

# RHODE ISLAND ETHICS COMMISSION

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## Advisory Opinion No. 2025-34

Approved: April 29, 2025

**Re: Laura Pickering**

### **QUESTION PRESENTED:**

The Petitioner, an attorney in private practice who was formerly employed by a law firm that represents multiple school districts in Rhode Island, requests an advisory opinion regarding whether she is prohibited by the Code of Ethics from representing clients in special education disputes against school districts in municipalities represented by her former employer.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, an attorney in private practice, who was formerly employed by a law firm that represents multiple school districts in Rhode Island, is not prohibited by the Code of Ethics from representing clients in special education disputes against school districts in municipalities represented by her former employer, because the Petitioner's former law firm works as an independent contractor for those municipalities and, therefore, the law firm's attorneys are not subject to the Code of Ethics, or limited by prohibitions therein that might otherwise have prevented the Petitioner from representing such clients for a period of one year following her departure from the firm.

The Petitioner is an attorney in private practice who was previously employed by a law firm that represents approximately twelve school districts in Rhode Island. She states that the law firm provides these services on a contractual basis and that the attorneys from the firm are not sworn in as solicitors by those municipalities. The Petitioner believes that the law firm bills each municipality for its services and receives a Form 1099 in return every year for income tax purposes.

The Petitioner states that she was employed by the law firm as an associate attorney from July 2023 through January 2025. She further states that her duties as an associate attorney included, in large part, providing support to the law firm's partners by conducting legal research and drafting legal memoranda. The Petitioner represents that, not long before she left the law firm in January 2025, she attended a school committee meeting in one of the school districts as a substitute for a partner at the law firm who was unavailable to attend.

She further represents that in November 2024, she attended two school committee policy subcommittee meetings in another school district for the same reason.

The Petitioner states that she now maintains her own law practice. She further states that she would like to represent clients in special education disputes against school districts, which may include those that are represented by her former law firm. The Petitioner specifies that she wishes to represent the parents of special education students at Individualized Education Program (IEP) meetings and in other various education matters within school districts. She adds that the attendees at IEP meetings include the parents or guardians of the student with an IEP, the school department's education director, various teachers, administrators, counselors, and therapists. The Petitioner emphasizes that appeals from the decisions reached at IEP meetings are made to the Rhode Island Department of Education. She notes that none of the matters involving clients with children in a school district would require her to appear before a school committee. It is in the context of these facts that the Petitioner seeks guidance regarding whether she may represent clients in special education disputes against school districts in municipalities that are represented by her former employer.

As a threshold determination, the Ethics Commission must ascertain whether the Petitioner, in her former role as an attorney with a law firm that provides legal counsel to multiple school districts, was subject to the Code of Ethics. If she was, she will remain subject to the revolving door provisions of R.I. Gen. Laws § 36-14-5(e)(4) and 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016) for a period of one year following the severance of her position with the law firm. Pursuant to R.I. Gen. Laws § 36-14-4, the following groups of individuals shall be subject to the Code of Ethics: “(1) State and municipal elected officials; (2) State and municipal appointed officials; and (3) Employees of state and local government, of boards, commissions, and agencies.”

Unlike solicitors, who are municipal appointed officials with duties set forth in a municipal charter or ordinance, the Ethics Commission has repeatedly opined that attorneys in private practice performing legal work for public agencies are independent contractors and, therefore, are not subject to the Code of Ethics, nor constrained by its conflict of interest provisions. See, e.g., A.O. 2021-21 (opining that an attorney in private practice who represented the City of Newport as special counsel in an environmental litigation matter was an independent contractor and, therefore, was not subject to the Code of Ethics or limited by prohibitions therein that might otherwise have prevented her from appearing before the local planning board and zoning board on behalf of a client who sought to retain the petitioner as an environmental expert witness to testify in a land use application matter); A.O. 2007-43 (opining that an attorney whose law firm served as legal counsel to the North Providence School Committee was an independent contractor and, as such, did not fall under the jurisdiction of the Ethics Commission); A.O. 2004-19 (opining that an attorney who served as legal counsel to both the planning board and the zoning board of review for the Town of West Warwick 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). See also Gemma v. Rhode Island Ethics Commission, No. PC94-3404 (R.I. Super. Ct., Sept. 17, 1994) (concluding that an attorney contractually retained by the state was not an employee, but an independent contractor and, accordingly, was not subject to the revolving door provisions set forth in R.I. Gen. Laws § 36-14-5(o)).

Here, the Petitioner’s former law firm provides legal services to various school districts as an independent contractor. For this reason, the Petitioner did not fall under the jurisdiction of the Ethics Commission when she was employed by the law firm and, therefore, is not prohibited by § 36-14-5(e)(4)’s revolving door provisions from representing clients in special education disputes against school districts in municipalities that are represented by her former employer prior to the expiration of one year following her departure from the firm.

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

Code Citations:

§ 36-14-2(4)

§ 36-14-4

§ 36-14-5(e)

§ 36-14-5(o)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-114-5016)

Related Advisory Opinions:

A.O. 2021-21

A.O. 2007-43

A.O. 2004-19

Related Case Law:

Gemma v. Rhode Island Ethics Commission, No. PC94-3404 (R.I. Super. Ct., Sept. 17, 1994)

Keywords:

Code Jurisdiction