

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2026-11

Approved: 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. 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 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(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

Keywords:

Business Associate
Secondary Employment