

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2023-43

Approved: November 14, 2023

Re: William J. Connell

QUESTION PRESENTED:

The Petitioner, a member of the North Smithfield School Committee, a municipal elected position, seeks an advisory opinion regarding whether, if hired as an Assistant Solicitor for the City of Woonsocket, the Code of Ethics would prohibit him from participating in the North Smithfield School Committee's voting to pay invoices submitted by the City of Woonsocket for the tuition costs associated with North Smithfield students attending Woonsocket Public Schools under the Career and Technical Education program.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the North Smithfield School Committee, a municipal elected position, would not be prohibited by the Code of Ethics, if hired as an Assistant Solicitor for the City of Woonsocket, from participating in the North Smithfield School Committee's voting to pay invoices submitted by the City of Woonsocket for tuition costs associated with North Smithfield students attending Woonsocket Public Schools under the Career and Technical Education program.

The Petitioner states that he is an elected member and Secretary of the North Smithfield ("North Smithfield" or "Town") School Committee ("School Committee").¹ He further states that, with the exception of a two-year period between 2016 and 2018, he has been a member of the School Committee since 2012. The Petitioner represents that he has the opportunity to serve as an Assistant Solicitor for the City of Woonsocket ("Woonsocket" or "City"). He states that his role in that capacity would be to support the lead solicitor by performing research, drafting, and analysis, with occasional appearances on behalf of the City at City Council meetings or in court. The Petitioner represents that his work as Assistant City Solicitor would be on a part-time basis at night and on weekends, and occasionally during the day.

The Petitioner states that a small percentage of North Smithfield students attend Woonsocket Public Schools under the Career and Technical Education ("CTE") program. The tuition cost associated with a North Smithfield student attending the CTE program is paid by the North Smithfield School District. The Petitioner states that the North Smithfield School Administration approves the eligibility of North Smithfield students to attend the CTE program, that the tuition

¹ Although not relevant to the instant question presented, the Petitioner is also subject to the Code of Ethics through his employment as the Senior Deputy Director of the Office of the Legislative Council at the Rhode Island General Assembly.

costs are set forth by the Rhode Island Department of Education (“RIDE”), and that the invoices submitted by Woonsocket to North Smithfield for the provision of classes to the North Smithfield students under the CTE program are approved and paid by the School Committee. The Petitioner represents that the North Smithfield Finance Department tracks and reviews all invoices prior to submitting them to the School Committee for approval, and that all of the invoices submitted for review by the School Committee, including those from Woonsocket, are listed cumulatively as one line item in the School Committee’s agenda. He explains that each School Committee member receives a list of all the invoices under review and, in turn, the School Committee votes to approve payment of all the invoices in a single vote unless a particular invoice requires further discussion. The Petitioner represents that all checks issued for the payment of invoices are electronically preprinted with the Petitioner’s name on them as the School Committee’s Secretary.

The Petitioner states that, if he is hired as a Woonsocket Assistant Solicitor, he would not participate in any matter that involves direct contact or exchange with North Smithfield. He further states that there is a separate City attorney who handles matters for the Woonsocket School Committee and, therefore, he will not be handling Woonsocket School Committee matters. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether, if hired as a Woonsocket Assistant Solicitor, the Code of Ethics would prohibit him from participating in School Committee voting to pay Woonsocket for the tuition costs associated with North Smithfield students attending Woonsocket Public Schools under the CTE program and whether the Code of Ethics prohibits his name from being preprinted on the checks issued for the payment of those tuition invoices.

A person subject to the Code of Ethics 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 or employment in the public interest. R.I. Gen. Laws § 36-14-5(a). A person subject to the Code of Ethics will have an interest that is in substantial conflict with the proper discharge of his 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, his family member, his business associate, or any business by which he is employed or which he represents. Section 36-14-7(a). A person is defined as “an individual or a business entity.” Section 36-14-2(7). Additionally, pursuant to section 36-14-5(b), a person subject to the Code of Ethics may not accept other employment which would impair his independence of judgment as to his official duties, or require or induce him to disclose confidential information acquired by him in the course of and by reason of his official duties. Finally, a person subject to the Code of Ethics is prohibited from using his public position or confidential information received through his position to obtain financial gain, other than that provided by law, for himself, his family member, his business associate, or any business by which he is employed. Section 36-14-5(d)

The Ethics Commission has consistently concluded that the Code of Ethics does not consider public entities to be “businesses” or the relationship between a public official and a public body, such as a state or municipal agency, to be that of “business associates.” *See, e.g.*, A.O. 2018-40 (opining that a member of the Rhode Island Scenic Roadways Board (“SRB”), who also served as the Executive Director of the East Providence Waterfront Special Development District Commission (“Waterfront Commission”), was not prohibited from participating in the SRB’s discussions and voting to approve aesthetic development along Veterans Memorial Parkway,

notwithstanding that the Waterfront Commission was responsible for approving structural developments in areas that abut Veterans Memorial Parkway, because neither the SRB nor the Waterfront Commission were considered to be “businesses” or “business associates” of the petitioner); A.O. 2014-23 (opining that neither the Rhode Island Board of Education Council on Elementary and Secondary Education (“CESE”) nor Trinity Academy for the Performing Arts Charter School (“TAPA”) was considered a “business” under the Code of Ethics and, therefore, the petitioner’s membership on the Boards of Directors for CESE and TAPA did not constitute business associations with those bodies); A.O. 2007-13 (opining that the Director of the Quonset Development Corporation (“QDC”), who was also a member of the North Kingstown Town Council, could participate in the QDC’s decisions and vote on a development proposal within North Kingstown pending before the QDC because the Town was not considered under the Code of Ethics to be a “business” or a “business associate” of the petitioner).

Here, because neither the School Committee, the Town of North Smithfield, nor the City of Woonsocket, all municipal agencies, are considered businesses under the Code of Ethics, the Petitioner’s relationship with each of those public entities is not one of business associates. Accordingly, any financial impact associated with the Petitioner’s participation in the School Committee’s vote to approve invoices submitted by Woonsocket for services provided to students from North Smithfield participating in the CTE program, or the appearance of his signature on the checks issued to the City for those services, would not be a financial impact upon the Petitioner’s business associate.

Additionally, the Petitioner explains that the tuition fees under the CTE program are established by RIDE, not by the School Committee, and that his name, in his capacity as School Committee secretary, is electronically preprinted on the checks issued by the School Committee. Under these circumstances, the inclusion of the Petitioner’s signature on the issued check is ministerial in nature. See A.O. 2008-17 (opining that the Finance Director for the Town of Lincoln did not violate the Code of Ethics by processing payments for the Town’s legal notices that were carried in a newspaper owned by his brother, given that the petitioner’s duties did not involve selecting the newspaper, but only required him to process the payment vouchers that had been approved by the Town Administrator and the Town Council and, as such, the Finance Director’s actions were ministerial in nature and did not involve the exercise of any discretionary authority that could affect the financial interests of his brother). Finally, it does not appear that the Petitioner’s independence of judgment would be impaired or that there would be a substantial conflict with respect to the exercise of his public duties in either role.

Accordingly, based on the facts represented by the Petitioner, the relevant provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner, if hired as a Woonsocket Assistant Solicitor, would not violate the Code of Ethics by participating in the School Committee’s vote on the invoices submitted by Woonsocket relative to the CTE program, or by his name being electronically preprinted on the checks issued for the payments of those invoices. However, the Petitioner is advised to remain vigilant about his obligations under the Code of Ethics in the event that a particular matter arises that may either financially impact him, impair his independence of judgment, or create an interest that is in substantial conflict with his public duties in either role. In those circumstances, the Petitioner

should either recuse from participation in any such matter consistent with the provisions of section 36-14-6, and/or request further guidance from the Ethics Commission.

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)
§ 36-14-5(a)
§ 36-14-5(b)
§ 36-14-5(d)
§ 36-14-6
§ 36-14-7(a)

Related Advisory Opinions:

A.O. 2018-40
A.O. 2014-23
A.O. 2008-17
A.O. 2007-13

Keywords:

Business Associate
Conflict of Interest
Dual Public Roles

RECEIVED
RHODE ISLAND
ETHICS COMMISSION

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September 14, 2023

Name: William J. Connell

Official Position. Attorney with Office of the RI General Assembly's Legislative Council. School Committee Member in North Smithfield. More specifics discussed below.

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Dear Honorable Members of the Commission,

My name is William J. Connell, and I am an attorney licensed in Rhode Island and Massachusetts. I currently work as the Senior Deputy Director with the Office of the Legislative Council at the Rhode Island General Assembly. I am also an elected member of the North Smithfield School Committee. I am writing to request an advisory opinion regarding whether I can serve as a part-time Assistant Solicitor for the City of Woonsocket, and if so, are there any parameters of that representation. I am seeking guidance from the Commission as set forth below.

City of Woonsocket -- I may have an opportunity to serve as an Assistant Solicitor with the City of Woonsocket. My understanding is I would be helping the lead solicitor. I anticipate most of this work would be in a research, drafting, and analysis role. That would not preclude an occasional appearance on behalf of the city at council meetings or in court, but that would be as an assistant to the lead solicitor. If I worked with the City of Woonsocket, the position with the City would be a part-time position, which I anticipate I would do at night and on weekends and an occasional day when I would use vacation time. I anticipate the time commitment would vary but would be approximately 5-7 hours per week.

Rhode Island General Assembly -- At the Rhode Island General Assembly, I work as the Senior Deputy Director of the Office of the Legislative Council. I also serve as legal counsel to the House Education Committee and the House Health and Human Services Committee. Collectively this is one full time equivalent position. I do not see a direct substantive conflict at the General Assembly as I would work part-time and irregular hours for the City of Woonsocket.

North Smithfield School Committee -- I am an elected member of the North Smithfield School Committee. I also hold the office of Secretary on the Committee. My main concerns as to the School Committee are that on occasions, we may pay tuition fees or related education fees to the City of Woonsocket/Woonsocket School Committee for a student attending one of the Woonsocket Public Schools under the Career and Technical Education (CTE) program. Eligibility and applicability are approved by the School Administration. This varies depending on where North Smithfield students are. This is a small percentage of our student body, but it can come up. My concerns if I undertook the part-time assistant solicitor role with the City of Woonsocket would be as follows:

1. Can I vote to pay the Woonsocket for these tuition payments? Can I vote to pay the city for any services they may provide to these students?
2. If I am unable to vote, my name is still electronically preprinted on the checks which are sent out for the district (as I am the Secretary). Admittedly, this is somewhat ministerial in that I do not personally authorize these payments, the entire School Committee must vote on them, but it is my name preprinted on the check.

I would add that I would expressly NOT work for Woonsocket in any area that involves a direct contract or exchange with the Town of North Smithfield and would not vote on an issue that the City and Town conflict on.

I am very interested in pursuing the Assistant Solicitor position in Woonsocket as I have never had the opportunity to be a solicitor in Rhode Island and I think it would be an invaluable experience. I also acknowledge issues with dealing and working with a municipality are somewhat different than working for a business as those terms are defined in §36-14-2. I am asking for some guidance from the Commission in the form of general parameters, if any, under which I could work as an Assistant Solicitor for the City of Woonsocket regarding these questions.

Thank you.

Very truly yours,

William J. Connell

William J. Connell