

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2026-3

Approved: 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 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:

§ 36-14-2(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