

RI TAX COLLECTOR'S ASSOCIATION

Regular Meeting

February 1, 2018

A regular meeting of the Rhode Island Tax Collector's Association (RITCA) was held at Chelo's on the Waterfront, 1 Masthead Drive, Warwick, RI.

Present: Rosemarie Silva (West Warwick) – President
Mary Lynn Caswell (Hopkinton) – Vice President
Caitlyn Choiniere (Lincoln) – Secretary
Marcy Alves (Richmond) – Treasurer
Charlene Randall (West Greenwich) – Meeting Coord. & Executive Board
Donna Sullivan (Cumberland) – Executive Board & DMV Committee Chair
Jane Steere (Glocester) – Membership Board Chair

Absent: Rita Deane (Richmond) – Education Committee Chair
Jane Steere (Glocester) – Membership Board Chair
Kimberly Barber (Harmony Fire) – Executive Board

I. Program Presentation:

TOPIC: Ethics – A representative from the RI Ethics Commission spoke about Ethics in the Workplace. See attachment for reference.

SPEAKER: Jason Gramitt – Staff Attorney/Education Coordinator

II. Call to Order:

The regular meeting for RITCA was called to order by President Rosemarie Silva at 10:56 am.

III. Reports from Committees:

SECRETARY:

The membership voted to approve the minutes from the September 28, 2017 meeting. A motion to approve the minutes was made by Mary Lynn Caswell and seconded by Marcy Alves. The motion carried unanimously.

TREASURER:

Treasurer Marcy Alves informed the membership that the current balance of the checking account was \$14,995.64. See attached. The current balance for our 50/50 raffle account was \$63.00. A motion to accept the Treasurer's report was made by Caitlyn Choiniere and seconded by Mary Lynn Caswell. The motion carried unanimously.

LEGISLATIVE COMMITTEE: No Report Available

MEMBERSHIP COMMITTEE: No Report Available

EDUCATION COMMITTEE:

See New Business for updates to the Education Committee.

DMV COMMITTEE:

DMV Committee Chair, Donna Sullivan, will be making a list of concerns and questions that she can present to Vision and to the DMV. Email Donna at dsullivan@cumberlandri.org with your questions. Donna will keep us updated on any new changes that are shared with the Committee. A motion to approve the DMV Committee report was made by Mary Lynn Caswell and seconded by Marcy Alves. The motion carried unanimously.

IV. New Business:

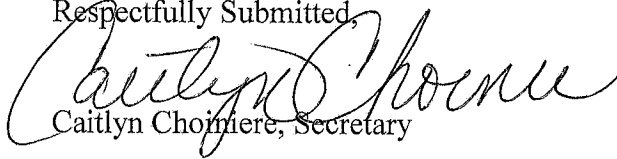
- Rosemarie Silva informed the membership that we have scheduled our upcoming meetings for May 23, 2018 and September 26, 2018. They will be held at Chelo's on the Waterfront. Keep an eye out for meeting updates.
- The 2018 NRTCTA Conference will be held in Rhode Island again this year. It will be at the Omni Hotel in Providence on August 26, 2018 to August 29, 2018. Details will be put on their website, NRTCTA.com, in the coming weeks.
- If you have any topics/ideas that you would like seen at any of our meetings please let Rosemarie know.
- Charlene Randall informed the membership that the Education Committee making huge progress with the Tax Collector's Certification. Charlene has put in many hours preparing the study guide that will be an integral part in preparing for the Certification Test. Charlene said she hopes to have the test and study guide to the State for approval by March, which will give us time to approve it at the May meeting. The test will consist of 100 questions at 1 point apiece. A 70 or higher will constitute a passing grade.

The Education Committee suggested amendments to the By-Laws, which was emailed to the Association in December of 2017. These changes were made to help the Association proceed with certifying its members. The changes were reviewed and the Association took a vote to approve the changes. A motion was made by Victoria Vona and seconded by Mary Lynn Caswell. The motion carried unanimously. The revised Handbook/By-laws will be emailed to the Association and published on our website.

V. Adjournment:

Marcy Alves made a motion to adjourn. Victoria Vona seconded the motion. The motion carried unanimously. The February 1, 2018 regular meeting of the RITCA was adjourned at 11:21 am.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Caitlyn Choimere".

Caitlyn Choimere, Secretary

Rhode Island Tax Collector's Association
Quarterly Meeting 2/1/18
Treasurer's Report

Last balance reported on 9/28/17: \$13,803.58

Income:

Yearly dues & meeting fees: \$2635.00

Expenses:

9/28/17	\$822.54	Chelo's (balance of 9/28/17 mtg)
10/4/17	\$7.20	Mouseworks (website)
1/8/18	\$13.20	Mouseworks (website)
1/9/18	\$600.00	Chelo's (deposit for (3) 2018 mtgs)

Total Expenses: \$1442.94

Current balance: \$14,995.64

Submitted by:

Marcy Alves
Treasurer
Rhode Island Tax Collector's Association

What is the Rhode Island Ethics Commission?

An Ethics Amendment to the Rhode Island Constitution was enacted in 1986, and amended in 2016, creating the independent and nonpartisan Ethics Commission with the authority to adopt and enforce a Code of Ethics that applies to all state and municipal elected officials, appointed officials and employees. The Ethics Amendment reads:

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 7.

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.

Article III, Section 8.

In addition to its enforcement duties, the Ethics Commission educates and advises public officials and employees about the standards of conduct set out in the Code of Ethics. Additionally, the Ethics Commission oversees the financial disclosure program which requires all elected officials, all candidates for public office and certain categories of persons appointed to serve as officers or members of state or municipal agencies to file statements annually.

The Commission is comprised of nine Rhode Islanders. Four are appointed directly by the Governor; five are appointed by the Governor from lists of nominees submitted by the majority and minority leaders in the House and Senate. No Commission Member may serve more than one full five-year term. While serving on the Ethics Commission, members are prohibited from holding or campaigning for public office, holding office in any political party or political committee, and participating in or contributing to any political campaign.

Guide to the Code of Ethics

This provides a brief overview of the Code of Ethics for public officials and employees. It is not meant to serve as formal advice or to substitute for legal counsel. The Ethics Commission conducts hearings to consider revisions to the Code of Ethics. For up-to-date and complete information, contact the Commission at 401-222-3790 or by email at ethics@ethics.ri.gov.

Nepotism and Favoritism:

You may not participate in official actions, decisions or deliberations that affect your family members, business associates, outside employers or any business you represent. You may not hire, evaluate, supervise or otherwise participate in employment decisions affecting your family members. For an exhaustive list of persons who qualify as family members, *See* Commission Regulation 36-14-5004(a)(2). Business associates include anyone with whom you have joined together to achieve a common financial objective. *See* R.I. Gen. Laws §§ 36-14-5(a), 5(d), 5(f), 7(a), 7(b), and Commission Regulations 36-14-5004 and 5005.

Gifts:

You may not accept anything of value based on the understanding that the gift will influence your judgment or official action. This prohibition includes anything of value given to your family or your business associates. *See* R.I. Gen. Laws § 36-14-5(g),(i). Additionally, if you participate in making decisions, you may not accept cash or forgiveness of debt from interested persons, but may accept things of value (gifts, loans, rewards, promises of future employment, favors, discounts, etc.) from interested persons having a value up to and including \$25 per instance and up to \$75 per year from each interested person. An interested person is a person, business, or representative that has a direct financial interest in a decision that you participate in making. *See* Commission Regulation 5009. If you are a state procurement official, you may not accept any goods or services for personal use for less than fair market value from state vendors or prospective vendors within a 24 month time period. *See* R. I. Gen. Laws § 36-14.1-2.

Honoraria:

You may be asked to speak at conferences, meetings, and other functions. You may not accept honoraria, or payment, if you use public time or resources to prepare for or make the presentation or if you have decision-making authority over the sponsor. *See* Commission Regulation 5010.

Municipal/State Property:

Public property, vehicles, equipment and supplies are intended to serve a public purpose. Any use of municipal or state property for private purposes must conform to laws, rules and regulations adopted by the state, city or by your department. *See* R.I.G.L. § 36-14-5(d).

Confidential Information:

You may not use or disclose, for financial gain, confidential information acquired in the course of your official duties. *See* R.I. Gen. Laws § 36-14-5(c).

Outside Employment:

You may have a private or public sector job in addition to your state/municipal position; however, you may not accept outside employment that impairs your independence of judgment or that induces you to disclose confidential government information. *See* R.I. Gen. Laws § 36-14-5(b).

Acting as an Agent or Attorney:

You may not receive compensation to represent any person or organization before any agency, board, commission or other government entity over which you exercise fiscal or jurisdictional control, in any matter in which the state has an interest or is a party. There are several exceptions: You may accept outside compensation to represent others in the manner described above, if you are acting as a representative of a duly certified bargaining unit or the representation takes place in a state court of public record or you are asking the government entity to carry out a mandatory duty that does not involve any discretion. *See* Commission Regulation 36-14-5008(a).

Appearances Before Your Own Agency:

You may not represent yourself or anyone else before the agency you are a member of or employed by or any other agency for which your agency is the appointing authority. You also may not serve as an expert witness before your own agency. These prohibitions continue for one year after you leave your public job. *See* R.I. Gen. Laws § 36-14-5(e). The Ethics Commission may grant a hardship exemption allowing you to represent yourself before your own agency. To obtain an exemption you must request an advisory opinion. *See* R.I. Gen. Laws § 36-14-11 and Ethics Commission Procedural Regulation 1024.

Public Forum Exception:

The Code of Ethics does not limit your right to express your opinions and viewpoints in a public forum on any matter of general public interest, or any matter which affects said individual or his or her spouse or dependent child. *See* Ethics Commission Regulation 36-14-7003.

Revolving Door:

Members of a public body may not accept appointment from that body to any position that carries with it financial benefit or remuneration. This prohibition continues until one year after you leave your position. *See* Commission Regulation 36-14-5006. If you hold a senior policy-making, discretionary or confidential position on the staff of a state elected official or the General Assembly, you may not seek or accept other state employment in the classified, unclassified, or nonclassified service. This prohibition continues until one year after you leave your job. *See* R.I. Gen. Laws § 36-14-5(o). Limited exceptions apply under both provisions.

Contracts:

You may not enter into any contract with state or local government unless the contract is awarded through an open and public bidding process, including prior public notice and subsequent public disclosure. You may not be hired to provide professional services unless there is prior public notice and subsequent disclosure. These prohibitions also apply to your family, your business associates and to any business in which you, your family or business associates have a 10% or greater equity interest or a \$5000 or greater cash value interest. *See* R.I. Gen. Laws § 36-14-5(h).

Transactions with Subordinates:

You may not engage in a financial transaction, including private employment, loans, monetary, political or charitable contributions with an employee, contractor, or consultant over whom you exercise supervisory responsibilities. Exceptions include transactions in the normal course of a regular commercial business, 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. *See* Commission Regulation 36-14-5011.

DO I HAVE A CONFLICT OF INTEREST?

Ask yourself if it is "reasonably foreseeable" that:

1. A decision you are helping to make as part of your public duties,
2. Will result in a financial benefit *or* detriment,
3. To:
 - A. You; or
 - B. Your family or household member; or
 - C. Your outside employer; or
 - D. Your business associate*.
4. Or, even if there is no financial impact, is a family member, household member, employer or business associate 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 participation in the matter.

*Your "business associates" are any persons or entities that you are joined with to achieve a common financial objective. These include not only your business partners, but also people you have hired such as an attorney, accountant, realtor, contractor, etc. These also include any business or organization, even if not-for-profit, for which you are an officer or director.

Note: The Rhode Island Supreme Court has ruled that members of the General Assembly may not be questioned by the Ethics Commission concerning their core legislative activities, such as introducing, advocating for or against, or voting for legislation.

How to Recuse

The Code of Ethics provides that public officials and employees must file a statement of conflict of interest, also called a recusal form, concerning matters where he or she may have a conflict of interest in the discharge of his or her official duties. A conflict of interest may exist if an official or employee can reasonably expect that his or her official conduct will directly result in a financial benefit to the official, his or her family, business associates, employers, or businesses that the official represents. The conflict need not be certain to occur, but the probability must be greater than "conceivably." See R.I. Gen. Laws §36-14-6, and Regulations 36-14-5002 and 36-14-6001.

What is recusal?

Recusal, under the Code of Ethics, refers to a public official or employee declining to participate in a matter because of a potential conflict of interest under the Code of Ethics. Recusal is not the same as abstaining which may mean that the public official will not vote, but has participated in discussions on a matter. Recusal means that you are not participating in deliberations or debates, making recommendations, giving advice, considering findings, or in any other way assuming responsibility for or participating in any aspect of the work or decision-making relating to the matter where there are potential conflicts of interest. It does not mean that the public official must leave the room if it is an open meeting, although a public official may voluntarily choose to do so. However, if the public body is in executive session, once the official has recused, he or she has no more right to be in the room than any other member of the general public. An official may be able to speak as a private citizen under the "Public Forum Exception," however, this does not include substantive discussions in forums not available to members of the general public, nor does it allow a public official to represent the views of others or act as an expert witness before his or her own agency.

Options:

A public official with a potential conflict of interest must recuse from participation and file a recusal form as soon as he or she has reason to believe that he or she has a conflict of interest. If there is a matter that does not actually rise to that level, a public official may still provide notice (some recusal forms contain this option) of the perceived conflict along with an explanation as to the reasons why he or she believes that he/she is able to participate objectively, fairly, and in the public interest.

How to recuse:

- Complete a *Statement of Conflict of Interest* form, or write or sign a memo which includes the following information:
 - Name
 - Position & agency
 - Describe the nature of your conflict
 - Indicate that you are recusing from participation
 - Sign the memo or form under penalty of perjury
- Present the original to your presiding officer, appointing authority, director, or immediate superior
- Send a copy to the Ethics Commission

Statement of Conflict of Interest pursuant
to R.I. Gen. Laws § 36-14-6

I _____, holding the position of

_____, hereby under oath depose and say: (job title or
appointed/elected position and name of board/commission/agency/department)

1. A matter involving _____

is presently before _____
(name of board/commission/agency/department)

2. I have the following interest in the matter noted in paragraph 1 above:

3. [Please select one of the following]:

() A. In compliance with R.I. Gen. Laws § 36-14-6(1), I hereby recuse from
participating in the discussion of or taking official action relating to said matter. (This
does not prohibit participation as a member of the public in an open meeting, pursuant
to Commission Regulation 7003.)

() B. In compliance with R.I. Gen. Laws § 36-14-6(1), I hereby state that despite the
interest described above, I believe I am able to participate fairly, objectively and in the
public interest regarding said matter for the following reasons:

Signed under the penalties of perjury this ____ day of _____, 2__.

Signature

GIFTS

(Ethics Commission Regulation 5009)

TO WHOM DOES THE GIFT REGULATION APPLY?

- All State Elected and Appointed Officials, and State Employees.
- All Municipal Elected and Appointed Officials, and Municipal Employees.

WHAT GIFTS ARE PROHIBITED?

- Gifts of CASH, debt forbearance or debt forgiveness of any amount.
- A gift of GOODS or SERVICES having either a market value or actual cost greater than \$25.
- Multiple Gifts from a single interested person or entity in one calendar year having an AGGREGATE market value or aggregate actual cost of greater than \$75.

DOES THE GIFT REGULATION APPLY TO GIFTS RECEIVED FROM ANYONE?

-No. The Gift Regulation only applies to gifts received from an "interested person." An interested person is a person or a representative of a person or business that has a financial interest in a decision that the public official or employee is authorized to make or participate in, as part of his or her official duties.

ARE THERE EXCEPTIONS?

- If the interested person receives lawful consideration of equal or greater value in return, then the transfer is not considered to be a gift.
- If the gift is *immediately* returned or given to a bona fide charity with no benefit accruing to the public official or employee, then the transfer is not considered to be a gift.
- Lawful campaign contributions are not subject to the gift regulation.
- Certain *services* to assist an official or employee in the performance of *official duties* and responsibilities are not considered to be gifts.
- A plaque or similar item in recognition of service to field of specialty or charity.
- A gift from a family member who is also an interested person.
- A gift that is given because of the recipient's membership in a group, the majority of whose members are not subject to the Code of Ethics, and the same or equivalent gift is given or offered to the other members of the group.

MORE QUESTIONS?

Call the Ethics Commission at (401) 222-3790, or write to: RI Ethics Commission, 40 Fountain Street, Providence, RI 02903.

Note: Gifts of out-of-state travel may be prohibited if given by an interested person. If given by a non-interested person, the travel may need to be disclosed on your yearly financial statement. See Regulation 36-14-17009.

Financial Disclosure

Q. Who is required to file with the Ethics Commission?

A. All State appointed and elected officials and state employees holding major decision-making positions, as well as all municipal elected and certain municipal appointed officials are required by law to file a Financial Disclosure Statement every year. *See* R.I. Gen. Laws § 36-14-16. All officials required to file must continue to file Financial Disclosure Statements until they have been out of office for one full calendar year. Additionally, candidates for elected office are required to file a Financial Disclosure Statement within 30 days of the deadline for declaring candidacy.

Q. When must the statements be filed?

A. The Code of Ethics requires that a Financial Disclosure Statement for the prior calendar year be filed with the Ethics Commission by the last Friday in April, or within thirty (30) days of appointment to a public position or declaration as a candidate in an election.

Q. What is the purpose of financial disclosure?

A. The purpose of requiring financial disclosure is to help insure that those people who are acting in the public interest do not use their public positions to further their private financial interests. The Financial Disclosure Statement also provides evidence that there are no conflicts between an official's financial interests and his or her public office.

Q. What information is required?

A. The Financial Disclosure Statement requires the listing of certain assets and sources of income, but does not required divulging net worth. Some information that is required is: the name of the public official's employer; names of businesses in which the public official, spouse or dependent children have at least a 10% of \$5,000 ownership or investment interest; a description of Rhode Island real estate, other than the official's principal residence; and debts of more than \$1,000 to anyone other than family members (within the third degree of consanguinity), financial institutions where the debt is secured by a mortgage on the filer's principal residence, or debts arising from credit card transactions.

Q. I am not paid anything for my position. Why do I have to file?

A. The financial disclosure law passed by the General Assembly requires that the Financial Disclosure Statement be filed whether or not an individual is paid for his or her services. The focus of the statement is an official's private financial interests. Since the Code of Ethics prohibits the use of a public official's office for his or her own private financial gain, disclosure of what those private interests are is required.

Q. What if I cannot meet the deadline to submit the Financial Disclosure Statement?

A. For anyone who is already in office, the Ethics Commission will allow an extension of up to sixty (60) days if the request for an extension is received *before* the filing deadline, or if the deadline is not met due to physical or mental incapacity. A candidate for public elective office may obtain an extension of fifteen (15) days if a written request is received by the Commission by the date on which the statement is due.

Q. What are the penalties if a violation occurs?

A. If a knowing and willful violation of the provisions of the Code of Ethics is found, the Ethics Commission may impose a civil penalty of up to \$25,000. In cases of non-filing of the financial statement, most penalties are \$1000 or less, but higher penalties have been assessed.

Q. Where do I get a Financial Disclosure Statement to file?

A. You may file your form online at the Commission's website (www.ethics.ri.gov), or obtain a hard copy form to file by calling the Commission at 401-222-3790.

Q. Do I have to answer every question if they do not apply to me?

A. Yes. Each question must be answered. If it does not apply to you, please write "not applicable." If a form is not complete, it may be mailed back to you.

Q. What do I need to list under "public offices"?

A. Every public office you hold must be disclosed on the Financial Disclosure Form. For instance, if you are a member of a municipal board, but also serve on other committees, municipal or state, whether as a regular member, or ex-officio, those offices must also be listed on the Financial Disclosure form under question #3.

Q. If I receive a salary or stipend from my public office, do I need to list it as a source of income?

A. Yes, a person filing a Financial Disclosure Statement must list the names of any employer of the public official, his or her spouse, and dependent child if is more than \$1,000 gross. If you are self-employed, you must list the occupation from which \$1,000 gross income was received. If you are self-employed and rendered services to a state or municipal agency for an amount in excess of \$250, the date and nature of those services must be provided.

Q. Do I need to list my non-profit affiliations?

A. If you, your spouse or dependent child held a position as a director, officer, partner, trustee or a management position in a business or non-profit organization, the name and position must be listed under question 9.

Advisory Opinions

Advisory opinions are interpretations of the Rhode Island Code of Ethics. Pursuant to R.I. Gen. Laws § 36-14-11 and Commission Regulation 1024, public officials and employees may request specific guidance from the Commission about a particular circumstance through the advisory opinion process. 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. Additionally, 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 adversarial or investigative proceedings.

How to Request an Advisory Opinion

If you are an elected or appointed public official of state or local government, or if you are a public employee of state or local government, you may request advice from the Ethics Commission. If you believe you may face a real or potential conflict of interest, the time to request an advisory opinion is before you take any official action. Prior to writing to the Ethics Commission to request an advisory opinion, *it is recommended that you telephone the Commission at (401) 222-3790 and ask to speak to a staff member about obtaining an opinion.* The Commission staff will assist you in framing your question properly, and help to determine what information should be included within the formal request.

To obtain an advisory opinion, one must write a letter to the Commission requesting the opinion. The Commission will not accept emailed requests. The letter should contain a complete statement of the facts. You may write a paragraph or several pages depending on your particular circumstances. You should include:

- Your name and official position.
- Briefly, the name, jurisdiction and powers of your agency, commission, or office.
- The nature of the potential conflict.
- A summary of relevant facts.
- Any time constraints.
- Your mailing address and a telephone number where you can be reached.

The Commission will send you a letter confirming receipt of your request. All hearings involving advisory opinions are open public hearings. Sometime prior to the hearing in which your request will be heard, you will receive a draft recommendation prepared by a staff attorney. Persons requesting advisory opinions are encouraged to attend the public hearing on their request as factual questions may arise that require the requestor's presence. At the hearing, the Commission will consider both the draft recommendation and comments or concerns submitted by the requesting party. The Commissioners may also ask questions to clarify any relevant facts.

The Commission will adopt an advisory opinion by a vote of at least 5 of the 9 members. You will receive a written copy. This opinion and your written request are public records.

All advisory opinions are "binding" on the Commission. That means that if you abide by the opinion in good faith, and if you did not misstate or omit material facts in your request for the opinion, you cannot be held in violation of the Code of Ethics in any subsequent proceeding concerning your actions.

For more information see *R.I. Gen. Laws 36-14-11* and *Rhode Island Ethics Commission Regulation 1024*, or call the Commission at (401) 222-3790 (V/TT).

Complaints and Enforcement

Any person may submit a signed, notarized complaint on a form provided by the Commission. The complaint must name the individual alleged to have violated the Code of Ethics (the "respondent"), identify the respondent's public office, and detail the specific acts which allegedly violate the Code of Ethics. The Commission also may initiate its own investigations based on information received indicating a possible violation of the Code.

Prior Decisions & Orders following adjudications and Settlements/Orders issued by the Ethics Commission regarding Complaint Matters from 1998 to the present are available on the Commission's web site; older documents are available by contacting the Commission at (401) 222-3790.

Filing a Complaint

Prior to filing a complaint, potential Complainants are encouraged to contact the Commission at any time by telephone at 222-3790 to speak with a member of the Investigative Staff during Commission office hours, 8:30 a.m. - 4:30 p.m., Monday through Friday. Those contemplating filing a complaint may also arrange to come in during office hours and discuss with Investigative Staff the procedure, the substance of the potential complaint, or any other questions they might have before actually filing a complaint. While those considering filing a complaint are encouraged to contact Commission Staff first, it is not mandatory to do so prior to the actual filing of a complaint. Complaints must be filed on a proper complaint form; forms are available to the public at the Commission Offices during regular office hours.

How the Complaint Process Works

Within three working days of the receipt of any properly filed complaint, the Commission mails copies of the complaint, the Code of Ethics, and Commission regulations to the complainant and the respondent. The Commission thereafter sends timely notices of subsequent Commission actions to the complainant and respondent.

Initial Determination

At this first stage of review, the Commission determines whether the complaint properly alleges facts sufficient to constitute a violation of the law. Meeting in closed executive session, the Commission either decides to dismiss the complaint or to initiate an investigation. The decision to investigate does not address the validity of the complaint; rather, it merely indicates that the allegations properly fall under the provisions of the Code of Ethics. Neither the complainant nor the respondent participates in the initial determination.

Informal Resolution and Settlement

At any time subsequent to an Initial Determination of the Complaint, the Prosecution and the Respondent may seek an informal disposition through an agreed settlement, consent order, or other informal resolution of the pending Complaint. This may entail the parties meeting for an informal conference to seek such informal disposition. The informal conference shall not be used as evidence in any subsequent proceeding. Any informal disposition of a pending Complaint shall be subject to the approval of the Commission. Once approved by the Commission, the Informal Resolution and Settlement Agreement and any Orders issuing regarding the Complaint become public documents.

Investigation

The Commission may issue subpoenas to compel the production of evidence or the attendance of witnesses. Staff Investigators may take oral or written evidence under oath or affirmation. An investigation must be completed within 180 days after the complaint is filed, unless the Commission approves an extension for good cause, with a maximum of two such 60-day extensions. Investigative Reports compiled by staff become public records after a probable cause hearing has been completed.

Probable Cause Hearing

The respondent is mailed a copy of the Investigative Report at least 14 days prior to a scheduled hearing. At the hearing, the prosecution presents the results of the investigation. The Commission reviews the Investigative Report of the prosecution as well as any answer or other information submitted by the respondent. The meeting is closed to the public, but the respondent and respondent's counsel may be present. The Commission may then vote to dismiss the complaint for lack of evidence, or find that probable cause exists to support the allegations and/or amend the complaint if the investigation reveals probable cause exists to believe that other violations of the Code of Ethics have occurred.

Adjudicative Hearing

If the Commission finds that probable cause exists to support the allegations, an adjudicative hearing is scheduled, with at least 15 days prior notice to the respondent. This is an adversarial hearing. The prosecutor and the respondent may present evidence and examine witnesses. Additionally, Commissioners may question witnesses. Rules of evidence are followed, regulations provide for discovery, and principles of due process govern all procedures. A stenographic record is kept and the hearing is conducted in an open and public session.

Final Disposition

The Commission meets in closed session to deliberate and determine whether there has been a knowing and willful violation of the Code of Ethics. Upon a finding of violation, the Commission may: (a) issue a cease and desist order; (b) require the respondent to file any statement mandated by the Ethics Code; (c) impose a civil fine of up to \$25,000 per violation and the return of any unjust enrichment; (d) or, for egregious violations, remove from office any official not subject to impeachment.

Whistleblower Protection

Complainants and witnesses have rights under the Rhode Island Whistleblower Act, R.I. Gen. Laws §§ 28-50-1 to 28-50-9 and may also bring a civil action in Superior Court within three years after being threatened or intimidated in any proceeding before the Ethics Commission.

Frivolous Complaints

The Code of Ethics provides that "no person shall knowingly and willfully make a false or frivolous complaint under this chapter." R.I. Gen. Laws § 36-14-5(k).

Review

All Final Orders of the Commission are subject to review by the Rhode Island Superior and Supreme Courts pursuant to the Administrative Procedures Act.

For more information see: R.I. Gen. Laws § 36-14-12 to § 36-14-15 and R.I. Ethics Commission Regulations 1000 to 1023 or call the Commission at 401-222-3790.