

STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion 2017-1
March 1, 2017

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: Under the facts presented, it is permissible for a Department of Public Works employee to receive a rent check from her brother who is the recipient of Temporary Assistance monies from the Department of Social Services, because the employee is not a direct vendor of the County.

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, SCBE and COIB Advisory Opinions; and Suffolk County Code Chapter 77, Section 77-2(A), 77-2(B), Section 77-3(B), (C), and (D), the Suffolk County Board of Ethics Rules, and 77-7.

Procedural History: This Advisory Opinion Standing vote occurred on 2/15/17, with fact finding concluding on 2/24/17. On 3/1/17, the Board determined by majority vote that there is no conflict of interest under the facts presented and the Requesting supervisory official was apprised of the Board's vote.

Opinion: The Requestor, a Department of Social Services Supervisor, has asked whether a Department of Public Works employee (hereinafter, "DPW") may receive rent from a relative receiving Temporary Assistance from the County. The Board determined that standing exists for this Advisory Opinion request due to the Requestor's position as a supervisory official in the Department of Social Services, and within its jurisdiction as future conduct (*Suffolk County Administrative Code §A30-1, §A30-3, Suffolk County Code Chapter 77, §77-1*).

This Board has previously opined on this subject matter in SCBE Advisory Opinions 2014-15, 2014-16, 2014-17, and 2014-18¹. The Requestor reaffirmed herein that the Department of Social Services has a long-standing policy that **DSS employees** may not serve as a landlord or vendor for Public Assistance housing.² This policy was developed to comply with an earlier version of the County's Code of Ethics, specifically, Section 3001, Conflict of Interest, ("No officer or employee of the County of Suffolk, whether paid or unpaid, shall: (4) Invest or hold any investment directly or indirectly, in any financial, business, commercial or other private transaction, which creates a conflict with his official duties"). The Requestor advised the Board that the DSS policy is **not restrictive** as to other Departments, and is still intended to comply with the updated Suffolk County Code as including Sections 77-2(A) and 77-2(B) which states that:

- A. No public servant shall have an ownership interest in a firm which such public servant knows is engaged in business dealings with the department or agency served by such public servant
- B. No County employee shall have an ownership interest in a firm which such employee knows is engaged in business dealings with the County.

As applied to Suffolk County Code, § 77-2(A), the Administrative Code defines the word "firm" broadly to

¹ See, SCBE Advisory Opinions 2014-15, 2014-16, 2014-17, and 2014-18 holding A Suffolk County Department of Social Services employee becoming a vendor for shelter services and receiving as rent Temporary Assistance monies offered by the Department for whom that employee works would not be permissible under Sections 77-2(A) and 77-3(B) of the Suffolk County Code.

² Fact finding concluded that at the time this opinion was rendered the Department of Public Works, does not have a Department policy prohibiting such receipt of temporary rent assistance funds.

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include a sole proprietorship, joint venture, partnership, corporation, or “any other form of business enterprise.”
Id. at § 77-1.

Under the facts presented here , a Department of Public Works employee receiving a rent check from her brother who is the recipient of Temporary Assistance monies from the Department of Social Services would not constitute a business dealing with the County. Therefore, a Department of Social Services payment to a DPW employee’s sibling would not constitute a violation of Section 77-2(B) of the Suffolk County Code.

In addition, the County Ethics law provides that, “[n]o 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.” *Suffolk County Code, § 77-3(B)*. As applied to the County DPW employee, the Requestor confirmed that the New York State system through NYS OCFS (OTDA) for said payment is only accessible by DSS employees. Therefore, the DPW the employee’s responsibilities could not involve matters that require access to said system of payment information.

CONCLUSION

Accordingly, the Board finds that pursuant to Suffolk County Code, the requested future conduct, as described herein, is permissible.

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: Great River, New York
March 1, 2017

Linda A. Spahr - Chair