

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

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In the Matter of the Inquiry of [REDACTED]

An Employee of the Department of Social Services

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STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion 2020-10
November 4, 2020

NOTICE: THIS IS AN ADVISORY OPINION RECONSIDERATION REQUEST. 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 Requestor, a Department of Social Services Employee in the title of Social Services Examiner 1, has submitted this Advisory Opinion request to the Suffolk County Board of Ethics for reconsideration of the Board's Advisory Opinion 2020-9, rendered in response to a request made by a supervisory official. The Board concluded by majority vote in Advisory Opinion 2020-9 that the proposed outside employment with an entity that has active business dealings with the County, specifically with the Department requesting the opinion, to be *impermissible* under the Suffolk County Ethics Code. Having considered the additional facts presented to the Board, the Board reaffirms the underlying advisory opinion 2020-09.

Procedural History: An Advisory Opinion Request to the Suffolk County Board of Ethics (resulting in AO-2020-9) was received on July 28, 2020. The Requestor, a County Department of Social Services Supervisory Official, submitted the request relating to the proposed outside employment of an employee in the County Department of Social Services with the title Social Services Examiner I. The employee sought the ability to obtain outside employment at a law firm which has active business dealings with the County Department of Social Services. The Standing Vote Occurred on August 5, 2020. On August 19, 2020, the Board determined by majority vote that there was a conflict under the facts presented.

On October 2, 2020, the Requestor, the employee who was the subject of the supervisory request referenced in 2020-9 asked the Board to reconsider its determination made in AO-2020-9. The standing vote for this Advisory Opinion request occurred on October 7, 2020, with fact finding concluding on 11/3/2020. On November 4, 2020, the Board determined by majority vote that there remains a conflict of interest under the facts presented, and reaffirms AO-2020-9.

Opinion and Reconsideration Request Facts: The requesting employee has asked that the Board consider additional facts not cited in the initial supervisory request, including a letter from the prospective outside employer describing proposed limits on the scope of the prospective employee's duties, and a prior determination by the Board where, under a factually similar set of circumstances, such outside employment was deemed permissible. While not directly cited by the Requestor, the Board on its own review considered its prior determination made in AO-2016-2 as a part of this analysis. The Board has previously opined that an outside employer's business dealings with a county department serves as the basis for a conflicts review.

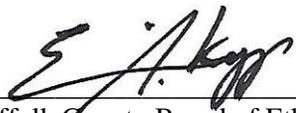
The Board concluded by majority vote in response to this advisory opinion request that the additional facts presented do not suffice to cause it to revoke its opinion in AO-2020-9. The proposed employment of an employee working in the Department of Social Services as a Social Services Examiner 1 by a law firm that has active business dealings with that same County Department of Social Services as set forth in the request, is *impermissible* under the Suffolk County Ethics Code. Upon review with additional facts submitted, the Board reaffirms AO-2020-9 (*see also SCBE Advisory Opinion 2017-16*).

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CONCLUSION

Accordingly, the Board finds that pursuant to the Suffolk County Code, the requested future conduct, as described herein, is reaffirmed as an impermissible conflict. As the Requestor's inquiry has caused the Board to analyze its prior determination in AO-2016-2 as a part of its deliberations, and due to the apparent similarity of the factual circumstances set forth in these requests, the Board will consider revisiting the opinion rendered in AO-2016-2 on its own motion. If the Board determines that it will reconsider the opinion rendered in AO-2016-2, the Board shall provide reasonable notice to the affected public servant(s) that it is reconsidering its opinion, in accordance with Section A30-3 of the Suffolk County Administrative Code.

The forgoing is the modified opinion of the Board.
Dated: Hauppauge, New York
November 4, 2020



Suffolk County Board of Ethics
By Eric A. Kopp, Chair