

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

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In the Matter of the Inquiry of

**ADVISORY OPINION**

██████████ in his capacity as the  
██████████ of Suffolk County Department ██████████

No. AO-2016-12

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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:* Can the ██████████ of the Department ██████████ accept the nomination of “██████████” and receive a statuette or certificate from a not-for profit in contract with the County?

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 gifting laws for the ██████████ of the Department ██████████ to accept the nomination of “██████████” and receive a statuette from a not-for profit in contract with the County. As previously opined by the Suffolk County Board of Ethics in 2013, public servants may not accept any gifts, door prizes, raffle prizes, or auction prizes while in attendance at such events (*See SCBE Advisory Opinion 2013-11 at pages 1, 3, and 4*).

**GOVERNING AUTHORITY**

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

**PROCEDURAL HISTORY**

4. This Advisory Opinion was requested on 4/29/16. (*Requestor's Exhibit #1*)
5. Fact Finding was concluded on 5/17/2016.
6. The Board voted on this Advisory Opinion on 5/18/2016.

### 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 Department [REDACTED] which mandates compliance with the Suffolk County Ethics Laws and proposed future conduct (*Suffolk County Administrative Code §A30-1, Chapter 77, §77-1*).

### INFORMATION PRESENTED TO THE BOARD

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

9. The Requestor was nominated by the [REDACTED] to receive a statuette as [REDACTED] (*Suffolk County Board of Ethics Exhibit #1*).

10. The [REDACTED] has two contracts in place with the Department [REDACTED]: 1) [REDACTED] 2) [REDACTED] (*Suffolk County Board of Ethics Exhibit #1*). Both contracts predated the Requestor's position in the Department [REDACTED] and the Requestor was not involved in the selection process. The [REDACTED] has an annual renewal term in the contract with the County. (*Suffolk County Board of Ethics Exhibit # 2 – Fact Finding Memorandum*).

### APPLICABLE LAW

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

§ 77-3. PROHIBITED CONDUCT.

- 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

12. The Board finds that a ██████████'s acceptance of a statuette or certificate with no resale value is under the statutory \$75 gifting maximum and is not a gift that violates the Suffolk County Ethics Laws.<sup>1</sup>

In furtherance, any activities, raffles, door prizes, silent auctions and any gifts that occur during the aforementioned event must be assessed in value and as gifts to the invitees. Under § 77-3(C) and (F), the requestor is prohibited from using his official position or office in a manner which he has reason to know may result in a personal financial benefit to himself and from receiving a 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. It is evident from the Requestor's Advisory Opinion request stating, "Is it permissible for the ██████████ to accept the nomination of ██████████", that the nomination occurred due to the Requestor's official position in Suffolk County Government (*SCBE Exhibit #1*). As applied, the acceptance of such event prizes would be a benefit to himself due to his official position or categorized as a gift for performing any official duty.

13. As previously opined by the Suffolk County Board of Ethics in in 2013, public servants are prohibited from any action or failing to take any action, in a manner which he has reason to know may result in a personal financial benefit to any person from whom he has received a gift or any goods or services for less than fair market value, during the preceding 12 months (*see SCBE Advisory Opinion 2013-11*). As such, accepting any gift while in attendance at this event (raffles, door prizes, etc.) would be in violation of the ethics laws and have the collateral effect of precluding this requesting ██████████ from any discussions, votes, or meetings regarding any matter that comes before the Department ██████████ ██████████ regarding the sponsoring/hosting organization (*See SCBE Advisory Opinion 2013-11 at pages 1, 3, and 4*). In further support of this reasoning, § 77-3 (E) states, "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".

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<sup>1</sup> NYC COIB advisory opinion 94-29 holding the Board frequently receives requests from public servants regarding their acceptance of gifts or awards from private organizations. In many cases, gifts are offered to City employees by firms which have or seek to engage in business dealings with the City. With limited exceptions, City employees are generally prohibited from accepting gifts valued at \$50 or more, and awards valued at \$150 or more, from firms which have business dealings with the City. See Charter Section 2604(b)(5).

**14.** As set forth above, the Board finds that a statuette with no resale value is not a prohibited gift from an entity with business dealings with the County.

**15.** 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.

**16.** 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.

**17.** The forgoing is the opinion of the Board.

Dated: Great River, New York

May 18, 2016

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Linda A. Spahr, Esq. - Chair