



**TOWN OF HANOVER**  
**BOARD OF SELECTMEN**  
550 HANOVER STREET, SUITE 29  
HANOVER, MASSACHUSETTS 02339  
781-826-5000 ext. 1084

*David Delaney, Chairman*  
*John Tuzik, Vice-Chair*  
*Brian Barthelmes*  
*Emmanuel Dockter*  
*Jocelyn Keegan*

**POLICY #04-01**

(Supersedes Policy 04-01 dated 10/28/03)

**USE OF TOWN COUNSEL POLICY**

**I. Purpose:**

The purpose of this policy is to provide guidelines and expectations on the accessibility of Town Counsel to Town boards, commissions, committees, the Town Manager, and employees. It is not the intent of this policy to explicitly or implicitly deny anyone access to Town Counsel but rather to control and monitor accessibility to Town Counsel, thereby understanding and controlling the cost of legal services as well as eliminating redundancy. This Policy supersedes Policy 04-01 and is effective immediately.

**II. Use of Alternate Resources**

Any person or entity seeking advice from Town Counsel shall endeavor, where appropriate, to first resolve the question through use of the Town Manager's office, internal resources, or publicly available resources such as the Attorney-Of-The-Day with the Legal Division of the State Ethics Commission.

**III. Boards, Commissions, and Committees**

1. Chairs of all boards, commissions, or committees, other than the Board of Selectmen, shall have direct access to Town Counsel to obtain legal advice, including a request for a written opinion, or to request Town Counsel to attend a meeting of such board, committee, or commission. Any member of a board, commission or committee may request a written opinion from Town Counsel, provided that said member obtains a majority vote of said board, committee, or commission at a public meeting authorizing the request of such opinion. After obtaining a majority vote as set forth in the preceding sentence, said request shall be submitted to Town Counsel with a copy to the Chair of the Board of Selectmen for notification purposes.

2. Town Counsel will refer all requests for opinions received from individual members of boards, commissions, or committee to the chair of said committee, who will schedule the request for a vote of the board, commission, or committee on the matter of approving such a request at the next meeting of said committee, when feasible. Town Counsel will copy the Chair of the Board of Selectmen on all such requests.

3. Boards, commissions, or committees may vote to authorize one member of the board, commission or committee to communicate directly with Town Counsel on a specific matter they have explicitly voted for that member to have responsibility for. For example, if a board appoints one member of the board to work on an item to be considered by the board, the

board may include in their designation that this includes the ability to seek an opinion from Town Counsel as part of the work to be undertaken by that board member. Such vote of the board, commission, or committee must clearly reflect an authorization for the Town Counsel to speak directly with less than a quorum of the board, commission or committee on the specific matter. Such a vote must be filed with the Town Counsel and the Chair of the Board of Selectmen.

4. The chairs or vice-chairs of all boards, committees, and commission shall have direct access to Town Counsel to request advice or assistance in preparation of the agenda for an upcoming meeting or for advice regarding chairing an upcoming meeting. They do not need to copy the Chair of the Board of Selectmen on such inquiries.

5. The chairs or vice-chairs of boards, committees, or commissions with the Town shall have direct access prospectively to Town Counsel to request opinions, advice or information concerning the Open Meeting Law codified at G.L. c. 39, section 23B or to receive guidance with respect to the rules governing responses to public records requests. They do not need to copy the Chair of the Board of Selectmen on such inquiries.

6. Officers of the Town, including all members of boards, commissions, and committees requesting Ethics Opinions (Conflict of Interest Law) shall have direct access to Town Counsel. They do not need to copy the Chair of the Board of Selectmen on such inquiries.

7. The Moderator shall have direct access to Town Counsel to obtain legal advice, including a request for a written opinion, in relation to her/his duties as Moderator.

#### **IV. Board of Selectmen**

1. The chair of the Board of Selectmen, or the Board of Selectmen through a majority vote, shall have direct access to request Town Counsel attend a meeting of the Board.

2. Any member of the Board of Selectmen shall have direct access to Town Counsel to obtain legal advice or request a written opinion. Any requests for a written opinion shall be submitted in writing to Town Counsel with a copy to the chair of the Board of Selectmen for notification purposes. The chair of the Board shall ensure that other Board members are informed of such requests and Town Counsel shall provide any response to the entire Board.

3. All members of the Board of Selectmen shall endeavor to keep the rest of the Board of Selectmen updated, where appropriate, on advice and communications with Town Counsel.

4. All members of the Board of Selectmen requesting Ethics Opinions (Conflict of Interest Law) shall have direct access to Town Counsel. They do not need to copy the chair of the Board of Selectmen on such inquiries and Town Counsel shall respond to the member directly without copies to other members of the Board.

**V. Town Manager and Employees**

1. The Town Manager shall have direct access to Town Counsel in relation to her/his duties as Town Manager.

2. Employees shall have email access to Town Counsel as needed for general advice on issues concerning the operation of their offices, but must copy the Town Manager on the request to Town Counsel. If the request involves generation of a written opinion from Town Counsel, Town Manager shall approve that request before the opinion is written.

3. Employees of the Town requesting Ethics Opinions (Conflict of Interest Law) shall have direct access to Town Counsel. They do not need to copy the Town Manager on such inquiries.

**VI. Town Meeting Issues**

1. Sponsors of warrant article(s) for the Annual or Special Town Meetings, excluding petition articles, shall submit draft wording for articles or general background information to Town Counsel for review before submission to the Board of Selectmen. To obtain such legal review, draft petition articles must be submitted to the Board of Selectmen's office and staff in the Board of Selectmen's office shall forward the draft petition article to Town Counsel for review.

2. Sponsors of petition articles for Annual or Special Town Meetings may submit draft articles to Town Counsel for legal review and guidance. To obtain such legal review, draft petition articles must be submitted to the Board of Selectmen's office and staff in the Board of Selectmen's office shall forward the draft petition article to Town Counsel for review.

**VII. Special Town Counsel**

1. All Special Counsel cases require approval by the Board of Selectmen.

**VIII. Confidentiality of Attorney-Client Communications**

1. The attorney-client privilege shields from the view of third parties all confidential communications between a client and its attorney undertaken to obtain legal advice. As a matter of policy, the Board of Selectmen hereby requires that the confidentiality of communications between Town officials, departments, boards, committees, commissions, and employees and Town Counsel or Special Town Counsel be maintained and preserved. The scope of privileged communications includes communications from Town officials, departments, boards, committees, commissions, or employees seeking legal advice, as well as opinions and advice received from Town Counsel or Special Town Counsel, whether in formal written opinions, email, in person, or by telephone.

2. The attorney-client privilege belongs to the Town of Hanover, acting through its Board of Selectmen. The Board of Selectmen is the chief policy making body of the Town and is responsible, in conjunction with Town Counsel, for managing the legal affairs of the Town. Accordingly, only the Board of Selectmen, acting as a Board at a duly noticed meeting, is authorized to waive the attorney-client privilege on behalf of the Town. Should any town official, department, board, committee, commission, or employee believe that it is in the best interests of the Town to waive the attorney-client privilege with respect to any privileged attorney-client communication received from Town Counsel or Special Town Counsel, they should request to discuss the matter with the Board of Selectmen in executive session to obtain a vote by the Board of Selectmen as to whether said privileged communication may be released. No town official, department, board, committee, commission, or employee is permitted on his, her, or its own volition to release any confidential attorney-client communications to third parties or otherwise purport to waive the Town's attorney-client privilege.

**EFFECTIVE DATE:** This policy was approved by the Board of Selectmen on December 18, 2017 and is effective immediately.

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David Delaney, Chairman

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John Tuzik, Vice-Chairman



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Brian Barthelmes, Selectman



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Emmanuel Dockter, Selectman



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Jocelyn Keegan, Selectman