

# STATE OF RHODE ISLAND ETHICS COMMISSION



## RHODE ISLAND CODE OF ETHICS

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## **An Introduction to the Code of Ethics**

### **History**

The Code of Ethics regulates conflicts of interest, which occur when a public official or employee's public duties intersect with his or her private interests. In 1976, the Rhode Island General Assembly enacted the state's first Code of Ethics and created the "Conflict of Interest Commission" to enforce it.

In November 1986, in order to create a more independent enforcement agency with powers that were not reliant on legislative authority, Rhode Island voters adopted a constitutional "Ethics Amendment" establishing the Rhode Island Ethics Commission as an independent, non-partisan entity having constitutional authority to adopt a Code of Ethics and to enforce its provisions. R.I. Const. art. III, sec. 8. In 1992, the Rhode Island Supreme Court interpreted the Ethics Amendment to endow the Ethics Commission with primary legislative authority to enact substantive ethics laws, with the General Assembly having the concurrent authority to enact substantive ethics laws that are not inconsistent with, or contrary to, the Code of Ethics adopted by the Ethics Commission. In re Advisory Opinion to the Governor, 612 A.2d 1, 13-14 (R.I. 1992).

In 2016, Rhode Island voters approved changes to the Ethics Amendment to clarify that members of the General Assembly are subject to the provisions of the Code of Ethics and the Ethics Commission's enforcement authority.

### **The Code of Ethics**

Due to the concurrent authority of the Ethics Commission and the General Assembly in the area of ethics, the Code of Ethics contains both regulations adopted by the Ethics Commission and statutes passed by the General Assembly. Therefore, the complete Code of Ethics cannot be found solely within either the Rhode Island Code of Regulations (RICR) or the Rhode Island General Laws. Instead, the Ethics Commission publishes a complete Code of Ethics, with regulatory and statutory provisions combined, on its website at [www.ethics.ri.gov](http://www.ethics.ri.gov) and in hard copy available at the Ethics Commission's office.

### **Informal Guidance and Advisory Opinions**

The Ethics Commission staff is available by telephone at (401) 222-3790 to answer questions and provide informal guidance concerning the application of the Code of Ethics. The Ethics Commission has also issued General Commission Advisories (GCAs), found on the Ethics Commission's website, providing general guidelines and examples that explain in simple terms provisions found in the Code of Ethics.

To receive formal and binding advice as to the Code of Ethics, public officials and employees may also request a written advisory opinion which will be considered and issued by the Ethics Commission at an open meeting. Please contact the Ethics Commission staff to discuss any concerns and the procedures for obtaining appropriate advice.

# Rhode Island Code of Ethics

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## **CONSTITUTION OF THE STATE OF RHODE ISLAND**

### **Article III, Section 7 – Ethical conduct.**

The people of the State of Rhode Island believe that public officials and employees must adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, be open, accountable and responsive, avoid the appearance of impropriety and not use their position for private gain or advantage. Such persons shall hold their positions during good behavior.

### **Article III, Section 8 – Ethics commission – Code of ethics.**

The general assembly shall establish an independent non-partisan ethics commission which shall adopt a code of ethics including, but not limited to, provisions on conflicts of interest, confidential information, use of position, contracts with government agencies and financial disclosure. The assent of two-thirds (2/3) of the members appointed shall be required for the adoption for every rule or regulation. All elected and appointed officials and employees of state and local government, of boards, commissions and agencies shall be subject to the code of ethics. The ethics commission shall have the authority to investigate alleged violations of the code of ethics, including acts otherwise protected by Article VI, Section 5, and to impose penalties, as provided by law. Any sanction issued against any party by the ethics commission shall be appealable to the judicial branch as provided by law. The commission shall have the power to remove from office officials who are not otherwise subject to impeachment, or expulsion as provided by Article VI, Section 7.

*Notes: The two constitutional provisions (“the Ethics Amendments”) above, were originally approved by Rhode Island voters on November 4, 1986. Article III, Section 8, along with the “Speech in Debate Clause,” reproduced below, were amended by the voters on November 8, 2016 to clarify that members of the General Assembly fall under the jurisdiction of the Ethics Commission.*

### **Article VI, Section 5 – Immunities of general assembly members.**

\* \* \* For any speech in debate in either house, no member shall be questioned in any other place, except by the ethics commission as set forth in Article III, Section 8.

**520-RICR-00-00-1**

## **TITLE 520 – ETHICS COMMISSION**

### **CHAPTER 00 – N/A**

#### **SUBCHAPTER 00 - N/A**

##### **R.I. Gen. Laws § 36-14-1 Declaration of Policy.**

It is the policy of the state of Rhode Island that public officials and employees must adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, be open, accountable and responsive, avoid the appearance of impropriety, and not use their position for private gain or advantage.

##### **R.I. Gen. Laws § 36-14-3 Code of Ethics.**

Sections 36-14-4 through 36-14-7 of this chapter shall constitute the Rhode Island Code of Ethics in government.

##### **R.I. Gen. Laws § 36-14-4 Persons subject to the Code of Ethics.**

The following persons shall be subject to the provisions of the Rhode Island Code of Ethics in government:

- (1) State and municipal elected officials;
- (2) State and municipal appointed officials; and
- (3) Employees of state and local government, of boards, Commissions, and agencies.

### **PART 1 – Code of Ethics**

#### **1.1 Definitions**

##### **R.I. Gen. Laws § 36-14-2 Definitions.**

- (1) "Any person within his or her family" means a spouse and any dependent children of any public official or public employee as well as a person who is related to any public official or public employee, whether by blood, adoption or marriage, as any of the following: father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, halfbrother or halfsister.
- (2) "Business" means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust or any other entity recognized in law through which business for profit or not for profit is conducted;
- (3) "Business associate" means a person joined together with another person to achieve a common financial objective;

- (4) "Employees of state and local government, of boards, commissions and agencies" means any full-time or part-time employees in the classified, non-classified and unclassified service of the state or of any city or town within the state, any individuals serving in any appointed state or municipal position, and any employees of any public or quasi-public state or municipal board, commission or corporation;
- (5) "Governmental function" means any action that is public in nature and is performed for the common good of all the people;
- (6) "Open and public process" means the open solicitation for bids or proposals from the general public by public announcement or public advertising followed by a public disclosure of all bids or proposals considered and contracts awarded;
- (7) "Person" means an individual or a business entity;
- (8)
  - (i) "State agency" means any department, division, agency, commission, board, office, bureau, authority, or quasi-public authority within Rhode Island, either branch of the Rhode Island general assembly, or any agency or committee thereof, the judiciary, or any other agency that is in any branch of Rhode Island state government and which exercises governmental functions other than in an advisory nature;<sup>1</sup>
  - (ii) "Municipal agency" means any department, division, agency, commission, board, office, bureau, authority quasi-public authority, or school, fire or water district within Rhode Island, other than a state agency and any other agency that is in any branch of municipal government and exercises governmental functions other than in an advisory nature;<sup>2</sup>
- (9) "State or municipal appointed official" means any officer or member of a state or municipal agency as defined herein who is appointed for a term of office specified by the constitution or a statute of this state or a charter or ordinance of any city or town or who is appointed by or through the governing body or highest official of state or municipal government;
- (10) "State or municipal elected official" means any person holding any elective public office pursuant to a general or special election;
- (11) A person's natural child, adopted child, or stepchild is his or her "dependent child" during a calendar year if the person provides over fifty percent (50%) of the child's support during the year;
- (12) A person "represents" him or herself before a state or municipal agency if he or she participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in his or her own favor;
- (13) A person "represents" another person before a state or municipal agency if he or she is authorized by that other person to act, and does in fact act, as the other person's attorney at

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<sup>1</sup> See also Regulation 1.1.2(I) & 1.1.3(D).

<sup>2</sup> See also Regulation 1.1.2(I) & 1.1.3(E).



law or his or her attorney in fact in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in favor of that other person;

- (14) "Major decision-making position" means the executive or administrative head or heads of a state agency, whether elected or appointed or serving as an employee and all members of the judiciary, both state and municipal. For state agencies, a "major decision-making position" shall include the positions of deputy director, executive director, assistant director and chief of staff.

**1.1.1 Definition of State or Municipal Elected Official (36-14-2(1))**

"State or municipal elected official" means any person duly elected to or holding any elective public office pursuant to a general or special election.

**1.1.2 Additional Definitions (36-14-2001)**

- A. "Complainant" means a person or persons who files a sworn statement with the Commission against a person subject to the statute containing allegations of prohibited activities.
- B. "Respondent" means a person against whom a complaint has been filed.
- C. "Business subject to direct state or municipal regulation" means a business which is directly regulated by a state or municipal agency as defined herein other than in a *de minimus* manner. This includes a business funded with state or municipal funds or federal funds disbursed by a state or municipal agency. If a specific regulatory body exists to control or supervise the business, and such body regulates and monitors the business' activities, it is a business subject to direct regulation. Utilities, insurance companies and regulated financial institutions are included. A business is not directly regulated because it is subject to general laws, tax or health laws for example, applicable to all businesses or, the fact that a business requires a license to operate, or a professional license is obtained. Businesses regulated by professional boards and occupational boards are excluded.
- D. "Cash value interest" means an ownership interest or a financial interest in the nature of an investment such as bonds, notes, debentures, mortgages and similar business investment interests. Deposits in any financial institution, savings and checking accounts, shares in a credit union or a cooperative bank, life insurance policies and annuities are not included.
- E. "Doing business" means engaging in a financial transaction, about which the public official has actual or constructive knowledge, which transaction constitutes a loan, purchase, sale or other type of transfer or exchange of money, goods, other property, or services for value. Doing business does not include the retail purchase of consumer goods bought primarily for personal, family or household purposes, and financial transactions of a personal nature, such as personal loans and individual insurance transactions.
- F. "Income" means any money or thing of value received or to be received as a claim on future services whether in form of a fee, salary, expenses, allowance, forbearance, forgiveness,

interest, dividend, royalty, rent, capital gain, or any other form of recompense that constitutes income under the Federal Internal Revenue Code.

- G. "Ownership interest" means an interest in stock, assets, net profits, or losses of a business. The value of an ownership interest is determined at its highest fair market value in the calendar year.
- H. "Persons within the third degree of consanguinity": Persons within the third degree of consanguinity include any of the following relations: Brothers, sisters, parents, sons, daughters, grandparents, great grandparents, grandchildren, great grand- children, uncles, aunts, brothers and sisters-in- law, mothers and fathers-in-law, nieces and nephews, grandsons and granddaughters-in-law, and sons and daughters-in-law.
- I. "State or municipal agency" shall also include any group of persons, or corporations, organization, or other entity, however created, which:<sup>3</sup>
  - 1. exercises governmental functions other than in an advisory nature, and expends public funds in excess of \$10,000 yearly; or
  - 2. those entities whose directors or other governing members are appointed by or through the governing body or highest official of state or municipal government.
- J. "Political party officials": Elected or appointed officers in a state, county, town or city political party organization are not elected or appointed officials subject to this act.

### **1.1.3 Additional Definitions (36-14-2002)**

- A. "State or municipal elected official" means any person holding any elective public office pursuant to a general or special election.
- B. "State or municipal appointed official" means any officer or member of a state or municipal agency as defined herein who is appointed to an office specified by the constitution or a statute of this state or a charter or ordinance of any city or town or who is appointed by, through or with the advice and consent of a governing body, or any court, in state or municipal government, or highest official of state or municipal government.
- C. "Employees of state and local government, of boards, Commissions and agencies" means:
  - 1. any individual receiving a salary from a state or municipal agency, whether elected or not, on a full-time or part-time basis;
  - 2. any individual in the classified, non-classified and unclassified service of the judicial, executive and legislative branches of state government;
  - 3. any individual in the classified, non-classified and unclassified service of any municipality within the state;

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<sup>3</sup> See also R.I. Gen. Laws § 36-14-2(8) & Regulation 1.1.3(D) & (E).

4. any individual receiving a salary from any public or quasi-public state or municipal board, commission, corporation, or other public or quasi-public agency however named; and
  5. any state or municipal appointed official who receives a salary or stipend for their appointed service.
- D. "State agency" means any department, division, agency, commission, board, office, bureau, authority, corporation or subsidiary, or quasi-public authority within the executive branch of the state government of Rhode Island, either branch of the Rhode Island general assembly, or any agency or committee thereof, the judiciary, or any other department, division, agency, commission, board, office, bureau, authority, corporation or subsidiary, or quasi-public authority that is in any branch of the Rhode Island state government and which exercises governmental functions other than in a purely advisory nature.<sup>4</sup>
- E. "Municipal agency" means any department, division, agency, commission, board, office, bureau, authority, corporation or subsidiary, quasi-public authority, or school, fire or water district within Rhode Island, other than a state agency, and whether comprised of officials and employees from a single or multiple municipalities, and any other agency that is in any branch of municipal government and which exercises governmental functions other than in a purely advisory nature.<sup>5</sup>

#### **1.1.4 Representing Oneself or Others, Defined (36-14-5016)**

- A. In addition to any other definition or provision of the Code of Ethics:
1. A person will "represent him or herself before a state or municipal agency" if:
    - a. He or she participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in his or her own favor;
    - b. pursuant to his or her authorization and/or direction, another person participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in his or her favor; or
    - c. he or she engages in the conduct described in §§ 1.1.4(A)(1)(a) or (b) of this Part before another agency for which he or she is the appointing authority or a member thereof.
  2. A person will "represent any other person before a state or municipal agency" if:
    - a. He or she is authorized by that other person to act, and does in fact act, as the other person's attorney at law or his or her attorney in fact in the

<sup>4</sup> See also R.I. Gen. Laws § 36-14-2(8)(i) & Regulation 1.1.2(I).

<sup>5</sup> See also R.I. Gen. Laws § 36-14-2(8)(ii) & Regulation 1.1.2(I).

presentation of evidence or arguments before that agency for the purpose of influencing the judgment of the agency in favor of that other person;

- b. he or she acts as an expert witness with respect to any matter the agency's disposition of which will or can reasonably be expected to directly result in an economic benefit or detriment to him or herself, or any person within his or her family or any business associate of the person or any business by which the person is employed or which the person represents; or
- c. he or she engages in the conduct described in §§ 1.1.4(A)(2)(a) or (b) of this Part before another agency for which he or she is the appointing authority or a member thereof.

### **1.1.5 Reasonable Foreseeability (36-14-7001)**

A public official has reason to believe or expect a Conflict of Interest exists when it is "reasonably foreseeable". The probability must be greater than "conceivably", but the Conflict of Interest need not be certain to occur.

### **1.1.6 Governmental Decision (36-14-7002)**

- A. A public official makes a governmental decision when the public official acting within the authority of his or her office:
  - 1. votes on a matter;
  - 2. appoints a person;
  - 3. obligates a state or municipal agency to a course of action;
  - 4. enters into any contractual agreement on behalf of a state or municipal agency; or
  - 5. determines not to act within the meaning of §§ 1.1.6(A)(1) through (4) of this Part because of a potential Conflict of Interest.

## **1.2 Recusal**

### **R.I. Gen. Laws § 36-14-5 Prohibited Activities.**

- (a) No person subject to this Code of Ethics shall have any interest, financial or otherwise, direct or indirect, 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 or her duties or employment in the public interest and of his or her responsibilities as prescribed in the laws of this state, as defined in section 36-14-7.<sup>6</sup>
- (b) No person subject to this Code of Ethics shall accept other employment which will either impair his or her independence of judgment as to his or her official duties or employment or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.

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<sup>6</sup> See R.I. Gen. Laws § 36-14-7(a) for definition of "interest in substantial conflict with the proper discharge of his or her duties."

- (c) No person subject to this Code of Ethics shall willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or employment or use any such information for the purpose of pecuniary gain.
- (d) No person subject to this Code of Ethics shall use in any way his or her public office or confidential information received through his or her holding any public office to obtain financial gain, other than that provided by law, for him or herself or any person within his or her family, any business associate, or any business by which the person is employed or which the person represents.
- (e) No person subject to this Code of Ethics shall:
  - (1) Represent him or herself before any state or municipal agency of which he or she is a member or by which he or she is employed. In cases of hardship the Ethics Commission may permit such representation upon application by the official and provided that he or she shall first:
    - (i) Advise the state or municipal agency in writing of the existence and the nature of his or her interest in the matter at issue, and
    - (ii) Recuse him or herself from voting on or otherwise participating in the agency's consideration and disposition of the matter at issue, and
    - (iii) Follow any other recommendations the Ethics Commission may make to avoid any appearance of impropriety in the matter.
  - (2) Represent any other person before any state or municipal agency of which he or she is a member or by which he or she is employed.
  - (3) Act as an expert witness before any state or municipal agency of which he or she is a member or by which he or she is employed with respect to any matter the agency's disposition of which will or can reasonably be expected to directly result in an economic benefit or detriment to him, or herself, or any person within his or her family or any business associate of the person or any business by which the person is employed or which the person represents.
  - (4) Shall engage in any of the activities prohibited by subsection (e)(1), (e)(2) or (e)(3) of this section for a period of one year after he or she has officially severed his or her position with said state or municipal agency; provided, however, that this prohibition shall not pertain to a matter of public record in a court of law.
- (f) No business associate of any person subject to this Code of Ethics shall represent him or herself or any other person or act as an expert witness before the state or municipal agency of which the person is a member or by which the person is employed unless:
  - (1) He or she shall first advise the state or municipal agency of the nature of his or her business relationship with the said person subject to this Code of Ethics; and

- (2) The said person subject to this Code of Ethics shall recuse him or herself from voting on or otherwise participating in the said agency's consideration and disposition of the matter at issue.
- (g) No person subject to this Code of Ethics or spouse (if not estranged) or dependent child or business associate of the person or any business by which the person is employed or which the person represents, shall solicit or accept any gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the person would be influenced thereby.
- (h) No person subject to this Code of Ethics and or any person within his or her family or business associate of the person or any business entity in which the person or any person within his or her family or business associate of the person has a ten percent (10%) or greater equity interest or five thousand dollars (\$5,000) or greater cash value interest, shall enter into any 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; provided, however, 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.<sup>7</sup>
- (i) No person shall give or offer to any person covered by this Code of Ethics, or to any candidate for public office, or to any person within his or her family or business associate of any such person, or to any business by which said person is employed or which the person represents, any gift, loan, political contribution, reward or promise of future employment based on any understanding or expectation that the vote, official action or judgment of said person would be influenced thereby.
- (j) No person shall use for any commercial purpose information copied from any statements required by this chapter or from lists compiled from such statements.
- (k) No person shall knowingly and willfully make a false or frivolous complaint under this chapter.
- (l) No candidate for public office or any person within his or her family or business associate of the candidate or any business by which the candidate is employed or which the candidate represents, shall solicit or accept any gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action or judgment of the candidate would be influenced thereby.
- (m) No person subject to this Code of Ethics, shall, either directly, or indirectly, through any government agency, or through a business associate, or through any other person, threaten or intimidate any complainant or witness or any family member of any complainant or witness in any proceeding before the state Ethics Commission.

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<sup>7</sup> See also Regulation 1.5.4 regarding “Municipal Official Revolving Door” prohibitions.

- (1) In addition to any rights a complainant or witness may have under the Rhode Island Whistleblower Act, chapter 50 of title 28 or under any other statute, a complainant or witness may bring a civil action in superior court for appropriate injunctive relief, or actual damages, or both and attorney's fees within three (3) years after the occurrence of the alleged violation of section (n) above.
  - (2) The initiation of litigation by a complainant or witness pursuant to section (m)(1) shall not constitute a violation of any confidentiality provisions of this chapter.
- (n)
- (1) No state elected official, while holding state office and for a period of one (1) year after leaving state office, shall seek or accept employment with any other state agency, as defined in section 36-14-2(8)(i), other than employment which was held at the time of the official's election or at the time of enactment of this subsection, except as provided herein.<sup>8</sup>
  - (2) Nothing contained herein shall prohibit any general officer or the general assembly from appointing any state elected official to a senior policy-making, discretionary, or confidential position on the general officer's or the general assembly's staff, and in the case of the governor, to a position as a department director; nor shall the provisions herein prohibit any state elected official from seeking or accepting a senior policy-making, discretionary, or confidential position on any general officer's or the general assembly's staff, or from seeking or accepting appointment as a department director by the governor.
  - (3) Nothing contained herein shall prohibit a state elected official from seeking or being elected for any other constitutional office.
  - (4) Nothing contained herein shall prohibit the Rhode Island Ethics Commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.
- (o)
- (1) No person holding a senior policy-making, discretionary, or confidential position on the staff of any state elected official or the general assembly shall seek or accept any other employment by any state agency as defined in section 36-14-2(8)(i), while serving as such policy-making, discretionary, or confidential staff member and for a period of one (1) year after leaving such state employment as a member of the state elected official's or the general assembly's senior policy-making, discretionary, or confidential staff.<sup>9</sup>
  - (2) Notwithstanding the foregoing, a person holding a senior policy-making, discretionary, or confidential staff position who has a minimum of five (5) years of uninterrupted state service shall be exempt from the provisions of this section. "State service" as used herein means service in the classified, unclassified and

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<sup>8</sup> See also Regulation 1.5.2 regarding state employment prohibition for members of the General Assembly and Regulation 1.5.6 for "employment" definition.

<sup>9</sup> See also Regulation 1.5.6 for "employment" definition and Regulation 1.5.7 for an exception regarding transition from state employment.

nonclassified services of the state, but shall not include service in any state elective office.

- (3) Nothing contained herein shall prohibit any general officer or the general assembly from appointing any such senior policy-making, discretionary, or confidential member of the staff of any state elected official or the general assembly to any other senior policy-making, discretionary, or confidential position on any general officer's or the general assembly's staff, and in the case of the governor, to a position as a department director; nor shall the provisions hereof prohibit any senior policy-making, discretionary, or confidential member of the staff of any state elected official or the general assembly from seeking or accepting any other senior policy-making, discretionary, or confidential position on any general officer's or the general assembly's staff, or from seeking or accepting appointment as a department director by the governor.
- (4) Nothing contained herein shall prohibit a person holding such a senior policy-making, discretionary, or confidential staff position from seeking or being elected for any constitutional office.
- (5) Nothing contained herein shall prohibit the Rhode Island Ethics Commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

**R.I. Gen. Laws § 36-14-7 Interest in conflict with discharge of duties.**

- (a) A person subject to this Code of Ethics has an interest which is in substantial conflict with the proper discharge of his or her duties or employment in the public interest and of his or her responsibilities as prescribed in the laws of this state, if he or she has reason to believe or expect that he or she or any person within his or her family or any business associate, or any business by which the person is employed or which the person represents will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity.
- (b) A person subject to this Code of Ethics does not have an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, if any benefit or detriment accrues to him or her or any person within his or her family or any business associate, or any business by which the person is employed or which the person represents, as a member of a business, profession, occupation or group, or of any significant and definable class of persons within the business, profession, occupation or group, to no greater extent than any other similarly situated member of the business, profession, occupation or group, or of the significant and definable class of persons within the business, profession, occupation or group.

**1.2.1 Additional Circumstances Warranting Recusal (36-14-5002)**

- A. A person subject to this Code of Ethics must also recuse himself or herself from participation in accordance with R.I. Gen. Laws § 36-14-6 when any of the following circumstances arises:



1. Any person within his or her family, or a household member, appears or presents evidence or arguments before his or her state or municipal agency.
  2. His or her business associate or employer appears or presents evidence or arguments before his or her state or municipal agency.
  3. His or her business associate, employer, household member or any person within his or her family authorizes another person, on his or her behalf, to appear or to present evidence or arguments before his or her state or municipal agency.
- B. A person subject to this Code of Ethics is not required to recuse himself or herself pursuant to this or any other provision of the Code when:
1. The person's business associate, employer, household member or any person within his or her family is before the person's state or municipal agency, solely in an official capacity as a duly authorized member or employee of another state or municipal agency, to participate in non-adversarial information sharing or coordination of activities between the two agencies, provided that the business associate, employer, household member or person within his or her family is not otherwise a party or participant, and has no personal financial interest, in the matter under discussion.
  2. The person's business associate, employer, household member or any person within his or her family is before the person's state or municipal agency during a period when public comment is allowed, to offer comment on a matter of general public interest, provided that all other members of the public have an equal opportunity to comment, and further provided that the business associate, employer, household member or person within his or her family is not otherwise a party or participant, and has no personal financial interest, in the matter under discussion.

### **1.2.2 Limitations on Recusal (36-14-5003)**

The notice and recusal provisions of R.I. Gen. Laws §§ 36-14-5(e)(1) and 36-14-5(f) shall not be interpreted so as to permit a person subject to this chapter to make use of such provisions on a regular basis. If such actions occur with such frequency as to give the appearance of impropriety, the person subject to this chapter may be deemed to have violated the provisions of this chapter, unless such actions are necessitated by circumstances beyond the control of such person and are the only legal course of action available to such person in order to protect a vested property interest.

### **R.I. Gen. Laws § 36-14-6 Statement of Conflict of Interest.**

Any person subject to this Code of Ethics who, in the discharge of his or her official duties, is or may be required to take an action, make a decision or refrain therefrom that will or can reasonably be expected to directly result in an economic benefit to said person, or spouse (if not estranged) or any dependent child of said person, or business associate or any business by which said person is employed or which said person represents, shall, before taking any such action or refraining therefrom:

- (1) Prepare a written statement sworn to under the penalties for perjury describing the matter requiring action and the nature of the potential conflict; if he or she is a member of a legislative body and he or she does not request that he or she be excused from voting, deliberating or taking action on the matter, the statement shall state why, despite the potential conflict, he or she is able to vote and otherwise participate fairly, objectively and in the public interest; and
- (2) Deliver a copy of the statement to the Commission, and:
  - (i) If he or she is a member of the general assembly or of any city or town legislative body he or she shall deliver a copy of the statement to the presiding officer of the body, who shall cause the statement to be recorded in the journal of the body and, upon request of the member, may excuse the member from votes, deliberations or any other action on the matter on which a potential conflict exists; or
  - (ii) If said person is not a legislator, his or her superior, if any, shall, if reasonably possible, assign the matter to another person who does not have a Conflict of Interest. If he or she has no immediate superior, he or she shall take such steps as the Commission shall prescribe through rules or regulations to remove himself or herself from influence over any action on the matter on which the Conflict of Interest exists.

### **1.2.3 Public Forum Exceptions (36-14-7003)**

No violation of this Chapter or regulations shall result by virtue of any person publicly expressing his or her own viewpoints in a public forum on any matter of general public interest or on any matter which directly affects said individual or his or her spouse or dependent child.

### **1.2.4 Officers of Public Agencies (36-14-7004)**

Notwithstanding any other provision of the Code of Ethics, it shall not be a violation of this chapter for an appointed or elected member of a state or municipal agency to participate in a vote of the agency during an open meeting to elect him/herself to a position of officer of that agency, provided that if such position carries with it any form of compensation, reimbursement or stipend that is greater than that provided to non-officer members, such additional compensation, reimbursement or stipend must either have been in effect at the time of the vote pursuant to a valid provision of constitution, statute, regulation, charter or ordinance, or be waived.

## **1.3 Nepotism**

### **1.3.1 Prohibited Activities - Nepotism (36-14-5004)**

- A. Definitions. For the purposes of applying the provisions of this regulation, the following definitions apply:

1. "Household member" means a person having legal residence or living in a public official's or public employee's place of residence.
2. "Any person within his or her family" means, in addition to any other definition, any person who is related to any public official or public employee, whether by blood, marriage or adoption, as any of the following: spouse, father, step-father, father-in-law, mother, step-mother, mother-in-law, son, step-son, son-in-law, daughter, step-daughter, daughter-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandfather, step-grandfather, grandfather-in-law, grandmother, step-grandmother, grandmother-in-law, grandson, step-grandson, grandson-in-law, granddaughter, step-granddaughter, granddaughter-in-law, uncle, step-uncle, uncle-in-law, aunt, step-aunt, aunt-in-law, niece, step-niece, niece-in-law, nephew, step-nephew, nephew-in-law, first cousin, step-first cousin and first-cousin-in-law.

B. Prohibitions. In addition to any other provisions of the Code of Ethics the following prohibitions relating to nepotism shall apply:

1. Nepotism Generally. No person subject to the Code of Ethics shall participate in any matter as part of his or her public duties if he or she has reason to believe or expect that any person within his or her family, or any household member, is a party to or a participant in such matter, or will derive a direct monetary gain or suffer a direct monetary loss, or obtain an employment advantage, as the case may be.
2. Advocacy/Supervision Regarding Family/Household Members.
  - a. No person subject to the Code of Ethics shall participate in the supervision, evaluation, appointment, classification, promotion, transfer or discipline of any person within his or her family or a household member, in the state or municipal agency in which the official or employee is serving or over which he or she exercises fiscal or jurisdictional control, except in accordance with particular instructions and advice received from the Ethics Commission in a written advisory opinion.
  - b. No person subject to the Code of Ethics shall delegate to a subordinate any tasks relating to the supervision, evaluation, appointment, classification, promotion, transfer or discipline of any person within his or her family or household members, except in accordance with particular instructions and advice received from the Ethics Commission in a written advisory opinion.
3. Participation in Budgets.
  - a. General Prohibition. No person subject to the Code of Ethics shall participate in discussion or decision-making relative to a budgetary line item that would address or affect the employment, compensation or benefits of any person within his or her family or a household member.
  - b. Specific Line Items. Notwithstanding the prohibition set forth in § 1.3.1(B)(3)(a) of this Part, a person subject to the Code of Ethics may, only

in accordance with particular instructions and advice received from the Ethics Commission in a written advisory opinion, participate in discussion or decision-making relative to a budgetary line item that addresses or affects the employment, compensation or benefits of any person within his or her family or a household member as a member of a significant and definable class of persons, and not individually or to any greater extent than any other similarly situated member of the class.

- c. Vote on Entire Budget. Notwithstanding the prohibition set forth in § 1.3.1(B)(3)(a) of this Part, a person subject to the Code of Ethics may participate in discussion or decision-making relative to approving or rejecting the entire budget as a whole, provided that the person within his or her family or household member is impacted by the entire budget as a member of a significant and definable class of persons, and not individually or to any greater extent than any other similarly situated member of the class.

4. Participation in Collective Bargaining/Employee Contracts.

- a. Negotiations. No person subject to the Code of Ethics shall participate in negotiations relative to an employee contract or collective bargaining which addresses or affects the employment, compensation or benefits of any person within his or her family or a household member.
- b. Vote on Entire Contract. Notwithstanding the prohibition set forth in § 1.3.1(B)(4)(a) of this Part, a person subject to the Code of Ethics may participate in a decision to accept or reject an entire employee contract or collective bargaining agreement as a whole, provided that the person within his or her family or household member is impacted by the contract or agreement as a member of a significant and definable class of persons, and not individually or to any greater extent than any other similarly situated member of the class.

**1.3.2 Nepotism (36-14-5005)**

The prohibitions contained herein which relate to the spouse or dependent child of a person subject to this Code of Ethics, except as to that activity described in R.I. Gen. Laws § 36-14-5(h), shall also pertain to any of the following relatives of such person, whether by blood, marriage or adoption: parents, grandparents, adult children, siblings, grandchildren, uncles, aunts, nieces, nephews and first cousins.

**1.4 Other Prohibited Activities**

**1.4.1 Acting as Agent or Attorney for Other than State or Municipality (36-14-5008)**

- A. No state appointed or elected official or employee, who exercises fiscal or jurisdictional control over any state agency, board, Commission or governmental entity, shall act, for compensation, as an agent or attorney before such agency, board, Commission or

governmental entity for any person or organization in any particular matter in which the state has an interest or is a party, unless:

1. such representation is in the proper discharge of official duties; or
2. such official or employee is acting as a representative of a duly certified bargaining unit of state or municipal employees; or
3. such appearance is before a state court of public record; or
4. the particular matter before the state agency requires only ministerial acts, duties, or functions involving neither adversarial hearings nor the authority of the agency to exercise discretion or render decisions.

B. No municipal appointed or elected official or employee, who exercises fiscal or jurisdictional control over any municipal agency, board, Commission or governmental entity, shall act, for compensation, as an agent or attorney before such agency, board, Commission or governmental entity for any person or organization in any particular matter in which the municipality has an interest or is a party, unless:

1. such representation is in the proper discharge of official duties; or
2. such official or employee is acting as a representative of a duly certified bargaining unit of state or municipal employees; or
3. such appearance is before a state court of public record; or
4. the particular matter before the municipal agency requires only ministerial acts, duties or functions involving neither adversarial hearings nor the authority of the agency to exercise discretion or render decisions.

C. For purposes of this Regulation, "fiscal control" shall include, but is not necessarily limited to, authority to approve or allocate funds or benefits for the applicable state or municipal entity.

D. For purposes of this Regulation, "jurisdictional control" shall include, but is not necessarily limited to, appointing authority, appellate review, or other substantive control in connection with the operation of the applicable state or municipal entity.

#### **1.4.2 Gifts (36-14-5009)**

A. No person subject to the Code of Ethics, either directly or as the beneficiary of a gift or other thing of value given to a spouse or dependent child, shall accept or receive any gift of cash, forbearance or forgiveness of indebtedness from an interested person, as defined herein, without the interested person receiving lawful consideration of equal or greater value in return.

- B. No person subject to the Code of Ethics, either directly or as the beneficiary of a gift or other thing of value given to a spouse or dependent child, shall accept or receive any gift(s) or other thing(s) having either a fair market value or actual cost greater than twenty-five dollars (\$ 25), but in no case having either an aggregate fair market value or aggregate actual cost greater than seventy-five dollars (\$ 75) in any calendar year including, but not limited to, gifts, loans, rewards, promises of future employment, favors or services, gratuities or special discounts, from a single interested person, as defined herein, without the interested person receiving lawful consideration of equal or greater value in return.
1. For purposes of this regulation a "single interested person" shall include all employees or representatives of an individual, business, organization or entity.
  2. The prohibitions in this section do not apply if the gift or other thing of value is:
    - a. a campaign contribution as defined by the laws of the state;
    - b. services to assist an official or employee in the performance of official duties and responsibilities, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents; or
    - c. a plaque or other similar item given in recognition of individual or professional services in a field of specialty or to a charitable cause.
- C. "Interested person," for purposes of this section, means a person or a representative of a person or business that has a direct financial interest in a decision that the person subject to the Code of Ethics is authorized to make, or to participate in the making of, as part of his or her official duties.
- D. The prohibitions in this section do not apply if the gift or thing of economic value is given:
1. because of the recipient's membership in a group, a majority of whose members are not persons subject to the Code of Ethics, and an equivalent gift is given or offered to other members of the group; or
  2. by an interested person who is a person within the family of the recipient, unless the gift is given on behalf of someone who is not a member of said family.
- E. For purposes of this regulation, a gift or other thing of value is considered received when it comes into the possession or control of the person subject to the Code of Ethics, or his or her spouse or dependent child, and is a gift or other thing of value subject to the requirements of this regulation unless it is immediately returned to the interested person or given to a bona fide charitable organization without benefit accruing to the person subject to the Code of Ethics.

### **1.4.3 Honoraria (36-14-5010)**

- A. No person subject to the Code of Ethics shall accept an honorarium, fee or reward or other compensation for any activity which may be considered part of or directly relates to said person's official duties and responsibilities unless:
1. the source of the honorarium, fee, reward or other compensation is an individual or entity for which the official or employee is not vested with decision making authority within his or her official duties and responsibilities; and
  2. the official or employee, when engaging in or preparing for the activity, uses his or her own time and does not make improper use of state or municipal materials or resources.

### **1.4.4 Transactions with Subordinates (36-14-5011)**

- A. No person subject to the Code of Ethics shall engage in a financial transaction, including participating in private employment or consulting, and giving or receiving loans or monetary contributions, including charitable contributions, with a subordinate or person or business for which, in the official's or employee's official duties and responsibilities, he or she exercises supervisory responsibilities, unless:
1. the financial transaction is in the normal course of a regular commercial business or occupation;
  2. the subordinate or person or business described above offers or initiates the financial transaction; or
  3. the financial transaction involves a charitable event or fundraising activity which is the subject of general sponsorship by a state or municipal agency through official action by a governing body or the highest official of state or municipal government.
- B. No person subject to the Code of Ethics shall solicit or request, directly or through a surrogate, political contributions, from a subordinate for whom, in the official's or employee's official duties and responsibilities, he or she exercises supervisory responsibilities. This does not prohibit or limit the First Amendment rights of a subordinate, as defined in this section, to make political contributions.
- C. For purposes of this regulation, "subordinate" means an employee, contractor, consultant, or appointed official of the official's or employee's agency.

## **1.5 Revolving Door/Post-Employment**

### **1.5.1 Employment from Own Board (36-14-5006)**

No elected or appointed official may accept any appointment or election that requires approval by the body of which he or she is or was a member, to any position which carries with it any financial benefit or remuneration, until the expiration of one (1) year after

termination of his or her membership in or on such body, unless the Ethics Commission shall give its approval for such appointment or election, and, further provided, that such approval shall not be granted unless the Ethics Commission is satisfied that denial of such employment or position would create a substantial hardship for the body, board, or municipality.

### **1.5.2 Prohibition on State Employment (36-14-5007)**

No member of the General Assembly shall seek or accept state employment, not held at the time of the member's election, while serving in the General Assembly and for a period of one (1) year after leaving legislative office. For purposes of this regulation, "employment" shall include service as defined in R.I. Gen. Laws § 36-14-2(4) and shall also include service as an independent contractor or consultant to the state or any state agency, whether as an individual or a principal of an entity performing such service.<sup>10</sup>

### **1.5.3 Restrictions on Activities Relating to Public Boards (36-14-5013)**

- A. No member of the General Assembly, while serving as a member of a Public Board, shall:
1. ask, demand, solicit, accept, receive or agree to receive any gift, loan, reward, promise of future employment, favor or service, forbearance or forgiveness of indebtedness, gratuity or special discount or other thing of economic value from any person, business or other entity having a financial interest, direct or indirect, in a contract or proposed contract in which the member has participated or intends to participate or vote, and in which the Public Board on which he or she serves, is an interested party. The Prohibition in this subsection shall apply during the term of any such Contract and for a period of 12 months thereafter;
  2. ask, demand, solicit, accept, receive or agree to receive any gift, loan, reward, promise of future employment, favor or service, forbearance or forgiveness of indebtedness, gratuity or special discount or other thing of economic value from any employee, or applicant for employment of that Public Board; or
  3. while serving as an appointed member of an executive, public or quasi-public board, authority, corporation, commission or agency, and for a period of one (1) year after leaving that office, seek or accept employment, or act as an agent, attorney, professional service provider, professional consultant, or consultant for, any business or other entity which had a financial interest, direct or indirect, in any contract or proposed contract in which the Public Board was an interested party and which was in effect at any time during his or her service on the Public Board; and
  4. The prohibitions contained in § 1.5.3(A) of this Part shall not apply to or prohibit political contributions.

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<sup>10</sup> See also R.I. Gen. Laws § 36-14-5(n)(1) regarding general prohibition on state employment for state elected officials.



- B. No member of the General Assembly, while serving on a Public Board shall:
1. ask, demand, solicit, accept, receive or agree to receive any political contribution from any person, business or other entity ("Vendor") having a financial interest, direct or indirect, in a contract in which the member of the General Assembly has participated or voted as a member of said Public Board. This prohibition shall apply to any Vendor from which the member of the General Assembly has received any political contribution within 12 months prior to his or her participation or vote, and, in the event said member is otherwise permitted to participate or vote, he or she shall be prohibited from accepting any such political contribution from any Vendor after such participation or vote, during the term of the contract, and for a period of 12 months thereafter.
    - a. The prohibitions of § 1.5.3(B) of this Part shall also apply to political contributions through any Political Action Committee, or similar political funding entity, owned or controlled by such Vendor.
    - b. A Vendor under § 1.5.3(B) of this Part shall include, but not be limited to
      - (1) individuals,
      - (2) partners,
      - (3) managers and officers of a limited liability company, and members owning a five percent or greater interest in said limited liability company,
      - (4) directors and officers of a corporation, and shareholders of a corporation owning a five percent or greater interest in said corporation; or
  2. directly or indirectly ask, demand, or solicit any political contribution from any employee, or applicant for employment of that Public Board.
- C. The restrictions and prohibitions of § 1.5.3 of this Part shall not apply to matters representing arms length, bona fide contracts for which due and fair consideration has been paid and received by the parties.
- D. For purposes of this regulation, "Public Board" means all public bodies within the executive branch of the state government and all state executive, public and quasi-public authorities, corporations, commissions, councils, or agencies, provided, however, that the foregoing definition shall not apply to any such entity which
1. functions solely in an advisory capacity, or
  2. exercises solely legislative functions.
- E. This regulation shall be effective upon filing.

#### **1.5.4 Municipal Official Revolving Door (36-14-5014)**

- A. No municipal elected official or municipal school committee member, whether elected or appointed, while holding office and for a period of one (1) year after leaving municipal office, shall seek or accept employment with any municipal agency in the municipality in which the official serves, other than employment which was held at the time of the official's election or appointment to office or at the time of enactment of this regulation, except as provided herein.<sup>11</sup>
1. For purposes of this regulation, "employment" shall include service as defined in R.I. Gen. Laws § 36-14-2(4) and shall also include service as an independent contractor or consultant to any municipality or municipal agency, whether as an individual or a principal of an entity performing such service.
  2. For purposes of this regulation, "municipal agency" shall include any department, division, agency, commission, board, office, bureau, authority, quasi-public authority, or school, fire or water district and any other agency that is in any branch of municipal government and exercises governmental functions other than in an advisory nature.
- B. Nothing contained herein shall prohibit a municipal elected official or municipal school committee member, whether elected or appointed, from seeking or being elected to any elective office.
- C. The Rhode Island Ethics Commission may authorize exceptions to this regulation where such exceptions would not create an appearance of impropriety.

#### **1.5.5 State Executive/Administrative Revolving Door (36-14-5015)**

- A. No person holding or fulfilling a position in the Governor's Office or the Department of Administration who in the course of and by reason of his or her official duties has substantial involvement in matters involving a state agency, as defined herein in § 1.5.5(A)(5) of this Part, shall:
1. Represent him or herself, as defined in § 1.1.4(A)(1) of this Part, before the state agency with which he or she has substantial involvement unless the Ethics Commission shall give its approval for such representation in a written advisory opinion and further provided that such approval shall not be granted unless:
    - a. The Ethics Commission is satisfied that denial of such representation would create a hardship, and
    - b. the person shall first:
      - (1) Advise the Governor's Office or the Department of Administration and the state agency in writing of the existence and the nature of his

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<sup>11</sup> See also R.I. Gen. Laws § 36-14-5(h) regarding restrictions on contracting with any state or municipal agency.

or her relationship with the agency and his or her interest in the matter at issue;

- (2) recuse him or herself from participating in the state agency's consideration and disposition of the matter at issue; and
    - (3) follow any other recommendations the Ethics Commission may make to avoid any appearance of impropriety in the matter.
  2. Represent any other person, as defined in § 1.1.4(A)(2) of this Part, before the state agency with which he or she has substantial involvement in the course of and by reason of his or her official duties.
  3. Engage in any of the activities prohibited by §§ 1.5.5(A)(1) or (2) of this Part for a period of one year after he or she has officially severed his or her position with the Governor's Office or the Department of Administration, unless:
    - a. Such representation is in the proper discharge of his or her official duties; or
    - b. the particular matter before the state agency requires only ministerial acts, duties, or functions involving neither adversarial hearings nor the authority of the agency to exercise discretion or render decisions.
  4. For purposes of this regulation "substantial involvement" shall include, but is not necessarily limited to, substantial control or substantial influence over and/or substantial participation in matters involving budget, communications, legal, legislative, or policy matters. Positions exercising such involvement shall include, but are not limited to, Budget Officer, Chief of Staff, Deputy Chief of Staff, Executive Counsel, Communications Director, Director of Administrative Services, Director of Policy, and Director of Legislative Affairs.
  5. For purposes of this regulation a state agency shall include, but is not necessarily limited to, any agency, board, bureau, commission, committee, department, division, governmental entity, office, or quasi-public authority in the executive branch of state government, or any agency or committee thereof, that exercises governmental functions and is not part of another constitutional office.
  6. For purposes of this regulation a person holding a position in the Governor's Office shall include, but is not necessarily limited to, Chief of Staff, Deputy Chief of Staff, Executive Counsel, Communications Director, Director of Administrative Services, Director of Policy, and Director of Legislative Affairs.
- B. No director or head of a state department, enumerated in R.I. Gen. Laws § 42-6-1 and as may be amended from time to time, and including directors and heads of divisions within the Department of Administration who are appointed by the Governor and/or the Director of the Department Administration, shall:

1. Represent him or herself, as defined in § 1.1.4(A)(1) of this Part, before the Governor's Office or the Department of Administration unless the Ethics Commission shall give its approval for such representation in a written advisory opinion and further provided that such approval shall not be granted unless:
  - a. The Ethics Commission is satisfied that denial of such representation would create a hardship; and
  - b. the person follows any other recommendations the Ethics Commission may make to avoid any appearance of impropriety in the matter.
2. Represent any other person, as defined in § 1.1.4(A)(2) of this Part, before the Governor's Office or the Department of Administration.
3. Engage in any of the activities prohibited by §§ 1.5.5(B)(1) or (2) of this Part for a period of one year after he or she has officially severed his or her position, unless:
  - a. Such representation is in the proper discharge of his or her official duties; or
  - b. The particular matter before the Governor's Office or Department of Administration requires only ministerial acts, duties, or functions involving neither adversarial hearings nor the authority to exercise discretion or render decisions.

#### **1.5.6 Revolving Door, "Employment" Defined (36-14-5017)**

For purposes of R.I. Gen. Laws §§ 36-14-5(n) and 36-14-5(o), "employment" shall also include service as an independent contractor or consultant to the state or any state agency, whether as an individual or a principal of an entity performing such service.

#### **1.5.7 Transition from State Employment (36-14-5018)**

Notwithstanding the prohibitions set forth within R.I. Gen. Laws § 36-14-5(o)(1), a person holding a senior policy-making, discretionary, or confidential position on the staff of any state elected official or the general assembly may, upon leaving said position, serve as an independent contractor or consultant to his or her former agency for a period not to exceed ninety (90) days to assist in the transition of his or her former duties.

### **PART 2 – Ethics Commission**

#### **2.1 Access to Commission Records (36-14-5001)**

- A. All Commission records, other than those listed within R.I. Gen. Laws § 38-2-2(4) (Access to Public Records) and those relating to investigations of Complaints, shall be open to public inspection at reasonable times. Those persons wishing to shall be entitled to review said information during normal Commission hours, and upon prior notice and request. Copies of such public material shall be available to all persons subject to the payment of costs as provided for in R.I. Gen. Laws § 38-2-4.

- B. This amendment shall take effect December 18, 1991, and shall relate to any complaint filed with the Commission on or after December 18, 1991.

## **2.2 Commission Records (1028)**

- A. All Commission records, other than those referenced in R.I. Gen. Laws § 38-2-2(4) (Access to Public Records) and those relating to the investigations of complaints, shall be open to public inspection at reasonable times. Such records shall include, but are not limited to, pending Complaints and advisory opinion requests.
- B. Any person wishing to review Commission records shall be entitled to examine said information during Commission business hours and upon reasonable notice and request. Copies of such public material shall be available to all persons, subject to the payment of costs as provided in R.I. Gen. Laws § 38-2-4, except those costs required to be paid by the Respondent in § 3.22(J) of this Subchapter.

## **2.3 Public Forum Exceptions (36-14-8001)**

The prohibitions contained in R.I. Gen. Laws § 36-14-8(f) and regulations thereto shall in no way be construed to limit or prevent any individual who is a member or employee of the Commission from publicly expressing his or her own viewpoints in a public forum on any matter of general public interest or on any matter which directly affects said individual or his or her spouse or dependent child, unless otherwise specifically prohibited by this chapter.

## **R.I. Gen. Laws § 36-14-8 Rhode Island Ethics Commission - Establishment-Members - Vacancies - Quorum - Compensation and quarters.**

- (a) There is hereby established an independent and nonpartisan Rhode Island Ethics Commission composed of nine (9) members appointed by the governor. The president of the senate, the minority leader of the senate, the speaker of the house of representatives, the majority leader of the house of representatives, and the minority leader of the house of representatives shall, within twenty (20) days of July 21, 1992, each submit to the governor a list of names of at least five (5) individuals. The governor shall, within forty (40) days of July 21, 1992, appoint one individual from each of the lists so submitted and four (4) individuals without regard to the lists submitted by the legislative leaders.
- (b) Members of the Commission shall serve for terms of five (5) years, except that, of the members first appointed:
  - (1) The individual appointed from the list submitted by the majority leader of the house of representatives shall serve for one year;
  - (2) The individuals appointed from the lists submitted by the minority leader of the senate and one of the individuals appointed by the governor without regard to the lists submitted by the legislative leaders shall serve for two (2) years;

- (3) The individual appointed from the list submitted by the minority leader of the house of representatives and one of the individuals appointed by the governor without regard to the lists submitted by the legislative leaders shall serve for three (3) years;
  - (4) The individual appointed from the list submitted by the president of the senate and one of the individuals appointed from the list submitted by the minority leader of the house of representatives shall serve for four (4) years; and
  - (5) The individual appointed from the list submitted by the speaker of the house of representatives and one of the individuals appointed from the list submitted by the minority leader of the senate shall serve for five (5) years.
- (c) No member shall be appointed for more than one full five (5) year term; provided, however, that each member shall continue to serve until his or her successor is appointed and qualified; and, provided further, that if, at the time of the expiration of any member's term, that member is actively engaged in the adjudication of a complaint, he or she shall continue to serve in that capacity until the Commission has completed its responsibilities with respect to that complaint.
  - (d) The governor shall, at the time of the initial appointments to the Commission, designate one member to act as chairperson of the Commission for a period of one year and another to act as vice chairperson of the Commission for a period of one year. Thereafter, the Commission shall elect a chairperson and a vice chairperson. The vice chairperson shall act as chairperson in the absence of the chairperson or in the event of a vacancy in that position.
  - (e) Any vacancy on the commission, occurring for any reason prior to the expiration of the term, shall be filled for the unexpired term by the appointing authority in the same manner as the original appointment within thirty (30) days of the vacancy occurring.
  - (f) No individual, while a member or employee of the Commission, including any legal counsel engaged by the Commission, shall:
    - (1) Hold or campaign for any other public office;
    - (2) Hold office in any political party or political committee;
    - (3) Participate in or contribute to any political campaign;
    - (4) Directly or indirectly attempt to influence any decision by a governmental body, other than as the duly authorized representative of the Commission on a matter within the jurisdiction of the Commission;
    - (5) Have held elective public office or have been a candidate for elective public office for a one year period prior to appointment.
    - (6) Have any equity interest or ownership interest in, or be employed by a business entity that derives any of its revenue or income by engaging in lobbying, as defined in chapter 22-10 and chapter 42-139.

- (g) The governor shall declare vacant the position on the Commission of any member who takes part in activities prohibited by subsection (f) of this section. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds, and is eligible for appointment to one full five-year term thereafter. Any vacancy occurring on the Commission shall be filled within thirty (30) days in the manner in which that position was originally filled.
- (h) For any action to be taken under the terms of this chapter by the full Commission, five (5) members of the Commission shall constitute a quorum.
- (i) Commission members shall not be compensated for attendance at meetings of the Commission or of any investigating committee or adjudicative panel of the Commission.
- (j) All departments and agencies of the state or of any city or town or political subdivision within this state shall furnish such advice or information documentary or otherwise, to the Commission and its agents as is deemed necessary or desirable by the Commission to facilitate the purposes of this chapter.
- (k) The director of administration is hereby authorized and directed to provide suitable quarters for the Commission.
- (l) When Commission members act in good faith within the scope of their authority and in their official capacities they shall be afforded protection against civil liability as provided in § 9-1-31.1.

**2.4 Additional Officers (36-14-8002)**

- A. There shall be a secretary elected in accordance with R.I. Gen. Laws § 36-14-8(d).
- B. In the event of the absence of both the chairperson and the vice chairperson, the secretary shall preside. An assistant secretary *pro tem* shall act as secretary in the event of the secretary presiding at the meeting or in the event of the secretary's absence.

**R.I. Gen. Laws § 36-14-9 Administrative powers of the Commission.**

- (a) The Commission is hereby empowered to:
  - (1) Engage the services of an executive director and of such other legal, secretarial, and investigative employees, who shall be bound by the prohibitions contained in section 36-14-8 (f), and to make such other expenditures as are necessary for the effective performance of its functions;
  - (2) Separately retain the services of independent legal counsel, who shall be bound by the prohibitions contained in section 36-14-8(f) and who shall remain independent of the executive director and other Commission employees.
  - (3) Prescribe and publish, after notice and public hearings, rules and regulations to carry out the provisions of this chapter;

- (4) Prescribe forms for statements and reports required to be filed by this chapter and furnish such forms to persons required to file such statements and reports;
  - (5) Prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons required to file statements and reports by this chapter;
  - (6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;
  - (7) Compile and maintain an index of all reports and statements filed with the Commission to facilitate public access to the reports and statements;
  - (8) Prepare and publish quarterly and annually summaries of statements and reports filed with the Commission;
  - (9) Review all statements and reports filed with the Commission in order to ascertain whether any person has failed to file a required statement or has filed a deficient statement;
  - (10) Preserve statements and reports filed with the Commission for a period of five (5) years from date of receipt;
  - (11) Prepare and publish special reports and technical studies to further the purposes of this chapter; and
  - (12) Prepare and publish, prior to April 1st of each year, an annual report summarizing the activities of the Commission, including but not limited to the:
    - (i) Number of disclosure statements filed;
    - (ii) Subjects of advisory opinions requested and issued;
    - (iii) Number of complaints filed, investigated and/or adjudicated;
  - (13) Have a seal and the members and executive director and assistant clerks thereof shall have authority and power to administer oaths and affirmations;
  - (14) Educate public officials, employees and citizens on ethical standards as embodied in the Code of Ethics by holding regular workshops, seminars, and the like, focusing on the specifics of the Code of Ethics and compliance therewith;
  - (15) Create publications to explain the ethical conduct expected of officials and employees.
- (b) The rulemaking power conferred by subsection (a) (3) of this section shall be subject to, and shall be exercised in conformity with, sections 42-35-2 through 42-35-7, inclusive, entitled "Administrative Procedures."



- (c) Unless specifically prohibited, the Commission shall make statements and reports filed with the Commission available for public inspection and copying during regular office hours and make copying facilities available at a charge not to exceed actual cost.

## **2.5 Annual Report Requests (36-14-9001)**

On or before the last Friday in December of each year, the Commission shall cause to be mailed, by first class mail, postage prepaid, an inquiry and roster from the then current records of the Commission to the clerk of each city and town and the state. Said inquiry shall include the definitions of those persons subject to the Code of Ethics (R.I. Gen. Laws § 36-14-2(1), (2), and (3)), and shall direct the clerk to furnish the title, names and address of those persons subject to the Code of Ethics for each town who do not appear on said roster, and to furnish said information for replacement of any additional persons subject to the code during the next succeeding twelve (12) month period.

### **R.I. Gen. Laws § 36-14-10 Education powers of the Commission.**

- (a) The Commission is hereby empowered to establish and implement an education program for the purpose of educating public officials and employees and the general public about the ethical standards embodied in the Rhode Island Code of Ethics in government, which program may include the preparation and dissemination of brochures and other publications and the conduct of workshops and seminars.
- (b) The education program authorized by this section shall be established by the Commission in the exercise of the rulemaking authority conferred by section 36-14-9(a)(3) of this chapter.
- (c) The Commission may, by rule or regulation, delegate to its executive director (or other designated employee) such authority as it may deem necessary for the implementation of the educational program authorized by this section.

### **R.I. Gen. Laws § 36-14-10.1. Continuing ethics education**

The commission shall periodically provide a continuing education program on the Rhode Island code of ethics and related laws for major state decision-makers. The program shall be provided at least twice annually and shall consist of continuing education units as established by commission rule and which may be offered through an interactive web-based format. The commission shall provide participants with certificates showing the date and number of continuing education units completed.

## **2.6 Education (36-14-10001)**

The Commission shall, within 180 days of the adoption of this regulation, establish and appoint a subcommittee of the Commission appointed by the chairperson composed of five (5) Commission members (and the executive director, who shall serve in an *ex officio* capacity) to implement an appropriate educational program or programs as provided for in this section.

**R.I. Gen. Laws § 36-14-11 Advisory powers of the Commission.**

- (a) The Commission is hereby empowered to issue, at the request of any person covered by the Rhode Island Code of Ethics in Government, advisory opinions on the requirements of this chapter.
- (b) Any advisory opinion rendered pursuant to this section must be approved, prior to issuance, by a majority of the members of the Commission.
- (c) Any advisory opinion rendered by the Commission, until amended or revoked by a majority vote of the Commission, shall be 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.

**2.7 Advisory Opinions (1024)**

- A. A person subject to the Code of Ethics may request an advisory opinion relative to the provisions of the Code which may affect him or her. An entity subject to the Code may request an advisory opinion relative to the provisions of the Code which may affect all members of the entity, or a majority thereof. The request shall be in writing, include a complete statement of the facts, disclose the reasons for requesting the opinion and state any time period for Commission action which may be significant. The request shall be signed by the person requesting the opinion or by his or her representative.
- B. Upon receipt of the request for an advisory opinion, the Commission shall acknowledge the request and the right to submit supporting data.
- C. The Commission shall notify the person or entity requesting the opinion of the date the Commission intends to consider the request. All requests for advisory opinions shall be considered by the Commission in Open Session.
- D. The Commission, in its discretion, may invite the person or entity requesting an opinion, counsel, or any other interested person, to make a written or oral presentation.
- E. Any advisory opinion rendered by the Commission regarding provisions of the Code of Ethics must be approved, prior to issuance, by a majority of the members of the Commission.
- F. Any advisory opinion rendered by the Commission, until amended or revoked by a majority of the Commission, shall be binding on the Commission in any subsequent proceeding concerning the person or entity who requested the opinion and who acted in reliance on it in good faith, unless material facts were omitted or misstated in the request for the opinion.
- G. Advisory opinions are based upon the representations made by, or on behalf of the person or entity requesting the opinion, and are not the result of adversary or investigative proceedings.

- H. The Commission may issue general advisory opinions and emergency advisory opinions in such form and under such circumstances as the Commission shall deem appropriate.

## **2.8 Declaratory Ruling by Commission (1025)**

Any interested person may petition the Commission for a declaratory ruling as to the applicability of any provision of the Code of Ethics or of any regulation or order of the Commission. The Commission shall promptly respond to each such petition. Any ruling disposing of petitions shall have the same status as Commission orders in contested cases.

## **2.9 Petition for Adoption of Regulations (1026)**

- A. Any interested person may petition the Commission for the promulgation, amendment, repeal or adoption of any regulation. The petition shall be signed by the petitioner and shall state the specific reasons for the request. The Commission shall thereafter acknowledge receipt of the petition and advise the petitioner of the right to submit supporting data.
- B. Within thirty (30) days of receipt of the petition, the Commission shall either deny the petition in writing (stating its reasons for the denial) or initiate rule-making procedures in accordance with R.I. Gen. Laws § 42-35-3.
- C. The Commission shall notify the petitioner of the date the Commission intends to consider the petition and may, at its discretion, invite the petitioner or other interested parties to make oral or written presentation.

## **2.10 Adoption of Commission Policy and General Commission Advisory Opinions (1027)**

Final adoption of any policy or general Commission advisory opinion shall require an affirmative vote at two separate meetings of the Commission. The initial vote may occur at any public meeting of the Commission. The second or final vote shall only be taken after the proposed policy or general advisory opinion has been incorporated by specific reference on a public meeting notice relating to an open and public meeting of the Commission, thereby providing an opportunity for public comment on any proposed policy or general advisory opinion. Specifically excluded from these policies are any proposed regulations which are subject to promulgation pursuant to R.I. Gen. Laws § 42-35-3.

### **R.I. Gen. Laws § 36-14-20 Construction.**

The provisions of this chapter shall be construed to be in addition to and not in substitution of any other provision of law not inconsistent herewith.

### **R.I. Gen. Laws § 36-14-21 Severability.**

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the application of such provisions to other persons and circumstances shall not be affected thereby.

### **2.11 Severability of Regulations (36-14-21001)**

If any provision of these regulations, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of these regulations and the application of such provisions to other persons and circumstances shall not be affected thereby.

## **PART 3 – Procedures - Complaints and Investigations**

### **3.1 Limitations Period on Filing of Complaint (1001.1)**

Any Complaint shall be filed with the Ethics Commission no later than six (6) years from the date of the alleged violation of the Rhode Island Code of Ethics.

### **3.2 Limitation on Pre-election Complaints (1001.2)**

The Ethics Commission shall not accept any complaint against an individual who has filed a valid declaration of candidacy for elective office, during the period of time beginning ninety (90) days prior to the general or special election in which the individual is a candidate, and ending the day after the election. Provided, however, that this restriction shall not apply to investigations or complaints initiated by the Ethics Commission.

### **3.3 Preliminary Review of Information (1000)**

The Executive Director or designee may review any information which indicates a possible violation of the Rhode Island Code of Ethics with the Commission in Executive Session and may thereupon conduct a preliminary investigation. The Executive Director or designee shall report to the Commission regarding such preliminary investigation.

## **R.I. Gen. Laws § 36-14-12 Investigative powers of the Commission.**

- (a) The Commission is hereby empowered to investigate allegations of violations of the provisions of this chapter and, in furtherance of any such investigation, the Commission shall have the power to:
  - (1) Compel the attendance of witnesses and require the production of evidence; and
  - (2) Take oral or written evidence under oath or affirmation.
- (b) Any person, including any member of the Commission, may file with the Commission a complaint alleging a violation of this chapter. Any such complaint filed with the Commission shall be a statement in writing under oath which shall include the name of the person alleged to have committed the violation and which shall set forth in detail the specific act or acts complained of. The Commission shall, within seventy-two (72) hours of the filing of any complaint, cause a copy of that complaint to be served, by certified mail, returned receipt requested, upon any person alleged in the complaint to have committed a violation of this chapter.

- (c) Upon receipt of a written complaint alleging a violation of this chapter, the Commission shall within one hundred eighty (180) days of receipt of the written complaint complete its investigation; provided, that the Commission may, for good cause shown, grant no more than two (2) extensions of sixty (60) days each.
- (1) If the Commission determines that the verified complaint does not allege facts sufficient to constitute a knowing and willful violation of any of the provisions of this chapter, it shall dismiss the complaint and notify the complainant and the respondent of such dismissal. The contents and substance of any complaint so dismissed and any answer thereto and the notice of dismissal shall be made public.
  - (2) If the Commission determines that the verified complaint alleges facts sufficient to constitute a violation of any of the provisions of this chapter, the Commission shall promptly investigate the allegations contained in the complaint and make a finding on the complaint and any amendment thereto.
  - (3) If the Commission finds after its preliminary investigation that probable cause does not exist to support the allegations of the complaint, the Commission shall dismiss the complaint and notify the complainant and the respondent of such dismissal. The contents and substance of any complaint so dismissed and any answer thereto and the notice of dismissal shall be made public.
  - (4) If the Commission finds that probable cause does exist to support the allegations of the complaint, it shall prepare written findings which shall state in detail the violations complained of and the manner in which they occurred and shall fix a time for hearing on the matter; provided, however, that, before it issues any findings, the Commission shall permit the respondent to submit a written statement and/or to appear in person or by counsel for the purpose of presenting arguments and/or written evidence in response to the allegations against him or her. The respondent shall be entitled to examine and make copies of all evidence in the possession of the Commission relating to the complaint. Upon the issuance of any such findings, the Commission shall notify the complainant and the respondent of its action.
  - (5) If the Commission, during the course of its investigation, has probable cause to believe that violations of this chapter, other than those contained in the complaint, have been committed, it may upon its own motion, amend the complaint to include such violations. The Commission shall, within seventy-two (72) hours of any such amendment, cause a copy of the amended complaint to be served, by certified mail, return receipt requested, upon any person alleged in the amended complaint to have committed a violation of this chapter. Any person alleged by such an amended complaint to have committed a violation of this chapter shall be afforded a reasonable opportunity to respond to the allegations contained therein.
  - (6) Nothing in this section shall be construed to authorize the Commission to make any of its investigatory records public.

- (d) The commission upon a finding pursuant to this section that there fails to exist probable cause for a violation of this chapter shall issue an order dismissing the complaint, and if it finds the complaint to be frivolous, unreasonable, or groundless, the commission shall require the person filing the complaint to pay a civil penalty of not more than five thousand dollars (\$5,000), all or part of which may be paid to the subject of the complaint in reimbursement of said subject's reasonable expenses of defense.

### **3.4 Preliminary Investigations (36-14-12001)**

A. Pursuant to its constitutional authority to investigate violations of the State's Code of Ethics (R.I. Const., art. III, sec. 8) and its statutory empowerment to investigate allegations of violations of the provisions of R.I. Gen. Laws § 36-14-1, *et seq.* (R.I. Gen. Laws § 36-14-12(a)), the Rhode Island Ethics Commission adopts the following procedures for the preliminary investigation of allegations of violations of the Code of Ethics.

1. Upon a determination by the Executive Director of the Commission that information provided to and/or in the possession of the Commission and/or its staff establishes a reasonable basis to believe that a state or municipal official or employee, as those terms are defined in R.I. Gen. Laws § 36-14-1, *et seq.*, may have violated provisions of R.I. Gen. Laws § 36-14-1, *et seq.*, the State's Code of Ethics, the Executive Director, within a reasonable time, shall provide the Commission with written notification that a preliminary investigation has been initiated including the date the preliminary investigation file was opened, the subject(s) and/or subject matter of the preliminary investigation, and the nature and source(s) of the information that establishes a reasonable basis that a state or municipal official or employee may have violated provisions of R.I. Gen. Laws § 36-14-1, *et seq.*, the State's Code of Ethics.
2. All files, documents or other materials relating to a preliminary investigation, including but not limited to written notifications, pleadings, records of counsel and investigators, subpoenas and pleadings requesting the issuance of subpoenas, documentary evidence, and records of witness statements, whether written or recorded by other means, shall remain confidential, except as follows:
  - a. the Commission, itself or through its Executive Director, may at any time grant access to any information related to and/or obtained during a preliminary investigation to any federal, state or municipal law enforcement agency;
  - b. the Commission, itself or through its Executive Director or his/her designee, may in a complaint filed with the Commission pursuant to R.I. Gen. Laws § 36-14-12(b) disclose information related to and/or obtained during a preliminary investigation; and
  - c. the Commission, itself or through its Executive Director or his/her designee, shall disclose information related to and/or obtained during a preliminary investigation in accordance with the provisions of R.I. Gen. Laws § 36-14-12(c)(4).

3. In accordance with R.I. Gen. Laws § 36-14-12(a)(1) the Commission, its Executive Director or his/her designee, through the issuance of subpoenas, may compel the attendance of witnesses and require the production of documents as follows:
  - a. no subpoenas may issue until written notification of the initiation of a preliminary investigation is made to the Commission pursuant to § 3.4(A)(1) of this Part; and
  - b. issuance of a subpoena(s) as part of a preliminary investigation shall be in accordance with the provisions of § 3.14 of this Part.
4. No later than sixty (60) days from the initiation of a preliminary investigation the Executive Director or his/her designee shall complete the preliminary investigation and shall file a report with the full Commission detailing the results of said investigation, including whether or not the Executive Director or his/her designee intends to file a complaint with the Commission pursuant to R.I. Gen. Laws § 36-14-12(b) as a result of said investigation. Upon a showing of good cause the Commission may grant an extension of time for the filing of said report.
5. The only decision made by the Commissioners during the preliminary investigation stage is whether there is good cause for an extension of time. The Commission shall not engage in any review of the substance of the complaint relating to the merits of the complaint.
6. The Executive Director or designee shall provide the Commission with quarterly reports identifying all open preliminary investigations.
7. The Executive Director or designee shall provide the Commission with notice when a preliminary investigation is closed without the filing of a complaint.

### **3.5 Review of Complaint (1002)**

- A. Any Complaint filed shall be reviewed as to form. If the Complaint is defective as to form, it shall be returned to the Complainant for correction. If it is not returned to the Commission by the Complainant within twenty (20) days of mailing by the Commission, the Complaint shall not be processed as filed.
  1. Notwithstanding § 3.5(A) of this Part, if the Executive Director or designee determines that the facts stated in a defective Complaint are sufficient to allege a violation of the Code of Ethics, the Executive Director or designee may initiate a preliminary investigation, regardless of any defects as to form, or the failure of the Complainant to refile the Complaint.
  2. If the Complaint contains no defect as to form, it shall be reviewed by the Executive Director or designee to determine whether or not the Complaint alleges facts sufficient to constitute a knowing and willful violation of the Code of Ethics, who shall forward the Complaint to the Commission for review at an initial determination.

- B. Subsequent to receipt of a Complaint in proper form, within three (3) working days, the Complainant and Respondent shall be mailed a copy of the Complaint, Notification of Receipt of Complaint, and a copy of the Code of Ethics and any Regulations promulgated thereto.

### **3.6 Filing of Complaint (1001)**

- A. The Rhode Island Ethics Commission shall investigate allegations of violation of the Rhode Island Code of Ethics. The Commission may proceed to investigate allegations of violations by:
  - 1. accepting any information which indicates a possible violation of the Rhode Island Code of Ethics. The Executive Director or designee shall be responsible for the review and processing of such information in order to determine whether to conduct a preliminary investigation which may form the basis of a Commission Complaint, which the Commission may file on its own initiative.
  - 2. accepting the filing of a Complaint by any person, business, state or municipal agency, or any other public body, which alleges a violation of the Code of Ethics. Such Complaint should be signed under oath and should set forth the name of the person who has allegedly violated the Code of Ethics, and should state in detail the specific acts which form the basis of the Complaint. Any such Complaint filed with the Commission should be made on a form provided by the Commission at no cost to the Complainant.
- B. Any Complaint filed with the Commission and all documents in the Commission's official Complaint file relating to such Complaint shall be a public record, except as provided in § 3.6(C) of this Part.
- C. All documents or other material related to the investigation of the Complaint, including but not limited to records of counsel and investigators, and interviews of witnesses, whether written or recorded by other means, shall remain confidential, provided that nothing herein shall prohibit the Commission from granting access to the above-described investigative documents or materials to law enforcement agencies.
- D. Any person or entity which files such Complaint is not a party in interest to any action taken by the Commission. The people of the State of Rhode Island and the Respondent shall be the parties in interest. Notice by a Complainant that he or she wishes to withdraw a Complaint shall in no way affect the continuing jurisdiction of the Commission over the Complaint.

### **3.7 Time for Investigations (36-14-12002)**

- A. Pursuant to R.I. Gen. Laws § 36-14-12(c), upon receipt of a written complaint alleging a violation of this chapter, the Commission shall within one hundred eighty (180) days of the receipt of the written complaint complete its investigation; provided, that the Commission may, for good cause shown, grant no more than two (2) extensions of sixty (60) days each, as follows:



1. Requests to the Commission for extensions of sixty (60) days to complete investigations shall be submitted in writing to the full Commission by the Executive Director or his/her designee at least fifteen (15) days prior to the expiration of the initial one hundred eighty day (180) period or of an initial sixty (60) day extension, as the case may be.
2. Requests to the Commission pursuant to § 3.7(A)(1) of this Part, above, shall be submitted *ex parte* to the Commission and determinations of good cause shown shall be made upon a review and consideration of the full record before the Commission at the time the request is made.
3. All proceedings before the Commission relating to requests for extensions of time pursuant to §§ 3.7(A)(1) and (2) of this Part, above, shall be stenographically transcribed.
4. Upon completion of the investigation of a complaint, and prior to proceedings by the Commission as to a finding of probable cause regarding allegations of the complaint, all records relating to any determination(s) of extensions for good cause shown, including any stenographic transcripts made pursuant to § 3.7(A)(3) of this Part, above, shall be available to the subject of a complaint and/or his/her counsel.

### **3.8 Initial Determination of Complaint (1003)**

- A. At the initial determination, the Commissioners must review the complaint and decide whether or not the facts alleged, if true, are sufficient to constitute a knowing and willful violation of the Code of Ethics. The Commissioners will not review any additional information or engage in any fact finding. The Commissioners are to examine the alleged facts within the four (4) corners of the complaint, without making any judgment as to credibility or examination of any collateral information.
- B. If the Commission determines that the Complaint fails to allege facts sufficient to constitute a knowing and willful violation of the Code of Ethics, the Complaint shall be dismissed and the Respondent and Complainant shall be mailed a written notification of the dismissal within three (3) working days.
- C. If the Commission determines that the Complaint alleges facts sufficient to constitute a knowing and willful violation of the Code of Ethics, the Commission shall promptly investigate the allegations contained therein. The Respondent and Complainant shall also be sent any written notification regarding such initial determination by the Commission within three (3) working days.

### **3.9 Investigation of Complaint (1004)**

- A. Upon determining that the Complaint states facts sufficient to constitute a knowing and willful violation, the Commission shall have the power to investigate any and all alleged violations of the Code of Ethics. In furtherance of said investigation, the Commission shall have the power to:

1. compel the attendance of witnesses and require the production of documentary evidence; and
  2. take oral or written evidence under oath or affirmation. Each Commissioner, the Executive Director or designee, and investigators shall have the authority and power to administer oaths and affirmations.
- B. Upon receipt of a written Complaint alleging a violation of the Code of Ethics, the Commission shall complete its investigation within one hundred eighty (180) days of receipt of the written Complaint, provided that the Commission may grant no more than two (2) extensions of sixty (60) days each, for good cause shown.

### **3.10 Filing a Response (1005)**

The Respondent shall be mailed a copy of the Commission's Initial Determination that the Complaint properly alleges a knowing and willful violation of the Code of Ethics, which will be investigated by the Commission. The Respondent shall be further notified of the right to file a response under oath within twenty (20) days of the mailing date on forms provided by the Commission.

### **3.11 Finding of Probable Cause (1006)**

- A. The Executive Director or designee shall submit a written report to the Commission summarizing the results of the investigation. The Executive Director or designee may make a recommendation as to the existence or non-existence of probable cause. A copy of this written report shall be sent to the Respondent and/or counsel no less than fourteen (14) days before the scheduled hearing regarding the existence of probable cause. A copy of any report, and written response thereto, so submitted shall be made public and a part of the official Commission Complaint file, upon the issuance by the Commission of either a Finding of Probable Cause or a Dismissal of the Complaint.
- B. The Commission shall permit the Respondent and/or counsel to submit a written statement and/or to appear for the purpose of presenting arguments and/or written evidence in response to the allegations against him or her.
- C. The Commission shall consider the Complaint, any amendment thereto, the written report submitted by the Executive Director or designee, and recommendation, if any, and any response submitted by the Respondent and/or counsel, in addition to any arguments or statements made thereupon by the Executive Director or designee and the Respondent and/or counsel, in finding the existence of probable cause. The Commission shall conduct its hearing regarding probable cause in Executive Session as an investigative proceeding, pursuant to R.I. Gen. Laws § 42-46-5(a)(4).
1. If the Commission finds that probable cause does not exist, the Complaint shall be dismissed with prejudice and the Commission shall forthwith prepare and issue a written Decision and Order explaining the basis for such dismissal. The Decision and Order shall be placed in the official Commission Complaint file and shall be a public record. A copy of the Decision and Order shall be provided to the Respondent

and the Complainant. A Complaint dismissed for lack of probable cause shall not be entertained again by the Commission unless new facts are discovered which materially add to the Complaint.

2. If the Commission finds that probable cause exists to support the allegations of the Complaint, its findings shall state in detail such violations complained of and the manner in which they occurred. A copy of the Finding shall be mailed to the Respondent and the Complainant, if any, within three (3) working days of such issuance. The Commission shall schedule an adjudicative hearing on the matter. The Finding of Probable Cause constitutes the official Commission Complaint upon which the hearing shall be held.

### **3.12 Amendment of the Complaint by the Commission (1007)**

If the investigation reveals probable cause exists to believe that violations of the Code of Ethics have been committed, other than those contained in the Complaint, the Commission may amend the Complaint to include such other violations. Any amended Complaint shall be mailed to the Respondent and Complainant, if any, within three (3) working days of such issuance. The Respondent shall have twenty (20) days from the date such amended Complaint is mailed to file a response thereto. Any action by the Commission on such amendment shall be made part of the Commission's findings.

### **3.13 Discovery (1008)**

- A. No discovery between the Executive Director or designee and the Respondent shall be permitted prior to the issuance of the Commission's Finding of Probable Cause, provided, however, that this limitation on discovery shall in no way limit the authority of the Commission or staff to conduct its investigation or to subpoena required documents or witnesses as reasonably necessary. No adjudicative hearing shall be scheduled until such time as the Executive Director or designee and the Respondent and/or counsel are afforded a reasonable opportunity to conduct discovery pursuant to this Regulation.
- B. The Respondent and/or Respondent's counsel and the Executive Director or designee may request discovery only in accordance with this Regulation.
- C. Within twenty (20) days after receiving a request, the party to whom the request is directed shall furnish the requesting party with:
  1. the names, addresses and official positions, if any, of all individuals who are known to have information which is relevant to the allegations contained in the Finding of Probable Cause;
  2. a copy of all documents which are known to be relevant to the allegations contained in the Finding of Probable Cause.
- D. The obligation to provide discovery as specified in this Regulation shall be a continuing duty to disclose, and, if subsequent to compliance with the obligation to provide discovery either the Executive Director or designee or the Respondent and/or counsel discovers

additional material which is subject to disclosure or has been requested under this Regulation, such disclosure shall be promptly made as required herein.

- E. If at any time during the course of the proceedings the Commission finds that the Executive Director or designee, or the Respondent and/or counsel, has failed to comply with this Regulation, it may prohibit introduction into evidence of the material or the testimony which was not disclosed.
- F. Except as provided for in this Regulation, no other discovery shall be permitted, including interrogatories, depositions or any other discovery mechanism, unless allowed by the Commission upon good cause shown.

### **3.14 Subpoena (1009)**

Subject to the provisions of § 3.13 of this Part, the Executive Director or designee, or the Respondent and/or Respondent's legal counsel, may issue a subpoena to compel the production of evidence or the attendance of witnesses regarding any matter pending before the Commission upon the filing of an affidavit detailing the specific persons or documents to be subpoenaed and their relevance to the matter at issue. Said affidavit shall be accepted and filed by the Commission staff and placed in the Commission's relevant complaint file. In addition, at the adjudicative hearing any Commission member shall be authorized to issue a subpoena.

### **3.15 Taking of Oral or Written Evidence Under Oath (1010)**

Any member of the Commission shall have the authority to take oral or written evidence and administer oaths in any matter pending before the Commission.

### **3.16 Informal Disposition (1011)**

- A. At any time subsequent to a finding by the Commission that the Complaint, and any amendment thereto, states a knowing and willful violation of the Code of Ethics, the Executive Director or designee, with the concurrence of the Respondent and/or counsel, may seek an informal disposition through an agreed settlement, consent order, or other informal resolution of the pending Complaint.
- B. The Executive Director or designee may meet with the Respondent and/or counsel for an informal conference to seek such informal disposition. The informal conference shall not be transcribed or recorded and no statements made by any person at such conference shall be used as evidence in any subsequent proceeding.
- C. These Regulations shall in no way limit the resolution of any matter pursuant to R.I. Gen. Laws § 42-35-9(d), provided that any informal disposition of a pending Complaint shall be subject to the approval of the number of Commission members otherwise required to vote in the affirmative to find a violation of the Code of Ethics. For purposes of this Regulation, any hearing conducted by the Commission to review an informal disposition, prior to its approval and issuance, shall be treated as a proceeding in Executive Session, pursuant to

R.I. Gen. Laws § 42-46-5(a)(4). The approved informal disposition of the Complaint shall become a public record.

- D. If the Complaint at issue has been filed by a Complainant, he or she shall be notified of the date upon which the Commission will consider the proposed informal disposition, shall be notified of any actions taken by the Commission regarding said informal disposition, and shall be provided with a copy of any approved informal disposition agreement and/or order.

### **3.17 Prehearing Motions (1012)**

Unless good cause is shown, all prehearing motions shall be filed in writing no later than five (5) days prior to the date set for any hearing held pursuant to these Regulations. The motion shall be disposed of by order of the Commission with or without oral argument in the Commission's discretion. Nothing herein shall prevent or require the filing of a written objection to any such motion. All hearings conducted by the Commission related to any motion filed pursuant to this Regulation, subsequent to the issuance of a Finding of Probable Cause, shall be open to the public.

### **3.18 Stenographic Recording of Commission Proceedings (1012.1)**

- A. The respondent to any complaint pending before the Ethics Commission may, at his or her own expense, arrange for the creation of a stenographic recording of those portions of the Ethics Commission proceedings to which the respondent has a right of participation or attendance. The respondent shall provide the Ethics Commission with a transcript of any such recording.
- B. The respondent shall, not less than two (2) business days prior to the proceeding to be transcribed, provide the Ethics Commission with written notice of intent to create a stenographic record.
- C. The Commission may, at its sole option, proceed with any matter in the absence of a stenographer if any of the above conditions are not met, if the stenographer is not prepared to begin at the scheduled time, or if the Commission determines that the creation of the stenographic recording will in any way delay or interfere with the orderly conduct of the proceeding.

### **3.19 Continuances (1013)**

Except in emergency cases or by agreement of counsel, any continuance shall be requested in writing stating the reasons therefore and received by the Commission at least two (2) days prior to the hearing. Oral arguments thereupon shall be within the discretion of the Commission, and the period of the continuance shall extend any time period in which the Commission may be otherwise required to act.

### **3.20 Scheduling of Hearings (1014)**

Unless good cause is shown, the Respondent shall be given at least fifteen (15) days notice prior to any scheduled adjudicative hearing by the Commission. Failure by any counsel to appear must be documented on the record by proof of actual engagement in Superior or Federal Court or the Supreme Court of Rhode Island.

### **3.21 Commission Deliberations (1014.1)**

- A. At any hearing held in executive session pursuant to R.I. Gen. Laws § 42-46-5 of the Open Meetings Act, the Commission may privately deliberate on the matter under consideration without the presence of any other person or party.
- B. During the private deliberations authorized by this section, if the Respondent to a pending complaint has been excluded, then the Commission shall also exclude all Commission prosecutors, investigators and other members of the Commission staff.
- C. Notwithstanding the requirements of § 3.21(B) of this Part, the Commission may allow the presence of its own independent legal counsel to respond to questions of law and procedure posed by Commission members.
- D. There shall be no motions made, nor votes taken, during private deliberations.

### **R.I. Gen. Laws § 36-14-13 Adjudicative powers of the Commission.**

- (a) The Commission is hereby empowered to adjudicate the merits of allegations of violations of the Rhode Island Code of Ethics.
  - (1) At such a hearing the Commission shall have the power to compel the attendance of witnesses and require the production of evidence and to take oral or written evidence under oath or affirmation.
  - (2) Each party shall have the right to be represented by legal counsel; to conduct discovery pursuant to rules, adopted by the Commission in the exercise of its rulemaking authority, which shall provide for the prompt and early exchange of relevant information and otherwise protect each party from unfair surprise during the course of the proceedings; to compel attendance of witnesses; to examine and cross examine opposing witnesses; to introduce exhibits and otherwise to present any matters to the Commission relevant to the complaint;
  - (3) Oral evidence shall be taken only on oath or affirmation;
  - (4) There shall be a presumption of innocence on the part of any person alleged to have violated the provisions of this chapter, and the burden of proving that the person has violated the provisions of this chapter shall be upon those who allege the violation or violations;
  - (5) The hearing shall be open to the public.

- (6) Objections to the introduction of evidence may be made and shall be noted in the record.
  - (7) A stenographic record shall be made of all hearings conducted under the provisions of this section.
  - (8) At the conclusion of proceedings concerning an alleged violation, the Commission shall immediately begin deliberations on the evidence and then proceed to determine whether there has been a knowing and willful violation of this chapter;
  - (9) No persons, other than members of the Commission, and independent legal counsel for the limited purpose provided for herein, shall be present during the deliberations of the Commission following any hearing conducted under this section. Counsel may not participate in deliberations of the Commission. Counsel's sole function shall be to respond to questions of law posed by Commission members. A written record shall be maintained of the questions posed to counsel and counsel's responses, which shall become part of the record of proceedings.
- (b) In order for the Commission to hold a hearing there must be a quorum of five (5) members. For every two (2) members who must recuse themselves from taking part in a hearing, due to a conflict, the number needed for quorum shall be reduced by one (1).
  - (c) In order for the Commission to find that there has been a knowing and willful violation of this chapter it shall be necessary that a majority of those Commissioners who attended all hearings, but in no case fewer than three (3) of the members of the Commission, shall vote in the affirmative to so find.
  - (d) The Commission, upon a finding pursuant to this section that there has been a violation of this chapter, shall issue an order by which it may:
    - (1) Require that the violator cease and desist violating of the provisions of this chapter; and/or
    - (2) Require that the violator file any report, statement, or other information as required by this chapter; and/or
    - (3) Require that the violator pay a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation of this chapter and the pecuniary value of any unjust enrichment realized by the violator as the result of his or her violation of this chapter; and/or
    - (4) Refer the entire record of its proceedings to the attorney general; and/or
    - (5) Remove such violator from his or her office or position in accordance with the provisions of section 36-14-14 of this chapter, provided such violator is not subject to impeachment.

- (e) The Commission shall, in the exercise of the rulemaking authority conferred by section 36-14-9(a)(3), promulgate rules and regulations, consistent with the provisions of this section, for the conduct of adjudicative hearings before any adjudicative panel of the Commission.
- (f) Except in those cases referred to the attorney general pursuant to subsection (d)(4) of this section, a final decision of the Commission and the record of proceedings before the Commission upon which the final decision is based shall be made public by the Commission within thirty (30) days after the final decision is rendered.
- (g) The commission, upon a finding pursuant to this section that there has not been a violation of this chapter, shall issue an order dismissing the complaint and if it finds the complaint to be frivolous, unreasonable or groundless, the commission shall require the person filing the complaint to pay a civil penalty of not more than five thousand dollars (\$5,000) all or part of which may be paid to the subject of the complaint in reimbursement of said subject's reasonable expense of defense.

### **3.22 Hearing to Determine Violation of the Code of Ethics (1015)**

- A. Adjudicative hearings shall be conducted consistent with these Regulations. The Chair of the Commission, or the Chair's designee, shall act as the presiding officer. All hearings conducted by the Commission subsequent to the issuance of a Finding of Probable Cause shall be open to the public, except for any hearing conducted by the Commission to review an informal disposition prior to its approval and issuance, pursuant to § 3.16 of this Part. Any such hearing shall be treated as a proceeding in Executive Session, pursuant to R.I. Gen. Laws § 42-35-5(a)(4).
- B. The Executive Director or designee shall present the case against the Respondent.
- C. The Respondent may either represent himself or herself or appear through counsel.
- D. Unless waived by the Respondent, the presiding officer shall read aloud the Finding of Probable Cause. The Respondent shall then either admit or deny such Finding of Probable Cause.
- E. The Executive Director or designee may make an opening statement. The Respondent and/or counsel may next make an opening statement or delay such statement until the presentation of the Respondent's case.
- F. Oral evidence shall be taken only on oath or affirmation.
- G. The Executive Director or designee and the Respondent and/or counsel shall have the right to compel attendance of witnesses, to compel the production of documents, to examine witnesses and cross-examine opposing witnesses, to introduce exhibits and otherwise to present matters to the Commission relevant to the Complaint.
- H. Commission members may ask questions of each witness during the hearing.



- I. The Respondent and/or counsel may make a closing statement followed by the closing statement of the Executive Director or designee.
- J. A stenographic record shall be made of all evidentiary hearings conducted pursuant to this Regulation. If the Respondent desires a copy of the stenographic record, he or she must make arrangements with the stenographer and bear all costs. The original stenographic record shall be filed with the Commission.

### **3.23 Rules of Evidence; Standard of Proof (1016)**

- A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in administrative proceedings shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible under strict rules of evidence may be admitted, if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs, and generally admissible in administrative proceedings.
- B. The Commission shall give effect to the rules of privilege recognized by law. Objections to the introduction of evidence may be made and shall be noted on the record and the Commission may permit offers of proof to be made. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be substantially prejudiced, any part of the evidence may be received in written form.
- C. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given the opportunity to compare the copy to the original.
- D. Notice may be taken of judicially cognizable facts. The civil standard of proof, preponderance of the evidence, shall apply.

### **3.24 Issuance of Decision (1017)**

- A. At the conclusion of all evidentiary hearings concerning the alleged violation, the Commission shall immediately begin deliberations on the evidence in Executive Session and proceed to determine whether there has been a knowing and willful violation of the Code of Ethics.
- B. Legal Counsel to the Commission may not participate in the deliberations of the Commission. Counsel shall respond to questions of law posed by Commission members.
- C. In order for the Commission to issue a decision that there has been a knowing and willful violation of the Code of Ethics, it shall be necessary that a majority of members who have attended all hearings, but in no case fewer than three (3) members of the Commission, shall vote in the affirmative to so find.
- D. The written decision shall contain findings of fact and conclusions of law, and shall be reviewed by all members participating in the deliberations. The decision is rendered on the date on which the presiding officer affixes his signature.

### **3.25 Quorum Requirement (1018)**

For any action of the Commission to be taken by the Commission, there shall be a quorum of five (5) members present. For every two members who recuse themselves from participation in a particular hearing, the number required for quorum shall be reduced by one (1).

### **3.26 Continuance for Commissioner Unavailability (1019)**

If the quorum requirements set forth in § 3.24 of this Part are not satisfied at any scheduled proceeding of the Commission, said proceeding shall automatically be continued to the next available hearing date when a sufficient number of Commission members will be present.

### **3.27 Enforcement (1020)**

- A. The Commission, upon a finding that there has been such a violation of the Code of Ethics, shall issue an order that may:
1. require such violator to cease and desist such violation of the provisions of the Code of Ethics; and/or
  2. require such violator to file any report, statement, or other information as required by the Code of Ethics; and/or
  3. require such violator to pay a civil penalty of not more than twenty-five thousand dollars (\$25,000.00) for each such violation of the Code of Ethics and the pecuniary value of any unjust enrichment realized by the violator as the result of his or her violation of the Code of Ethics; and/or
  4. remove such violator from office who is not subject to impeachment, provided that such removal may only occur upon the affirmative vote of two-thirds (2/3) of those members of the Commission participating in the issuance of the decision and order, and further, that such removal shall be conditioned upon a finding by the Commission that the conduct of the violator was a knowing, willful, wanton and reckless violation of the prohibited activities provisions of the Code of Ethics;
  5. refer the entire record of its proceedings to the Attorney General, or any appropriate law enforcement agency. Such referral shall not affect any continuing jurisdiction of the Commission over the matter.

### **R.I. Gen. Laws § 36-14-14 Removal powers of the Commission.**

- (a) The Commission is hereby empowered to remove from office any state or municipal elected official or any state or municipal appointed official not subject to impeachment, in accordance with the provisions of subsections (b) through (d) of this section.
- (b) Any state or municipal elected official and any state or municipal appointed official not subject to impeachment may be removed from office if:

- (1) The Commission has found, after an adjudicative hearing conducted in accordance with section 36-14-13 of this chapter, that said official has been guilty of a serious, knowing and willful violation of section 36-14-5(c), section 36-14-5(d) or section 36-14-5(g) of this chapter; and
  - (2) The Commission determines that the violation was committed by the violator either with (i) fraudulent intent to secure the unjust enrichment of himself or another person or (ii) malicious intent to inflict pecuniary or other substantial injury upon another person.
- (c) If it determines that such a violation has been committed, it shall conduct a hearing at which the executive director of the Commission or his designee and the respondent or his or her counsel shall be permitted to present additional evidence and arguments relevant to (i) the presence or absence of the specific intent required by subsection (b)(2) of this section as a prerequisite to removal of an official from office and (ii) the presence or absence of aggravating or mitigating circumstances of which the Commission should be aware in rendering its final decision.
- (d) The removal power conferred by this section may be exercised only by the affirmative vote of two-thirds (2/3) of the membership of the Commission eligible to participate, but in no case fewer than five (5) affirmative votes.

**R.I. Gen. Laws § 36-14-19 Penalties.**

Any person who knowingly and willfully violates the provisions of this chapter shall, in addition to the civil penalties provided herein, be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) and/or imprisonment for no longer than one (1) year.

**3.28 Request for New Hearing or Modification of Decision (1021)**

- A. A request for a new hearing or modification of a decision of the Commission may only be made by the Executive Director or designee or the Respondent and/or counsel within fourteen (14) days of the date on which the decision is mailed.
- B. Such request shall be in writing and shall state the reasons for the requested new hearing or modification of the decision. Any such request shall be handled as a priority matter by the Commission. No oral arguments shall be heard unless requested by the Commission.
- C. In order for the Commission to order a new hearing or modification of the decision, it shall be necessary that a majority of the members who attended all hearings, but in no case fewer than three (3) of said members, shall so vote.
- D. The Respondent, and Complainant, if any, shall be notified of the Commission's action regarding the request for a new hearing or modification of the decision.
- E. If a new hearing is granted, the Respondent, and Complainant, if any, shall be notified of the new hearing date. If the request is denied, appeal may be taken pursuant to R.I. Gen. Laws § 42-35-15.

## **R.I. Gen. Laws § 36-14-15 Judicial review.**

Any action by the Commission made pursuant to this chapter shall be subject to review pursuant to Chapter 35 of Title 42.

### **3.29 Judicial Review (1022)**

Any final decision of the Commission may be subject to judicial review pursuant to R.I. Gen. Laws § 42-35-15.

### **3.30 Procedure for Complaints Relating to Financial Disclosure (1023)**

- A. Complaints which solely relate to alleged violations of the Code of Ethics regarding either delinquent or deficient financial disclosure statements, shall be processed pursuant to the procedures set forth in this Regulation, unless otherwise determined by the Commission.
1. The Commission shall adopt, by a majority vote, a schedule of fines and penalties to which a Respondent shall be subject if he or she consents to the entry of a finding of a violation for failure to file a financial disclosure statement which complies with the requirements of the Code of Ethics, in violation thereof. Such schedule shall not apply to any adjudicative hearing as described in § 3.30(A)(5) of this Part.
  2. Whenever records of the Commission reveal that a person required to file a financial disclosure statement has not complied with the requirements of the Code of Ethics, the Executive Director or designee may file a Complaint against said person, accompanied by an affidavit specifying the basis upon which the Respondent is required to file such statement, and setting forth in detail any non-compliance.
  3. Upon the filing of any Complaint described above in § 3.30(A)(2) of this Part, a copy of the Complaint and copies of all documents supporting such Complaint shall be mailed to the Respondent by certified mail, along with a copy of the Code of Ethics, Commission Regulations, waiver of right to appear, stipulation and agreement, and the schedule of fines and penalties adopted pursuant to this Regulation.
  4. If the Respondent agrees to the waiver of his or her right to appear and pays the appropriate fine as determined by the above-described schedule, and properly files any delinquent or deficient financial disclosure statement, and stipulation and agreement, no hearing on the matter will be required.
  5. If the Respondent contests the Complaint described above in § 3.30(A)(2) of this Part, the Commission shall conduct a proceeding regarding probable cause, pursuant to § 3.11 of this Part, and, should a Finding of Probable Cause issue, the Commission shall conduct a hearing thereupon, pursuant to § 3.22 of this Part.

## **PART 4 – Financial Disclosure**

### **R.I. Gen. Laws § 36-14-16 Financial statement to be filed.**

- (a) On or before the last Friday in April of each year, the following officials and employees subject to this code of ethics shall file with the commission a financial statement complying with the requirements of this chapter:
- (1) all state elected officials;
  - (2) all state appointed officials;
  - (3) all state appointed officials and employees who hold a major decision-making position in a state agency;
  - (4) all municipal elected officials; and
  - (5) all municipal appointed officials whose official duties and responsibilities include exercising decision-making authority over the expenditure of more than fifty thousand dollars (\$50,000) in public funds in any fiscal or calendar year, and expressly including solicitors and assistant solicitors, police chiefs, fire chiefs, superintendents of schools, principals, superintendents and administrators of charter schools, board members of charter schools, principals, superintendents and administrators of state schools, board members of state schools, building inspectors, members of planning boards, zoning boards, licensing boards and tax appeal boards. This subsection shall also include all municipal appointed officials whose official duties and responsibilities include nominating, appointing or hiring any persons that will receive compensation of more than fifty thousand dollars (\$50,000) in public funds in any fiscal or calendar year.
- (b) In the case of the appointment of state and municipal appointed officials on and after January 1, 1988, the appointee shall file the financial statement within thirty (30) days after the date of his or her appointment or the date he or she qualifies for the office; provided, however that in the case of the appointment of officials that require senate confirmation, the appointee shall file the financial statement with the appropriate senate committee prior to the institution of those confirmation proceedings.
- (c) Within thirty (30) days after the filing deadline, or within thirty (30) days after filing a notice of organization or compliance with § 17-25-8 every person who is a candidate for an office as an elected officer, except those candidates for moderator and clerk of a voting district of the cities and towns, shall file the financial statement as required by this chapter. Filings of candidates for general office shall include information as required in subdivision 36-14-17(b)(2). The commission shall grant an extension for good cause shown of not more than fifteen (15) days, provided a request for the extension is received prior to the filing deadline for the financial statement.
- (d) Except as otherwise provided in this chapter, at least thirty (30) days before the deadline date for the filing of a financial statement by each individual required to file, the commission

shall mail to the individual a copy of the financial statement form. In the case of candidates other than those covered by subsection (f) of this section, the forms shall be mailed within ten (10) days after the filing deadline date. In the case of appointed officers covered by this section, the forms shall be mailed within seven (7) days after the date of the appointment.

- (e) If a person has filed a financial statement as required by one subsection of this section covering the preceding calendar year, he or she is not required to file a financial statement as required by another subsection if, before the deadline for filing under the other subsection, he or she notifies the commission in writing that he or she has already filed a financial statement under the subsection specified.
- (f) A person required to file a financial statement under subsection (a) of this section may request the commission to grant an extension of time of not more than sixty (60) days for filing the statement. The commission shall grant extension of not more than sixty (60) days if the request is received prior to the filing deadline or if a timely filing or request for extension is prevented because of physical or mental incapacity. Not more than one extension may be given to a person in one year except for good cause shown.
- (g) The deadline for filing any statement required by this section is 5:00 p.m. of the last day designated in the pertinent subsection of this section for filing the statement. When the last day of filing falls on a Saturday or Sunday or an official state holiday, the deadline for filing is extended to 5:00 p.m. of the next day which is not a Saturday or Sunday or holiday. Any statement required by any provision of this section to be filed within a specified time period shall be deemed to be timely filed if it is placed in the United States post office or in the hands of a common or contract carrier properly addressed to the appropriate authority within the time limits applicable to the statement. The postmark or receipt mark (if received by a common or contract carrier) will be prima facie evidence of the date that such statement was deposited with the post office or carrier. The person filing the statement may show by competent evidence that the actual date of posting was to the contrary.

#### **4.1 Information Voluntarily Supplied (1029)**

- A. A public official or employee who is not required to file a financial disclosure statement pursuant to the Code of Ethics may voluntarily choose to file such statement, or any other document otherwise required, with the Commission. The Commission shall accept such documents which shall be treated in the same manner as documents received from persons required to submit them.
- B. A person subject to the Code of Ethics may choose to submit information in excess of that which is required under the Code. Such information shall be treated in the same manner as information required to be filed. The Commission will not, however, accept any document in lieu of appropriately completed forms.

#### **R.I. Gen. Laws § 36-14-17 Content of financial statement.**

- (a) The financial statement required herein shall be on a form prescribed by the Commission and shall include the account of the financial activity of the person required to file the

statement by this chapter and the financial activity of his or her spouse (if not estranged) and any dependent children for the preceding calendar year.

- (b) The account of financial activity referred to in subsection (a) of this section shall consist of:
- (1) If he or she or any person enumerated in subsection (a) of this section or a business entity in which he or she or any person enumerated as aforesaid held a ten percent (10%) or greater equity interest or five thousand dollars (\$5,000) or greater cash value interest at any time during the calendar year for which the statement is required has done business with a state or municipal agency or a business which is subject to direct regulation greater than of a *de minimus* nature by a state or municipal agency, and if so, the date and nature of the business;
  - (2) A list of all sources of occupational income identified by employer, or if self-employed, by the nature of occupation or profession, and if income was received from a state or municipal agency, the name and address of such agency and the nature of the services rendered; however, general officers, as defined in section 17-2-1, shall list all sources and amounts of income in excess of two hundred dollars (\$200) according to the following categories:
    - (i) not more than \$1000
    - (ii) greater than \$1000 but no more than \$10,000
    - (iii) greater than \$10,000 but no more than \$25,000
    - (iv) greater than \$25,000 but no more than \$50,000
    - (v) greater than \$50,000 but no more than \$100,000
    - (vi) greater than \$100,000 but no more than \$200,000
    - (vii) greater than \$200,000 but no more than \$500,000
    - (viii) greater than \$500,000 but no more than \$1,000,000
    - (ix) greater than \$1,000,000
  - (3) A listing of all real property in which a financial interest was held; however, this section shall not apply to real property used exclusively as his or her principal residence;
  - (4) Identification of any interested person from whom the person or his or her spouse (if not estranged) or any dependent child received a gift or contribution of money or property in excess of one hundred dollars (\$100) in value or a series of gifts or contributions of money or property, the total of which exceeds one hundred dollars (\$100) in value received from the same source, and a description of each gift or contributions, except those received from persons related to the person at any time

within the third degree of consanguinity or affinity and campaign contributions which were reported as required by law, for purposes of this subsection, "interested person", means a person or a representative of a person or business that has a direct financial interest in a decision that the person subject to the Code of Ethics is authorized to make, or to participate in the making of, as part of his or her official duties;

- (5) Identification of the source of all income received as beneficiary of a trust and identification of each asset, if known to the beneficiary, from which income was received by the beneficiary in excess of one thousand dollars (\$1,000);
  - (6) A list of all boards of directors of which the person is a member and the executive positions which he or she holds in any business entity, stating the name and address of each such business entity;
  - (7) The name and address of any business entity in which he or she or any person enumerated in subsection (a) of this section held a ten percent (10%) or greater equity interest or five thousand dollars (\$5,000) or greater cash value interest at any time during the calendar year for which the statement is required; and
  - (8) (i) Identification of any person, business entity, financial institution or other organization to whom the person was indebted at any time during the calendar year for which the statement is required in an amount in excess of one thousand dollars (\$1,000) other than
    - (A) Any person related to the person at any time within the third degree of consanguinity or affinity or
    - (B) Any transactions involving credit cards, or
    - (C) Any indebtedness to a financial institution, licensed and regulated by any state or by the United States, which is secured solely by a mortgage of record on real property used exclusively as the principal residence of the person required to file the statement.
  - (ii) This section does not require the reporting of the amount or amounts of indebtedness or the payment record of the loans.
- (c) The financial statement shall be sworn to under oath.

#### **4.2 Continuing Duty to File a Financial Statement After Leaving Office (36-14-16004)**

When a public official who is required to file a financial disclosure statement leaves office, such official shall have a continuing duty to file a timely financial statement covering the last calendar year during any part of which the office was held, unless the official's tenure expired prior to the end of January in the particular year.



#### **4.3 Commission Mailings (36-14-16001)**

The time periods for the mailing of financial statement forms by the Commission to an individual under this section shall be extended in the event the Commission has not received official written notice of the individual's appointment or eligibility until the Commission receives such notice.

#### **4.4 Occupational Income (36-14-17001)**

The name and address of any employer from which the public official, his or her spouse or dependent child, (individually or collectively) received one thousand dollars (\$1,000) or more gross income must be listed. If self-employed, any occupation or profession from which the public official his or her spouse, or dependent child (individually or collectively) received one thousand dollars (\$1,000) or more gross income. If the employer is a state or municipal agency or if self-employed and services for in excess of two hundred and fifty dollars (\$250) were rendered to a state or municipal agency, the period of employment or dates services were rendered and the specific nature of the services must be listed.

#### **4.5 Executive Positions (36-14-17002)**

The name and address of any business as defined in R.I. Gen. Laws § 36-14-2(2) which the public official, his or her spouse or dependent child is a director, officer, partner, trustee, or holds a supervisory management position must be listed.

#### **4.6 Real Estate Interest (36-14-17003)**

A financial interest in real estate shall include direct as well as indirect ownership through a trust or other entity, mortgages, options to buy, sell, or lease for a long term, and other interests in real estate, held individually or collectively by persons under R.I. Gen. Laws § 36-14-17(a).

#### **4.7 Trust Income (36-14-17004)**

Disclosure of income as beneficiary of a trust shall include identification of the particular trustee, and asset or assets which generated such income.

#### **4.8 Business Positions (36-14-17005)**

Membership in a business entity necessitating disclosure shall include status as a member of a board of directors, officer, partner, trustee, or the holding of any other similar executive position in a business.

#### **4.9 Doing Business with a State or Municipal Agency (36-14-17006)**

Transactions reportable under R.I. Gen. Laws § 36-14-17(b)(1) shall include any transaction or transactions which together exceed two hundred fifty dollars (\$250) at any time during the calendar year.

#### **4.10 Business Interest (36-14-17007)**

Disclosure of business interest under R.I. Gen. Laws § 36-14-17(b)(1) shall include an ownership interest of ten percent (10%) or greater, or a cash value interest amounting to five thousand dollars (\$5,000) or greater, individually or collectively relating to all persons under R.I. Gen. Laws § 36-14-17(a), at any time during the calendar year.

#### **R.I. Gen. Laws § 36-14-18 Disclosure of regulated business interests.**

- (a) Every person who is required to file a financial statement pursuant to this chapter and who has, acquires, or divests him or herself of ten percent (10%) or greater equity interest or five thousand dollars (\$5,000) or greater cash value interest in a business entity which is subject to direct regulation, greater than of a *de minimus* nature, by a state or municipal agency, or which does any business with a state or municipal agency, shall file with the Commission at the times specified by this chapter, an affidavit:
  - (1) Identifying him or herself and stating the capacity in which he serves or is about to serve which occasions the filing of the affidavit;
  - (2) Identifying the business entity (or each business entity);
  - (3) Identifying the regulatory agency or agencies;
  - (4) Stating the nature of his or her interest in the business entity;
  - (5) Describing the manner in which the business entity is subject to regulation; and
  - (6) Stating whether the interest is held, or was acquired or divested, and if acquired or divested, when.
- (b) The nature of an interest in a business entity shall be described in specific language.
- (c) Every state or municipal official to which this section applies who holds office on January 1, 1988, and, who has any interest required to be reported pursuant to this section, shall file the affidavit within ninety (90) days after January 1, 1988.
- (d) If a state or municipal official to which this section applies, acquires or divests him or herself of an interest, required to be reported pursuant to this section, he or she shall file the affidavit within thirty (30) days after the date the interest was acquired or divested.
- (e) In the case of appointments made after January 1, 1988, a state or municipal official who has any interest required to be reported pursuant to this section shall file the affidavit within thirty (30) days after the date of his or her appointment or the date he qualifies for the office.

#### **4.11 Leadership Positions with Not-For-Profit Organizations (36-14-17008)**

The financial statement required to be filed pursuant to R.I. Gen. Laws § 36-14-16 shall include, in addition to any other requirements, a list of all boards of directors, trustees or equivalent fiduciary positions of which the person is a member, and all executive officer positions which the public official holds, in any not-for-profit organization. This disclosure shall include a listing of each entity or organization, its address and the position held.

#### **4.12 Out-of-State Travel (36-14-17009)**

- A. Any public official or employee who is required to file a yearly financial statement pursuant to R.I. Gen. Laws § 36-14-16(a) shall disclose the source, value and description of any out-of-state travel and related transportation, lodging, meals and entertainment having an aggregate fair market value or actual cost greater than two hundred fifty dollars (\$250) provided by any person or entity, other than the state or municipal agency of which he or she is a member or by which he or she is employed or his or her regular private employer, if under the totality of the circumstances it is more likely than not that the person or entity would not have provided the travel but for the official's or employee's public office or position.
- B. Circumstances indicating that the person or entity would not have provided the travel but for the official's or employee's public office or position may include, but are not limited to, one or more of the following:
1. The official or employee became acquainted with the provider through his or her public agency;
  2. The official or employee was offered the out-of-state travel and related transportation, lodging, meals and entertainment through a communication sent to or through the public official's or employee's agency;
  3. Other officials or employees in the same agency are offered, or have been offered, out-of-state travel and related transportation, lodging, meals and entertainment from the provider;
  4. The official's or employee's counterparts in other public agencies or jurisdictions have been offered similar out-of-state travel and related transportation, lodging, meals and entertainment by the provider;
  5. The provider is affiliated with any "interested person," as defined by § 1.4.2 of this Subchapter, or has allowed an interested person to underwrite expenses associated with the out-of-state travel and related transportation, lodging, meals and entertainment;
  6. The provider is an entity whose membership is limited to, or is largely comprised of, public officials;

7. The official or employee had not received out-of-state travel and related transportation, lodging, meals and entertainment from the provider prior to attaining his or her public office or employment;
8. If the out-of-state travel and related transportation, lodging, meals and entertainment involves attendance at an event, any written references by the provider or affiliated persons relative to the public official's or employee's attendance or participation refer to his or her public office, duties or agency.
9. If the travel involves a conference or seminar, the subject matter of the conference or seminar directly pertains to the public official's or employee's official duties.

### **Rhode Island General Laws, § 36-14.1 *et seq.*,**

#### **State Vendors Providing Goods or Services to Public Officials**

##### **R.I. Gen. Laws § 36-14.1-1. Definitions**

As used in this chapter:

- (1) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized in law through which business for profit is conducted.
- (2) "Procurement official" means an elected or appointed state official or employee who has the authority to make decisions concerning the purchasing of goods or services for a state agency or who has supervisory authority over the person empowered to make decisions concerning the purchase of goods or services for the state agency.
- (3) "State agency" means a branch, department, division, agency, commission, board, office, bureau, or authority of the government of the state of Rhode Island.
- (4) "State vendor" means:
  - (i) A person or business entity that sells goods or provides services to any state agency,
  - (ii) A person or business entity which has an ownership interest of ten percent (10%) or more in a business entity that sells goods or provides services to any state agency, or
  - (iii) A business entity that is a parent or subsidiary of a business entity that sells goods or services to any state agency.

##### **R.I. Gen. Laws § 36-14.1-2. Prohibited conduct - Exceptions**

- (a) No state vendor shall provide goods or services for less than fair market value for the personal use of a procurement official of a state agency if the vendor has sold goods and services during the preceding twenty-four (24) months to the state agency or if the vendor

knows or has reason to know he or she will be submitting a bid or making a proposal for the sale of goods or services within the succeeding twenty-four (24) months to the state agency.

- (b) No procurement official of a state agency shall accept goods or services for his or her personal use for less than fair market value from a state vendor who has sold goods or services to the agency during the preceding twenty-four (24) months or who the procurement official knows or has reason to know will be submitting a bid or making a proposal for the sale of goods or services to the agency within the succeeding twenty-four (24) months.
- (c) The prohibition set forth in subsection (a) of this section shall not apply to goods or services having a fair market value of less than one hundred dollars (\$100).

**R.I. Gen Laws § 36-14.1-3. Civil penalty**

Every state vendor and every procurement official that knowingly and willfully violates the provisions of this chapter shall be subject to a civil penalty of not more than two thousand dollars (\$2,000) per offense.

**R.I. Gen Laws § 36-14.1-4. Enforcement**

- (a) The Rhode Island Ethics Commission is hereby empowered to investigate and adjudicate allegations of violations of this chapter in accordance with the provisions of § 36-14-13 (a) through (f). Upon a finding of violation of this chapter, the adjudicatory panel of the ethics commission may issue an order requiring the violator to pay a civil penalty in accordance with § 36-14.1-3.
- (b) Nothing contained in this section shall be construed to limit the authority of the attorney general to enforce the provisions of this chapter.