

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2024-09

Approved: March 12, 2024

Re: Stanley Robert Traverse Jr.

QUESTION PRESENTED:

The Petitioner, the Senior Advisor/Director of Civic Programming and Special Projects for the Rhode Island Secretary of State, a state employee position, requests an advisory opinion regarding whether he could accept a paid position as a second assistant coach to the women's softball team at Rhode Island College pursuant to R.I. Gen. Laws § 36-14-5(o)(5).

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, the Senior Advisor/Director of Civic Programming and Special Projects for the Rhode Island Secretary of State, a state employee position, may accept a paid position as a second assistant coach to the women's softball team at Rhode Island College, given that the unique circumstances described herein justify the application of the exception contained in R.I. Gen. Laws § 36-14-5(o)(5).

The Petitioner is the Senior Advisor/Director of Civic Programming and Special Projects to the Rhode Island Secretary of State within the Rhode Island Department of State ("department"). He has served in this position since January of 2023. The Petitioner represents that the department is responsible for the following: ensuring safe and accurate voting; maintaining a database of records relative to the administration of open government; maintaining a state business registry, including records of new business formations and ongoing business registration activity; administering notary public and justice of the peace commissions; issuing apostilles¹ and one-day marriage solemnizations; preserving and managing state archives; administering the Address Confidentiality Program,² and civic education and engagement.

The Petitioner states that his duties include the following: creating and maintaining a robust civics education division within the department; assisting with the creation of many of the initiatives envisioned by the Secretary of State, such as the Annual Civics/History Teacher of the Year Award

¹ Apostilles are used to legalize and authenticate documents intended for use outside of the United States. See <https://www.sos.ri.gov/Divisions/NotaryPublic/NotaryJPApostille> (last visited Feb. 28, 2024).

² The Address Confidentiality program provides a substitute address service and a protected records service to victims of domestic violence, stalking, sexual assault, and trafficking and/or abuse in order to protect them from being found by their abusive perpetrator. See <https://www.sos.ri.gov/AddressConfidentialityProgram> (last visited Feb. 28, 2024).

for high school teachers and the statewide Student Civic Liaison program;³ and the reconstituting the former Project Insite, which the Petitioner describes as a three-day immersive government experience for student liaisons. The Petitioner further states that he is involved in the process of building a state archive building. The Petitioner represents that his duties are oriented toward the high schools in the state rather than the universities. He further represents that, as Senior Advisor/Director of Civic Programming and Special Projects, he is considered a senior staff member, and oversees the Director and the Deputy Director of Civic Education and collaborates closely with the Director of Community Outreach and Engagement. The Petitioner adds that he reports directly to the Deputy Secretary of State, but has free access to the Secretary of State and is included in senior staff member meetings, as needed. The Petitioner represents that his normal working hours are 8:30 a.m. to 4:30 p.m., Monday through Friday.

The Petitioner states that, prior to his current employment with the department, he worked as a teacher in the East Providence School Department for 33 years. He adds that he also coached many different boys' and girls' teams in East Providence for more than 30 years, with his longest tenure being his role as head coach of the East Providence High School Softball Team from 1999 to 2019. The Petitioner states that he was also the founder and president of the RI Fire N' Ice Fast Pitch Travel Softball Organization, a non-profit organization for which he also coached from 2010 to 2023. He represents that he stepped down from his position as a president and coach in 2023, at which time he became one of its board members to help the new president with the transition. The Petitioner explains that he started Fire N' Ice purely for his children, who are now adults, but a few years into it he expanded the organization. The Petitioner adds that he has been coaching girls' softball for more than 25 years.

The Petitioner states that the head coach of the women's softball team at Rhode Island College ("RIC"), a public state college, recently offered him a position as a part-time second assistant coach.⁴ He clarifies that that he did not use his position with the department to secure the assistant coaching position, which he explains is not related to his public duties with the department. The Petitioner represents that the assistant coaching position carries with it a stipend,⁵ and that the softball season runs from the end of January through May, followed by four to six weeks in the fall. The Petitioner states that his responsibilities would include driving a van with the players to and from games and attending the team's practices and games. He explains that that the team has daily practices during the week from 4 p.m. to 6 p.m. and games and/or practices on the weekends. The Petitioner states that, if allowed to accept the assistant coaching position, he will be attending

³ "The Student Civic Liaison Program is a new initiative of Secretary [Gregg] Amore and the RI Department of State, designed to create connections between local students and their government. The program will take place over the 2023-2024 academic year, with students meeting monthly to hear from community leaders, elected officials, and education and non-profit professionals. * * * The inaugural cohort includes 89 high school students representing 42 Rhode Island high schools." <https://www.ri.gov/press/view/46432> (last visited March 1, 2024).

⁴ The Petitioner explains that the second assistant coach did not return to coach this season, and the head coach was initially looking to replace him with a pitching coach. The Petitioner adds that, because the head coach was unsuccessful in finding a pitching coach, she reached out to the Petitioner and offered him the position of an assistant coach.

⁵ The Petitioner states that he is not yet aware of how the employment relationship would be structured and/or whether he would be considered an independent contractor. This information is not pertinent to the instant analysis.

such weekday practice after his normal working hours with the department. He further states that the department has no authority or control over RIC and the interaction between the two public bodies is limited to voting registration and civic engagement. The Petitioner adds that RIC has no interest in any decision that he makes through his employment with the department and reiterates that his focus and outreach is primarily oriented toward the high schools in the state.⁶ Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether he qualifies for an exception to R.I. Gen. Laws § 36-14-5(o) (“Section 5(o)”) to allow him to accept the assistant coaching position.

Under the Code of Ethics, a person holding a senior policy-making, discretionary, or confidential position on the staff of any state elected official or the general assembly is prohibited from seeking or accepting any other employment by any state agency while serving in such position and for a one-year period thereafter. Section 5(o)(1). Commission Regulation 520-RICR-00-00-1.5.6 entitled Revolving Door, “Employment” Defined (36-14-5017) specifies that, for the purposes of Section 5(o), “employment” shall also include services as an independent contractor or consultant to the state or any state agency. This prohibition contains some express exceptions, such as situations in which the employee has at least five years of uninterrupted state service, is moving to the senior staff of another elected official, or is seeking election to a constitutional office. See Section 5(o)(2), (3) & (4). Additionally, and most relevant to the instant matter, this statute expressly authorizes the Ethics Commission to allow an exception to the revolving door prohibition where such exemption would not create an appearance of impropriety. Section 5(o)(5).

Section 5(o) applies to limited group of state employees who hold a high-level position on the staff of any state elected official or the general assembly. See, e.g., A.O. 2017-20 (applying section 5(o) to the Senate President’s Chief of Staff); A.O. 2012-20 (applying section 5(o) to the Director of Performance Management in the Office of the Governor); A.O. 2010-49 (applying section 5(o) to the Deputy Executive Counsel in the Office of the Governor); A.O. 2009-16 (applying section 5(o) to the Governor’s Chief of Staff). Here, the Petitioner’s current position as a Senior Advisor/Director of Civic Programming and Special Projects to the Secretary of State subjects him to the prohibition of section 5(o)(1). He is a senior staff member on the staff of the Secretary of State who participates in senior staff member meetings, has access to the Secretary of State, and who oversees the Director and the Deputy Director of Civic Education. The Petitioner also wrote his request anticipating that section 5(o)’s prohibitions apply to him and he does not dispute such assumption. Therefore, the Ethics Commission will determine whether the exception in section 5(o)(5) is appropriate under the circumstances.

The exception to section 5(o)(5) only applies in circumstances in which the Ethics Commission determines that a petitioner’s secondary state employment would not create an appearance of impropriety. The Ethics Commission has in the past considered and applied the exception contained in section 5(o)(5) on one previous occasion. In Advisory Opinion 2012-20, the Ethics Commission allowed the Director of Performance Management in the Office of the Governor to accept a position as the Director of Performance Management within the newly statutorily created Office of Management and Budget (“OMB”) in the Department of Administration, a position that

⁶ The Petitioner states that the Secretary of State has in the past been asked to speak or present a class before students attending the University of Rhode Island and that there are five Providence College students who intern for the department’s Community Outreach Department over which the Petitioner has no jurisdiction.

was nearly identical to his then current position. There, the Ethics Commission noted that the petitioner had played an instrumental role in the Governor's performance management initiative since its inception and, therefore, was the natural and expected choice to continue leading that initiative in the newly created OMB. Thus, the Ethics Commission found no appearance of impropriety under those unique circumstances, and authorized the exception contained in section 5(o)(5).

Here, the Petitioner represents that he had been coaching softball for 30 years until 2023. He states that he was not looking for the assistant coaching position but, rather, it was offered to him by the head coach. The Petitioner represents that he does not exercise jurisdiction over RIC in his role with the department, nor does RIC have interest in decisions that the Petitioner is authorized to make in that role. Given the Petitioner's representations, the applicable provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner's acceptance of the assistant coaching position for the women's softball team at Rhode Island College would carry with it no appearance of impropriety, notwithstanding his position with the Rhode Island Secretary of State. Accordingly, the Petitioner qualifies for an exception to the revolving door prohibition of section 36-14-5(o) and may accept the position.

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(o)

520-RICR-00-00-1.5.6 Revolving Door, "Employment" Defined (36-14-5017)

Related Advisory Opinions:

A.O. 2017-20

A.O. 2012-20

A.O. 2010-49

A.O. 2009-16

Keywords:

Public Employment

Revolving Door