

# RHODE ISLAND ETHICS COMMISSION

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## Advisory Opinion No. 2025-17

Approved: 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 Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.**

Code Citations:

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

520-RICR-00-00-1.3.1 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