

# RHODE ISLAND ETHICS COMMISSION

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## Advisory Opinion No. 2022-25

Approved: September 20, 2022

**Re: Ashley N. Selima**

### **QUESTION PRESENTED:**

The Petitioner, the State Archivist & Public Records Administrator for the Rhode Island Department of State, State Archives, Library & Public Information Division, a state employee position, requests an advisory opinion regarding whether the State Archives, Library & Public Information Division is prohibited by the Code of Ethics from accepting a stipend from the What Cheer Writers Club, a private nonprofit organization, following the Petitioner's participation as a panelist during an event sponsored by the What Cheer Writers Club.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Rhode Island Department of State, State Archives, Library & Public Information Division is not prohibited by the Code of Ethics from accepting a stipend from the What Cheer Writers Club, a private nonprofit organization, following the Petitioner's participation as a panelist during an event sponsored by the What Cheer Writers Club, given that the stipend will not go to the Petitioner or to any individual person subject to the Code of Ethics but, rather, will go to the State Archives and be used to benefit the public.

The Petitioner is employed by the Rhode Island Department of State, State Archives, Library & Public Information Division ("State Archives") as its State Archivist & Public Records Administrator ("State Archivist"). She explains that the State Archives serves as the repository for official permanent records of Rhode Island state government and strives to protect, maintain, and preserve Rhode Island's history and ensure transparency and accessibility by making said records available to the public. The Petitioner cites among her duties as State Archivist the oversight and preservation of the aforementioned records and the management of day-to-day operations of the State Archives and Public Records Administration.

The Petitioner states that on September 28, 2022, in response to an invitation from the What Cheer Writers Club ("WCWC"), a private nonprofit organization based in Providence, she will participate as one of five panelists for an event sponsored by the WCWC entitled "Inside the Archives: The Art of Then." She further states that, in her role as a panelist, she plans to highlight and introduce writers to the State Archives' collection and provide practical advice on accessing the collection for future projects. The Petitioner explains that the WCWC is offering a stipend of \$1,000 to each of the organizations represented by a panelist, adding that, in her case, the stipend is being offered to the State Archives, and not to her as an individual.

The Petitioner represents that, if not prevented by the Code of Ethics from accepting the stipend, the State Archives intends to use said stipend to enhance public access to programming sponsored by the State Archives, such as that which might occur in the form of panel discussions or displays, and/or to engage in archive digitization, inspired by records currently in demand at the State Archives, such as Revolutionary War Records. The Petitioner specifies that she has no discretion regarding how the stipend would be applied, explaining that any recommendation that she might make would be subject to review, first by the Director of State Archives, then the Deputy Secretary of the Department of State and, ultimately, by the Director of Finance & Personnel for the Department of State. It is in the context of these representations that the Petitioner seeks guidance from the Ethics Commission regarding whether the State Archives may accept a stipend of \$1,000 from the WCWC following the Petitioner's participation as a panelist in the upcoming event sponsored by the WCWC.

The Code of Ethics prohibits public officials and employees from accepting or receiving any gifts of cash, or any goods or services valued at more than twenty-five dollars, from an interested person. Commission Regulation 520-RICR-00-00-1.4.2 Gifts (36-14-5009) ("Regulation 1.4.2"). An "interested person" is defined as "a person or representative of a person or business that has a direct financial interest in a decision that the person subject to the Code of Ethics is authorized to make, or to participate in the making of, as part of his or her official duties." Regulation 1.4.2(C). Also, a public official or employee may not accept an honorarium, fee or reward, or other compensation for any activity which may be considered part of or directly relates to said person's official duties and responsibilities, unless; (1) she does not exercise decision-making authority over the source; and (2) she uses her own time and does not make improper use of public resources when engaging in or preparing for the activity." Commission Regulation 520-RICR-00-00-1.4.3 Honoraria (36-14-5010).

Additionally, under the Code of Ethics, a public official or employee may not participate in any matter in which she has an interest, financial or otherwise, that is in substantial conflict with the proper discharge of her duties in the public interest. R.I. Gen. Laws § 36-14-5(a) ("section 5(a)"). A substantial conflict of interest exists if a public official or employee has reason to believe or expect that she, any person within her family, her business associate, or any business by which she is employed or which she represents, will derive a direct monetary gain or suffer a direct monetary loss by reason of her official activity. Section 36-14-7(a). The Code of Ethics further prohibits a public official or employee from using her public office or employment, or confidential information received through her public office or employment, to obtain financial gain for herself, her family member, her business associate, or any business by which she is employed or which she represents. Section 36-14-5(d) ("section 5(d)").

The Ethics Commission has previously addressed facts similar to those of the instant matter. In Advisory Opinion 2009-21, the Ethics Commission opined that the Rhode Island Commission for Human Rights ("RICHR") could accept a contribution of \$1,500 from Rhode Island for Community and Justice ("RICJ"), a private nonprofit organization, given that those funds would not go to any individual person subject to the Code of Ethics. The petitioner in that matter served as the Executive Director of the RICHR, and had collaborated in his public capacity with the RICJ and a number of other various public and private entities on a project to address the

disproportionate minority contact of juveniles within the Rhode Island justice system (“the DMC Collaboration”). The DMC Collaboration ultimately presented the petitioner with a check in the stated amount from the RICJ made out to the RICHR, along with a letter from the RICJ indicating that the money was intended to serve as an honorarium in acknowledgement of the petitioner’s active participation and role in the DMC Collaboration. The petitioner represented to the Ethics Commission that, if the RICHR were to accept the check, the funds would be deposited into the RICHR general state account and used to pay for rent, office supplies, salaries, and other budgeted items, adding that there would be no personal financial gain for him, but that the funds would be absorbed into the RICHR budget to the benefit of the State of Rhode Island.

In Advisory Opinion 2009-21, the Ethics Commission determined that neither Regulation 1.4.2<sup>1</sup> nor Regulation 1.4.3<sup>2</sup> were applicable to the petitioner’s set of factual circumstances, as both those regulations contemplate acceptance of a gift or honoraria by an individual person subject to the Code of Ethics, whereas, in that instance, the funds contributed to the RICHR would not benefit any individual public official or employee. Additionally, notwithstanding that the \$1,500 was described as “honoraria” to acknowledge the petitioner’s work with the RICJ on the DMC Collaboration, the Ethics Commission determined that the check was in fact merely a contribution to the RICHR, like any other contribution to the RICHR, only made by the RICJ in honor of the petitioner. Moreover, as that petitioner would receive no personal financial benefit from the RICHR’s acceptance of the contribution, there was nothing to implicate the prohibitions found at sections 5(a) or 5(d).

In the instant matter, the Petitioner will participate in her public capacity as a panelist to offer practical advice to members of the WCWC on how to access the State Archives’ collection for future projects. The stipend of \$1,000 is being offered to the State Archives, and not to the Petitioner as an individual, and would be used to enhance public access to programming sponsored by the State Archives. Similar to the circumstances in Advisory Opinion 2009-21, acceptance by the State Archives of a contribution from the WCWC would not constitute the acceptance of a gift or honoraria by a person subject the Code of Ethics. Additionally, notwithstanding that the payment of \$1,000 is described by the WCWC as a stipend to the State Archives for the Petitioner’s contribution as a panelist, the Ethics Commission recognizes the payment to be a contribution by the WCWC to the State Archives in honor of the Petitioner. Finally, as the Petitioner would receive no personal financial benefit from the State Archives’ acceptance of the contribution, there is nothing in the facts as presented to implicate the prohibitions found at sections 5(a) or 5(d).

Accordingly, based on the facts as represented, the applicable provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that the State Archives is not prohibited by the Code of Ethics from accepting a contribution from the WCWC following the Petitioner’s participation as a panelist during an event sponsored by the WCWC, given that the contribution will not go to the Petitioner or to any individual person subject to the Code of Ethics but, rather, will go to the State Archives and be used to benefit the public.

**This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions**

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<sup>1</sup> In 2009, Regulation 1.4.2 was known as Commission Regulation 36-14-5009 Prohibited Activities – Gifts.

<sup>2</sup> In 2009, Regulation 1.4.3 was known as Commission Regulation 36-14-5010 Honoraria.

**are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.**

Code Citations:

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-7(a)

520-RICR-00-00-1.4.2 Gifts (36-14-5009)

520-RICR-00-00-1.4.3 Honoraria (36-14-5010)

Related Advisory Opinions:

A.O. 2009-21

Keywords:

Financial Interest

Gift

Honorarium