

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2024-5

Approved: February 27, 2024

Re: Christian J. Lachapelle-Miller

QUESTION PRESENTED:

The Petitioner, the Chief Implementation Aid to the Director of the Rhode Island Department of Children, Youth & Families, a state employee position, who was recently appointed to serve as a member of the Providence Juvenile Hearing Board, a municipal appointed position, requests an advisory opinion regarding whether the Code of Ethics prohibits him from simultaneously serving in both positions.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, the Chief Implementation Aid to the Director of the Rhode Island Department of Children, Youth & Families, a state employee position, who was recently appointed to serve as a member of the Providence Juvenile Hearing Board, a municipal appointed position, is not prohibited by the Code of Ethics from simultaneously serving in both positions.

The Petitioner is employed as the Chief Implementation Aide to the Director of the Rhode Island Department of Children, Youth & Families (“DCYF” or “department”). The DCYF is “the state child welfare, children’s mental health and juvenile corrections services agency which promotes safety, permanence, and well-being of children,” and supports “children and their families involved in child protection, behavioral health, and juvenile justice.”¹ The Petitioner represents that he has served in this position since August 2023 and that his role is to provide support to the DCYF’s Executive Director relative to the implementation and administration of the department’s special projects and programs. The Petitioner adds that this support includes, but is not limited to, serving as a liaison between the DCYF Director and external stakeholders; acting as the Director’s proxy during meetings and events across the state; analyzing data, reports, and relevant information in support of executive level decision-making; monitoring the progress of special projects; identifying potential challenges, and proposing solutions and ways to improve the process efficiency in the administration of projects and programs throughout the department. The Petitioner represents that his normal working hours are 8:30 a.m. to 4:00 p.m., Monday through Friday, although work hours may sometimes vary.

The Petitioner states that he was recently appointed by the President of the Providence City Council to the Providence Juvenile Hearing Board (“JHB”). The Petitioner explains that the JHB

¹ <https://dcyf.ri.gov/our-office> (last visited Feb. 5, 2024).

presides over cases brought by the Providence Police Department against first-time, non-violent juvenile offenders who reside in the City of Providence. As stated in the Providence Code of Ordinances, the JHB consists of fifteen members who shall meet no less than once each month and who receive no remuneration for their service.² The Petitioner represents that his duties as a JHB member include the following: attending board meetings to review cases; collaborating on resolutions and support services; conducting thorough case reviews and interviews; ensuring fairness and confidentiality; promoting community awareness; serving as a positive role model; and working collaboratively with the Providence Police Department. The Petitioner adds that the JHB normally conducts its hearings in the evenings; thus, he will be performing his JHB duties outside of his normal working hours at the DCYF.

The Petitioner represents that the JHB ordinarily does not hear cases involving a juvenile who is under the active supervision of the DCYF, as such cases are typically heard by the Rhode Island Family Court. The Petitioner states that in the unlikely event that such a case does come before the JHB, he will recuse himself from JHB discussions and decision-making relative to it. He further states that it is outside of the scope of the JHB's jurisdiction to refer cases to the DCYF directly and that, if neglect or abuse is suspected in a case, the juvenile detective assigned to the case would refer it to the DCYF rather than to the JHB. The Petitioner adds that as part of his duties with the DCYF, he interacts with DCYF caseworkers, supervisors, and administrators on administrative matters, but does not interact with children who are under DCYF supervision; nor does he oversee or have knowledge of their case files.³ Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits his simultaneous service in both positions.

Under the Code of Ethics, a public official shall not have any interest, financial or otherwise, or engage in any business, employment, transaction, or professional activity, or incur any obligation of any nature, which 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 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 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 his official activity. Section 36-14-7(a). A public official or employee is also prohibited from accepting other employment that 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 his official duties. Section 36-14-5(b). Additionally, the Code of Ethics prohibits a public official from using 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).

² Providence, R.I., Code of Ordinances, ch. 2, art. XXIV, https://library.municode.com/ri/providence/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTXXIVJUHEBO_S2-371ES (last visited Feb. 2, 2024).

³ The Petitioner clarifies that he does have access to the electronic system containing all open DCYF cases, but that he would not access that information relative to matters pending before the JHB.

A business is defined as “a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust or any other entity recognized in law through which business for profit or not for profit is conducted.” Section 36-14-2(2). 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 neither the Rhode Island Scenic Roadways Board (“SRB”), a public entity, nor the East Providence Waterfront Special Development District Commission (“Waterfront Commission”), a quasi-public state agency, was considered a “business” under the Code of Ethics and, therefore, the petitioner’s relationships with the SRB and the Waterfront Commission did not constitute business associations with those entities). Accordingly, in the instant matter, neither the DCYF nor the JHB is considered a business and, therefore, the relationship between the Petitioner and both the DCYF and the JHB is not one of business associates. As a result, the “business associate” prohibitions that would otherwise constrain the Petitioner while carrying out his public duties do not apply with respect to these two entities.

The Ethics Commission has also consistently concluded in prior advisory opinions that the Code of Ethics does not create an absolute bar against a person’s simultaneous service in two different governmental entities. Rather, the provisions of the Code of Ethics require a matter-by-matter evaluation and determination as to whether substantial conflicts exist with respect to carrying out one’s official duties in the public interest.

In Advisory Opinion 2015-14, for example, the Ethics Commission opined that a member of the Bristol Warren Regional School Committee (“School Committee”), who was also an alternate member of the Bristol Juvenile Hearing Board (“Hearing Board”), was not prohibited by the Code of Ethics from simultaneously serving in both positions. In that advisory opinion, the Ethics Commission determined that the petitioner served in two distinct public entities and, given that neither the School Committee nor the Hearing Board was considered to be a “business” as that term is defined in the Code of Ethics, the “business associate” prohibitions that would otherwise have constrained the petitioner while carrying out her public duties did not apply with respect to those two entities, despite their potential overlap relative to student discipline. See also A.O. 2021-41 (opining that the School Building Authority Finance Officer for the Rhode Island Department of Education was not prohibited by the Code of Ethics from accepting an appointment to fill a vacancy on the Lincoln School Committee and from then serving simultaneously in both positions, given that there was no indication that such simultaneous service would impair his independence of judgment as to his public responsibilities in either position or require him to disclose confidential information acquired by him in the course of his official duties in either role); A.O. 2018-20 (opining that a Housing Commission Coordinator with the Rhode Island Office of Housing and Community Development could serve as a member of the Pawtucket Housing Authority’s Board of Commissioners, given that there was no indication that such simultaneous service would impair her independence of judgment as to her public duties in either position).

Here, the Petitioner’s duties as the Chief Implementation Aid to the Director of the DCYF and as a member of the JHB are separate and distinct. Based on the Petitioner’s representations, there is no indication that serving in both capacities would impair the Petitioner’s independence of judgment as to his public responsibilities in either role or require him to disclose confidential

information acquired by him in the course of his official duties in either role. Nor is there any indication that his simultaneous service, in and of itself, creates a substantial conflict with respect to carrying out his duties in the public interest.

Accordingly, absent any other relevant fact that would implicate the Code of Ethics, it is the opinion of the Ethics Commission that the Code of Ethics does not prohibit the Petitioner from simultaneously serving as the Chief Implementation Aid to the Director of the DCYF and as a member of the JHB. The Petitioner is cautioned, however, to remain vigilant in identifying any situations or matters that may come before him as he is carrying out his duties in either of his public roles that may present any potential conflict of interest that is not otherwise contemplated in this advisory opinion, and to either request further advice from the Ethics Commission or recuse 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(2)

§ 36-14-5(a)

§ 36-14-5(b)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

Related Advisory Opinions:

A.O. 2021-41

A.O. 2018-20

A.O. 2015-14

Keywords:

Dual Public Roles