

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-6

Approved: January 28, 2025

Re: Lauren E. Hill

QUESTION PRESENTED:

The Petitioner, chief legal counsel for the Rhode Island Commission for Human Rights, a state employee position, requests an advisory opinion regarding whether she is prohibited by the Code of Ethics from serving as a member of the Providence Housing Authority Board of Commissioners.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, chief legal counsel for the Rhode Island Commission for Human Rights, a state employee position, is not prohibited by the Code of Ethics from serving as a member of the Providence Housing Authority Board of Commissioners.

The Petitioner is the chief legal counsel for the Rhode Island Commission for Human Rights (RICHR). She explains that the RICHR, which was created by the Rhode Island General Assembly in 1949, “enforces the Rhode Island antidiscrimination laws in the areas of employment, housing, public accommodations, credit and delivery of services.”¹ (Emphasis omitted). The Petitioner explains that as chief legal counsel, she represents RICHR at all stages of litigation in state and federal courts; acts as a civil prosecutor in the review of housing discrimination complaints at RICHR hearings; provides legal counsel and assistance to the commissioners and RICHR staff members; negotiates settlements; tracks civil rights legislation or legislation that implicates RICHR and testifies before the Rhode Island General Assembly; drafts legislation concerning RICHR or antidiscrimination laws; and conducts outreach/training to the public on state and federal antidiscrimination laws.

In addition to her employment with the RICHR, the Petitioner would like to serve as a member of the Providence Housing Authority Board of Commissioners. She states that the board consists of 11 members, all of whom are appointed by the mayor of Providence. The Petitioner adds that board members receive a per diem compensation for their service

¹ <http://www.richr.ri.gov/about/index.php> (last visited Jan. 22, 2025).

on the board. She explains that the board typically meets once per month, on a weekday, after RICHR work hours, and that the meetings would not interfere with her state employment. The Petitioner states that the board governs the housing authority which is a quasi-governmental agency that “provides and develops quality and safe affordable housing opportunities and services to address the needs of Rhode Island residents.”² The housing authority owns and manages affordable public housing units and oversees the low-income rental assistance vouchers in the Providence area.³ The daily operation of the housing authority is overseen by an executive director who reports to the board.⁴

The Petitioner explains that RICHR does occasionally receive housing and employment discrimination charges against the housing authority. The Petitioner adds that, to her knowledge, the RICHR has not received a charge that specifically names the board; however, it is likely that the board members would be made aware of any charges against the housing authority. The Petitioner states that when a formal charge of discrimination is filed with the RICHR and forwarded to the respondent, an investigator conducts an impartial analysis of the evidence and attempts to resolve the matter informally. The Petitioner adds that if an informal resolution is not achieved, the investigator will draft a recommendation on the merits of the charge which is then reviewed by a member of the RICHR’s legal staff,⁵ depending on availability. Subsequently, the recommendation is forwarded to a RICHR commissioner for a formal ruling regarding whether there is “probable cause” or “no probable cause” with respect to the allegations of the charge. The Petitioner represents that, upon a finding of “probable cause,” the parties could choose to either proceed with an administrative hearing conducted by the RICHR or bring the matter to the Superior Court.⁶

The Petitioner states that she would not ordinarily be involved in the investigation of a charge, and she would have no knowledge of a case being investigated unless there was a legal question by the investigators. She further states that if a case is brought before the RICHR against the housing authority or its board members, she will recuse herself from the matter and the case would instead be reviewed by either the staff attorney or the RICHR executive director. The Petitioner also represents that she would likely recuse in her capacity as a housing authority board member from the review and discussion of matters

² <https://provhousing.org/about-pha/> (last visited Jan. 22, 2025).

³ See *id.*

⁴ *Id.*

⁵ The Petitioner notes that in addition to herself, there are two other attorneys employed by RICHR, specifically, a staff attorney and the executive director.

⁶ See also <http://www.richr.ri.gov/about/index.php> (last visited Jan. 22, 2025).

relative to complaints filed against the housing authority alleging housing or employment discrimination, unless the complaint is also filed against her in her capacity as a board member.

Finally, the Petitioner states that neither the RICHR nor she has any financial interest in the housing authority, and that the RICHR does not provide the housing authority with any funds or grant money. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits her from serving as a member of the housing authority's board of commissioners, while simultaneously employed by the RICHR as its chief legal counsel.

Under the Code of Ethics, a public employee may not participate in any matter in which she has an interest, financial or otherwise, which is in substantial conflict with the proper discharge of her duties and employment in the public interest. R.I. Gen. Laws § 36-14-5(a). A public employee will have an interest which is in substantial conflict with her official duties if she has a reason to believe or expect that a "direct monetary gain" or a "direct monetary loss" will accrue, by virtue of her official activity, to herself, her family member, her business associate, or any business by which she is employed or which she represents. R.I. Gen. Laws § 36-14-7(a). The Code of Ethics further provides that a public employee shall not engage in any employment that would impair her independence of judgment as to her public duties. § 36-14-5(b). A public employee also is prohibited from using her public position or confidential information received through her position to obtain financial gain for herself, her business associate, or any business by which she is employed or which she represents, other than that provided by law. § 36-14-5(d).

A "business" is defined in the Code of Ethics 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." R.I. Gen. Laws § 36-14-2(2). A business associate is defined as "a person joined together with another person to achieve a common financial objective." § 36-14-2(3). A person is defined as "an individual or a business entity." § 36-14-2(7). The Ethics Commission has consistently concluded that the Code of Ethics does not consider public entities "businesses" or the relationship between a public official and a public body, such as a state, municipal, or quasi-municipal agency, to be that of "business associates." See, e.g., 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 (TAPA) was considered a "business" under the Code of Ethics and, therefore, the petitioner's memberships on CESE and TAPA did not constitute business associations with those bodies).

The Ethics Commission has on numerous occasions considered these provisions of the Code of Ethics in similar situations involving public officials or employees wishing to simultaneously serve in dual or multiple public roles. The Ethics Commission has

consistently taken the position that the Code of Ethics does not generally bar public officials or employees from simultaneous service with, or employment by, multiple public entities. Rather, the Ethics Commission has opined that a determination must be made on a case-by-case basis regarding whether a substantial conflict of interest exists, in either public role, with respect to a public official or employee carrying out his or her duties in the public interest. See, e.g., A.O. 2018-13 (opining that an employee and tenant of the Providence Housing Authority could become a member of the housing authority's board of commissioners, but must recuse from commission matters that would financially impact her as an employee and/or tenant); A.O. 2009-27 (opining that the Code of Ethics did not prohibit the petitioner from simultaneously serving as a member of both the East Providence Planning Board and the East Providence Historic District Commission, in addition to being an East Providence police officer, as a substantial conflict of interest was not apparent, notwithstanding the existence of some overlap between the positions).

As an initial matter, the housing authority and its board, as well as the RICHR are public entities; thus, the Petitioner's service on or employment with either of those entities would not amount to either a "business association" with the entities, or to employment by a "business." Furthermore, the Petitioner represents that she would recuse in her capacity as chief legal counsel to RICHR from matters brought before RICHR against the housing authority or its board members. The Petitioner further represents that she would also recuse in her capacity as a housing authority board member from the review and discussion of matters relative to complaints filed against the housing authority alleging housing or employment discrimination unless the complaint is also filed against her in her capacity as a board member.

Here, based upon the Petitioner's above representations, and the review of pertinent provisions of the Code of Ethics and prior advisory opinions issued, there is no indication that the Petitioner's simultaneous service as chief legal counsel to the RICHR and as a member of the Providence Housing Authority's Board of Commissioners would present an inherent conflict of interest under the Code of Ethics or would impair her independence of judgment as to her public duties in either position. Therefore, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from simultaneously serving in both public positions.

However, the Petitioner is cautioned that if any matter should come before her as she is carrying out her duties in either of her public roles that present any other potential conflict of interest that is not otherwise contemplated in this advisory opinion, she should either recuse consistent with the provisions of R.I. Gen. Laws § 36-14-6 or seek 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(2)

§ 36-14-2(3)

§ 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. 2018-37

A.O. 2014-23

A.O. 2009-27

Keywords:

Dual Public Roles