



Legislative Testimony
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Written Testimony Supporting Senate Bill 296, An Act Establishing a Right to Appeal the Decision of a Municipal Ethics Board to the Office of State Ethics

Senator Flexer, Representative Fox, Ranking Members Sampson and Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in support of Senate Bill 296, An Act Establishing a Right to Appeal the Decision of a Municipal Ethics Board to the Office of State Ethics.

The ACLU-CT is an organization dedicated to ensuring that all people are treated fairly before the law, including in the process they get when their rights and interests are on the line. Due process is the minimum standard of procedural fairness; it requires, at a minimum, notice and an opportunity to be heard by a neutral decisionmaker. Appeals are an important consideration for due process, because being able to take a claim or defense to a higher authority is one way to ensure fairness in the process and the neutrality of the arbiter. While the U.S. Supreme Court has declined to recognize a fundamental right to appeal,¹ the due process standards elucidated by that court are a floor, not a ceiling. Connecticut can² and should provide for more robust process wherever possible.

Decisions by municipal ethics boards can have serious consequences. These boards can impose financial penalties and can recommend disciplinary actions up to and

¹ See, e.g., *Lindsey v. Normet*, 405 U.S. 56, 77 (1972).

² See, e.g., Constitution Annotated, Amendment 5.4.8.2.1.3, Post-Trial Due Process Rights, available at https://constitution.congress.gov/browse/essay/amdt5_4_8_2_1_3/#essay-18.

including termination, restitution, and civil penalties.³ With serious stakes on the line, people who are before a municipal ethics board are entitled to due process, including a neutral decisionmaker. In municipal politics, though, there is a concern that “ethics ordinances [could] become political weapons.”⁴ That concern is greatly assuaged if municipal ethics boards’ decisions are subject to appeal to the nonlocal, presumably more neutral Office of State Ethics. In other words, providing for an appeal ensures a neutral arbiter for potentially serious decisions.

Connecticut should always be committed to ensuring fairness in processes that may deprive people of their lives, liberty, or property at the hands of the government. Senate Bill 296 provides for greater fairness by creating a right to appeal. We support this effort and encourage the Committee to do the same.

³ Terrance Adams, “Municipal ethics commissions.” OLR Research Report, 2014, *available at* <https://www.cga.ct.gov/2014/rpt/2014-R-0237.htm>.

⁴ Meghan Friedman, “The state of town ethics and how a new bill could change it.” New Haven Register, Nov. 9, 2019, *available at* <https://www.ctinsider.com/news/nhregister/article/The-state-of-town-ethics-and-how-a-new-bill-14821446.php>.