

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-20

Approved: 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.¹ 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

¹ 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 Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-5(o)

520-RICR-00-00-1.5.4 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