

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-39

Approved: June 10, 2025

Re: The Honorable Valarie J. Lawson

QUESTION PRESENTED:

The Petitioner, a legislator serving as a member of the Rhode Island Senate, a state elected position, who in her private capacity is the president of the National Education Association of Rhode Island (NEARI), a non-profit labor organization, requests an advisory opinion regarding whether, under the Code of Ethics, her recent election to the position of Senate President creates a conflict of interest, per se, given her private position as NEARI president, prohibiting her from simultaneously serving in both positions.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the recent election of the Petitioner, a legislator serving as a member of the Rhode Island Senate, a state elected position, to the position of Senate President does not create a conflict of interest, per se, notwithstanding her private position as the president of the National Education Association of Rhode Island, a non-profit labor organization, prohibiting her from simultaneously serving in both positions. However, the Petitioner is subject to the requirements of the Code of Ethics as outlined herein.

The Petitioner is a legislator serving as a member of the Rhode Island Senate. She has served continuously in that capacity since 2019, representing District 14 (East Providence). The Petitioner explains that, during this time, she served as the Senate Majority Whip and, later, as the Senate Majority Leader. She represents that in April 2025, she was elected Senate President by her fellow Senate members. The Petitioner states that, as Senate President, she presides over all Senate sessions. In conjunction with the Majority and Minority Leaders, she also establishes the daily consent calendar of bills and resolutions, and has certain appointment powers. The Petitioner states that she has the authority to appoint all employees, members of commissions and other public bodies to which the Senate President is by law or resolution authorized to appoint, the Senate Majority Whip, and all other officers and employees of the Democratic majority in the Senate.

The Petitioner represents that she was formerly employed for 32 years as a teacher by the East Providence School Department. She states that she currently serves as president of the

National Education Association of Rhode Island (NEARI), a full-time position which she has held since January 1, 2023. The Petitioner describes NEARI as a registered non-profit labor organization, the primary purpose of which is to provide collective bargaining representation, grievance and arbitration representation, and professional development opportunities, among other benefits, to its members. She represents that NEARI consists of a diverse membership numbering approximately 11,000 to 12,000 people. She further represents that, in addition to herself, there are approximately 400 other NEARI officers and leaders who are positioned to direct and affect the financial objectives of that organization. The Petitioner states that NEARI members include public and private sector employees organized in approximately 75 local bargaining units. She further states that NEARI members include public sector teachers; public and private sector education support professionals; public and private sector higher education faculty, graduate students, and staff; and state and municipal employees and retirees. The Petitioner informs that NEARI engages internal and outside lobbyists and that, although NEARI lobbyists participate in each legislative year, their involvement is issue dependent.

The Petitioner acknowledges that her duties as Senate President and her ability to participate in particular matters in light of her position with NEARI are subject to a case-by-case evaluation. She notes that she is prepared to recuse from matters directly financially impacting herself, her business associates, or her employer, unless the class exception would apply. The Petitioner represents that, in the past and while serving in various Senate capacities, she has recused in circumstances where her business associates testified before a Senate committee on which she served. The Petitioner, however, anticipates that her recusal will now be less frequent in her present Senate role, given that as a Senate President she is not an active member of any committee. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether, under the Code of Ethics, her recent election as the Senate President creates a conflict of interest, per se, given her private position as NEARI president, prohibiting her from serving in both positions.

The Code of Ethics provides that no person subject to the Code of Ethics shall accept other employment which will either impair her independence of judgment as to her official duties or require her to disclose confidential information acquired by her in the course of and by reason of her official duties. R.I. Gen. Laws § 36-14-5(b). Additionally, a person subject to the Code of Ethics shall not participate in any matter in which she has an interest, financial or otherwise, or engage in any employment or transaction that is in substantial conflict with the proper discharge of her duties in the public interest. § 36-14-5(a). A substantial conflict of interest occurs 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 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). Additionally, a public official shall not use in any way her public office or confidential information received through her holding any public office to obtain financial gain, other than that

provided by law, 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). Furthermore, a public official must also recuse from participation when her business associate or employer appears or presents evidence or arguments before her state agency, other than during a period when public comment is allowed and provided that her business associate or 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) & (B)(2) Additional Circumstances Warranting Recusal (36-14-5002). Lastly, a public official is prohibited from representing herself, representing another person, or acting as an expert witness before a state agency of which she is a member, by which she is employed, or over which she has appointing authority. § 36-14-5(e)(1) - (3); 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016).

A business associate is defined as “a person joined together with another person to achieve a common financial objective.” R.I. Gen. Laws § 36-14-2(3). A person is defined as “an individual or a business entity.” § 36-14-2(7). The Ethics Commission has consistently concluded that persons are “business associates” not only of the entities for which they serve as either officers or members of a board of directors, or in some other leadership position that permits them to direct and affect the financial objectives of an organization, but also of the other officers and leaders within the same organization. See, e.g., A.O. 2021-40 (opining, among other things, that a member of the Retirement Board of the Employees’ Retirement System of the State of Rhode Island would be prohibited from participating in disability adjudications and contested administrative hearings which were likely to result in a financial impact upon himself or herself or upon any individual who served in a leadership position within a private organization for which the retirement board member also served in a leadership position, or upon the organization itself).

The Ethics Commission has previously opined that the provisions of the Code of Ethics apply equally to members and to officers of a public body. See A.O. 2019-15 (opining that the elevation of the petitioner from a general town council member to town council president, vice president, or council president pro tempore would not further restrict the performance of the petitioner’s duties under the Code of Ethics); A.O. 2011-12 (opining that because the provisions of the Code of Ethics apply equally to members and officers of a public body, a member of the Scituate Town Council could serve as council president, council vice president, or council president pro tempore, notwithstanding that his son was an attorney at the law firm that served as town solicitor, provided that the petitioner recused from participating in and voting on town council decisions that would financially impact his son). Consistent with these prior advisory opinions, the instant Petitioner is not prohibited by the Code of Ethics from continuing to serve in, or moving up through, the Senate leadership hierarchy, including serving as the Senate President.

However, as the Petitioner correctly acknowledges, the Code of Ethics does regulate the manner and extent of the performance of her public duties. Therefore, the Petitioner is

cautioned that she will be generally required to recuse from taking any official action, including discussions and voting, on any matter that is likely to result in a direct financial benefit or detriment to her, any person within her family, her business associate, or her employer, unless the specific circumstances justify the application of the class exception as set forth in § 36-14-7(b).¹ The Ethics Commission acknowledges that Advisory Opinion 2024-17, previously issued to the instant Petitioner relative to the application of the class exception to her participation in Senate discussions and voting on several pieces of legislation, could still provide general guidance to the Petitioner. However, given that there is no specific legislation pending before the General Assembly or the Senate to which the Ethics Commission could apply a class exception analysis, the Ethics Commission is unable at this time to provide specific guidance to the Petitioner relative to the application of the class exception.

Further, the Petitioner would also be required to recuse herself from participation in discussions and voting on matters for which her business associate or employer appears or presents evidence or arguments before the General Assembly or the Senate, unless one of the exceptions to 520-RICR-00-00-1.2.1(B) applies.² The Petitioner will likewise be

¹ Section 36-14-7(b) states that a public official will not have an interest which is in substantial conflict with her official duties if any benefit or detriment accrues to her, any person within her family, her business associate, or any business by which she is employed or which she represents “as a member of a business, profession, occupation or group, or of any significant and definable class of persons within the business, profession, occupation or group, to no greater extent than any other similarly situated member of the business, profession, occupation or group, or of the significant and definable class of persons within the business, profession, occupation or group.” When determining whether any particular circumstance supports and justifies the application of the class exception, the Ethics Commission considers the totality of the circumstances. The important factors considered in this analysis include, but are not limited to: 1) the description of the class; 2) the size of the class; 3) the function or official action being contemplated by the public official; and 4) the nature and degree of foreseeable impact upon the class and its individual members as a result of the official action.

² 520-RICR-00-00-1.2.1(B) states that:

A person subject to this Code of Ethics is not required to recuse himself or herself pursuant to this or any other provision of the Code when:

1. The person’s business associate, employer, household member or any person within his or her family is before the person’s state or municipal agency, solely in an official capacity as a duly authorized member or employee of another state or municipal agency, to participate in non-adversarial information sharing or coordination of activities between the two agencies, provided that the business associate, employer, household member or person

required to do the same if an authorized representative of her business associate or employer appears on their behalf to present evidence or arguments. The Petitioner is also prohibited from representing herself or any other person before the General Assembly or the Senate. Recusal shall be consistent with R.I. Gen. Laws § 36-14-6. Lastly, the Petitioner shall not use in any way her public office or confidential information received through her holding any public office to obtain financial gain, other than that provided by law, for herself, any person within her family, her business associate, or any business by which she is employed or which she represents.

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, agency policy, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-5(a)

§ 36-14-5(b)

§ 36-14-5(d)

§ 36-14-5(e)

§ 36-14-6

§ 36-14-7(a)

§ 36-14-7(b)

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

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

Related Advisory Opinions:

A.O. 2024-17

within his or her family is not otherwise a party or participant, and has no personal financial interest, in the matter under discussion.

2. The person's business associate, employer, household member or any person within his or her family is before the person's state or municipal agency during a period when public comment is allowed, to offer comment 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 business associate, employer, household member or person within his or her family is not otherwise a party or participant, and has no personal financial interest, in the matter under discussion.

A.O. 2021-40

A.O. 2019-15

A.O. 2011-12

Keywords:

Legislator

Private Employment

Recusal