

**Robert F. Wechsler**  
**Testimony to Government Administration and Elections Committee**  
**Regarding H.B. 7000, H.B. 6016, and H.B. 6019 - Municipal Ethics**  
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**Personal Information**

Director of Research for City Ethics ([cityethics.org](http://cityethics.org)), a national, nonpartisan municipal ethics advisory group. Director of the Model Municipal Ethics Code Project and author of the only municipal ethics blog on the internet.

Board member of Connecticut Common Cause (2006- ), for which I researched and wrote a survey of the state's municipal ethics code (currently being updated) and wrote a model ethics code for Connecticut municipalities ([www.catbirdpress.com/ethics.html](http://www.catbirdpress.com/ethics.html)).

In this testimony, I am not representing either organization.

**Current State of Connecticut Municipal Ethics Programs**

My Municipal Ethics Code Survey of 2004 ([www.catbirdpress.com/survey.pdf](http://www.catbirdpress.com/survey.pdf)) determined that ethics programs in Connecticut's towns and cities were abysmal. Even in the 41% of towns that actually had ethics codes in 2004, the programs were varied, limited, and extremely weak. Many basic code provisions were missing. Language was often so vague as to provide little in the way of guidance. Control over the ethics programs tended to reside in the chief executive, whose appointees, colleagues, and self are the principal targets of ethics complaints. And with so much variety, there have been few precedents to guide ethics boards.

The bottom line is that in only 6 Connecticut municipalities can a resident file an ethics complaint with an independent ethics board appointed by other than the town executive, and can that resident know either that the board can reprimand a violator or that the board's recommendations must be at least openly accepted or rejected by elected politicians. No wonder the programs get so little use!

There has been some ethics code activity since 2004 (17 municipalities have told me about changes or at least the beginning of talks about changes; also, the Litchfield Hills COG is talking about a regional ethics code), but many more towns are waiting to see what the state legislature does.

### Why Ethics Codes Are Important

Ethics codes are intended to provide guidance with respect to conflicts of interest, to require disclosure of conflicts, and to provide for enforcement of their provisions independent of the people they apply to. Allowing interests other than the public interest to guide official decisions is an abuse of power. Abusing power by arguing or voting or enabling the furtherance of an official's personal interests does not in any way further the public interest. And it undermines the public's trust in government, which undermines the democratic process.

Many arguments have been made against municipal ethics codes, but they need to be very solid and very important to override the abuse of power and the distrust that a lack of ethics codes allows.

### Response to CCM's Arguments in Opposition to a Mandated Municipal Ethics Code

The Connecticut Conference of Municipalities (CCM) opposes any mandated municipal ethics code. Its principal arguments do not hold up. Below are its principal arguments and my responses to them:

1. **A one-size-fits-all code is wrong:** A minimalist code, such as that in H.B. 7000, *is* appropriate to small towns and, in fact, is similar to what small towns that have codes have selected. Such a size-extra-small code does not fit all, but hardly because it's too big. It's small even for the smallest towns. It's just a place to start.

What *is* inappropriate is that H.B. 7000 does not deal with such essential ethics code requirements as the independence of the ethics board, giving it teeth, and annual and applicant disclosure of financial interests (see below).

2. **Ethics codes (especially annual disclosure) harm government volunteerism:** There is no evidence that ethics codes undermine volunteerism. Municipalities in the 29 states that either have state municipal ethics codes or require municipal ethics codes do not have problems attracting volunteers.

It is clear, however, that two things do undermine government volunteerism in Connecticut: (i) a lack of trust in government (which is a principal purpose of ethics codes) and (ii) the way many Connecticut towns, unlike most towns across the country, pass over qualified unaffiliated voters in favor of affiliated voters with respect to board positions, elected and appointed. If the CCM truly cares about volunteerism, it should be pushing for positive change in these two areas, not opposing ethics codes

that, because they create more trust in government, make individuals more likely to participate.

**3. Requiring ethics codes and boards is an unfunded mandate:** The cost of small-town ethics boards is almost nothing – they rarely meet, they're unpaid, they have no staffs or offices. And H.B. 7000 has the Office of State Ethics doing the training. This is not an area in which a cry of unfunded mandate is appropriate.

**4. There is already enough accountability in our towns:** There is no form of government in the country with as little accountability as the Town Meeting form, at least when few people attend and the town meeting has few powers, as is the case in most such towns. The Town Meeting form has a strong mayor and no sitting legislative body, and town meetings provide almost none of the oversight of a town council or representative town meeting. Almost everyone who runs for election is elected, and the great majority of positions are either filled or nominated by party town committees, each of which is elected by a tiny number of people.

**5. Citizens are not demanding ethics reform:** Citizens never demand ethics reform except after serious scandals. Few of them even know what an ethics code is, and neither the CCM, nor the chief executives who constitute its true membership, do much to change this.

**6. There is no municipal ethics epidemic:** There *is* a municipal conflict of interest epidemic. Going through the state's newspapers, I have seen a whole range of problems. And these are only the tip of the iceberg.

The CCM position on municipal ethics is a good example. Our towns' chief executives consistently oppose state-mandated ethics codes and either choose to have no code or a code where they are in control of enforcement, even over themselves and the people they appoint and run with. How is this in the public interest they have taken an oath to protect?

### **Principal Problems with H.B. 7000**

There are four essential elements of a municipal ethics code, according to the nation's leading expert on the topic, Mark Davies, Executive Director of the New York City Conflicts of Interest Board:

1. That it be clear and comprehensive, providing clear guidance across the board
2. That it provide for three kinds of sensible disclosure of interests: an annual disclosure statement, disclosure when a conflict arises (transactional disclosure), and disclosure when someone bids for business or requests a permit (applicant disclosure);
3. That it provide effective administration, featuring an independent ethics board with teeth, which gives swift advisory opinions, which has a monopoly on interpreting and enforcing the code, which can give waivers for exceptions, and which provides training for all town officials and employees, as well as everyone who does business with the town; and
4. That it provide whistle-blower protection.

H.B. 7000 does not effectively include any of these four essential elements.

In many instances, it uses vague language that neither provides effective guidance nor is enforceable. It is not comprehensive, but it does contain most of the basic provisions in one form or another. Provision-wise, it is a good start.

It does not require an ethics board appointed by anyone other than the chief executive. This ensures that people will not trust the ethics board to be neutral. Therefore, people will not turn to the ethics board for advice or enforcement, nor will they trust the ethics board's decisions.

It does not ensure that an ethics board, rather than politicians, will enforce the ethics code's provisions. In other words, it gives the ethics board no teeth. In fact, in Sec. 11, it does not clearly allow an ethics board to go beyond a finding of probable cause, an issue about which there has been controversy. Without a clear statement that an ethics board can go beyond this point, there is no assurance that, given the confidential nature of investigations, any ethics violation will even see the light of day.

It does not require any disclosure of financial interests, but leaves this up to each municipality. Without disclosure, there is no way to check to see if there is a conflict of interest. This limits citizens and the media from participating in the enforcement process.

It does not provide whistle-blower protection. This means that town employees (the people who know what's going on) will not be able to report violations without endangering their jobs and pensions. Whistle-blower protection is important because it leads town officials to believe that their violations might be reported and, therefore, they will be more likely to act consistent with the code (that is, their personal interest in protecting themselves will be closer to the public interest in their acting fairly and impartially).

For further information, see my Model Ethics Code for Connecticut Municipalities at [www.catbirdpress.com/ethics.html](http://www.catbirdpress.com/ethics.html).

### **Principal Problems with H.B. 6016**

Requiring the Office of State Ethics to develop a uniform municipal ethics code and a single, centralized system for enforcement is a good idea, to the extent it is well-implemented. But it is not clear that this new Office is ready to handle such a large project at this time, nor that it wants to take this project on.

It is also not clear that the idea of regional ethics boards has been sufficiently considered and debated. There is such strong opposition by municipal politicians even to the mandate of a minimal municipal ethics program controlled by those politicians, it is unlikely that a serious attempt at centralizing the system would not lead to fierce opposition to municipal ethics itself. Regional ethics boards might be a good compromise. There would be less of a burden on the Office of State Ethics (primarily educational), there would be less cost per municipality than 169 separate ethics boards, there would be little problem with interested ethics board members, ethics boards would be independent of any municipality's political process and yet not be controlled by the state, regional ethics board members would get more experience than municipal ones and they would create more shared precedents, providing more guidance to officials. The benefits of regional ethics boards are great, and the problems few.

Therefore, at this time, I feel that regional ethics boards should be considered. There is even a precedence in the work of the Litchfield Hills COG and interest in the Northeast, as well.

**Principal Problem with H.B. 6019**

This bill should not be passed without the legislature making a clear statement that municipal ethics boards may go beyond a finding of probable cause.

I would be happy to discuss these and other municipal ethics matters with any members or staff. Feel free to contact me at 16 Windsor Road, North Haven, CT 06473-3015, 203-230-2548, [rwechsler@cityethics.org](mailto:rwechsler@cityethics.org).