alternate member of the Commission shall, for the purposes of the pending complaint or complaints, be a voting member of the Commission.
 - b. The Commission in its sole discretion shall determine how long any ADR process may continue and shall notify the parties or their counsel when it finds that the ADR process does not appear to the Commission to continue to be a viable alternative in place of the hearing process. In such event, the Commission shall take steps to begin the formal complaint process, if it has not otherwise already started.
2. If the Complainant and Respondent are able to reach an agreement regarding the Complaint, a written proposal shall be presented to the

Ethics Commission that shall then determine if it shall accept and approve the proposal, modify it in a way acceptable to the parties and the Ethics Commission, or reject it. If the Ethics Commission agrees to accept and approve the proposed agreement, or a modified version of it, it may condition such acceptance and approval upon the entry of a Consent Order by the Commission that may be enforced by the Commission, by the Circuit Court of Dorchester County, or by presentation of the agreement and findings of the Ethics Commission to the Circuit Court of Dorchester County for approval and possible sealing.

3. If the Complainant and Respondent are unable to reach an agreement or if the Ethics Commission rejects a proposed agreement that is not otherwise modified to meet its concerns, the Complaint as may have been further refined or clarified by the Ethics Commission shall, if it has not already been done, be served on the Respondent and the matters raised shall be set for a formal hearing or such other hearing as may be determined appropriate by the Commission at a later date determined by the Ethics Commission, the Complainant, the Respondent and any counsel representing the parties .
4. Nothing in these Policies and Procedures shall preclude the Complainant and Respondent from continuing their efforts to resolve the issues raised in the Complaint, unless the Commission has determined that the Complaint requires a full hearing and final decision.
5. If an agreement is reached between the parties, it shall be written and signed by the parties and any counsel they may have. If the parties do not have counsel, before signing the proposed agreement they may take it to an attorney of their choice and seek his/her advice on whether to sign it, modify it, or reject it.
6. Once an agreement is signed by the parties it shall be presented to the Ethics Commission for approval, possible modification or clarification, or rejection.

- a. If approved, the terms of the agreement will receive the written approval of the Commission.
- b. If the Commission requires modification or clarification of the agreement, it shall so notify the parties and any counsel and seek their approval to the proposed modifications.
- c. If the Commission rejects the proposed agreement, it shall so state its reasons and indicate what alternatives, if any, the parties may have as next steps in the process.

Communication with the Commission and Opposing Parties and Hearing Process Prior to a Final Evidentiary Hearing:

1. Once the Ethics Commission has started an Alternative Dispute Resolution (ADR) process in hopes of resolving the issues raised in a Complaint, any future written communication during the ADR process shall be with the Commission Member assigned to lead that process or Counsel for the Commission with a copy being sent to the opposing party and/or his lawyer. Both sides of the issue shall show on their written communication that a copy has been sent to the other party and/or his counsel.
2. If the matter is not resolved by the ADR process, and the formal complaint process begins, any written communication by either party with the Ethics Commission shall be as indicated below, with a copy going to the other party and/or his counsel.
3. Direct communication, oral or written, with a member of the Ethics Commission is allowed so long as there is advanced coordination by the parties of a phone call or, if in writing, a copy of the writing going to the other party and/or their counsel..
4. If the ADR process is being used and does not resolve the matter and a party wishes formal action to be taken on an issue such as production of needed documents, other discovery issues, or other matters related to the complaint, the parties (or their counsel) will need to file written motions or requests with the Ethics Commission specifying what action they are seeking from the Commission at 120 Speer Road, Suite 1, Chestertown, Maryland 21620 ATTN: Chair of the Ethics Commission. This can be done by email with attachments at an email address to be provided to the parties, but a copy of whatever is sent by email to the Commission shall also be sent by email to the other party and/or his counsel.

5. Before the Commission will undertake to decide any matter brought to its attention for decision that occurs prior to any final evidentiary hearing, the parties (or their counsel) must first try to resolve these motions/requests/issues between themselves (or through their counsel). If the parties are unable to resolve the issue(s), they shall so notify the Ethics Commission, which will then set the disputed matters down for hearing and decision.

6. Hearing of motions/requests shall take place before the full Commission. The party making the request or his counsel shall have provided the opposing party and the Commission with a writing that spells out what he or she is asking the Commission to decide. At the hearing the Commission will hear both parties regarding the motion/request and shall make a decision as to whether it should be granted in whole, in part, or denied.

The Contested Hearing Process of a Complaint:

It is the intention of this section to establish due process to the parties in order to provide them with a full open and complete opportunity to present their evidence as part of a contested hearing and have the ability of the Commission to hear all relevant evidence and argument in support of their position.

1. The parties or their counsel will first have the opportunity to tell the Commission members what they intend to prove, what facts they believe will be presented, what are the claimed violations of the Ethics Code, and what action they wish the Commission to take.
2. The complainant will then present his/her case in person or by counsel by his/her own testimony and witnesses on his/her behalf. Following each person's testimony, each witness may be asked questions by the respondent or their counsel, Counsel for the Commission, and members of the Commission.
3. Once the complainant has finished his/her presentation of evidence, the respondent shall similarly be allowed to testify and present witnesses in support of his/her case. Following the testimony of each witness, the complainant and his or her counsel, counsel for the Commission and members of the Commission may ask questions.
4. All evidence relevant to the issues raised shall be admitted and considered by the Commission unless excluded by the chair of the Commission as the presiding official at the hearing or such person that s/he assigns to preside at the hearing. The fact that any proposed evidence would be hearsay or uncorroborated evidence or might be excluded by a judge in a court hearing does not require its exclusion in the hearings before the Commission. Each member of the Commission shall be entitled to give any evidence allowed such weight that he or she feels it deserves in coming to a final decision of the matter.

5. Upon all evidence being presented by the parties, counsel for the Commission may present such additional evidence that he or she feels will assist the Commission in making its determination of the matter(s).
6. After all evidence has been presented, the parties or their counsel shall be entitled to make a final argument to the Commission regarding the matters presented in support of their position. Likewise, counsel for the Commission shall also be entitled to make a final argument to the Commission.
7. The hearing of matters before the Commission do not have to be completed in their entirety at one hearing, and the Commission may schedule additional hearings as may be required in order to obtain all necessary evidence in a matter.
8. Upon the completion of any contested hearing all evidence and argument, the Commission shall meet in private and make its decision regarding the matter(s) before it, and the Chair of the Commission or the presiding officer shall orally render that opinion to the parties and their counsel. That oral opinion shall be followed by a written opinion that shall be made a part of the Complaint file.
9. As contested hearings of the Commission on Complaints filed are confidential, the parties or their counsel or members of the Commission or its counsel shall not discuss the matters presented with anyone unless there is finding by the Commission that there have been one or more violations of the Ethics Code of the City of Cambridge. In that event, the Ethics Commission shall issue a written public opinion which shall be provided to the local newspapers and other local news agencies and shall be posted on the website of the City of Cambridge on the Ethics Commission page.
10. If there is more than one Complaint filed against a person or if there are Complaints filed against more than one person that involve the same or

similar issues and facts, the Commission may in its sole discretion hear those matters together.

11. If a Complaint is dismissed, there shall be no public notification of that fact unless the Respondent or his or her counsel seeks permission of the Commission. If permission is granted, the entire file regarding the Complaint including any final written order and any recorded or written transcript of the contested hearing will be made open for public inspection and review.

Advisory Opinions:

1. It is the intention of the Ethics Commission that most Advisory Opinions will be made public and provided to the public on the Website of the City of Cambridge.
2. There may be situations where the person seeking an Advisory Opinion would for valid reasons not to want it known that s/he sought an Advisory Opinion. In such situations, the person may ask that his or her name not be disclosed and that the Advisory Opinion show an anonymous request and that the request and answer be couched in language that would not lead people to conclude who might have made the request.
3. There may also be situations where the person seeking an Advisory Opinion may not wish for valid reasons for it to be made public or the Commission may determine that its opinion should remain confidential. In those situations the Ethics Commission may issue confidential Advisory Opinions..
4. The Ethics Commission shall honor the request of any person who seeks an Advisory Opinion and wishes to remain anonymous and shall not reveal his/her name and shall word the Advisory Opinion, if it is to be a Public Opinion, in terms that would not identify the person seeking the Advisory
Opinion. To ensure the requestor's support of this requirement, the Ethics Commission shall provide a copy of the proposed Advisory Opinion to that person to review and comment on regarding possible identifying language before making the Advisory Opinion public. The Commission Members will consider his or her concerns prior to making the Advisory Opinion public.
5. The Ethics Commission shall consider the request of a person seeking a private Advisory Opinion. As Advisory Opinions are normally intended

to help those impacted by the Cambridge Ethics Ordinance understand it more completely, the Ethics Commission will seek to have all Advisory Opinions made public but also will have the authority to determine that there is a legitimate reason for the privacy request and may make an Advisory Opinion private or may order that it remain private or confidential until the person affected takes certain actions or may order it to remain private or confidential permanently or for a limited time period after which it would become public. It shall work with the person requesting the Advisory Opinion and will seek to reach agreement with that person as to the manner in which the Advisory Opinion will be treated before proceeding to render the opinion.

Review of Financial Disclosure Forms:

Pursuant to Section 5 (d) of the City Ethics Code,

2. Financial disclosure statements shall be made available during normal office hours for examination and copying by the public subject to reasonable fees and administrative procedures established by the commission.
3. If an individual examines or copies a financial disclosure statement, s/he must provide proper identification to the commission or the office designated by the commission, which shall record:
 - a. The name and home address of the individual reviewing or copying the statement; and
 - b. The name of the person whose financial disclosure statement was examined or copied.
4. The city clerk shall provide the official or employee with a copy of the name and home address of the person who reviewed the official's financial disclosure statement.