



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, April 14, 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/89350143720</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

6th Meeting

1. Call to Order.
2. Motion to approve minutes of Open Session held on March 17, 2026.
3. Motion to approve minutes of Open Session held on March 24, 2026.
4. Motion to approve minutes of Open Session held on April 8, 2026.
5. 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;
6. Advisory Opinions:
 - a.) Patrice Milos, Ph.D. requests an advisory opinion regarding whether, given her resignation as a member of the board of directors of the Rhode Island Life Science Hub, she may accept and serve in the position of advisor to the Life Science Hub's interim president/CEO until a permanent president/CEO can be selected and confirmed by the Rhode Island Senate. [Senior Staff Attorney D'Arezzo]

- b.) Major Joel Thomas, Operations Bureau Commander with the Warwick Police Department, who in his private capacity has developed a computer software program, requests an advisory opinion regarding what restrictions, if any, the Code of Ethics places upon his ability to contract with public or private entities in and outside Rhode Island for the use of his software program. [Staff Attorney Papa]
 - c.) Lucien Benoit, a member of the North Smithfield Planning Board, requests an advisory opinion regarding whether he is permitted by the Code of Ethics to attend and speak at public hearings before the planning board regarding the proposed subdivision and development of property that directly abuts his personal residence. [Staff Attorney Papa]
 - d.) 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]
 - e.) Georges Nehme, a principal civil engineer with the Rhode Island Department of Transportation, who in his private capacity is a licensed professional engineer, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from assisting, in his private capacity, ready-mixed concrete plants in Rhode Island with achieving National Ready Mixed Concrete Association certification. [Staff Attorney Radiches]
7. Motion to go into Executive Session, to wit:
- a.) Motion to approve minutes of Executive Session held on March 24, 2026, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) & (4).
 - b.) Motion to return to Open Session.
8. Motion to seal minutes of Executive Session held on April 14, 2026.
9. Report on actions taken in Executive Session.
10. New Business proposed for future Commission agendas and general comments from the Commission.
11. 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 April 9, 2026

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: April 14, 2026

Re: Patrice Milos, Ph.D.

QUESTION PRESENTED:

The Petitioner requests an advisory opinion regarding whether, given her resignation as a member of the board of directors of the Rhode Island Life Science Hub, a state appointed position, she may accept and serve in the position of advisor to the Life Science Hub's interim president/CEO until a permanent president/CEO can be selected and confirmed by the Rhode Island Senate.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a former member of the board of directors of the Rhode Island Life Science Hub, a state appointed position, may accept and serve in the position of advisor to the Life Science Hub's interim president/CEO until a permanent president can be selected and confirmed by the Rhode Island Senate, based upon the Ethics Commission's finding that, under the circumstances presented, disallowing the Petitioner's employment in the position would create a substantial hardship for the Life Science Hub.

In January 2024, the Petitioner was first appointed to the board of directors of the Rhode Island Life Science Hub (RILSH), a quasi-public state agency created through the 2023 passage of enabling legislation in the Rhode Island General Assembly known as the "Rhode Island Life Science Hub Act." See R.I. Gen. Laws § 23-99-1 *et seq.* (the Act). Pursuant to the Act, the RILSH was established to be the central and coordinating organization of life science initiatives on behalf of the state, and shall:

- (1) Facilitate the development of medical advances and scientific breakthroughs with companies that specialize in the fields of: medical devices, biomedical technology, medical therapeutic therapies, biogenetics, biomedical engineering, biopharmaceuticals, genomics, and life sciences; and
- (2) Through targeted investment of grants, tax credits, and incentives, fund and incubate Rhode Island-based life science companies that will promote

economic and workforce development within the state and that shall allow the state to successfully compete in the national and international life science industries.

R.I. Gen. Laws § 23-99-2. The RILSH is governed by a fifteen-member board of directors, seven of whom must possess specifically enumerated qualifications and are appointed by the governor, and eight of whom must hold enumerated leadership positions with Rhode Island government agencies, higher education institutions, and healthcare providers. R.I. Gen. Laws § 23-99-4(b). Board members are not compensated and serve a four-year term. §§ 23-99-4(d) and (f). Among the powers of the board of directors is the authority to hire, subject to the advice and consent of the Rhode Island Senate, a president who will serve as the RILSH's full-time chief executive officer (CEO), and to hire other employees. § 23-99-4(k). The Petitioner's appointment to the board of directors satisfied the Act's requirement that one director be a "member of a life science trade association." § 23-99-4(b).

In June 2024, the Petitioner requested and received an advisory opinion from the Ethics Commission, Advisory Opinion 2024-23, that permitted her to accept the paid role of the RILSH's interim president while the RILSH undertook a national search for a permanent president/CEO. Consistent with the parameters of that advisory opinion, the Petitioner resigned from the board and served as interim president until January 2025, at which time the newly hired president/CEO was confirmed by the Rhode Island Senate. The governor reappointed the Petitioner to the board in January 2025.

The Petitioner now advises that the president/CEO unexpectedly tendered his resignation on February 25, 2026, after completing the first year of an initial three-year employment agreement, leaving the RILSH in immediate need of seasoned leadership. The Petitioner informs that on March 9, 2026, the board voted to form a new executive search committee to seek a permanent president/CEO, with the intent of finding a satisfactory candidate in time for Senate approval in 2026. The board also approved the vice president's service as interim president to oversee the organization's daily operations during this time. Given the RILSH's present level of activity and current staff of two employees, the Petitioner states that the board decided to hire an experienced advisor to the interim president to assist with execution on planned strategic objectives outlined in the Act and to complete the grant review process and the Ocean State Lab Tenant evaluations, which require deep industry and business background.¹

¹ The Petitioner informs that the RILSH has awarded approximately \$20 million to 48 grant recipients, who must have their submissions evaluated against technical milestones to determine whether they are in compliance with the terms and conditions of their grants and whether they are entitled to receive the next grant payment, if applicable. Additionally, applicants for tenancy at the Ocean State Lab, wet and dry lab spaces built pursuant to a RILSH-issued RFP, undergo a technical evaluation process involving RILSH leadership.

Although she is unable to accept a full-time role at this time, the Petitioner represents that she can use her more than 30 years of management, scientific, and industry knowledge to assist the interim president run the RILSH until a permanent president/CEO can be hired and confirmed. The Petitioner advises that she possesses extensive experience in the life science field, having served as the chair of a life science trade association and as CEO of multiple biotech entities. She notes a long history of involvement in the life science ecosystem in the northeast region and states that she was the author of the 2019 RI BioHub report, which laid the foundation for the future of the RILSH. Since joining the RILSH board, the Petitioner states that she has served in roles such as corporate secretary, Summit Panel moderator, Investment Review Committee member, Lab RFP Review Committee member, interim president, and Scientific Advisory Board member.

The Petitioner affirms that she has the requisite experience and knowledge to fill the role of advisor to the interim president, as requested by the board, and has informed the board that she will not seek or accept the permanent president/CEO position. The Petitioner indicates that she does not wish to serve as a paid advisor after the permanent president/CEO has been hired and confirmed. The Petitioner informs that on March 9, 2026, the board approved an advisor contract with terms to be determined between the RILSH interim chair and the Petitioner, subject to the Petitioner receiving a favorable advisory opinion from the Ethics Commission.² If the Ethics Commission does not approve of the Petitioner's service as advisor, the contract will be revoked. The Petitioner notes that she has agreed to forego receipt of employee benefits. Since the RILSH desired that the Petitioner begin her interim role as soon as possible, and in order to mitigate impacts during the leadership transition period, the Petitioner resigned from the board on March 17, 2026, and commenced serving as an unpaid advisor.

The Ethics Commission received the instant request for an advisory opinion on March 19, 2026. Therein, the Petitioner seeks an opinion from the Ethics Commission that her acceptance of and service in the paid position of advisor to the RILSH's interim president would not contravene the Code of Ethics under the circumstances presented. In conjunction with the Petitioner's request, the Ethics Commission also received correspondence from the RILSH's interim chair, Rhode Island Secretary of Commerce Stefan Pryor, requesting a finding by the Ethics Commission that, based upon the circumstances presented, the inability of the Petitioner to serve as an advisor to the interim president would constitute a substantial hardship to the RILSH. Secretary Pryor represents that, due to the technical and industry specific nature of the RILSH's current workload and statutory obligations under its enabling act, the interim president needs the support of a veteran life science leader with deep scientific, industry, and management experience.

² The RILSH's legal counsel represented that the Petitioner did not participate in the board's decision-making relative to her hiring as an advisor.

The Code of Ethics prohibits an elected or appointed official from accepting any appointment or election that requires approval by the body of which she 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. The Ethics Commission has previously considered the following factors in making this determination: whether and to what extent the position being filled was adequately publicized or advertised; whether the position requires very specific and unique skills and qualifications; whether there are any other qualified candidates available to fill the position; whether the position has been vacant for a substantial period of time; whether the employment is a temporary measure or intended to be permanent; and whether and to what extent the public official being offered the employment has participated in the hiring process or decision-making.

The Petitioner's service as a paid advisor to the RILSH's interim president/CEO clearly implicates the provisions of Regulation 1.5.1. While serving as a state appointed official on the RILSH's board of directors, and in the one-year period following her severance from that position, the Petitioner is prohibited by the terms of Regulation 1.5.1 from accepting the board's offer of employment as a paid advisor to the interim president/CEO unless the Ethics Commission gives its approval pursuant to a finding that enforcement of Regulation 1.5.1 would result in a substantial hardship to the RILSH.

In Advisory Opinion 2026-6, the Ethics Commission opined that a substantial hardship existed to permit a member of the Providence Tourism Council's (PTC) Board of Directors to be hired as the PTC's executive director, provided that he resigned from the board upon

accepting the position. Factors considered by the Ethics Commission in making that determination included that: 1) the PTC had been without an executive director since 2010; 2) during the vacancy, the petitioner had assumed increased responsibilities on a volunteer basis; 3) after extensive advertising, the PTC's personnel committee determined that only four applicants merited interviews; 4) the petitioner was the only applicant interviewed who possessed the requisite qualifications to perform the duties of the position; 5) significant scheduled events and programs might be eliminated without imminent appointment of a qualified executive director; and 6) the petitioner did not participate in the hiring process. See also A.O. 2014-18 (opining that a member of Rhode Island Fire Safety Code Board of Appeal and Review could be hired as its executive director, based on finding of substantial hardship, because the position had been vacant for six months and required unique skills and qualifications, public advertisement had produced no other qualified candidates, and the petitioner was not involved in the hiring process); A.O. 95-118 (opining that a member of the Rhode Island Commission on Women could temporarily serve as the commission's interim executive director, based upon the following representations: 1) the petitioner was uniquely familiar with the work of the commission and its office procedures; 2) the commission had been without a full-time executive director for over six months; 3) the petitioner would resign from her position on the commission; 4) the petitioner would serve as interim executive director temporarily while the commission completed its search for a permanent replacement; and 5) there would be an open and public hiring process for the permanent executive director position).

Here, the facts presented are nearly identical to those considered in Advisory Opinion 2024-23, in which the Ethics Commission allowed the instant Petitioner to accept and serve in the paid position of interim president of the RILSH until a permanent president/CEO could be found and confirmed by the Rhode Island Senate based upon a finding that disallowing such employment under the circumstances presented would create a substantial hardship for the RILSH. Both the Petitioner and RILSH, through its interim chair, have offered numerous circumstances that are supportive of a finding of substantial hardship. The president/CEO position requires an individual with specialized skills, possessing both life sciences expertise and extensive managerial experience. The original president/CEO unexpectedly resigned after completing the first year of an initial three-year employment agreement. Upon the RILSH's selection and hiring of a qualified candidate, the permanent position is subject to senate confirmation, which is anticipated to occur in 2026. The RILSH currently has a staff of two, and its interim president requires immediate assistance to oversee its ongoing, mandated initiatives. Given her background and experience, which includes prior service as the interim president, the Petitioner is uniquely qualified to serve as advisor to the current interim president, and she did not participate in the board of directors' decision to hire herself as an advisor. The Petitioner's role as advisor is temporary in nature, and the Petitioner will not seek or accept the position of permanent president/CEO.

Having considered the circumstances represented by the Petitioner and the RILSH interim chair, as well as our previous advisory opinions applying Regulation 1.5.1, it is the opinion of the Ethics Commission that the Petitioner may accept and serve in the position of advisor to the interim president of the RILSH, a paid position, until a permanent president/CEO can be found and confirmed by the Rhode Island Senate. This opinion is based on a finding by the Ethics Commission that the denial of the Petitioner's services on a temporary basis would create a substantial hardship for the RILSH.

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 From the Governor, 633 A.2d 644, 671 (R.I. 1993).

§ 23-99-1

§ 23-99-2

§ 23-99-4

Related Advisory Opinions:

A.O. 2026-6

A.O. 2024-23

A.O. 2023-41

A.O. 2016-43

A.O. 2014-18

A.O. 2012-31

A.O. 2010-26

A.O. 2010-24

A.O. 2006-1

A.O. 2004-36
A.O. 2001-53
A.O. 2000-32
A.O. 95-118

Keywords:
Hardship Exception
Revolving Door

DRAFT

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: April 14, 2026

Re: Major Joel Thomas

QUESTION PRESENTED:

The Petitioner, Operations Bureau Commander with the Warwick Police Department, a municipal employee position, who in his private capacity has developed a computer software program, requests an advisory opinion regarding what restrictions, if any, the Code of Ethics places upon his ability to contract with public or private entities in and outside Rhode Island for the use of his software program.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, Operations Bureau Commander with the Warwick Police Department, a municipal employee position, who in his private capacity has developed a computer software program, shall follow the guidance outlined herein relative to his ability to contract with public or private entities in and outside Rhode Island for the use of his software program.

The Petitioner has been employed by the Warwick Police Department for approximately 20.5 years and holds the rank of major. He currently serves in the position of Operations Bureau Commander. The Petitioner states that in his private capacity, he developed a unique computer software program called Omni Intelligence (software program) which he describes as a tool that requires a user to upload and create a database of files, which then functions as a shared drive within an organization. He explains that once the database is created, users can submit queries to the software, which will then return an answer to the query based on a specific source of data. By way of example, the Petitioner stated that if a law enforcement agency were to create a database of department rules and regulations, a police officer could then ask the software program a question related to those documents, and the software would instantly return a search result containing an answer obtained from the uploaded documents.

The Petitioner represents that he developed the software program on his own initiative and on his own time, separate and apart from his official duties. The Petitioner notes that to date, he has not benefited financially from the software program. He states that he recently created a corporation, filed a copyright application, and is exploring the possibility of

marketing the software program to state and municipal agencies, including law enforcement agencies, and/or private entities both within and outside of Rhode Island. The Petitioner represents that a municipal ordinance prohibits him from contracting with any municipal agency within the City of Warwick. However, the Petitioner is considering, if permitted by the Code of Ethics, allowing the Warwick Police Department to use the software program free of charge in order to help improve the department's operations.¹ The Petitioner states that, if permitted to allow the police department to use the software program free of charge, he does not require, nor will he solicit, any feedback from police department personnel on how to improve the software program because the program is already complete and will not be changed. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding what restrictions, if any, the Code of Ethics places upon his ability to contract with public or private entities in and outside Rhode Island for the use of his software program.

No person subject to the Code of Ethics, nor any business entity in which said person has a 10% or greater equity interest or \$5,000 or greater cash value interest, may enter into a contract with any state or municipal agency unless "the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded." R.I. Gen. Laws § 36-14-5(h). Section 36-14-5(h) further provides that "contracts for professional services which have been customarily awarded without competitive bidding shall not be subject to competitive bidding if awarded through a process of public notice and disclosure of financial details." The professional services exception of § 36-14-5(h) typically relates to contracts for legal, medical, architectural, or accounting services. See A.O. 2000-35; R.I. Gen. Laws §7-5.1-2.

Under the Code of Ethics, a public employee may not participate in any matter in which he has an interest, financial or otherwise, or engage in any business, employment, transaction, or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest. § 36-14-5(a). A substantial conflict of interest exists if the public 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). Additionally, the Code of Ethics prohibits a public employee from using his public office or confidential information received through his public office to obtain financial gain for himself, his family member, his business associate, or any business by which he is employed or which he represents. § 36-14-5(d).

¹ The Petitioner clarifies that, contrary to the representation in his advisory opinion request that the police department is currently using the software program on an informal basis, he had asked only a few of his police officer friends within the police department to try the program informally to determine whether it would be even helpful to the police department.

Here, the Petitioner represents that a municipal ordinance prohibits him from contracting with any municipal agency within the City of Warwick, given his employment with the Warwick Police Department. Therefore, the Ethics Commission determines that it is unnecessary to analyze any provisions of the Code of Ethics that may pertain to contracting with municipal agencies within the municipality by which the Petitioner is employed.

However, the Petitioner may contract with other municipal or state agencies or private entities, within or outside Rhode Island, provided that pursuant to § 36-14-5(h) his contracting with Rhode Island state and municipal agencies (other than those in Warwick) is conducted through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. See A.O. 2019-32 (opining that a member of the Westerly School Committee, who in her private capacity owned and operated a professional design and print business located in Westerly, was not prohibited from providing embroidery, promotional items, and custom apparel to both the Westerly public schools and the Town of Westerly, or any of their departments, provided that any such transactions were subject to an open and public process); A.O. 2018-42 (opining that a North Smithfield Town Council member who owned a fence company could provide estimates and submit bids to perform work for the town or its departments, provided that the contracts for such work were awarded through an open and public process); A.O. 2008-14 (opining that the chairperson of the Coventry Planning Commission could respond to a Request for Quotation to perform municipal engineering services for the town, provided that he did not participate in the bid specification process and that any contract awarded was pursuant to an open and public bidding process). Notably, the Petitioner's request does not fall within the professional services exception of § 36-14-5(h), given that that exception applies to contracts for services such as medical, legal, architectural, or accounting services.

Notwithstanding the prohibitions in § 36-14-5(h), the Ethics Commission has previously, in very limited circumstances, concluded that a state employee need not comply with the competitive bidding requirements of § 36-14-5(h) if his business was the sole supplier for the product and the contract complied with the State Purchases Act criteria for sole source procurement and provided that the contractual terms and financial details of any contracts were publicly noticed. See R.I. Gen. Laws § 37-2-21; A.O. 98-33 (opining that the legal counsel to the Commissioner of Higher Education and Rhode Island College could contract with Rhode Island College to sell a unique computer software program developed by him and his business associate to assist with legal audits of schools and universities without open and public bidding provided that the contract complied with the State Purchases Act criteria for sole source procurement). Similarly, R.I. Gen. Laws § 45-55-8, which addresses the award of municipal contracts, provides that a contract may be awarded for a supply, service, or construction item without competitive bidding when the purchasing officer determines that there is only one source for the supply, service, or construction item. See A.O. 2000-35 (opining that to the extent a member of the New Shoreham Town Council

or his company that engaged in the design, installation, and maintenance of renewable energy systems in New England met the criteria for municipal sole source procurement under state law, the Code of Ethics would not be violated if the petitioner or his company and the town and/or school department contracted without open and public bidding, provided that the contractual terms and financial details of any contracts were publicly noticed). Here, although the Petitioner represents that his software program is unique, there are no particular circumstances or an impending contract presented by the Petitioner on which the Ethics Commission could opine regarding whether no public bidding is required based on the sole source procurement laws. Therefore, the Ethics Commission is unable to provide the Petitioner with specific guidance regarding that issue at this time. The Petitioner is advised to seek further guidance, if and when needed, in the future.

The Petitioner is advised that all his private work relative to the software program and its distribution shall be performed on his own time and without the use of public resources or confidential information obtained as part of his municipal employment. The Petitioner is prohibited from using his municipal employment to advertise or promote his private work or to recruit or obtain potential clients. This would include any reference to the successful use of the software by the Warwick Police Department or any of its employees.

Lastly, the Petitioner is not prohibited from providing the software program free of charge to the Warwick Police Department; however, he is prohibited from then selling to the police department any additional materials related to the software program. See A.O. 98-112 (opining that a Cranston police detective, serving as a defense tactics instructor, who in his private capacity developed a new self-defense program and who was subsequently allowed by the police department to teach his system of self-defense while serving as a department instructor, could not later sell additional materials regarding his self-defense system to the his police department based on his previous involvement and given that he would be frustrating the purposes of the conflict provisions regarding contracts and using his public position for pecuniary gain, and was further prohibited from receiving additional compensation beyond his normal salary or overtime benefits for his service).

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, more specific advice from the Ethics Commission in the future as needed.

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)

§ 36-14-5(h)

§ 36-14-7(a)

Other Related Authority:

§ 7-5.1-2

§ 37-2-21

§ 45-55-8

Related Advisory Opinions:

A.O. 2019-32

A.O. 2018-42

A.O. 2008-14

A.O. 2000-35

A.O. 98-112

A.O. 98-33

Keywords:

Contracts

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: April 14, 2026

Re: Lucien Benoit

QUESTION PRESENTED:

The Petitioner, a member of the North Smithfield Planning Board, a municipal appointed position, requests an advisory opinion regarding whether he is permitted by the Code of Ethics to attend and speak at public hearings before the planning board regarding the proposed subdivision and development of property that directly abuts his personal residence.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a member of the North Smithfield Planning Board, a municipal appointed position, is permitted by the Code of Ethics to attend and speak at public hearings before the planning board, regarding the proposed subdivision and development of property directly abutting his personal residence, based upon the application of 520-RICR-00-00-1.2.3 Public Forum Exceptions (36-14-7003) and subject to the conditions set forth herein.

The Petitioner is a member of the North Smithfield Planning Board, having been appointed to that position by the North Smithfield Town Council in 2022. He states that an application has been filed with the planning board for the approval of the subdivision and development of a parcel of land (property) directly abutting the Petitioner's personal residence, which he has owned since 1968.¹ The Petitioner notes that he has received an abutter's notice relative to the proposed subdivision and development of the property. He informs that a review of the application by the planning board is scheduled for mid-April and that he would like, upon recusal as a planning board member, to participate in the public hearing as a resident to offer his comments concerning traffic, drainage, and the health, safety, and welfare of his neighborhood associated with the proposed subdivision and development of the abutting property. The Petitioner anticipates that multiple hearings by the planning board would be required regarding this application and potential development. The Petitioner represents that he will recuse as a planning board member from the planning

¹ The Petitioner informs that the property that is the subject of the application is approximately 40,000 square feet in size and it is proposed to be subdivided into 126 lots.

board's discussions and decision-making on the matter and that he would like only to participate in the public portion of the hearing as an abutting property owner, private citizen, and a town resident. Given this set of facts, the Petitioner seeks guidance from the Ethics Commission regarding whether the Code of Ethics permits him to attend and speak at public hearings before the planning board regarding the proposed subdivision and development of the property.

Under the Code of Ethics, a public official may not participate in any matter in which he has an interest, financial or otherwise, that is in substantial conflict with the proper discharge of his duties or employment in the public interest. R.I. Gen. Laws § 36-14-5(a). A public official will have an interest that is in substantial conflict with the proper discharge of his official duties if he has reason to believe or expect that a "direct monetary gain" or a "direct monetary loss" will accrue, by virtue of his activity, to the official himself, any person within his family, his business associate, or any business by which he is employed or which he represents. R.I. Gen. Laws § 36-14-7(a). Additionally, § 36-14-5(d) prohibits a public official from using his public office or confidential information received through his public office to obtain financial gain, other than that provided by law, for himself, his family member, his business associate, or any business by which he is employed or which he represents. The Code of Ethics also prohibits a public official from representing himself or authorizing another person to appear on his behalf before a municipal agency of which he is a member, by which he is employed, or for which he is the appointing authority. § 36-14-5(e)(1); 520-RICR-00-00-1.1.4(A)(1)(a)-(c) Representing Oneself or Others, Defined (36-14-5016).

In matters involving real property, the Ethics Commission has consistently applied a rebuttable presumption that a property owner will be financially impacted by official action concerning abutting property. See, e.g., A.O. 2012-4; A.O. 2007-18; A.O. 2006-37. Therefore, as the Petitioner correctly anticipates, he is required by the Code of Ethics to recuse from official participation as a planning board member in all matters relating to the subdivision and development of the subject property.

However, the Code of Ethics contains a public forum exception that provides that there shall be no violation of the Code of Ethics "by virtue of any person publicly expressing his [] own viewpoints in a public forum on any matter of general public interest or on any matter which directly affects said individual or his [] spouse or dependent child." 520-RICR-00-00-1.2.3 Public Forum Exceptions (36-14-7003). In past advisory opinions, the Ethics Commission has advised public officials about their rights under the public forum exception. See, e.g., A.O. 2019-41 (opining that a member of the Middletown Town Council could attend and speak at public hearings before the Middletown Planning Board and/or, potentially, the Middletown Zoning Board regarding the proposed development of property located across the street from her personal residence, provided that the petitioner did not receive access or priority not available to any other member of the public); A.O. 2017-11 (opining that the chairperson of the North Providence Historic District

Commission could, upon recusal, attend and speak at a public hearing before the North Providence Historic District Commission regarding a proposed development of property that directly abutted her personal residence); A.O. 2003-15 (opining that a member of the Scituate Town Council could, upon recusal, attend and provide public comment at meetings of the zoning board regarding a special use permit application where he was an abutter, provided that he did not receive special access or priority not available to any other member of the public).

Here, based on the Petitioner's representations, and the prior advisory opinions interpreting the application of the public forum exception, it is the opinion of the Ethics Commission that the Petitioner may, pursuant to the public forum exception, appear before the planning board during the public comment portion of its hearings to offer his comments as a town resident concerning the proposed subdivision and development of the property that abuts the Petitioner's own residential property, provided that the Petitioner does not receive access or priority not available to any other member of the public. The Petitioner is further cautioned that he may not use his position in any way to influence members of the planning board regarding this matter. Nor is he allowed to use any confidential information received through his public office to obtain financial gain for himself, any person within his family, or his business associate. Finally, as he properly anticipated, the Petitioner is required to recuse from participation as a planning board member in the planning board's discussions and decision-making relative to this matter. All notices of 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(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-00-00-1.2.3 Public Forum Exceptions (36-14-7003)

Related Advisory Opinions:

A.O. 2019-41
A.O. 2017-11
A.O. 2012-4
A.O. 2007-18
A.O. 2006-37
A.O. 2003-15

Keywords:

Public Forum Exception
Property Interest
Recusal

DRAFT

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: April 14, 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 Community 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 explains that sex offender treatment for sex offenders is mandated by law and treatment is not optional. She 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 her clients (the offenders). The Petitioner describes the reports as including the name and date of birth of the offender; his or her therapy attendance record; a brief description of the topic areas discussed during therapy sessions; a description of the offender's behavior during therapy sessions, including the offender's participation or lack thereof during therapy; general treatment themes; and anything else of note. The Petitioner adds that the reports may also include recommendations for additional services, such as a higher level of care, substance abuse counseling, or individual therapy. The Petitioner states that these recommendations for additional services are ordinarily based on the therapist's observation during the sessions and are intended to help the offender to successfully complete the required sex offender treatment. The Petitioner notes that any recommendations made are discussed first with the offender, prior to sending them to the DOC probation or parole officer supervising the offender. The Petitioner represents that the probation and parole officers are responsible for enforcing compliance by offenders with court-ordered conditions. The Petitioner adds that upon receipt of the monthly report, the

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

³ Id.

officer reviews it and, if no concerns are noted, the officer then includes the report in the offender's file. However, if concerns are indicated by the therapist, the officer would ordinarily address those concerns with the offender. The Petitioner represents that when an offender fails to comply with counseling requirements, the supervising officer may initiate a technical violation against the offender. The Petitioner notes that there is no set standard required for a technical violation to be initiated, nor is a technical violation ever automatically triggered. She explains that the filing of a technical violation is based on the totality of the circumstances surrounding the offender. The Petitioner explains that offenders are fully informed, at sentencing, at the time of their referral to treatment, and again during their intake session for treatment of their obligations during treatment and the limits of confidentiality and scope of information sharing relative to their treatment.

Finally, the Petitioner represents that she will complete her private work outside of her normal working hours for 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 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 the petitioner’s 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, the Petitioner may at times have to recommend counseling to a DOC peer or his or her family member. In those circumstances, in the event that the Petitioner does establish and operate an independent clinical therapy practice, the Petitioner will be required to recuse from making such referrals because 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).

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. These prohibitions are designed to minimize any undue influence that a current or a former employee may have over his or her current or former agency or colleagues by reason of his or her employment there while employed by the agency and for a period of one year thereafter. However, the prohibitions do not extend to the performance of ministerial acts, duties, or functions that are not substantive in nature, and do not involve agency decision-making. Examples of such ministerial interactions include, but are not limited to, hand-delivering documents, and requesting or reviewing public records. See A.O. 2013-28 (opining that a former principal policy associate for the Rhode Island Office of the Health Insurance Commissioner (OHIC) could accept private employment, provided that he did not represent his private employer before OHIC during that year and any contacts that he had with OHIC were purely ministerial in nature, such as hand-delivering documents, reviewing public records, and requesting public information). See also A.O. 2023-28 (opining that an engineering technician at the Rhode Island Department of Transportation (RIDOT) could accept private employment with a subcontractor to a contractor engaged in a RIDOT construction project and could prepare daily reports containing data and documentation relative to the project, notwithstanding that those reports would ultimately be submitted to RIDOT because the reports did not constitute his participation in the presentation of evidence or arguments before RIDOT for the purpose of influencing RIDOT's judgment in favor of either himself or his private employer, given that RIDOT concurrently collected its own field data and produced its own daily reports relating to the project, and did not rely on the petitioner's reports but only compared them to merely verify the anticipated consistency between them); A.O. 2010-23 (opining that the former chief administrative officer of the Rhode Island Board of Medical Licensure and

Discipline for the Department of Health (DOH), who was then employed as the chief medical officer for Landmark Medical Center, was not prohibited from making information inquiries to the DOH and from reporting information to it, including information mandated by state statute or regulation to be reported, such as information about illness or communicable diseases, or the treatment of impaired physicians, since he would not be “representing” himself or another before his former agency).

On the other hand, when interpreting § 36-14-5(e)’s prohibitions as to acts which are other than ministerial, the Ethics Commission has previously advised public officials and employees that activities that would constitute representation generally include the presentation of information or arguments for the purpose of influencing the judgment of the agency on matters concerning themselves or their business associates. Such prohibited activities include, but are not limited to, personal involvement in matters and substantive presentation or appearance before their public agencies on behalf of themselves or their employer or business associate, attending and participating in meetings between their private and public employers, acting as expert witnesses on behalf of a private client, submitting applications signed by them on behalf of themselves or clients. In Advisory Opinion 2024-13, for example, the Ethics Commission opined 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. She was prohibited, however, among other things, from appearing before DCYF as a clinician for Inner You, which included, but was 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. See also A.O. 2020-32 (opining that a former senior projects review coordinator for the Rhode Island Historical Preservation & Heritage Commission (RIHPHC) was prohibited from, among other things, submitting on behalf of his new private employer a grant application, on which the petitioner’s name appeared, to the RIHPHC and from attending and participating in meetings between RIHPHC and his new employer); A.O. 2018-54 (opining that the chief of electrical and construction projects with the Rhode Island Department of Transportation (RIDOT), who also served as an independent contractor for the East Providence Police Department performing traffic detail work, was prohibited from providing traffic detail for RIDOT construction projects occurring within the East Providence on state-owned roadways because the petitioner’s daily interactions with RIDOT were not purely ministerial in nature, given that they included, among other things, the RIDOT’s review and approval of the petitioner’s detail slip confirming the number of hours worked by the petitioner); A.O. 2012-12 (opining that a former senior environmental scientist at the Rhode Island Department of Environmental Management (DEM) was not prohibited from working for the Rhode Island Natural Resources Conservation Service upon his retirement, provided that he did not have any personal involvement with a matter before his former agency for a period of one year following his official date of severance, and he did not disclose confidential

information he may have obtained during the course of his state employment); A.O. 2008-62 (opining that a former social caseworker in the Long Term Care Unit within the Department of Human Services (DHS), was not prohibited from working as an independent contractor assisting a private attorney with the preparation of medical assistance applications on behalf of his clients, given that the attorney was the one filing the applications with DHS, and provided that the petitioner did not have any direct contact with or appear to represent the clients, the attorney, or anyone else, before DHS or any of its members or staff, for a period of one year after the date of her official severance from her position).

Here, the monthly progress report that the Petitioner would be required to submit to the DOC is part of the mandated sex offender treatment, and the offenders are fully informed, at sentencing, at the time of their referral to treatment, and again during their intake session for treatment of their obligations during treatment and the limits of confidentiality and scope of information sharing relative to their treatment. The information included in the report includes the therapist's observations of the offender's behavior during treatment and could include recommendations for additional services based on the needs of the offender and the need for the successful completion of the therapy. Additionally, the monthly progress report is reviewed by the DOC officer supervising the offender to determine whether the offender is complying with the mandatory therapy, or whether there is cause to file a violation based on the report and the totality of the circumstances. Therefore, based on the Petitioner's representations, and the review of the relevant provisions of the Code of Ethics and prior advisory opinions issued, it is the opinion of the Ethics Commission that the submission by the Petitioner of the monthly therapy progress reports to the DOC is not purely ministerial and would constitute representation of the Petitioner's client (the offender) before the Petitioner's public agency, which is an activity prohibited by § 36-14-5(e). Accordingly, the Petitioner may not provide sex offender therapy, either in an individual or group setting, so long as such therapy requires her to submit monthly therapy progress reports to the DOC.

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 may not use her public employment to advertise or promote her private work or to recruit or obtain potential clients for her private counseling work. Finally, 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. 2023-28
A.O. 2020-32
A.O. 2020-1
A.O. 2018-54
A.O. 2018-32
A.O. 2016-7
A.O. 2013-28
A.O. 2013-22
A.O. 2012-12
A.O. 2010-23
A.O. 2008-62
A.O. 2008-43
G.C.A. 2009-4

Keywords:

Representing Oneself or Others
Secondary Employment

RHODE ISLAND ETHICS COMMISSION

Draft Advisory Opinion

Hearing Date: April 14, 2026

Re: Georges Nehme

QUESTION PRESENTED:

The Petitioner, a principal civil engineer with the Rhode Island Department of Transportation, a state employee position, who in his private capacity is a licensed professional engineer, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from assisting, in his private capacity, ready-mixed concrete plants in Rhode Island with achieving National Ready Mixed Concrete Association certification.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a principal civil engineer with the Rhode Island Department of Transportation, a state employee position, who in his private capacity is a licensed professional engineer, is not prohibited by the Code of Ethics from assisting, in his private capacity, ready-mixed concrete plants in Rhode Island with achieving National Ready Mixed Concrete Association certification.

The Petitioner is employed by the Rhode Island Department of Transportation (RIDOT) as a principal civil engineer in the Materials Division, a position he has held since 2009. He states that certain of his fellow RIDOT employees in the Materials Division are tasked with reviewing concrete mix designs and testing concrete mix samples submitted by owners/general managers of ready-mixed concrete plants in Rhode Island who wish their plant to be included on RIDOT's approved list of concrete mix suppliers for state projects.¹ The Petitioner further states that he is then tasked with reviewing the results of testing performed by his RIDOT colleagues of, among other things, air content, temperature, and unit weight of the concrete mix samples to determine whether those results meet the relevant specifications identified in the RIDOT Standard Specifications for Road and Bridge Construction (Blue Book). The Petitioner explains that in order to determine the adequacy of the test results, he matches the numbers produced by the tested samples against the corresponding numbers identified in the Blue Book for each particular test. The Petitioner states that his public duties do not involve the exercise of discretion on his part.

¹ The Petitioner explains that RIDOT only uses cement from ready-mixed concrete plants in Rhode Island on its projects.

The Petitioner represents that, in the event that a testing number falls outside of the specifications outlined in the Blue Book, the Petitioner will forward that information to a RIDOT engineer who may or may not then choose to consult with a private engineer retained by RIDOT about how best to resolve the situation. The Petitioner informs that the review of concrete mix designs and testing of concrete mix samples by his colleagues, followed by the Petitioner's subsequent determination of compliance by matching the test results to those required by the Blue Book might be performed only once per plant, provided that the participating plant does not subsequently change materials or suppliers.

In his private capacity, the Petitioner is a licensed professional engineer who has been certified by the National Ready Mixed Concrete Association (NRMCA) to assist ready-mixed concrete plants in a number of states, including Rhode Island, with achieving NRMCA certification. The Petitioner states that all ready-mixed concrete plants in Rhode Island that wish to be considered for work on a state contract require NRMCA certification.² The Petitioner represents that the NRMCA requires an applicant seeking NRMCA certification to submit a check list to the NRMCA evidencing compliance by the subject plant in a number of categories including, but not limited to, material storage and handling, batching equipment, and delivery fleet inspection. The Petitioner further represents that none of the check list categories involve the Petitioner's public duties at RIDOT. The Petitioner informs that the completion and submission of a check list on behalf of a particular plant in Rhode Island seeking NRMCA certification must be performed by a licensed professional engineer in Rhode Island who is also NRMCA certified. The Petitioner describes the process for the engineer assisting such an applicant as first requiring a visit by the engineer to the applicant plant site. There, the engineer will review other plant certifications to determine whether they are current. The engineer will also ensure that various chemical materials kept on site at the plant are properly stored in separate and weather-protected containers. The Petitioner states that a number of other relevant checks and inspections will be made, the satisfactory results of which will then allow the engineer to complete and submit the check list to the NRMCA for a determination about certification.

The Petitioner explains that when a check list submitted on behalf of an applicant is approved by the NRMCA, the NRMCA will then forward a certificate of conformance to the licensed professional engineer who submitted the check list. The Petitioner states that, upon receipt of such a certificate, the engineer will affix his own stamp to it before delivering the completed certificate to the plant applicant. The Petitioner estimates that the

² The Petitioner explains that not all states require NRMCA certification for ready-mixed cement plants that wish to be considered for a state contract.

entire NRMCA certification process takes approximately five weeks from start to finish.³ He adds that participating plants must seek NRMCA certification on a biennial basis.

The Petitioner represents that of the six concrete mix plants in Rhode Island that are currently NRMCA certified, two or three of those plants currently, or will soon, require recertification. The Petitioner explains that, until recently, he was one of only three people on the list of individuals maintained by the NRMCA who are approved to submit check lists on behalf of plant applicants in Rhode Island. He further represents that the other two people are no longer on the list and that, currently, he is the only licensed professional engineer available to assist ready-mixed concrete plants in Rhode Island with seeking NRMCA certification.⁴ The Petitioner explains that he has been asked by a representative of one such plant to assist with the plant's pursuit of recertification by the NRMCA. The Petitioner states that he would like to assist the plant in this regard, and others if requested, provided that he is not prohibited by the Code of Ethics from doing so. He estimates that, if permitted to assist one or more plants in Rhode Island with recertification through the NRMCA, it would take him one to two hours to complete the necessary site visit and paperwork for each. He adds that the fee for his services would be due from the plant at the time he submits the check list to the NRMCA. The Petitioner emphasizes that, upon the addition of at least one other qualified licensed professional engineer to the list of names of individuals approved to submit check lists on behalf of applicants in Rhode Island, he will no longer do so. The Petitioner explains that it is highly unlikely that he would ever be called upon to determine a particular plant's compliance with Blue Book specifications during a period when he might be assisting that plant with updating its NRMCA certification.

The Code of Ethics provides that a public employee shall not accept other employment which will either 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 employment. R.I. Gen. Laws § 36-14-5(b). The Code of Ethics also 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 his duties in the public interest. § 36-14-5(a). A public employee has an interest which is in substantial conflict with the proper discharge of his duties in the public interest if he has reason to believe or expect

³ The Petitioner states that a plant may request an expedited review of its application by the NRMCA that could result in the issuance of a certificate of conformance in less than one week's time. This would require the payment of an additional fee to the NRMCA by the applicant at the time such a request is made.

⁴ The Petitioner states that, to date, he has only completed and submitted NRMCA check lists on behalf of concrete plants outside of Rhode Island.

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). Additionally, the Code of Ethics provides that a public employee shall not use his public office or confidential information received through his holding 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). A business associate is defined as “a person joined together with another person to achieve a common financial objective.” R.I. Gen. Laws § 36-14-2(3). A person is defined as “an individual or a business entity.” § 36-14-2(7). Here, under the Code of Ethics, the Petitioner would be a business associate of the ready-mixed concrete plants in Rhode Island whom he assists with achieving NRMCA certification. See, e.g., A.O. 2015-49 (opining that a zoning official who had done private electrical work for the Fort Adams Trust in the past, and who planned to bid on future work, was a business associate of the Trust).

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 his normal working hours and without the use of public resources; whether the employee is to appear before his 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 his position to solicit business or customers. See General Commission Advisory No. 2009-4.

Additionally, while the Code of Ethics clearly prohibits a public official or employee from participating in matters directly affecting his or her *current* business associate, the Ethics Commission has permitted a public official to participate in matters involving or impacting a *former* business associate, assuming no other conflicts were present. In determining whether a relationship between two parties constitutes an ongoing business association, the Ethics Commission examines, among other things, whether the parties are conducting ongoing business transactions, have outstanding accounts, or whether there exists an anticipated future relationship between the parties. For example, in Advisory Opinion 2010-30, a member of the Town of Westerly Building Code of Appeals Board, who in his private capacity owned a plumbing and heating company, could participate in discussions and voting regarding a request for a building code variance for a property located in town, notwithstanding that the petitioner had performed plumbing work for the property owner periodically in the past. There, the petitioner was not currently performing any work for the property owner, there were no outstanding accounts owed, and there were no plans for, nor would the petitioner be performing, additional work on the property. See also A.O.

2025-59 (opining that a member of the Coventry Planning Commission was not prohibited by the Code of Ethics from participating in discussions and decision-making relative to a matter then pending before the planning commission, notwithstanding that the applicant in the matter had been hired by the petitioner to construct the petitioner's personal residence, a project that was completed in 2021). Compare A.O. 2003-04 (opining that a Middletown Town Council member could not participate in the evaluation and award of contractor bids on town projects when one or more of the bidders were past business associates with whom he anticipated having future business relationships).

Here, the Petitioner represents that none of the NRMCA check list categories involve or impact his public duties at RIDOT. Also, the Petitioner's submission of a check list that he completed on behalf of a ready-mixed concrete plant in Rhode Island seeking NRMCA certification would be made to the NRMCA and not to RIDOT. For these reasons, the facts as represented do not indicate that the private employment in which the Petitioner seeks to engage would either impair his independence of judgment or create an interest in substantial conflict with his public duties, which the Petitioner states do not involve any exercise of discretion on his part.

Further, based on the Petitioner's representation that it is highly unlikely that he would ever be called upon to determine a particular plant's compliance with Blue Book specifications during the period when he might be assisting that plant with its NRMCA certification, there appears to be no situation in which the Petitioner would be participating in matters in his public capacity which could impact a concrete plant that he is assisting in his private capacity, during which time that plant would be the Petitioner's business associate. This is buttressed by the Petitioner's representation payment for his private services is required at the time he submits a complete check list to the NRMCA and that he has no plans to do this work for Rhode Island plants once he is no longer the only qualified person to do so.

Additionally, the Petitioner's description of his public duties relative to determining the adequacy of samples collected by his RIDOT colleagues, whereby he matches the results to those number identified in the Blue Book without exercising discretion, appears to be ministerial in nature. For this reason, the Petitioner's exercise of his public duties would not directly financially impact his business associate were those duties to occur during the time that he is assisting a plant with its NRMCA certification, something the Petitioner has stated is unlikely. See, e.g., A.O 2024-7 (opining that the finance director at the Block Island School could carry out her duties in conformance with the Code of Ethics, notwithstanding that her spouse was expected to submit a bid in response to a request for proposal relating to a project at the school because the petitioner's limited duties relating to the project were ministerial in nature and would not directly financially impact her spouse).

Accordingly, it is the opinion of the Ethics Commission that the Petitioner is not prohibited by the Code of Ethics from assisting, in his private capacity, ready-mixed concrete plants

in Rhode Island with achieving NRMCA certification. However, the Petitioner is required to recuse from matters in his public capacity that would financially impact his current business associates, which includes both the ready-mixed concrete plants in Rhode Island for whom he is in the process of assisting with the achievement of NRMCA certification and those for which he anticipates repeating that process in the future. All instances of recusal should be made consistent with the provisions of R.I. Gen. Laws § 36-14-6.

Additionally, the Petitioner must complete all work for his private clients outside of his regular work hours for RIDOT, without the use of public resources, and may not use his public position to solicit business or clients for his private work. Finally, the Petitioner may not disclose confidential information acquired by him during the course of his public duties for RIDOT. 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.

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)
- § 36-14-5(a)
- § 36-14-5(b)
- § 36-14-5(d)
- § 36-14-6
- § 36-14-7(a)

Related Advisory Opinions:

- A.O. 2025-59
- A.O. 2024-7
- A.O. 2015-49

A.O. 2010-30
A.O. 2003-04
G.C.A. No. 2009-4

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Business Associate
Secondary Employment

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