

A lighthouse on a rocky shore at dusk, with a bridge in the background.

Welcome!

INTRODUCTION TO THE

RHODE ISLAND

ETHICS COMMISSION

AND THE

RHODE ISLAND CODE OF ETHICS



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.”

WHAT IS "ETHICAL" CONDUCT?

Ethics: a standard or philosophy of right and wrong human behavior based on logical reasoning

So... "ethical conduct" is the type of behavior that a logical person would agree is the "right" thing to do under the circumstances

But - people have different ideas about what makes behavior "right" or "wrong"



Ethics based on CULTURE

Many people think that whether something is “ethical” depends on the setting in which it occurs, taking into account the local culture, habits, and customs.



Ethics based on CONSEQUENCES



Ethical or unethical conduct is determined by examining the outcome. Ethical conduct is behavior that produces more positive results than negative results, in quantity and quality.

Ethics based on CHARACTER

Ethical conduct is determined by asking: "What would a virtuous person do under the circumstances?" The focus is on one's character and motives.



The Code of Ethics tells us what actions to avoid, without regard to culture, consequence, or character.

Ethical or unethical conduct is determined NOT by looking at the results, but by looking at the conduct itself and judging its inherent rightness or wrongness.

Focus on your ACTION, not the result !!!



(9) Members appointed by the Governor

■ Advisory ■ Investigative ■ Adjudicative ■ Removal



holding or campaigning for public office,



holding office in any political party or on
any political committee, and



participating in or contributing to any
political campaign.



State of Rhode Island
Ethics Commission

STAFF

- Executive Director/Chief Prosecutor
- Senior Staff Attorney
- Education Coordinator/Staff Attorney
- Staff Attorneys (2)
- Investigators (3)
- Office Manager
- Financial Disclosure Officer
- Support Staff (2)



Who is subject to the Code of Ethics?

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



CONFLICT OF INTEREST



recusal

**As a person subject
to the Code of
Ethics . . .**

. . . you may **not** participate in any matter if it is **reasonably foreseeable** (*more than conceivable – less than certain*) that:

you,
any person within your **family**,
your **business associate**, or
any **business by which you
are employed or which you
represent**, will derive a **direct
monetary gain** or suffer a
direct monetary loss by
reason of your official activity.

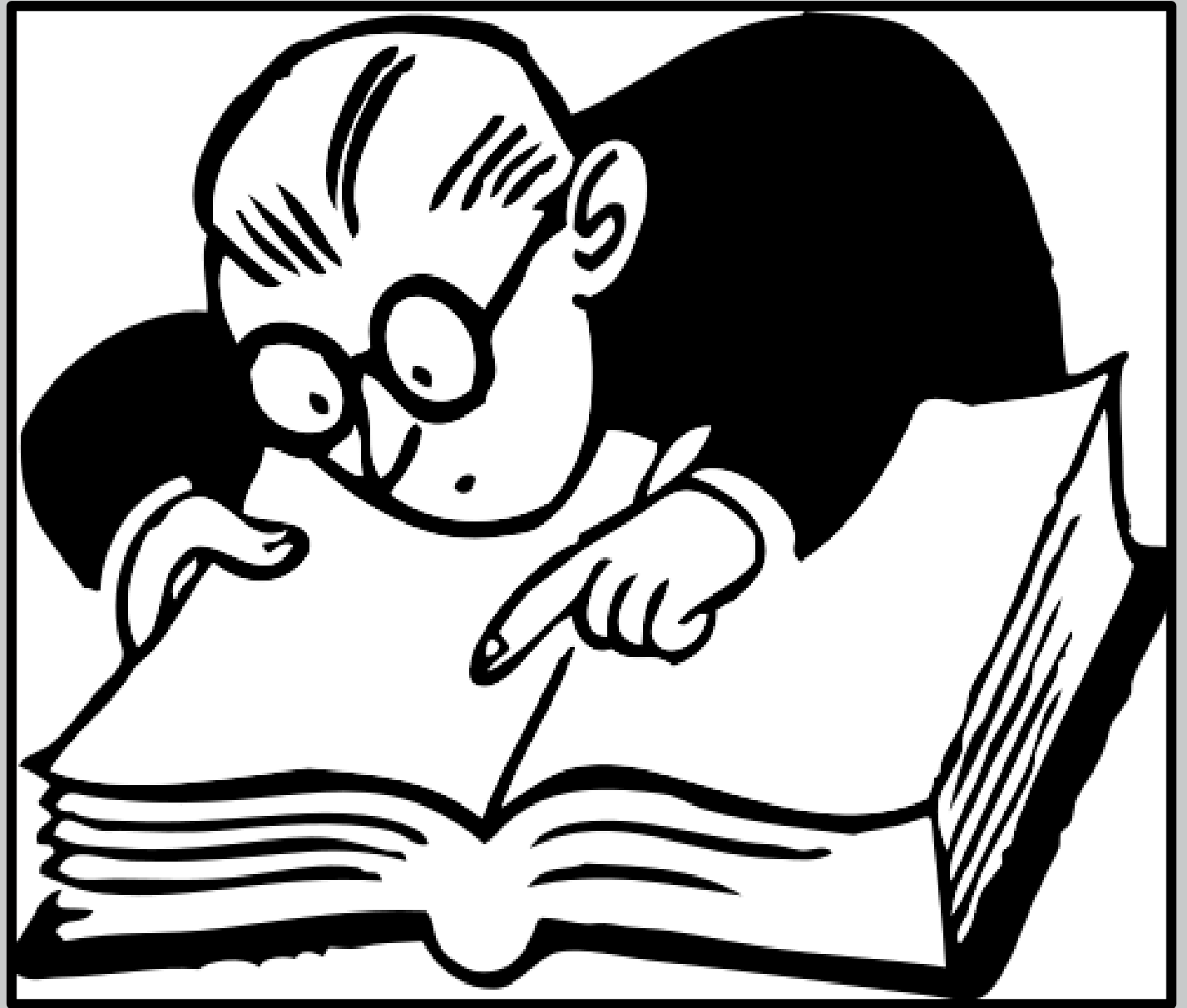


Business Associates

persons or entities with whom
you are joined to achieve a
common financial objective

EXAMPLES

- business partners
- people you have hired such as an attorney, accountant, realtor, contractor, *etc.*
- landlord/tenant
- any businesses or organizations, even if not-for-profit, for which you are an officer or serve on the board of directors, regardless of whether you are paid for your service



Ongoing Business Association



- parties conducting ongoing business transactions
- outstanding accounts
- anticipated future relationship

Family Members

Whether by blood, marriage, or adoption:

Spouse

Parents

Children

Siblings

Grandparents / Grandchildren

Aunts / Uncles

Nieces / Nephews

First Cousins





A conflict of interest is a situation in which a person's public duties and private life intersect.

It is not unethical to have a conflict of interest.

It does not violate the Code of Ethics to have a conflict of interest.

It is not the conflict that is the problem; rather, the potential problem is the failure to identify and manage the conflict.

Do I have a conflict of interest? Ask yourself – Is it “reasonably foreseeable” that . . .



a decision that I am helping to make, as part of my public duties, will result in a financial benefit *or* detriment to:

Me;

My **family/household member;**

My **business associate;** *or*

A business by which I am employed?

Do I Have a Conflict of Interest?



Ask yourself:

Even if there is no financial impact, is a **family member, household member, business associate, or business by which I am employed** a party to, or participating in, the matter being discussed?

If the answer is **“Yes,”** then you have a conflict of interest and **you must recuse** from any participation in the matter.

HOW TO RECUSE

1. Complete a *Statement of Conflict of Interest* form.
2. Present the original to your presiding officer, appointing authority, director, or immediate supervisor.
3. Send a copy to the Ethics Commission.



And if nepotism exists, my brothers will root it out!



NEPOTISM

As someone who is subject to the Code of Ethics . . .

You may not participate . . . in any matter as part of your public duties if there is reason to believe or expect that any person within your family or a household member . . .

- is a party or participant; *or*
- will derive a direct monetary gain; *or*
- will suffer a direct monetary loss; *or*
- will obtain an employment advantage.



The Code's prohibitions against nepotism apply regardless of whether, for example, a family or household member is objectively the most qualified candidate for a job or is deserving of a promotion.

The policy underlying the prohibitions against nepotism is premised on the recognition that it is difficult for any person to be truly objective when considering matters impacting family/household members and furthers the constitutionally founded goal of avoiding the appearance of impropriety.

Examples . . .

- hiring
- awarding of contract
- decision regarding property
- appointment to compensated position
- participation in disciplinary matter in which employment is at risk



ADVOCACY / SUPERVISION

As someone who is
subject to the Code
of Ethics . . .

You may not participate
in the **supervision,**
evaluation, appointment,
classification, promotion,
transfer, or discipline of
any person in your family
or household.

Nor may you delegate
any of those tasks to
your subordinate.

**The Code of Ethics allows the
Ethics Commission to approve
an
alternate chain of command.**

The person stepping in for the person
with the conflict of interest:

**must be of equal rank or higher
than the person with the conflict**

The alternate chain of command:
**may not be presumed acceptable
prior to the issuance of a duly-
authorized advisory opinion**





Recusal does not mean that a public official must **leave the room** if it is an open meeting, although it is **best practice** to do so.

However, if a public body is in executive session, a public official who has recused from participation due to a conflict of interest has no more right to be in the room than any other member of the general public.



**No person subject to
the Code of Ethics may
enter into any contract
with a 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.



Public Notice

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.

physicians • attorneys • engineers • architects • accountants • land surveyors • psychologists



SECONDARY EMPLOYMENT

As a person who is subject to the
Code of Ethics . . .

you may not accept secondary
employment that impairs your
independence of judgment

or

requires or induces you to disclose
confidential government information.

Factors Considered

- ◆ nexus between public duties & private employment
- ◆ work must be completed outside normal work hours & without use of public resources
- ◆ official/employee may not appear before own agency
- ◆ work must be conducted outside of areas over which official/employee has decision-making jurisdiction
- ◆ official/employee may not use public position to solicit business or customers



Confidential Information

A person subject to the Code of Ethics shall not use or disclose, for financial gain*, confidential information acquired in the course of their official duties.

**self/family member/business
associate/business by which employed*

GIFTS

**As someone who is subject to the Code of Ethics,
if you participate in making decisions . . .**

you may not accept cash or forgiveness of debt from
an interested person.

An **“interested person”** has a direct financial interest in
a decision that you make or participate in making.

Interested persons include employees or representatives
of an individual, business, organization, or entity.



GIFTS



You may accept things of value up to and including **\$25 per instance** and **\$75 per year** from each interested person or single interested source.

Transactions with Subordinates



As someone who is subject to the Code of Ethics, you may not engage in a financial transaction, including:

- **private employment/consulting**
- **giving or receiving loans**
- **monetary/charitable contributions**

with an employee, contractor, or consultant over whom you exercise supervisory responsibilities.

Exceptions include . . .

- ◆ financial transactions in the normal course of a regular commercial business or occupation; *or*
- ◆ if the subordinate initiates the financial transaction; *or*
- ◆ for charitable events that are sponsored by the highest official or governing body of the state or municipality.



No person subject to the Code of Ethics shall **solicit or request**, directly or through a surrogate, **political contributions** from a **subordinate** over whom that person exercises official supervisory responsibilities.

This does not prohibit or limit the First Amendment right of a subordinate to make political contributions.



REVOLVING DOOR

Purpose: To prevent government employees and public officials from unfairly profiting from, or otherwise trading upon, the contacts, associations, and special knowledge that they acquired during their tenure as public servants.





No elected or appointed official may accept any appointment or election that requires approval by the body of which that official is or was a member, to any position which carries with it financial benefit.

This prohibition continues for one (1) year after the termination of that person's membership in or on such body.

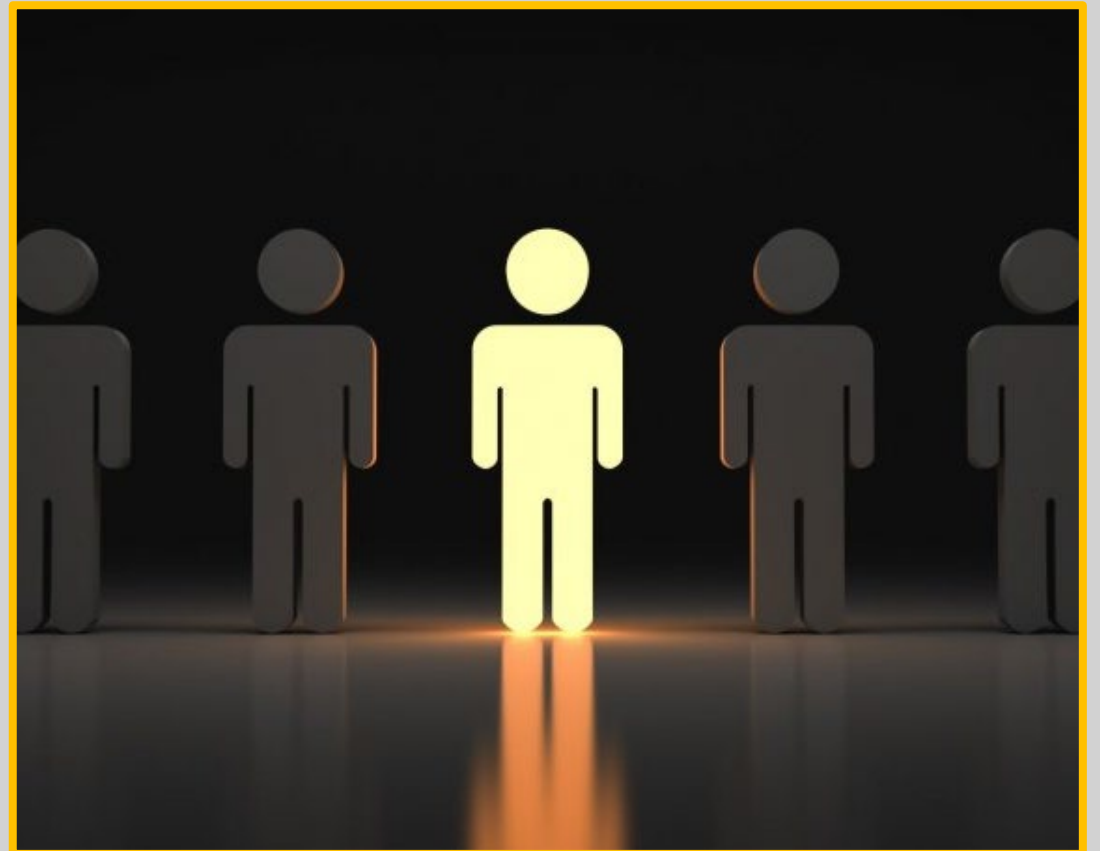
The Ethics Commission may give its approval for a particular appointment or election, if satisfied that denial of such employment or position would create a substantial hardship for the body, board, or municipality.

As a person who is subject to the Code of Ethics . . .

You **may not represent yourself or anyone else** before the agency of which you are a member or by which you are employed or before any other agency for which your agency is the appointing authority.

You **may not serve as an expert witness** before your agency.

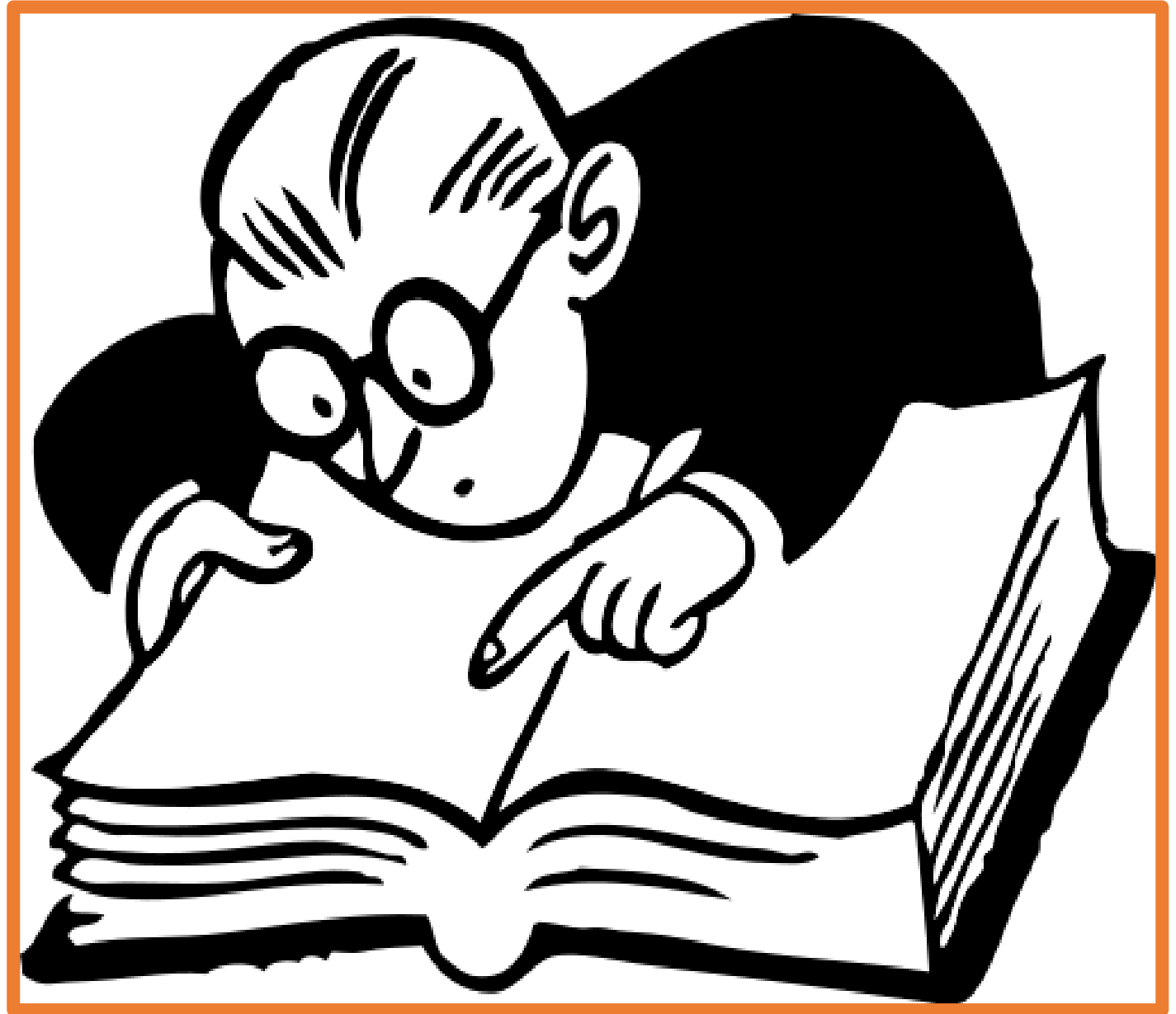
These prohibitions continue for **(1) year** after you leave your public office or employment.



Representation

Defined

participation in the presentation of evidence or arguments before an agency for the purpose of influencing the judgment of that agency in your own favor or in favor of another



Hardship Exception

The Ethics Commission may grant a **hardship exception** allowing you to represent **yourself** before your own agency or before an agency for which your agency has appointing authority. To obtain a hardship exception you **must request an advisory opinion.**



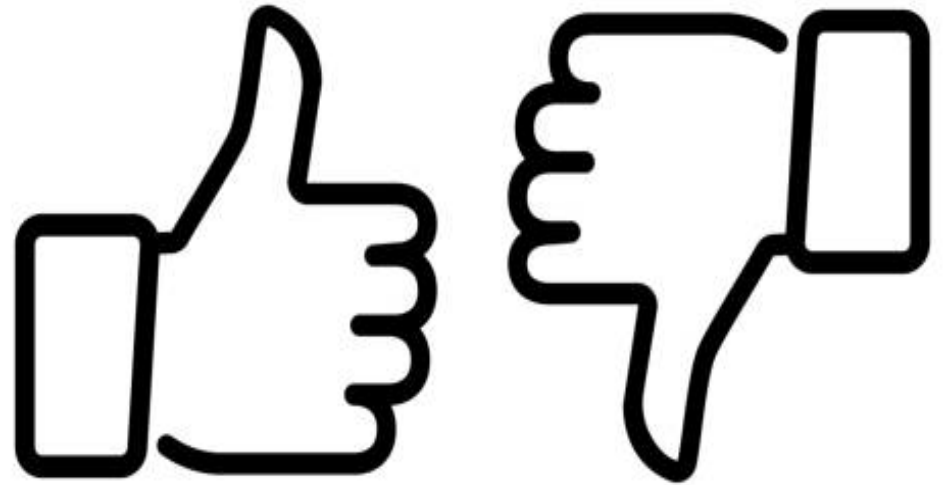
Complaints



Filing a Complaint

- ◆ Form provided by the Ethics Commission
- ◆ Signed under oath
- ◆ Must name the individual alleged to have violated the Code (“Respondent”)
- ◆ Identify Respondent’s public office
- ◆ Detail specific acts which allegedly violated the Code
- ◆ Not public unless and until accepted by Executive Director
- ◆ Complainant not a party

**ADVISORY
OPINIONS**





What Is An Advisory Opinion?

- Legal interpretation of the Code of Ethics
- Issued by the Ethics Commission
- Provides specific guidance about a particular and impending circumstance
- Based on representations of the petitioner



Who May Request An Advisory Opinion?

- any person subject to the Code
- about a provision which may affect that person
- before taking any official action

How Do I Request An Advisory Opinion?

Mail, hand-deliver, or email to the Ethics Commission a letter containing your signature and the following information:

- ◆ **name, telephone number, email address**
- ◆ **name, jurisdiction and powers of your agency, commission, or office**
- ◆ **official position & description of duties**
- ◆ **nature of the potential conflict**
- ◆ **summary of relevant facts**
- ◆ **any time constraints**

What Happens After I Submit My Request?

- letter confirming receipt
- draft recommendation prepared by staff attorney
- affirmative vote by majority of Commissioners required
- strongly encouraged to attend
- you will receive written copy
- also available on Ethics Commission website
- Advisory Opinion and request are public records



Who is required to file a Yearly Financial Statement?



All state elected officials

All state appointed officials

All state employees who hold a major decision-making position in a state agency

All municipal elected officials

Certain municipal appointed officials

The Purpose of Financial Disclosure

- ▶ Help ensure that people who are acting in the public interest do not use their public positions to further their private financial interests
- ▶ Help identify any conflicts between an official's financial interests and their public office
- ▶ Increase overall transparency in government appointments and decision-making
- ▶ Help further the public's confidence in government

RHODE ISLAND ETHICS COMMISSION

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