

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 a
Supervisory Official of Suffolk County
Department of Social Services
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STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS

Advisory Opinion 2020-9
August 19, 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 County Department of Social Services Supervisory Official, has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of an outside employment request of a County Department employee in the title Social Services Examiner I. The Board concludes by majority vote in this advisory opinion that the outside proposed employment with an entity that has active business dealings with the County in the Department requesting this opinion, to be *impermissible* under the Suffolk County Ethics Code.

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) and 77-3(C).¹

Procedural History: This request was received on 7/28/2020, standing vote occurred on 8/5/2020 and Board vote occurred on 8/19/2020, within the 45 days of conclusion on fact finding under the Suffolk County Code. The Board determined by majority vote that there is a conflict under the facts presented.

Opinion: The Requestor, a County Department of Social Services Supervisory Official, has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of an outside employment request of a County Department of Social Services employee in the job title Social Services Examiner I. The outside employment request is for part time work in a Law firm with an office in Suffolk County arranging and organizing documentation in connection with Chronic Care and Home care applications in Nassau County and New York City boroughs.

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.

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The County Supervisory Official has submitted in credible documentary form a letter from the prospective outside employer that the employee will not be assisting in any applications based in Suffolk County. Additionally, the Supervisory Official has advised that there are no interactions between this employee in her official job duties and the outside employer. In the request before the Board, the specific program, the Medicaid Chronic Care program applications are the same as that of the proposed outside employment. Upon additional fact finding, the Supervisory Official advised that County job duties including the specialized knowledge of Social Services applications is only acquired by working with the applications specific to the program within the Department of Social Services.

The Board was advised by the requesting Supervisory Official that distinctions between the Chronic Care and Home Care applications as applied to this conflicts check are significant. Where the referenced Chronic Care applications are the same population in her County employment and outside position, it is a regulatory mandate that the Home Care applications are not the same population. With specificity, the Supervisory Official requestor has advised that the Home Care application staff are regulated and approved only by the State of New York due to the requirement that only licensed registered nurses are qualified to serve as the eligibility screeners for home care applications. Therefore, the employee, who is not a licensed nurse, has no official job duty interactions with home care applications or applicants as a social services examiner.

Additionally, between 100-200 employees hold the job title for the County of Suffolk in the title Social Services Examiner I. In furtherance, the requesting supervisory official has advised that based upon the stream of workflow and application format, that there is a section for authorized representatives to be entered, and accordingly, any Suffolk County application submitted by the outside employer law firm, would be marked as a preventative case assignment to different employee.

Based upon the above facts that this proposed outside employment of a current employee with an entity that has active business dealings with the County, and in the Department served, to be impermissible under the County Ethics Code.

CONCLUSION: The Board finds credible the Supervisory Official's statements. However, the Board finds this outside proposed employment of a current employee with an entity that has active business dealings with the County, and in the Department served, to be impermissible under the County Ethics Code.

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: August 19, 2020
Hauppauge, New York
Vote: 5-0-0



Eric A. Köpp – Chair