

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 his official capacity
as an Elected Official of the County of Suffolk

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COUNTY BOARD OF ETHICS
Advisory Opinion 2021-9

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 is the [REDACTED]. The Suffolk County [REDACTED] [REDACTED] is an elected official. The Requestor submits this request asking whether he may accept airplane travel from a campaign donor for the purpose of travel related to official County job duties. The individual donating the private airplane travel: (a) is a personal friend of the [REDACTED] and previous political donor to the his political committee¹ "[REDACTED]"; and (b) does not do any business with Suffolk County². Upon review of the full record, the Board concludes that donated airplane travel from a campaign donor is not permissible under the County Ethics Law, even where the travel is related to official County job duties.

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Suffolk County Code Chapter 77, 77-3(C), 77-3 (E), 77-3 (F), 77-3(H) and the Suffolk County Board of Ethics Rules.

Procedural History: This request was received on 4/8/2021, standing vote occurred on 4/21/2021 and fact finding concluded on 4/29/2021. The Board vote occurred on 5/5/2021, within the 45 days under Suffolk County Code, as this was an expedited request by the Requestor. The Board reviewed the full advisory opinion file, Executive Director fact-finding, the Requestor's precedent case 2017-9, and determined by majority vote that the proposed future conduct is prohibited under

¹ As set forth in the opinion request, the prospective donation of airfare is to be from [REDACTED] [REDACTED]. Public record review reflects contributions of [REDACTED] disclosed also on <https://publicreporting.elections.ny.gov/Contributions/Contributions>, of campaign contributions exceeding \$100,000.

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the Suffolk County Code of Ethics.

Facts: [REDACTED] submitted this request for an opinion asking whether he may accept airplane travel from a campaign donor for the purpose of travel related to official County job duties. The [REDACTED] will not be attending any political or personal event while traveling. Fact finding concluded that this is a pre-electoral friend, previous political donor, and is the individual who donated the private airplane travel to the Requestor in his former non-elected official job title, Suffolk County [REDACTED] Commissioner. (*see Suffolk County Board of Ethics Opinion 2017-9*). Additionally, this individual does not maintain any business dealings, is not a lobbyist with the County, and is not affiliated with or associated with the County Department or Suffolk County [REDACTED] Departmental initiatives.

With regard to the travel at issue, the Board was advised by the [REDACTED] Deputy Chief of Staff/General Counsel that, "Travel expenses for work related travel may be reimbursed or may be purchased by the Office; and the means of travel in this specific instance is owned by a private individual, and thus is not available for purchase. However, one can rent a private plane such as this in the market place". On the Board's inquiry regarding alternate methods of travel, the department advised, they "are not considering other travel options at this time, but may do so depending on the opinion."

Opinion:

The topic of County public servant/County employee travel expenses has previously been presented to the Suffolk County Board of Ethics by this Requestor in advisory opinion Request 2017-9, and is also addressed annually in the County Financial Disclosure Statements³. Section 77-3(F) of the Code of Ethics states that, "No public servant shall receive compensation for performing any official duty except from the County or accept or receive any gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action." Although the [REDACTED] will not be attending any political or personal events during the trip, upon review of the full record, including prior opinion 2017-9, the Board concludes that as the Requestor is an elected official, that private airplane travel from a former campaign donor, for official job related travel, is synonymous to political events being an impermissible reimbursable travel expense, and not permissible under the County

³ *see* Suffolk County Financial Disclosure Forms at question 7 "Payments for County-Related Travel", and SCBE Advisory Opinion, 2013-12, issued to a County Legislator, holding that vacationing in a pre-electoral friend's home, who is not engaged in statutorily defined business dealings with the County, is not a gift and permissible under §77-3(e). In Advisory Opinion 2013-11, the Board found that a Legislator's acceptance of an individual complimentary invitation to a not for profit fundraiser is not a gift that violates the Suffolk County Ethics Laws.³ However, activities, raffles, door prizes, silent auctions and any gifts that occur during the aforementioned events must be assessed in value and as gifts to the invitees. Under § 77-3(C) and (F), the requestor is prohibited from using his official position or office in a manner which he has reason to know may result in a personal financial benefit to himself and from receiving a gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action.

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Ethics Laws.

Initially, the Suffolk County Board of Ethics finds their precedent case of 2017-9 to be distinguishable. In that case, the Requestor received similar airplane travel from the same individual, but the facts pertaining to Advisory Opinion 2017-9 took place prior to the Requestor serving as an elected official.

Additionally, travel has been addressed previously in Board Advisory Opinions. In SCBE Advisory Opinion 2013-9, the Suffolk County Board of Ethics concluded that a Suffolk County Legislator could not accept a gift of travel to Mexico from a not for profit, "to join a delegation of community leaders from Long Island who will travel to Oaxaca, Mexico in July 2013 to learn about the economic and political realities facing the home communities of Long Island immigrant residents." The "Foundation" offered to arrange payment for an eight day trip to Mexico with payment for "all travel, accommodations, and on-the-ground costs" for participants. Due to § 77-3(C) and (F), the requestor was prohibited from using his official position or office in a manner which he has reason to know may result in a personal financial benefit and from receiving a gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action. As the "Foundation" appeared before the Suffolk County Legislature in the past and potentially in the future, it created an entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action. Thus, the Board concluded the requesting Legislator was prohibited from accepting this travel gift.

Conclusion: Under the facts presented, the Board finds that the requested future conduct, as described herein, is not permissible for an Elected Official. Upon review of the full record, the Board concludes that as the Requestor is an elected official, private airplane travel from a former campaign donor, for official job related travel, is not permissible under the County Ethics Laws.

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: May 5, 2021
Hauppauge, New York



Eric A. Kopp, Chairperson
On Behalf of the Suffolk County Board of
Ethics