

SEPTEMBER 16, 2021

TO DAVID CAMPO,

DAVE,

ENCLOSED IS A COPY OF THE RECENTLY PASSED ADVISORY OPINION FROM THE ETHICS COMMISSION.

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT ME.

THANKS.

A handwritten signature in black ink, reading "Martin Zeldis". The signature is written in a cursive, flowing style. The first name "Martin" is written with a large, open 'M' and the last name "Zeldis" follows with a prominent 'Z' and a long, sweeping tail that extends to the right.

MARTIN ZELDIS

CHAIRPERSON, WATERFORD ETHICS COMMISSION

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WATERFORD, CT

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TOWN OF WATERFORD ETHICS COMMISSION ADVISORY OPINION

Donna M. Cugno
TOWN CLERK

The Town of Waterford Ethics Commission presents this Advisory Opinion, which applies to all public officials of the Town of Waterford (defined as members of Boards and Commissions and Town Officials, whether elected or appointed, in concurrence with the Code of Ethics Sec. 2.50.020 H).

As in any small town, public officials may find themselves involved in votes on policies, budgets, and other decisions that may directly affect themselves or their family members. Waterford maintains a Code of Ethics that specifies when a board or commission member should not take official action. Further, the Town of Waterford Ethics Commission previously published advisories about when action by a Town official is ethically improper. Following inquiries and complaints, and in response to a subsequently requested Advisory Opinion to address the relationship conflict question, this Opinion is an effort to state situations in which public officials should refrain from voting.

The Preamble to the Code of Ethics, in Sec. 2.50.010 B, states, "The proper operation of town government requires that all public officials and town employees shall be impartial and responsive to the public interest, that public office and employment should not be used for personal gain or advantage, and that public officials and town employees should not place themselves in positions where private interest conflicts with public duty."

This Advisory Opinion specifically addresses the meaning and intent of the Code in its definition of conflict of interest. It comes as a result of a series of concerns and complaints made by community members over the years. It acknowledges that previous opinions have not explicitly defined instances where a conflict may exist and reflects a desire to ensure confidence in government. This Opinion recognizes that the Waterford Ethics Commission is adjusting its posture on the question of family relative conflicts, and is taking a specific position on this question—one that we have long debated.

Sec. 2.50.030 A of the Code defines the existence of a substantial conflict of interest as follows: "Public officials and town employees have an interest that is in substantial conflict with the proper discharge of duties or employment in the public interest and of responsibilities as prescribed by the laws of this state if they have reason to believe or expect that they, their immediate family, or a business with which they are associated will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of their official activity." The Code further states, in Sec. 2.50.030 C, that "A public official or town employee may not take official action on any matter in which a substantial conflict (as defined in subsection A of this section) exists. If the conflict is disclosed, a public official or town employee may participate in discussions with or give opinions or recommendations to a town board, agency, commission, committee, department, or another public official or town employee."

These sections of the Code preclude public officials from taking actions where a conflict of interest exists. Such conflict includes circumstances where a benefit - real or perceived - would accrue to the official, their family, or their business relations as result of such action. Public officials take official action when they vote "yes" or "no" where this type of question is before them. This Advisory Opinion does not intend to restrict or limit any representative from full and active discussion and examination of any and all issues that come before them, as is provided in Sec. 2.50.030. It is, however, *our opinion that public officials must abstain from voting in situations in which circumstances exist that give rise to a conflict of interest or a public perception of such a conflict.* Examples include situations when the Board or Commission member is employed by the Town, has a family member employed by the Town, has a business relationship with the Town, or is in a circumstance that gives rise to a perception of conflict of interest.

It should be noted that this opinion resolves the issue of whether a real or perceived conflict of interest takes precedence over the exception allowed in Sec. 2.50.030 B: "Public officials or town employees do not have an interest that is in substantial conflict...if any benefit or detriment accrues to them, their immediate family, or a business with which they are associated as a member of a profession, occupation, or group to no greater extent than any other member of such profession, occupation, or group." For example, a town official is not immune or exempt from a real or perceived conflict of interest when voting on issues affecting a family member in a collective bargaining unit. Actions taken by public officials that appear to the public as improper will determine the existence of a conflict and, subsequently, determine the appropriateness of the behavior.

This Advisory Opinion is broad and is intended to be applicable to all Town activities, including the Board of Education; public safety and fire services; and the Town's numerous permanent and temporary Boards, Commissions, and committees. It supercedes previous Opinions on this issue and presents a specific position for all future Town activities. It is the result of investigation into a specific complaint and the subsequent request for an Advisory Opinion that followed that investigation. (In accordance with the code 2.50.060 C, it should be noted that the results of our investigation into the complaint may be different if different facts are presented to the Commission at a later date.) This Opinion applies to future situations only; it clarifies the meaning and intent of the Code in its definition of conflict of interest and gives guidance to Officials as they work on behalf of the Town. It is intended to secure and keep public confidence in our volunteer and elected officials.