Final

Rhode Island Supreme Court
Ethics Advisory Panel Op. 2026-05
Issued June 18, 2026

FACTS

The inquiring attorney serves as the solicitor for a certain Rhode Island municipality (the "Town"). Among his or her duties is the prosecution of misdemeanor cases in the District Court on behalf of the Town's police department.

Recently, a town employee (the "Employee") who is not a member of the Town's police department was arrested and charged with several misdemeanor offenses. The inquiring attorney is unsure whether his or her handling of the Employee's prosecution would constitute a conflict of interest under the Rules of Professional Conduct.

ISSUE PRESENTED

The inquiring attorney asks whether handling the Employee's prosecution would constitute a conflict of interest under the Rules of Professional Conduct?

OPINION

It is the Panel's opinion that the inquiring attorney's handling of the Employee's prosecution would not constitute a conflict of interest under the Rules of Professional Conduct.

REASONING

Before addressing whether the instant inquiry presents a conflict of interest under Rule 1.7 of the Rules of Professional Conduct, the Panel must first ascertain the nature of the relationship between the inquiring attorney, the Town, and the Employee. Rule 1.13 of the Rules of Professional Conduct pertains to an attorney's representation of an organization:

> (a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.
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> (b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the

circumstances to the highest authority that can act on behalf of the organization as determined by applicable law.

(a) Except as provided in paragraph (d), if:

(1) despite the lawyer's efforts in accordance with paragraph (b) the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who reasonably believes that he or she has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

Rule 1.13(a) establishes that "[a] lawyer employed or retained by an organization represents the organization," not its members or constituents. <u>See</u> <u>also</u> Rule 1.13, Comment [1]. This principle applies to governmental as well as private organizations. <u>See</u> Rule 1.13, Comment [9] (recognizing that "[t]he duty defined in this Rule applies to governmental organizations"). Accordingly, the

Panel has consistently observed that a town solicitor's client is the municipality for whom he or she works, not individual Town Council members or employees, such that the solicitor's duties and responsibilities run only to the municipality. See Rhode Island Ethics Advisory Panel Op. 2002-02; Rhode Island Ethics Advisory Panel Op. 92-41; see also Rule 1.13, Comment [2].

With this basis in mind, the Panel finds that no attorney-client relationship exists between the inquiring attorney and the Employee. This finding precludes the existence of a conflict of interest under Rule 1.7 in the first instance. See, e.g., Rhode Island Supreme Court Ethics Advisory Panel Op. 2025-14 (finding that the mere presence of a former legal opponent of a town on the board of a quasi-municipal entity did not create a conflict of interest between the board and the town's solicitor, who had represented the town in the lawsuits previously brought by the board member); Rhode Island Ethics Advisory Panel Op. 92-41 (determining that no conflict of interest existed where the inquiring attorney, a town solicitor who represented all town entities including the Town Council, sought to defend the town against a tax abatement suit filed by a current Town Council member and his wife because the Town Council member was not the inquiring attorney's client); see also Rule 1.7, Comment [33] (noting "[a] lawyer who represents a corporation or other organization does not, by virtue of that representation, necessarily represent any constituent or affiliated organization, such as a parent or subsidiary").

Furthermore, the facts as described by the inquiring attorney do not demonstrate the required elements of a conflict under Rule 1.7:

> (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
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> (1) the representation of one client will be directly adverse to another client; or
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> (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.
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> (b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:
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> (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
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> (2) the representation is not prohibited by law;
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> (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
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> (4) each affected client gives informed consent, confirmed in writing.

"Rule 1.7 is grounded primarily upon the attorney's duty of loyalty to his or her client." Markham Concepts, Inc. v. Hasbro, Inc., 196 F. Supp. 3d 345, 349 (D.R.I. 2016) (interpreting Rhode Island Rule of Professional Conduct 1.7). "Resolution of a conflict of interest problem under this Rule requires the lawyer to: 1) clearly identify the client or clients; 2) determine whether a conflict of interest exists; 3) decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict is consentable; and 4) if so, consult with the clients affected under paragraph (a) and obtain their informed consent, confirmed in writing." Rule 1.7, Comment [2].

Here, neither Rule 1.7(a)(1) or Rule 1.7(a)(2) is implicated. Rule 1.7(a)(1) does not apply because the Town is the inquiring attorney's only client and the representation in question is not adverse to the Town. See Rhode Island Supreme Court Ethics Advisory Panel Op. 2025-14. Rule 1.7(a)(2) does not apply because the facts as described by the inquiring attorney do not evince any "material limitation" on the inquiring attorney's representation of the Town. See id.; see also Connecticut Bar Association Committee on Professional Ethics Informal Op. 03-01 (determining that no conflict of interest existed to prohibit a city's corporation counsel from representing the city in a civil action filed by a disgruntled city employee who had served as a witness in several past enforcement proceedings handled by the corporation counsel, in part, because the facts failed to show that the corporation counsel's "obligations to the City in connection with enforcement proceedings or the civil action are materially limited by [his or her] 'responsibilities . . . to a third person, or by [his or her] own interests'"). Thus, the inquiring attorney is not prohibited under Rule 1.7 from handling the Employee's prosecution on behalf of the Town.