

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2023-22

Approved: May 16, 2023

Re: Leslie S. Dunn

QUESTION PRESENTED:

The Petitioner, a member of the Westerly School Committee, a municipal elected position, who in her private capacity is the founder and a member of the Steering Committee of the Westerly Anti-Racism Coalition (“ARC”), an advocacy group whose mission is to address racism in the Town of Westerly, requests an advisory opinion regarding whether the Code of Ethics prohibits her from participating in School Committee discussions and/or voting on matters relating to the topics of diversity, equity, multiculturalism, and other similar topics, given that those topics are among those advanced by ARC as part of its mission.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Westerly School Committee, a municipal elected position, who in her private capacity is the founder and a member of the Steering Committee of the Westerly Anti-Racism Coalition (“ARC”), an advocacy group whose mission is to address racism in the Town of Westerly, is generally not prohibited by the Code of Ethics from participating in School Committee discussions and/or voting on matters relating to the topics of diversity, equity, multiculturalism, and other similar topics, notwithstanding that those topics are among those advanced by ARC as part of its mission, provided, however, that there are otherwise no grounds for recusal.

The Petitioner is a member of the Westerly School Committee (“School Committee”) and has served in that position since her election in November of 2022. She represents that, in her private capacity, she is the founder of the Westerly Anti-Racism Coalition (“ARC”) and a member of its Steering Committee/leadership team. The Petitioner states that ARC is an advocacy group that was formed in 2021, the mission of which is to embrace multiculturalism and address racism through education and empowerment. The Petitioner explains that ARC hosts weekly gatherings or events that are open to the public and include educational presentations pertaining to matters that correspond with a monthly theme or the desire for more information on a given issue. The Petitioner further explains that ARC covers a variety of topics such as racial and gender equality, diversity, stereotypes, human rights, community engagement, and more. The Petitioner states that, in addition to the weekly gatherings, there are also book discussions, community conversations, movie screenings, and events that support ARC’s mission. She further states that the topics discussed by the School Committee and those advanced by ARC could overlap. The Petitioner represents that neither ARC nor she stands to benefit personally from any advancement in the areas of equity, diversity, inclusion, and multiculturalism. Rather, such advancements would benefit the

community as a whole. Based on this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits her from participating in School Committee discussions and/or voting on matters relating to the topics of diversity, equity, multiculturalism, and other similar topics, given that those topics are among those advanced by ARC as part of its mission.

Under the Code of Ethics, a public official may not participate in any matter in which she has an interest, financial or otherwise, which is in substantial conflict with the proper discharge of her duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest exists if a public official has reason to believe or expect that she, any person within her family, her business associate, or a 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 also prohibits a public official from using her public office or confidential information received through her public office to obtain financial gain for herself, any person within her family, her business associate, or any business by which she is employed or which she represents. Section 36-14-5(d). Finally, under Commission Regulation 520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002), a public official must recuse from participation in any matter if her business associate appears or presents evidence or arguments or authorizes another person, on his or her behalf, to appear or to present evidence or arguments before the public official's state or municipal agency. A business associate is defined as "a person joined together with another person to achieve a common financial objective." Section 36-14-2(3). A person is defined as "an individual or a business entity." Section 36-14-2(7).

The Ethics Commission has previously reviewed an almost identical situation in Advisory Opinion 2021-57. There, the Ethics Commission opined that a member of the North Kingstown School Committee, who in her private capacity was the founder and co-president of Towards an Anti-Racist North Kingstown ("TANK"), a non-profit organization dedicated to advancing discussions of anti-racist policies in the Town of North Kingstown, was not generally required by the Code of Ethics to recuse from participating in School Committee and/or Subcommittee discussions and/or voting on matters relating to the topics of diversity, equity, and inclusion, notwithstanding that those topics are among those advanced by TANK as part of its mission provided, however, that otherwise there were no grounds for recusal. See also A.O. 2005-20 (opining that the Chairman of the North Smithfield Planning Board, who had written a letter to the Providence Journal in regard to a potential development, was not prohibited from participating in matters coming before the Planning Board regarding that development); A.O. 98-3 (opining that an Exeter Planning Board member was not prohibited from participating in subsequent discussions and votes on a proposed zone change and amendment to the Exeter Comprehensive Plan relating to "Bald Hill Nursery," notwithstanding that he had previously voted against the zoning change and amendment and had given public testimony against the proposal before the Town Council in his capacity as a resident).

Similar to the above-cited advisory opinions, the views expressed by the instant Petitioner as the founder of ARC and a member of its Steering Committee may indicate an existing, personal inclination toward matters relative to the topics of diversity, equity, multiculturalism, and other similar topics discussed or voted on by the School Committee; however, such preference alone does not support mandatory recusal under the Code of Ethics. Thus, based on the Petitioner's

representations, the applicable provisions of the Code of Ethics, and consistent with the prior advisory opinions cited above, it is the opinion of the Ethics Commission that the Petitioner is not generally required to recuse from participating in School Committee discussions and voting on matters relating to the topics of diversity, equity, multiculturalism, and other similar topics, notwithstanding that those topics are among those advanced by ARC as part of its mission, provided that there are otherwise no grounds for recusal under the Code of Ethics.

This advisory opinion only addresses whether the Petitioner may participate in School Committee discussions and decision-making generally relating to topics that are advanced by or of interest to ARC. The Ethics Commission cannot anticipate every possible situation in which a conflict of interest might arise,¹ thus, provides only general guidance as to the application of the Code of Ethics based upon the facts represented above. The Petitioner is advised to remain vigilant about identifying potential conflicts of interest and to either recuse or seek further guidance from the Ethics Commission in the future as warranted. Notice of recusal shall be filed with the Ethics Commission consistent with the provisions of section 36-14-6.

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 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:

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)

Related Advisory Opinions:

A.O. 2021-57

A.O. 2005-20

A.O. 98-3

Keywords:

Recusal

¹ The Ethics Commission cannot at this time identify whether ARC, other members of its Steering Committee, and/or other persons affiliated with ARC are the Petitioner's business associates.