

STATE OF NEW YORK: COUNTY OF SUFFOLK
SUFFOLK COUNTY BOARD OF ETHICS

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In the Matter of the Inquiry of

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In Capacity as a County Employee

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STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS

Advisory Opinion 2019-10

8/21/2019

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.

Summary: The Board finds under the below facts that the employee's outside employment request ***does not create an impermissible conflict*** under Suffolk County Code Sections 77-3 (B), 77-3(C), and that the employee and Department are aware of the limitations regarding confidential information under Suffolk County Code 77-3 (D)¹.

The Requestor, a full time Suffolk County Veterans Service Officer, has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of her outside employment request working part-time as a Dwyer Program Peer Facilitator. Her County Supervisor, the Director of Veterans Affairs, approved the outside employment and the employee provided the Board with a copy of her departmental submitted outside employment form. The Department Head has advised the Board that there is no remuneration or referral fees associated with the Dwyer Program and that multiple individuals hold the same County job title, therefore proper recusals and assignments can occur at the Department level if necessary. The Department Head has also advised the Board that the existing outside employment approval under County SOP A-15 is in compliance with paragraphs 5 and

¹ 77-3. PROHIBITED CONDUCT.

- B.** No public servant shall engage in any business, transaction or private employment, or have any financial or private interest which is in conflict with the proper discharge of his or her official duties.
- C.** No public servant shall use his or her official position or office, or take or fail to take any action, in a manner which he or she knows or has reason to know may result in a personal financial benefit to himself or herself, a person or firm associated with the public servant, a customer or client of the public servant or any person from whom the public servant has received a gift or any goods or services for less than fair market value, during the preceding 12 months.
- D.** No public servant shall disclose any confidential information concerning the property, affairs or government of the County which is obtained as a result of the official duties of such public servant and which is not otherwise available to the public or use such information to advance any financial or private interest of the public servant or of any person associated with the public servant; provided, however, that this shall not prohibit any public servant from disclosing information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.

7. In furtherance, the Department Head advised the Board through routine fact-finding that in addition to the Suffolk County Code of Ethics, that the Department complies with the ethical obligations required to maintain their national accreditation by the US Department of Veterans Affairs through the Office of General Counsel of the U.S. Department of Veterans Affairs. The Department Head also advised that in addition to the funding being grant money (and lack of remuneration and referral fees), the outside employment approval at the time of the employee's request included his Supervisory assessment of this employee's specialized background and benefit to the program (including consideration of the high suicide attempt rate of female veterans).

As such, the Board finds based on the facts presented that the stated prospective outside employment ***does not create an impermissible conflict***. The Board further advises based on numerous employees holding the same job title, proper recusals can occur under section 77-7 of the County Code if required. Accordingly, the Board has also provided the Department and employee requestor with a County recusal form should intradepartmental recusals be required for filing with the Department and the County Board of Ethics.

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Suffolk County Code Chapter 77 Sections 77-3(B), 77-3(C), and 77-3(D).

Procedural History: The Board vote occurred within the 45 days of conclusion on fact finding under the Suffolk County Code occurring on 8/21/2019. The Board determined by majority vote that there is not a conflict under the facts presented.

Opinion: The Requestor, a full time Suffolk County Veterans Service Officer, has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of her outside employment request as a part-time Dwyer Program Peer Facilitator. Her County Supervisor approved the outside employment and she provided the Board with a copy of her departmental submitted outside employment form. The Requestor's full time County position job duties include her being a veteran advocate in regards to pension and compensation rights and her shift is 8:30am-4:40pm. The outside part-time job is with the Dwyer Project evenings and on weekends, and her Department Head has advised that this is in compliance with Suffolk County SOP A-15 regarding outside employment requests.

As reflected on the public website, the Dwyer Project was, "Launched in 2012 as a pilot partnership between our Suffolk County United Veterans program and the Suffolk County Veterans Service Agency, the Dwyer Project takes a confidential, one-on-one, peer-to-peer approach that has rapidly captured the attention and support of both veterans and mental health professionals statewide and across the nation". The requestor's part-time duties include mentoring, reporting on attendance to support groups, and acting as a point person for facilitating support groups.

The County Veteran's Affairs Department Head has advised the Board that there is no remuneration or referral fees associated with the Dwyer Program and that the nature of services is not duplicative. Additionally, the Department Head advised the Board that they comply with the additional ethical obligations required to maintain their national accreditation by the US Department of Veterans Affairs through the Office of General Counsel of the U.S. Department of Veterans Affairs. In furtherance, the Department advises that the funding of the Dwyer program is pass through grant funds from the New York State Senate to the local Department of Health Services. The Department Head has advised that multiple employees hold this County job title which makes recusals feasible for Departmental operations and functioning. The Department has also advised the Board that the Department and employee are aware and comply with the County prohibitions regarding confidential information under Suffolk County Code section 77-3 (D).

Based upon the above facts and outside employment approval in place with the Department, the Board finds that this stated part-time outside employment does not create for the employee a business dealing, nor is the employee

engaging in a business transaction with the County. The Board finds upon the facts presented by the Requestor and Department Head that there is no conflict with the proper discharge of his or her official duties, proper recusals can occur if required, and defers any appearance of impropriety, should any present, to the Department pursuant to the County dual employment SOP.

CONCLUSION

The Board finds that the stated prospective outside employment *does not create an impermissible conflict.*

Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this 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.

The forgoing is the opinion of the Board.

Dated: 8.21.2019 Great River, New York



Eric A. Kopp – Chair