

# RHODE ISLAND ETHICS COMMISSION

---

---

## Advisory Opinion No. 2023-39

Approved: October 17, 2023

**Re: Robert Shaw**

### **QUESTION PRESENTED:**

The Petitioner, a member of the Cumberland Town Council, a municipal elected position, requests an advisory opinion regarding whether his simultaneous service as the Interim President and Registrar for the Cumberland Youth Soccer Association, a nonprofit organization, constitutes an inherent conflict of interest under the Code of Ethics.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner's simultaneous service as a member of the Cumberland Town Council, a municipal elected position, and as the Interim President and Registrar for the Cumberland Youth Soccer Association, a nonprofit organization, does not constitute an inherent conflict of interest under the Code of Ethics.

The Petitioner is a member of the Cumberland Town Council ("Town Council"). He was first elected in 2014 and has served continuously since. His current term expires in 2026. The Petitioner states that in his private capacity he is the Interim President and Registrar of the Cumberland Youth Soccer Association ("CYSA"), an independent nonprofit organization. As described on its website, the CYSA dedicates itself to "the best interests of youth soccer, with emphasis on the organization, promotion, regulation, and development of youth soccer" in the Town of Cumberland ("Town" or "Cumberland").<sup>1</sup> The Petitioner represents that the CYSA Board of Directors has 18 members, 14 of which, including himself, are voting members. He further represents that the CYSA has an Executive Board consisting of the following five positions: President, Vice President, Secretary, Treasurer, and Registrar. He adds that elections for the Executive Board are scheduled to take place in November 2023. The Petitioner states that he receives no stipend or other financial compensation for his service as a member of the CYSA's Executive Board.

The Petitioner emphasizes that the CYSA is not affiliated with the Town and does not receive any funding from the Town. He explains that the CYSA is funded solely through its membership fees and private fundraising efforts. The Petitioner represents that the CYSA's Field Director does schedule soccer games through the Town's Recreation Department, adding that availability of Town fields is subject to the ranking within the Town Charter of organizations by category. The Petitioner further represents that the Recreation Department also collects the fees associated with

---

<sup>1</sup> <https://cysa-ri.org/cysa-by-laws/> (last visited 09-19-23).

the use of the Town fields, adding that those fees are also regulated by the Town Charter. The Petitioner states that the Recreation Department is staffed by the Recreation Director and a clerk and that, although the Recreation Director is hired by the mayor with the advice and consent of the Town Council, the Town Council exercises no supervision over the Recreation Director. Cognizant of the Code of Ethics, and desirous of acting in conformance therewith, the Petitioner seeks advice from the Ethics Commission regarding whether his simultaneous service as a member of the Town Council and as Interim President and Registrar for the CYSA constitutes an inherent conflict of interest.

Under the Code of Ethics, a public official may not participate in any matter in which he has an interest, financial or otherwise, that is in substantial conflict with the proper discharge of his 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 he, any person within his family, his business associate, or his employer will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. Section 36-14-7(a). The Code of Ethics further prohibits a public official from willfully and knowingly disclosing for pecuniary gain, to any other person, confidential information acquired by the public official in the course of and by reason of his official duties or using any such information for the purpose of pecuniary gain. Section 36-14-5(c). Additionally, a public official may not use his public office, or confidential information received through his public office, to obtain financial gain for himself, his family member, his business associate, or any business by which he is employed or which he represents. Section 36-14-5(d). 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 Code of Ethics also prohibits a public official from representing himself or any other person before a municipal agency of which he is a member or for which he is the appointing authority. Section 36-14-5(e)(1)&(2); Commission Regulation 520-RICR-00-00-1.1.4(A)(1)(c)&(2)(c) Representing Oneself or Others, Defined (36-14-5016) (“Regulation 1.1.4”). A person represents himself or another person before an agency when he participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of that agency in his favor or in favor of another person. Section 36-14-2(12)&(13); Regulation 1.1.4(A)(1)&(2). Under the Code of Ethics, a public official must also recuse from participation in a matter when his business associate, or a person authorized by his business associate, appears or presents evidence or arguments before his municipal agency. Commission Regulation 520-RICR-00-00-1.2.1(A)(2)&(3) Additional Circumstances Warranting Recusal (36-14-5002) (“Regulation 1.2.1”). Notices of recusal shall be filed consistent with the provisions of section 36-14-6.

The Ethics Commission has previously determined that persons are “business associates” of the entities for which they serve as either officers or members of the Board of Directors, or in some other leadership position that permits them to affect the financial objectives of the entities. See, e.g., A.O. 2014-14 (opining that the Director of the Rhode Island Department of Environmental Management (“RIDEM”), who was also a Director of the Rhode Island Boy Scouts (“Boy Scouts”), was a business associate of the Boy Scouts and, therefore, was required to recuse from participating in any RIDEM decisions that would financially impact the Boy Scouts, as well as from any matters in which a Boy Scout representative appeared to represent the organization’s

interests); A.O. 2012-28 (opining that a Tiverton Planning Board member, who was also a member of the Board of Directors of the Tiverton Yacht Club (“TYC”), was a business associate of the TYC and, therefore, was required to recuse from participating in the Planning Board’s consideration of a proposed amendment to the Tiverton Zoning Ordinance as requested by the TYC).

Here, the Petitioner is a business associate of the CYSA. However, the existence of that business associate relationship, in and of itself, does not constitute a violation of the Code of Ethics. Notably, the CYSA’s request to use the Town fields, as well as the payment of fees associated with that use, is made by the CYSA’s Field Director to the Recreation Department, not the Town Council. Accordingly, it is the opinion of the Ethics Commission that the simultaneous service by the Petitioner as a member of the Cumberland Town Council and as the Interim President and Registrar for the Cumberland Youth Soccer Association does not constitute an inherent conflict of interest under the Code of Ethics.

The Petitioner is advised that he may not participate in any Town Council matter that will directly financially impact the CYSA. Also, the Petitioner may not represent himself or the CYSA before the Town Council, or the Recreation Director over which the Town Council has appointing authority, and must recuse from participation in any Town Council matter when the CYSA or its representative appears to present evidence or arguments. Based on the facts as represented, specifically the absence of any affiliation between the CYSA and the Town, and in particular the Town Council, coupled with the representation that the CYSA’s Field Director is the CYSA representative who communicates with the Recreation Director, none of the aforementioned scenarios seems likely. Nonetheless, the Petitioner is advised to remain vigilant about recognizing any potential conflicts of interest given his dual roles and to seek further guidance from the Ethics Commission as warranted.

**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)

§ 36-14-2(12)

§ 36-14-2(13)

§ 36-14-5(a)

§ 36-13-5(c)

§ 36-14-5(d)

§ 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)

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

Related Advisory Opinions:

A.O. 2014-14

A.O. 2012-28

Keywords:

Business Associate

Conflict of Interest