

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

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In the Matter of the Inquiry of



No. AO-2016-14

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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.

ADVISORY OPINION REQUEST

1. *Advisory Opinion Inquiry 1:* Whether a County Employee participating in a Town Political Party by collecting signatures for petitions, off of county time, is permissible under Section 77-3(K)? (*Requestor's Exhibit #1*)

Advisory Opinion Inquiry 2: Whether a County Employee can hold various not for profit positions?

2. *Conclusion:* Based on the facts before the Suffolk County Board of Ethics, it is the opinion of the Board that it permissible for a Suffolk County public servant to participating in a Town Political Party by collecting signatures for petitions, off of county time under Section 77-3(K).

LAWS INTERPRETED

3. The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Chapter 77, §77-3(K).

PROCEDURAL HISTORY

4. This Advisory Opinion was requested on 5/20/2016. (*Requestor's Exhibit #1*).
5. Fact finding ended on 6/29/2016.
6. The Board voted on this Advisory Opinion on 7/6/2016.

STANDING

7. 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 [REDACTED] [REDACTED] which mandates compliance with the Suffolk County Ethics Laws (*Suffolk County Administrative Code §A30-1, Chapter 77, §77-1*).

INFORMATION PRESENTED TO THE BOARD

8. The Requestor is a Suffolk County employee. (*Requestor's Exhibit #2*)
9. The Requestor is the [REDACTED] of the Suffolk County [REDACTED] [REDACTED] and holds positions in various not-for profit Boards in Suffolk County. (*Requestor's Exhibit #1*).
10. The Requestor is inquiring 1) if participating in a Town Political Party by collecting signatures for petitions, off of county time, is permissible under Section 77-3(K) and 2) Can a County employee hold various not for profit positions? (*SCBE, #2 and #3*)

INTERPRETED LAW

11. Suffolk County Code, Chapter 77 “Ethics and Accountability” provides, in pertinent part:

§ 77-3. PROHIBITED CONDUCT.

K. No public servant shall compel, induce or request any person to make a monetary or in-kind contribution to any candidate for elected office, committee or political party under threat of prejudice to, or promise of, advantage in rank, compensation or other job-related status.

OPINION AND CONCLUSION

12. In assessing § 77-3(K) of the prohibited conduct laws, the Board considers if a threat or promise has occurred with respect to a candidate, committee, or political party. As applied to this request, the Board finds that a current Suffolk County employee sitting as a member to various Boards of not-for-profit foundations, can participating in a Town Political Party by collecting signatures for petitions without creating a conflict of interest. The Board also finds that no information has been presented to conclude any threat or promise would be created by such activity. It is widely accepted that Public Officials can be involved in political campaigns assuming no conflicts exists. The New York State Ethics Commission held in Advisory Opinion No. 98-12 , “ pursuant to the authority vested in it by Executive Law §94(15), the Commission renders its opinion that the State employee may work on political campaigns, but his activities are subject to certain restrictions arising from his obligation to avoid a conflict of interest or the appearance of a conflict in violation of Public Officers Law §74. The Commission further held that, “no State resources of any type may be used in furtherance of

these (political) activities, including, but not limited to, telephones, office supplies, postage, photocopying machines, computers and support staff . Nor may campaign activities be conducted from a State office or during State business hours unless leave is taken. Finally, no State employee may solicit from subordinates, as this practice is strictly forbidden by Civil Service Law §107 (See also Election Law §17-158)”.

13. As to the Requestor’s stating her official title would not be used in any campaign material campaign materials, the Board finds such restriction is necessary to avoid a conflict of with the proper discharge of her official duties. In a similar request made upon the New York State Ethics Commission in Advisory Opinion No. 97-28, the Commission rendered its opinion that,

“a state employee may solicit funds in his personal capacity for a charitable purpose.....he may not use his official title, position or authority in his fundraising efforts or solicit from subordinates in his unit”. *New York State Ethics Commission in Advisory Opinion No. 97-28.*

14. As set forth above, the Board finds that participating in a Town Political Party is permissible activity.

15. As to her second inquiry, the Board is aware that public servants desire to provide their time to their communities outside of County employment and such contributions of time can include membership on the Board of not-for-profit entities. The Board encourages such services so long as there is no conflict or appearance of a conflict between one’s official duties and the outside activity. 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. (see SCBE Advisory Opinion #2013-14 holding a County Legislator's proposed service as Chair of a foundation could create a conflict of interest with the proper discharge of her official legislative duties). As applied to this request, the Requestor is the current [REDACTED] [REDACTED] of the Suffolk County [REDACTED] sitting as [REDACTED] [REDACTED] of the [REDACTED], [REDACTED] of the [REDACTED], [REDACTED] of [REDACTED], [REDACTED] of [REDACTED], and [REDACTED] of [REDACTED].

16. Upon review of the Suffolk County Civil Service Job Duties Statement for the Requestor's position, the Board finds that the likelihood that her position as [REDACTED] of the [REDACTED] to be influenced by these secondary volunteer activities or a gravity of hard to be di minimus¹. The Board finds that disclosure and recusal from any unlikely matter in the Requestor's capacity as the [REDACTED] of the [REDACTED] is sufficient to assure a conflict of interest has been avoided.

17. 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

¹ SUFFOLK COUNTY CIVIL SERVICE POSITION [REDACTED] TYPICAL WORK ACTIVITIES



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.

18. 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.

19. The forgoing is the opinion of the Board.

Dated: August 3, 2016
Great River, New York

Linda A. Spahr, Esq. - Chair