

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: July 27, 2026)

K. JOSEPH SHEKARCHI
Plaintiff,

v.

RHODE ISLAND ETHICS
COMMISSION
Defendant.

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C.A. No. PC-2026-03423

DECISION

LICHT, J.

I

Facts and Travel

In March 2026, after a stellar career as a prosecutor, trial judge, and appellate justice, Maureen McKenna Goldberg retired from her position as an Associate Justice of the Rhode Island Supreme Court. Governor Daniel McKee began the constitutionally mandated process of filling the vacancy created by her retirement by notifying the Rhode Island Judicial Nominating Commission (“JNC”) of the vacancy.¹ As is its practice, and as required by statute,² on April 7, 2026, the JNC posted notice of the vacancy and established a thirty-day application period. The Plaintiff, K. Joseph Shekarchi (“Mr. Shekarchi”), then Speaker of the Rhode Island House of Representatives,³ applied for the position. In May 2026, the JNC met in executive session and

¹ R.I. Const. art. X, § 4.
² G.L. 1956 § 8-16.1-5.
³ Since applying, Plaintiff has resigned as Speaker but remains a state representative.

voted to hold a public hearing and interview five applicants, including Mr. Shekarchi on July 28, 2026.

On May 7, 2026, Michael J. Yelnosky, a professor and former dean at Roger Williams University, School of Law filed a complaint with the Defendant, the Rhode Island Ethics Commission (“RIEC”). The complaint, dated May 7, 2026, states:

“Earlier today Representative Shekarchi announced that he had applied to the Judicial Nominating Commission for a vacancy on the Rhode Island Supreme Court. Doing so violates the Code of Ethics which prohibits a state elected official, while holding state office and for a period of one year after leaving office, from seeking or accepting employment with any other state agency.” (Ethics Compl.)

On June 2, 2026, RIEC, in Executive Session, six of the seven commissioners voted:

“To initially determine that the Complaint states facts that, if true, are sufficient to constitute violations of the Code of Ethics and to authorize an investigation.” (*Report on actions taken in Executive Session In re: K. Joseph Shekarchi before the R.I. Ethics Commission* (June 2, 2026)).

On May 28, 2026, Mr. Shekarchi filed with RIEC a motion to dismiss the ethics complaint, which was ultimately heard on June 23, 2026. For nearly two hours, counsel for Mr. Shekarchi and RIEC presented their respective arguments as to how various statutes, regulations, and Supreme Court advisory opinions applied to this matter. Eventually, RIEC voted to deny the motion “without prejudice.” One member of RIEC explained her vote as follows:

“I just would like to add that I feel that there’s more information that I need. I need to understand better some of the really important issues that were brought to light today. I am not an attorney. So maybe that’s where I am coming from that some of this is new and its far more nuanced . . . It’s far more a gray area than I . . . had hoped it would be. So, we’ll continue on and I’m sure we’ll all learn more as we go about this important topic.” (*Rhode Island Ethics Commission, 2026-6-23 RI Ethics Commission Open Session Part*

3, YOUTUBE (June 23, 2026), 10:51-11:29
<https://www.youtube.com/watch?v=dMcHwgY-FTA>.)

Then, Herbert F. DeSimone (“Mr. DeSimone”), legal counsel to RIEC,⁴ stated:

“So, just so the parties are clear, the motion was denied without prejudice, which means that the parties are not foreclosed from raising the arguments relative to whether or not the statutes and the regulations prohibit Mr. Shekarchi from immediately applying. I think the commissioners felt they needed more information.” (Rhode Island Ethics Commission, *2026-6-23 RI Ethics Commission Open Session Part 3*, YOUTUBE (June 23, 2026), 11:37-12:01 <https://www.youtube.com/watch?v=dMcHwgY-FTA>.)

Thus, RIEC has yet to decide that Mr. Shekarchi’s application constitutes a violation of any ethics laws or regulations, which point was conceded by RIEC’s Executive Director at oral argument. (Tr. 10:21-11:21, July 20, 2026.)⁵ Therefore, RIEC’s arguments in this matter represent the position of RIEC’s staff. Nevertheless, the Court believes it to be its responsibility to give careful consideration to RIEC’s arguments.

On June 25, 2026, Mr. Shekarchi filed the instant complaint in which he seeks to have the Court declare that his application to the JNC is permissible and direct RIEC to dismiss the ethics complaint. *See* Compl. On June 30, 2026, the Court met with counsel and agreed on an expedited briefing schedule and oral argument was held on July 20, 2026.

The only relevant facts to this case are not in dispute: Mr. Shekarchi is currently a state representative, and he has applied for the position of Associate Justice of the Rhode Island Supreme Court.

⁴ The Executive Director, not legal counsel, has entered his appearance in this matter.

⁵ The Court references rough and final transcripts in this Decision. For this reason, in the event of an appeal, the transcripts submitted to the Supreme Court may vary in pagination as compared to the transcripts referenced in this Decision.

II

Standard of Review

A

Declaratory Judgment

“The Uniform Declaratory Judgments Act, G.L. 1956 chapter 30 of title 9 (the UDJA), ‘vests the Superior Court with the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed.’” *Benson v. McKee*, 273 A.3d 121, 129 (R.I. 2022) (quoting *Key v. Brown University*, 163 A.3d 1162, 1168 (R.I. 2017) (further quoting *N & M Properties, LLC v. Town of West Warwick*, 964 A.2d 1141, 1144 (R.I. 2009)); see § 9-30-1. Section 9-30-1, reads as follows:

“The superior or family court upon petition, following such procedure as the court by general or special rules may prescribe, shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.”

“‘[A] necessary predicate to a court’s exercise of its jurisdiction under the Uniform Declaratory Judgments Act is an actual justiciable controversy.’” *Meyer v. City of Newport*, 844 A.2d 148, 151 (R.I. 2004) (quoting *DeAscentis v. Pine*, 729 A.2d 715, 717 (R.I. 1999) (per curiam)) (quoting *Sullivan v. Chafee*, 703 A.2d 748, 751 (R.I. 1997)); *Providence Teachers Union v. Napolitano*, 690 A.2d 855, 856 (R.I. 1997) (per curiam).” “Parties aggrieved by acts of the commission always have the right to test their legality by way of declaratory judgment[.]” *In re Advisory Opinion to Governor (Ethics Commission)*, 612 A.2d 1, 20 (R.I. 1992), *opinion corrected* (June 26, 1992) (The Rhode Island Supreme Court declined to follow the advisory opinion in *Irons*

v. Rhode Island Ethics Commission, 973 A.2d 1124, 1132 n. 15 (R.I. 2009)). See also G.L. 1956 § 42-35-7. The Rhode Island Supreme Court has previously “recognized that the validity or applicability of an agency rule or practice may be decided in an action for declaratory relief, notwithstanding the fact that an administrative hearing was requested.” *Town of Richmond v. Rhode Island Department of Environmental Management*, 941 A.2d 151, 156 (R.I. 2008).

B

Administrative Appeal

First, G.L. 1956 § 42-35-15(a) allows “[a]ny person . . . who has exhausted all administrative remedies available to the person within the agency, and who is aggrieved by a final order in a contested case” to seek judicial review. Section 42-35-15(a). “Second, the Superior Court may review ‘[a]ny preliminary, procedural, or intermediate agency act or ruling . . . in any case in which review of the final agency order would not provide an adequate remedy.’” *Banki v. Fine*, 224 A.3d 88, 96 (R.I. 2020) (quoting § 42-35-15(a)). Subsection (g) of § 42-35-15 reads as follows:

“(g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

“(1) In violation of constitutional or statutory provisions;

“(2) In excess of the statutory authority of the agency;

“(3) Made upon unlawful procedure;

“(4) Affected by other error of law;

“(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

“(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

“Although § 42–35–15 of the APA provides for review of administrative determinations, that review is circumscribed and limited to ‘an examination of the certified record to determine if there is any legally competent evidence therein to support the agency’s decision.’” *Nickerson v. Reitsma*, 853 A.2d 1202, 1205 (R.I. 2004) (quoting *Barrington School Committee v. Rhode Island State Labor Relations Board*, 608 A.2d 1126, 1138 (R.I. 1992)). “Questions of law, however, are not binding upon the court and may be reviewed to determine what the law is and its applicability to the facts.” *Narragansett Wire Co. v. Norberg*, 118 R.I. 596, 607, 376 A.2d 1, 6 (1977) (citing *Retail, Wholesale and Department Store Union, AFL-CIO v. NLRB*, 466 F.2d 380 (D.C. Cir. 1972); *Ridgely v. Secretary of Department of HEW*, 345 F. Supp. 983 (D. Md. 1972); *Blue Earth County Welfare Department v. Cabellero*, 225 N.W.2d 373 (Minn. 1974)).

III

Analysis

A

Historical Backdrop

While not essential to deciding the legal issues in this case, situating this case within the larger historical context is pertinent.

1

Ethics Laws

Prior to 1976, there was no code of ethics laws for Rhode Island public officials. However, public concern over certain transactions between elected officials and state government led the General Assembly to create a Conflict of Interest Commission and enact a code of ethics.⁶ In 1986,

⁶ P.L. 1976, ch. 275.

there was a constitutional convention which proposed, and the people adopted, a new Constitution for the State. Article 3, section 8 of the 1986 Constitution requires the General Assembly to “establish an independent non-partisan ethics commission which shall adopt a code of ethics . . . ” In 1987, the General Assembly created RIEC and empowered it to prescribe regulations.⁷

2

Selection of Judges

Prior to 1994, vacancies on the Supreme Court were filled by the Grand Committee which was the House and Senate sitting together as one body. Vacancies on the statutory courts⁸ were filled by the Governor with the advice and consent of the Senate. It was not uncommon for members of the General Assembly to be appointed to the judiciary and many served with great distinction as some of Rhode Island’s finest jurists. For example, in 1956, Governor Roberts appointed three state senators, Joseph Weisberger, Florence Murray, and Frank Licht to the Superior Court. Justice Weisberger served on the bench for forty-four years and was Presiding Justice of the Superior Court and Chief Justice of the Supreme Court. He was considered one of the finest state court judges in the nation. Florence Murray was the first female on the Superior Court, its first female Presiding Justice, and the first female Associate Justice of the Supreme Court. The Newport County Courthouse named after her is the first courthouse in the country to be named after a woman jurist. Both Justices Weisberger and Murray were instrumental in the creation of the National Judicial College. Frank Licht, before becoming Governor, worked with Professor Kent to write the Superior Court Rules of Civil Procedure, and then presided over the calendar to implement them. There are many other examples of legislators performing well as judges. For example, Joseph Rodgers was a state senator when appointed and not only was he an

⁷ P.L. 1987, ch. 19.

⁸ Superior, District, Family, and Workers Compensation Courts.

excellent trial judge, but he went on to serve as the Presiding Justice of the Superior Court where he instituted many changes to make the Court operate more efficiently. Thomas Kelleher was a state representative who became a Supreme Court justice and was known for his excellent common sense opinions.

Unfortunately, there came a point where the road of legislators becoming outstanding judges hit significant bumps. In 1986, the chief justice of the Rhode Island Supreme Court, Joseph A. Bevilacqua Sr., the former Speaker of the House, was the subject of an impeachment investigation and he submitted his resignation. Thomas Fay, a former state representative, succeeded Bevilacqua. But, in 1993, Supreme Court Chief Justice Fay faced allegations of abusing his office to benefit himself and his allies in business and politics. He resigned and, later that year, pled guilty to charges of unethical conduct.

These stains on the judiciary led to a clamor to change the method of selection of judges. In 1994, the General Assembly responded by creating the JNC. Simultaneously, the General Assembly proposed, and the people approved, a constitutional amendment which took the Supreme Court appointment power away from the Grand Committee⁹ and established a procedure where the Governor would “fill any vacancy [on the] Supreme Court by nominating, on the basis of merit, a person from a list submitted by an independent non-partisan judicial nominating commission, and by and with the advice and consent of the senate, and by and with the separate advice and consent of the house of representatives[.]” R. I. Const. art. X § 4.

⁹ The Grand Committee consisted of the House of Representatives and the Senate sitting and voting together as one body.

Revolving Door

Just as there was a concern about judicial selection, there was a concern about members of the General Assembly going right into state employment from the General Assembly. In 1991 and 1992, the General Assembly enacted a statute, and RIEC enacted and adopted regulations, which prevented an elected official from accepting state employment for a one-year period after his or her term was complete. There were exceptions to this rule and the relevant ones to this case will be discussed below.

B

Relevant Authorities and Timeline

The following is a summary of the laws, regulations, opinions, and circumstances that bear on the outcome of this case.

1

Relevant Constitutional Amendments

In 1986, the Rhode Island electorate voted to add the following ethics amendment to the Rhode Island Constitution as article 3, sections 7 and 8:

“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[.]” R.I. Const. art. III, § 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. . . . 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[.]” R.I. Const. art. III, § 8.

In 1994, the voters approved the following constitutional amendment, in which the Governor’s appointment power relative to appointments to the Supreme Court is derived from:

“The governor shall fill any vacancy of any justice of the Rhode Island Supreme Court by nominating, on the basis of merit, a person from a list submitted by an independent non-partisan judicial nominating commission, and by and with the advice and consent of the senate, and by and with the separate advice and consent of the house of representatives, shall appoint said person as a justice of the Rhode Island Supreme Court.” R.I. Const. art. X, § 4.

Prior to this amendment, “Supreme Court justices were elected in grand committee by the Legislature.” *In re Advisory to the Governor (Judicial Nominating Commission)*, 668 A.2d 1246, 1249 (R.I. 1996).

In 2004, voters approved the following amendment to the Constitution:

“The governor shall, by and with the advice and consent of the senate, appoint all officers of the state whose appointment is not herein otherwise provided for and all members of any board, commission or other state or quasi-public entity which exercises executive power under the laws of this state; but the general assembly may by law vest the appointment of such inferior officers, as they deem proper, in the governor, or within their respective departments in the other general officers, the judiciary or in the heads of departments.” R.I. Const. art. IX, § 5.

This amendment deleted article 6, section 10 of the Rhode Island Constitution that stated “[t]he [G]eneral [A]ssembly shall continue to exercise the powers it has heretofore exercised, unless prohibited in this Constitution.” *See* R.I. Const. art. XI, § 10; *See also* Enacted Legislation Acts and Resolves 2003, R 292, R 293.

Relevant Statutory Provisions and Regulations

“[O]n August 22, 1991, the commission voted to adopt a resolution declaring that it intended to change the provisions of the ethics code without approval by the General Assembly.” *In re Advisory Opinion to Governor (Ethics Commission)*, 612 A.2d at 4, *opinion corrected* (June 26, 1992). “Thereafter, on November 27, 1991, the commission filed the adopted resolutions with the Office of the Secretary of State to become effective on December 18, 1991.” *Id.* at 4-5. These new ethics provisions included No. 36-14-5006 (“Regulation 1.5.1”) and No. 36-14-5007 (“Regulation 1.5.2”).¹⁰ Regulation 1.5.1 states:

“No elected or appointed official may accept any appointment or election . . . by the body of which he or she is or was a member, to any position which carries with it any financial benefit or remuneration, until the expiration of one (1) year after termination of his or her membership in or on such body, unless the Ethics Commission shall give its approval for such appointment or election, and, further provided, that such approval shall not be granted unless the Ethics Commission is satisfied that denial of such employment or position would create a substantial hardship for the body, board, or municipality.” 520 RICR 00-00-1.5.1.

Regulation 1.5.2 states “[n]o member of the General Assembly shall seek or accept state employment [as an employee or consultant,] not held at the time of the member’s election, while serving in the General Assembly and for a period of one (1) year after leaving legislative office.” 520 RICR 00-00-1.5.2.

On July 21, 1992, the General Assembly enacted what is now known as the revolving door statute, stating that “[n]o state elected official, while holding state office and for a period of one

¹⁰ In May 2018, the Rhode Island Ethics Commission codified the Code of Ethics into Rhode Island Code of Regulations, resulting in No. 36-14-5006 becoming Regulation 1.5.1 and No. 36-14-5007 becoming Regulation 1.5.2. (Def.’s Mem. in Opp’n to Pl.’s Compl. (Def.’s Mem.) at 2 n.1.) Therefore, this Court will use the updated citations.

(1) year after leaving state office, shall seek or accept employment with any other state agency.” P.L. 1992, ch. 396, § 1. However, the statute included the following exception: “[n]othing contained herein shall prohibit a state elected official from seeking or being elected for any other constitutional office.” P.L. 1992, ch. 396, § 1.

3

Relevant Opinions and Circumstances

i

G. & D. Taylor & Co. v. Place, 4 R.I. 324 (1856)

The distinct authority and power between the judiciary and the general assembly has been enshrined in Rhode Island since its first constitution in 1843. In 1856, our Supreme Court “declare[d], as we now do, that the vote and resolution of the general assembly, passed at the January session, 1854, upon the petition of Raymond G. Place and Jason T. Place, and certified to us by the court of common pleas, for the county of Providence, is *unconstitutional* and *void*[.]” *Taylor*, 4 R.I. at 364. The Court in *Taylor* explained that

“the world-famous maxim of Montesquieu concerning the distribution of the powers of government in order to freedom, of which we have spoken, had not only been announced by that great political critic, and been received with acclamation by the enlightened statesmen of Europe and our own country, but, what is of more importance to the matter before us, *had been acted upon* in every one of the numerous state constitutions of the United States, as well as in the federal constitution, for the avowed purpose of securing, and as necessary to secure, the safety of the life, liberty, and property of the citizens. Such a separation of the powers of government, between its different departments, had, when our constitution was adopted in 1843, and long previous, its well-known history, and its long and firmly established meaning and purpose; and he who shuts his eyes to these, in construing the comprehensive and apothegmatic clauses of such an instrument, shuts his eyes to the only light which is strong and diffused enough to enable him to perceive their just interpretation. It is quite evident, too, that this distribution of powers was, in our constitution, made for the special

purpose of depriving the general assembly of their long exercised judicial power, which, rightly or wrongly, that body had assumed under the charter.” *Taylor*, 4 R.I. at 347–49.

ii

***In re Advisory Opinion to the Governor*, 612 A.2d 1 (R.I. 1992)**

The Justices of the Supreme Court explain that the Ethics Commission has the “power to enact substantive ethics laws[,] . . . that the framers expressly intended to limit the General Assembly’s power to enact substantive legislation regarding ethics. Rather, their primary intent was to empower the commission with the authority to develop a code of ethics, to investigate violations, and to enforce its provisions, *always subject to review by the judicial branch of government consistent with the Constitution.*” *In re Advisory Opinion to the Governor*, 612 A.2d at 8, 10-11 (emphasis added). The Justices continued, explaining that “the General Assembly is merely limited to enacting laws that are not inconsistent with, or contradictory to, the code of ethics adopted by the commission.” *Id.* at 14. The Justices opined “that the creation of the commission has not resulted in the establishment of a fourth branch of government.” *Id.* at 20. And finally, the Justices explain that they

“reserve the power to decide on a case-by-case basis whether the orders and decisions of the commission have had such an impact on legislative and executive officials’ abilities to perform their elected functions as to become impermissibly intrusive. Parties aggrieved by acts of the commission always have the right to test their legality by way of declaratory judgment or in appropriate circumstances by requesting an advisory opinion from this court.” *Id.*

iii

***In re Advisory From the Governor*, 633 A.2d 664 (R.I. 1993)**

The Governor posed several questions to the Justices of the Rhode Island Supreme Court regarding whether the revolving-door statute and Ethics Commissions’ regulations passed equal

protection's muster. *In re Advisory From the Governor*, 633 A.2d at 666. The Rhode Island Supreme Court's

“preference is to interpret statutes that relate to the same subject matter so that each may be given its full effect . . . In light of the more narrow nature of the commission's regulations, it is not persuasive to suggest that the regulations supersede the statute . . . The regulations complement the statute which broadens their application to a larger group of individuals. An individual could be found to have violated the regulations while being in compliance with the statute. The statute and the regulations are not inconsistent but are compatible. The General Assembly has properly enacted the statute under its concurrent jurisdiction in the ethics arena.” *In re Advisory From the Governor*, 633 A.2d at 669 (internal citations omitted).

In response to the Governor's assertion “that appointing qualified and experienced individuals to assist him in running the affairs of the state is an integral element of his duties[.]” the Justices explained that “[t]he instant regulations do not deprive the Governor or the General Assembly or local officials of their power to make appointments.” *In re Advisory From the Governor*, 633 A.2d at 674-75.

iv

***In re Advisory Opinion to the Governor*, 732 A.2d 55 (R.I. 1999)**

The Court analyzed and found the Commission was without authority to adopt Regulation 36-14-5014, “which fundamentally alters the constitutional structure of this state.” *In re Advisory Opinion to the Governor*, 732 A.2d 55, 71 (R.I. 1999). The Justices explained that

“the commission may not act inconsistently with the constitution. See R.I. Const. art. 1, sec. 1. ‘[T]he commission, like any other governmental body, is subject to many of the usual checks and balances associated with our tripartite form of government . . .’ In *re Advisory Opinion to the Governor*, 612 A.2d at 18. The commission, for example, may not create regulations that seriously impinge upon the executive or the legislative branch's ability to perform their duties, *id.* at 19, or ‘assume powers that are central or essential to the operation of the Governor's office or of the General

Assembly.’ *In re Advisory from the Governor*, 633 A.2d at 675. Nor may the commission interpret the constitution and enforce its interpretation via regulation. The judicial branch, not the ethics commission, is the ‘ultimate interpreter of the Constitution.’ *City of Pawtucket v. Sundlun*, 662 A.2d 40, 58 (R.I. 1995) (quoting *Baker v. Carr*, 369 U.S. 186, 211, 82 S.Ct. 691, 706, 7 L.Ed.2d 663, 682 (1962)). Accordingly, it has been our long-standing and consistent opinion that questions concerning the governmental structure of this state are constitutional issues that may be determined only by the judiciary. *See G. & D. Taylor & Co.*, 4 R.I. at 361; *see also In re Advisory from the Governor*, 633 A.2d at 675 (‘This court has reserved the power to decide, on a case-by-case basis, whether the actions of the [ethics] commission have violated the separation-of-powers doctrine.’).” *Id.* at 68–69.

The Supreme Court compared Regulation 36-14-5014 with 1.5.1 and 1.5.2, explaining they had “upheld” these regulations, “requiring elected and appointed state officials to wait one year after leaving their position before *seeking or accepting certain categories of public employment*.” *Id.* at 70 (emphasis added).

v

***Inman v. Whitehouse*, No. C.A. 2001-1256, 2002 WL 169197 (R.I. Super. Jan. 17, 2002)**

In 2001, Representative Edward S. Inman, III (“Mr. Inman”) was elected to the Secretary of State position by the Grand Committee. His appointment was challenged as a violation of Ethics Regulations 1.5.1 and 1.5.2 by accepting election as Secretary of State. *Inman v. Whitehouse*, 2002 WL 169197, *1. Justice Silverstein reasoned that “[t]o allow the application of Ethics Regulations [1.5.1 and 1.5.2] in this case would violate the separation-of-powers doctrine and Article 6, Section 1 of the Rhode Island Constitution” because “there is an important distinction between the Commission’s constitutional power to enact ethics regulations and the General Assembly’s constitutional power to elect an individual to fill a vacant state office.” *Id.* at *3-4. Justice Silverstein continued, reasoning that “[t]he Commission’s constitutional power to create ethics regulations does not allow it to trump this specific constitutional power of the General

Assembly [found in article 4, section 4 of the Rhode Island Constitution,] simply by creating a new ethics regulation.” *Id.* at 3.

vi

Advisory Opinion 2010-54 (Costantino)

Representative Steven M. Costantino (“Mr. Costantino”) sought an advisory opinion from RIEC on whether as “a legislator serving in the Rhode Island House of Representatives, a state elected position . . . upon the expiration of his term of office, he may accept an appointment by the Governor of Rhode Island to serve in the position of Secretary of Health and Human Services.” (Pl.’s Appendix “Advisory Opinion 2010-54 (Costantino)” at 7.) This question was answered in the affirmative. *Id.* at 11. The advisory opinion first states that his “gubernatorial appointment to a cabinet-level position as a department head . . . fits neatly into section 5(n)’s exception for appointment by the Governor to a position as a department director. Section 36-14-5(n)(2).” *Id.* at 8. RIEC explained that “the 1999 Advisory Opinion held that the Ethics Commission may not, by enacting ethics laws authorized generally by the Ethics Amendments of 1986, amend other parts of the Constitution by diminishing the express powers granted to any branch of government.” *Id.* at 9.

In Costantino, the advisory opinion specifically references and relies upon *Inman*. “The case was heard before Justice Silverstein and, ultimately, the Ethics Commission joined with Inman and the Attorney General to agree that Regulation 5007, while valid, could not impinge upon the Grand Committee’s constitutional authority to elect Inman to fill the vacancy.” *Id.* at 10. The Commission confirms that their “position has not changed” “[e]ight years later” “that although Regulation 5007 was valid and constitutional when limiting a legislator from accepting general

state employment or consulting work, it did not apply to restrict Inman from accepting a position that was offered to him through a constitutionally authorized procedure.” *Id.*

vii

Honorable Justice Lynch-Prata’s Appointment

In 2020, then Senator Erin Lynch-Prata asked RIEC for an advisory opinion as to whether her application to the JNC to fill a vacancy on the Supreme Court would violate the state’s code of ethics. RIEC’s staff prepared a draft opinion which concluded that G.L 1956 § 36-14-5(n) and “Regulations 1.5.1 and 1.5.2 are valid and enforceable revolving door prohibitions of the Code of Ethics that prohibit the Petitioner from both seeking and accepting a potential appointment to the Supreme Court while serving in her legislative office, and for a period of one year thereafter. Therefore, the Petitioner is advised to withdraw her application to the JNC seeking consideration for the subject vacancy.” (Rhode Island Ethics Commission Draft Advisory Opinion (Lynch-Prata) at 7-8.)

The matter was discussed at length at an open meeting of RIEC on June 2, 2020. In that discussion, RIEC’s

“Legal Counsel DeSimone stated his belief that . . . §5(n)(3)’s exception for constitutional offices applies here. He further stated that the position of a Supreme Court justice is a constitutional office. Legal Counsel DeSimone indicated that the issue is how to reconcile the regulatory prohibitions with § 5(n)(3)’s exception and advised that the regulations should be read in harmony with the statute. He emphasized the use of the disjunctive ‘or’ in § 5(n)(3) and stated his legal view that the Petitioner is immediately eligible for appointment to the Supreme Court or election as a general officer Legal Counsel . . . explained that the Petitioner would not be immediately eligible for a position on an inferior court created by statute.” (*Advisory Opinions: Hearing on the Honorable Erin Lynch-Prata Before the R.I. Ethics Commission* (June 2, 2020) (statement of Mr. DeSimone, Jr., Commission Legal Counsel).

A motion was made to accept the staff's draft opinion, and the motion failed as only two of the seven commissioners voted in favor of the motion. Senator Lynch-Prata was on the list sent to Governor Raimondo by the JNC who nominated her, and both the House and the Senate voted to confirm her. Neither RIEC nor its staff took any action after she was nominated or appointed. There was no legal challenge by anyone to her appointment, and she has served for the last five years with distinction on the Supreme Court. Moreover, since her appointment, no effort has been made by RIEC or anyone else to amend § 5(n)(3) or amend the Constitution.

C

The Parties' Arguments

1

Mr. Shekarchi

Mr. Shekarchi argues that the Supreme Court is a constitutional office and specifically exempted by law from the application of the revolving door statute in § 36-14-5(n)(3). (Pl.'s Mem. in Supp. of Administrative Appeal and Compl. for Declaratory Relief, ("Pl.'s Mem.") at 3, 10-13.) As the selection process for the position is laid out in the Rhode Island Constitution, it is thus a constitutionally authorized procedure, which the Code of Ethics cannot impede. *Id.* at 3-4. RIEC is without authority to impede the JNC, the Governor, the House of Representatives, and the Senate from performing their duties pursuant to article 10, section 4 of the Rhode Island Constitution. *Id.* at 4. The Court should not rely on the Justices' 1992 and 1993 ethics Advisory Opinions because they predate the 1994 judicial selection amendments to article 10 and the 2004 separation of powers amendment to article 9. *Id.* at 5. Mr. Shekarchi asserts that a constitutionally authorized procedure, such as one found in article 10, section 4, cannot be impeded by a statute, the Code of Ethics, or any regulation. *Id.* at 16-18. Mr. Shekarchi asserts that RIEC "cannot intrude into the

appointment powers specifically conferred upon coordinate constitutional actors in Art. X, sec. 4.”
Id. at 18-19.

2

Rhode Island Ethics Commission (RIEC)

i

Mr. Shekarchi’s Alleged Violations

RIEC first asserts that Mr. Shekarchi’s actions violate three ‘revolving door’ provisions – Regulations 1.5.1 and 1.5.2 and § 36-14-5(n). (Def.’s Mem. in Opp’n of Pl.’s Administrative Appeal and Compl. for Declaratory Relief (“Def.’s Mem.”) at 2-6.) RIEC argues that the two exceptions found in § 36-14-5(n) are limited and inapplicable to Mr. Shekarchi. Section 36-14-5(n)(2) is for appointed positions, whereas § 36-14-5(n)(3) is only limited to elected positions. (Def.’s Mem. at 6-10.)

Even if the Supreme Court is a constitutional office, Mr. Shekarchi violated the two regulations and thus his action is still barred. (Def.’s Mem. at 9-10.) *See also In re Advisory From the Governor*, 633 A.2d at 669 (“An individual could be found to have violated the regulations while being in compliance with the statute.”).

ii

Separation of Powers

RIEC attempts to distinguish *Inman v. Whitehouse* by arguing that Inman, who was elected as Secretary of State by the Grand Committee, did not violate Regulations 1.5.1 and 1.5.2. (Def.’s Mem. at 19-20.) RIEC states that it is an important distinction that the Grand Committee filled the vacancy in the “express and specific” manner in the Constitution, whereas the JNC’s procedures are delineated by statute, not the Constitution. (Def.’s Mem. at 20.) *Inman* involved an express

unambiguous authorization to fill the position, and thus “[a] violation of the separation-of-powers doctrine results from allowing a state agency through a regulatory provision such as Ethics Regulations [1.5.1 and 1.5.2], to constrain the General Assembly’s constitutional authority to fill vacancies in state offices such as Secretary of State.” *Inman*, 2002 WL 169197, at *4.

RIEC asserts that “unlike [in] the *Inman* case or the *Costantino* advisory opinion, application of the revolving door laws to the Plaintiff’s application to the JNC would not contravene any specific constitutional grants of unconstrained appointment power” because “the Rhode Island Constitution does not authorize the Governor to appoint any person of his choosing to the Supreme Court, but instead only requires that such Justices be selected through a merit selection process involving a judicial nominating commission, whose powers, duties, selection criteria, and procedures are constitutionally undefined but are instead to be established elsewhere.” (Def.’s Mem. at 21-22.)

RIEC attempts to argue that because no one has sought to invalidate JNC’s restrictions on judicial appointments due to separation of powers, the supremacy clause, or other constitutional concerns, which according to RIEC are more restrictive than its regulations, then it must mean that RIEC’s regulations do not violate those constitutional concerns either. (Def.’s Mem. at 24.)

RIEC also asserts that the vote that resulted in RIEC not approving the staff’s advisory opinion regarding Justice Lynch-Prata should be given no weight because no amended advisory opinion was written stating she was authorized to apply to the Rhode Island Supreme Court. (Def.’s Mem. at 25.)

D

Declaratory Judgment

1

Section 36-14-5(n)(3)

Section 36-14-5(n)(3) states, “[n]othing contained herein shall prohibit a state elected official from seeking or being elected for any other constitutional office.” Section 36-14-5(n)(3). “It is well settled that when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Accent Store Design, Inc. v. Marathon House, Inc.*, 674 A.2d 1223, 1226 (R.I. 1996). According to Black’s Law Dictionary, a Constitutional Office is “[a] public position that is created by a constitution, rather than by a statute.” *Constitutional Office*, Black’s Law Dictionary (12th ed. 2024). The Rhode Island Supreme Court is a constitutional office because it was created by the Rhode Island Constitution, not a statute.¹¹ In article 10, section 1, the Rhode Island Constitution explicitly states “[t]he judicial power of this state shall be vested in one supreme court, and in such inferior courts as the general assembly may, from time to time, ordain and establish.” R.I. Const. art. X, § 1.

¹¹ At the June 23, 2026 RIEC meeting, the Executive Director of RIEC raised the concern about a legislator moving to the superior court. (Rhode Island Ethics Commission, *2026-6-23 RI Ethics Commission Open Session Part I*, YOUTUBE (June 23, 2026), 1:18:47-57 <https://www.youtube.com/watch?v=QcKpNSHMCfM>.) Although mentioned in the Constitution, the inferior courts are not constitutional courts because they were established by statute. Pursuant to the Constitutional authorization, the General Assembly established the superior court in G.L. 1956 § 8-2-1, the district court in G.L. 1956 § 8-8-1, the family court in G.L. 1956 § 8-10-3, and the traffic tribunal in G.L. 1956 § 8-8.2-1. Therefore, any concern regarding this decision being applicable to the inferior courts is dispelled. In addition, as explained during oral argument, this decision is specific to the question as to whether a sitting legislator may seek appointment to the Supreme Court and, while the issue is not presented here, this Court emphatically states that a legislator may not go to any of the inferior courts without waiting a year after his or her term expires.

RIEC argues that the § 36-14-5(n)(3) exception applies only to constitutional offices that require election and not to appointments.¹² (Def.'s Mem. at 7-9.) This Court is not convinced. Section 36-14-5(n)(3) reads, "[n]othing contained herein shall prohibit a state elected official from *seeking or* being elected for *any other constitutional office*." Section 36-14-5(n)(3) (emphasis added). If that were the case, the General Assembly did not need to add the words "seeking or." RIEC asserts that the disagreement between the parties regarding this phrase is that RIEC asserts that the "or" means that an elected official is not prohibited from *seeking election*, not from *seeking appointment* to a constitutional office. (Def.'s Mem. at 7.) This Court disagrees. As Mr. Shekarchi explains in his reply brief, "[t]he meaning of "seek" or "seeking" has not changed since 1992, and the meaning remains the same. RIEC attempts to change the definition of 'seek' to 'seek election' but that is not the plain and ordinary meaning of the term in 1992 and now." (Pl.'s Reply Mem. ("Pl.'s Reply") at 14.) In addition, Mr. Shekarchi argues that his interpretation of § 36-14-5(n)(3) aligns with statutory construction principles, such as plain language doctrine, the general terms canon, and the fixed meaning doctrine. *Id.* at 3-14.

"When interpreting a statute, our ultimate goal is to give effect to the General Assembly's intent. The best evidence of such intent is the plain language used in the statute. Thus, a clear and unambiguous statute will be literally construed." *In re Abby D.*, 839 A.2d 1222, 1224 (R.I. 2004) (internal quotation omitted). The Court "presume[s] that the Legislature intended every word, sentence, or provision to serve some purpose and have some force and effect, . . . but we will not interpret a statute in a manner that would defeat the underlying purpose of the enactment." *Pier*

¹² It is of interest to note that the commissioners of RIEC have yet to vote to adopt that position and as quoted above, RIEC's legal counsel, Mr. DeSimone, took the opposite position in the Lynch-Prata matter.

House Inn, Inc. v. 421 Corp., 812 A.2d 799, 804 (R.I. 2002) (citing *Dias v. Cinquegrana*, 727 A.2d 198, 199–200 (R.I. 1999) (per curiam)).

In its previous legislative analysis of a different statute containing the word “or,” the Rhode Island Supreme Court found that the word “or” had distinct meaning in the statute and agreed with Black’s Law Dictionary definition of “or” as “[a] disjunctive particle used to express an alternative or to give a choice of one among two or more things.” *In re Abby D.*, 839 A.2d at 1224 (internal citation omitted). The exception found in § 36-14-5(n)(3) plainly applies to a legislator seeking appointment to the Rhode Island Supreme Court.

RIEC tries to argue that none of the exceptions in § 36-14-5(n) apply to judicial appointments. (Def.’s Mem. at 6-9.) RIEC asserts that the 1993 Advisory Opinion clarifies that this exception is only applicable to seeking elective positions, not appointments. *Id.* at 8. The Court reads it more narrowly. In the 1993 Advisory Opinion, the Supreme Court “indulge[s] in a digression” to analyze whether the presented situation is “one that involves access to the ballot or as a ballot-access question” to see if a different level of scrutiny applies in the equal protection analysis. *In re Advisory From the Governor*, 633 A.2d at 670.

“Subsections (n) and (o) of § 36-14-5 have a specific exclusion for seeking election to state constitutional office. . . . The public positions to which the revolving-door legislation applies are appointed positions or are positions elected from a state or a municipal governing body. . . . Consequently[,] any suggestion by *Cummings* that a higher level of scrutiny applies has been replaced by the implications of the *Clements* decision.” *Id.* (emphasis added).

It is within this context of ballot access that the Court discussed the exception as related to elective positions. This is especially true when the Court considers that in 1993 the only way to attain a Supreme Court Justice position was through election by the Grand Committee. Thus, this Court is unpersuaded that the Supreme Court meant to exclude itself from the exception in § 36-14-5(n)(3)

in 1993. RIEC argues that the Supreme Court affirmed that it did not consider itself as a part of the exception in § 36-14-5(n)(3) in its 1999 Advisory Opinion, which is after the 1994 amendment that changed the constitutionally authorized process of filling the positions on the Supreme Court. However, the Supreme Court Justices stated that Regulations 1.5.1 and 1.5.2, “requir[ed] elected and appointed state officials to wait one year after leaving their position before *seeking or accepting certain categories of public employment*.” *In re Advisory Opinion to the Governor*, 732 A.2d at 70 (emphasis added). This Court does not believe that the Supreme Court would have considered itself or referred to itself as a “category of public employment” as distinct from a constitutional office. Thus, this Court is unpersuaded that the Supreme Court did not consider itself as a part of the exception in § 36-14-5(n)(3) after the 1994 amendment changed the constitutionally authorized process to joining the Supreme Court. *See id.*¹³

Based on the foregoing analysis, Mr. Shekarchi’s application to the Supreme Court fits within the exception found in § 36-14-5(n)(3).

2

Constitutionally Authorized Procedure

While the Court has found that Mr. Shekarchi’s application is permitted by § 36-14-5(n)(3), the Court still must address the application of Regulations 1.5.1 and 1.5.2. As the Justices said in their 1993 Advisory Opinion, “[a]n individual could be found to have violated the regulations

¹³ The Supreme Court “has reserved the power to decide, on a case-by-case basis, whether the actions of the commission have violated the separation-of-powers doctrine.” *In re Advisory From the Governor*, 633 A.2d 664, 675 (R.I. 1993) (citing *In re Advisory Opinion to the Governor*, 612 A.2d at 20).

while being in compliance with the statute.” *In re Advisory From the Governor*, 633 A.2d at 669.

The mandate from the Supreme Court was to harmonize the statute and regulations.

The reasoning in *Inman* is applicable to this case and assists the Court in reaching its conclusion. To enforce the regulations against Mr. Shekarchi would violate article 10, section 4 of the Rhode Island Constitution and the separation-of-powers doctrine. Thus, those Regulations cannot apply to Mr. Shekarchi in this case.

“While the enactment of these regulations was indeed a valid exercise of the Commission’s constitutional authority pursuant to Article 3, Section 8 of the Rhode Island Constitution, it is important to recognize that regulations and statutes, while constitutionally enacted, are not superior to specific constitutional powers granted to the Grand Committee by the Constitution of the State of Rhode Island.” *See Inman*, 2002 WL 169197, at *4.

Substituting the word “Governor” for “Grand Committee” leads the Court to the same conclusion.

The 1994 Constitutional amendment specifically authorized,

“[t]he governor shall fill any vacancy of any justice of the Rhode Island Supreme Court by nominating, on the basis of merit, a person from a list submitted by an independent non-partisan judicial nominating commission, and by and with the advice and consent of the senate, and by and with the separate advice and consent of the house of representatives, shall appoint said person as a justice of the Rhode Island Supreme Court.” R.I. Const. art. X, § 4.

The Rhode Island Supreme Court Justices explained, “under the 1994 amendment, the selection process has been formally altered to reduce the role of the Legislature, to expand the role of the Governor, and to require that the commission specify three to five candidates ‘on the basis of merit.’” *In re Advisory to the Governor (Judicial Nominating Commission)*, 668 A.2d at 1249.

RIEC attempts to distinguish the *Inman* case and the *Costantino advisory opinion* by arguing that the Governor’s appointment is not a “specific constitutional grant[] of unconstrained appointment power” because “the Rhode Island Constitution does not authorize the Governor to

appoint any person of his choosing to the Supreme Court, but instead only requires that such Justices be selected through a merit selection process involving a judicial nominating commission, whose powers, duties, selection criteria, and procedures are constitutionally undefined but are instead to be established elsewhere.” (Def.’s Mem. at 21-22.) However, in the *Costantino advisory opinion*, RIEC states that Regulation 1.5.2 “did not apply to restrict Inman from accepting a position that was offered to him through a constitutionally authorized procedure.” (Costantino Advisory Opinion at 10.) That is precisely what exists in this case.

Mr. Shekarchi explains that the 1992 and 1993 Advisory Opinions “addressed in general terms the so called ‘revolving door’ provisions of the RIEC’s code of ethics. But neither of these opinion[s] decided the applicability” of the exception found in § 36-14-5(n)(3). (Pl.’s Reply at 16-17.) In response to the Governor’s assertion “that *appointing qualified and experienced individuals to assist him in running the affairs of the state* is an integral element of his duties[,]” the Supreme Court Justices opined that “[t]he instant regulations do not deprive the Governor or the General Assembly or local officials of their power to make appointments.” *In re Advisory From the Governor*, 633 A.2d at 674-75 (emphasis added). At the time of the 1993 opinion, the Governor did not appoint Supreme Court Justices to the Supreme Court. Therefore, whether applying Regulation 1.5.1 and 1.5.2 to a legislator seeking appointment to the Supreme Court violates the separation-of-powers clause and supremacy clause in the Rhode Island Constitution was not in front of the Court.

Mr. Shekarchi explains that if the General Assembly meant to exclude the Supreme Court from the constitutional offices in § 36-14-5(n)(3), they easily could have amended the language to align with such an intent more explicitly; however, no such amendment was proffered. (Pl.’s Reply at 14.) The Rhode Island Supreme Court “has repeatedly held that long-standing acquiescence by

the Legislature in a judicial determination of legislative intent warrants an assumption of legislative approval.” *Eastern Scrap Services, Inc. v. Harty*, 115 R.I. 260, 262, 341 A.2d 718, 719 (1975) (citing *Mercurio v. Fascitelli*, 107 R.I. 511, 268 A.2d 427 (1970); *Henry v. J. W. Eshelman & Sons*, 99 R.I. 518, 209 A.2d 46 (1965); *Colarusso v. Mills*, 99 R.I. 409, 208 A.2d 381 (1965)). In addition, the General Assembly, the Supreme Court, and RIEC have remained silent on this issue since Justice Lynch-Prata was appointed to the Supreme Court in 2020. While this Court understands that her appointment did not result in an advisory opinion affirmatively allowing her application and appointment, this Court cannot close its eyes to the fact that RIEC rejected an opinion which would have prohibited her from reaching the Court, and that RIEC has done nothing to seek a change in the law.

In summary, Mr. Shekarchi seeks a constitutional office which is appointed by the Governor pursuant to a constitutionally mandated process and thus his pursuit of this office, pursuant to the separation of powers and supremacy clause doctrines embedded in our constitution, cannot be impeded by any statute or regulation.

E

Administrative Appeal

At oral argument, as mentioned above, the Court queried RIEC’s attorney as to whether RIEC has ever made a determination that Mr. Shekarchi’s application to the JNC is an ethics violation. (Tr. 11:5-6, July 20, 2026.) Counsel concurred that it had not. *Id.* at 11:7-12. RIEC’s attorney added that this appeal was interlocutory but no motion to dismiss was ever made, so the Court need not address that issue.

Lastly, the Court asked RIEC’s counsel the following:

“If I decide that Mr. Shekarchi’s lawyers have convinced me that they’re correct, there’s nothing for you to do with the Ethics

Commission is there, other than to decide whether you want to appeal my decision which you have every right to do. Am I correct?” *Id.* at 8:11-16.

He responded:

“[I]f the Court rules that the revolving door laws cannot be applied to prohibit the Plaintiff from seeking or accepting an appointment from the governor to the Supreme Court, then our only avenue I would think is to appeal or to accept your ruling, if you should rule that way.” *Id.* at 8:19-24.

Thus, because this Court has declared that Mr. Shekarchi can apply and be potentially appointed to the Supreme Court, Mr. Shekarchi’s administrative appeal is now moot.

IV

Conclusion

Based on the foregoing analysis, this Court declares that Mr. Shekarchi, as an elected member of the House of Representatives, was permitted to apply to the JNC for the position of Associate Justice of the Supreme Court pursuant to article 10, section 4 of the Rhode Island Constitution and, if nominated and confirmed, he may serve in that position and cannot be deemed to have violated Regulations 1.5.1 and 1.5.2. Counsel shall confer and prepare the appropriate order and judgment.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: **Shekarchi v. Rhode Island Ethics Commission**

CASE NO: **PC-2026-03423**

COURT: **Providence County Superior Court**

DATE DECISION FILED: **July 27, 2026**

JUSTICE/MAGISTRATE: **Licht, J.**

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