

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-32

Approved: April 29, 2025

Re: Ronald Gonsalves Jr., CPA, MBA

QUESTION PRESENTED:

The Petitioner, the executive director of administration & finance for the Newport Public School Department, a municipal employee position, who recently accepted a full-time position as the chief financial officer for the Rhode Island Department of Housing, a state employee position, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from, upon leaving his current municipal employment, and starting his new state employment, simultaneously working part-time for the Newport Public School Department as its business manager.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, the executive director of administration & finance for the Newport Public School Department, a municipal employee position, who recently accepted a full-time position as the chief financial officer for the Rhode Island Department of Housing, a state employee position, is not prohibited by the Code of Ethics from, upon leaving his current municipal employment, and starting his new state employment, simultaneously working part-time for the Newport Public School Department as its business manager, provided that he does so in conformance with the guidance outlined herein.

The Petitioner is currently employed by the City of Newport as the executive director of administration & finance for the Newport Public School Department, a position he has held since 2019. He identifies among his primary responsibilities the following: preparing and administering the school department general fund operating budget, overseeing the completion of the final school committee annual operating budget, and preparing the necessary financial reports for monthly school committee meetings. The Petitioner states that he also directly supervises the daily operations of the human resources department, transportation services, food service operations, the non-public textbook program, and performs payroll and purchasing functions. He adds that he participates as an integral part of the negotiations for health, dental, and group life insurance contracts, and serves as the school department's risk manager on all insurance matters. The Petitioner states that he

works remotely from 7:00 a.m. until 5:00 p.m., Monday through Friday, and reports directly to the city's superintendent of schools.

The Petitioner represents that he recently accepted a position with the State of Rhode Island as the chief financial officer for the Rhode Island Department of Housing. He states that he expects to begin his new employment in May 2025, and that his work hours for the state will be between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday. The Petitioner identifies among his general duties in this position the oversight of funding from the federal government to be disbursed through the Department of Housing and other community service providers, and aligning access programs and funding for those struggling to obtain housing in Rhode Island. The Petitioner states that, during his interview for the Department of Housing position, he mentioned that he would be interested in staying on with the City of Newport in a reduced capacity, at least for the foreseeable future, so as not to leave the city in a bind as a result of his departure. He further states that the individual with whom he discussed this suggested that he contact the Ethics Commission for an advisory opinion addressing the issue.

The Petitioner explains that the reduced capacity in which he would like to continue to work for the City of Newport is as the school department's business manager. He further explains that his general duties in that capacity would include the oversight of the general operating budget for the school department, interaction with the Rhode Island Department of Education relative to state aid from federal sources, and the oversight of transactions between the school department and third-party vendors. The Petitioner represents that he would continue to work for the city remotely, as he has done since 2020. He further represents that his work hours would be Monday through Friday between the hours of 6:00 a.m. - 8:00 a.m. & 5:00 p.m. - 8:00 p.m., and on weekends as needed. He adds that he would attend monthly school committee meetings in the evening and two workshops annually. The Petitioner states that he reports to the superintendent of public schools under an employment contract with the city in his current position; however, were he to continue with the city as the school department's business manager, he would do so as an independent contractor under a professional services contract and report directly to the school committee.

The Petitioner represents that the performance of his part-time duties as a contract business manager for the school department would not impair his independence of judgment as to his official duties as an employee of the Department of Housing.¹ He further represents that he would have no occasion, whether personally or on behalf of the City of Newport, to appear before the Department of Housing. Cognizant of the Code of Ethics, and desirous of acting in conformance therewith, the Petitioner seeks guidance regarding whether he is prohibited by the Code of Ethics from, upon starting his new job with the state,

¹ The Petitioner adds that, in order to avoid any appearance of impropriety, he would recuse from participating in any Housing Department grants to the City of Newport.

simultaneously working part-time for the Newport Public School Department as its business manager.

The Code of Ethics provides that a public employee shall not accept other employment that would impair his independence of judgment as to his official duties or require or induce him to disclose confidential information acquired by him in the course of his official duties. R.I. Gen. Laws § 36-14-5(b). Further, 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 or employment in the public interest. § 36-14-5(a). A public employee has an interest which is in substantial conflict with the proper discharge of his duties or employment in the public interest if he 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 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). Finally, the Code of Ethics provides that a public employee may not use his office, or confidential information received through his 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).

The Ethics Commission has consistently opined that public officials and employees are not inherently prohibited from holding employment that is secondary to their primary public employment or positions subject, however, to certain restrictions and provided that their private employment would neither impair their independence of judgment nor create an interest in substantial conflict with their public duties. The Ethics Commission examines several factors when considering potential conflicts regarding secondary employment. These factors include, but are not limited to, the nexus between the public official or employee's public duties and private employment; whether the public official or employee completes such work outside of their normal working hours and without the use of public resources; whether the public official or employee is to appear before, or their work product is to be presented to, their own agency; whether such work is to be conducted outside of the areas over which the public official or employee has decision-making jurisdiction; and whether the public official or employee uses their position to solicit business or customers. See General Commission Advisory No. 2009-4.

For example, in Advisory Opinion 2022-38, the Ethics Commission opined that a supplemental block grant planner for the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) was not prohibited by the Code of Ethics from working part-time to provide counseling services to members of local municipal police departments, provided that all of the work was performed on her own time and without the use of public resources or confidential information obtained as part of her state employment and, further provided, that the petitioner did not use her public employment to advertise or promote her work or to recruit or obtain clients. The petitioner

in that advisory opinion represented that she would provide counseling to clients by telephone from an office in her home. She further represented that she would do this on various evenings during the week after 5:00 p.m., and on weekends. That petitioner described her counseling duties as being separate and distinct from those for which she was responsible as a BHDDH employee, and outside of the areas over which she had decision-making authority as a grant planner. Also, there was nothing in the facts to suggest that her part-time secondary employment as the provider of counseling services to police officers would either impair her independence of judgment or create an interest in substantial conflict with her public duties at the BHDDH. See also A.O. 2020-1 (opining that a probation and parole officer at the Rhode Island Department of Corrections was not prohibited from working in her private capacity as an independent contractor providing supervised visitation services between non-custodial parents and their child or children, provided that all of the work was performed on her own time and without the use of public resources or confidential information obtained as part of her state employment).

Here, the Petitioner describes his proposed duties as the part-time business manager for the school department as being separate and distinct from those for which he will be responsible as a state employee.² He states that he would perform his part-time business manager work outside of his regular hours as a state employee and outside of the areas over which he will have decision-making jurisdiction as the Department of Housing's chief financial officer. There is nothing in the facts as represented to suggest that the Petitioner would appear before, or that his work product as a business manager for Newport's school department would be presented to, the Department of Housing.

Based upon the facts as represented by the Petitioner, there is no evidence to suggest that his part-time contractual work for the school department would either impair his independence of judgement or create an interest that in substantial conflict with his public duties at the Department of Housing. Accordingly, the Petitioner is not prohibited by the Code of Ethics from working part-time as a business manager for the school department in the manner described herein, provided that all of the work is performed on his own time and without the use of state resources or confidential information obtained as part of his state employment with the Department of Housing. The Ethics Commission acknowledges

² Although the Petitioner seeks to continue working for the City of Newport, albeit in a reduced capacity, he would no longer be a municipal employee, but a vendor under a professional services contract. For this reason, his status as a city vendor would constitute private employment, and the Petitioner would no longer be subject to the Code of Ethics by virtue of his part-time position with the city; he would, however, be subject to the Code of Ethics as a state employee. See, e.g., A.O. 2004-19 (opining that a petitioner who served as legal counsel to both the West Warwick Planning Board and the West Warwick Zoning Board of Review was not subject to the Code of Ethics in that capacity, because independent contractors of state or municipal government are neither "employees" nor appointed officials subject to the provisions of the Code of Ethics).

and supports the Petitioner's intent to recuse from participating in any matters involving housing grants to the City of Newport in order to avoid even the appearance of impropriety. Any such recusal should be made consistent with the provisions of R.I. Gen. Laws § 36-14-6. Finally, the Petitioner is advised to seek further guidance from the Ethics Commission if any changes occur within either his private or public employment that could present a conflict of interest.

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(b)
§ 36-15-5(d)
§ 36-14-6
§ 36-14-7(a)

Related Advisory Opinions:

A.O. 2022-38
A.O. 2020-1
A.O. 2004-19
G.C.A. 2009-1

Keywords:

Secondary Employment