

Selectmen's Policy

CODE OF ETHICS

**For Members of All Town Boards, Committees, and Commissions Except the
School Committee and their Appointments**

Preamble

To ensure that the Citizens and businesses of York have fair, impartial, ethical, and accountable local government that is responsive to the needs of the people and each other and that has the Citizens' full confidence in the integrity of the Town's government, the Board of Selectmen has adopted this Code of Ethics. In keeping with a commitment to excellence, the effective functioning of democratic York Town government requires that:

- i. Elected and appointed public officials comply with both the letter and spirit of laws and policies affecting the Town Government;
- ii. Elected and appointed public officials be independent, impartial, and fair in judgment and action;
- iii. Elected and appointed public office be used for the public good and not personal gain;
- iv. Public deliberations and processes be conducted openly, unless legally confidential and;
- v. All discussions and debate be conducted in an atmosphere of respect and civility.

This Code of Ethics applies to members of the Board of Selectmen and to all elected and appointed members of Town boards, committees, and commissions (hereinafter referred to as "Members") except for the School Committee and their appointees. The Town's boards, committees, and commissions consist of all statutory and non-statutory boards, commissions or committees now existing or hereafter created.

The Town Manager shall endeavor to ensure that all Town employees adhere to the standards of this Code of Ethics.

Code of Ethics

1. Actions in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern; Members will work for the common good of the Citizens of York and not for any special interest or personal gain. Members shall provide fair and equal treatment of all persons, claims, and transactions that come before the Board of Selectmen or any Town board, committee, or commission.

2. Compliance with the Law

Members shall comply with the laws of the United States, the State of Maine, and the Town of York in the performance of their public duties. These laws include, but are not limited to, the United States and Maine State constitutions and statutes; the York Town Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and Town ordinances and policies, all of which are hereby incorporated herein by reference and made applicable.

3. Proclamation Against Racism, Discrimination and Bigotry

Whereas:

1. Racism, discrimination and bigotry are destructive of community; and
2. Everyone has the right to live peacefully, enjoy all the community has to offer, raise their family, and seek economic and academic opportunities free of racism, discrimination and bigotry; and
3. A strong, healthy, sustainable community includes and embraces people of every color, race, ethnicity, creed, sexual orientation and gender identity; and
4. Historic patterns and institutions have created an un-even playing field which persists to this day with respect to those who have been the subject of racism and discrimination; and
5. Traditional public school curricula – what is taught, how it is taught, and how it is prioritized – has been whitewashed (has not done justice to people of color as it pertains to the history of the United States); and
6. Institutional policies and practices may intentionally or inadvertently create or reinforce racism and discrimination; and
7. Active effort is required to combat racism, discrimination and bigotry; and
8. Great social change requires leadership and an on-going organization-wide commitment in order to succeed.

Now therefore:

1. The Town welcomes people of every color, race, ethnicity, creed, sexual orientation and gender identity.
2. The Town, its officials and employees, shall actively combat racism, discrimination and bigotry by addressing issues immediately.

3. The Town commits to identify and eliminate anything within its control that supports or perpetuates systemic or institutional racism or discrimination.
4. The Board of Selectmen shall request the School Committee engage with the organizers of the June BLM protest to address their demands as expressed in, “Addressing Racism Within York Schools: A Petition.”
5. The Town shall actively train its officials and staff on an ongoing basis in matters of racism, discrimination, bigotry, implicit and explicit bias, white privilege, white supremacy, intersectionality and other such matters, and shall offer this training to other community institutions.
6. The Town recognizes Black Lives Matter.

The Board of Selectmen made this Proclamation on July 13, 2020 and inserted it into this Code of Ethics on July 20, 2020.

4. Conduct of Members

The professional and personal conduct of Members must be above reproach and must avoid any appearance of impropriety. Members shall refrain from abusive conduct, from making personal charges or disparaging remarks, or from verbal attacks upon the character or motives of Members of Town boards, committees, or commissions, of Town Staff or the Citizens.

5. Respect for the Process

Members shall perform their duties in accordance with the processes and rules of order established by the Board of Selectmen and by the other Town boards, committees, and commissions. Each member shall be committed to respect the democratic process that encourages meaningful involvement of the public and that governs the deliberation of public policy issues in the Town of York. Members should strive to thoughtfully consider the opinions and recommendations of other Members, Citizens, and Town staff appearing before Town boards, committees, or commissions and shall remain respectful in all interactions with these individuals. Members including the Chair shall have no legal authority outside of the meetings of their respective board, commission, or committee unless this authority has been specifically delegated to the Member through an adopted policy or majority vote of the board.

6. Conduct of Public Meetings

Members shall prepare themselves for open discussion of public issues, shall listen courteously and attentively to all public discussions before the body, and shall focus on the business at hand. Members shall refrain from unnecessarily interrupting other speakers, from making personal comments not germane to the business of the body, and from otherwise interfering with the orderly conduct of meetings. The Chairman of each board, committee, or commission shall use his or her best efforts to ensure that the public who attend such meetings adhere to the same standards of conduct in this Code of Ethics as outlined for Members.

7. Communication

Members shall publicly share information that is relevant to any matter under consideration by a board, committee, or commission. Concerns involving the conduct of Town employees shall be communicated to the Town Manager.

8. Conflict of Interest

A. General Standard

Members shall avoid any situation that may give rise to an actual or perceived conflict of interest. Where circumstances may cause a reasonable person to question the Member's impartiality or may otherwise give rise to an appearance of a conflict of interest, the Member shall not participate in a matter unless the Member has appropriately disclosed the situation and there has been a determination by the Member's board, committee, commission, staff official, or the Board of Selectmen that the Member's participation is appropriate.

B. Definitions

Immediate Family: The Immediate Family of a Member shall include the Member's spouse, children, parents, in-laws and siblings.

Financial Interest: Financial Interest shall mean any direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares or stock.

Conflict of Interest: A conflict between a person's private interests and public obligations.

C. Disclosure of Conflict

Any Member who believes that they or a member of their Immediate Family has a Financial Interest other than an interest held by the public generally, in any agenda item before their collective body, shall disclose the nature and extent of such interest. Additionally, any Member who believes that any fellow Member, or any member of such fellow Member's Immediate Family has a Financial Interest other than an interest held by the public generally, in any agenda item before their collective body, shall disclose such interest. Such disclosure shall be made no later than at the time the agenda items are to be discussed

D. Determination of Conflict

All conflict-of-interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned. Each Member of that board, committee, or commission shall be entitled to vote on all conflict-of-interest questions relating to that Town board, committee, or commission.

All votes of conflict-of-interest questions shall be recorded. A majority vote shall determine the question except that a tie vote shall have the effect of determining that a conflict exists. If there is a determination that a conflict of interest in fact exists,

the Member concerned shall be excused from participating in discussion, deliberation, or vote on the relevant agenda item for so long as the agenda item shall appear on the agenda.

E. Record of the Conflict of Interest Decision

A written record by the Chairperson of the Town board, committee, or commission making the determination, explaining and summarizing any consideration of conflict of interest or intervention and the action taken shall be promptly forwarded to the Chairman of the Board of Selectmen for review by the Board of Selectmen. The Town Manager shall maintain these records on behalf of the Board of Selectmen for a period of five years.

F. Avoidance of Appearance of Conflict of Interest

Once any Member is determined to have a conflict of interest in respect to any agenda item, and once all conflict-of-interest questions relating to the agenda item concerned have been determined, as provided in this Code, the Member should either immediately leave the meeting room or, if the Member has a personal interest in the matter to be discussed, move to the area of the room occupied by the general public. The Member shall not return to their regular seat as a member of the body until deliberation and action on the item has been completed. Nothing herein shall require an individual Member to remove himself or herself for any item on which there is no deliberation, on which the individual's conflict has been determined by the other members, or on which the right to abstain from voting on the item has been granted.

G. Incompatible Offices

No Member shall occupy any other elected or appointed office when the duties of such office are incompatible with the proper discharge of the Member's official duties to the Town. The occupancy of any other office by a Member is prohibited by any one of the following circumstances:

1. Where the duties of the other office make it impossible to discharge the duties of the Town office, or
2. Where one office is subordinate of the other, or
3. Where one office carries the power of appointment or removal of the other, or
4. Where the occupancy of both offices is prohibited by Charter or by law.

Notwithstanding the foregoing, a Member may serve as a non-voting liaison or ex-officio Member of a board, committee, or commission with the approval of the Board of Selectmen; or in special circumstances a member may serve as a voting member of a board, committee, or commission if so designated by the Board of Selectmen.

9. Gifts and Favors

Members shall not take advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. Members shall refrain from accepting gifts, favors, or promises of future benefits that might

compromise their independence of judgment or action, or that might give the appearance of such compromise.

No Member shall accept anything of value unless it can be clearly established that it has a de minimus market value (\$25 or less) and is received infrequently from any source.

10. Confidential Information

No member shall, without proper legal authorization, discuss or disclose confidential information concerning the property, personnel, government or affairs of the Town, nor shall any member use such information to advance the private or financial interests of himself or herself or members of his or her immediate family or any other individual or group's financial interest. Members shall not discuss the privileged knowledge, executive sessions, or confidential business of the board, committee, or commission with unauthorized parties, either orally or in writing. For purposes of this subsection, "confidential information" shall mean any information, oral or written, which comes to the attention of or is available to such Member due to his or her position with the Town and is not a matter of public record. Information received and discussed during any executive session shall be considered within the constraints of this section and shall not be disclosed to any party unless permitted by affirmative vote of a majority of such board.

11. Use of Public Resources

Members shall not use public resources not available to the general public for private gain or personal purposes, such as Town staff time, equipment, supplies, or facilities.

12. Representation of Third Party Interests

As stewards of the public interest, Members of the Board of Selectmen, the Planning Board, and the Board of Appeals shall not represent the interests of third parties before any Town board, committee, or commission, nor shall they appear before any of these bodies on behalf of the interests of third parties on matters related to the areas of service of these bodies. Members of all other boards, committees, or commissions must give notice to the Board of Selectmen prior to any representation of any third party interests before any Town board, committee, or commission. Nothing herein shall be construed to prohibit any Member from representing his or her own personal interest or personal point of view, or the interest of immediate family, by appearing before any Board on any item.

13. Advocacy

Members shall represent the official policies and positions of the Board of Selectmen and of other Town boards, committees, and commissions when designated as delegates for this purpose to the best of their ability. When presenting personal opinions and positions Members shall explicitly state that these opinions and positions do not represent their body or the Town of York, and they shall not allow any inference that they do.

14. Policy Role of Members

Members shall respect and adhere to the Town Manager Structure of Town government, as outlined in the York Town Charter. The Board of Selectmen shall determine the policies of the Town, with advice, information, and analysis provided by Town staff, by the Town's boards, committees, and commissions, and by the Citizens.

Members shall therefore not interfere with the administrative functions of the Town or with the professional duties of Town staff, nor shall they impair the ability of Town staff to implement the policy decisions of the Board of Selectmen except as provided by the Town Charter.

15. Independence of Boards, Committees, and Commissions

Members shall refrain from using their positions to attempt to unduly influence the deliberations or outcomes of any board, committee, or commission proceedings or to inhibit free discussion and exchange of ideas of these groups.

16. Positive Workplace Environment

Members shall support a positive and constructive workplace environment for Town employees and for Citizens and businesses dealing with the Town. Members shall recognize their special role when dealing with Town employees and shall in no way create the perception of inappropriate direction of staff.

17. Implementation

This expression of the standards of conduct expected of Members of boards, committees, and commissions is intended to be self-enforcing. It is most effective when Members are thoroughly familiar with it and embrace its provisions.

For this reason, this Code of Ethics shall be included in the orientation of candidates for, or applicants to boards, committees, and commissions; and of newly elected or appointed Town officials. Members entering office shall sign a statement acknowledging that they have received a copy, and read, and understand the Town of York Code of Ethics. This Code of Ethics shall be reviewed regularly by the Board of Selectmen as well as by the Town's other boards, committees, and commissions. The Board of Selectmen shall consider recommendations from these bodies in updating the Code of Ethics as necessary.

18. Freedom of Access Training

Members of boards, committees and commissions, and newly elected and/or appointed Town Officials are to complete the Freedom of Access Training that is located on the State of Maine website under Your Right to Know Law/Frequently Asked Questions. Selectmen, Budget Committee members, the Town Clerk and the Treasurer shall complete FOAA training within 120 days of election, the Tax Assessor shall complete FOAA training within 120 days of appointment, per Title 1 MRS §412, and all other elected and appointed officials shall complete FOAA training within 6 months of election or appointment.

19. Compliance and Enforcement

The Town of York Code of Ethics expresses standards of conduct expected of Members of the Town's boards, committees, and commissions. Members themselves have the primary responsibility for ensuring that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The Chairs and Vice-Chairs of boards, committees, and commissions have the responsibility for intervening when actions of Members appear to be in violation of this Code of Ethics.

The penalty for any violation of the Town of York Code of Ethics may vary dependent on the position held by the offending individual:

- 1. Board of Selectmen/Municipal Officers:** Action taken against any member of the Board of Selectmen shall result from the remaining members of the board voting to take said action. The action may vary from a public admonishment to public censure. The recall of any Selectmen is a remedy available to the public pursuant to the Town of York Home Rule Charter.
- 2. Elected Officials:** Action taken against any elected official, other than a member of the Board of Selectmen, may vary from a reprimand by the Chair of the elected body to a public censure after a majority vote by the elected body. The Board of Selectmen, after a majority vote, may intervene if the board feels that the ethics violation is not being adequately addressed. The recall of any elected official is a remedy available to the public pursuant to the Town of York Home Rule Charter.
- 3. Appointed Officials:** Action taken against any appointed official may vary from a letter of reprimand by the Chair of the appointed board to a public censure after a majority vote by the appointed board. Additionally, the appointed board may vote to request the resignation of the offending individual. If the requested resignation is not forthcoming the appointed board may request that the Board of Selectmen remove the offending individual from the appointed board. As the appointing authority, the Board of Selectmen on their own initiative may remove the offending individual from the appointed board.

In addition to any other penalties or remedies as may be provided by law, the Board of Selectmen may intervene and counsel Members whose conduct does not comply with the Town's ethical standards and may censure Members or remove them from office, after notice and hearing conducted by the Board of Selectmen. The Board of Selectmen may issue interpretative policy statements to clarify any ambiguities in this Code. Members of boards, committees, and commissions may seek clarifying opinions from, or appeal decisions of their boards, committees, and commissions to the Board of Selectmen on

particular situations addressed by this Code of Ethics.

A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a board, committee, or commission decision but may be used as a basis for the board, committee, or commission to reconsider its decision.

20. Separability

If any section, subsection, sentence clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity of the remaining portions of this Code.

Adopted 11/26/2001
Amended 02/28/2011
Amended 07/07/2014
Amended 07/06/2015
Amended 07/20/2020
Amended 06/14/2021