

# RHODE ISLAND ETHICS COMMISSION

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## Advisory Opinion No. 2025-31

Approved: April 29, 2025

**Re: Megan Reilly**

### **QUESTION PRESENTED:**

The Petitioner, a member of the North Kingstown School Committee, a municipal elected position, who in her private capacity is employed as a per diem substitute teacher by Educational Staffing Solutions, an entity which currently provides services to the North Kingstown School District, requests an advisory opinion regarding whether she is prohibited by the Code of Ethics from continuing to work as a substitute teacher in the North Kingstown School District while simultaneously serving as a member of the school committee.

### **RESPONSE:**

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the North Kingstown School Committee, a municipal elected position, who in her private capacity is employed as a per diem substitute teacher by Educational Staffing Solutions, an entity which currently provides services to the North Kingstown School District, is not prohibited by the Code of Ethics from continuing to work as a per diem substitute teacher in the North Kingstown School District while simultaneously serving as a member of the school committee. The Code of Ethics does require the Petitioner's recusal from participation in school committee discussions and decision-making regarding matters which will directly financially impact her private employer, and/or in which an authorized representative of her private employer appears or presents evidence or arguments before the school committee, except during a period of public comment as described more fully below.

The Petitioner is a member of the North Kingstown School Committee, having been elected to that position in November 2024. In her private capacity, the Petitioner is employed by Educational Staffing Solutions (ESS), which she describes as a national service that provides substitute teachers and administrators to schools throughout the country. She states that ESS currently contracts with the Town of North Kingstown to provide substitute teachers, teaching assistants, long-term substitute teachers, and administrative workers to

the North Kingstown School District.<sup>1</sup> The Petitioner further states that ESS was hired by the North Kingstown School District via a vote by the school committee under a contract that is set to expire in June 2025. The Petitioner represents that, although ESS currently has no agency competitors in North Kingstown, and its contract with the town could be extended by the school committee, it is also possible that the school committee may decide to discontinue contracting with ESS in favor of using an “in-house” list of school district substitutes.

The Petitioner states that she has been employed by ESS since 2022. She further states that, since that time, she has worked as a substitute teacher on a per diem basis approximately one to two days per week during the school year for grades pre-school through 12 under ESS’s contract with the North Kingstown School District. The Petitioner emphasizes that she is not an employee of the town, and that she is paid each week directly by ESS. She adds that she has a supervisor at ESS who serves as an intermediary between the Petitioner and the North Kingstown School District, as necessary. She cites as potential examples any issue with her pay or the occurrence of an incident at one of the schools in which the petitioner may have been a party or witness. The Petitioner explains that her job performance is not monitored by the school department, nor does she receive performance reviews from the school department. The Petitioner states that there has been no interruption in her employment with ESS since her start date. It is in the context of these facts that the Petitioner seeks guidance regarding whether she may continue working as a per diem substitute teacher in the North Kingstown School District as an employee of ESS, while simultaneously serving as a member of the school committee.

Pursuant to 520-RICR-00-00-1.5.4 Municipal Official Revolving Door (36-14-5014) (Regulation 1.5.4), no municipal elected official or municipal school committee member, whether elected or appointed, while holding office and for a period of one year after leaving municipal office, shall seek or accept employment with any municipal agency in the municipality in which the official serves. Notably, the Code of Ethics specifically includes part-time service as an independent contractor in its definition of “employment.” R.I. Gen. Laws § 36-14-2(4); Regulation 1.5.4 (A)(1). Further, the Code of Ethics specifically includes schools in both the statutory and regulatory definitions of “municipal agency.” § 36-14-2(8)(ii); Regulation 1.5.4(A)(2). Regulation 1.5.4(A) does contain an exception if the municipal official held the employment in question at the time of her election to office.

The Code of Ethics also prohibits a public official from participating in any matter in which she has an interest, financial or otherwise, that 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 exists if a 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

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<sup>1</sup> The Petitioner adds that ESS also contracts with the Johnston School Department.

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). The Code of Ethics further prohibits a public official from using her public office, or confidential information received through her public office, to obtain financial gain 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).

Finally, the Code of Ethics requires a public official to recuse from participation in a matter in which her employer, or a person authorized by her employer, appears or presents evidence or arguments before the public official's municipal agency, except during a period where public comment is allowed on a matter of general public interest, provided that all other members of the public have an equal opportunity to comment, and further provided that the employer 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)(2) & (3) and (B)(2). Additional Circumstances Warranting Recusal (36-14-5002). All notices of recusal must be filed consistent with the provisions of R.I. Gen. Laws § 36-14-6.

The Ethics Commission has previously applied the exception contained in Regulation 1.5.4(A) where a municipal official held the employment in question at the time of their election to office. For example, in Advisory Opinion 2007-3, a member of the Charlestown Town Council was allowed to retain his part-time employment as a custodian at the Charlestown Senior Center which he held prior to his election to the town council. Contra A.O. 2021-9 (opining that a member of the Little Compton School Committee, a municipal elected position, was prohibited from seeking or accepting employment, including temporary part-time employment as a nurse at the Wilbur McMahon School in Little Compton to assist with testing for COVID-19; however, the petitioner was not prohibited from assisting with such testing in a purely voluntary capacity with no compensation). Here, the Petitioner's employment with ESS was held at the time of her election to the school committee and, furthermore, it is ESS, and not the Petitioner, that is providing services as an independent contractor to the town. For that reason, the provisions of Regulation 1.5.4 are inapplicable to the Petitioner here. Accordingly, the Petitioner's continued private employment by ESS as a per diem substitute teacher in the North Kingstown School District while she simultaneously serves as a member of the school committee is not prohibited.

However, while the Petitioner may continue her work as a substitute teacher in the district, the other above-referenced provisions of the Code of Ethics prohibit the Petitioner from participating in any school committee matters that will financially impact ESS, her private employer, and also require her to recuse if and when ESS, or an authorized representative of ESS, appears or presents evidence or arguments before the school committee. Accordingly, recusal will be required during the school committee's consideration of whether, and under what terms, to renew its contract with ESS. See, e.g., A.O. 2019-63 (opining that the vice chairperson of the Rhode Island Real Estate Commission, who in his

private capacity was employed by Residential Properties Ltd. was required to, among other things, recuse from participation in matters in which his private employer or his private employer's representative appeared or presented evidence or arguments on behalf of his employer, or was a party or participant in a matter before the Real Estate Commission); A.O. 2009-1 (opining that a member of the Scituate Town Council was required to recuse from participation in matters coming before the town council that concerned S & C Collins Bus Company, Inc., by which he was employed part-time as a bus driver, or in which it was reasonably foreseeable that there would be a financial impact upon that entity); A.O. 2003-65 (opining that a Chariho School Committee member could officiate at sporting events involving the Chariho schools, but was required to recuse from participation and/or voting during the school committee's consideration of any matters relating to the hiring or remuneration of sports officials, and in matters relating to the Chariho director of athletics who selected such officials).

In summary, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from continuing to work in her private capacity as an employee of ESS as a per diem substitute teacher in the North Kingstown School District while simultaneously serving as a member of the school committee. The Code of Ethics does require the Petitioner's recusal from participation in school committee discussions and decision-making regarding matters which will directly financially impact her private employer, and/or in which an authorized representative of her private employer appears or presents evidence or arguments before the school committee, except during a period of public comment as described more fully herein. The Petitioner is advised that Regulation 1.5.4 prohibits her from seeking or accepting employment from the North Kingstown School District, or any other municipal agency in the town, during her tenure on the school committee and for a period of one year following her official severance from that agency.

**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)

§ 36-14-2(8)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

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

520-RICR-00-00-1.5.4 Municipal Official Revolving Door (36-14-5014)

Related Advisory Opinions:

A.O. 2021-9

A.O. 2019-63

A.O. 2009-1

A.O. 2007-3

A.O. 2003-65

Keywords:

Conflict of Interest

Employer

Private Employment

Recusal

Revolving Door