



STATE OF RHODE ISLAND

**RHODE ISLAND ETHICS COMMISSION**

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Providence, RI 02903

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**NOTICE OF OPEN MEETING**

**AGENDA**

**5<sup>th</sup> Meeting**

**DATE:** Tuesday, March 25, 2025

**TIME:** 9:00 a.m.

**PLACE:** Rhode Island Ethics Commission  
Hearing Room - 8<sup>th</sup> Floor  
40 Fountain Street  
Providence, RI 02903

**LIVESTREAM:** The Open Session portions of this meeting will be livestreamed at:

<https://us02web.zoom.us/j/85336793559>

1. Call to Order.
2. Motion to approve minutes of Open Session held on March 4, 2025.
3. Director's Report: Status report and updates regarding:
  - a.) Complaints and investigations pending;
  - b.) Advisory opinions pending;
  - c.) Access to Public Records Act requests since last meeting;
  - d.) Financial disclosure;
  - e.) General office administration.

#### 4. Advisory Opinions:

- a.) Louise Dinsmore, a member of the Chariho School Committee, requests an advisory opinion regarding whether she is prohibited by the Code of Ethics from participating in school committee discussions and decision-making relating to whether the school committee should support a resolution requesting the Rhode Island General Assembly to amend a state statute to require private schools to share in the cost of transporting children from the local school district to the private schools they attend, given that the Petitioner's child attends a private school. [Staff Attorney Radiches]
- b.) William C. Perry, the fire chief for the East Greenwich Fire Department, requests an advisory opinion regarding whether the established alternate chain of command policy is sufficient to insulate him from conflicts of interest arising out of his position, given that his brother is a firefighter for the same fire department. [Staff Attorney Radiches]
- c.) Anthony Tamba, an eligibility technician with the Rhode Island Department of Human Services, who in his private capacity owns and operates A & H Tax and Accounting Services LLC, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from accepting, on behalf of his business, a grant award from Rhode Island Commerce, for which the Petitioner applied prior to his hiring as a state employee. [Staff Attorney Radiches]
- d.) The Honorable Arthur J. Corvese, a legislator serving as a member of the Rhode Island House of Representatives, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from participating in General Assembly discussions and voting relating to the state's operating budget proposal for Fiscal Year 2026, including an article contained therein that seeks to impose a digital advertising gross revenue tax rate of ten percent on companies with annual gross revenues exceeding one billion dollars, given that the Petitioner's son-in-law is employed by a social technology company that would be subject to such a tax.
- e.) Jonathan Pascua, a member of the Coventry Town Council, who is also a firefighter with the Coventry Fire District, requests an advisory opinion regarding whether the Code of Ethics prohibits him from seeking and/or accepting employment as a firefighter with the anticipated new town fire department, given the town's expected transition from independent fire districts to a town-run fire department. [Staff Attorney Papa]

- f.) The Honorable Paul Santucci, a legislator serving as a member of the Rhode Island House of Representatives, requests an advisory opinion regarding whether he may, in his official capacity, participate in General Assembly discussions and voting relative to potential legislation pertaining to the construction of a large industrial park in his district, and publicly express his support for the potential construction of the industrial park, given that the industrial park's developer is his landlord. [Staff Attorney Papa]
  - g.) Charles R. Roberts, a member of the Middletown Town Council, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics, upon recusal as a town council member, from attending and speaking at public hearings before the town council relative to a proposed housing development to be located across the street from his personal residence. [Staff Attorney Papa]
5. Continuing discussion of potential rulemaking: Amending the Code of Ethics' Gift Rule at 520-RICR-00-00-1.4.2 to apply to gifts from all registered lobbyists. [Director Gramitt]
  6. Motion to go into Executive Session, to wit:
    - a.) Motion to approve minutes of Executive Session held on March 4, 2025, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) & (4).
    - b.) In re: Jason E. Licciardi, Sr., Complaint No. 2025-1, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) & (4).
    - c.) Motion to return to Open Session.
  7. Motion to seal minutes of Executive Session held on March 25, 2025.
  8. Report on actions taken in Executive Session.
  9. New Business proposed for future Commission agendas and general comments from the Commission.
  10. Motion to adjourn.

ANYONE WISHING TO ATTEND THIS MEETING WHO MAY HAVE SPECIAL NEEDS FOR ACCESS OR SERVICES SUCH AS A SIGN LANGUAGE INTERPRETER, PLEASE CONTACT THE COMMISSION BY TELEPHONE AT 222-

3790, 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING. THE COMMISSION ALSO MAY BE CONTACTED THROUGH RHODE ISLAND RELAY, A TELECOMMUNICATIONS RELAY SERVICE, AT 1-800-RI5-5555.

*Posted on March 20, 2025*

# RHODE ISLAND ETHICS COMMISSION

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## Draft Advisory Opinion

Hearing Date: March 25, 2025

**Re: Louise Dinsmore**

### **QUESTION PRESENTED:**

The Petitioner, a member of the Chariho School Committee, a municipal elected position, requests an advisory opinion regarding whether she is prohibited by the Code of Ethics from participating in school committee discussions and decision-making relating to whether the school committee should support a resolution requesting the Rhode Island General Assembly to amend a state statute to require private schools to share in the cost of transporting children from the local school district to the private schools they attend, given that the Petitioner's child attends a private school.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Chariho School Committee, a municipal elected position, is not prohibited by the Code of Ethics from participating in school committee discussions and decision-making relating to whether the school committee should support a resolution requesting the Rhode Island General Assembly to amend a state statute to require private schools to share in the cost of transporting children from the local school district to the private schools they attend, notwithstanding that the Petitioner's child attends a private school.

The Petitioner is a member of the Chariho School Committee and currently serves as its president.<sup>1</sup> She states that, under current state law, local school districts are required to provide and fund transportation for students who live in those school districts but attend private schools. The Petitioner further states that, during a recent school committee meeting, the superintendent of schools asked the school committee to support a resolution requesting that the Rhode Island General Assembly amend the current state law to require private schools to share with local school districts the cost of transporting private school students who would otherwise be attending the local public schools. The Petitioner

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<sup>1</sup> The Petitioner joined the school committee in December of 2024 to fill a vacancy left by a resignation. The Petitioner was the next highest vote-getter in the election held the month before.

represents that she is the parent of a child who attends a private school. She further represents that, if the General Assembly amends the current state law as described above, the Petitioner will be financially impacted. It is under this set of facts that the Petitioner seeks guidance from the Ethics Commission regarding whether she is prohibited by the Code of Ethics from participating in school committee discussions and decision-making relating to whether the school committee should support the above-described resolution.

A person subject to the Code of Ethics 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 in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest occurs if the public official has reason to believe or expect that she, any person within her family, her business associate, or any business by which she is employed or which she represents, will derive a direct monetary gain or suffer a direct monetary loss by reason of her official activity. R.I. Gen. Laws § 36-14-7(a). A public official has reason to believe or expect that a conflict of interest exists when it is “reasonably foreseeable,” meaning that the probability is greater than “conceivably,” but the conflict of interest is not necessarily certain to occur. 520-RICR-00-00-1.1.5 Reasonable Foreseeability (36-14-7001). Additionally, a public official may not use her office for pecuniary gain, other than as provided by law, for herself, any person within her family, her business associate, or any business by which she is employed or which she represents. § 36-14-5(d).

In order to determine whether the above provisions of the Code of Ethics are implicated, the Ethics Commission must first ascertain whether the Petitioner will be directly financially impacted by the official action that is under consideration, which in this case is supporting a resolution requesting that the General Assembly amend a state statute to require that private schools share in the costs of transporting the private school’s students. If a direct financial impact, be it positive or negative, is not reasonably foreseeable as a result of the Petitioner’s contemplated official action, then the Petitioner will not be required by these provisions of the Code of Ethics to recuse from participation in the discussions and decision-making relative to the issue.

A highly analogous fact pattern was presented in Advisory Opinion 2012-2, in which the Ethics Commission opined that a member of the Exeter Town Council, who in his private capacity was a licensed firearms dealer, was not prohibited by the Code of Ethics from participating in the town council’s discussions and voting on a resolution asking the General Assembly to change the state law regarding municipal licensing of concealed weapons. There, the petitioner’s business as a firearms dealer would not have been directly affected by the ability of the town to issue permits to carry a concealed weapon, because permission to carry a concealed weapon is separate and distinct from the license or ability to purchase a weapon. Additionally, and more relevant to the instant facts, the Ethics Commission noted that “the action taken by the [t]own [c]ouncil in approving this resolution will only result in a request to the General Assembly to change a law that the [t]own is not empowered to amend.”

Similarly, here, should the school committee ultimately vote to support the resolution, such action would only result in a request to the General Assembly to change a law that the town is not empowered to amend. Additionally, even if the General Assembly were to amend state law so as to require private schools to contribute to the cost of transporting private school students, there would still be no *direct* financial impact upon the parents of private school students like the Petitioner. Rather, each private school would have to decide whether or not, and in what amount, to pass off the additional costs of student transportation to their students' parents.

Accordingly, it is the opinion of the Ethics Commission that, absent any other relevant factor that would implicate other provisions of the Code of Ethics, there is no direct financial nexus between the resolution pending before the school committee and the Petitioner's personal finances. Therefore, based on the facts as represented, a review of the applicable provisions of the Code of Ethics, and consistent with the above-cited prior advisory opinion issued, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from participating in school committee discussions and decision-making relating to whether to the school committee should support the resolution to the Rhode Island General Assembly.

**This Draft 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)

§ 36-14-7(a)

520-RICR-00-00-1.1.5 Reasonable Foreseeability (36-14-7001)

Related Advisory Opinions:

A.O. 2012-2

Keywords:

Financial Interest

# RHODE ISLAND ETHICS COMMISSION

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## Draft Advisory Opinion

Hearing Date: March 25, 2025

Re: William C. Perry

### **QUESTION PRESENTED:**

The Petitioner, the fire chief for the East Greenwich Fire Department, a municipal employee position, requests an advisory opinion regarding whether the established alternate chain of command policy is sufficient to insulate him from conflicts of interest arising out of his position, given that his brother is a firefighter for the same fire department.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the established alternate chain of command policy is sufficient to insulate the Petitioner, the fire chief for the East Greenwich Fire Department, a municipal employee position, from conflicts of interest arising out of his position, given that his brother is a firefighter for the same fire department.

The Petitioner is the fire chief for the East Greenwich Fire Department, a position to which he was appointed on January 27, 2025. Originally hired by the same fire department as a firefighter in 2002, the Petitioner was promoted to lieutenant in 2009, and eventually promoted to captain in 2018. The Petitioner's brother is a firefighter for the same fire department. At the time of his brother's anticipated hiring as a probationary firefighter in 2016, the Petitioner, who then held the position of lieutenant, sought and received an advisory opinion from the Ethics Commission regarding the application of the Code of Ethics relative to the situation.<sup>1</sup> The Petitioner states that, upon his appointment as fire chief, he and the East Greenwich town manager worked together to establish a proposed alternate supervisory chain of command policy in order to eliminate any potential conflicts of interest that might arise with respect to the Petitioner's new position and his brother's employment as a firefighter.

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<sup>1</sup> In Advisory opinion 2016-26, the Ethics Commission advised the Petitioner that he was not prohibited from continuing to serve as a lieutenant in the East Greenwich Fire Department upon the hiring of his brother as a probationary firefighter in the same fire department, provided that certain procedures were followed so that the Petitioner was removed from personnel decisions or other matters that particularly affected his brother.



A copy of the alternate chain of command policy was included with the Petitioner's recent advisory opinion request letter to the Ethics Commission. The policy specifies that the Petitioner shall not make any discretionary work assignments to his brother, shall have no role in disciplining or evaluating his brother, shall not be involved in any promotional process concerning his brother, and shall not have any direct supervision of his brother. The policy further specifies that the Petitioner shall not interfere with, discuss, or interview any fire department member involved in the supervisory responsibility of his brother for any reason.<sup>2</sup> The policy states that no officer shall discuss with the Petitioner any ongoing evaluation or discipline of the Petitioner's brother. The policy further states that any lieutenant who has a supervisory position over the Petitioner's brother shall report and/or discuss their concerns directly with the captain on shift, who will then report any and all issues to the town manager. The policy specifies that no officer shall speak to the Petitioner about any issue regarding the Petitioner's brother.

The policy includes a conclusive paragraph stating that the Petitioner is not involved in any financial matters regarding his brother, as all of his brother's employment benefits are outlined in the collective bargaining agreement between the town and the East Greenwich Firefighters Union IAFF Local 3328. The policy avers that it will remove the Petitioner from any supervisory, disciplinary, or other responsibilities or involvement relative to his brother. The policy states that the Petitioner's brother will report directly to the particular lieutenant or captain in charge during any given shift, just as he would in the regular chain of command. However, the particular captain in charge will report any personnel matters involving the Petitioner's brother directly to the town manager for review and a final decision, rather than to the Petitioner. The policy does state that it shall not apply in emergency situations, including medical or fire-related calls.<sup>3</sup> Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the established alternate chain of command policy is sufficient to insulate him from conflicts of interest arising out of his position, given that his brother is a firefighter for the same fire department.

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<sup>2</sup> Presumably, this directive is intended to ensure that the Petitioner not interfere with, discuss, or interview any fire department member involved in the supervisory responsibility of the Petitioner's brother only to the extent that a particular matter actually involves the Petitioner's brother.

<sup>3</sup> In Advisory Opinion 2016-26, which was issued to the Petitioner when he was a lieutenant in the fire department and the fire department was in the process of hiring the Petitioner's brother as a probationary firefighter, the Ethics Commission opined that, as noted in prior advisory opinions, during discrete emergency situations, such as fighting fires where incident-specific supervision of his brother may be unavoidable, a violation of the Code of Ethics would not exist.

The Code of Ethics provides that a public employee shall not have any interest, financial or otherwise, direct or indirect, or engage in any business, 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 employee has reason to believe or expect that he or any person within his family, among others, will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. R.I. Gen. Laws § 36-14-7(a). Also, a public employee may not use his public position to obtain financial gain, other than that provided by law, for himself or any person within his family, among others. § 36-14-5(d).

The Code of Ethics contains specific provisions aimed at curbing nepotism which are laid out in 520-RICR-00-00-1.3.1 Prohibited Activities - Nepotism (36-14-5004) (Regulation 1.3.1). Pursuant to Regulation 1.3.1(B)(1), a public employee may not participate in any matter as part of his public duties if there is reason to believe or expect that any person within his family is a party to or participant in such matter, or will be financially impacted or obtain an employment advantage by reason of the public employee's participation. Additionally, Regulation 1.3.1(B)(2) prohibits a public employee from participating in the supervision, evaluation, appointment, classification, promotion, transfer, or discipline of any person within his family, or from delegating such tasks to a subordinate, except in accordance with advice received in a formal advisory opinion from the Ethics Commission. The phrase "any person within his [] family" expressly includes "brother." Regulation 1.3.1(A)(2).

The Ethics Commission has issued numerous advisory opinions applying the provisions of the Code of Ethics to analogous questions involving family members. In those opinions, the Ethics Commission took the position that a public employee serving in a supervisory capacity would satisfy the conflict of interest and nepotism provisions of the Code of Ethics by recusing from participation in matters directly affecting his or her family member. See, e.g., A.O. 2018-21 (opining that the established alternate supervisory chain of command was sufficient to insulate a detective sergeant with the Cumberland Police Department's detective division from conflicts of interest arising out of his new position, notwithstanding that his spouse was a detective in the same division, where the petitioner's spouse continued to report directly to and be supervised by the captain and, in the captain's absence, by the deputy chief and/or the chief); A.O. 2010-40 (opining that the chief of the Manville Fire Department was not prohibited from serving in that position while his son simultaneously served as a firefighter within the same department, where the chairman of the Board of Fire Wardens had agreed to become the son's designated supervisor regarding all administrative matters such as the scheduling of work shifts and disciplinary actions); A.O. 2009-26 (opining that the deputy chief of the Valley Falls Fire Department was not prohibited from serving in that position while his nephew simultaneously served as a firefighter within the same department, where the fire chief replaced the petitioner as next in line in the chain of command, and in the fire chief's absence, the chairman of the Board

of Fire Commissioners became the fire chief's designee for purposes of any supervisory action).

Similarly, in the instant matter, it is our opinion that the alternate chain of command policy outlined by the Petitioner and the town manager, which requires the Petitioner to recuse from any decisions that may financially impact his brother (including, but not limited to, supervision, evaluation, work assignment, promotion, transfer, and discipline) is reasonable and sufficient to insulate the Petitioner from apparent conflicts of interest. As we have noted in prior advisory opinions, including Advisory Opinion 2016-26 previously issued to the Petitioner, during discrete emergency situations, such as fighting fires where incident-specific supervision of his brother may be unavoidable, no nepotism violation of the Code of Ethics will exist. The Petitioner is encouraged, however, to remain vigilant about identifying and avoiding any conflicts of interest that might arise given his new position that are not addressed herein and is encouraged to seek further guidance from the Ethics Commission as needed. Any episodes of recusal must be exercised consistent with the provisions of R.I. Gen. Laws § 36-14-6.

**This Draft 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-00-00-1.3.1 Prohibited Activities – Nepotism (36-14-5004)

Related Advisory Opinions:

A.O. 2018-21

A.O. 2016-26

A.O. 2010-40

A.O. 2009-26

Keywords:

Alternate Chain of Command

Family: Public Employment

Family: Supervision

Nepotism

# RHODE ISLAND ETHICS COMMISSION

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## Draft Advisory Opinion

Hearing Date: March 25, 2025

**Re: Anthony Tamba**

### **QUESTION PRESENTED:**

The Petitioner, an eligibility technician with the Rhode Island Department of Human Services, a state employee position, who in his private capacity owns and operates A & H Tax and Accounting Services LLC, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from accepting, on behalf of his business, a grant award from Rhode Island Commerce, for which the Petitioner applied prior to his hiring as a state employee.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, an eligibility technician with the Rhode Island Department of Human Services, a state employee position, who in his private capacity owns and operates A & H Tax and Accounting Services LLC, is not prohibited by the Code of Ethics from accepting, on behalf of his business, a grant award from Rhode Island Commerce, for which the Petitioner applied prior to his hiring as a state employee.

The Petitioner states that he accepted a position as an eligibility technician with the Rhode Island Department of Human Services (DHS) on January 12, 2025. He describes among his current duties the following: determining eligibility, both initial and ongoing, for people applying for or receiving assistance payments for health and human service programs; helping applicants and recipients understand their rights and responsibilities; filling out applications and obtaining support documentation to ensure that accurate and complete information is obtained; informing customers and advocates about basic program, process, and eligibility requirements and status; and processing applications from receipt to benefit issuance or denial in at least one program.

The Petitioner represents that, prior to starting his current position, he had more than 25 years of experience as a professional accountant in the private sector, serving both businesses and individuals. He adds that he also owns a small tax and accounting firm that is registered in Rhode Island and with the Internal Revenue Service under the name A & H Tax and Accounting Services LLC (A & H). The Petitioner states that A & H offers tax

preparation, tax planning, and accounting services to individuals and small businesses in Rhode Island. He further states that he continues to work for A & H during the evening and on weekends, outside of his normal work hours for the state, which are between 8:30 a.m. and 4:00 p.m., Monday through Friday.

The Petitioner represents that, on September 18, 2024, in his capacity as the owner of A & H, he applied for a business grant under the RI Minority Business Accelerator Direct Grant Program sponsored by Rhode Island Commerce. He explains that the grant program supports small, minority-owned firms. The Petitioner states that the original deadline for submitting grant applications was September 30, 2024. He further states that the grant administrators informed the grant applicants that it would take approximately 30-60 days to analyze the applications; however, the grant administrators later extended the application deadline. The Petitioner explains that it was not until February 25, 2025, that A & H received an email stating that it had been selected to receive a \$10,000 grant award. The Petitioner adds that, before the grant funds are released, he will be required to sign a grant agreement and complete additional paperwork associated with the grant. The Petitioner states that, because he became an employee of the DHS after he applied for the grant, but before being notified by Rhode Island Commerce of the selection of A & H as a grant recipient, he wants to be certain that his acceptance of the grant award would not violate the Code of Ethics. It is under this set of facts that the Petitioner seeks guidance regarding whether he may accept the grant award described above.

A person subject to the Code of Ethics may not participate in any matter in which he has an interest, financial or otherwise, direct or indirect, 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 in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest occurs if the public official or employee 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. R.I. Gen. Laws § 36-14-7(a). A public official or employee has reason to believe or expect that a conflict of interest exists when it is “reasonably foreseeable,” meaning that the probability of a conflict of interest is greater than conceivable, but the conflict is not necessarily certain to occur. 520-RICR-00-00-1.1.5 Reasonable Foreseeability (36-14-7001). The Code of Ethics also prohibits a public official or employee from representing himself or any other person before any state or municipal agency of which he is a member, by which he is employed, or for which he has appointing authority. § 36-14-5(e) (1) & (2).

Here, the instant Petitioner seeks an advisory opinion relating to an action that would not be taken in his official capacity as a state employee. The Petitioner would like to accept a grant in his private capacity as the owner and operator of A & H. The grant, though offered through a state agency, is not offered through the state agency by which the Petitioner is now employed. Also, there is nothing in the facts to suggest that DHS was affiliated in any

way with the grant program sponsored by Rhode Island Commerce. Further, but for the unanticipated delay by Rhode Island Commerce in announcing that A & H had been selected as a grant recipient, it is likely that the Petitioner would have been awarded, and accepted, the grant before becoming a DHS employee. For all of the foregoing reasons, the above-cited provisions of the Code of Ethics are inapplicable here. Accordingly, it is the opinion of the Ethics Commission that the Petitioner is not prohibited from accepting, on behalf of A & H, the grant award from Rhode Island Commerce for which the Petitioner applied prior to his hiring as a state employee.

**This Draft 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(e)

§ 36-14-7(a)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

520-RICR-00-00-1.1.5 Reasonable Foreseeability (36-14-7001)

Keywords:

Appearance of Impropriety

Conflict of Interest

# RHODE ISLAND ETHICS COMMISSION

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## Draft Advisory Opinion

Hearing Date: March 25, 2025

**Re: The Honorable Arthur J. Corvese**

### **QUESTION PRESENTED:**

The Petitioner, a legislator serving as a member of the Rhode Island House of Representatives, a state elected position, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from participating in General Assembly discussions and voting relating to the state's operating budget proposal for Fiscal Year 2026, including an article contained therein that seeks to impose a digital advertising gross revenue tax rate of ten percent on companies with annual gross revenues exceeding one billion dollars, given that the Petitioner's son-in-law is employed by a social technology company that would be subject to such a tax.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a legislator serving as a member of the Rhode Island House of Representatives, a state elected position, is not prohibited by the Code of Ethics from participating in General Assembly discussions and voting relating to the state's operating budget proposal for Fiscal Year 2026, including an article contained therein that seeks to impose a digital advertising gross revenue tax rate of ten percent on companies with annual gross revenues exceeding one billion dollars, notwithstanding that the Petitioner's son-in-law is employed by a social technology company that would be subject to such a tax.

The Petitioner is a member of the Rhode Island House of Representatives and has served continuously in that capacity for 27 years. He is currently a Deputy Majority Leader. He chairs the House Labor Committee, is second vice-chairperson of the State Government and Elections Committee, and is a member of both the House Judiciary Committee and the House Rules Committee. The Petitioner represents that the state's operating budget proposal for Fiscal Year 2026 (budget proposal) contains a budget article (Article 5) that seeks, among other things, to impose a digital advertising gross revenue tax rate of ten percent on companies with annual gross revenues exceeding one billion dollars (digital advertising tax). He explains that the budget proposal, including all of the articles contained

therein, is sent to the House Finance Committee for consideration.<sup>1</sup> The Petitioner further explains that the House Finance Committee will then draft the final version of the entire budget proposal for consideration by the full House of Representatives who, for all intents and purposes, will vote “yea” or “nay” as to each of the budget articles presented.

The Petitioner states that in May 2024, his son-in-law (Mr. Lenz) became employed as the director of public policy for Meta, a company that would be subject to the digital advertising tax that is included in Article 5 of the budget proposal. He identifies as chief among Mr. Lenz’s professional duties the monitoring of legislation of interest to Meta in 19 states, including Rhode Island. The Petitioner informs that Mr. Lenz is paid a salary from Meta, and is eligible for bonuses which are contingent upon a number of variables related to his position as Meta’s director of policy.<sup>2</sup> The Petitioner further informs that Mr. Lenz does own some Meta stock.<sup>3</sup>

The Petitioner represents that Mr. Lenz, in his capacity as the director of public policy for Meta, is expected to testify on legislation proposed by the General Assembly, and perhaps even before one of the committees on which the Petitioner serves. The Petitioner further represents that he intends to recuse from participation in his public capacity whenever Mr. Lenz appears before the General Assembly, including before any committees of which the Petitioner is a member.<sup>4</sup> Cognizant of the Code of Ethics, and desirous of acting in accordance therewith, the Petitioner seeks guidance from the Ethics Commission regarding whether he may participate in General Assembly discussions and voting relative to the state’s operating budget proposal for Fiscal Year 2026, including Article 5 contained therein.

A person subject to the Code of Ethics may not participate in any matter in which he has an interest, financial or otherwise, which is in substantial conflict with the proper discharge

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<sup>1</sup> The Petitioner is not a member of the House Finance Committee.

<sup>2</sup> The Petitioner emphasizes that Mr. Lenz’s bonuses are not dependent upon whether Rhode Island state legislation is passed or defeated.

<sup>3</sup> Mr. Lenz informed Ethics Commission staff during a telephone conversation that he owns approximately 200 shares of Meta’s 2.5 billion outstanding shares of stock. Mr. Lenz remarked that there has been fluctuation in the value of Meta stock lately, but that his shares are currently valued at approximately \$600 each. Mr. Lenz then represented that the value of Meta stock would not be directly impacted by the passage or failure of Article 5 of the state’s operating budget proposal for Fiscal Year 2026.

<sup>4</sup> The Petitioner adds that Leonard Lopes is a registered Rhode Island lobbyist for Meta, and that Mr. Lopes is supervised by Mr. Lenz. For this reason, the Petitioner also intends to recuse from all House committee matters in which Mr. Lopes appears to testify on behalf of Meta.



of his duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest occurs 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 his official activity. R.I. Gen. Laws § 36-14-7(a). A public official has reason to believe or expect that a conflict of interest exists when it is “reasonably foreseeable,” meaning that the probability of a conflict of interest is greater than conceivable, but the conflict of interest is not necessarily certain to occur. 520-RICR-00-00-1.1.5 Reasonable Foreseeability (36-14-7001). Additionally, a public official may not use his office for pecuniary gain, other than as 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. § 36-14-5(d). A person within a public official’s family expressly includes his son-in-law. R.I. Gen. Laws § 36-14-2(1).

Commission Regulation 520-RICR-00-00-1.3.1 Prohibited Activities – Nepotism (36-14-5004) (Regulation 1.3.1) sets forth more specific nepotism provisions which are applicable to matters that involve or impact any person within a public official’s family or any person who resides in his household. In general, Regulation 1.3.1(B)(1) prohibits a public official from participating in any matter as part of his public duties if he “has reason to believe or expect that any person within his [] family, or any household member, is a party to or a participant in such matter, or will derive a direct monetary gain or suffer a direct monetary loss, or obtain an employment advantage, as the case may be.” Regulation 1.3.1(B)(3)(a) further prohibits a public official from participating in discussion or decision-making relative to a budgetary line item that would address or affect the employment, compensation, or benefits of any person within his family or a household member. However, Regulation 1.3.1(B)(3)(c) provides that the public official is not prohibited from participating in discussion or decision-making relative to approving or rejecting the entire budget as a whole, provided that the person within his family is impacted by the entire budget as a member of a significant and definable class of persons, and not individually or to any greater extent than any other similarly situated member of the class. A public official must also recuse from participation in a matter in which any member of his family appears or presents evidence or arguments before his state agency, except during a period where public comment is allowed on a matter of general public interest, and further provided that the family member is not otherwise a party or participant and has no personal financial interest in the matter under discussion. 520-RICR-00-00-1.2.1(A)(1) & (B)(2) Additional Circumstances Warranting Recusal (36-14-5002)

The Code of Ethics does not, however, generally require a public official to recuse from participating in matters that involve or financially impact a family member’s business associate or employer, unless there is also a corresponding benefit flowing to that family member. For example, in Advisory Opinion 2019-58, the Ethics Commission opined that a state senator was not prohibited from participating in senate discussions and decision-making concerning legislation that would extend an existing state lottery contract with IGT

Global Solutions Corporation (IGT), and/or amended legislation that would allow for open bidding on a new lottery contract, notwithstanding that the petitioner's spouse was employed by Hasbro. Hasbro is a company that had a business association with Scientific Games. Scientific Games was expected to bid on the lottery contract if open bidding was allowed; however, it was Hasbro, and not the petitioner's spouse, that was a business associate of Scientific Games. By participating in the discussions and decision-making concerning legislation that would enable the extension of the state's lottery contract with IGT, the petitioner would not be taking official action that would financially impact his spouse or his spouse's employer. Also, were that petitioner to vote on amended legislation to allow open bidding on a state lottery contract, even with the reasonable expectation that Scientific Games would submit a bid, any financial impact upon the petitioner's spouse would have been remote and speculative. See also A.O. 2004-25 (opining that a legislator serving as a state senator was not prohibited from participating in the senate's consideration of bill 2004-H8380, "An Act Relating to Education – Health and Safety of Pupils," notwithstanding that the petitioner's spouse was employed as a registered nurse in the North Providence school system, because the petitioner represented that the General Assembly's passage or rejection of the bill would have no financial impact upon him or his spouse).

Section 36-14-5(a) and Regulation 1.3.1 clearly prohibit the Petitioner from participating in any matters, including budgetary line items, as part of his official duties in which his son-in-law is likely to be directly financially impacted, positively or negatively. See, e.g., A.O. 2018-29 (opining that a legislator serving in the Rhode Island House of Representatives could participate in discussions and voting by the House of Representatives relative to the FY2019 State Budget as a whole, but had to recuse from participating in any discussions or voting on particular budget amendments or line-items that impacted or specifically addressed his employer's contracts or finances).

Here, the proposed tax contained in Article 5 would directly financially impact Meta, the company that employs the Petitioner's son-in-law. However, Mr. Lenz has represented that the value of Meta's stock would not be financially impacted by the passage or failure of Article 5. Even if the value of Meta stock were to be financially impacted, Mr. Lenz's stock ownership interest is miniscule in comparison to the number of outstanding shares of Meta stock and it would not be reasonably foreseeable that he would be directly financially impacted.<sup>5</sup> Furthermore, the Petitioner expressly represents that Mr. Lenz's compensation

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<sup>5</sup> See, e.g., A.O. 2025-11 (opining that the assistant director of financial and contract management for the Rhode Island Department of Administration was permitted to participate in matters relating to the state's potential decision to use additional credit card features offered by JP Morgan Chase, notwithstanding that the petitioner and members of her family owned shares of Chase stock, because it was not reasonably foreseeable that Chase's stock share price would be impacted by the state's ultimate decision; nor was it reasonable that the petitioner and/or her family members would be directly financially

is not based on whether or not the subject budget proposal passes or fails. Finally, any of Mr. Lenz's appearances before a House committee to testify on behalf of his employer would be during a period where public comment is allowed. Accordingly, based on the facts as represented, the applicable provisions of the Code of Ethics, and consistent with prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner is not prohibited from participating in General Assembly discussions and voting relating to the State's operating budget proposal for Fiscal Year 2026, including the article contained therein that recommends the above-described tax to which the Petitioner's son-in-law's employer would be subject.

Finally, the Ethics Commission acknowledges the Petitioner's preparedness to recuse from participating in General Assembly matters when Mr. Lenz and/or Mr. Lopes appear to testify. All episodes of recusal should be made consistent with the provisions of R.I. Gen. Laws § 36-14-6.

**This Draft 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(1)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-13-7(a)

520-RICR-00-00-1.1.5 Reasonable Foreseeability (36-14-7001)

520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)

520-RICR-00-00-1.3.1 Prohibited Activities – Nepotism (36-14-5004)

Related Advisory Opinions:

A.O. 2025-11

A.O. 2019-58

A.O. 2018-29

A.O. 2004-25

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impacted, given that their ownership of Chase stock was miniscule in comparison to the number of Chase's outstanding stock shares.

Keywords:

Budgets

Conflict of Interest

Family

Nepotism

Recusal

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# RHODE ISLAND ETHICS COMMISSION

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## Draft Advisory Opinion

Hearing Date: March 25, 2025

**Re: Jonathan Pascua**

### **QUESTION PRESENTED:**

The Petitioner, a member of the Coventry Town Council, a municipal elected position, who is also a firefighter with the Coventry Fire District, requests an advisory opinion regarding whether the Code of Ethics prohibits him from seeking and/or accepting employment as a firefighter with the anticipated new town fire department, given the town's expected transition from independent fire districts to a town-run fire department.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Coventry Town Council, a municipal elected position, who is also a firefighter with the Coventry Fire District, is not prohibited by the Code of Ethics from seeking and/or accepting employment as a firefighter with the anticipated new town fire department, given the town's expected transition from independent fire districts to a town-run fire department because the unique facts represented herein support the application of the exception to 520-RICR-00-00-1.5.4 Municipal Official Revolving Door (36-14-5014).

The Petitioner is a member of the Coventry Town Council, having been elected to that position in November 2022. The Petitioner represents that he is a career firefighter and that, for the past 13 years, he has been employed full-time with the Coventry Fire District, also known as the Anthony Fire District. He states that he currently holds the rank of lieutenant and is third in seniority among the command staff, and that he is one of only two certified paramedics in the fire district.

The Petitioner describes the fire district as a quasi-municipal entity that was created by an Act of the General Assembly in 1889 and registered with the Office of the Rhode Island Secretary of State as a domestic non-profit corporation. The Petitioner states that the fire district is one of four fire districts serving residents of the Town of Coventry and that the fire district is not a part of the Coventry town government, but rather an entity that is separate and independent from the town. The Petitioner represents that the fire district has its own taxing power and is governed by a board of directors who are elected by the residents of the fire district. He adds that the fire district operates on its own budget that is

put forth and approved solely by the voters of the fire district, absent any involvement by the town. The Petitioner states that the collective bargaining and personnel management of fire district employees rest solely with the fire district.

The Petitioner represents that the fire districts in Coventry, including the Anthony Fire District, have faced significant challenges over the years, including threats of shutdowns, bankruptcies, and concerns over fire and EMS coverage across Coventry. Therefore, in November 2022, the town council hired an outside company called Dynamix Consulting to assess the best path forward for providing fire and EMS services to Coventry residents. The Petitioner states that, based on its findings, Dynamix Consulting recommended to the town to transition to a full-time, municipal fire department, which would be the most effective option for delivering fire and EMS services to Coventry residents. The Petitioner further states that in response to that recommendation, the town council created the Coventry Municipal Fire Commission, which is tasked with studying the feasibility of a potential transition to a municipal fire department and with providing advisory recommendations relative to its findings. The Petitioner notes that the fire commission is expected to complete its work and submit a report to the town council by July 2025, detailing how the town should proceed with the establishment of a municipal fire department, as appropriate.

The Petitioner explains that the prevailing sentiment among the town council members, including himself, is that the town will likely follow the recommendations of Dynamix Consulting and the fire commission to establish a municipal fire department and abolish the fire districts. The Petitioner states that the creation of a municipal fire department only requires a vote by the town council but a resolution by the town council may be required asking the General Assembly to abolish the fire districts. The Petitioner represents that, should the town move forward with this transition, it is expected that all union employees and full-time district firefighters will be transferred to the new municipal fire department by July 2026. The Petitioner notes that he expects that the process will be similar to the one previously adopted by the Town of East Greenwich, where all fire district employees then became municipal employees after that town transitioned to a municipal fire department.

Cognizant of the Municipal Official Revolving Door provisions of the Code of Ethics, the Petitioner seeks guidance from the Ethics Commission regarding whether he qualifies for a hardship exception thereto that would allow him to potentially transition his employment from that of a district firefighter to a municipal firefighter. He represents that his employment as a firefighter is his livelihood and that, without the granting of a hardship exception that would allow him to make this transition, his family would suffer a significant financial hardship. He further represents that if the Ethics Commission opines that he does not qualify for a hardship exception to the Municipal Official Revolving Door provisions, he will have no choice but resign from his town council position prior to July 2025 in order

to potentially be able to comply with the one-year waiting period pursuant to the Code of Ethics without forfeiting his employment.

The Petitioner states that he is not a member of the municipal fire commission tasked with studying the transfer from a fire district to a municipal fire department. The Petitioner represents that he has not participated in town council discussions or decision-making relative to the potential creation of the municipal fire department.<sup>1</sup> The Petitioner states that, although he is a member of the local fire union, he is not a member of its executive board, nor is he involved, or expected to become involved, in any contract negotiations or collective bargaining with the town. He represents that, if and when the town does transition to having its own municipal fire department, his compensation as a municipal employee would align with that of other municipal employees, based on a future collective bargaining agreement with the town. The Petitioner notes that his absence from the town's public safety infrastructure could also pose a hardship to the town as he is one of very few paramedics, has extensive knowledge about the town's infrastructure, is a seasoned fire/EMS officer, and is a town resident who can respond to emergencies in a timely manner. The Petitioner states that, pursuant to the town's charter, he would have to resign from his position as a town council member once he becomes a town employee.

Commission Regulation 520-RICR-00-00-1.5.4 entitled Municipal Official Revolving Door (36-14-5014) (Regulation 1.5.4) prohibits municipal elected officials, while holding office and for a period of one year after leaving municipal office, from seeking or accepting employment with any municipal agency in the municipality in which the officials serve. However, Regulation 1.5.4(C) allows the Ethics Commission to authorize an exception under circumstances in which doing so would not create an appearance of impropriety.

In the past, the Ethics Commission has granted exceptions pursuant to Regulation 1.5.4(C) under various circumstances upon finding that employment with a municipal agency would not create an appearance of impropriety. For example, in Advisory Opinion 2015-22, the Ethics Commission allowed a former Charlestown Town Council member to apply for the open position of Charlestown director of Parks & Recreation within one year of leaving her town council position. The unique circumstances in that advisory opinion were such that the petitioner had held that same position for twenty-two years until she was terminated; she had immediately challenged her termination as wrongful, filed a lawsuit, and favorably settled the case. However, at the time of the settlement, reinstatement was problematic because the position had already been filled by another person. See also A.O. 2014-5 (permitting a former New Shoreham Town Council member to bid on new contracts for services to the town through an open and public bidding process, given that his business

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<sup>1</sup> The Petitioner notes that, if needed, he will seek further guidance from the Ethics Commission regarding his ability under the Code of Ethics to participate in certain town council discussions or votes relative to the anticipated transition to municipal fire department or the abolishment of the fire districts.

had been providing those municipal services for at least ten years, the business was his primary source of income, his representation that he would not have sought election to the town council had he anticipated this problem, and his immediate resignation from the town council when he learned of the conflict); A.O. 2013-36 (permitting the former Portsmouth Town Clerk, within one year of leaving office, to accept temporary employment with the town as an “acting clerk” while the newly elected town clerk was on temporary medical leave, given that it was important to find a person who could run the clerk’s office and probate court with no interruption in service).

Also, in Advisory Opinion 2012-20, the Ethics Commission reviewed a fact pattern similar to the one in the instant advisory opinion. There, the Ethics Commission addressed an exception to R.I. Gen. Laws § 36-14-5(o), a code provision that is analogous to Regulation 1.5.4, but prohibits a person holding “a senior policy-making, discretionary, or confidential position on the staff of any state elected official or the general assembly” from seeking or accepting any other employment by any state agency while serving in such position and for a one-year period thereafter. § 36-14-5(o)(1). Just like Regulation 1.5.4(C), § 36-14-5(o)(5) allows the Ethics Commission to authorize an exception “where such exemption would not create an appearance of impropriety.” Applying this exception, 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 created Office of Management and Budget (OMB) in the Department of Administration. There, the Ethics Commission noted that the petitioner had played an instrumental role in the governor’s performance management initiative since its inception in 2011, and had been working as the governor’s full-time director of Performance Management since April 2012, prior to the General Assembly’s creation of the OMB under the Department of Administration. The Ethics Commission further noted that the duties of the OMB’s director of Performance Management were essentially identical to the petitioner’s duties as the governor’s director of Performance Management. Based on that background and the petitioner’s unique relationship with the performance management program, the Ethics Commission opined that he was the natural and expected choice to continue leading it in the newly created OMB. Ultimately, the Ethics Commission did not find any appearance of impropriety in those circumstances and, therefore, authorized the statutory exception to the revolving door prohibition of section 36-14-5(o).

In the instant matter, the Petitioner has been employed as a firefighter with the fire district for 13 years. The Petitioner represented that the fire districts in Coventry, including the Anthony fire district, have faced challenges in recent years and it is expected that the fire district will transition into a municipal fire department. The Petitioner expects that all fire district firefighters will become municipal firefighters and, as such, municipal employees. He further represents that he is not, and will not become, involved in any contract negotiations or collective bargaining on behalf of the union or the town council. Finally, the Petitioner informs that if, and when the transition is complete and he is hired by the



town as a firefighter with the newly created municipal fire department, he will be required to step down from his town council position.

Based on the Petitioner's representations, the applicable provisions of the Code of Ethics, and consistent with past advisory opinions issued, the Ethics Commission does not find any appearance of impropriety under these circumstances and, therefore, authorizes the exception to the revolving door prohibition of Regulation 1.5.4. Accordingly, the Petitioner may seek and accept employment, if offered, as a firefighter with the town's anticipated new municipal fire department, if and when the transition is completed, without running afoul of the revolving door provisions of Regulation 1.5.4.

**This Draft 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-00-00-1.5.4 Municipal Official Revolving Door (36-14-5014)

Related Advisory Opinions:

A.O. 2015-22

A.O. 2014-5

A.O. 2013-36

A.O. 2012-20

Keywords:

Public Employment

Revolving Door

# RHODE ISLAND ETHICS COMMISSION

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## Draft Advisory Opinion

Hearing Date: March 25, 2025

**Re: The Honorable Paul Santucci**

### **QUESTION PRESENTED:**

The Petitioner, a legislator serving as a member of the Rhode Island House of Representatives, a state elected position, requests an advisory opinion regarding whether he may, in his official capacity, participate in General Assembly discussions and voting relative to potential legislation pertaining to the construction of a large industrial park in his district, and publicly express his support for the potential construction of the industrial park, given that the industrial park's developer is his landlord.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a legislator serving as a member of the Rhode Island House of Representatives, a state elected position, is prohibited, in his official capacity, from participating in General Assembly discussions and voting relative to potential legislation pertaining to the construction of a large industrial park in his district, given that the industrial park's developer is his landlord. However, the Petitioner is not prohibited, in his private capacity and without the use of any resources or confidential information made available to him as a member of the House of Representatives, from publicly expressing his support for the construction of the industrial park.

The Petitioner is a legislator serving as a member of the Rhode Island House of Representatives, having been elected to that position in November 2024. The Petitioner states that he represents District 53, which includes the towns of Smithfield and Glocester. The Petitioner further states that he resides in the Town of Smithfield and that, in his private capacity, he owns a financial planning business located in the Town of Lincoln. The Petitioner represents that the landlord of his office space in Lincoln is planning to develop a major industrial park in Smithfield. The Petitioner explains that the industrial park is expected to be 300 acres in size and will require a substantial infrastructure investment, given that the planned location does not currently have roads or access to natural gas, electricity, sewer, or water. He notes that the proposed industrial park location is within the so-called "Economic Growth Overlay Zone," an area that is already approved for such a use. The Petitioner states that he has not been involved in the project. However, he represents that his landlord has asked whether the Petitioner would be willing to express

his support of the potential development in the Petitioner's legislative district. Cognizant of the Code of Ethics, and desirous of acting in conformance therewith, the Petitioner seeks guidance from the Ethics Commission regarding whether he may, in his official capacity, publicly express his opinion relative to the potential industrial park development which may include, but not be limited to, discussing the matter with members of the press or others in the community, and potentially participating in General Assembly discussions and voting on legislation that may arise relative to the anticipated development of the industrial park.

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 the public official is employed or which he represents will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. R.I. Gen. Laws § 36-14-7(a). Additionally, a public official is prohibited 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. § 36-14-5(d). Further, a public official must recuse from participation when his business associate appears or presents evidence or arguments before his state or municipal agency. 520-RICR-00-00-1.2.1(A)(2) Additional Circumstances Warranting Recusal (36-14-5002).

A business associate is defined as "a person joined together with another person to achieve a common financial objective." R.I. Gen. Laws § 36-14-2(3). A person is defined as "an individual or a business entity." § 36-14-2(7). The Ethics Commission has previously and consistently determined that a landlord and tenant are considered business associates under the Code of Ethics. See In re: Luis Aponte, Complaint No. 2016-13 (Providence City Council member's landlord was his business associate, and the city council member's vote to amend the city's zoning ordinance relative to his landlord's property violated § 36-14-5(a) & (d)). See also A.O. 2013-10; A.O. 2012-22; A.O. 2011-44; A.O. 2011-36; A.O. 2006-9; A.O. 2005-49; A.O. 2002-70; A.O. 2001-57; and A.O. 98-16.

Here, the Petitioner and the industrial park's developer are in a landlord/tenant relationship, and are therefore business associates. Thus, the Petitioner is prohibited by the Code of Ethics from participating, in his official capacity as a state legislator, in General Assembly discussions and/or voting in matters that will directly financially impact his landlord or the anticipated industrial park development. These actions may include, but are not limited to, drafting, introducing, discussing, or voting on legislation directly financially impacting the anticipated industrial park development or the Petitioner's landlord. Prohibited actions would also include any use of the Petitioner's office to publicly comment upon, support, or oppose the industrial park development or legislation related thereto. Currently, there is

no such legislation pending before the General Assembly. Thus, the Ethics Commission's advice herein is general in nature. Accordingly, if and when a specific piece of legislation is introduced, the Petitioner is advised to either recuse or seek further guidance from the Ethics Commission. Recusal shall be consistent with the provisions of R.I. Gen. Laws § 36-14-6.

However, the Code of Ethics does not prohibit the Petitioner, in his private capacity and without the use of any resources or confidential information made available to him as a member of the House of Representatives, from publicly expressing his support for the development, including but not limited to discussing the matter with members of the press or others in the community.<sup>1</sup>

**This Draft 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(3)

§ 36-14-2(7)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-7(a)

520-RICR-00-00-1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)

Related Advisory Opinions:

A.O. 2022-8

A.O. 2013-10

A.O. 2012-22

A.O. 2011-44

A.O. 2011-36

A.O. 2006-9

A.O. 2005-49

A.O. 2002-70

A.O. 2001-57

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<sup>1</sup> See, e.g., A.O. 2022-8 (opining that a member of the Bristol Zoning Board was not prohibited in her private capacity from participating in various activities related to a proposed mill redevelopment in that town, to which she was an abutter, including but not limited to co-signing letters to the planning board and the town council and writing letters to the editor of the local newspaper regarding the redevelopment).

A.O. 98-16

Other Related Authority:

In re: Luis Aponte, Complaint No. 2016-13

Keywords:

Business Associate

Recusal

DRAFT

# RHODE ISLAND ETHICS COMMISSION

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## Draft Advisory Opinion

Hearing Date: March 25, 2025

**Re: Charles R. Roberts**

### **QUESTION PRESENTED:**

The Petitioner, a member of the Middletown Town Council, a municipal elected position, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics, upon recusal as a town council member, from attending and speaking at public hearings before the town council relative to a proposed housing development to be located across the street from his personal residence.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Middletown Town Council, a municipal elected position, is not prohibited by the Code of Ethics, upon recusal as a town council member, from attending and speaking at public hearings before the town council relative to a proposed housing development to be located across the street from his personal residence.

The Petitioner is a member of the Middletown Town Council, having been elected to that position in November 2024. The Petitioner represents that there are several affordable housing projects that the town council is currently reviewing, one of which is located on Oliphant Lane (Oliphant project) where the former Oliphant School building is located. The Oliphant project is located directly across the street from the Petitioner's personal residence that he has owned since 2015. The Petitioner states that the Oliphant project is a mixed-use development with a proposed construction of 35 affordable housing units that are not age-restricted. The Petitioner represents that his personal residence is within the 200-foot radius of the Oliphant project property and that he has received abutters' notices relative to it.

The Petitioner further represents that the Oliphant project is regularly reviewed by the town council in conjunction with another affordable housing project proposed to be developed at the former Berkley Peckham School located at 650 Green End Avenue in Middletown (Berkley project). The Petitioner describes the Berkley project as a 22-unit senior affordable housing development that does not abut his personal residence. The Petitioner explains that the plans for the Oliphant and Berkley projects were reviewed individually

and approved by the planning board. However, for purposes of applying for funding from Rhode Island Housing, the two projects were presented together by the town. The Petitioner represents that Rhode Island Housing denied the town's application for funding of the projects due to the insufficient number of units and the high pricing of the units that were proposed.

The Petitioner explains that, in response to the denial of the application, the town council is expected to review and potentially vote on proposed new plans for both developments. He further explains that the town council is expected to conduct public hearings<sup>1</sup> with an opportunity for members of the public to comment on the matter. The Petitioner represents that, because the two projects will be reviewed together for purposes of funding, any discussions or decision-making by the town council as to the Berkley project will impact the Oliphant project, and vice versa. The Petitioner states that he plans to recuse, in his official capacity, from participating in town council discussions and decision-making relative to the two developments. However, given this set of facts, he seeks guidance from the Ethics Commission regarding whether he may attend the public hearings before the town council and speak as a member of the public relative to the developments.

Under the Code of Ethics, a public official may not participate in any matter in which he has an interest, financial or otherwise, 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 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. R.I. Gen. Laws § 36-14-7(a). The Code of Ethics also prohibits a public official from using his public office, or confidential information received through his public office, to obtain financial gain for himself, any person within his family, his business associate, or any business by which he is employed or which he represents. § 36-14-5(d). Additionally, the Code of Ethics prohibits public official from representing himself or authorizing another person to appear on his behalf before a municipal agency of which he is a member, by which he is employed, or for which he is the appointing authority. § 36-14-5(e)(1); 520-RICR-00-00-1.1.4(A)(1) Representing Oneself or Others, Defined (36-14-5016).

In advisory opinions involving real property, the Ethics Commission has consistently applied a rebuttable presumption that a property owner will be financially impacted by official action concerning abutting property. See, e.g., A.O. 2012-4; A.O. 2007-18; A.O. 2006-37; A.O. 2005-16. Applying this presumption, the Ethics Commission has regularly opined that public officials may not participate in discussions or votes concerning properties abutting their own properties, absent reliable evidence that their official actions

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<sup>1</sup> The Petitioner notes that the town council is planning a special meeting on March 31, 2025, to review the new proposed plans for the two projects and to hear public comment.

would not affect the financial interests of the public officials, either positively or negatively. Here, as an abutter to the Oliphant project, and with no rebuttal to the presumption of financial impact, the Petitioner will be prohibited from participating in his official capacity in any town council discussions and decision-making relative to that project and/or the Berkley project, to the extent that the two projects are reviewed together. The Petitioner will also be prohibited from participating in town council discussions and decision-making regarding the Berkley project that will also impact the Oliphant project.

However, the Code of Ethics contains a public forum exception, which provides that a public official may publicly express his own viewpoints in a public forum on any matter of general public interest or on any matter which directly affects said individual, or his spouse, or dependent child. 520-RICR-00-00-1.2.3 Public Forum Exceptions (36-14-7003) (Regulation 1.2.3). In past advisory opinions, the Ethics Commission has advised public officials about their rights under the public forum exception. See, e.g., A.O. 2020-33 (opining that a member of the West Warwick Town Council could address the planning board, the zoning board, and/or the town council, upon recusal, during public hearings regarding a proposed development of property located across the street from his personal residence, provided that he did not receive access or priority not available to any other member of the public); A.O. 2019-41 (opining that a member of the Middletown Town Council could attend and speak at public hearings before the planning board and/or, potentially, the zoning board regarding a proposed development of property located across the street from her personal residence, provided the petitioner did not receive access or priority not available to any other member of the public); A.O. 2017-11 (opining that the Chairperson of the North Providence Historic District Commission (HDC) could address the HDC during its application review concerning a property abutting her residence, as long as the petitioner did not receive access or priority not available to any other member of the public).

Consistent with these prior advisory opinions, and pursuant to Regulation 1.2.3's public forum exception, it is the opinion of the Ethics Commission that the Petitioner, upon recusal in his official capacity from town council discussions and decision-making, may appear before and address the town council during a public comment period regarding the proposed developments, provided the Petitioner does not receive access or priority not available to any other member of the public. Recusal shall be consistent with the provisions of R.I. Gen. Laws § 36-14-6. The Petitioner is further cautioned that he may not use his public office or position as a town council member to in any way influence members of the town council.

**This Draft 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)

§ 36-14-5(e)

§ 36-14-6

§ 36-14-7(a)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

520-RICR-00-00-1.2.3 Public Forum Exceptions (36-14-7003)

**Related Advisory Opinions:**

A.O. 2020-33

A.O. 2019-41

A.O. 2017-11

A.O. 2012-4

A.O. 2007-18

A.O. 2006-37

A.O. 2005-16

**Keywords:**

Property Interest

Public Forum Exception

## Continuing Discussion of Potential Rulemaking



Rhode Island  
*Holding Power Accountable*

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[www.commoncause.org](http://www.commoncause.org)

March 18, 2025

Rhode Island Ethics Commission  
40 Fountain Street, 8th Floor  
Providence, RI 02903

Dear Members of the Rhode Island Ethics Commission:

This letter follows up on the Commission's vote to initiate rulemaking to amend 520-RICR-00-00-1-Gifts in response to the petition from Common Cause Rhode Island.

Common Cause Rhode Island examined the gift rules in all 50 states and would like to share with you some information we found. In our original letter we stated that at least 22 states have gift rules that apply specifically to lobbyists, and at least 12 of those states also have rules that rely on application of a test, similar to the "interested person" analysis. A closer review of the states reveals that at least 27 states have gift rules that apply specifically to lobbyists, and at least 17 of those states also have rules that rely on application of a test. *So in more than half of the states lobbyists, regardless of whether they are working on behalf of for-profit or not-for-profit organizations, are subject to gift rules.*

In the attachment we suggest language (changes are in red) that would add to the definition of an "interested person" in 520-RICR-00-00-1.4.2(c) anyone who is "a person, business, or other entity, whether for profit or not for profit, that engages lobbyists or is a registered lobbyist or lobbying firm as defined by the laws or municipal ordinances of this state." Those terms are taken directly from the Lobbying Reform Act found in § 42-139.1-et. seq.

Based on feedback from members of the Commission, we also added language to 520-RICR-00-00-1.4.2(d)(3) that would exempt gifts from lobbyists, lobbying firms and persons engaging lobbyists and lobbying firms to persons they are not registered to lobby. Lobbyists, lobbying firms and persons engaging lobbyists and lobbying firms must report to the Secretary of State which state-level officials they are lobbying. The City of Providence, which is the only municipality with a lobbyist-registration ordinance, also requires disclosure of who is being lobbied.

We also examined advisory opinions issued by the Ethics Commission over many decades to look for instances when you gave your approval to someone subject to the Code of Ethics receiving something of value from a lobbyist who wasn't considered an "interested person." In AO 98-114 you found that the Rhode Island Public Expenditures Council (RIPEC) "is not an 'interested person' as defined in Regulation 5009." You concluded that "While RIPEC may undertake educational, informational or even lobbying activities in favor of or opposed to general or specific legislative or administrative proposals or initiatives, it does not do so having a direct financial interest in the legislative or administrative decisions being made." RIPEC is a 501(c)3 organization under the Internal Revenue Code.



Each year RIPEC holds a dinner to which it invites the entire General Assembly and all the statewide officers. Other not-for-profits similarly hold events to which they invite the entire legislature and statewide officers.

Our review of state ethics laws found 23 states have some sort of exception for food and beverages supplied at events, most often when the entire legislature is invited. We added language to 520-RICR-00-00-1.4.2(d)(4) that would create an exemption for food and beverages consumed at an event to which the entire legislator or all of the general officers are invited and is being hosted by a not-for-profit organization, even if they employ a lobbyist, so long as they are not an "interested person."

We hope you find our proposed language helpful as you consider how to amend the gift rule. Common Cause Rhode Island believes these additions would achieve our goal of closing the loophole in the gift rule that exists for lobbyists or not-for-profit organizations that employ lobbyists. We also believe they would protect behavior by lobbyists and not-for-profit organizations that employ lobbyists that are not meant to result in undue influence. We look forward to working with the Commission to craft them into a workable regulation.

Sincerely,

John Marion  
Executive Director

Attachment (1)



## Attachment

### **520-RICR-00-00-1.4.2 Gifts (36-14-5009)**

A. No person subject to the Code of Ethics, either directly or as the beneficiary of a gift or other thing of value given to a spouse or dependent child, shall accept or receive any gift of cash, forbearance or forgiveness of indebtedness from an interested person, as defined herein, without the interested person receiving lawful consideration of equal or greater value in return.

B. No person subject to the Code of Ethics, either directly or as the beneficiary of a gift or other thing of value given to a spouse or dependent child, shall accept or receive any gift(s) or other thing(s) having either a fair market value or actual cost greater than twenty-five dollars (\$ 25), but in no case having either an aggregate fair market value or aggregate actual cost greater than seventy-five dollars (\$ 75) in any calendar year including, but not limited to, gifts, loans, rewards, promises of future employment, favors or services, gratuities or special discounts, from a single interested person, as defined herein, without the interested person receiving lawful consideration of equal or greater value in return.

1. For purposes of this regulation a "single interested person" shall include all employees or representatives of an individual, business, organization or entity.
2. The prohibitions in this section do not apply if the gift or other thing of value is:
  - a. a campaign contribution as defined by the laws of the state;
  - b. services to assist an official or employee in the performance of official duties and responsibilities, including but not limited to providing



advice, consultation, information, and communication in connection with legislation, and services to constituents; or

c. a plaque or other similar item given in recognition of individual or professional services in a field of specialty or to a charitable cause.

C. "Interested person," for purposes of this section, means:

1. a person, business, or other entity, whether for profit or not for profit, or a representative of such a person, business, or other entity, that has a direct financial interest in a decision that the person subject to the Code of Ethics is authorized to make, or to participate in the making of, as part of his or her official duties; or

2. a person, business, or other entity, whether for profit or not for profit, that engages lobbyists or is a registered lobbyist or lobbying firm as defined by the laws or municipal ordinances of this state.

D. The prohibitions in this section do not apply if the gift or thing of economic value is given:

1. because of the recipient's membership in a group, a majority of whose members are not persons subject to the Code of Ethics, and an equivalent gift is given or offered to other members of the group;

2. by an interested person who is a person within the family of the recipient, unless the gift is given on behalf of someone who is not a member of said family;

3. by an interested person as defined in subsection (C)(2), that is not also an interested person as defined in subsection (C)(1), to a public official or employee



who is not a member or employee of the state or municipal agency that the interested person is lobbying; or

4. in the form of food or beverage for immediate consumption at a reception or fundraiser to which all members of the General Assembly or statewide officers are invited and is hosted not more than once in any year by a not for profit entity that is not an interested person as defined in subsection (C)(1).

E. For purposes of this regulation, a gift or other thing of value is considered received when it comes into the possession or control of the person subject to the Code of Ethics, or his or her spouse or dependent child, and is a gift or other thing of value subject to the requirements of this regulation unless it is immediately returned to the interested person or given to a bona fide charitable organization without benefit accruing to the person subject to the Code of Ethics.

