

## Procedural Rules for Hearings Before the Town of North Hempstead Board of Ethics

The Town of North Hempstead Board of Ethics (the “Board of Ethics”) hereby adopts the Provisions of Article 3 of the New York State Administrative Procedures Act (the “Act”) for hearings before the Board of Ethics. The following procedures shall be used by the Board of Ethics to conduct any hearing required or permitted by Chapter 16A of the Town Code of the Town of North Hempstead (the “Ethics Code”).

### Hearing Procedures

- A. Calling of Hearing. Any hearing required or permitted by the Ethics Code shall be called by majority vote of the Board of Ethics.
  
- B. Notices. In accordance with Section 1 of Article 3 of the Act, any person subject to a proceeding required or permitted by the Ethics Code (the “Respondent”) shall be given notice of such hearing, which notice shall be given by certified mail, return receipt requested and first class mail, not later than twenty-one (21) days prior to the date of the hearing. The notice of hearing shall contain the following:
  - 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 rules involved, where possible;
  - 4. a short and plain statement of matters asserted; and
  - 5. a statement that interpreter services shall be made available, on request, for those who use languages other than English (including American Sign Language), at no charge.
  
- C. Proof of Mailing. An affidavit of mailing shall be made concerning the giving of notice as stated above. The affidavit shall be conclusive evidence that notice was sent in accordance with these procedures.
  
- D. Written Responses. The Respondent may submit a written response to the assertions stated in the notice. The Respondent shall have fourteen (14) days from the date of the notice to submit a written response.
  
- E. Location of Hearings. All hearings shall take place at the Office of the Town Attorney, as counsel to the Board of Ethics, 220 Plandome Road, Manhasset, New York.
  
- F. Public Attendance. As stated in Section 108 of the New York Public Officers Law, all hearings before the Board of Ethics are quasi-judicial proceedings and, as such, are not meetings open to the public. Notwithstanding, the Board of Ethics, upon a vote of a majority of the Board, may make such proceeding open to the public.
  
- G. Hearing Officer. The presiding officer of any hearing shall be the Chair of the Board of Ethics, unless the Chair is disqualified pursuant to the Act. In such case, the Board of Ethics shall select from its membership an alternative presiding officer. Presiding officers shall have the powers stated in Section 304 of the Act.

H. Representation. At all times during any proceeding commenced by the Board of Ethics, the Respondent shall have the right to be represented by an attorney.

I. Conduct of Hearing

1. At the commencement of a hearing, the presiding officer will gavel the hearing to order. The presiding officer shall then state the reasons for the hearing and the matters asserted against the Respondent. Upon completion of the presiding officer's opening statement, the Board or its attorney may ask any question of the Respondent or present evidence against the Respondent. After questions have completed, the Respondent or his or her attorney may ask any question in response to evidence or testimony presented against the Respondent and/or present evidence or testimony in favor of the Respondent. After completion of questions and/or presentations, the presiding offer shall close the hearing.
2. The presentation of evidence at the hearing shall be subject to and in accordance with Section 306 of the Act.
3. The presiding officer, in his or her discretion, may adjourn a hearing to a future date.

**Decision**

- A. Within twenty-one (21) days of the close of the Hearing, the Board of Ethics shall meet for the purpose of considering any decision on the matter that was the subject of the hearing.
- B. Any decision rendered by the Board of Ethics shall be in writing and shall include findings of fact and conclusions of law or reasons for the decision.
- C. A copy of the decision shall be delivered to the Respondent (and his or her attorney of record) within seven (7) days of the date of the Board of Ethics' meeting where the decision was rendered. The decision shall be mailed to the respondent (and his or her attorney) by certified mail, return receipt requested and by first class mail. An affidavit of mailing shall be made concerning the mailing of the decision as stated above. The affidavit shall be conclusive evidence that the decision was sent in accordance with these procedures.

**Appeals**

Any decision of the Board of Ethics pursuant to this procedure shall be subject to appeal and review of the Supreme Court of the State of New York pursuant to Article 78 of the Civil Practice Laws and Rules.