

COUNTY OF SUFFOLK



BOARD OF ETHICS

SUFFOLK COUNTY BOARD OF ETHICS ADVISORY OPINION PROCEDURE

1. County officers, county employees and any other parties subject to or affected by the Code of Ethics may submit requests for advisory opinions from the Board of Ethics with respect to proposed future conduct or action by a public servant. All such requests for Advisory Opinions shall be kept confidential.
2. All Advisory Opinion requests will:
 - a. Be in writing;
 - b. Be signed by the requester;
 - c. Identify all relevant facts and circumstances;
 - d. Be directed to the Executive Director or Chair of the Board.
3. Upon receipt of a written request for an advisory opinion, the Executive Director shall acknowledge the request in writing.
4. The Executive Director may conduct fact-finding and background research which may include, but is not limited to, legal research, departmental policies, and conferring with Board Counsel. The Executive Director shall prepare a summary of fact finding to be presented to the Board.
5. The Board of Ethics shall consider requests for Advisory Opinions at a regular or special meeting. The Board shall determine whether requests are within the jurisdiction of the Board. The Board may defer or extend its deliberations pending the receipt of additional information.
6. For requests that the Board determines are within its jurisdiction and for which the Board has sufficient information, the Board, shall determine whether or not it will issue an opinion. In determining whether to issue an opinion, the Board may consider the following general factors:
 - a. Would an opinion assist the requester and guide proposed future conduct;
 - b. Is the issue one of general application to others who are subject to the Code of Ethics;
 - c. Has the Board previously issued an opinion on the issue or substantially the same issue, and if so, should the previous opinion be reconsidered due to new facts or circumstances;
 - d. If the matter is currently under an administrative, civil, or criminal investigation; and
 - e. The existence of a conflict of interest by the Board that requires recusal.

7. If the Board of Ethics determines the subject of a request for an advisory opinion is not within the jurisdiction of the Board, or if the Board determines it will not issue an opinion based on the facts before it, the Executive Director shall prepare a letter from or on behalf of the Chair of the Board to the requester explaining the determination of the Board.
8. If during the fact-finding process, the Board of Ethics determines additional information about the request is needed, the Executive Director shall prepare and deliver a letter on behalf of the Board to the requester explaining the need for additional information.
9. Within 45 days after completion of fact-finding, the Board will issue a requested Advisory Opinion. If the Board is unable to issue the Advisory Opinion within 45 days, it shall so advise the person who requested the opinion before the 45 days has expired. All Advisory Opinions shall be issued within 90 days after fact finding is completed.¹
10. Every final advisory opinion shall be preceded by the following note:

NOTICE: THIS ADVISORY OPINION IS SUBJECT TO REVISION OR WITHDRAWAL. Applications requesting its modification, clarification, or withdrawal must be made in accordance with Suffolk County Board of Ethics rules unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Nothing shall prohibit the Suffolk County Board of Ethics, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.
11. The Chair shall sign the final advisory opinion of the Board and promptly forward the signed opinion to the requester.
12. The requester shall have 15 business days from the time the Advisory Opinion has been rendered (excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board.
13. Advisory Opinions shall be designated as follows: Advisory Opinion [year-number].
14. A public servant whose conduct or action is the subject of an Advisory Opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion.
15. Publication: The final Advisory Opinion will be reviewed and redacted of all identifying information and will be published on the Suffolk County Board of Ethics website.
16. Release of a copy of the un-redacted version of the Advisory Opinion from anyone other than the requester is prohibited. The Board shall provide all documents requested by the Suffolk County Legislature or a duly authorized committee of the Legislature that is exercising oversight of the Board of Ethics. Such a request for records must be approved by a two-thirds (2/3) vote of the Legislature via a procedural motion.

17. Requests for advisory opinions shall be confidential, but the Board shall make public its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of any public servant or other involved party.

Passed by Resolution 004/2013

On January 30, 2013

Note

1. As per Board Meeting dated March 11, 2013, fact-finding inquiries that lay dormant for 90 days become administratively inactive without prejudice.
2. As per Board Meeting date May 27, 2014, the Board adopted an Advisory Opinion Fact Finding Policy to request, of the Requestor, proof of compliance with SOP A-15 (*Policy #001/2014*).