



STATE OF RHODE ISLAND
RHODE ISLAND ETHICS COMMISSION

40 Fountain Street
Providence, RI 02903
(401) 222-3790 (Voice/TT)
Email: ethics.email@ethics.ri.gov
Website: <https://ethics.ri.gov>

NOTICE OF OPEN MEETING

DATE:	Tuesday, March 24, 2026
TIME:	9:00 a.m.
PLACE:	Rhode Island Ethics Commission Hearing Room – 8 th Floor 40 Fountain Street Providence, RI 02903
LIVESTREAM:	<p>The Open Session portions of this meeting will be livestreamed at: https://us02web.zoom.us/j/84272379295</p> <p>This is an in-person meeting held at the physical location listed above. Livestream access is being provided only as a convenience, but it is not an official meeting place and we do not guarantee virtual access to view or participate in the meeting. If the livestream virtual broadcast of the meeting is interrupted or cut off for any reason, the meeting will continue in person.</p>



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AGENDA

4th Meeting

1. Call to Order.
2. Motion to approve minutes of Open Session held on March 3, 2026.
3. Director's Report: Status report and updates regarding:
 - a.) Complaints and investigations pending;
 - b.) Advisory opinions pending;
 - c.) Access to Public Records Act requests since last meeting;
 - d.) Financial disclosure; and
 - e.) General office administration;
4. Advisory Opinions:
 - a.) Tracy Lapointe-Webber, a probation and parole officer with the Rhode Island Department of Corrections, requests an advisory opinion regarding whether the Code of Ethics prohibits her from establishing and operating an independent clinical therapy practice while continuing her state employment. [Staff Attorney Papa]
 - b.) Christopher Duhamel, a member of the Westerly Town Council, requests an advisory opinion regarding whether the Code of Ethics prohibits him from participating in the town council's appointment, re-appointment, or retention of members of the Westerly Planning Board, given that he is privately employed by an engineering firm that represents clients before the planning board on a regular basis. [Staff Attorney Papa]
 - c.) The Honorable Todd M. Patalano, a legislator serving as a member of the Rhode Island Senate, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from introducing and voting on legislation

that would amend the pension benefits for both current and former Rhode Island State Police members, given that one of his sons is currently a Rhode Island state trooper. [Staff Attorney Papa]

- d.) Scott Sunderland, who is considering accepting an appointment to an unexpired term on the Chariho School Committee and later seeking election to a full term on the school committee, who in his private capacity owns and operates S&S Landscaping, requests an advisory opinion regarding whether, if he accepts the appointment and later is elected to the school committee, he will be prohibited by the Code of Ethics from continuing to perform landscape maintenance and snow removal services for the Chariho School District, which he has done since 1999. [Staff Attorney Radiches]
- e.) Frank M. Brown Jr., a member of the Coventry Town Council, requests an advisory opinion regarding whether his daughter's employment with the Coventry Tax Collector's Office would present a conflict of interest for him under the Code of Ethics. [Staff Attorney Radiches]
- f.) Alexis Gorriarán, a member of the board of directors of the Providence Tourism Council, requests an advisory opinion regarding whether he may accept an offer of employment by the board to become the council's executive director, provided that he resigns from membership on the board upon accepting the position. [Staff Attorney Radiches]
- g.) Shannah Kurland, Esq., a new board member of the Providence External Review Authority (PERA), who in her private capacity is a licensed attorney who regularly represents clients in civil cases alleging misconduct against the Providence Police Department and its officers, requests an advisory opinion regarding whether she is prohibited by the Code of Ethics from serving on PERA, given her private employment. [Staff Attorney Radiches]

5. Motion to go into Executive Session, to wit:

- a.) Motion to approve minutes of Executive Session held on March 3, 2026, 2025, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) & (4).
- b.) Motion to return to Open Session.

6. Motion to seal minutes of Executive Session held on March 24, 2026.

7. Report on actions taken in Executive Session.

8. New Business proposed for future Commission agendas and general comments

from the Commission.

9. Motion to adjourn.

ANYONE WISHING TO ATTEND THIS MEETING WHO MAY HAVE SPECIAL NEEDS FOR ACCESS OR SERVICES SUCH AS A SIGN LANGUAGE INTERPRETER, PLEASE CONTACT THE COMMISSION BY TELEPHONE AT 222-3790, 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING. THE COMMISSION ALSO MAY BE CONTACTED THROUGH RHODE ISLAND RELAY, A TELECOMMUNICATIONS RELAY SERVICE, AT 1-800-RI5-5555.

Posted on March 19, 2026

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: March 24, 2026

Re: Tracy Lapointe-Webber

QUESTION PRESENTED:

The Petitioner, a probation and parole officer with the Rhode Island Department of Corrections, a state employee position, requests an advisory opinion regarding whether the Code of Ethics prohibits her from establishing and operating an independent clinical therapy practice while continuing her state employment.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a probation and parole officer with the Rhode Island Department of Corrections, a state employee position, is not prohibited by the Code of Ethics from establishing and operating an independent clinical therapy practice while continuing her state employment, provided that she follows the guidelines outlined below relative to the proper management of any conflicts of interest that might arise as result of her secondary employment.

The Petitioner has been employed by the Rhode Island Department of Corrections (DOC) since 2013 as a probation and parole officer.¹ The Petitioner represents that on November 30, 2025, she was promoted to the position of Probation and Parole Officer III and that, in that capacity, she serves as a training coordinator for Rehabilitative Services under the management of the DOC Training Academy. She explains that her duties include, but are not limited to, participating in career fairs and recruitment efforts; coordinating, researching, and promoting training for staff, including creating lesson plans; organizing and facilitating new employee orientation for probation and parole officers; and processing intern and volunteer applications. The Petitioner states that she is no longer assigned a caseload, nor does she supervise anyone with a caseload of probationers and/or parolees. She identifies her work hours as 8:30 a.m. to 4:00 p.m., Monday through Friday.

¹ She explains that, since 2013, she has served in various capacities at the DOC, including holding a specialized position supervising a sex offender-specific caseload within the Parole Unit between 2018 and December 2025.

The Petitioner represents that she recently joined the DOC's Peer Support Team, which "endeavors to maintain an effective stress management program for all Department employees."² The Peer Support Team, which is comprised of volunteer personnel who are available 24 hours a day, 7 days per week on an on-call basis, provides support in several areas: departmental referrals; voluntary treatment; post-traumatic stress; education and training; and critical incident debriefing to employees and their families.³ The Petitioner explains that the Peer Support Team would ordinarily reach out to employees and/or their families affected by a major personal or work-related traumatic event such as, among other things, riots or suicide, to determine whether and what kind of support they may need. The Petitioner states that, at times, the support an individual may need is a referral to therapy. The Petitioner states that, if required, when performing her duties as a Peer Support Team member and a referral to therapy is needed, she could ask the peer support coordinator to facilitate such referral without the Petitioner's participation.

In her private capacity, the Petitioner would like to establish an independent clinical therapy practice, alongside three other independently licensed therapists. She clarifies that her clinical therapy work and that of the other therapists would not be organized as a corporation or other similar entity, but that she and the other therapists would merely share office space and operational expenses. The Petitioner plans to provide general counseling services to the public, including first responders and juveniles, and a sex offender-specific individual and/or group therapy in accordance with the National Association of Social Workers Code of Ethics. The Petitioner states that when treating sex offenders, through either individual or group therapy, she would be required to send a monthly progress report to the DOC probation and parole officer supervising the offender. The Petitioner represents that she will complete her private work outside of her normal working hours with the DOC, at nights and on weekends, and without the use of public resources. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits her from establishing and operating an independent private clinical therapy practice while continuing her employment with the DOC.

The Code of Ethics provides that 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 her duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A public employee 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 employee

² <https://doc.ri.gov/more-resources/career-opportunities> (last visited March 12, 2026).

³ Id.

shall not accept other employment which will either impair her independence of judgment as to her official duties or employment, or require or induce her to disclose confidential information acquired by her in the course of, and by reason of, her official duties or employment. § 36-14-5(b). The Code of Ethics also provides that a public employee shall not use her public office or confidential information received through her holding 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 Code of Ethics further prohibits a public employee from representing herself or any other person, or acting as an expert witness, before a state agency by which she is employed. § 36-14-5(e)(1)-(3). A person “represents” herself or another person before a state agency if she participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in her favor or in favor of another person. R.I. Gen. Laws § 36-14-2(12) & (13); 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016). These prohibitions extend for a period of one year after the public employee has officially severed her position with the subject state agency. § 36-14-5(e)(4). A business associate is defined as “a person joined together with another person to achieve a common financial objective.” § 36-14-2(3). A person is defined as “an individual or a business entity.” § 36-14-2(7). Here, under the Code of Ethics, the Petitioner will be a business associate not only of her therapy clients, but also of the other three therapists with whom she will be sharing office space and operational expenses. See A.O. 2008-43 (opining that a member of the Westerly Town Council was a business associate with a co-tenant of a commercial property with whom he shared common utilities and maintenance expenses).

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 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.

Provided that the above-cited provisions of the Code of Ethics relative to conflicts of interest, use of office and confidential information, and maintaining independence of judgment are satisfied, the Code of Ethics does not preclude a public employee from engaging in outside employment. The Ethics Commission has issued a number of advisory opinions in which it has given approval for DOC employees to accept outside employment

For example, in Advisory Opinion 2016-7, the Ethics Commission opined that a probation and parole training officer and intern/volunteer coordinator at the DOC could continue working at the Rhode Island Batterer's Intervention Program (RIBIP) as a facilitator of a twenty-week, court mandated batterer intervention program. The Ethics Commission based its decision on the fact that her public duties at the DOC did not involve the supervision of probation/parole officers or any offenders, or the referral of anyone to RIBIP classes, and that her private employment occurred on her own time and without the use of any DOC resources or equipment. See also A.O. 2020-1 (opining that a probation and parole officer at the DOC was not prohibited from working in her private capacity as an independent contractor for a private agency providing supervised visitation services between non-custodial parents and their children in Rhode Island, provided that the petitioner would not be assigned any families who had a parent currently on probation). Contra A.O. 2018-32 (opining that a DOC probation and parole officer was prohibited by the Code of Ethics from working in her private capacity as a facilitator at the Rhode Island Batterer's Intervention Program because her caseload specifically included domestic violence offenders requiring referrals to batterer intervention programs).

Here, the Petitioner represents that her DOC duties no longer include supervision of a caseload of offenders, nor do they include supervision of any DOC employee with such a caseload. However, as a volunteer member of the DOC Peer Support Team, she may at times have to recommend counseling to a peer or his or her family member. In those circumstances, should she establish and operate an independent clinical therapy practice, the Petitioner will be required to recuse from making such referrals. It is reasonably foreseeable that participating in referrals would have a direct financial impact, either positive or negative, on the Petitioner and her business associates (the three therapists she anticipates working with), given that they will all provide private counseling. Further, the Petitioner should not provide private counseling services to peers whom she actively supports as a member of the DOC Peer Support Team. See, e.g., A.O. 2020-1, supra; A.O. 2013-22 (opining that a DOC probation officer was not prohibited by the Code of Ethics from providing counseling services in his private capacity at Bridgemark Addiction Recovery Services, provided that he did not participate in any activities that involved individuals on his DOC caseload, and that all such work was performed on his own time and without the use of public resources or equipment, or confidential information obtained as part of his public employment).

Additionally, the revolving door provisions contained in § 36-14-5(e) of the Code of Ethics prohibit the Petitioner from representing herself or another person before the DOC. This would include submission by the Petitioner of monthly progress reports to the DOC probation or parole officer supervising the specific sex offender undergoing individual or group therapy with the Petitioner. See, e.g., A.O. 2024-13 (opining that a social caseworker with the Rhode Island Department of Children, Youth, and Families (DCYF) was not prohibited from accepting private employment as a clinician with The Inner You

Counseling Center where she was to provide therapeutic services to adolescents provided, among other things, that she did not appear before DCYF as a clinician for Inner You, including, but not limited to, reporting to DCYF on an Inner You client who became open to DCYF services following the start of therapy with the petitioner; acting as an expert witness on behalf of an Inner You client or Inner You; or submitting to DCYF documentation from Inner You that contained the petitioner's name, or which was identifiable as the petitioner's work product).

Based on the facts as represented by the Petitioner, there is no evidence to suggest that her anticipated private counseling work would impair her independence of judgment or create an interest that is in substantial conflict with her public duties at the DOC, provided that she complies with the restrictions described above, 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. 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 counseling work. 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 as more specific questions regarding potential conflicts of interest might arise.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. 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:

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-2(12)

§ 36-14-2(13)

§ 36-14-5(a)

§ 36-14-5(b)

§ 36-14-5(d)

§ 36-14-5(e)

§ 36-14-7(a)

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

Related Advisory Opinions:

A.O. 2024-13

A.O. 2020-1

A.O. 2018-32

A.O. 2016-7

A.O. 2013-22

A.O. 2008-43

G.C.A. 2009-4

Keywords:

Secondary Employment

DRAFT

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: March 24, 2026

Re: Christopher Duhamel

QUESTION PRESENTED:

The Petitioner, a member of the Westerly Town Council, a municipal elected position, requests an advisory opinion regarding whether the Code of Ethics prohibits him from participating in the town council's appointment, re-appointment, or retention of members of the Westerly Planning Board, given that he is privately employed by an engineering firm that represents clients before the planning board on a regular basis.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the Westerly Town Council, a municipal elected position, is prohibited by the Code of Ethics from participating in the town council's appointment, re-appointment, or retention of members of the Westerly Planning Board, given that he is privately employed by an engineering firm that represents clients before the planning board on a regular basis.

The Petitioner is a member of the Westerly Town Council, on which he has served intermittently since 2002, with his last election being in 2024. The Petitioner represents that, in his private capacity, he is employed by DiPrete Engineering (DiPrete), an engineering and surveying consultant firm that prepares and presents engineering design plans for clients for review and potential approval by the Westerly Planning Board. The Petitioner estimates that DiPrete represents clients before the planning board two, three, or more times per year, and notes that DiPrete currently has a project before the planning board. The Petitioner states that he serves in a principal position at DiPrete. The Petitioner explains that, as a principal, he is not an owner but, rather, a salaried employee. He states that as a DiPrete employee he does not partake in any DiPrete projects that are presented before the planning board, does not represent DiPrete or its clients before the planning board, and does not share in the proceeds received from a project that is being reviewed by the planning board.

The Petitioner represents that the town council appoints and re-appoints the members of the planning board and currently there is a vacancy for an auxiliary member.¹ Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics prohibits him from participating in the town council's appointment of the auxiliary planning board member, specifically, and in the appointment, re-appointment, or retention of members of the planning board, in general, given that his private employer appears before the planning board to represent clients on a regular basis.

The Code of Ethics provides that a public official 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 in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest exists if a public official or employee 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 which he 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). Also, no person subject to the Code of Ethics shall 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 and by reason of his official duties. § 36-14-5(b). Further, no person subject to the Code of Ethics shall use his public office or confidential information received through his public 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 issued advisory opinions to similarly situated petitioners in the past. For example, in Advisory Opinion 2005-18, a Westerly Town Council member sought advice from the Ethics Commission regarding what limitations the Code of Ethics placed upon her when attorneys from the law firm by which she was employed appeared before the Westerly Probate Court, given that she had recused and would continue to recuse from participating in the town council's appointment of the probate court judge. The petitioner in that advisory opinion explained that she was a salaried employee and that, although she did not receive any compensation for referring clients to the firm, she did receive an end-of-year bonus. That petitioner also noted that less than ten percent of the law firm's practice occurred before the probate court. In that advisory opinion, the Ethics Commission opined that the petitioner was prohibited from sharing in any fees generated by her law firm's representation of clients before the probate court, an entity for which the town council appointed the presiding judge, given that the petitioner's employer practiced before the probate court. Most pertinent to the instant advisory opinion request, the Ethics Commission further opined that the petitioner in Advisory Opinion 2005-18 was required to recuse from participating in town council matters relating to the selection, retention, or

¹ The Petitioner explains that the auxiliary member serves as an alternate planning board member.

performance of the probate court judge. See also A.O. 2005-9 (opining that a Middletown Town Council member who in her private capacity was an associate attorney at a law firm, the partners of which routinely represented clients before the Middletown municipal and probate courts, was prohibited from, among other things, representing clients before the town council and the town's municipal and probate courts, or any board whose members were appointed by the town council; however, such prohibitions did not extend to the other attorneys in the law firm based upon the petitioner's representations that she would not share in fees generated by the practice of those attorneys and that she would recuse from participating in the appointment process for both the municipal and probate court judges).

Here, similar to the facts presented in Advisory Opinion 2005-18, the instant Petitioner is a salaried employee of DiPrete, he is not involved in and does not participate in the presentation of DiPrete projects before the planning board, and does not receive a percentage from DiPrete's projects reviewed by the planning board. Based on the facts as represented by the Petitioner, and a review of the relevant provisions of the Code of Ethics and the prior advisory opinions issues, it is the opinion of the Ethics Commission that the Petitioner is prohibited from participating in town council discussions and decision-making relative to the appointment, re-appointment, or retention of any members of the planning board. Recusal must be filed consistent with the provisions of R.I. Gen. Laws § 36-14-6.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. 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)
- § 36-14-6
- § 36-14-7(a)

Related Advisory Opinions:

- A.O. 2005-18
- A.O. 2005-9

Keywords:

Appointing Authority

Recusal

Secondary Employment

DRAFT

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: March 24, 2026

Re: The Honorable Todd M. Patalano

QUESTION PRESENTED:

The Petitioner, a legislator serving as a member of the Rhode Island Senate, a state elected position, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from introducing and voting on legislation that would amend the pension benefits for both current and former Rhode Island State Police members, given that one of his sons is currently a Rhode Island state trooper.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a legislator serving as a member of the Rhode Island Senate, a state elected position, is not prohibited by the Code of Ethics from introducing and voting on legislation that would amend the pension benefits for both current and former Rhode Island State Police members, notwithstanding that one of his sons is currently a Rhode Island state trooper, given that the circumstances herein justify the application of the class exception as set forth in R.I. Gen. Laws § 36-14-7(b).

The Petitioner is a legislator serving as a member of the Rhode Island Senate, to which he was elected in 2025. He represents that he would like to introduce and participate in the Senate's vote on proposed legislation that, if passed, would amend pension benefits for both current and former members of the Rhode Island State Police. The Petitioner states that one of his sons is currently employed as a Rhode Island state trooper, a position that the son has held since 2024.

The Petitioner advises that he would like to introduce a bill identical to 2026 -- H 8185, which has already been introduced in the Rhode Island House of Representatives, a copy of which the Petitioner provided to the Ethics Commission for reference. The proposed amendments relate to R.I. Gen. Laws § 42-28-22, entitled "Retirement of members." The Petitioner represents that, if passed, the proposed amendments, more fully described below, would impact his son as a current member of the State Police. However, the Petitioner states that his son would be impacted by those proposed amendments to no greater extent than any other member of the State Police who will be eligible to retire after July 1, 2026.

The Petitioner notes that his son is one of approximately 256 members of the State Police who will be eligible to retire after July 1, 2026.

The Petitioner states that one of the proposed amendments that will impact his son, if passed, pertains to the definition of the term “whole salary” as applied to members who retire on or after July 1, 2026. The Petitioner explains that the proposed bill defines “whole salary” for those individuals as “the highest compensation earned by the member during any consecutive twelve (12) month period preceding retirement, including base salary, longevity increment, holiday pay, clothing allowance, and overtime pay to the extent provided in the collective bargaining agreement in place at the time of the member’s retirement.”

Additionally, subsection (l) of the bill proposes that:

On and after July 1, 2026, notwithstanding any provision to the contrary:

(2) Any member of the state police hired on or after July 1, 2007, who has served for twenty-five (25) years, may retire therefrom, or the member may be retired by the superintendent with the approval of the governor, and shall be entitled to a retirement allowance of fifty percent (50%) of whole salary as defined in subsection (b)(4) of this section. Such members may serve a maximum of thirty (30) years, and shall be allowed an additional amount equal to three percent (3.0%) for each completed year served after twenty-five (25) years, but in no event shall the original retirement allowance exceed sixty-five percent (65%) of the member’s “whole salary” as defined in subsection (b)(4) of this section.

Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether he is prohibited by the Code of Ethics from introducing such legislation and then participating in the Senate’s discussions and vote on the bill.

A person subject to the Code of Ethics may not participate in any matter in which he has an interest, financial or otherwise, which is in substantial conflict with the proper discharge of his duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest occurs if a public official 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 which he 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). Commission Regulation 520-RICR-00-

00-1.3.1 Prohibited Activities – Nepotism (36-14-5004) (Regulation 1.3.1) sets forth more specific nepotism provisions which apply to matters that involve or impact any person within a public official’s family or any person who resides in his household. A person within a public official’s family expressly includes his son. R.I. Gen. Laws § 36-14-2(1); Regulation 1.3.1(A)(2). In general, Regulation 1.3.1(B)(1) prohibits a public official from participating in any matter as part of his public duties if he “has reason to believe or expect that any person within his [] family, or any household member, is a party to or a participant in such matter, or will derive a direct monetary gain or suffer a direct monetary loss, or obtain an employment advantage, as the case may be.” Finally, § 36-14-5(d) prohibits a public official from using his position or confidential information received through his position to obtain financial gain, other than that provided by law, for himself, any person within his family, his business associate, or a business by which he is employed or which he represents.

However, R.I. Gen. Laws § 36-14-7(b) of the Code of Ethics, often referred to as the “class exception,” states that a public official will not have an interest which is in substantial conflict with the proper discharge of his official duties if any benefit or detriment accrues to the public official, any person within his family, his business associate, or any business by which he is employed or which he 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 particular circumstances justify the application of the class exception, the Ethics Commission considers the totality of those circumstances. Among the important factors to be considered are: 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.

The Ethics Commission has previously applied the class exception in a variety of circumstances involving proposed legislation at the state or municipal level. For example, in Advisory Opinion 2018-36, the Ethics Commission opined that a Rhode Island senator could participate in Senate discussions and voting relative to legislation that would provide a stipend to all retired teachers or their beneficiaries during years where no cost of living adjustments were applied to teachers’ retirement benefits, notwithstanding that the petitioner was a public school teacher who was vested in the Employees’ Retirement System of Rhode Island. In support of its application of the class exception, the Ethics Commission noted that the class of persons who would be affected by the legislation, if passed, included all teachers who were currently retired and receiving retirement benefits, plus those who would retire and receive retirement benefits following the effective date of the legislation, a class estimated to be in the tens of thousands. That particular petitioner,

who upon his retirement would have been eligible for the stipend, would have been impacted by the passage of the legislation to no greater extent than any other member of the class.

Similarly, in Advisory Opinion 2019-6, the Ethics Commission determined that the circumstances justified the application of the class exception to permit a Jamestown Town Council member to participate in the town council's consideration relative to increasing the amount of a tax benefit then available to local veterans, notwithstanding that the Petitioner's spouse was a veteran who was eligible for the existing tax benefit. The application of the class exception was based on the determination by the Ethics Commission that the Petitioner's spouse would be financially impacted by any increase in the amount of the tax benefit to no greater extent than the approximate total of 291 veterans who were eligible for the tax benefit. See also A.O. 2022-09 (applying the class exception to allow a Rhode Island senator who was receiving a military pension to participate in Senate discussions and decision-making relative to a budget article recommending the phase-out of state income taxation on military service pensions, given that the proposed budget article would affect in the same way all Rhode Island retirees receiving a military service pension, the total number of which was then 4,861); A.O. 2005-22 (applying the class exception to allow a member of Exeter Town Council to vote on a senior tax freeze ordinance for which he and his spouse would qualify, given that the ordinance applied equally to some 250-300 residents); A.O. 2003-57 (applying the class exception to allow a Rhode Island senator to participate in the Senate's consideration of legislation concerning the state pension plan of which he was a member, given that the legislation would affect all state employees and all teachers in the state to the same extent).

Here, the Petitioner's son was hired as a state trooper in 2024. The above-cited provisions of the proposed legislation, if passed, will apply to the Petitioner's son should he become eligible for retirement from the State Police in the future. However, the direct financial impact of these provisions would likely be substantially the same upon all members of the State Police, including the Petitioner's son, who become eligible for retirement after July 1, 2026, the number of whom currently totals 256. Thus, the proposed legislation, if passed, will impact the Petitioner's son to no greater extent than any other State Police member eligible to retire after July 1, 2026.

Accordingly, based on the Petitioner's representations, and the review of the relevant provisions of the Code of Ethics and past advisory opinions issued, it is the opinion of the Ethics Commission that the circumstances herein justify the application of the class exception. Therefore, the Petitioner is not prohibited by the Code of Ethics from introducing and voting on the legislation described above, notwithstanding that his son is a member of the State Police. However, in the event that any discussions occur prior to the vote on the legislation that veer into amending the bill in such a way that would impact the Petitioner's son individually, or as a member of a much smaller class or subclass of persons identified above, the Petitioner must either recuse from participation in those discussions

and/or the votes which follow, or seek additional guidance from the Ethics Commission. In the event of a recusal, the Petitioner must file a statement of conflict of interest consistent with the provisions of R.I. Gen. Laws § 36-14-6.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. 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:

§ 36-14-2(1)

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

§ 36-14-7(b)

520-RICR-00-00-1.3.1 Prohibited Activities – Nepotism (36-14-5004)

Related Advisory Opinions:

A.O. 2022-09

A.O. 2019-6

A.O. 2018-36

A.O. 2005-22

A.O. 2003-57

Keywords:

Class Exception

Legislator

Nepotism

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: March 24, 2026

Re: Scott Sunderland

QUESTION PRESENTED:

The Petitioner, who is considering accepting an appointment to an unexpired term on the Chariho School Committee and later seeking election to a full term on the school committee, who in his private capacity owns and operates S&S Landscaping, requests an advisory opinion regarding whether, if he accepts the appointment and later is elected to the school committee, he will be prohibited by the Code of Ethics from continuing to perform landscape maintenance and snow removal services for the Chariho School District, which he has done since 1999.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, who is considering accepting an appointment to an unexpired term on the Chariho School Committee and later seeking election to a full term on the school committee, who in his private capacity owns and operates S&S Landscaping, will not be prohibited by the Code of Ethics from continuing to perform landscape maintenance and snow removal for the Chariho School District, which he has done since 1999, as a replacement and/or elected school committee member for the duration of his current contract. However, upon the expiration of his current contract, the Petitioner likely will be prohibited from accepting appointment by the school committee to provide landscape maintenance and snow removal services for the school district for the duration of his service on the school committee and for a period of one year following his severance from that position.

The Petitioner owns and operates S&S Landscaping. He states that he has regularly contracted with the Chariho School District to provide landscaping and snow removal services since 1999. The Petitioner further states that the properties he services for the school district include the high school's main campus in the Town of Richmond and each of the elementary schools in the towns of Charlestown, Richmond, and Hopkinton. He represents that his current contract is for a period of three years, with an option for a two-year extension, which he is currently in. The Petitioner explains that the two-year extension period for the landscaping portion of the current contract will expire on December 2, 2026, while the snow removal portion of the same contract will expire in the Spring of 2027. The Petitioner states that the Chariho School Committee will soon have a vacancy due to the

voluntary departure of one its members from Hopkinton. He adds that the Hopkinton Town Council will be tasked with appointing a replacement for the departing member, pending the next election for school committee members in November 2026. The Petitioner represents that he is a Hopkinton resident and was asked by both the departing school committee member and a member of the town council whether he would be interested in filling the upcoming vacancy on the school committee. The Petitioner, who currently serves as a member of the Chariho Building Committee,¹ states that he would like to serve on the school committee, provided that the Code of Ethics would not prohibit him from continuing to provide the services under his current contract with the school district and from bidding in the future to provide those services.

The Petitioner represents that the school district's finance director and head of maintenance create the Request for Proposal (RFP) in connection with the search for a landscape contractor for the school district. He adds that the finance director and head of maintenance then review the bids and select a candidate to present for the school committee's approval. The Petitioner states that if he is appointed, and later elected, to the school committee, he would recuse from participation in any and all discussions and decision-making with regard to the selection of a landscape contractor for the school district for which he intends to submit a bid. It is under this set of facts that the Petitioner seeks advice from the Ethics Commission regarding whether, if he accepts appointment to the school committee, the Code of Ethics would prohibit him from continuing to perform landscape maintenance and snow removal services for the school district first, as a replacement school committee member and, later, in the event that he is elected to the school committee in November 2026.

Performance Under Current Contract

Pursuant to 520-RICR-00-00-1.5.4 Municipal Official Revolving Door (36-14-5014) (Regulation 1.5.4) of the Code of Ethics, 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 said official serves, other than employment which was held at the time of the official's election or appointment to office" For purposes of Regulation 1.5.4, "employment" includes service as an independent contractor, whether as an individual or a principal of an entity performing such service. See Regulation 1.5.4(A)(1).

¹ The Petitioner states that he was appointed to the building committee by the Hopkinton Town Council in late 2024. He adds that his term will expire upon the depletion of the bond funds for which the building committee is responsible, which he anticipates will occur in 2029.

The Ethics Commission has, in the past, allowed municipal public officials to continue to maintain service contracts with the municipalities in which they served pursuant to Regulation 1.5.4, given that the subject employment was held at the time of the official's election to office. See, e.g., A.O. 2008-72 (opining that a towing company owned by an East Providence City Council member could remain on the city's tow list because that employment was held at the time of his election to office); A.O. 2007-03 (opining that a Charlestown Town Council member could retain his part-time employment as a custodian at the Charlestown Senior Center, which he held and maintained prior to his election to the town council).

Here, the Petitioner represents that he would like to accept an appointment to the Chariho School Committee and continue to satisfy his obligation to perform landscaping and snow removal services for the school district pursuant to an existing contract, as he has done for more than 25 years consecutively. He explains that the two-year extension period for the landscaping portion of the existing contract will expire on December 2, 2026, while the snow removal portion of the same contract will expire in the Spring of 2027. Whether during the time of the Petitioner's service on the school committee as an appointed replacement for a departing member or, potentially, as an elected member after November 2026, his performance under the existing contract to provide landscaping and snow removal services to the school district is allowed pursuant to Regulation 1.5.4. Accordingly, based on the facts as represented herein, the relevant provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner is not prohibited from continuing to perform under his existing contract as a replacement and/or elected school committee member for the duration of that existing contract.

Seeking a New Contract

Regulation 1.5.4 prohibits a municipal elected official or municipal school committee member, whether elected or appointed, from seeking *new* employment with any municipal agency in the municipality in which the official serves. For example, in Advisory Opinion 2013-37, the Ethics Commission opined that a member of the New Shoreham Town Council, whose recycling business had an existing contract with the town, was prohibited from seeking or accepting any new contracts with the town for the duration of his service on the town council and for a period of one year following the official date of his severance from the town council. See also A.O. 2010-58 (opining that a member-elect of the Providence City Council could continue to provide legal representation to the Providence Water Supply Board in a pending litigation matter, but was prohibited from taking on any new representation of the water supply board or any other Providence agency for the duration of his service on the city council and for a period of one year after leaving office). Regulation 1.5.4 (C) permits the Ethics Commission to authorize exceptions where such exceptions would not create an appearance of impropriety.

Here, Regulation 1.5.4 prohibits the Petitioner from seeking a new contract within the school district while serving on the school committee and for a period of one year after leaving municipal office. Based upon the facts as represented, the Ethics Commission is unable to determine at this time whether or not to authorize an exception that would not create an appearance of impropriety.

In addition to Regulation 1.5.4's prohibitions, the Code of Ethics prohibits an elected or appointed official from accepting any appointment or election that requires approval by the body of which he is or was a member, to any position which carries with it any financial benefit or remuneration, until the expiration of one year following the termination of that person's membership in or on that body. 520-RICR-00-00-1.5.1 Employment from Own Board (36-14-5006) (Regulation 1.5.1).² Under Regulation 1.5.1, the Ethics Commission may approve an exception to the prohibitions outlined therein, provided that the Ethics Commission is satisfied that denial of such appointment or election would create a substantial hardship for the body, board, or municipality.³

The Ethics Commission has considered and applied Regulation 1.5.1 in numerous past advisory opinions. For example, in Advisory Opinion 2016-43, the Ethics Commission

² The legislative aim of the “revolving door” provisions of the Code of Ethics is to ensure that public officials and employees “adhere to the highest standard of ethical conduct, . . . avoid the appearance of impropriety and not use their position for private gain or advantage.” See R.I. Const., art. III, sec. 7. “The integrity of our government officials is quintessential to our system of representation.” In re Advisory Opinion From the Governor, 633 A.2d 664, 671 (R.I. 1993). In general, “the purpose of revolving-door provisions is to prevent ‘government employees from unfairly profiting from or otherwise trading upon the contacts, associations and special knowledge that they acquired’” during their tenure as public servants. Id. (quoting Forti v. New York State Ethics Commission, 75 N.Y.2d 596, 605, 554 N.E.2d 876, 878, 555 N.Y.S.2d 235, 237 (1990)).

³ There is no definition of “substantial hardship” in the Code of Ethics. Therefore, the Ethics Commission determines whether a substantial hardship exists on a case-by-case basis by considering the totality of the circumstances presented. The Ethics Commission has previously considered the following factors in determining whether a substantial hardship existed: whether, after publicly advertising the position, there was a complete absence of applicants or a lack of qualified candidates to fill the position; whether the position required very specific and unique skills and qualifications; whether the board member had been involved in the hiring process or in the drafting of the request for proposals; whether the position had been vacant for a substantial period of time; and whether the employment was a temporary measure or was intended to be permanent. The key issue, however, in determining whether a hardship to a government body exists is not whether the subject candidate is the most qualified candidate among all applicants but, rather, whether other qualified candidates are currently available or may become available through additional advertisement of the posting.

opined that a North Smithfield Planning Board member was prohibited from accepting employment as the town planner, given that the selection process and final decision required the approval of the planning board. See also A.O. 2010-26 (opining that an East Providence Canvassing Authority member could not be hired by the authority as the canvassing authority's administrator); A.O. 2010-24 (opining that a Coventry Housing Authority Board of Commissioners member could not accept employment from the housing authority as its maintenance director); and A.O. 2001-53 (opining that a former Tiverton Town Council member could not accept appointment as the town's fire chief prior to the expiration of one year following the date of his departure from the town council, given that appointment as fire chief required the town council's advice and consent).

Here, the Petitioner states that he would like to bid on future contracts to provide landscaping and snow removal services for the school district once his current extended contract expires. He further states that the finance director and the head of maintenance review the bids and select a candidate to present for the school committee's approval. If the Petitioner is a member of the school committee when a new RFP is posted, his submission of a bid and potential acceptance of a new contract would violate Rule 1.5.1, regardless of his willingness to recuse from participation in consideration of and voting on the matter. Even if the Ethics Commission were to authorize an exception under Regulation 1.5.4 (C) because the Petitioner's activity would not create an appearance of impropriety based on the facts as they exist at that time, absent an additional determination by the Ethics Commission that denying the Petitioner that opportunity would result in a substantial hardship to the Chariho School Committee under Regulation 1.5.1, the Petitioner would be prohibited by the Code of Ethics from seeking and accepting a new contract while on the school committee and for a period of one year following his severance from that position. Such a determination cannot be made at this time given the hypothetical nature of the question.

Accordingly, based on the facts as represented, the relevant provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that, due to the absence of facts at this time supporting the application of a hardship exception, it appears likely that if the Petitioner accepts appointment to the school committee, he will be prohibited from accepting a new contract to provide landscape and snow removal services to the school district for the duration of his service on the school committee and for the period of one year following his severance from that position.

Summary

It is the opinion of the Rhode Island Ethics Commission that the Code of Ethics does not prohibit the Petitioner from continuing to perform landscape maintenance and snow removal for the school district for the duration of his current contract, whether as a replacement or duly elected member of the school committee. However, if the Petitioner is elected to the school committee in November 2026, upon the expiration of his current

contract, he likely will be prohibited from accepting appointment by the school committee to provide landscape maintenance and snow removal services for the school district for the duration of his service on the school committee and for the period of one year following his severance from that position. The Petitioner is encouraged to seek further guidance from the Ethics Commission regarding this issue if he is elected to the school committee and wishes to pursue a new contract.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. 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:

520-RICR-00-00-1.5.1 Employment from Own Board (36-14-5006)

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

Related Advisory Opinions:

A.O. 2016-43

A.O. 2013-37

A.O. 2010-58

A.O. 2010-26

A.O. 2010-24

A.O. 2008-72

A.O. 2007-03

A.O. 2001-53

Other Related Authority:

R.I. Const., art. III, sec. 7

In re Advisory Opinion From the Governor, 633 A.2d 664 (R.I. 1993)

Keywords:

Contracts

Employment from Own Board

Revolving Door

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: March 24, 2026

Re: Frank M. Brown Jr.

QUESTION PRESENTED:

The Petitioner, a member of the Coventry Town Council, a municipal elected position, requests an advisory opinion regarding whether his daughter's employment with the Coventry Tax Collector's Office would present a conflict of interest for him under the Code of Ethics.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the employment of the Petitioner's daughter with the Coventry Tax Collector's Office would not present a conflict of interest under the Code of Ethics for the Petitioner, a member of the Coventry Town Council.

The Petitioner is a member of the Coventry Town Council, having been elected to that position in November 2024. He states that his daughter, while navigating the online job search site Indeed, became aware of a posting seeking applicants for an open clerical position in the Coventry Tax Collector's Office. The Petitioner explains that his daughter applied and interviewed for the clerical position and is currently awaiting a decision about her candidacy.

The Petitioner informs that the tax collector's office is headed by the tax collector who is hired by, and reports to, the Coventry Town Manager. The Petitioner adds that the tax collector's office employs two clerks who each report directly to the tax collector. The Petitioner states that the duties of the tax collector clerks include collecting and processing tax payments from Coventry residents, answering telephones, and performing other general office tasks. The Petitioner represents that he does not have any hiring or supervisory responsibilities relative to the tax collector or the employees of the tax collector's office, and that any issues that might arise for employees in that office would not involve his participation. The Petitioner further represents that he did not participate in any aspects of the hiring process relative to the position for which his daughter has interviewed, including the creation of the job description. Finally, the Petitioner states that the budget for the tax collector's office is not a line item in the town's budget subject to review by the town

council. It is in the context of these facts that the Petitioner seeks guidance from the Ethics Commission regarding whether, if offered the position of clerk, his daughter's employment with the Coventry Tax Collector's Office would present a conflict of interest for him under the Code of Ethics.

The Code of Ethics provides that a public official shall not have any interest, financial or otherwise, direct or indirect, or engage in any employment, transaction or professional activity which is in substantial conflict with the proper discharge of his duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest exists if the public official has reason to believe or expect that he or any person within his family, among others, will derive a direct monetary gain or suffer a direct monetary loss by reason of the public official's official activity. R.I. Gen. Laws § 36-14-7(a). Also, a public official may not use his public position to obtain financial gain, other than that provided by law, for himself or any person within his family, among others. § 36-14-5(d).

Commission Regulation 520-RICR-00-00-1.3.1 Prohibited Activities – Nepotism (36-14-5004) (Regulation 1.3.1) contains specific prohibitions aimed at curbing nepotism. Pursuant to Regulation 1.3.1's general "catch-all" provision, a public official may not participate in any matter as part of his public duties if any person within his family is a party or participant in such matter, or if his family member will be financially impacted or will obtain an employment advantage by virtue of the public official's official participation. Regulation 1.3.1(B)(1). More specifically, Regulation 1.3.1(B)(2) prohibits a public official from participating in the supervision, evaluation, appointment, classification, promotion, transfer, or discipline of any person within his family, and from delegating such tasks to a subordinate. The phrase "any person within his family" expressly includes "daughter." See Regulation 1.3.1(A)(2).

Through a long line of prior advisory opinions, the Ethics Commission has on numerous occasions reviewed and applied the Code of Ethics' nepotism provisions to the employment or potential employment of public officials' family members. The Ethics Commission has declined to adopt a blanket or absolute prohibition against one family member serving in a department, agency, or even municipality in which another family member has supervisory responsibilities. Rather, the Ethics Commission makes a determination on a case-by-case basis and has generally taken the position that a public official or employee serving in a supervisory capacity will satisfy the requirements of the Code of Ethics by recusing from participation in matters directly affecting their family member.

The facts of the instant request are similar to those found in Advisory Opinion 2023-1. There, the petitioner, who was the mayor of the City of Pawtucket, had inquired as to whether the employment of his daughter by the Pawtucket Housing Authority would present a conflict of interest for him. The petitioner's daughter, on her own initiative, had become aware of the external posting of the position, was interviewed, deemed qualified

for, and offered the position. The petitioner affirmatively stated that he did not have any supervisory responsibilities relative to the board of commissioners, the executive director, or the employees of the housing authority. Also, the housing authority was not subject to the mayor's direct control, and the appointment of the members of the board of commissioners was the only power that the mayor had over the housing authority. Further, the mayor did not participate in any aspects of the hiring process relative to the position for which his daughter was hired, including the creation of the job description. Finally, the housing authority was an autonomous body which stood fiscally independent from the city. See also A.O. 2007-7 (opining that Newport's city solicitor could, in place of the city manager, appoint seven individuals, including the city manager's son, who were candidates for employment with the Newport Police Department, provided that certain procedures were followed so that the city manager was completely removed from all personnel decisions or matters that particularly affected his son financially). Contra A.O. 2012-15 (opining that the Code of Ethics prohibited the petitioner's daughter from being hired as an intern in the Division of Infectious Disease and Epidemiology within the Department of Health given, among other things, that the petitioner was the Director of the Department of Health, his direct subordinate conducted the hiring process, the application process was competitive, and there were insufficient layers of insulation between the petitioner and his subordinate conducting the hiring process).

In the instant matter, the Petitioner's daughter, on her own initiative, became aware of the posting of the clerical position on the online job search site Indeed. She applied, was interviewed, and awaits a decision regarding her candidacy in the coming days. Additionally, the instant Petitioner affirmatively states that he does not have any hiring or supervisory responsibilities relative to the tax collector or the employees of that office, and that he would not be involved in the review of any employment concerns that arise for people working in that office. Further, the Petitioner states that he did not participate in any aspects of the hiring process relative to the position for which his daughter has applied, including the creation of the job description. Finally, the Petitioner represents that the budget for the tax collector's office is not a line item in the town's budget subject to review by the town council.

Accordingly, absent additional facts indicating a conflict of interest, it is the opinion of the Ethics Commission that the employment of the Petitioner's daughter with the Coventry Tax Collector's Office would not present a conflict of interest for the Petitioner. The Petitioner is advised, however, that if any of the facts change or any circumstances arise that may present a conflict of interest under the Code of Ethics relative to his daughter's employment, he should seek further guidance from the Ethics Commission.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person

who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. 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(d)

§ 36-14-7(a)

520-RICR-00-00-1.3.1 Prohibited Activities – Nepotism (36-14-5004)

Related Advisory Opinions:

A.O. 2023-1

A.O. 2012-15

A.O. 2007-7

Keywords:

Conflict of Interest

Nepotism

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: March 24, 2025

Re: Alexis Gorriarán

QUESTION PRESENTED:

The Petitioner, a member of the board of directors of the Providence Tourism Council, a municipal appointed position, requests an advisory opinion regarding whether he may accept an offer of employment by the board to become the council's executive director, provided that he resigns from membership on the board upon accepting the position.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the board of directors of the Providence Tourism Council, a municipal appointed position, may accept an offer of employment by the board to become the council's executive director, provided that he resigns from membership on the board upon accepting the position. This opinion is based on a finding by the Ethics Commission that the facts as represented indicate that the denial of such employment would create a substantial hardship for the Providence Tourism Council.

The Petitioner is a member of the board of directors of the Convention Authority of the City of Providence, doing business as the Providence Tourism Council (PTC or council). He informs that the PTC was established by the Rhode Island General Assembly pursuant to 1980 Rhode Island Public Laws, Chapter 84 (the Act). The Petitioner states that an amendment to the Act in 1992 provided for a maximum of 11 members on the PTC, consisting of representatives from various Providence hotels and individuals appointed by the mayor of Providence.¹ The Petitioner further states that the PTC's bylaws describe the purpose of the PTC as follows: to promote, encourage, and create tourism activities in the

¹ The Petitioner explains that the PTC is comprised of 11 members, five of which are permanent positions held by representatives of the original hotels identified in the Act and their successors. Five members are mayoral appointees, and the chair of the Providence/Warwick Convention Visitors Bureau fills an ex officio position. The non-permanent positions are for 3-year staggered terms. None of the PTC members are financially compensated for their service on the council.

City of Providence; to stimulate and increase Providence economic activity through various tourism-related initiatives; to administer the Providence regional tourism district pursuant to state law; and to coordinate tourism activities with other authorities, councils, and convention and visitors bureaus throughout the State of Rhode Island. The Petitioner has been a member of the PTC's board of directors since January 2012 and has served as its chair since September 2017. He states that through public relations, marketing, and events, the PTC works collaboratively with businesses, organizations, and individuals to build awareness of Providence as an arts and multicultural destination.

The Petitioner represents that the PTC has not had an executive director since 2010, and that the position is required by the council's bylaws. He explains that at a PTC meeting held last September, the board voted to appoint a personnel committee to advertise and screen for the position of executive director so that the personnel committee could then make a recommendation to the board about whom to offer the position.²

Ethics Commission staff spoke with the chair of the council's personnel committee regarding the advertisement of the executive director position and related issues.³ The chair informed staff that the advertising of the executive director position took place continuously between November 2025 and January 2026 and was supplemented by postings on various social media channels, job boards, and the PTC website. The chair added that notice of the advertisement for an executive director was also shared through PTC member networks and Providence's Department of Arts, Culture, and Tourism. The chair stated that the personnel committee received a total of 62 applications, only 21 of which were deemed qualified by the committee. He stated that, nonetheless, the personnel committee ultimately reviewed all the applications. The chair explained that the personnel committee intended to interview five people, but determined that only four applicants merited an interview, including the Petitioner.⁴ Notably, the chair informed commission

² The Petitioner states that the PTC currently has a staff that consists of a program manager, an administrative assistant, and a controller, all of whom work part-time and none of whom applied for the position of executive director.

³ The chair of the PTC's personnel committee submitted his own letter to the Ethics Commission requesting an advisory opinion and the application of a hardship exception that would allow the Petitioner to accept the position of executive director under the circumstances. It was explained to him, and to the council's attorney whose cover letter contained both the requests of the Petitioner and the personnel committee chair, that because the Petitioner is the individual upon whom an advisory opinion will be binding, the letter from the personnel committee chair would be regarded as supplementary information used to draft the advisory opinion for the Petitioner.

⁴ The Petitioner states in his request letter that, if appointed executive director of the PTC, it is his clear intent to resign from his position as a member of the PTC's board of directors.

staff that because the Petitioner had expressed an interest in applying for the position, the Petitioner was not a member of the personnel committee, did not draft the advertisement for the position of executive director, had no access to the advertising materials, was unaware of the identity of the other candidates, and was excluded from all email and other communications between the personnel committee and the rest of the council's board members concerning the vacancy. The chair explained that it was not until after the personnel committee had interviewed the Petitioner that a member of the personnel committee who was reviewing the council's bylaws noted the reference to the Rhode Island Code of Ethics, from which he then discovered the revolving door provisions and brought them to the attention of the board.

The personnel committee chair explained that the PTC has been without an executive director since 2010 because plans at that time were to reorganize the council in light of the City of Providence's newly formed arts, culture, and tourism office. Those plans included the elimination of the council's executive director position. The chair added that, as a consequence of the onset of the COVID-19 pandemic in 2020, the PTC experienced a hiatus for the better part of almost three years in order to ensure that finances were sound. During that time, the PTC cut back on the issuance of grants and other activities, all with the intent of becoming reasonably certain that the hospitality industry would rebound before council activities resumed at full speed. The chair represented that the hospitality industry in Providence did rebound and, ultimately, in no small part because the functioning of the PTC became too heavily reliant upon the volunteer work of its members, the PTC decided that the organization could no longer function without an executive director.

The Petitioner represents that, in recent years, the other PTC board members have asked that he increase his responsibilities and the time he devotes to them in covering the needs of the PTC in a volunteer capacity. The Petitioner describes among those responsibilities working in close partnership with a number of city and state agencies including, but not limited to, the city's Department of Arts, Culture, and Tourism, local businesses, artists, and community and hospitality leaders. He represents that there have been significantly increasing requests from the city to grow the visibility of Providence on a national scale, along with producing a number of city-wide events such as the PVD Holiday Festival, New Year's Eve Celebration, expansion of the illuminate PVD program, programming at the downtown skating center, participation in the Life at Night Task Force, hosting media journalists to the city, and managing the PTC marketing, public relations, social media, and community grant program.

The personnel committee chair informed Ethics Commission staff that, as a result of its expanding operational needs and time sensitivity of upcoming programs, the board determined that it requires an executive director to fulfill the following core functional areas and responsibilities: strategic leadership and planning; program oversight, community engagement, and grantmaking; partnerships, stakeholder engagement, and

advocacy; marketing, social media, communications, and public relations; fundraising, finance, and administration; event planning and production; team leadership and culture; and place branding, cultural heritage tourism, life at night initiatives.

The personnel committee chair stated that, given the Petitioner's increased responsibilities on a volunteer basis in the absence of an executive director and the above-mentioned event requests by the city, without the imminent appointment of a qualified PTC executive director, one or more of those events might need to be eliminated. The chair added that, perhaps most importantly, preparations for the upcoming FIFA World Cup 2026, America250 (the nation's 250th anniversary celebration), and PVDfest at the end of September, for which major announcements have already been made, can no longer be carried by the Petitioner and the other PTC board members in a volunteer capacity. The chair explained that, without an executive director, the board would have to hire multiple professional vendors in order for the PTC to be able to see through all of the announced events planned for the city this year. He added that the board has established a deadline of March 30, 2026, to determine whether hiring vendors will be necessary.

The personnel committee chair emphasized that the other three candidates interviewed for the executive director position do not possess the qualifications necessary to perform the duties associated with that position. He explained that, even if one or more of the other candidates did possess the necessary qualifications, it would have taken several months for that person to get up to speed on the execution of those duties. The chair informed that, would that have been the case, the PTC would be asking that the Petitioner be hired as executive director on a temporary basis only, in order to help acclimate a new hire. The chair clarified that only the Petitioner demonstrated the ability to assume the duties and responsibilities of executive director. The chair informed that if the PTC's board does not receive a hardship exception that will allow it to hire the Petitioner as its executive director, the board will have no choice but to start the search again. He reiterates that this would be a substantial hardship to the PTC due to the extra expenses that would be incurred to hire various vendors to perform necessary tasks that board members can no longer perform, and due to the potentially necessary cancellation of events already advertised because of insufficient staffing. It is under this set of facts that the Petitioner seeks guidance from the Ethics Commission regarding whether he may accept an offer of employment by the board to become its executive director, provided that he resigns from membership on the board.

The Code of Ethics prohibits an elected or appointed official from accepting any appointment or election that requires approval by the body of which he is or was a member, to any position which carries with it any financial benefit or remuneration, until the expiration of one year following the termination of that person's membership in or on that body. 520-RICR-00-00-1.5.1 Employment from Own Board (36-14-5006) (Regulation 1.5.1). Under Regulation 1.5.1, the Ethics Commission may approve an exception to the prohibitions outlined therein, provided that the Ethics Commission is satisfied that denial

of such appointment or election would create a substantial hardship for the body, board, or municipality.

The legislative aim of the “revolving door” provisions of the Code of Ethics is to ensure that public officials and employees “adhere to the highest standard of ethical conduct, . . . avoid the appearance of impropriety and not use their position for private gain or advantage.” See R.I. Const., art. III, sec. 7. “The integrity of our government officials is quintessential to our system of representation.” In re Advisory Opinion From the Governor, 633 A.2d 664, 671 (R.I. 1993). In general, “the purpose of revolving-door provisions is to prevent ‘government employees from unfairly profiting from or otherwise trading upon the contacts, associations and special knowledge that they acquired’” during their tenure as public servants. Id. (quoting Forti v. New York State Ethics Commission, 75 N.Y.2d 596, 605, 554 N.E.2d 876, 878, 555 N.Y.S.2d 235, 237 (1990)).

There is no definition of “substantial hardship” in the Code of Ethics. Therefore, the Ethics Commission determines whether a substantial hardship exists on a case-by-case basis considering the totality of the circumstances presented and has, in the past considered the following factors: whether, after publicly advertising the position, there was a complete absence of applicants or a lack of qualified candidates to fill the position; whether the position required very specific and unique skills and qualifications; whether the board member had been involved in the hiring process or in the drafting of the request for proposals; whether the position had been vacant for a substantial period of time; and whether the employment was a temporary measure or was intended to be permanent. The key issue, however, in determining whether a hardship to a government body exists is not whether the subject candidate is the most qualified candidate among all applicants but, rather, whether other qualified candidates are currently available or may become available through additional advertisement of the posting.

In Advisory Opinion 2023-41, the Ethics Commission opined that a member of the Tiverton Wastewater District Board of Directors was not prohibited from accepting an offer of employment by that board to become the executive director of the Tiverton Wastewater District, provided that he resigned from the board of directors upon accepting the position. There, the Ethics Commission found that the facts as represented indicated that denial of such employment would have created a substantial hardship for the Tiverton Wastewater District. Those facts included the following: (1) after the departure of the last executive director, an offer of employment was made to the sole candidate produced following the board’s outreach to the program coordinator of the Rhode Island Department of Environmental Management’s Wastewater Leadership Boot Camp who rejected the offer because of the lengthy commute it would entail, notwithstanding a proposal by the board of a hybrid work schedule; (2) the board’s advertisement of the executive director position with the Providence Journal, on Indeed.com, and on the district’s website produced 15 applicants, only one of whom met the minimum requirements for the interview but, following that interview, the three interviewers unanimously concluded that

the candidate was unqualified for the role of executive director; (3) the board's efforts to fill the executive director position with the assistance of the League of Cities and Towns and three local and regional clean water groups produced not a single applicant; (4) the executive director position had been vacant for three months which, in consideration of a looming deadline for the completion of a major project within the wastewater district, was substantial; and (5) following a three-month search, the petitioner was the only qualified candidate for the executive director position and, by necessity, had become uniquely familiar with the responsibilities of the executive director, having stepped in on a number of occasions to exercise those responsibilities.

Also, in Advisory Opinion 2014-18, the Ethics Commission opined that a member of the Rhode Island Fire Safety Code Board of Appeal and Review (Fire Safety Code Board) was not prohibited by the Code of Ethics from accepting an appointment to serve as the executive director of the Fire Safety Code Board, based upon a finding of substantial hardship to the Fire Safety Code Board, because: (1) the petitioner was the only qualified candidate; (2) the Fire Safety Code Board had a three-person staff, the executive director position had been vacant for six months, and the deputy director position would have been vacant by the end of the month; (3) the petitioner was uniquely familiar with the responsibilities of the executive director which would ensure the continued functioning of the Fire Safety Code Board, given the timing of the vacancies; (4) the petitioner had no involvement in the hiring process, which was conducted through an open and public process; (5) the petitioner would resign from his position on the Fire Safety Code Board; (6) the Fire Safety Code Board was required to hire someone who met the qualifications set forth in the job specification for the classified position of executive director; and (7) the Fire Code was a particularly complex and voluminous set of statutes, rules and regulations that since 2003 had been expanded to apply to both new construction and pre-existing structures.

By way of a third example, in Advisory Opinion 2012-31, the Ethics Commission opined that a South Kingstown Historic District Commission (HDC) member could be hired by the Town of South Kingstown to create a guide-book for homeowners in the town's historic districts, based upon a finding of substantial hardship to the town and the HDC, because: (1) the town had publicly advertised the position through its normal public bid procedures, in addition to specifically contacting five local qualified historic preservation planners identified by the Rhode Island Historical Preservation and Heritage Commission; (2) the petitioner was the only applicant; (3) only a small number of firms and individuals in the region possessed the qualifications required to complete this project; (4) the contract was limited to a six-month duration; and (5) the project was funded by grant money, which was only available until August 2013, leaving no time to re-issue the request for proposals.

There have also been occasions where the Ethics Commission determined that circumstances were such that a hardship was not justified. For example, in Advisory Opinion 2016-43, the Ethics Commission opined that a member of the North Smithfield

Planning Board was prohibited from accepting, if offered, employment as the town planner while he sat on the planning board, and for one year thereafter. There, the petitioner presented no evidence that the town would suffer a substantial hardship if unable to hire the petitioner for the position of town planner. See also A.O. 2010-24 (opining that a member of the Coventry Housing Authority Board of Commissioners was prohibited from accepting employment from the housing authority as its maintenance director while serving on the board and for one year thereafter).

The facts as represented by the instant Petitioner and the personnel committee's chair clearly implicate the provisions of Regulation 1.5.1. At issue is whether prohibiting the Petitioner from accepting the position of the PTC's executive director following his resignation from membership on the PTC's board would result in a substantial hardship to the council. The extensive advertising of the executive director position that took place continuously between November 2025 and January 2026 produced 62 applications, only 21 of which were deemed qualified. That notwithstanding, the personnel committee ultimately reviewed all the applications. The chair explained that because the committee was unable to come up with five people to interview, as was their original intent, the committee ultimately selected four people to interview, one of whom was the Petitioner. Notably, the Petitioner was not a member of the personnel committee, did not draft the advertisement, had no access to the advertising materials, was unaware of the identity of the other candidates, and was excluded from all email and other communications between the committee and the council concerning the vacancy.

That the PTC has been without an executive director since 2010 for reasons ranging from plans at the time for the reorganization of the council to the onset of the COVID-19 pandemic does nothing to diminish the PTC's immediate need to appoint an executive director to manage and move forward numerous and significant events and programs currently underway. The facts as represented demonstrate that without the imminent appointment of a qualified PTC executive director, one or more of the events identified herein might be eliminated. Further, preparations for the upcoming FIFA World Cup, America250, and PVDFest, for which major announcements have already been made, can no longer be carried by the Petitioner and the other PTC board members in a volunteer capacity, given the time commitments attached to these events. Also, the representations of the Petitioner and personnel committee chair indicate that if the PTC does not receive a hardship exception that will allow the council to hire the Petitioner as executive director, the PTC will have no choice but to start the search again at great expense to the city if, in the meantime, it is forced to hire numerous professionals in the private sector in order to avoid canceling programs and events which have already been advertised. Based on the facts as represented, the applicable provisions of the Code of Ethics, and prior advisory opinions issued, the Ethics Commission is satisfied that the inability of the PTC board to select the Petitioner as its next executive director would result in a substantial hardship to the council. Accordingly, it is the opinion of the Ethics Commission that the Petitioner may

accept an offer of employment by the PTC to become its executive director, provided that he resigns from membership on the board upon accepting the position.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. 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:

520-RICR-00-00-1.5.1 Employment from Own Board (36-14-5006)

Constitutional Authority

R.I. Const., art III, sec. 7

Other Related Authority:

In re Advisory Opinion From the Governor, 633 A.2d 664 (R.I. 1993)

Related Advisory Opinions:

A.O. 2023-41

A.O. 2016-43

A.O. 2014-18

A.O. 2012-31

A.O. 2010-24

Keywords:

Employment from Own Board

Hardship Exception

Revolving Door

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: March 24, 2026

Re: Shannah Kurland, Esq.

QUESTION PRESENTED:

The Petitioner, a new board member of the Providence External Review Authority (PERA), a municipal appointed position, who in her private capacity is a licensed attorney who regularly represents clients in civil cases alleging misconduct against the Providence Police Department and its officers, requests an advisory opinion regarding whether she is prohibited by the Code of Ethics from serving on PERA, given her private employment.

RESPONSE FOR OPTION A:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a new board member of the Providence External Review Authority (PERA), a municipal appointed position, who in her private capacity is a licensed attorney who regularly represents clients in civil cases alleging misconduct against the Providence Police Department and its officers, is not prohibited by the Code of Ethics from serving on PERA, notwithstanding her private employment.

RESPONSE FOR OPTION B:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a new board member of the Providence External Review Authority (PERA), a municipal appointed position, who in her private capacity is a licensed attorney who regularly represents clients in civil cases alleging misconduct against the Providence Police Department and its officers, is prohibited by the Code of Ethics from serving on PERA, given her private employment, because the nexus between the Petitioner's public duties and her private employment is too close. Additionally, the Petitioner's private work as an attorney who brings civil actions on behalf of clients alleging misconduct by the Providence Police Department and its officers is an area over which PERA has decision-making jurisdiction. The totality of the facts as represented indicate that the Petitioner's private work would impair her independence of judgment with regard to her public duties.

The Petitioner represents that in December 2025, she was appointed by the Providence City Council to serve as a board member of the Providence External Review Authority (PERA),

a municipal agency that “serves as a civilian oversight body that investigates allegations of police misconduct.”¹ The Petitioner states that PERA’s board is composed of nine members, one of whom is appointed by the mayor, and eight of whom are elected by a majority of the members of the city council.² The Petitioner explains that PERA creates and implements community outreach programs; examines police policies and practices and issues recommendations for changes to either or both to the Providence Police Chief, be it upon its own initiative or upon request of the mayor, the city council, or PERA’s executive director. She informs that PERA also reviews allegations of misconduct on the part of Providence police officers by investigating, conducting hearings, and making findings of fact which could lead to PERA’s recommendation to the Providence Police Chief regarding appropriate disciplinary action to be taken against officers who are the subject of a sustained complaint. The Petitioner states that complaints alleging police misconduct can be filed with PERA by any person including, but not limited to, an alleged victim, a witness, or the parent or legal guardian or immediate family member of an alleged victim with personal knowledge of the incident. She further states that PERA may also initiate its own investigation of an alleged incident. The Petitioner informs that PERA’s review of a complaint alleging police misconduct could result in dismissing the complaint, forwarding the matter to mediation or the police department’s Director of Internal Investigations and Inspections, placing the complaint on hold pending the outcome of the police department’s internal investigation, or transmitting the complaint to PERA staff for a full investigation.³ The Petitioner states that evidentiary hearings are conducted by a three-member panel of PERA members randomly selected by PERA. The Petitioner explains that Providence is currently the only municipality in Rhode Island that has an external review authority.

The Petitioner represents that in her private capacity she works as a civil rights litigator in an “of counsel” capacity to a Rhode Island firm, the focus of which is employment law. She adds that the firm also represents plaintiffs in civil cases alleging police misconduct, and that those cases constitute approximately ten to fifteen percent of the firm’s total cases. The Petitioner explains that approximately 70% of her time is spent representing plaintiffs in police misconduct cases and that most of those cases have named the Providence Police Department and certain of its officers as defendants. She further explains that of the eight currently open police misconduct cases pending at her firm, all name the Providence Police Department and/or its officers as defendants. The Petitioner states that she is lead counsel

¹ <https://www.providenceri.gov/pera/> (last visited on February 5, 2026).

² She adds that PERA members are reimbursed for reasonable expenses incurred during the performance of their duties but are not compensated for the services they perform.

³ The Petitioner further informs that PERA has full subpoena power.

on five of those cases and is assisting another attorney at the firm with a sixth case.⁴ The Petitioner represents that none of the eight open cases at her firm naming the Providence Police Department and/or certain of its officers as defendants are the subject of a complaint before PERA. The Petitioner also does not expect any of the plaintiffs in those cases to supplement their civil complaint by filing a complaint with PERA, be it due to the expiration of the one-year statute of limitations for doing so or that, in the Petitioner's opinion, filing a complaint with PERA after initiating a civil action in court would be superfluous. The Petitioner states that, notwithstanding her new position with PERA, she and her firm will continue to represent clients in civil actions alleging misconduct against the Providence Police Department and its officers.⁵

The Petitioner states that in the event that the Code of Ethics does not prevent her simultaneous service on PERA's board and her private work as an attorney representing clients alleging police misconduct by the Providence Police Department and/or its officers, she will represent those clients outside of her normal municipal service hours for PERA without the use of public resources, avoid appearing before PERA as part of her representation of clients suing the Providence Police Department and its officers, and not use her public position as a member of PERA's board to solicit clients for herself or her business associates. She further states that she is prepared to do the following: (1) not accept new clients who have an open case with PERA or who had an open case with PERA during her tenure on PERA's board; (2) counsel new clients against duplicating their civil litigation efforts by filing a complaint with PERA; (3) recuse from participation in all PERA matters in which an attorney from her firm appears; (4) recuse from all PERA matters involving an officer who is a party or witness in a pending civil case that she or an attorney from her firm filed or is otherwise involved in; (5) recuse from all PERA matters involving a person who is a witness in a pending civil case that she or an attorney from her firm filed or is otherwise involved in; and (6) refrain from disclosing confidential information acquired during the course of her service as a PERA board member to her clients, colleagues, or others. It is under this set of facts that the Petitioner seeks advice from the Ethics Commission regarding whether she is prohibited by the Code of Ethics from serving on PERA, give her private employment.

⁴ The other two open cases against the Providence Police Department and/or its officers are being handled by another attorney at the firm.

⁵ There were 449 Providence police officers in 2024. <https://ppd.providenceri.gov/wp-content/uploads/2025/07/EYR-2024-FINAL.pdf> (last visited on February 18, 2026).

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 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). Additionally, the Code of Ethics provides that a public official 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 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). Section 36-14-5(d) prohibits a person subject to the Code of Ethics from using her public office, or confidential information received through her holding 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. A “business associate” is defined as a “person joined together with another person to achieve a common financial objective.” § 36-14-2(3). A “person” is defined as an “individual or a business entity.” § 36-14-2(7). Further, § 36-14-5(c) prohibits the use of and/or disclosure of confidential information acquired by a public official during the course of or by reason of her official duties, particularly for the purpose of obtaining financial gain.

The Code of Ethics also prohibits a public official from representing herself or any other person, or acting as an expert witness, before a municipal agency of which she is a member. § 36-14-5(e)(1)-(3). A person “represents” herself or another person before a municipal agency if she participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in her favor or in favor of another person. § 36-14-2(12) & (13); 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016). These prohibitions extend for a period of one year after the public official has officially severed her position with the subject municipal agency. § 36-14-5(e)(4). Finally, a public official must recuse from participation in any matter in which her business associate or employer, or another person authorized by her business associate or employer to act on their behalf, appears or presents evidence or arguments before her municipal agency. 520-RICR-00-00-1.2.1(A)(2) Additional Circumstances Warranting Recusal (36-14-5002).⁶

⁶ The Ethics Commission has consistently recognized an attorney-client relationship as a business association for purposes of the Code of Ethics. See, e.g., A.O. 2010-47 (opining that the Middletown solicitor was prohibited from participating in consideration by the zoning board and planning board of a petition for a special use permit, given that one of the petitioner’s private law clients had been retained to provide information and testimony in support of the permit application).

The Ethics Commission consistently has opined that persons subject to the Code of Ethics are not inherently prohibited from holding private employment that is secondary to their public positions, provided that the 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 private employment. These factors include, but are not limited to, the nexus between the official's public duties and desired private employment; whether the person completes such other work outside of her normal public service hours and without the use of public resources; whether the person is required to appear before her own agency as part of her private employment; whether such other work is to be conducted outside of the areas over which the person has decision-making jurisdiction in her public capacity; and whether the person uses her public position to solicit business or customers for her private position. See General Commission Advisory No. 2009-4.

The Ethics Commission regularly has allowed public officials and employees to engage in secondary private employment that was outside of their official public jurisdiction. For example, in Advisory Opinion 2006-17, the Ethics Commission opined that a lieutenant with the East Providence Police Department could apply for a private investigator's license and operate said business in the City of East Providence. However, the following conditions were imposed: (1) the petitioner could have no involvement with matters subject to the East Providence Police Department's official jurisdiction; (2) he could not disclose any confidential information that he obtained in the course of his employment with the police department; (3) he could only perform such work on his own time and without the use of public resources, including law enforcement databases; (4) he could not use his position as a police officer to obtain clients or private work; and (5) he could not accept any cases or perform any work within the City of East Providence for as long as he was employed by that city's police department. See also A.O. 2001-46 (opining that an active member of the Bristol Police Department was not prevented from assisting a private investigator in reviewing a criminal case under the jurisdiction of the Massachusetts District Attorney's Office, subject to the following conditions: (1) the petitioner could have no involvement with matters subject to the Bristol Police Department's official jurisdiction; (2) the petitioner could not disclose any confidential information he obtained in the course of his employment with the Bristol Police Department; and (3) the petitioner was required to perform such work on his own time and without the use of public resources.

Additionally, in Advisory Opinion 2016-16, the petitioner, an environmental health food specialist for the Rhode Island Department of Health, was not prohibited from working on her own time and in her private capacity as a food safety consultant for food establishments in Connecticut and/or Massachusetts. There, the Ethics Commission determined that, because the petitioner's public employment was limited to regions within Rhode Island and her private consulting work would occur outside of the state, it was unlikely that she would be performing consulting services in her private capacity where she performed

inspections in her public capacity. As a result, the facts as represented by the petitioner did not indicate that her private employment would be in substantial conflict with her duties in the public interest or impair her independence of judgment as to her public duties. See also A.O. 2025-45 (opining that an environmental policy analyst with the Rhode Island Department of Environmental Management, who in that capacity also served as the chairperson of the Seafood Marketing Collaborative, could start a private business to offer and provide marketing and business development services to seafood businesses outside of Rhode Island because, among other things, there was no evidence to suggest that her proposed private endeavor would impair her independence of judgment or create an interest that was in substantial conflict with her public duties at RIDEM and/or the collaborative); A.O. 2009-93 (opining that investigative employees of the Division of Professional Regulation within the Rhode Island Department of Training could accept or maintain private employment in the professional fields for which they had investigative, licensing, and enforcement responsibilities provided that, among other things, they did not perform such work within the State of Rhode Island).

Here, the Petitioner states that she is prepared to do the following: (1) not accept new clients who have an open case with PERA or who had an open case with PERA during her tenure on PERA's board; (2) counsel new clients against duplicating their civil litigation efforts by filing a complaint with PERA; (3) recuse from participation in all PERA matters in which an attorney from her firm appears; (4) recuse from all PERA matters involving an officer who is a defendant or witness in a pending civil case that she or an attorney from her firm filed or is otherwise involved in; (5) recuse from all PERA matters involving a person who is a witness in a civil case that she or an attorney from her firm filed or is otherwise involved in; and (6) refrain from disclosing confidential information that she acquired during the course of her service as a PERA board member to her clients, colleagues, other others. In addition to these enumerated actions, the Petitioner states that she will represent her legal clients outside of her normal municipal service hours for PERA, without the use of public resources, avoid appearing before PERA as part of her representation of clients suing the Providence Police Department and its officers, and not use her public position as a member of PERA's board to solicit clients for herself or her business associates.

Notwithstanding the Petitioner's ability and willingness to recuse from a myriad of situations in which a conflict of interest exists, the issue here can be reduced to whether the Petitioner's private employment as an attorney who regularly files civil cases on behalf of clients alleging misconduct by the Providence Police Department and its officers will impair her independence of judgment with respect to her public duties as a PERA board member which adjudicates and regulates the conduct of the same department and its officers. Those duties include determining whether to accept and sustain complaints alleging misconduct against the Providence Police Department and its officers and, in cases where a complaint is sustained, making recommendations to the police chief and administration regarding the discipline of the offending officer. PERA board members also

participate in amending and/or creating police department policies and procedures as part of their duties.⁷ In the instant matter, the two most relevant factors examined by the Ethics Commission are the nexus between the Petitioner's public duties and her private employment and whether her work as a private attorney is conducted outside of the area over which the Petitioner has decision-making jurisdiction in her public capacity as a PERA board member.

Option A

In consideration of the facts as represented, and consistent with the applicable provisions of the Code of Ethics, prior advisory opinions issued, and the analysis herein, it is the opinion of the Ethics Commission that the nexus between the Petitioner's public duties and private employment can be sufficiently mitigated by the Petitioner's recusal from the matters enumerated herein. All instances of recusal should be made consistent with the provisions of R.I. Gen. Laws § 36-14-6.

PERA does not exercise jurisdiction over the Petitioner's practice of law but, rather, over a particular area of law in which the Petitioner concentrates her practice. Because the Petitioner does not currently, and as a PERA board member may not, appear before PERA, her clients will not be subjecting themselves to PERA's jurisdiction. This expands the nexus between the Petitioner's public duties and her private employment because the Petitioner will not be exercising jurisdiction over her private clients in her public capacity. The Petitioner must complete all work for her private clients outside of her regular service hours for PERA, without the use of public resources, and may not use her public position to solicit business or clients for her or her firm. Finally, the Petitioner may not disclose confidential information acquired by her during the course of her PERA service.

Finally, this advisory opinion cannot anticipate every situation in which a conflict of interest might arise and, thus, provides only general guidance as to the application of the Code of Ethics based on the facts represented herein. The Petitioner is advised to remain vigilant about identifying potential conflicts of interest and to either recuse or seek further guidance from the Ethics Commission in the future as warranted.

⁷Notwithstanding that the Providence Police Chief is the ultimate decision maker regarding whether to adopt the PERA board's recommendations for discipline following a sustained complaint, or whether to change police policies and procedures, PERA's board has been designated by the mayor and the city council to make such recommendations. Therefore, the Petitioner's participation would amount to action taken as part of her official duties for PERA. See, e.g., A.O. 2021-14 (opining that the Middletown town solicitor was prohibited from participating in town council discussions regarding the proposed revision of an ordinance relating to short-term residential leases, given that the petitioner and his spouse owned property regulated by the ordinance, because providing advice to the town council constituted "official activity" as that term is used in the Code of Ethics).

Option B

In consideration of the facts as represented, and consistent with the applicable provisions of the Code of Ethics, prior advisory opinions issued, and the analysis herein, it is the opinion of the Ethics Commission that the nexus between the Petitioner's public duties and private employment is too close to be sufficiently mitigated by the Petitioner's recusal from the PERA matters enumerated herein. The Petitioner's multiple required recusals from performing essential duties in both her public and private positions serve only to highlight the inherent conflicts of interest embedded in serving in both capacities.

If, for example, the Petitioner were to file a civil action on behalf of a client alleging misconduct by a Providence police officer who previously appeared as the subject of a complaint before the Petitioner as a PERA board member, the Petitioner would be privy to confidential information acquired about that officer during PERA's executive session that she would not be able to extricate from her mind. Also, in addition to deciding matters alleging misconduct by the Providence Police Department and its officers, the PERA board participates in the creation and/or modification of police policies and procedures to which those officers will be subject, including those involving officer discipline. The alleged violation of department policies and procedures that the Petitioner helps create or modify will likely form the basis of complaints filed on behalf of her future private clients.

Although PERA does not exercise jurisdiction over the Petitioner's practice of law, it does exercise jurisdiction over the particular area of law in which the Petitioner concentrates her practice. Although the Petitioner's clients will not be subjecting themselves to PERA's jurisdiction, the police officers in the current and future private cases litigated by the Petitioner and her firm are, and will remain, subject to PERA's jurisdiction, nonetheless. That the Petitioner's clients do not subject themselves to PERA's jurisdiction does not sufficiently expand the nexus between the Petitioner's public duties and her private employment because the alleged misconduct of Providence police officers is the very subject matter of both the majority of cases brought by the Petitioner in her private capacity and those within PERA's official jurisdiction.

The totality of the facts as represented indicate that the Petitioner's private work would impair her independence of judgment with regard to her public duties. Accordingly, the Petitioner is prohibited by the Code of Ethics from simultaneously serving as a PERA board member and working as an attorney who regularly represents clients in civil actions alleging misconduct against the Providence Police Department and its officers. Notably, the Petitioner's representation of plaintiffs in civil actions alleging misconduct against police departments and their officers in municipalities other than Providence while she serves on PERA's board would not violate the provision of the Code of Ethics cited herein.

This Draft Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the

Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. 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:

§ 36-14-2(3)

§ 36-14-2(7)

§ 36-14-2(12)

§ 36-14-2(13)

§ 36-14-5(a)

§ 36-14-5(b)

§ 36-14-5(c)

§ 36-14-5(d)

§ 36-14-5(e)

§ 36-14-6

§ 36-14-7(a)

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

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

Related Advisory Opinions:

A.O. 2025-45

A.O. 2021-14

A.O. 2016-16

A.O. 2010-47

A.O. 2006-17

A.O. 2001-46

A.O. 2009-93

G.C.A. 2009-4

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