

**From:** [J.R. McMullen](#)  
**To:** [Rosenson, Valerie](#)  
**Cc:** [Lee, Benjamin](#)  
**Subject:** Fwd: Ethics Statutes  
**Date:** Monday, July 06, 2020 8:47:32 PM

---

Hi Valerie,

I told Ben I would send the attached note with information about the state statutes that apply when a municipality chooses to implement a Board of Ethics.

----- Forwarded message -----

**From:** **J.R. McMullen** <[jrmcmullen.stamford18@gmail.com](mailto:jrmcmullen.stamford18@gmail.com)>  
**Date:** Tue, Oct 8, 2019 at 11:25 PM  
**Subject:** Ethics Statutes  
**To:** Lindsey Miller <[LMiller@stamfordct.gov](mailto:LMiller@stamfordct.gov)>

Hi Lindsey,

Below are the ethics statutes you and I talked about.

Once an investigation starts there are four possible outcomes. A finding of no probable cause that is only made public at the request of the respondent (the accused); a finding of probable cause that clearly, by state statute, has to be made public and can either lead to court (a public hearing in our case) or a stipulated agreement; or stipulated agreement without a formal finding of probable cause (it isn't clear from the language of the statute that this is allowed but it happens; the language of the statute, 182-a (e), anticipates a finding of probable cause prior to the stipulated agreement).

Regardless of the outcome the respondent and the complainant are to receive an explanation of the decision. Not just a notice that the board has completed its work. The failure of Stamford's Board of Ethics to communicate results to complainants has created a situation where residents do not trust the process. Sam Magliari is an extreme case but I was similarly frustrated by Stamford's Board of Ethics failure to provide the communication required by statute.

As a matter of practice the Office of State Ethics includes a public disclosure statement in all of its stipulated agreements. This avoids the situation where the respondent anticipates a probable cause finding and enters into a stipulated agreement to avoid public disclosure. Stamford needs to adopt the same practice as the Office of State Ethics. As it is today in Stamford, if someone is guilty of an ethics violation there are two outcomes. If there isn't enough evidence to support a finding of probable cause resulting in a finding of no probable cause then the results are made public at the accused's request and they claim exoneration. If there is enough evidence to support a finding of probable cause the accused enters into a stipulated agreement prior to the finding and everything is kept secret.

At the state level both court decisions and stipulated agreements are posted on their website for public review ( <https://www.ct.gov/ethics/cwp/view.asp?a=3488&Q=414904&ethicsNav=|44061|> ). The stipulated agreements are found under "Enforcement Actions" section.

####

**Sec. 1-82a.** Confidentiality of complaints, evaluations of possible violations and investigations.  
Publication of findings.

(a) Unless a judge trial referee makes a finding of probable cause, a complaint alleging a violation of this part, section 1-101bb or section 1-101nn shall be confidential except upon the request of the respondent. An evaluation of a possible violation of this part, section 1-101bb or section 1-101nn by the Office of State Ethics prior to the filing of a complaint shall be confidential except upon the request of the subject of the evaluation. If the evaluation is confidential, any information supplied to or received from the Office of State Ethics shall not be disclosed to any third party by a subject of the evaluation, a person contacted for the purpose of obtaining information or by the ethics enforcement officer or staff of the Office of State Ethics. No provision of this subsection shall prevent the Office of State Ethics from reporting the possible commission of a crime to the Chief State's Attorney or other prosecutorial authority.

(b) An investigation conducted prior to a probable cause finding shall be confidential except upon the request of the respondent. If the investigation is confidential, the allegations in the complaint and any information supplied to or received from the Office of State Ethics shall not be disclosed during the investigation to any third party by a complainant, respondent, witness, designated party, or board or staff member of the Office of State Ethics.

(c) Not later than three business days after the termination of the investigation, the Office of State Ethics shall inform the complainant and the respondent of its finding and provide them a summary of its reasons for making that finding. The Office of State Ethics shall publish its finding upon the respondent's request and may also publish a summary of its reasons for making such finding.

(d) If a judge trial referee makes a finding of no probable cause, the complaint and the record of the Office of State Ethics' investigation shall remain confidential, except upon the request of the respondent and except that some or all of the record may be used in subsequent proceedings. No complainant, respondent, witness, designated party, or board or staff member of the Office of State Ethics shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known. If such a disclosure is made, the judge trial referee may, after consultation with the respondent if the respondent is not the source of the disclosure, publish the judge trial referee's finding and a summary of the judge trial referee's reasons therefor.

(e) The judge trial referee shall make public a finding of probable cause not later than five business days after any such finding. At such time the entire record of the investigation shall become public, except that the Office of State Ethics may postpone examination or release of such public records for a period not to exceed fourteen days for the purpose of reaching a stipulation agreement pursuant to subsection (c) of section 4-177. Any such stipulation agreement or settlement shall be approved by a majority of those members present and voting.

(P.A. 84-52, S. 2; P.A. 85-290, S. 2; P.A. 88-317, S. 40, 107; June 12 Sp. Sess. P.A. 91-1, S. 15; P.A. 94-132, S. 2; P.A. 05-183, S. 7; 05-287, S. 40; P.A. 06-196, S. 7; P.A. 18-137, S. 18.)

History: P.A. 85-290 amended Subsec. (a) to add provisions re confidentiality of a commission evaluation prior to the filing of a complaint; P.A. 88-317 substituted "subsection (c)" for "subsection (d)" in reference to Sec. 4-177, effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; June 12 Sp. Sess. P.A. 91-1 repealed former Subsec. (f) re publication of commission finding and memorandum under Sec. 1-82(b); P.A. 94-132 amended Subsec. (a) to authorize reports to prosecutorial authority other than chief state's attorney; P.A. 05-183 replaced "commission" with "judge trial referee" or "Office of State Ethics" and made conforming changes throughout the section and amended Subsec. (e) to require approval of a stipulation or settlement agreement by a majority of those members present and voting, effective July 1, 2005; P.A. 05-287 amended Subsec. (a) to include references to Sec. 1-101nn, effective July 1, 2005; P.A. 06-196 made technical changes in Subsec. (d), effective June 7, 2006; P.A. 18-137 amended Subsec. (a) to add references to Sec. 1-101bb.

####

**Sec. 7-148h.** Ethics commission; establishment and powers. Interest in conflict with discharge of duties. (a) Any town, city, district, as defined in section 7-324, or borough may, by charter provision or ordinance, establish a board, commission, council, committee or other agency to investigate allegations of unethical conduct, corrupting influence or illegal activities levied against any official, officer or employee of such town, city, district or borough. The provisions of subsections (a) to (e), inclusive, of section 1-82a shall apply to allegations before any such agency of such conduct, influence or activities, to an investigation of such allegations conducted prior to a probable cause finding, and to a finding of probable cause or no probable cause. Any board, commission, council, committee or other agency established pursuant to this section may issue subpoenas or subpoenas duces tecum, enforceable upon application to the Superior Court, to compel the attendance of persons at hearings and the production of books, documents, records and papers.

(b) Notwithstanding the provisions of any special act, municipal charter or ordinance to the contrary, an elected official of any town, city, district or borough that has established a board, commission, council, committee or other agency under subsection (a) of this section, has an interest that is in substantial conflict with the proper discharge of the official's duties or employment in the public interest and of the official's responsibilities as prescribed by the laws of this state, if the official has reason to believe or expect that the official, the official's spouse or dependent child, or a business with which he is associated, as defined in section 1-79, will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of the official's official activity. Any such elected official does not have an interest that is in substantial conflict with the proper discharge of the official's duties in the public interest and of the official's responsibilities as prescribed by the laws of this state, if any benefit or detriment accrues to the official, the official's spouse or dependent child, or a business with which he, his spouse or such dependent child is associated as a member of a profession, occupation or group to no greater extent than to any other member of such profession, occupation or group. Any such elected official who has a substantial conflict may not take official action on the matter.

(P.A. 79-618, S. 3; P.A. 89-229, S. 2, 4; June 12 Sp. Sess. P.A. 91-1, S. 19; P.A. 00-92, S. 13.)

History: P.A. 89-229 specified the circumstances under which the provisions of Subsecs. (a) to (e), inclusive, of Sec. 1-82a are to apply; June 12 Sp. Sess. P.A. 91-1 added Subsec. (b) re conflicts of interest; P.A. 00-92 applied provisions to a "district, as defined in section 7-324", substituted "official" for "municipal official", substituted "that" for "which", and made technical changes for the purpose of gender neutrality.

Cited. 180 C. 243.

####

**Sec. 4-177.** Contested cases. Notice. Record. (a) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

(b) The notice shall be in writing and shall include: (1) A statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and regulations involved; and (4) a short and plain statement of the matters asserted. If the agency or party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(c) Unless precluded by law, a contested case may be resolved by stipulation, agreed settlement, or consent order or by the default of a party.

(d) The record in a contested case shall include: (1) Written notices related to the case; (2) all petitions, pleadings, motions and intermediate rulings; (3) evidence received or considered; (4)

questions and offers of proof, objections and rulings thereon; (5) the official transcript, if any, of proceedings relating to the case, or, if not transcribed, any recording or stenographic record of the proceedings; (6) proposed final decisions and exceptions thereto; and (7) the final decision.

(e) Any recording or stenographic record of the proceedings shall be transcribed on request of any party. The requesting party shall pay the cost of such transcript. Nothing in this section shall relieve an agency of its responsibility under section 4-183 to transcribe the record for an appeal.

(1971, P.A. 854, S. 12; P.A. 73-620, S. 9, 10, 19; P.A. 88-317, S. 12, 107.)

History: P.A. 73-620 amended Subsec. (e) omitting statement of matters officially noticed, proposed findings and exceptions and staff memoranda or data submitted to hearing officer or agency members from record of contested case and amended Subsec. (f) to require party requesting transcript to pay its cost; P.A. 88-317 amended Subsec. (b) to require notice to be in writing, transferred provisions of former Subsec. (c) re opportunity to parties to respond and present evidence and argument to Sec. 4-177c, relettered former Subsec. (d) to Subsec. (c) and rephrased provisions of the subsection, relettered former Subsec. (e) to Subsec. (d) and amended Subsec. (e) to require notices, petitions, official transcript and proposed final decisions and exceptions and final decisions to be included in contested case record, relettered former Subsec. (f) to Subsec. (e) and amended Subsec. (e) by substituting "Any recording or stenographic record of the proceedings" for "Oral proceedings or any part thereof" and adding provision re agency responsibility to transcribe the record for an appeal, and transferred provisions of former Subsec. (g), which required findings of fact to be based exclusively on the evidence and on matters officially noticed, to Sec. 4-180, effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date.

Notice of hearing under Sec. 10-151(b) which did not include two of the charges against the teacher held insufficient; findings of fact must be based on matters "officially noticed" as well as on the evidence. 167 C. 368. Cited. 171 C. 691; 172 C. 263; 173 C. 462; 176 C. 82; Id., 191; 177 C. 78; 183 C. 128; 186 C. 153; 188 C. 90; 191 C. 173; 207 C. 77; Id., 296; 208 C. 442; 210 C. 531; 211 C. 508; 213 C. 184; 214 C. 726; 215 C. 474; Id., 616; 223 C. 618; 228 C. 651; 239 C. 32.

Cited. 1 CA 1; 4 CA 117, 121; 9 CA 622; 33 CA 727; 34 CA 123; 37 CA 653; judgment reversed, see 238 C. 361. Notification by letter from complainant that requested information has been received, which was the same manner in which complainant initially notified commission of the contested case, constitutes a formal withdrawal of the complaint and therefore terminates commission's jurisdiction over the issue. 103 CA 571.

Administrative adjudication of no refund, not contested case. 30 CS 118. Cited. Id., 120; 34 CS 225; 39 CS 99; Id., 462; 41 CS 211; 42 CS 1; Id., 599.

Subsec. (b):

Subdiv. (4): Notice which failed to include several charges in "matters asserted" was prejudicial violation of Subsec. 167 C. 368. Cited. 174 C. 366. Subdiv. (2): Notice of hearing deemed legally sufficient where it cited statutory authorities of jurisdiction and under which violations claimed. 177 C. 515. Cited. 200 C. 489; 220 C. 86; 232 C. 57.

Cited. 22 CA 181; 41 CA 866.

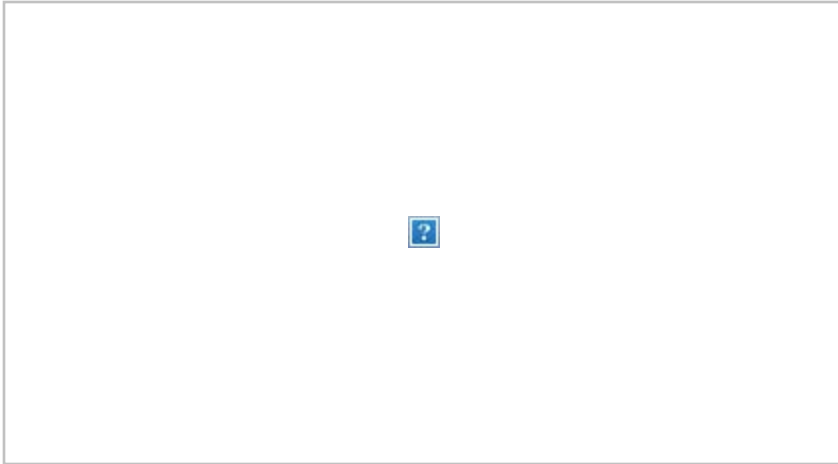
Cited. 40 CS 226; 43 CS 340.

--

Trying to help other people at all times,

J.R. McMullen

(203) 979-8360  
Representative District 18  
165 Slice Drive  
Stamford, CT 06907



--  
Trying to help other people at all times,

J.R. McMullen  
(203) 979-8360  
Representative District 18  
165 Slice Drive  
Stamford, CT 06907

