

STATE OF NEW YORK: COUNTY SUFFOLK  
COUNTY BOARD OF ETHICS  
Advisory Opinion 2017-4  
April 5, 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:** A former County engineer cannot perform work for a private firm consulting on County projects or appear before any department or agency of Suffolk County for 2 years post-employment from Suffolk County. The current County law does not permit waivers to be granted by the Board and the recently amended law does not permit this proposed future conduct.

**Analyzed Laws and Rules:** The Laws of Suffolk County; Suffolk County Administrative Code XXX, SCBE and COIB Advisory Opinions; the Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Chapter 77, Section 77-6(B) and 77-6(I), the Suffolk County Board of Ethics Rules.

**Procedural History:** This Advisory Opinion was requested 3/1/17. Fact finding was concluded on 3/28/17. The Board voted on this Advisory Opinion request on 4/5/17.

**Opinion:** The Requestor is ██████████ of the Suffolk County Department ██████████. He is requesting an opinion as to whether a former County engineer can work for a private firm that does business with the County and work on County projects for that firm within 2 years of retirement. (*Suffolk County Administrative Code §A30-1, §A30-3, Suffolk County Code Chapter 77, §77-1*).

As the documentary evidence submitted by the Requestor satisfied the Board's factual inquiries, the Board did not elect their statutory right to an in person appearance by the Requestor under Suffolk County Administrative Code A30-3(A).

The Board determined that standing exists for this Advisory Opinion request due to the requestor's position as a County supervisory official which requires his compliance with the Suffolk County Ethics Laws<sup>1</sup> (*Suffolk County Administrative Code §A30-1, Chapter 77, §77-1, NYC COIB Advisory Opinion 2009-4*). The Board determined that the request is regarding proposed future conduct and therefore is within the Board's jurisdiction.

The recently amended Suffolk County post-employment laws state at pertinent parts:

§ 77-6(B), "No former public servant shall appear, within a two-year period after his or her separation from County service, before the County agency served by such public servant. This prohibition shall not apply to a former public servant who appears before a County agency on behalf of any government entity, including the County of Suffolk, as an elected representative, employee or consultant, provided that, in the case of a former public servant serving as a consultant, such former public servant contracts to provide such consultant services directly with the County (*emphasis on amendments*);

§ 77-6 (C) No person who has served as a public servant shall appear before the County, or receive compensation for any services rendered, in relation to any particular matter in which such person had participated personally and substantially as a public servant, provided that, such prohibition shall not apply to a former public servant serving as a consultant to the County, where such former public servant contracts to provide such consultant services directly with the County (*emphasis on amendments*);

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§ 77-6(I), “Nothing contained in this section shall prohibit a former public servant from being associated with or having a position in a firm which appears before a County agency or from acting in a ministerial matter regarding business dealings with the County”.

As applied, under the facts presented, a former County employee can be associated with or have a position in a firm which appears before a County agency and act on such matters in a ministerial manner. However, a former County employee cannot perform work for a private firm consulting on County projects or appear before any department or agency of Suffolk County for 2 years post-employment from Suffolk County.

**CONCLUSION**

As set forth above, the Board finds that pursuant to § 77-6(B) and § 77-6(I), the post-employment employment laws prohibition against a former County employee perform work for a private firm consulting on County projects is applicable for 2 years and is a prohibited conflict of interest. The recently amended law does not permit this proposed future conduct.

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: Yaphank, New York  
4/5/17

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Linda. A. Spahr - Chair

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<sup>1</sup> N.Y. Gen Mun. Law § 810 (6). Additional definitions; Suffolk County §77-1 definitions