

TITLE 36

Public Officers and Employees

CHAPTER 36-14

Code of Ethics

SECTION 36-14-1

§ 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, responsive, avoid the appearance of impropriety, and not use their position for private gain or advantage.

History of Section.
(P.L. 1987, ch. 195, § 3.)

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SECTION 36-14-2

§ 36-14-2 Definitions. – As used in this chapter:

(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 halvesister;

(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, nonclassified 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 an 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;

(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;

(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 that other person's attorney at 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.

History of Section.

(P.L. 1987, ch. 195, § 3; P.L. 1992, ch. 132, § 1; P.L. 1992, ch. 396, § 1; P.L. 2004, ch. 389, § 1.)

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SECTION 36-14-3

§ 36-14-3 Code of ethics. – Sections 36-14-4 – 36-14-7 shall constitute the Rhode Island code of ethics in government.

History of Section.
(P.L. 1987, ch. 195, § 3.)

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SECTION 36-14-4

§ 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, boards, commissions, and agencies.

History of Section.
(P.L. 1987, ch. 195, § 3.)

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SECTION 36-14-5

§ 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 § 36-14-7.

(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.

(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 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 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;

(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 that 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 person subject to this code of ethics; and

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

(g) No person subject to this code of ethics, or spouse (if not estranged), 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, 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.

(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 person, or to any business by which the 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 the 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 the 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, 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.

(1) In addition to any rights a complainant or witness may have under the Rhode Island Whistleblowers' Protection 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 subsection (m) above.

(2) The initiation of litigation by a complainant or witness pursuant to subsection (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 year after leaving state office, shall seek or accept employment with any other state agency, as defined in § 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.

(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 § 36-14-2(8)(i), while serving as such policy-making, discretionary, or confidential staff member and for a period of one year after leaving that state employment as a member of the state elected official's or the general assembly's senior policy-making, discretionary, or confidential staff.

(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 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 policymaking, 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 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.

History of Section.

(P.L. 1987, ch. 195, § 3; P.L. 1990, ch. 159, § 1; P.L. 1991, ch. 191, § 1; P.L. 1992, ch. 132, § 1; 1992, ch. 396, § 1; 1992, ch. 436, § 1; P.L. 2005, ch. 410, § 20.)

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SECTION 36-14-6

§ 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 the person, or spouse (if not estranged), or any dependent child of the person, or business associate or any business by which the person is employed or which the 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 the 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 him or herself from influence over any action on the matter on which the conflict of interest exists.

History of Section.

(P.L. 1987, ch. 195, § 3.)

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SECTION 36-14-7

§ 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.

History of Section.

(P.L. 1987, ch. 195, § 3; P.L. 1992, ch. 132, § 1.)