

VIA ELECTRONIC MAIL

December 18, 2024

Lauren E. Jones, Chair  
Rhode Island Ethics Commission  
40 Fountain Street, 8th Floor  
Providence, RI 02903

Dear Chair Jones:

On behalf of Common Cause Rhode Island, I write to petition that the Rhode Island Ethics Commission, pursuant to § 42-35-6 of the Administrative Procedures Act, engage in rule-making.

**Gift Rule**

Specifically, Common Cause Rhode Island requests that the definition of an “interested person” in 520-RICR-00-00-1.4.2 Gifts (36-14-5009)(C) be amended to include anyone registered as a lobbyist pursuant to § 42-139.1-4, or their principal or their agent. We strongly believe that the “gift rule” in the Rhode Island Code of Ethics should prohibit registered lobbyists from providing gifts in excess of the values outlined in the Code.

As you know, the Code currently places limits on gifts from those who have a “direct financial interest in a decision that the person subject to the Code of Ethics is authorized to make, or participate in the making of, as part of his or her official duties.” 520-RICR-00-00-1.4.2 Gifts (36-14-5009)(C). Common Cause Rhode Island believes that the current requirement that there be a financial nexus for the “gift rule” to apply is insufficiently protective of the public interest. We ask the Commission to amend the gift rule to protect the public interest by including lobbyists as a class.

The Commission’s constitutional mandate is to ensure that “public officials and employees ... 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” (emphasis added). When registered lobbyists, who by definition are paid to influence public officials, are giving gifts to those same public

officials, it undermines “the public trust,” gives the “appearance of impropriety,” and suggests that public officials are using their official positions for “private gain.”

Including registered lobbyists in the definition of an “interested person” creates a bright-line rule that those subject to the Code can easily understand, and that the Commission can easily enforce.

While not comprehensive, our review of gift rules for state legislators in other states indicates that at least twenty-two (22) states have bars and other limits on gifts specifically from lobbyists, their principals, or their agents.<sup>1</sup> A cursory review of lobbying laws that apply to the executive branch reveals that bars on gifts from lobbyists are commonplace.<sup>2</sup>

## **Financial Disclosure**

In addition to the above changes to the “gift rule,” we request additional rule-making to add a question to the financial disclosure form. Specifically, we seek a question that requires disclosure of gifts “if, under the totality of the circumstances, it is more likely than not that the person or entity would not have given the gifts but for the official’s or employee’s public office or position.” See 520-RICR-00-00-4.12 Out-of-State Travel (36-14-17009).

Common Cause Rhode Island last petitioned the Commission to engage in rule-making in 2012. The result of that petition was the current rule, 520-RICR-00-00-4.12 Out-of-State Travel (36-14-70009). This carefully-crafted rule has led to the disclosure of a significant number of instances of out-of-state travel of public officials provided by third parties. We believe such disclosure is in the public interest and furthers the Commission’s mission to promote transparency.

However, we also believe that there are gifts that fall outside of the category of Out-of-State Travel and are given by persons who are not an interested person as defined by the Code, yet whose disclosure is in the public interest. As in our 2012 petition, here we are not seeking to ban these gifts, but to shed sunlight on them. And again, like in 2012, we are not petitioning the Commission to adopt specific language, but are articulating our goal and asking the Commission and staff to craft a rule that achieves that goal in a way that is enforceable.

## **Procurement**

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<sup>1</sup> Alabama, Alaska, Arizona, Arkansas, California, Colorado, Indiana, Maine, Maryland, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, and West Virginia. See: <https://www.ncsl.org/ethics/legislator-gift-restrictions> (Accessed on December 17, 2024).

<sup>2</sup> See: <https://www.naag.org/state-gift-laws/> (Accessed on December 17, 2024).



Finally, in light of recent events, we believe that the Commission should examine the section of the Code that applies to procurement. While we have no specific recommendations at this time with respect to R.I.G.L. § 36-14.1-1 et seq., this section of the Code has not been amended since 1993. We hope that a review of best practices from other jurisdictions will reveal policies that better protect the procurement process from political interference.

Common Cause Rhode Island looks forward to working with the Commission to craft language that will effectuate these changes to the Code of Ethics.

Sincerely,

John Marion  
Executive Director

CC: Jason Gramitt, Executive Director

