

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion 2026-23

Approved: July 14, 2026

Re: Michael Peno Jr.

QUESTION PRESENTED:

The Petitioner, a social caseworker employed by the Rhode Island Department of Children, Youth and Families, a state employee position, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from simultaneously engaging in advocacy work in his private capacity under the circumstances described herein and, if not so prohibited, what limitations, if any, the Code of Ethics would place upon him.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a social caseworker employed by the Rhode Island Department of Children, Youth and Families, a state employee position, is not prohibited by the Code of Ethics from simultaneously engaging in advocacy work in his private capacity under the circumstances described herein and provided that he follows the guidance provided in this advisory opinion.

The Petitioner is employed as a social caseworker with the Family Services Unit at the Rhode Island Department of Children, Youth and Families (DCYF). He represents that he has been employed with the DCYF for the past four years and that he works with children and families in the child welfare system. He cites among his duties the following: assessing safety, coordinating services, supporting permanency planning, and providing case status updates to the Family Court and the Office of the Court Appointed Special Advocate.

The Petitioner states that in his private capacity, he has been developing a community-based advocacy initiative focused on family preservation and, among other things, the impact of parent-child no-contact orders on children and families involved in the child welfare system. The Petitioner explains that the purpose of the initiative is to better understand systemic barriers to the success and preservation of families in the welfare system through aggregated data, community engagement, and education, with a goal of initiating broader policy discussions and legislative action. By way of an example, the Petitioner notes that there has been an uptick in parent-child no-contact orders (NCOs) issued outside of Family Court which may hinder the DCYF's provision of services that may be in the best interest of the child or the family should the child or the parent become

open to the DCYF. The Petitioner believes that parent-child NCOs should be issued only in circumstances involving sexual assault, severe physical abuse, and drug exposure, which he notes are ordinarily the bases for the Family Court's issuance of parent-child NCOs. He explains that, in contrast, parent-child NCOs are sometimes issued by other courts for various other reasons, such as when children are left unsupervised at home while a parent is working.

In his private capacity, the Petitioner would like to identify barriers to family preservation and advocate for policy and legislative changes to remove those barriers. He states that in order to do so, he plans to request, utilizing the Access to Public Records Act (APRA), and analyze publicly available data, including such kept by the DCYF, related to system trends. He further states that he would like to use that data to conduct outreach to community members and families in order to better understand lived experiences. The Petitioner adds that he would like to engage in policy discussions and educational efforts related to child welfare and the judicial process with, among others, members of the judiciary, various police departments, the Office of Attorney General, and the General Assembly. The Petitioner explains that he would like to collaborate with community partners and stakeholders, including legal and advocacy organizations, on initiatives that support families. He also plans to collaborate with a fellow community advocate/peer recovery coach who has had personal experience with the DCYF.

The Petitioner represents that some of the families that he may work with in his private capacity could be open or become open to the DCYF, but he notes that he will recuse himself from working with any such families in his public capacity, and that their cases will be assigned to a fellow social caseworker. The Petitioner further represents that in order to maintain clear boundaries between his role as a DCYF employee and his independent advocacy efforts, he will not use any confidential information received through his public position, access restricted data, or represent his views as those of the DCYF. The Petitioner states that he will receive no financial benefit or other remuneration for his private advocacy work. Given this set of facts, the Petitioner seeks guidance regarding whether the Code of Ethics prohibits him from conducting the advocacy work outlined above in his private capacity, while simultaneously engaging in his public employment with the DCYF and, if not so prohibited, what limitations, if any, the Code of Ethics would place upon him.

The Code of Ethics states 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 or employment 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 his duties or employment in the public interest if he 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). Further, §§ 36-14-5(c) and 36-14-5(d) prohibit the use and/or disclosure of confidential information acquired by a public employee during the course of or by reason of his official employment, particularly for the purpose of obtaining financial gain. Section 36-14-5(d) also prohibits the use of public office to obtain financial gain. Finally, the Code of Ethics provides that a public employee shall not accept other employment that would impair his independence of judgment as to his official duties or require or induce him to disclose confidential information acquired by him in the course of his official duties. § 36-14-5(b).

The Ethics Commission recently addressed an inquiry by a somewhat similarly situated petitioner in Advisory Opinion 2025-54. There, the Ethics Commission opined that an environmental scientist with the Rhode Island Department of Health, Center for Drinking Water Quality was not prohibited by the Code of Ethics from serving in her private capacity as a co-author for a paper intended to be published in a scientific journal which incorporated the use of data that the petitioner had compiled as part of her public duties and later requested and received in her private capacity through the state's Access to Public Records Act. Although that petitioner intended to make use of certain data that she had compiled as part of her professional duties, the data was a public record that she requested and obtained in her private capacity by submitting an APRA request. Further, that petitioner did not receive any monetary or other compensation for her contribution to the paper; therefore, the Ethics Commission opined that her proposed activity neither constituted secondary employment nor use of her public office or confidential information for financial gain. Similarly, in Advisory Opinion 2019-45, the Ethics Commission opined that a trooper with the Rhode Island State Police was not prohibited by the Code of Ethics from participating, on his own time and without compensation, as a consultant for a Netflix movie based on events in his life, including the rescue of a missing teenage boy by him and his K-9 partner, notwithstanding that the petitioner's wife was to be paid for her recollection of certain events depicted in the movie. The Ethics Commission reasoned that by agreeing to act as a consultant to maintain the accuracy of the events leading to the rescue, on his own time and without compensation, the petitioner would not be using his public position to obtain a direct monetary gain for his wife. Finally, that petitioner represented that the story of the rescue was made public on the internet and by other media sources and that he would not release any confidential information acquired by him in the course of his official duties.

Here, the instant Petitioner also seeks an advisory opinion relating to activity that would not be taken in his official capacity as a state employee. The Petitioner informs that although he would like to make use of certain data maintained by the DCYF, that data would be a public record that he would request under the Access to Public Records Act. He notes that he would not use any confidential information that he acquired through his public office and that, while advocating in his private capacity, he would clearly indicate that the views he expresses are his own and not those of the DCYF. The Petitioner emphasizes that he would not receive any monetary or other compensation for his private

advocacy efforts; thus, his proposed activity neither constitutes secondary employment nor use of his public office or confidential information received through his public office for financial gain under the Code of Ethics. Finally, the Petitioner states he would recuse himself from working in his public capacity with families or individuals that he interacts with while conducting his private advocacy work. Accordingly, given the Petitioner's above 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 Petitioner is not prohibited by the Code of Ethics from simultaneously conducting his desired advocacy work in his private capacity, provided that these efforts are conducted on his own time, and without use of public resources or confidential information received through his public employment.

This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. An advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, is binding on the Commission in any subsequent proceedings concerning the person who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for the opinion. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, agency policy, ordinance, constitutional provision, charter provision, or canon of judicial or professional ethics may have on this situation.

Code Citations:

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

Related Advisory Opinions:

A.O. 2025-54
A.O. 2019-45

Keywords:

Compensation
Conflict of Interest
Private Employment
Secondary Employment