



### PROCEDURAL HISTORY

4. This Advisory Opinion was requested on 8/6/2014. (*Requestor's Exhibit #1*)
5. Fact finding was commenced on 8/7/2014.
6. Fact finding was concluded 9/30/2014.
7. The Board voted on this Advisory Opinion on 12/3/2014.

### STANDING

8. The Board determined that standing exists for this Advisory Opinion request due to the requestor's position as a public servant employed by the Suffolk County Department of Health which mandates compliance with the Suffolk County Ethics Laws (*Suffolk County Administrative Code §A30-1, Chapter 77, §77-1*).

### INFORMATION PRESENTED TO THE BOARD

9. The Requestor is a Suffolk County Department of Health Marine Biologist. (*Requestor's Exhibit #1*).

10. At the time of Request, the Requestor stated that she was intending on becoming a Board member of the not for profit, [REDACTED]. (*Requestor's Exhibit #1*).

11. The Requestor, in her County capacity, serves [REDACTED] for the Peconic Estuary Program. This Program is a partnership among federal, state, and local government with an interest in the protection of the Peconic Bays. The Program receives federal grant funding annually. The Requestor anticipates that if and when "[REDACTED]" may seek funding from Suffolk County, she would recuse herself at that time from any applicable selection

committee as is the custom and practice of the committee members of the County. The Requestor does not often serve on RFP selection committees for Suffolk County. (*Requestor's Exhibit #1*).

### INTERPRETED LAW

12. Suffolk County Code, Chapter 77 "Ethics and Accountability" provides, in pertinent part:

§ 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 (*emphasis added*).

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;

### CONCLUSION AND DIRECTIVES

13. In assessing § 77-3(B) of the prohibited conduct laws, the Board considers (1) the likelihood that decisions made under the relevant circumstances would be unduly influenced by a secondary interest and (2) the gravity of the harm that could result from such influence. As applied to this request, the Board finds that a current Suffolk County Marine Biologist serving on a non-County not for profit Board would not be unduly influenced by her County employment. The Board also finds that the gravity of harm in the proposed future conduct would not be substantial. As the Requestor would be able to recuse herself from any unforeseen matter that

could potentially create a conflict, that recusal from voting on any such matter would assure a conflict of interest has been avoided.

**14.** The Board directs two levels of recusals. First, when serving as a Board Member, the Requestor must recuse herself from any matter involving Suffolk County Government. Also, she must recuse herself in the course of her regular job duties in the event any subject matter regarding “[REDACTED]” comes before her County Department.

**15.** The Board directs that the Requestor follow the recusal procedures in the County for either situation as set forth in the Law set as:

§ 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.

**16.** As the Board’s Advisory Opinion does not relieve the Requestor of Departmental, union directives, the Board further directs the Requestor to inform her County Department supervisor prior for an intra-departmental review of conflicts. (*see Suffolk County Board of Ethics AO-2013-22*).

**17.** Additionally the Board direct that no confidential County information pursuant to 77-3(D), be disclosed by the Requestor in any capacity outside of her duties in County employment.

**18.** The opinion rendered herein, until and unless amended or revoked, is binding upon the Ethics Board in any subsequent proceeding concerning the person who requested it and who acted in good faith in reliance upon it, unless material facts were omitted or misstated by the person in the request for the opinion or in any related supporting documentation.

**19.** 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.

**20.** The forgoing paragraphs 1-18 constitute the opinion of the Board.

Dated: Great River, New York  
December 3, 2014

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Robin L. Long, Esq. - Chair