

2021 -- H 6086

LC001894

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- CODE OF ETHICS

Introduced By: Representatives Morgan, and Nardone

Date Introduced: March 03, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 36-14-5 of the General Laws in Chapter 36-14 entitled "Code of
2 Ethics" is hereby amended to read as follows:

3 **36-14-5. Prohibited activities.**

4 (a) No person subject to this code of ethics shall have any interest, financial or otherwise,
5 direct or indirect, or engage in any business, employment, transaction, or professional activity, or
6 incur any obligation of any nature, which is in substantial conflict with the proper discharge of his
7 or her duties or employment in the public interest and of his or her responsibilities as prescribed in
8 the laws of this state, as defined in § 36-14-7.

9 (b) No person subject to this code of ethics shall accept other employment which will either
10 impair his or her independence of judgment as to his or her official duties or employment or require
11 him or her, or induce him or her, to disclose confidential information acquired by him or her in the
12 course of and by reason of his or her official duties.

13 (c) No person subject to this code of ethics shall willfully and knowingly disclose, for
14 pecuniary gain, to any other person, confidential information acquired by him or her in the course
15 of and by reason of his or her official duties or employment or use any information for the purpose
16 of pecuniary gain.

17 (d) No person subject to this code of ethics shall use in any way his or her public office or
18 confidential information received through his or her holding any public office to obtain financial
19 gain, other than that provided by law, for him or herself or any person within his or her family, any

1 business associate, or any business by which the person is employed or which the person represents.

2 (e) No person subject to this code of ethics shall:

3 (1) Represent him or herself before any state or municipal agency of which he or she is a
4 member or by which he or she is employed. In cases of hardship, the ethics commission may permit
5 such representation upon application by the official provided that he or she shall first:

6 (i) Advise the state or municipal agency in writing of the existence and the nature of his or
7 her interest in the matter at issue;

8 (ii) Recuse him or herself from voting on or otherwise participating in the agency's
9 consideration and disposition of the matter at issue; and

10 (iii) Follow any other recommendations the ethics commission may make to avoid any
11 appearance of impropriety in the matter.

12 (2) Represent any other person before any state or municipal agency of which he or she is
13 a member or by which he or she is employed.

14 (3) Act as an expert witness before any state or municipal agency of which he or she is a
15 member or by which he or she is employed with respect to any matter the agency's disposition of
16 which will or can reasonably be expected to directly result in an economic benefit or detriment to
17 him or herself, or any person within his or her family, or any business associate of the person, or
18 any business by which that person is employed or which the person represents.

19 (4) Shall engage in any of the activities prohibited by subsection (e)(1), (e)(2), or (e)(3) of
20 this section for a period of one year after he or she has officially severed his or her position with
21 said state or municipal agency; provided, however, that this prohibition shall not pertain to a matter
22 of public record in a court of law.

23 (f) No business associate of any person subject to this code of ethics shall represent him or
24 herself or any other person, or act as an expert witness before the state or municipal agency of
25 which the person is a member or by which the person is employed unless:

26 (1) He or she shall first advise the state or municipal agency of the nature of his or her
27 business relationship with the person subject to this code of ethics; and

28 (2) The person subject to this code of ethics shall recuse him or herself from voting on or
29 otherwise participating in the agency's consideration and disposition of the matter at issue.

30 (g) No person subject to this code of ethics, or spouse (if not estranged), dependent child,
31 or business associate of the person, or any business by which the person is employed or which the
32 person represents, shall solicit or accept any gift, loan, political contribution, reward, or promise of
33 future employment based on any understanding that the vote, official action, or judgment of the
34 person would be influenced thereby.

1 (h) No person subject to this code of ethics, or any person within his or her family or
2 business associate of the person, or any business entity in which the person or any person within
3 his or her family or business associate of the person has a ten percent (10%) or greater equity
4 interest or five thousand dollars (\$5,000) or greater cash value interest, shall enter into any contract
5 with any state or municipal agency unless the contract has been awarded through an open and public
6 process, including prior public notice and subsequent public disclosure of all proposals considered
7 and contracts awarded; provided, however, that contracts for professional services which have been
8 customarily awarded without competitive bidding shall not be subject to competitive bidding if
9 awarded through a process of public notice and disclosure of financial details.

10 (i) No person shall give or offer to any person covered by this code of ethics, or to any
11 candidate for public office, or to any person within his or her family or business associate of any
12 person, or to any business by which the person is employed or which the person represents, any
13 gift, loan, political contribution, reward, or promise of future employment based on any
14 understanding or expectation that the vote, official action, or judgment of the person would be
15 influenced thereby.

16 (j) No person shall use for any commercial purpose information copied from any statements
17 required by this chapter or from lists compiled from the statements.

18 (k) No person shall knowingly and willfully make a false or frivolous complaint under this
19 chapter.

20 (l) No candidate for public office, or any person within his or her family, business associate
21 of the candidate, or any business by which the candidate is employed or which the candidate
22 represents, shall solicit or accept any gift, loan, political contribution, reward, or promise of future
23 employment based on any understanding that the vote, official action, or judgment of the candidate
24 would be influenced thereby.

25 (m) No person subject to this code of ethics shall, either directly or indirectly, through any
26 government agency, or through a business associate, or through any other person, threaten or
27 intimidate any complainant or witness or any family member of any complainant or witness in any
28 proceeding before the state ethics commission.

29 (1) In addition to any rights a complainant or witness may have under the Rhode Island
30 Whistleblowers' Protection Act, chapter 50 of title 28 or under any other statute, a complainant or
31 witness may bring a civil action in superior court for appropriate injunctive relief, or actual
32 damages, or both and attorney's fees within three (3) years after the occurrence of the alleged
33 violation of subsection (m) above.

34 (2) The initiation of litigation by a complainant or witness pursuant to subsection (m)(1)

1 shall not constitute a violation of any confidentiality provisions of this chapter.

2 (n)(1) No state elected official, while holding state office and for a period of one year after
3 leaving state office, shall seek or accept employment with any other state agency, as defined in §
4 36-14-2(8)(i), other than employment which was held at the time of the official's election or at the
5 time of enactment of this subsection, except as provided herein.

6 (2) Nothing contained herein shall prohibit any general officer or the general assembly
7 from appointing any state elected official to a senior policy-making, discretionary, or confidential
8 position on the general officer's or the general assembly's staff, and in the case of the governor, to
9 a position as a department director; nor shall the provisions herein prohibit any state elected official
10 from seeking or accepting a senior policy-making, discretionary, or confidential position on any
11 general officer's or the general assembly's staff, or from seeking or accepting appointment as a
12 department director by the governor.

13 (3) Nothing contained herein shall prohibit a state elected official from seeking or being
14 elected for any other constitutional office.

15 (4) Nothing contained herein shall prohibit the Rhode Island ethics commission from
16 authorizing exceptions to this subsection where such exemption would not create an appearance of
17 impropriety.

18 (o)(1) No person holding a senior policy-making, discretionary, or confidential position on
19 the staff of any state elected official or the general assembly shall seek or accept any other
20 employment by any state agency as defined in § 36-14-2(8)(i), while serving as such policy-
21 making, discretionary, or confidential staff member and for a period of one year after leaving that
22 state employment as a member of the state elected official's or the general assembly's senior policy-
23 making, discretionary, or confidential staff.

24 (2) Notwithstanding the foregoing, a person holding a senior policy-making, discretionary,
25 or confidential staff position who has a minimum of five (5) years of uninterrupted state service
26 shall be exempt from the provisions of this section. "State service" as used herein means service in
27 the classified, unclassified and nonclassified services of the state, but shall not include service in
28 any state elective office.

29 (3) Nothing contained herein shall prohibit any general officer or the general assembly
30 from appointing any such senior policy-making, discretionary, or confidential member of the staff
31 of any state elected official or the general assembly to any other senior policymaking, discretionary,
32 or confidential position on any general officer's or the general assembly's staff, and in the case of
33 the governor, to a position as a department director; nor shall the provisions hereof prohibit any
34 senior policy-making, discretionary, or confidential member of the staff of any state elected official

1 or the general assembly from seeking or accepting any other senior policy-making, discretionary,
2 or confidential position on any general officer's or the general assembly's staff, or from seeking or
3 accepting appointment as a department director by the governor.

4 (4) Nothing contained herein shall prohibit a person holding a senior policy-making,
5 discretionary, or confidential staff position from seeking or being elected for any constitutional
6 office.

7 (5) Nothing contained herein shall prohibit the Rhode Island ethics commission from
8 authorizing exceptions to this subsection where such exemption would not create an appearance of
9 impropriety.

10 (p) A member of the general assembly who receives any financial payments from any entity
11 or employer seeking legislative action or approval shall file a written recusal with the clerk of the
12 house or senate whenever a bill affecting that entity or employer is before the general assembly,
13 either in committee or on the floor of the house or senate.

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- CODE OF ETHICS

- 1 This act requires a member of the general assembly who receives any financial payments
- 2 from any entity or employer seeking legislative approval to file a written recusal.
- 3 This act would take effect upon passage.

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