

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-45

Approved: July 29, 2025

Re: Molly Moran-Ogren

QUESTION PRESENTED:

The Petitioner, an environmental policy analyst with the Rhode Island Department of Environmental Management, a state employee position, who in that capacity also serves as the chairperson of the Seafood Marketing Collaborative, requests an advisory opinion regarding whether the Code of Ethics prohibits her from starting a private business to offer and provide marketing and business development services to seafood businesses outside of Rhode Island.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, an environmental policy analyst with the Rhode Island Department of Environmental Management, a state employee position, who in that capacity also serves as the chairperson of the Seafood Marketing Collaborative, is not prohibited by the Code of Ethics from starting a private business to offer and provide marketing and business development services to seafood businesses outside of Rhode Island.

The Petitioner is an environmental policy analyst with the Rhode Island Department of Environmental Management (RIDEM), a position she has held since 2023.¹ She represents that her regular work hours are 8:30 a.m. – 4:00 p.m., Monday through Friday. The Petitioner explains that her duties include, but are not limited to, oversight of the state's seafood marketing initiative. The Petitioner represents that in November 2022, she was appointed chairperson of the Seafood Marketing Collaborative (collaborative) as the RIDEM director's designee. According to its website, the collaborative was established by the Rhode Island General Assembly in 2011 and is chaired by the RIDEM.² Its main goal and objective are to support local fishermen and small businesses and to increase

¹ The Petitioner represents that she began her employment with the RIDEM in 2021 as the Chief Program Development.

² See <https://seafood.ri.gov/about-us> (last visited June 16, 2025).

awareness, sale, and consumption of Rhode Island seafood in Rhode Island.³ The Petitioner states that the collaborative meets quarterly between the hours of 2:00 p.m. and 4:00 p.m. The Petitioner further states that, as chairperson, she oversees the Rhode Island Seafood program, manages the collaborative's meetings, works with state partners to further the collaborative's mission and goals, and works with the more than 150 partner businesses of the collaborative in order to market locally caught and landed seafood to consumers. The Petitioner represents that she also advocates for a state budget to support the collaborative's mission, manages the collaborative's seasonal employees and one full-time seafood marketing consultant, works with the collaborative's partners on initiatives, and oversees the marketing initiatives of the consultant. The Petitioner notes that she works closely with the Massachusetts and Maine Marketing Collaboratives, which generally includes information-sharing efforts.

In order to increase the sale and consumption of Rhode Island seafood in Rhode Island, the collaborative partners with businesses that sell seafood.⁴ The Petitioner represents that the collaborative provides small business support to its partner businesses, including marketing, grants, and sponsoring attendance at the annual Seafood Expo North America. The Petitioner explains that the collaborative has created a Rhode Island seafood logo that may be used by the collaborative's partner businesses to identify and promote seafood grown and caught in Rhode Island. The collaborative has also created a comprehensive website containing an interactive map of Rhode Island featuring the collaborative's partner businesses where local seafood can be purchased. According to the collaborative's website, the businesses that join the Rhode Island Seafood Marketing campaign are featured on the collaborative's social media channels and have access to a social media toolkit created to help those businesses when crafting seafood marketing posts on their own social media platforms.

The Petitioner explains that her family has been in the seafood industry for four generations in Alaska and has built strong relationships with other members in the industry in states such as California and Washington. Given her background and experience, the Petitioner represents that, in her private capacity, she would like to start a private consulting company in order to provide marketing and business development services to private seafood businesses outside of the State of Rhode Island. The Petitioner states that she would conduct her private business outside of her regular work hours with the RIDEM and without the use of public resources or confidential information received through the performance of her public duties. The Petitioner notes that, because she does not intend her

³ See <https://seafood.ri.gov/about-us> (last visited June 16, 2025).

⁴ The partner businesses listed on the collaborative's website are all Rhode Island restaurants, seafood markets and grocers, and direct sellers and farmers, with the exception of Tony's Seafood and Sea Well Seafood which are located over the state's border in Seekonk, MA and Pawcatuck, CT, respectively.

private business to conflict with her public duties in any way, she would screen each client before entering into an agreement to ensure that the client does not do business in Rhode Island or with Rhode Island businesses, and/or is not intending to target Rhode Island seafood businesses or consumers in its marketing efforts. The Petitioner represents that her marketing services may vary and range from simply taking pictures to be used by the client in their marketing effort to creating a full plan regarding how to achieve the client's desired result. By way of example, the Petitioner explains that if a seafood business would like restaurants in a specific area to purchase its seafood, that business may hire the Petitioner to create a marketing plan to achieve that goal. The marketing plan might include recommendations for the business to identify the restaurants it would like to target and specific ways for the business to attract those restaurants (e.g., offering facility tours, product demonstrations, etc.), simply taking new pictures for their website, and the like. The Petitioner acknowledges that a case-by-case determination would be required regarding her ability to take on a specific out-of-state client.

The Petitioner notes that, in her public capacity, she promotes the Rhode Island seafood industry as a whole and works toward increasing the consumption of locally sourced seafood in Rhode Island. She clarifies that neither she nor the collaborative provides specific marketing services to individual Rhode Island seafood businesses. In contrast, in her private capacity, the Petitioner would be working with specific seafood businesses to achieve their various specific goals through improved marketing. The Petitioner states that she does not expect that any of her private clients would be appearing before the collaborative, given that those clients would be out-of-state entities. The Petitioner further states that in the unlikely event that one of her private clients were to expand their business to Rhode Island, she would be prepared to sever her business relationship with that client. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits her from starting a private business to offer and provide marketing and business development services to seafood businesses outside of Rhode Island.⁵

The Code of Ethics provides that a public official or employee shall not accept other employment which will either impair her independence of judgment as to her official duties, or require or induce 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). The Code of Ethics further provides that a public official or 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 her duties in the public interest. § 36-14-5(a). A public official or employee

⁵ The Petitioner states that she has consulted with and received approval from her immediate supervisor relative to her proposed secondary employment, and that the Petitioner has been working with the RIDEM's legal department to obtain the instant advisory opinion.

has an interest which is in substantial conflict with the proper discharge of her duties in the public interest if she 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, the Code of Ethics provides that a public official or employee shall not use her 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).

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 positions, provided that the private employment would neither impair their independence of judgment nor create an interest in substantial conflict with their public duties, and subject to certain other restrictions. 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 official's public duties and private employment; whether the employee completes such work outside of her normal working hours and without the use of public resources; whether the employee is to appear before, or her work product is to be presented to, her own agency; whether such work is to be conducted outside of the areas over which the person has decision-making jurisdiction; and whether the employee uses her position to solicit business or customers. See General Commission Advisory No. 2009-4.

Although the Ethics Commission has previously opined that certain public officials and employees could not hold secondary private employment within the same jurisdiction in which they publicly served because of a substantial conflict of interest between their public and private employment, the Ethics Commission has consistently allowed public officials and employees to engage in secondary employment that was outside of their official public jurisdiction. In Advisory Opinion 2016-16, for example, the Ethics Commission opined that an environmental health food specialist for the Rhode Island Department of Health, Office of Food Protection was not prohibited by the Code of Ethics from working as a food safety consultant for food establishments in Connecticut and/or Massachusetts, provided that the owners of those establishments did not also own food establishments within her assigned region of public employment in Rhode Island; she performed such work on her own time and without the use of public resources or equipment; and she did not use her public employment to recruit or obtain potential clients.

Also, in Advisory Opinion 2021-51, the Ethics Commission opined that the supervising forensic scientist for the Rhode Island Department of Health (RIDOH) was not prohibited by the Code of Ethics from working as a private consultant on matters outside of, and with no relation to, the State of Rhode Island, provided that all of the work was performed on his own time and without the use of public resources or confidential information obtained

as part of his employment at the RIDOH. Nor could that petitioner use his public employment to recruit or obtain potential clients or advertise or promote his private work. See also A.O. 2015-36 (opining that an assistant medical examiner for the State of Rhode Island was not prohibited by the Code of Ethics from working as a private consultant medical examiner and/or expert witness on cases outside of Rhode Island, provided that she performed that work on her own time and without the use of state resources or equipment, and did not work on cases that were subject to the jurisdiction of any state or federal court in Rhode Island or involved decedents who were residents of Rhode Island at the time of their death, or in which Rhode Island residents were parties to the lawsuit or criminal complaint); A.O. 2009-31 (opining that the chief plumbing investigator for the Rhode Island Department of Labor and Training, who was also licensed as a master plumber and pipefitter, was prohibited by the Code of Ethics from working as a plumber and pipefitter in the State of Rhode Island, but was not prohibited from performing such work outside of the State of Rhode Island, provided that it was performed on his own time and without the use of public resources and that he did not use his state position to recruit potential clients); A.O. 2001-46 (opining that a Bristol police officer assigned to the detective division was not prohibited by the Code of Ethics from assisting a private investigator in reviewing a criminal matter under the jurisdiction of the Massachusetts District Attorney's Office, provided that the petitioner had no involvement with matters subject to the Bristol Police Department's official jurisdiction).

Here, the Petitioner's public duties are limited to promoting the increased consumption in Rhode Island of locally grown and/or caught seafood. Her proposed private duties would include the marketing of out-of-state seafood businesses to consumers or other business entities outside of Rhode Island. She notes that she would screen each potential client and would not accept clients that do business in Rhode Island, work with Rhode Island businesses, or target Rhode Island consumers. The Petitioner states that she would perform her private work outside of her regular work hours and without the use of public resources or confidential information received through her public office.

Based upon the facts as represented by the Petitioner, including the limitations she would impose on her private duties, there is no evidence to suggest that her proposed private endeavor would impair her independence of judgment or create an interest that is in substantial conflict with her public duties at the RIDEM and the collaborative. Accordingly, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from starting a private business in order to offer and provide marketing and business development services to seafood businesses outside of Rhode Island, consistent with her representations set forth herein, and provided that all of the work is 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 does not use her public employment to advertise or promote her private work or to recruit or obtain potential clients for her private business. This includes, but is not limited

to, identifying her public position on her private business cards and marketing materials, or soliciting clients while performing her public duties.

This advisory opinion cannot anticipate every possible situation in which a conflict of interest might arise for the Petitioner and, thus, provides only general guidance as to the application of the Code of Ethics based upon the facts represented herein. The Petitioner is encouraged to seek additional advice from the Ethics Commission in the future should more specific questions regarding potential conflicts of interest arise.

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 judicial or professional ethics may have on this situation.

Code Citations:

§ 36-14-5(a)

§ 36-14-5(b)

§ 36-14-5(d)

§ 36-14-7(a)

Related Advisory Opinions:

A.O. 2021-51

A.O. 2016-16

A.O. 2015-36

A.O. 2009-31

A.O. 2001-46

G.C.A. 2009-4

Keywords:

Secondary Employment