

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2026-2

Approved: 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 Advisory 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