

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

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In the Matter of the Inquiry of

ADVISORY OPINION

No. AO-2016-1

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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:* The Suffolk County Board of Ethics has received a request from a Suffolk County employee seeking an opinion as to whether it would violate the Suffolk County Code of Ethics to accept a national award for “[REDACTED]” in the amount of \$8,000 if the award will be donated to the County and/or a not-for-profit entity. (*Requestor’s Exhibit #1*)

2. *Conclusion:* Based on the facts before the Suffolk County Board of Ethics, it is the opinion of the Board that it would not violate the Ethics Laws for an employee to accept a cash award honoring work they performed in their County employment, in light of the source of the award’s funding and the employee’s bequest of the award.

INTERPRETED LAWS

3. The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Chapter 77, §77-3(c), §77-3(e), §77-3(f), §77-5(g), and Suffolk County Administrative Code § A3-10.

PROCEDURAL HISTORY

4. This Advisory Opinion was requested on January 11, 2016. (*Requestor’s Exhibit #1*)
5. Fact Finding was concluded on January 20, 2016.

6. The Board voted on this Advisory Opinion on February 17, 2016.

INFORMATION PRESENTED TO THE BOARD

7. The Requestor is a Suffolk County [REDACTED] employee. (*Suffolk County Board of Ethics Exhibit #1*).

8. The requestor was nominated for a national sponsored by [REDACTED] and the [REDACTED] [REDACTED] namely, “[REDACTED] with a cash award of \$8,000. The Requestor was nominated by a Suffolk County [REDACTED] co-worker and two references further recommended her, an employee of [REDACTED] and an employee of [REDACTED]. She represented to the Board in a fact finding telephone call that neither is under contract with the County.

9. The award required the nominees to submit how they would use the award money [REDACTED] [REDACTED] and if there are any employment prohibitions in receiving the money.

10. As stated on the awards website:

“The [REDACTED] was launched by the [REDACTED] [REDACTED]. The initiative was born out of recognition that the ideas and talents of all members of society are essential to meeting our future [REDACTED] challenges. [REDACTED] [REDACTED] participation and leadership in these fields are the goals of the [REDACTED] program, led by the [REDACTED] in collaboration with the [REDACTED] [REDACTED] and the [REDACTED]..... Awards: The [REDACTED] Awards recognize [REDACTED] who have demonstrated outstanding leadership and accomplishments in [REDACTED] [REDACTED]. The awards, underwritten by [REDACTED] and the [REDACTED], are made in eight categories at the annual Symposium. Each Awardee receives a cash gift of \$8,000 to be used toward advancing the goals of the international [REDACTED] initiative.” (See, [REDACTED])

11. The Requestor has advised the Board that she intends to donate the funds to a not for profit or to Suffolk County if she wins the award.

OPINION AND ANALYSIS

12. In considering this inquiry, the Board employed the following three-step analysis to determine whether a prohibited conflict of interest would exist:

- a) Does the Requestor have standing to obtain an Advisory Opinion from the Suffolk County Board of Ethics?;
- b) Is the Requestor seeking advice on proposed future conduct?;
- c) Whether such activity by a County employee would be in conflict with the County ethics laws?

STANDING

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

LAWS

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

§ 77-3. PROHIBITED CONDUCT.

- 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;
- E. No public servant shall solicit or accept any gift having a value of \$75 or more from any person or firm which such public servant knows is or intends to become engaged in business dealings with the County.
- F. 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.

OPINION AND CONCLUSION

15. Section 77-3(C) strictly prohibits a County employee from using her official position in a manner which she has reason to know may result in a personal financial benefit to herself. As applied, there is nothing to suggest that the employee took, or failed to take, any action in her official duties to qualify for, or win, this award. The employee did not nominate herself for the award, and there is no evidence of any involvement by the employee in procuring the nominations that were made by other individuals. Additionally, § 77-3(F) strictly prohibits a County employee from receiving compensation for performing any official duty except from the County. However, the Board finds that this award would not constitute compensation, since the awarding entities, the [REDACTED] and [REDACTED], did not benefit from the employee's official actions. The employee did not provide any services to these entities, and the employee will not be retaining the funds from the award. . The Board also finds that while under § 77-3 (E), a gift valued at \$75 or more is prohibited from firms that a public servant knows is or intends to become engaged in business dealings with the County, such prohibition is not applicable here, as there is no assertion that the [REDACTED] or [REDACTED] has any contracts with the County.

16. The Board therefore finds that the cash award may be accepted by the employee, provided that she donates the funds in compliance with the terms of the award and as set forth in her statements to the Board.

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 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: Great River, New York
February 17, 2016

Linda A. Spahr, Esq. - Chair