

# Rhode Island Ethics Commission



Annual Report  
Fiscal Year 2021

# Rhode Island Ethics Commission

## Annual Report

July 1, 2020 – June 30, 2021

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Vice-Chairperson, Arianne Corrente  
Secretary, Kyle P. Palumbo, Esq.  
Commissioner, Robert A. Salk, DO, FACOG / Lauren E. Jones, Esq.  
Commissioner, M. Therese Antone, RSM  
Commissioner, Timothy Murphy, MD  
Commissioner, J. Douglas Bennett  
Commissioner, Emili B. Vaziri, Esq. / Holly J. Susi  
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This Annual Report summarizes the activities of the Ethics Commission for State Fiscal Year 2021 (FY2021), the time period covering July 1, 2020, to June 30, 2021. The separate sections of this Annual Report describe FY2021 activities relating to regulatory and policy changes, declaratory rulings, advisory opinions, investigations and enforcement proceedings, litigation, financial disclosure, education, and public access.

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# **I. INTRODUCTION TO THE COMMISSION**

The Rhode Island Ethics Commission (Commission) is a constitutionally mandated body authorized to adopt, administer, and enforce the State of Rhode Island's Code of Ethics in Government (Code or Code of Ethics). R.I. Const. art. III, sec. 8. The Code of Ethics is embodied in Rhode Island General Laws §§ 36-14-4 to -7 and Commission Regulations 520-RICR-00-00-1 to -4. The Code sets forth standards of conduct for all Rhode Island public officials and employees.

The Commission educates and advises public officials and employees about the standards of conduct set forth in the Code of Ethics. The Commission's education program offers seminars and workshops, and disseminates publications about the Code of Ethics and Commission procedures. The Commission issues advisory opinions in response to specific questions about the Code posed by public officials and employees facing potential conflicts of interest.

The Commission facilitates transparency in government through its administration of the filing of annual financial disclosure statements. This is an ongoing process in which a database of required filers is maintained and updated by Commission staff. Once filed, financial disclosure statements are public and often requested pursuant to the Access to Public Records Act.

The Commission enforces the Code of Ethics through a combination of executive session investigative proceedings, open hearings, and public adjudications. Enforcement powers include civil penalties and, in some instances, the power to remove an official from office.

All of the Commission's educational publications, advisory opinions, complaints, and final dispositions are available to the public as public records. Investigative reports, related pleadings, and Commission orders become public at specific junctures in the enforcement process.

## **HISTORY**

In 1976, the Rhode Island General Assembly enacted the State's first Code of Ethics and created the Conflict of Interest Commission. That Code governed the activities of state and municipal elected and appointed officials and required all such officials to meet newly imposed financial disclosure requirements.

In November of 1986, Rhode Island voters adopted a constitutional amendment mandating that the General Assembly “establish an independent non-partisan ethics commission . . . .” R.I. Const. art. III, sec. 8. In 1987, the General Assembly replaced the Conflict of Interest Commission with a fifteen (15) member Ethics Commission. In 1992, the General Assembly reduced the size of the Ethics Commission to its current nine (9) members. In 2016, the citizens of Rhode Island voted to amend the Rhode Island Constitution to clarify that members of the General Assembly were subject to the Code of Ethics and the enforcement authority of the Ethics Commission.

The Rhode Island Constitution empowers the Ethics Commission to adopt and enforce a Code of Ethics, to investigate violations of the Code, and to impose penalties, including, in certain circumstances, removal from office. R.I. Const. art. III, sec. 8. Legislation enacted by the General Assembly also grants the Ethics Commission the power to issue advisory opinions to public officials and employees and to offer educational programs. R.I. Gen. Laws §§ 36-14-10 & -11. The process by which Commissioners are appointed, quorum requirements, and the administrative powers of the Commission are governed by R.I. Gen. Laws §§ 36-14-8 & -9.

## **POWERS**

The fundamental powers of the Ethics Commission are to:

- adopt, amend, and enforce the Code of Ethics;
- advise public officials and employees about the Code of Ethics through the issuance of advisory opinions, as requested;
- administer and enforce financial disclosure requirements;
- maintain financial disclosure records;
- enforce the Code of Ethics through a combination of executive session investigative proceedings, open hearings, and public adjudications;
- educate public officials, government employees, and citizens.

## **RHODE ISLAND CODE OF ETHICS IN GOVERNMENT**

The Rhode Island Constitution sets forth an expectation that public officials and employees “adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, be open, accountable and responsive, avoid the appearance of impropriety and not use their position for private gain or advantage.”<sup>1</sup> The Rhode Island Constitution further provides that all state

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<sup>1</sup> R.I. Const. art. III, sec. 7.

elected and appointed officials and employees of state and local government, of boards, commissions and agencies are subject to the Code of Ethics.<sup>2</sup>

The Code of Ethics regulates conflicts of interest which occur when public officials' public duties intersect with their private interests. Public officials and employees may not have financial interests that are in substantial conflict with the proper discharge of their public duties.<sup>3</sup> Conflicts of interest include the financial interests of the public official or employee as well as those of his or her family members, private employers, business associates, or any business the official or employee may represent.<sup>4</sup> When conflicts of interest arise, public officials and employees are required to disclose the nature of the conflict.<sup>5</sup> They are further required to recuse themselves from taking any official government action or participating in deliberations concerning a matter in which they have a conflict of interest.<sup>6</sup>

The Code of Ethics consists of statutory provisions enacted by the General Assembly and regulations adopted by the Commission.<sup>7</sup> Commission procedures are also set forth in the statutes and Commission regulations.<sup>8</sup> Complete copies of the Code are available at the Commission offices and may be viewed on the Commission's website at <https://ethics.ri.gov/>.

Furthermore, the Ethics Commission has regulatory authority relating to certain financial disclosure requirements for gambling interests,<sup>9</sup> and has enforcement authority relating to goods or services provided to public officials and employees by state vendors.<sup>10</sup> The Ethics Commission also works with the Rhode Island Board of Governors for Higher Education in the review of applications for exceptions to the Code made by state university inventors and researchers.<sup>11</sup>

## THE COMMISSION

The Commission is comprised of nine (9) Rhode Island citizens. Four (4) are appointed directly by the Governor; the other five (5) are appointed by the Governor from lists of nominees submitted by the President and the Minority Leader of the Rhode Island Senate, as well as the Speaker, the Majority Leader,

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<sup>2</sup> R.I. Const. art. III, sec. 8.

<sup>3</sup> R.I. Gen. Laws § 36-14-5(a).

<sup>4</sup> R.I. Gen. Laws § 36-14-7(a).

<sup>5</sup> R.I. Gen. Laws § 36-14-6.

<sup>6</sup> R.I. Gen. Laws §§ 36-14-5 & -6; Regulations 520-RICR-00-00-1.1.4; -1.2.1; -1.2.2; -1.3.1; -1.3.2; -1.4.1 to -1.4.4; -1.5.1 to -1.5.7.

<sup>7</sup> R.I. Gen. Laws §§ 36-14-1 to -7; Regulations 520-RICR-00-00-1.1.4 to -2.1.

<sup>8</sup> R.I. Gen. Laws §§ 36-14-12 to -14; Regulations 520-RICR-00-00-2.2; -2.7 to -2.10; -3; -4.1.

<sup>9</sup> R.I. Gen. Laws §§ 41-9-1 to -6.

<sup>10</sup> R.I. Gen. Laws §§ 36-14.1-1 to -4.

<sup>11</sup> R.I. Gen. Laws § 16-59-26.

and the Minority Leader of the Rhode Island House of Representatives, respectively. R.I. Gen. Laws § 36-14-8(a). No Commission member shall be appointed for more than one full five-year term, provided, however, that a member may continue to serve until a successor is appointed. R.I. Gen. Laws § 36-14-8(c). While serving on the Commission, members are prohibited from holding or campaigning for public office, holding office in any political party or political committee, participating in or contributing to any political campaign, or owning or being employed by a business entity that derives any revenue by engaging in lobbying. R.I. Gen. Laws § 36-14-8(f). Additionally, Commissioners may neither directly nor indirectly attempt to influence any decision by a governmental body. R.I. Gen. Laws § 36-14-8(f).

Commission members serve as volunteers and receive no compensation whatsoever. During FY2021, the Commission conducted seventeen (17) meetings.

### **COMMISSION MEMBERS DURING FY2021**

**Marisa A. Quinn** (Chairperson) was appointed by Governor Gina M. Raimondo in March 2015. The Commission elected her Vice-Chairperson on December 11, 2018, and Chairperson on January 7, 2020. Ms. Quinn is the founder and principal of Conanicut Strategies, LLC, a consulting practice that provides services to mission-driven clients in the intersecting areas of strategy, public affairs, policy development, strategic planning, and communications. She brings decades of experience in the public and non-profit sectors. Ms. Quinn spent 22 years at Brown University, serving in a variety of roles, including as Assistant to President Ruth J. Simmons, Vice President for Public Affairs and University Relations, and most recently as the Chief of Staff to Provost Richard M. Locke. She began her career as a legislative aide to US Senator Claiborne Pell on the Subcommittee on Education, Arts and the Humanities. Ms. Quinn subsequently served as policy advisor to New Jersey Governor James J. Florio; public affairs specialist at the Port Authority of New York and New Jersey; and chief of communications and public information at the Rhode Island Department of Elementary and Secondary Education. She graduated from the University of Rhode Island with a bachelor's degree in political science and earned a master's degree from the Eagleton Institute of Politics at Rutgers University. Ms. Quinn is currently a board member of Trinity Repertory Company.

**Arienne Corrente** (Vice-Chairperson) was nominated by the Senate President and appointed by the Governor in June 2017. The Commission elected her Secretary on December 11, 2018, and Vice-Chairperson on January 7, 2020. Ms. Corrente currently serves as Vice President of Communications and Marketing at the Rhode Island Foundation. Previously, Ms. Corrente was District Director for U.S. Representative David Cicilline (RI-1). She has also worked in public affairs for Harvard University, served as Deputy Chief of Staff for former Providence Mayor Angel Taveras, and partnered with many community clients in consulting roles at Advocacy Solutions and the Clarendon Group. She earned a B.A. in political science at the University of Connecticut. Ms. Corrente has also served in volunteer capacities on the boards of directors of the Women's Fund of R.I., Sophia Academy, and on the Public Affairs Committee for the March of Dimes.

**Kyle P. Palumbo, Esq.** (Secretary) was nominated by the House Majority Leader and appointed by the Governor in 2019. The Commission elected him Secretary on January 7, 2020. Attorney Palumbo currently serves as General Counsel of a Rhode Island based renewable energy development organization where the majority of his time is spent on the drafting, review, and negotiation of contracts, as well as administering commercial transactions. During his time in private practice as an attorney licensed to practice law in the State of Rhode Island and the Commonwealth of Massachusetts, Attorney Palumbo's practice concentrated in the representation of privately-held businesses as outside corporate counsel, which representation included commercial real estate transactions, corporate acquisitions and sales, commercial financing, and asset protection strategies. Attorney Palumbo earned his Juris Doctorate degree from Suffolk University Law School (Boston, MA), and holds a Bachelor of Science from the University of Tampa (Tampa, FL) where he studied economics and accounting.

**Robert A. Salk, DO, FACOG** was directly appointed by the Governor in December 2012. Dr. Salk graduated from Boston University in 1979 and the University of New England (UNE), College of Osteopathic Medicine in 1983. He served as a Major in the United States Army from 1983 to 1991, during which time he completed his medical training with an internship at the William Beaumont Army Medical Center in El Paso, Texas, and a residency in Obstetrics/Gynecology at the Tripler Army Medical Center in Honolulu, Hawaii. During his military service, he served in Desert Storm and received a medal of distinction. He is board certified by the American College of Obstetrics and Gynecology. Dr. Salk previously served as the Director of Medical Education for the UNE medical student rotations at Kent County Memorial



Hospital. In addition to treating patients at Caring for Women, Inc., in Warwick, Dr. Salk is also a Clinical Assistant Professor at Brown University and he participates in various committees at Women & Infants Hospital and Kent County Memorial Hospital. Dr. Salk served on the Commission until April of 2021.

**M. Therese Antone, RSM** was directly appointed by the Governor in February 2015. Sister Therese was appointed to serve as Chancellor of Salve Regina University in 2009, having previously served as President of Salve Regina from 1994 to 2009. A member of the Institute of the Sisters of Mercy of the Americas, she has had teaching and leadership experience at all educational levels. Her career at Salve Regina included tenure as a professor of Mathematics and Management and Executive Vice President for Corporate Affairs and Advancement. She has also served as treasurer for the Sisters of Mercy, serving in Rhode Island, Massachusetts and Central America. Sister Therese has extensive governance experience, including service on the Diocesan Finance Council and the boards of the University of Detroit Mercy, Misericordia University, AAA New England, BankNewport, Lifespan Health Corporation and Beacon Mutual Insurance Company. She currently serves on the boards of the Newport Hospital Foundation, the Sisters of Mercy Investment Services and the Davis Educational Foundation. Sister Therese holds a doctorate from Harvard University in Education with emphasis in administration, planning and social policy, and a master's degree in mathematics from Villanova University. She completed the international senior executive program at MIT's Sloan School of Management. She has been the recipient of many honors and awards including the John E. Fogarty Achievement Award and the Mercy Higher Education Leadership Award, and she has been inducted into the Rhode Island Heritage Hall of Fame. Sister Therese was a Fulbright senior specialist at Krasnoyarsk University in Russia, and the state of Kentucky commissioned her as a Kentucky Colonel in 2008.

**Timothy Murphy, MD** was appointed directly by the Governor in February 2015. Dr. Murphy graduated from the six-year Medical Education Program at Boston University in 1987. His medical training included an internship at Cambridge Hospital in Cambridge, Massachusetts, and a residency in Diagnostic Imaging followed by a fellowship in Vascular and Interventional Radiology at Rhode Island Hospital/Warren Alpert Medical School of Brown University (Brown Medical School). Mr. Murphy is currently the Chief Executive Officer of Summa Therapeutics and also a fellow in the Society of Interventional Radiology, the American College of Radiology, the American Heart Association, and the Society for Vascular Biology and Medicine.

**J. Douglas Bennett** was nominated by the House Minority Leader and appointed by Governor Gina M. Raimondo in December 2016. Mr. Bennett served on the Board of the Rhode Island State Council for the Arts, the Governors Health Care Advisory Council, as well as on the North Smithfield Town Council and the North Smithfield Board of Canvassers. Currently, Mr. Bennett is a Real Estate Broker and Partner with The Salzberg Real Estate Agency, a firm conducting residential and commercial business throughout Rhode Island and Southern Massachusetts. He was previously employed by Dow Reichhold Specialty Latex for 26 years, before retiring as a North American Business Manager responsible for several markets in the area of Construction Products, Heavy Highway Products, and North American Distribution. Mr. Bennett is a graduate of Fairfield University with a B.S. in Marketing.

**Emili B. Vaziri, Esq.** was nominated by the Speaker of the House and appointed by the Governor in 2019. Attorney Vaziri practices law as a sole general practitioner who, since 1993, has achieved extensive experience in family, civil, and criminal practice before the Rhode Island Family, District, and Superior Courts. She is also the President of the Rhode Island Hemophilia Foundation. Attorney Vaziri is a graduate of University of Rhode Island and received her J.D. from Suffolk University Law School. Attorney Vaziri served on the Commission until February of 2021.

**Matthew D. Strauss, J.D.** was nominated by the Senate Minority Leader and appointed by the Governor in April of 2021. Mr. Strauss graduated *summa cum laude* from the University of Rhode Island and *magna cum laude* from Roger Williams University School of Law. Following his graduation from law school, he served as a judicial clerk for Rhode Island Superior Court Associate Justice Brian P. Stern, where he assisted with cases on the business calendar. He was then an associate at Littler Mendelson, a national, management-side employment law firm. Mr. Strauss is currently the Operations Manager at Key Container, a corrugated box manufacturing company, owned by his family and based in Pawtucket, Rhode Island.

**Lauren E. Jones, Esq.** was appointed directly by Governor Daniel J. McKee in April of 2021. Attorney Jones received his Bachelor of Arts degree from the University of Michigan in 1973 and graduated from Duke University School of Law in 1977. A resident of Rhode Island since 1978, Mr. Jones maintains a law practice in Providence, the focus of which is Appellate Litigation. He has appeared before the Rhode Island Supreme Court in hundreds of cases and is a Fellow of the American Academy of Appellate Lawyers. He also has extensive

experience in the Superior and Family Courts. In the past, Mr. Jones has represented clients before the Ethics Commission. He regularly presents Continuing Legal Education seminars and is frequently consulted by fellow lawyers in his areas of expertise. From 1998 to 1999, Mr. Jones served as President of the Rhode Island Bar Association and has been a member of the Executive Committee or the House of Delegates of the Rhode Island Bar Association for 35 years. He was Editor-in-Chief of the Rhode Island Bar Journal for 10 years, has been on the Board of Directors of the Rhode Island Bar Foundation for more than 15 years, and was serving as Secretary of the Bar Foundation when he was nominated to the Ethics Commission. Currently, Mr. Jones serves on the Grants Committee of the Bar Foundation, which is charged with recommending annual distribution of Interest on Lawyer Trust Account funds to law and justice related agencies.

**Holly J. Susi** was nominated by the Speaker of the House and appointed by the Governor in April 2021. Ms. Susi presently serves as a professor of communication at the Community College of Rhode Island where she is a member of the Faculty Senate and a member of the Faculty Senate Leadership Committee. Ms. Susi is also presently a Trauma Care Champion at CCRI developing curriculum to inform a variety of populations about the impact of trauma and strategies for interventions in a mental health crisis. Ms. Susi joined CCRI in 1999 as a public relations officer. She has also served as communications director for a nonprofit and worked as executive assistant to the former Cumberland Mayor Edgar R. Alger III. Prior to that, she served as a newspaper reporter and editor. Ms. Susi's volunteer roles include work with the RI Fire Chiefs Honor Flight since its inception in 2012 where she serves as a photographer and social media manager. She has served 12 years as a volunteer and behavioral health counselor with the RI Critical Incident Stress Management Team providing education and support to Rhode Island's First Responders. Ms. Susi is a graduate of CCRI and holds a B.A. and an M.A. from Rhode Island College as well as a master's degree from the University of Rhode Island.

## **COMMISSION STAFF**

The staff of the Ethics Commission is responsible for the daily operations of the agency. The Executive Director/Chief Prosecutor is the chief administrative officer. He directs all investigative and enforcement activities, prosecutes complaints before the Commission, litigates matters before the Superior and Supreme Courts of Rhode Island, and coordinates policy decisions of the Commission. The Education Coordinator designs, develops, and directs all

educational programs, including seminars and publications; acts as a liaison to the public and the media; and coordinates the Commission's advisory opinion and public access programs. The Staff Attorneys oversee investigative matters, conduct prosecutions, represent the Commission in court litigation, and draft legal recommendations for the Commission regarding advisory opinions, legislation, and policy matters. The Investigators investigate complaints filed by the public and by the Commission, oversee preliminary investigations, and process and review non-complaint information received by and/or referred to the Commission. The Office Manager and administrative staff maintain all financial disclosure and complaint records and provide administrative support to all Commission programs and activities. Considerable staff time is devoted to creating and maintaining accessible records for public inspection. The staff responds to hundreds of requests for information and for access to Commission public records.

In FY2021, the Commission staff was as follows:

Executive Director/Chief Prosecutor	Jason Gramitt, Esq.
Senior Staff Attorney	Katherine D'Arezzo, Esq.
Education Coordinator/Staff Attorney	Lynne M. Radiches, Esq.
Staff Attorney	Teodora Popova Papa, Esq.
Staff Attorney	Teresa Giusti, Esq.
Chief of Investigations	Steven T. Cross
Deputy Chief Investigator	Peter J. Mancini
Investigator	Gary V. Petrarca
Office Manager	Tracy Teixeira
Financial Disclosure Officer	Michelle R. Berg
Administrative Assistant	Christine Andreozzi
Research Aide	Sherilyn Gutierrez

### **LEGAL COUNSEL**

The services of the Commission's Legal Counsel are retained independently of the Executive Director and other Commission employees. Commission Legal Counsel responds to questions of law posed by Commission members and advises the Commission regarding advisory opinions and all other legal matters. The Commission's Legal Counsel in FY2021 was Herbert F. DeSimone, Jr., Esq.

## BUDGET

The Commission’s expenditures for FY2021 totaled \$1,832,317. This reflects an increase of \$28,953 from FY2020.

## II. ADVISORY OPINIONS

Rhode Island General Laws § 36-14-11 authorizes the Ethics Commission to issue advisory opinions to public officials and employees, both at the state and municipal levels. Any public official or employee may request or petition that the Commission interpret the Code of Ethics and recommend specific actions in keeping with the requirements of the Code. Advisory opinions require an affirmative vote of five (5) members of the Commission. Requests for advisory opinions must be made in writing and include the petitioner’s position, the jurisdiction and powers of the department, agency, or public body on or for which he or she serves, and the nature of the potential conflict or other inquiry. Advisory opinions are issued in open session and are public records. Copies of advisory opinions are available at the Commission offices and advisory opinions issued since 1995 can be found on the Commission’s website at <https://ethics.ri.gov/>.

Advisory Opinion Process Flowchart	
The Commission receives a request for an advisory opinion.	
Does the request meet all of the following criteria: <ul style="list-style-type: none"> <li>• Is it requested by a person subject to the Code?</li> <li>• Is it requested by the person affected or a representative thereof?</li> <li>• Does it concern prospective conduct?</li> <li>• Is it within the Commission’s jurisdiction?</li> </ul>	
YES: An acknowledgement letter will be sent to the petitioner.	NO: A rejection letter will be sent to the petitioner.
NEXT: A staff attorney will draft a recommendation and, after review, the Executive Director will send the draft to the petitioner.	
The Commission reviews the draft at an open meeting and votes to approve or amend the draft. Approval requires 5 affirmative votes.	
IF APPROVED: An advisory opinion is issued as a public record and a copy is sent to the petitioner.	IF NOT APPROVED: No advisory opinion issues. The petitioner is so notified.

## ADVISORY OPINION REQUESTS IN FY2021

The Commission received one hundred fifteen (115) requests for advisory opinions in FY2021. Each request is assigned to a staff attorney, who contacts the petitioner to discuss the facts and obtain further information, conducts legal research, meets with the petitioner as necessary, and provides informal guidance. The staff attorney ascertains whether the Commission has jurisdiction and explains advisory opinion procedures to the petitioner. In FY2021, after an initial review, forty-one (41) advisory opinion requests were withdrawn. Advisory opinion requests are often withdrawn for some of the following reasons: the conduct was most likely prohibited and the petitioner decided to recuse rather than seek the opinion; the opinion was not requested by the person who had the potential conflict; the request was based on a set of hypothetical facts; the petitioner did not provide specific information necessary to issue an advisory opinion, or the request became moot. In FY2021, one advisory opinion was not issued due to the lack of five (5) affirmative votes for approval of its draft.

The Ethics Commission issued seventy-five (75) advisory opinions in FY2021, of which:

- 6 were issued to state elected officials;
- 5 were issued to state appointed officials;
- 4 were issued to state employees;
- 25 were issued to municipal elected officials;
- 24 were issued to municipal appointed officials;
- 7 were issued to municipal employees;
- 1 was issued to a public official who was simultaneously serving in multiple municipal and state positions;
- 1 was issued to multiple public officials;
- 1 was issued to a municipal independent contractor; and
- 1 was issued to an individual who was determined by the Commission not to be subject to the Code of Ethics.

The advisory opinions issued in FY2021 encompassed a variety of issues, including, but not limited to: business associates, nepotism, recusals, budget, financial interests, property interests, potential conflicts arising from a public official or employee's private employment, service in dual public roles, the post-employment revolving door provision, and matters involving the hardship or class exceptions, which allow a public official to participate in a matter which would otherwise constitute a conflict of interest, collective bargaining, and secondary employment.

## ADVISORY OPINION KEYWORD INDEX

Advisory opinions issued in FY2021 addressed a variety of keyword topics. Because requests often raise multiple issues, the number of topics addressed in advisory opinions exceeds the total number of advisory opinions issued.

Advisory Body.....1	Family: Public Employment .....4
Alternate Chain of Command ....1	Family: Supervision .....1
Appearance of Impropriety.....1	Grants .....1
Budgets .....6	Hardship Exception.....16
Business Associates.....13	Historic Architect.....4
Campaign Contributions .....2	Nepotism.....13
Code Jurisdiction .....1	Private Employment.....4
Collective Bargaining	Property Interest.....3
Agreement.....3	Prospective Employment .....1
Collective Bargaining .....2	Public Forum Exception .....4
Conflict of Interest .....8	Recusal.....15
Class Exception .....6	Representing Oneself or
Dual Public Roles .....6	Others.....1
Employer.....1	Revolving Door.....9
Employment From Own Board ..1	Rule of Necessity.....1
Financial Interest .....3	Secondary Employment.....2
Family Member .....1	Union/Bargaining Unit .....1

### **III. EDUCATION**

The statutory provisions of the Rhode Island Code of Ethics authorize the Ethics Commission to establish an education program. R.I. Gen. Laws §§ 36-14-9(a)(14) & -10. The program's purpose is to educate public officials, public employees, and all Rhode Island citizens regarding the Code of Ethics and Commission procedures. The program includes seminars and workshops, as well as the production and dissemination of handouts and other publications explaining the Code of Ethics.

The Commission employs an Education Coordinator to conduct outreach and training for public officials and employees at all levels of government, crafting objectives and content for presentations that best meet the needs of a specific agency or department. Seminars and workshops incorporate issues that arise under the Code of Ethics in both the advisory opinion and complaint contexts. The educational sessions are provided in an interactive presentation format and vary in duration, depending on the needs and goals of the agency or department. Commission publications are available during these presentations and at the Commission offices and on its website.

The seminar program is designed to be easily tailored to the unique governmental roles and responsibilities of its participants. Each class is built around a core curriculum. In addition, the governing statutes, policies, and procedures of the sponsoring agency and the job descriptions, powers, and duties of the participants are taken into account so as to focus the discussion on the most relevant sections of the Code of Ethics. The Education Coordinator enriches the program with real-world examples of Code applications. Whenever possible, seminars are provided at the worksites or meeting places of the participants. Most programs are provided at no cost to the sponsoring agency, although occasionally agencies are asked to assist the Ethics Commission with the costs of duplicating handouts used in the program.

#### **EDUCATIONAL WORKSHOPS PROVIDED IN FY2021**

In FY2021, the staff provided forty-five (45) workshops, seminars and presentations to over 1,600 individuals across the state. At the municipal level, training was provided to appointed officials, elected officials, and/or employees of the Cities of Providence, Cranston, and Warwick, and in the Towns of Johnston, Tiverton, Hopkinton, Bristol, Gloster, Foster, South Kingstown, Cumberland, Jamestown, Smithfield, North Smithfield, Middletown, and Little



Compton, as well as to newly elected members of Rhode Island Town Councils and School Committees.

Additionally, at the state level, training was provided to New State Employees, the Rhode Island House of Representatives, the Rhode Island Senate, the Rhode Island State Police, the Rhode Island State Council on the Arts, the Rhode Island Department of Transportation, the Rhode Island Department of Elementary and Secondary Education, the Senior Staff members of the Office of the Governor, the Rhode Island Parole Board and its staff, the Division of Purchases within the Department of Administration, and the Rhode Island Department of Health. Training was also provided to State and Municipal Rhode Island Latino Elected Officials.

Additionally, seminars were provided to the Rhode Island Bar Association's Government Lawyers Committee, the Rhode Island League of Cities and Towns, and the Accountants and Auditors Institute. Guest lectures were presented to a class of students enrolled in the Johnson and Wales University "Ethics in Government" course. Ethics training was also part of the curriculum of the U.S. Department of Defense, Defense Institute of International Legal Studies (DIILS), which was attended by government and military representatives from a number of countries.

In FY2021, all but one of the ethics trainings were conducted remotely. A series of online training modules was in development during FY2021 with the anticipation that it will be made available during FY2022.

### **TELEPHONE AND WALK-IN INQUIRIES**

In FY2021, the Commission continued its efforts in responding to telephone inquiries from government officials, public employees, and the public at large. Each business day, a Commission staff attorney and/or investigator was available to respond to numerous phone calls and emails from members of the public in need of information or guidance. To protect the health and safety of the public and the Commission staff and prevent the spread of COVID-19, during FY2021 drop-ins and in-person meetings with Commission staff were discouraged, although telephone and video conferences were available. While not offering legal advice, the staff provided information, copies of past advisory opinions, and educational publications. Although many of the calls involved questions about advisory opinions or complaints, other matters included questions about financial disclosure, recusal, whether a particular matter fell

within the Commission's jurisdiction, gifts, dual public roles, revolving door, private employment, nepotism, and other requests for information.

## **IV. FINANCIAL DISCLOSURE**

The Ethics Commission is empowered by the Rhode Island Constitution to adopt provisions of the Code of Ethics governing financial disclosure by public officials. The purpose of requiring financial disclosure is to help ensure that those public officials and employees acting in the public interest do not use their public positions to further their private financial interests. The financial disclosure statement also provides evidence that there are no conflicts between an official's financial interests and his or her public duties. All financial disclosure statements are public records.

By statute, financial disclosure to the Ethics Commission is required of:

- (a) all state and municipal elected officials;
- (b) candidates for state or municipal elective office;
- (c) most state and municipal appointed officials; and
- (d) some state employees who serve in major decision-making positions.

Financial disclosure statements are filed annually. Officials are required to disclose major assets and sources of occupational income, including those of a spouse and any dependent children. Officials must also disclose whether they, their spouses, or any dependent children hold an interest in any business regulated by the Rhode Island government or in any enterprise which engages in business transactions with the government. Additionally, officials must disclose the name and address of any person, business, or organization which is owed more than one thousand dollars (\$1,000) by the official, a spouse, or a dependent child.

Most officials are not required to disclose the dollar amount or value of any income, asset, or debt. However, the five General Officers (Governor, Lieutenant Governor, Attorney General, Secretary of State, and Treasurer) and any candidates for a general office must disclose both the source and amount of any income, occupational or otherwise, that is greater than two hundred dollars (\$200).

## FINANCIAL DISCLOSURE PROCESS

Databases are used to create and maintain lists of officials subject to financial disclosure requirements. Commission staff continuously update these databases when people declare as candidates, elections are held, appointments are made, terms end, officials resign, new positions are created, and former agencies and commissions are disbanded. Accordingly, the statistics relative to the 2020 financial disclosure filings continue to change even after the close of the fiscal year.

Public officials and employees who are required to file financial disclosure statements are identified by the city and town clerks, fire districts, and leaders of state departments and agencies. Lists containing the names of such filers are transmitted to Commission staff. Thereafter, financial disclosure forms and instructions are mailed to required filers in March of each year. Financial disclosure forms and instructions are also mailed throughout the year to newly installed officials and employees upon receipt by the Commission of official written notice of their election, appointment, or hiring.

Financial disclosure statements for each calendar year must be filed by incumbent filers no later than the last Friday in April of the following year. For example, the 2020 financial disclosure statement was due to be filed by the last Friday in April 2021. Some filers request and are granted a sixty (60) day extension for filing, extending the due date until late June.

The Commission staff dedicates significant attention and resources to encouraging compliance with the financial disclosure requirement. Although not required by statute or regulation, the Ethics Commission has developed and implemented a series of procedures referred to as "Operation Compliance," which are aimed at improving the financial disclosure compliance rate. Pursuant to Operation Compliance, which extends beyond the end of each fiscal year, public officials who have not filed by the April deadline, or by the June extension if applicable, are mailed a reminder letter that contains a clear warning that non-filing may result in a formal complaint and the imposition of a civil penalty. This letter generally provides a short amnesty period during which no complaint will be initiated by Commission staff if the required filing is made.

Another Operation Compliance procedure involves the Commission staff personally contacting Rhode Island city and town solicitors, clerks, and state officials to provide them with lists of non-filers in their municipalities or departments. The Commission staff requests that these non-filers be contacted

by their own staff and encouraged to comply with the filing requirement, in an effort to further reduce the need to initiate prosecutions or impose monetary penalties.

The final phase of Operation Compliance involves the initiation of the complaint process. Officials who still have not complied at this point are subject to having complaints filed against them. Each year, the Commission staff initiates non-filing complaints against elected officials who have failed to file and, depending upon Commission resources, against appointed officials. Care is taken to ensure fairness in the complaint process so that, for instance, complaints are always filed against all non-filers in the same category (e.g., Town Council or School Committee members).

These policies and procedures, including Operation Compliance, are repeated in each successive filing year. It is the goal of the Commission to improve financial disclosure compliance each year in an effort to achieve a rate of 100% compliance.

### **IMPACT OF THE COVID-19 PANDEMIC ON FINANCIAL DISCLOSURE STATEMENT FILINGS AND PROCEDURES**

In order to protect the health and safety of the public and Commission employees during the COVID-19 pandemic, the Commission continued to encourage public officials to file their 2020 financial disclosure statements online and waived the notary requirement for the 2020 financial disclosure statements completed on a paper form during the filing period.

### **COMPLIANCE IN FILING THE 2020 FINANCIAL DISCLOSURE STATEMENT**

In FY2021, approximately 4,272 incumbent officials and employees were required to file financial disclosure statements for calendar year 2020. By the deadline of April 30, 2021, there was a timely compliance rate of 84%. Given that the list of public officials and employees subject to the financial disclosure requirement is continuously being updated, as described above, and because financial disclosure statements are being filed past the deadline, the compliance rate is continuously changing and ultimately reached 99.62% during FY2022 for the 2020 filing year.

## ONLINE FILING STATISTICS

To Date	2011 FDS	2012 FDS	2013 FDS	2014 FDS	2015 FDS	2016 FDS	2017 FDS	2018 FDS	2019 FDS	2020 FDS
Total Number of Statements Filed	3,996	3,881	4,085	4,242	4,418	4,175	4,558	4,411	4,427	4,381
Number of Statements Filed Online	2,280	2,572	2,788	3,136	3,480	3,420	3,836	3,773	3,944	3,913
Percentage of Statements Filed Online	57%	66%	68%	74%	79%	82%	84%	86%	89%	89%
Compliance Rate	90%	94%	94%	96%	95%	94%	96%	95%	95%	95%

## V. INVESTIGATIONS AND ENFORCEMENT

### THE COMPLAINT PROCESS

The Ethics Commission is constitutionally and statutorily empowered to enforce the Code of Ethics. R.I. Const. art. III, sec. 8; R.I. Gen. Laws §§ 36-14-12 to -14. The Commission’s enforcement powers include the authority to accept or initiate complaints alleging Code violations, investigate and adjudicate those complaints, and impose civil penalties.

#### Filing a Complaint

Prior to filing a complaint, potential complainants are encouraged to contact the Commission by telephone to speak with a member of the Investigative staff during Commission business hours. Those contemplating filing a complaint may also arrange to come in during office hours to discuss with Investigative staff the procedure, the substance of a potential complaint, or any other questions they might have before actually filing a complaint. While those considering filing a complaint are encouraged to contact Commission staff first, it is not mandatory to do so prior to the actual filing of a complaint. Complaints must be filed on a proper complaint form, available at the Commission’s office, allege conduct that is prohibited by the Code of Ethics, and be signed and notarized.

Within three (3) working days of receiving a complaint, the Executive Director will either accept it for filing or reject it based on jurisdictional, statutory, or regulatory defects. In the event that a complaint is accepted for filing, the

Commission mails copies of the complaint, notification of receipt of complaint, and the Code of Ethics to the complainant and to the respondent. The Commission thereafter sends timely notices of subsequent Commission actions to the complainant and respondent as required by the Code. All complaints are public records after being accepted for filing.

### **Limitations Period on Filing of Complaint**

“Any Complaint shall be filed with the Ethics Commission no later than six (6) years from the date of the alleged violation of the Rhode Island Code of Ethics.” Regulation 520-RICR-00-00-3.1 Limitations Period on Filing of Complaint (1001.1).

### **Initial Determination**

At this first stage of review, the Commission determines whether the complaint properly alleges facts, that, if true, are sufficient to constitute a violation of the law. Meeting during a closed executive session, the Commission decides either to dismiss the complaint or to initiate an investigation. The decision to investigate does not address the validity of the complaint; rather, it merely indicates that the allegations properly fall under the provisions of the Code of Ethics. Neither the complainant nor the respondent participates in the Initial Determination.

### **Informal Resolution & Settlement**

At any time, subsequent to the Initial Determination of a complaint, the Prosecution and the respondent may seek an informal disposition through an agreed-upon settlement, consent order, or other informal resolution of the pending complaint. This may entail an informal conference between the parties in an effort to reach an agreeable disposition. The information learned during an informal conference shall not be used as evidence in any subsequent proceeding. Any informal disposition of a pending complaint shall be subject to the approval of the Commission during a closed executive session. Once approved by the Commission, the Informal Resolution & Settlement Agreement and any Orders issued regarding the complaint become public documents.

### **Investigation**

The investigation may involve the gathering of documentary evidence as well as oral and written statements taken under oath or affirmation. The Commission may also issue subpoenas to compel the production of evidence or the sworn testimony of witnesses. The time for investigation is limited to 180 days after

the complaint is filed, unless the Commission approves an extension for good cause, with a maximum of two such 60-day extensions. All pleadings and orders relating to the investigative phase become public after a probable cause hearing.

### **Probable Cause Hearing**

The purpose of a probable cause hearing is to determine whether sufficient evidence exists to support that a violation of the Code has been or is being committed. An Investigative Report is prepared by the staff prior to a probable cause hearing. The respondent is mailed a copy of the Investigative Report at least 14 days prior to a scheduled hearing. The probable cause hearing is held during a closed executive session, but the respondent and/or the respondent's counsel may be present. At the hearing, the Prosecution presents the results of the investigation. The Commission reviews the Investigative Report of the Prosecution as well as any response or other written information submitted by the respondent. The Commission may then vote to dismiss the complaint for lack of evidence, find that probable cause exists to support the allegations, and/or amend the complaint if the investigation reveals that probable cause exists to believe that other violations of the Code of Ethics have occurred. The Investigative Report becomes a public record after the completion of a probable cause hearing unless the Commission dismisses the complaint for lack of probable cause. If the Commission dismisses the complaint, it must prepare and issue a public, written Decision and Order explaining the basis for the dismissal. Under such circumstances, the Investigative Report becomes public upon the issuance of the Decision and Order. All pleadings and Commission orders filed after a probable cause hearing are immediately public.

### **Adjudicative Hearing**

If the Commission finds that probable cause exists to support the allegations, an adjudicative hearing is scheduled, providing at least 15 days prior notice to the respondent. This is an adversarial hearing. Pursuant to Commission Regulations, the Prosecutor and the respondent may conduct discovery, present evidence and examine witnesses. Additionally, Commissioners may also question witnesses. All procedures are governed by the rules of evidence and the principles of due process. The Prosecutor must prove by a preponderance of the evidence that the respondent committed a knowing and willful violation of the Code. A stenographic record is kept, and the hearing is conducted during an open and public session.

## **Final Disposition**

Following adjudicative matters, the Commission may meet in closed session, whenever deliberations are in order, to deliberate and determine whether there has been a knowing and willful violation of the Code of Ethics. Upon a finding of a violation, the Commission may: (a) issue a cease and desist order; (b) require the respondent to file any statement mandated by the Ethics Code; (c) impose a civil fine of up to \$25,000 per violation and the return of any unjust enrichment; (d) refer the entire record of its proceedings to the attorney general; and/or (f) for more egregious violations, remove from office any official not subject to impeachment.

## **Judicial Review**

All final orders of the Commission are subject to review by the Rhode Island Superior and Supreme Courts pursuant to the Administrative Procedures Act. R.I. Gen. Laws § 36-14-15 and Commission Regulation 520-RICR-00-00-3.29 Judicial Review (1022).

## **Whistleblower Protection**

Complainants and witnesses have rights under the Rhode Island Whistleblower Act (R.I. Gen. Laws §§ 28-50-1 to -9) and may also bring a civil action in Superior Court within three years after being threatened or intimidated in any proceeding before the Ethics Commission.

## **Frivolous Complaints**

The Code of Ethics provides that “no person shall knowingly and willfully make a false or frivolous complaint under this chapter.” R.I. Gen. Laws § 36-14-5(k).

## **PENDING COMPLAINTS AND ENFORCEMENT ACTIONS**

The Commission prosecutes two types of complaints: conflict of interest complaints for alleged substantive violations of the Code of Ethics and non-filing complaints for the failure to timely file financial disclosure statements.

### **Conflict of Interest Complaints**

As FY2021 began, there were eight (8) outstanding conflict of interest complaints pending before the Ethics Commission. During FY2021, four (4) conflict of interest complaints were filed. The Commission issued final orders in nine (9) cases during FY2021:



- 2 cases were adjudicated with imposition of civil penalties totaling \$3,251, all of which were collected in FY2022.
- 1 case was settled with imposition of a civil penalty of \$1,250, all of which was collected.
- 2 cases were settled and dismissed.
- 4 cases were dismissed with Findings of No Probable Cause.

At the close of FY2021, there were three (3) conflict of interest complaints pending.

### **Non-Filing Complaints**

At the start of FY2021, there was one (1) outstanding non-filing complaint which was settled with the imposition of a civil penalty of \$200, which was collected in full. Due to the COVID-19 crisis, in FY2021 the Ethics Commission did not initiate non-filing complaints against persons subject to the Code of Ethics for their failure to timely file calendar year 2019 financial disclosure statements.

At the close of FY2021, there were no non-filing complaints outstanding.

### **COLLECTION OF OUTSTANDING CIVIL PENALTIES**

Civil penalties imposed by the Ethics Commission are paid to the state's general fund. Most respondents pay the civil penalty imposed by the Commission shortly after the penalty is imposed. If payment in full cannot be made immediately, the Commission will frequently enter into payment agreements with respondents to collect the outstanding balance over time.

The collection of delinquent debts for fines imposed by the Commission is forwarded to the Central Collection Unit (CCU) within the Rhode Island Department of Revenue (DOR). The CCU was established in 2018 by the Rhode Island General Assembly by R.I. Gen. Laws § 42-142-8 to assist various state agencies in the collection of statutory designated debts owed to the state. Thereafter, the DOR established a pilot program through which participating agencies refer delinquent cases to the CCU for collection of the debt owed. The Commission was one of the first agencies to participate in the pilot program.

In FY2021, the Commission collected the total amount of \$2,615 toward outstanding balances as follows:

- Payments directly from Respondents totaling \$1,450;
- Collections by the CCU totaling \$1,165.

## **PRELIMINARY INVESTIGATIONS**

Preliminary investigations may be initiated upon a determination by the Executive Director that information provided to or in the possession of the Commission and/or Commission staff establishes a reasonable basis to believe that a state or municipal official or employee has violated the Code. Commission Regulation 520-RICR-00-00-3.4 Preliminary Investigations (36-14-12001). The Executive Director is required to notify the Commission whenever such an investigation is initiated. All materials relating to the investigation shall remain confidential, except that access may be granted to any federal, state, or municipal law enforcement agency, or disclosed in a complaint, or after a finding of probable cause, in accordance with R.I. Gen. Laws § 36-14-12(c)(4). Following the Preliminary Investigation, the Executive Director may choose to file a formal complaint beginning an enforcement action.

There were no Preliminary Investigations in FY2021.

## **VI. TECHNOLOGICAL ADVANCES**

### **THE ONLINE FILING INITIATIVE**

In FY2011, the Ethics Commission and the Rhode Island Department of Administration entered into a contract with Rhode Island Interactive, LLC (RI.gov) for the development, hosting and maintenance of an online filing system for financial disclosure which began accepting the filing of calendar year 2011 financial disclosure statements on March 30, 2012.

After the successful launch of the online filing system during FY2012, the Commission worked with its partners to develop and implement Phase II of the online filing project. This involved adding functionality to the system to allow for the filing of multiple years' forms and for the migration of the content entered on the 2011 form to the filer's 2012 form. This migration of information was intended to help filings maintain consistency year to year and to increase the ease and speed of filing.

Phase II also created the ability for filers to amend their previous online filings at any time by logging into the online filing system. Amendments can only add to a previously filed form; no submitted answers may ever be deleted. All amendments carry their own date/time stamps. Amended forms are processed in the same way as original forms, and the amended form replaces the original in the database.

## **ONLINE ACCESS TO FINANCIAL DISCLOSE STATEMENTS**

In November of 2018, the Commission made financial disclosure statements available for public review on the Commission's website. Rhode Island state and public officials have been filing financial disclosure statements for more than 40 years. State law mandates that these statements, which are also required in most other states and federal government, become "public records" that are available for inspection and copying. The purpose of public access to financial disclosure has always been to promote transparency and confidence in government, and to help reveal instances where individuals' economic or personal affiliations might distort their judgement or lead to the use of privileged information.

Over the last decade the trend nationwide has been to promote even greater transparency and ease of public access to financial statements and other public documents by making them available online. The Commission has studied this trend and has held public workshops on the issue. In 2016, the Commission sent letters to each of the over 4,000 filers in Rhode Island asking for input regarding online access. In 2018, Rhode Island elected officials also weighed in when the Rhode Island House of Representatives introduced and passed legislation to require the Commission to make statements available online.

In light of the overwhelming support for online access, starting in November of 2018, financial disclosure statements filed for calendar year 2017 and thereafter became available for viewing on the Commission's website at <https://ethics.ri.gov/>. To ensure that these statements, while public, are being accessed by real people rather than information-gathering software, the Commission has employed security software.

## **ONLINE FILING PROCESS AND PROCEDURES**

The Commission generates a unique PIN number and Person ID number, which are distributed along with online filing instructions in a letter that accompanies the hard copy form and instructions mailed to each filer in March of each year. Filers access the online filing system through the Commission's website. Once logged in, filers can begin answering questions and log out at any time, and any answers that have been inputted will be saved for later filing. The online statement cannot be submitted until all questions have been answered. At submission, the filer is asked to provide an email address so that a confirmation and a PDF copy of the form can be sent. Email addresses do not appear on the printed form.

## **VII. PUBLIC RECORDS**

The Rhode Island Ethics Commission is a public agency, subject to the requirements of the Access to Public Records Act (APRA). R.I. Gen. Laws §§ 38-2-1 to -15. All persons are welcome to inspect public records during regular business hours, 8:30 a.m. to 4:30 p.m., Monday through Friday, except on state holidays.

Copies of public records may be obtained in person at the Commission offices at 40 Fountain Street, Providence, Rhode Island 02903; requested via email at [ethics.email@ethics.ri.gov](mailto:ethics.email@ethics.ri.gov), by calling the Commission at (401) 222-3790, Ext. 0 (voice/TT); via Rhode Island Relay, a telecommunications service for persons with hearing or speech disabilities, at 711; or via US mail at: Rhode Island Ethics Commission, ATTN: Public Records Unit, 40 Fountain Street, Providence, Rhode Island 02903. A fee of \$0.15 per page may be charged for copies; however, many records may be provided free of charge via email.

### **PUBLIC RECORDS REQUEST GUIDELINES & PROCEDURES**

The Commission's Public Records Request Guidelines and an accompanying Public Records Request Form can both be found on the Commission's website at <https://ethics.ri.gov/> by pressing the link entitled "Public Record Requests" located under "Commission Resources" toward the bottom of the page and at the Commission offices.

Most public records requests result from a phone call or email communication with a Commission staff member. A written request is not required to inspect Commission public records. However, a person may be asked to submit a written request where it involves: search and retrieval; multiple categories of records; voluminous documents; redaction; documents in storage; or other such circumstance. A copy of the Commission's Public Records Request Form may be completed or a request may otherwise be submitted in writing. The APRA allows a public body ten (10) business days to respond to a request, which can be extended an additional twenty (20) business days for "good cause."

Commission staff members are trained in APRA procedures and work together to promptly respond to requests for public records. Public records requests are primarily completed by administrative staff, but investigators and staff attorneys will also complete requests. Staff attorneys assist all other staff members in complying with the statutory requirements of the APRA.

## **PUBLIC RECORDS REQUEST STATISTICS**

During FY2021, the Commission received eighty-five (85) public records requests, all of which were fulfilled within ten (10) business days with 99% of which were fulfilled within one (1) business days. The most frequently requested types of public records were Financial Disclosure Statements, followed by Complaint materials, Advisory Opinion materials, and Recusals.

## **PUBLIC RECORDS AVAILABLE ON THE WEBSITE**

The public can access the following types of public records on the Commission's website at <https://ethics.ri.gov/>:

- the full-text of all individual advisory opinions from 1995 to the present;
- Decisions & Orders following adjudications and Settlements & Orders issued by the Commission regarding complaint matters from 1998 to the present;
- the entire Code of Ethics in Government and Regulations;
- Commission meeting schedules and agendas;
- open session minutes from 2007 to the present;
- updated educational materials;
- downloadable forms;
- the most recent annual report; and
- Financial Disclosure Statement filed with the Commission for 2017 to present.

## **PUBLIC RECORDS NOT AVAILABLE ON THE WEBSITE**

Commission records not available on the website can be easily requested by contacting the Commission in person, by phone, or email. Many documents can be promptly provided to the requester via email, free of charge. Additionally, all of the public records available on the Commission's website are also available at the Commission offices for anyone who prefers to contact the Commission directly.

### **Financial Disclosure Statements**

Financial disclosure statements are the most commonly requested public records at the Commission. All financial disclosure statements filed since 2005 have been scanned and can be quickly provided to the public via email and free of charge. Records dating prior to 2005 are held at an off-site storage facility but can be ordered and provided to the public within a few business days. Also, financial disclosure statements filed for calendar year 2017 and thereafter can be

accessed free of charge through the Commission's new public access tool on the Commission's website at <https://ethics.ri.gov/>.

### **Records within the Public Complaint File**

Complaints are public records from the date they are accepted for filing. Other public records relating to a complaint include: any written response filed by the respondent, all orders issued by the Commission, notices of meetings and hearings, any motions filed, and at docket of Commission actions. The investigative report and all pleadings and Commission orders relating to the investigative phase become public records after a probable cause hearing or dismissal. All pleadings and Commission orders filed after a probable cause hearing are public records.

### **All Other Commission Public Records**

The Commission maintains many other public records which may not be on the website but are still available to the public after making a request in person or by email, phone, or fax. These public records include, but are not limited to: advisory opinions; advisory opinion request letters; minutes of open session meetings; recusal statements; correspondence; regulations and much more.

## **VIII. PUBLIC ACCESS**

### **INTRODUCTION**

The Rhode Island Ethics Commission is a public agency, subject to the requirements of the Open Meetings Act (R.I. Gen. Laws §§ 42-46-1 to -14); the Access to Public Records Act (R.I. Gen. Laws §§ 38-2-1 to -15); the Administrative Procedures Act (R.I. Gen. Laws §§ 42-35-1 to -18); and the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 to 12213).

### **OPEN MEETINGS**

The public is welcome to attend all open meetings. Advisory opinion requests, declaratory rulings, adjudicative hearings, public hearings on proposed regulations, and staff and committee reports are conducted during open meetings. However, initial determination reviews, informal resolution and settlement reviews and probable cause hearings are conducted during executive sessions, which are closed to the public. Notices of all meetings are posted at the State House, at the Commission offices, on the Commission's website and with the Rhode Island Secretary of State.

## **IMPACT OF THE COVID-19 PANDEMIC TO THE OPEN MEETINGS ACT**

On March 9, 2020, the Governor declared a state of emergency due to the dangers to health and life posed by COVID-19. In furtherance thereof, the Governor issued Executive Order 20-46 on June 12, 2020, which, in part, relieved public bodies from the prohibitions regarding the use of telephonic or electronic communication to conduct meetings set forth under the Rhode Island Open Meetings Act. Subsequent Executive Orders issued extended this relief for the remainder of FY2021.

### **WEBSITE**

The Commission's website is located at <https://ethics.ri.gov/>. It contains basic information about the Commission's history and powers, its members, the Code of Ethics, advisory opinions, education, investigations, and financial disclosure. A search page allows users to search the entire website. The website also provides staff contact information. Meeting materials including the agenda and draft advisory opinions are available on the website prior to each meeting, and following each meeting a written report out of any actions taken during executive session is posted.

### **FORMS**

All Ethics Commission forms are available at the Commission offices. Additionally, PDFs of the recusal form, financial disclosure statement and the Public Records Request Form may be downloaded from the Commission's website.

### **EDUCATIONAL MATERIALS**

All educational materials are available to the public. Materials include the Code of Ethics, summaries of advisory opinions, brochures explaining Commission procedures, and Annual Reports.

### **ACCESS FOR PERSONS WITH DISABILITIES**

The Ethics Commission has a strong commitment to ensuring and improving access for persons with disabilities. Reasonable accommodations are made to afford public officials and the general public access to the Commission's meetings and documents. Any person requesting a reasonable accommodation because of a disability may contact the Commission's A.D.A. coordinator by

calling the Commission during regular business hours or writing to its office address.

## **RHODE ISLAND GOVERNMENT OWNER'S MANUAL**

Information about the Ethics Commission is also listed in the Rhode Island Government Owner's Manual, which is published annually by the Rhode Island Office of the Secretary of State.

# **IX. STATUTORY, REGULATORY AND POLICY CHANGES**

## **INTRODUCTION**

The Rhode Island Constitution empowers the Commission to “adopt a code of ethics.” R.I. Const. art. III, sec. 8. Statutory provisions authorize the Commission to prescribe and publish, after notice and public hearings, rules, and regulations to carry out the provisions of R.I. Gen. Laws §§ 36-14-1 to -21. The Commission’s authority to enact a code of ethics is concurrent with that of the General Assembly. Due to this concurrent authority of the Commission and the General Assembly in the area of ethics, the Code contains both regulations adopted by the Commission and statutes passed by the General Assembly. Accordingly, changes in the Code may come from either body.

## **CURRENT VERSION OF CODE OF ETHICS**

In May 2018, the Ethics Commission codified the Code of Ethics into the Rhode Island Code of Regulations (RICR), an online, uniform code of all proposed and final regulations filed by state agencies, boards, and commissions under the state’s Administrative Procedures Act.<sup>12</sup> As a result, the regulatory provisions of the Code of Ethics were renumbered in accordance with the new uniform format. In order to minimize any inconvenience and to assure a smooth transition, the Commission preserved the “old” regulation numbers in parenthesis within the title of each regulation.

Due to the fact that the Code of Ethics is comprised of statutory and regulatory provisions, the complete Code of Ethics cannot be found solely within either the Rhode Island Code of Regulations (RICR) or the Rhode Island General Laws. Instead, the Commission publishes a complete Code of Ethics, with regulatory and statutory provisions combined, on its website at <https://ethics.ri.gov/> and

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<sup>12</sup> RICR can be found at <http://sos.ri.gov/divisions/Open-Government/State/rules-and-regulations>.



in hard copy available at the Ethics Commission's office at 40 Fountain Street, 8<sup>th</sup> Floor, Providence, Rhode Island 02903. New copies of the Code are printed after there has been a statutory or regulatory change.

## **CHANGES TO THE CODE OF ETHICS IN FY2021**

There were no changes made to the Code of Ethics in FY2021.

## **GENERAL COMMISSION ADVISORY OPINIONS IN FY2021**

General Commission Advisory (GCA) Opinions are intended to provide the public with a general overview of the Commission's interpretation of specific subject areas with examples and a list of previously issued relevant advisory opinions. The GCAs issued from 2009 to the present are available on the Commission's website or by contacting the Commission directly and making an APRA request. The Commission did not adopt any GCAs in FY2021.

## **X. LITIGATION**

All final orders of the Ethics Commission in contested cases may be appealed to the Rhode Island Superior Court, pursuant to the Administrative Procedures Act, R.I. Gen. Laws § 42-35-15. Parties may also petition the Rhode Island Supreme Court for review. The Commission may initiate District Court actions to collect unpaid fines and may initiate Superior Court actions where judicial intervention is necessary to enforce the orders of the Ethics Commission.

### **LITIGATION IN FY2021**

During FY2019, the Respondent in the matter of In re: Francis X. Flaherty, Complaint No. 2016-14, filed an administrative appeal in the Rhode Island Superior Court, C.A. No. PC-2019-5088, seeking judicial review of an Ethics Commission Decision & Order which found that his failure to disclose his position as president of a non-profit organization on his 2010-2015 Financial Disclosure Statements constituted a knowing and willful violation of Commission Regulation 36-14-17008.<sup>13</sup> The Commission imposed a civil penalty of Two Hundred Dollars (\$200) for said violation.

In his appeal, the Respondent alleged that the Ethics Commission's structure, procedures, and actions violated his rights under the Constitutions of Rhode Island and the United States, and that there was insufficient evidence to support

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<sup>13</sup> Regulation 36-14-17008 now corresponds to Regulation 520-RICR-00-00-4.11 Leadership Positions with Not-for-Profit Organizations (36-14-17008).

the Ethics Commission's conclusion that the Respondent's omission on said financial disclosure statements was knowing and willful. After fully briefing the issues and presenting oral arguments, the parties awaited a decision from the Superior Court.

At the start of FY2021, on July 24, 2020, the Superior Court reversed and vacated the Commission's Decision & Order, opining that the Commission Decision contained no finding that the Respondent's actions were deliberate or intentional, and that the weight of the evidence presented during the adjudicatory hearing supported a conclusion that the Respondent's actions were not deliberate. The Court declined to address the Respondent's challenges to the Ethics Commission's procedures and authority. The Ethics Commission did not seek further judicial review of said Decision.

## **XI. DECLARATORY RULINGS**

The Ethics Commission, under Commission Regulation 520-RICR-00-00-2.8 Declaratory Ruling by Commission (1025), accepts petitions from any interested person seeking a "declaratory ruling" clarifying the applicability of the Code of Ethics. Such rulings have the same status as Commission orders in contested cases and may be challenged in Superior Court.

All declaratory rulings are public records. Declaratory rulings are issued in open session following a public hearing. Notices of all hearings and open meetings are posted and the public may attend.

The Commission received no requests for declaratory rulings in FY2021.

## **XII. MEMBERSHIP**

The Commission is a longstanding member of the Council on Governmental Ethics Laws (COGEL), the preeminent international organization of agencies responsible for the administration and enforcement of government ethics laws.<sup>14</sup> During FY2021, the Commission's Executive Director, Jason Gramitt, served as COGEL's President and on its Steering Committee, a body charged with all the powers necessary to conduct the affairs of COGEL.<sup>15</sup>

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<sup>14</sup> <https://www.cogel.org/page/History>.

<sup>15</sup> <https://www.cogel.org/page/Bylaws>.