

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

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In the Matter of the Inquiry of
[REDACTED] in Capacity of
Prospective Public Servant under
Suffolk County Administrative Code §A30-3 (E)

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STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion 2020-11
November 4, 2020

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 Requestor, a Candidate for Suffolk County Legislature submitted an advisory opinion request asking the Suffolk County Board of Ethics if taking a leave of absence from his employment at the Suffolk County Water Authority would create an impermissible conflict under Suffolk County Code § 77-4 (B), “Prohibition of Dual Office-Holding”¹.

The Board finds based on the facts presented that the stated prospective outside employment **does not create an impermissible conflict**. Additionally, the Board directs that appropriate recusals occur by the Requestor on all matters related to the Suffolk County Water Authority and be filed under Suffolk County Code 77-7.²

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Suffolk County Code Chapter 77 Sections 77-4(B) and 77-7(7).

Procedural History: This request was received on 10/29/2020, standing vote occurred on 11/4/2020, and a full Board vote of all Suffolk County Board of Ethics Members occurred on 11/4/2020 within the 45 days of

¹ § 77-4. PROHIBITION ON DUAL OFFICE-HOLDING; OTHER PROVISIONS RELATING TO POLITICAL PARTY OFFICIALS.

B. No elected official shall hold another paid position of employment with the County or a paid position of employment with any department, office, commission, board or agency of the United States of America, New York State, any town or village government, or public benefit corporation created under the provisions of New York State law. This provision shall not apply to an elected official who also holds a position as a teacher in a public school district or a professor at a public university or college.

² § 77-7. RECUSAL AND DISCLOSURE.

A. A public servant shall promptly recuse himself or herself from acting on any matter when acting on the matter, or failing to act on the matter, would constitute prohibited conduct under the Code of Ethics or would financially benefit the public servant, a person or firm associated with the public servant, a customer or client or any person from whom the public servant has received a gift, or any goods or services for less than market value in the preceding 12 months.

B. Whenever a public servant is required to recuse himself or herself under the Code of Ethics, he or she shall:

- (1) Promptly inform his or her immediate supervisor, if any;
- (2) Promptly file with the Board a signed statement disclosing the nature and extent of the conflict; and
- (3) Immediately refrain from participating further in the particular matter

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conclusion on fact finding under the Suffolk County Code. The full Board deliberated and determined by majority vote that a leave of absence does not create a conflict under the facts presented and advised that the Requestor must file recusals if necessary.

Opinion: The Requestor, a Candidate for Suffolk County Legislature has asked if taking a leave of absence from his employment at the Suffolk County Water Authority would create an impermissible conflict under Suffolk County Code § 77-4 (B), “Prohibition of Dual Office-Holding.

The Suffolk County Board of Ethics reviewed the application of the Requestor including the full record and following exhibits: Letter submitted by the Requestor dated October 26, 2020 (Exhibit “A”), Letter from the Suffolk County Water Authority dated October 27, 2020 (Exhibit “B”).

Suffolk County Code:

§ 77-4(B) States in pertinent part:

“§ 77-4. PROHIBITION ON DUAL OFFICE-HOLDING; OTHER PROVISIONS RELATING TO POLITICAL PARTY OFFICIALS.

B. No elected official shall hold another paid position of employment with the County or a paid position of employment with any department, office, commission, board or agency of the United States of America, New York State, any town or village government, or public benefit corporation created under the provisions of New York State law. This provision shall not apply to an elected official who also holds a position as a teacher in a public school district or a professor at a public university or college”.

CONCLUSION

The Board concludes in this advisory opinion by full Board majority vote that the stated proposed leave of absence does not create an impermissible conflict under Suffolk County Code § 77-4 as it is not a, “*paid position of employment with the County or a paid position of employment with any department, office, commission, board or agency of the United States of America, New York State, any town or village government, or public benefit corporation created under the provisions of New York State law*”. (See Suffolk County Code § 77-4; and Suffolk County Board of Ethics Advisory Opinion No. AO-2013-20). The Board further directs that recusals occur and be filed under Suffolk County Code 77-7 by the Requestor on all matters related to the Suffolk County Water Authority.

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 full Board.

Dated: November 4, 2020
Hauppauge, New York


Eric A. Kopp – Chair