

# RHODE ISLAND ETHICS COMMISSION

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## Advisory Opinion No. 2023-46

Approved: December 12, 2023

**Re: James Richard**

### **QUESTION PRESENTED:**

The Petitioner, a member of the Pascoag Fire District Board of Fire Commissioners, a quasi-municipal elected position, who in his private capacity owns and operates the Rhode Island Community Training Center, requests an advisory opinion regarding whether he may through the Training Center provide Advanced EMT – Cardiac training to a Fire District firefighter whose tuition for the training would be paid for by the Fire District following a discussion and vote of the Board of Fire Commissioners from which the Petitioner would recuse.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Pascoag Fire District Board of Fire Commissioners, a quasi-municipal elected position, who in his private capacity owns and operates the Rhode Island Community Training Center, may provide through the Training Center an Advanced EMT – Cardiac training to a Fire District firefighter whose tuition for the training would be paid for by the Fire District following a discussion and vote of the Board of Fire Commissioners from which the Petitioner would recuse.

The Petitioner is a member of the Board of Fire Commissioners (“Board”) of the Pascoag Fire District (“Fire District”), having served in that position since his initial election in 2017. He explains that the Board manages the Fire District which provides fire protection services for the Village of Pascoag and has two fire stations staffed with paid and volunteer firefighters. The Petitioner states that since 2016 he has owned and operated the Rhode Island Community Training Center (“RICTC”), a private entity that specializes in providing Emergency Medical Services and Cardiopulmonary Resuscitation training programs.<sup>1</sup>

The Petitioner represents that a firefighter employed by the Fire District has expressed an interest in attending an Advanced EMT – Cardiac training that will be offered by the RICTC in January 2024. The Petitioner further represents that the RICTC is one of a handful of providers licensed to provide this particular type of training and that the firefighter is required to receive this training in order to be able to work as an Emergency Medical Technician (“EMT”) and treat persons in emergency situations. The Petitioner states that the training is advertised on the RICTC’s website and that he would not teach or lead that training. He explains that the firefighter is free to choose the school he wishes to attend based on the availability and type of training provided, and the class

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<sup>1</sup> The Petitioner explains that, prior to becoming its owner, he had been employed by the RICTC since approximately 2008/2009.

schedule that best suits him, without approval by the Board. The Petitioner adds that the Board pays the fees associated with firefighter training, but that he would recuse from the Board's discussion and decision-making relative to the approval of the payment of this training fee.

The Petitioner states that he did not advertise or offer the training to the firefighter but, rather, the firefighter had done his own research and then inquired regarding whether he could attend the training offered by the Petitioner's training center. The Petitioner represents that the Board does not oversee the day-to-day duties of the firefighters and that the Board only gets involved if the Fire Chief suspends or terminates the employment of a firefighter. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether he may, through the RICTC, provide training to the firefighter.

The Code of Ethics provides that a public official shall not have any interest, financial or otherwise, direct or indirect, or engage in any employment, transaction, or professional activity which 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 the public official has reason to believe or expect that he, any person within his family, his business associate, or any business by which he is employed or which he represents will derive a direct monetary gain or suffer a direct monetary loss by reason of the public official's official activity. Section 36-14-7(a). Also, a public official may not use his public position to obtain financial gain, other than that provided by law, for himself any person within his family, his business associate, or any business by which he is employed or which he represents. Section 36-14-5(d). Finally, an individual subject to the Code of Ethics may not engage in a financial transaction, including participating in private employment or consulting, with a subordinate over whom he exercises supervisory responsibilities in the course of his official duties. Commission Regulation 520-RICR-00-00-1.4.4 Transactions with Subordinates (36-14-5011) ("Regulation 1.4.4"). A "subordinate" is defined as "an employee, contractor, consultant, or appointed official of the official's or employee's agency." Regulation 1.4.4(C).

However, Regulation 1.4.4's prohibition does not apply if the subject financial transaction "is in the normal course of a regular commercial business or occupation" or if the subordinate initiates the financial transaction. See Regulation 1.4.4(A)(1). In Advisory Opinion 2019-32, for example, the Ethics Commission applied Regulation 1.4.4(A)(1) and opined that a member of the Westerly School Committee, who in her private capacity owned and operated a professional design and print business, could fulfill orders placed by individual coaches or staff members of the local public school who were considered her subordinates because such transactions would have been both initiated by the subordinates and undertaken in the normal course of the petitioner's regular commercial business. See also A.O. 2023-36 (opining that the Town Administrator for the Town of Richmond was not prohibited by the Code of Ethics from hiring JN Jordan Plumbing to perform the plumbing and mechanical work on a home that she and her spouse were planning to build in the Town of South Kingstown, notwithstanding that the owner of JN Jordan Plumbing was employed by the Town of Richmond as the Zoning Official and as the Plumbing and Mechanical Inspector, and a subordinate of the petitioner, because Mr. Jordan's company regularly provided the aforementioned services in the normal course of a regular commercial business).

Here, the Petitioner owns and operates a private entity that offers Advanced EMT-Cardiac training in the normal course of its regular commercial business. Also, the Petitioner did not advertise or

offer the training to his subordinate directly but, rather, the firefighter, having done his own research, inquired whether he could take the training offered by the Petitioner's company, thereby initiating the potential transaction between them. Accordingly, based on the Petitioner's representations, the relevant provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner may, through the RICTC, provide Advanced EMT – Cardiac training to the Fire District firefighter because such transaction is both initiated by the subordinate and undertaken in the normal course of the Petitioner's regular commercial business. The Petitioner is required, however, as he correctly anticipated, to recuse from any Board discussions and decision-making relative to the payment of the firefighter's tuition. All recusals shall be filed 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:

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

520-RICR-00-00-1.4.4 Transactions with Subordinates (36-14-5011)

Related Advisory Opinions:

A.O. 2023-36

A.O. 2019-32

Keywords:

Transactions with Subordinates

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RHODE ISLAND  
ETHICS COMMISSION

23 NOV -6 AM 11:08

November 3, 2023

Rhode Island Ethics Commission  
40 Fountain Street  
Providence, RI 02903

RE: Advisory Opinion

To Whom It May Concern,

This is a request for an advisory opinion as to whether the Pascoag Fire District Board of Fire Commissioners ("hereinafter referred to as "PFD Board") can send an employee to my EMS training school.

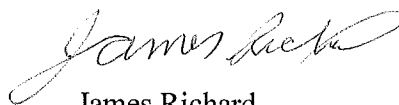
As a bit of background, I currently serve as a commissioner on the PFD Board. The Board is tasked with providing fire protection services for the village of Pascoag through the Pascoag Fire Department. The department has 2 stations, with both paid and volunteer firefighters.

My full-time job is serving as the Deputy Chief for the Cumberland EMS Department. I also run a school, training EMT's from across the area, called the RI Community Training Center, located in Smithfield.

The reason that I am requesting an opinion is that I have an Advanced EMT – Cardiac course beginning on January 16<sup>th</sup>. An employee from the Pascoag Fire District has expressed interest in attending that training class and I anticipate that paying the fee for the class will come before the PFD Board in the next few months for a vote. When the matter comes before the board, I intend to recuse myself, but I also wanted to request an ethics opinion so that there was no question that the employee could attend my class.

If you need to reach me with any questions, I can be reached at 401-265-3553 and/or [JRichard@cumberlandri.org](mailto:JRichard@cumberlandri.org).

Sincerely,



James Richard