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## Goals of Ethics Ordinances

Ethics ordinances function with a different purpose than other behavior-based policies like anti-corruption laws—the emphasis is on guiding ethical behavior, not on punishment of those who have committed corrupt acts. Although ethics ordinances can contain mechanisms to file complaints and enforce sanctions for ethical infractions, these ordinances serve primarily to educate public officials on how to prioritize public duties when faced with conflicts of interest.<sup>9</sup> This is particularly important in small towns, as they often lack the capacity to provide oversight, gphqtego gpv."cpf "dwf i gw'vj cv'rti gt"ekkgu"cpf "ucv'g'i qxgtpo gpw'dgpgkh'ltqo O'Rwdne"qhheknø' cdkk' "vq'o cng'gf wecv'gf "f gekukqpu"qp'vj g'o cwgtu'huvgf "cdq'xg"ör tqo qv'gu'r wdrle"eqphk' gpeg'lp" government, protects the integrity of government decision making, limits financial waste, and r tqo qv'gu'ghhekgpe{0<sup>10</sup> In order to best achieve these goals, ethics committees benefit from the ability to provide training and legal advice, in addition to enforcement powers and financial disclosure functions.<sup>11</sup>

ECRKEkkgu"öO wplekr cni'Gyj leu'lp"P gy "[ qtm'c"Rtko gt'hqt"Cwqtpg{u'cpf "Rwdne"Qhhekn.ö" published in 2016 by the New York State Bar Association, as an ultimate guide for municipal ethics ordinances. This book recommends that committees establish a culture of integrity, in part by having ethics ordinances to ensure public officials are held to a high ethical standard. This is a necessary step to verifying accountability.<sup>12</sup> To accomplish this, any material put forth by an ethics committee must be easily accessible and digestible by the public, avoiding legal jargon when possible.<sup>13</sup> O quv'kphqto cvkqp'uj qwf "dg'r wdrle"qp'c"qy pø'y gdukg. "kpenf kpi <f gekukqpu" made by the committee, budgets, minutes of meetings, list of elected and administrative officials and contact information, information about permits, licenses, zoning, and applications, audit reports, contracts, lobbying regulations, public records, and tax information.

CAPi also suggests cross-training employees, so there is more than one person who, for example, manages accounts. Training multiple people in one job can help ensure that there is accountability and integrity in the work.<sup>14</sup> Additionally, public officials should be required to report suspected violations, with enforced penalties for not doing so. Each violation should have an independent enforcement mechanism. This can include any violation of the law in addition to those established by ethics ordinances. As private citizens may be inciting ethical violations through bribery or gifts, there also must be a mechanism to hold them accountable.<sup>15</sup>

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<sup>9</sup> O ctlg'Nqwkug'Xlevqt."öGphqtego gpv'c'p'kpf kur gpucdrg'Ego r qpgpv'lp'vj g'Uweeguu'qh'O wplekr cni'Gyj leu'Dqctf u.ö" *Municipal Lawyer* 18, no. 1 (2004): 466, <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=1821>.

<sup>10</sup> Xlevqt."öGphqtego gpv'c'p'kpf kur gpucdrg'Ego r qpgpv.ö"30'

<sup>11</sup> Xlevqt."öGphqtego gpv'c'p'kpf kur gpucdrg'Ego r qpgpv.ö"30'

<sup>12</sup> Uj {co "Uj cpngt."öHki j kpi "Uo cni'Vqy pø'Eqttr wqp-<J qy "vo Obtain Accountability, Oversight, and Vtepur ctgpe{.ö" *Columbia Law School Center for the Advancement of Public Integrity* (NBQRW



officials for their violations via public disclosure of their unethical behavior, ethics committees that have independence from their council or select board in terms of enforcement are commonly able to impose a variety of sanctions including: fines, civil forfeitures, cease and desist orders, and suspension and removals.<sup>22</sup>

The investigatory role of the committee includes not only conducting investigations and making recommendations but also protecting those who call for such an investigation.<sup>23</sup> Ethics committees commonly have an ability to act only in the case of a filed complaint, though this may lead to a failure to act on cases of unethical conduct if there is not a clearly defined complainant.<sup>24</sup>

The advisory role of an ethics committee commonly includes educating town officers on existing town ethics rules and providing recommendations for the select board or similar town authority such as a town manager in jurisdictions where a committee does not have enforcement power.<sup>25</sup>

An ethics committee asking for more power, such as enforcement power over perceived ethics violations, can appear hypocritical to superior officials such as a select board.<sup>28</sup> This is because the ethics committee is viewed as a way to counter power grabs by others, but they appear to be doing exactly that in such a scenario. Due to this problem, it can be difficult for an already established ethics committee to expand its power beyond making recommendations to the select board to bridge the enforcement gap.

### **Ethics Training: Importance and Evidence of Success**

The educational role of an ethics committee focuses on establishing training and conveying the importance of ethical behavior. Further, the training conducted by an ethics committee should involve recognition that established rules are *minimum* guidelines for acting ethically. Ethics training must also be ongoing and required, rather than

looking at factors contributing to success of ethics ordinances in Bozeman since the creation of a Board of Ethics in 2008. In Bozeman, the City Charter adopted in 2008 mandated the creation of a Board of Ethics and training for both appointed and elected city officials and employees.<sup>35</sup> Training was viewed as an important component for reinforcing the Ethics Code—training provided scenarios and examples of ethical challenges, rather than restating the details of the Code.

A study by Feldheim and Wang in 2004 found that 70 percent of large cities with populations over fifty-thousand have a Code of Ethics, making it the most common municipal level ethics measure.<sup>36</sup> Uweeguhwrigj leu'eqf gu'ecp'dg'f guetkdgf "cu'vj qug'vj cv'j cxg'ör tcevecn'dgj cxkqtcn' goals, [are] connected to the emotional impact of the norms therein, and [are] institutionally uw r qtvgf "cpf 'uwdlgev'q'ggf dcent'cu'c'rxkpi "f qewo gpv<sup>37</sup> In 2016, the Missouri Municipal Ethics Survey was sent to municipalities throughout Missouri to determine what ethical infractions were most common and to identify any correlations between ethical infractions,

Vj g't guvnu'htqo 'vj g'O kuqwtk'O wplekr cri'Gyj leu'Uwtxg{'hqwpf 'vj cv'öj g'lo r ngo gpv'vqp'qh'gyj leu' vclp'kpi 'kp'cp'ci gpe{' 'y kn'dg'pgi cv'xgn' 'cuqekcv'g' 'y kj 'qdugt'xgf 'gyj lecn'k'pht'cev'k'p'u'ö<sup>38</sup> This correlation, although supported by limited evidence, demonstrates the potential impacts of from ethical training. There is a clear impact of ethical training on three common ethical violations: mishandling of confidential information, conflict of interest through gifts, and indecent treatment (of colleagues and citizens alike).<sup>39</sup> The study concludes that ethics codes alone are not sufficient to reduce the rates of ethical violations.<sup>40</sup> Despite this, they serve as an important basis for stronger ethical management. This is accomplished in part by providing a minimal standard for ethics and listing acceptable and unacceptable practices. Notably, building on the foundation set out in ethics codes, ethical training, most likely to occur when a robust code is present, makes a difference in diminishing ethical violations. Although complex, evidence suggests that ethics training is most valuable in reducing the most common infractions listed above.

### Alternate Ways of Conceiving Ethics Ordinances

In 2017, the Vermont General Assembly passed Act 79, requiring all Vermont municipalities to adopt conflict of interest ordinances. Conflict of interest is defined in the statute as öcp'k'pvt'guv'qh' a member that is in conflict with the proper discharge of his or her official duties due to a uki p'hc'pvr'gtu'qpcr'qt'k'p'c'p'k'k'p'vt'guv'qh'vj g'o go dgt.'c'r'gtu'qp'y kj k'p'vj g'o go dgt'ö'ko o gf'k'cv'g' hco k'f.'qt'qh'vj g'o go dgt'ö'd'w'k'p'gu'cu'qek'cv'g'ö<sup>41</sup> Every state in the country has set a standard for elected officials to adhere to conflict of interest rules.<sup>42</sup> Though conflict of interest is the most commonly applied ethics code, some states and municipalities have found success using alternative ways to cuugu'gyj lecn'ku'w'gu'ö'k'ku'ö'H'w'ri'ö' qf'gr'Gyj leu'E'qf'g.ö'E'k'v' 'Gyj leu'k'pen'f'gu' gpf'qt'ugo'gp'u.'b'gg'v'k'pi 'cv'g'p'f'c'p'eg.'eqo'r'nek'v' 'y kj 'q'vj'gtu'ö'x'k'q'r'v'k'p'u.'h'cn'gn' 'ko'r'wi'p'k'pi' " reputation, honesty in applications, and transactional disclosure as potential ethics ordinances.<sup>43</sup>

T'gx'ky'k'pi 'v'gp'v'qy'pu'ö'gyj leu'q'tf'k'p'c'p'egu'vj cv't'c'pi'g'ht'qo 'u'qo'gy'j'cv'v'q'x'gt{' 'eqo'r't'g'j'gp'uk'x'g.'vj'g' " six most common ethics ordinances besides conflict of interest are shown in Figure 2. The towns whose ordinances were surveyed were selected based on similar size or proximity to Shelburne, Vermont. All towns are located in the Northeast with the exception of Leander, Texas, which was used because it was both readily available and comprehensive. The towns include:

- Merrimack, New Hampshire
- Antrim, New Hampshire
- Waterville, Maine
- Bangor, Maine
- Geddes, New York

<sup>38</sup> Wally Siewert and Cf t'k'p'q'W'f'c'p'k'ö'ö' kuqwtk'O wplekr cri'Gyj leu'Uwtxg{'ö

<sup>39</sup> Y cm' 'U'gy'gt'v'c'p'f' 'C'f't'k'p'q'W'f'c'p'k'ö'ö' kuqwtk'O wplekr cri'Gyj leu'Uwtxg{'ö

<sup>40</sup> Y cm' 'U'gy'gt'v'c'p'f' 'C'f't'k'p'q'W'f'c'p'k'ö'ö' kuqwtk'O wplekr cri'Gyj leu'Uwtxg{'ö

<sup>41</sup> ö'U'ö'<'C'p'cev't'gr'v'k'pi 'v'q'g'uc'd'rik'uj'k'pi 'vj'g'U'cv'g'Gyj leu'E'qo'o'k'usion'and'standards'of'SP'IN'







