

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2023-37

Approved: October 17, 2023

Re: Cynthia A. Coyne

QUESTION PRESENTED:

The Petitioner, a former member of the Rhode Island Senate, who is currently the Executive Director of the Senior Agenda Coalition of Rhode Island, a non-profit entity, requests an advisory opinion regarding whether she is prohibited by the Code of Ethics from serving, prior to the expiration of one year after leaving legislative office, on a special legislative commission recently created by a Resolution of the Rhode Island House of Representatives.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a former member of the Rhode Island Senate, who is currently the Executive Director of the Senior Agenda Coalition of Rhode Island, a non-profit entity, is not prohibited by the Code of Ethics from serving, prior to the expiration of one year after leaving legislative office, on a special legislative commission recently created by a Resolution of the Rhode Island House of Representatives, because her service on the special legislative commission does not amount to representation of her private employer before the General Assembly.

The Petitioner is a former legislator who served in the Rhode Island Senate (“Senate”) for eight years. She did not run for reelection last November, and her last day of service as a member of the Senate was January 3, 2023. The Petitioner states that in July of 2023, she was hired as the Executive Director of the Senior Agenda Coalition of Rhode Island (“SACRI”). The Petitioner describes SACRI as a non-profit, independent coalition of agency and individual members founded in 2002, the mission of which is to mobilize people to achieve power in order to improve the quality of life of older adult Rhode Islanders. The Petitioner explains that SACRI achieves its mission through community organizing, public education, and legislative advocacy. The Petitioner further explains that SACRI does not directly provide services, but offers education and information relative to services available to older adult Rhode Islanders on the state or municipal level or through private organizations. She adds that SACRI sends out monthly newsletters to its members, coordinates efforts with senior centers around Rhode Island, and advocates for policy changes. The Petitioner states that SACRI does not receive any state or federal funding. The Petitioner represents that, as Executive Director, she assumes primary responsibility for the organization’s overall management and growth within the policies and guidelines established by SACRI’s Board of Directors. She explains that she is SACRI’s only employee and describes her duties as including the recruitment of individual and agency members, strategy development and

implementation of organizing campaigns in concert with the Board of Directors and collaborating groups, and leading fundraising efforts.

The Petitioner represents that on May 11, 2023, the Rhode Island House of Representatives (“House”) passed Resolution 2023 – H 5224 Substitute A, entitled House Resolution Creating A Special Legislative Commission (“Study Commission”) to Study and Provide Recommendations Pertaining to Services and Coordination of State Programs Relating to Older Adult Rhode Islanders (“Resolution”). The Petitioner further represents that the Study Commission is comprised of 16 members, including the Director of SACRI or his or her designee.¹ The Petitioner states that the first meeting of the Study Commission was on September 12, 2023, which she did not attend. She further states that the Chairman of the SACRI’s Board of Directors is currently acting as her designee. According to the Resolution, the purpose of the Study Commission would be to make a comprehensive study of key statistics and information about services available for older adult Rhode Islanders and provide recommendations for services and the coordination of state programs for those Rhode Islanders in order to improve their well-being. Specifically, the Resolution lists the following responsibilities of the Study Commission:

1. Examine strengths, vulnerabilities, and demographic and financial statistics of older adult Rhode Islanders;
2. Assess the current State, Federal and local services currently available to older adult Rhode Islanders;
3. Examine any duplication of elderly services within the State;
4. Provide recommendations to institute, integrate, collaborate, and implement initiatives that eliminate red tape, coordinate services within agencies, and focus on better delivery of services and programs related to older adult Rhode Islanders, including older adult housing options and various living arrangements, health status and healthcare resources;
5. Provide recommendations for the creation of a portal to provide and coordinate aging programs and services in the areas of employment, education, independent living, accessibility and advocacy, as well as local older adult centers and services;
6. Provide recommendations on mental health, transportation, food access, and healthcare;
7. Review and provide recommendations for the funding of services through State, Federal, and private grants and provide recommendations for more efficient distribution and use of these dollars; and

¹ The other members of the Study Commission include the following: three members of the House; two Rhode Island residents over the age of sixty-five; the Director of the Rhode Island Department of Health, or designee; the Director of the Rhode Island Office of Healthy Aging; three Directors from RI Senior Centers Directors Association; the Community Action Program Director from the Rhode Island Association of Community Action Agencies; the Director of the AARP Rhode Island, or designee; a member of the RI Long Term Care Coordinating Council; the Executive Director of Age-Friendly RI, or designee; and a member of a Rhode Island organization representing adults with disabilities.

8. Explore and provide recommendations for more regionalization of services.

H.R. Res. 2023 – H 5224 Sub. A, Jan. Sess. (R.I. 2023). The Resolution further provides that the Study Commission will report back to the House by no later than May 7, 2024, and that it will cease operations on August 7, 2024, unless, according to the Petitioner, that period is extended. The Petitioner states that although she would be part of the Study Commission because of her role as Executive Director of SACRI, she would not be representing the interests of, or lobbying on behalf of, SACRI. Rather, she would be sharing knowledge and information that she has acquired through her employment with SACRI relative to the needs of and services provided to older adult Rhode Islanders. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether she may serve on the Study Commission prior to the expiration of one year after her leaving legislative office.

Under the Code of Ethics, a public official or public 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 or employment in the public interest. R.I. Gen. Laws § 36-14-5(a). A public official or public employee will have an interest that is in substantial conflict with the discharge of her duties in the public interest if it is reasonably foreseeable that a “direct monetary gain” or a “direct monetary loss” will accrue, by virtue of the public official’s activity, to the public official, her family member, her business associate, or any business by which she is employed or which she represents. Section 36-14-7(a). Further, the Code of Ethics prohibits a public official or public employee from representing herself or any other person before a state agency of which she is a member or by which she is employed. Section 36-14-5(e)(1) & (2) (“section 5(e)”). This prohibition extends for a period of one year after the public official has officially severed her position with the state agency. Section 5(e)(4). The “revolving door” language of section 5(e) is designed to minimize any undue influence that a former member may have over her former agency and colleagues by reason of her past position there. This prohibition is absolute and applies to the entire agency, including all of its offices, sections, programs, or divisions. Under the Code of Ethics, a person represents herself or another person before a state agency if she participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in her own favor or in favor of another person. See Section 36-14-2(12) & (13); Commission Regulation 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016). A person is defined as “an individual or a business entity.” Section 36-14-2(7).

The Ethics Commission has issued numerous advisory opinions interpreting section 5(e)(4)’s requirement with respect to former public officials and public employees, including former members and employees of the General Assembly, relative to their proposed interactions with their former agencies during the one-year period following the date of severance from their state employment or service. For example, in Advisory Opinion 2004-4, a former Special Assistant to the House Majority Leader of the House of Representatives sought advice regarding whether, upon leaving his public employment, he could represent private businesses as a lobbyist before the Rhode Island Senate and certain executive branch agencies. Applying section 5(e), the Ethics Commission opined that, although the petitioner would be permitted to lobby the executive branch immediately upon his severance from his position with the House Majority Leader, he was required to wait one year before lobbying either chamber of the General Assembly. See also A.O. 2017-19 (opining that a former President of the Senate was prohibited by the Code of Ethics from lobbying

or otherwise representing her new employer before the Rhode Island General Assembly for a period of one year after leaving public office).

Here, the person holding the position of Executive Director of SACRI is one of the specifically enumerated members of the Study Commission. As a member of the Study Commission, the Petitioner's role will not be to represent SACRI or its interests, but, rather, to use knowledge and information acquired in her capacity as SACRI's Executive Director to support the mission of the Study Commission, which is to offer advice and recommendations to the General Assembly to improve the well-being of older adult Rhode Islanders. The intent of the Study Commission is to complete a comprehensive study of key statistics and information about services available for such Rhode Islanders and provide recommendations for the improvement of those services. Based on all of the facts represented herein, the relevant provisions of the Code of Ethics, and prior advisory opinion issued, it is the opinion of the Ethics Commission that the Petitioner's participation on the Study Commission would not constitute representation of SACRI as that term is defined in the Code of Ethics. Therefore, she is not prohibited from being part of the Study Commission prior to the expiration of one year following her severance from legislative service. The Petitioner is advised, however, to remain vigilant about recognizing any discussion that could constitute the representation of SACRI before the Study Commission, or matters that could directly financially impact SACRI during the remainder of the one year following her severance from legislative service, and recuse from participation 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(7)

§ 36-14-2(12)

§ 36-14-2(13)

§ 36-14-5(a)

§ 36-14-5(e)

§ 36-14-6

§ 36-14-7(a)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

Related Advisory Opinions:

A.O. 2017-19

A.O. 2004-4

Keywords:

Revolving Door