

STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion 2016-26
January 4, 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 County Employee accepting an honorarium of \$500 for an 18B panel lecture conducted after work hours is prohibited conduct under the Suffolk County Ethics Laws.

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Suffolk County Code Chapter 77-3, **SOP A-15**, and the Suffolk County Board of Ethics Rules.

Procedural History: This Advisory Opinion Standing vote occurred on 12/7/16, with fact finding concluding on 12/29/16 determining there is a conflict of interest under the facts presented.

Opinion: This request is from a Department of Social Services employee who received a \$500 honorarium unexpectedly after participating in an 18B CLE lecture regarding foster care and adoptive child placement. The attorney attendees interact with the County regarding their clients' child placement needs.

The analyzed laws state in pertinent part:

§ 77-1 Definitions

“AGENCY SERVED BY A PUBLIC OFFICIAL” A. In the case of a County employee, the agency employing such employee.

“APPEAR” To make any communication, for compensation, other than those involving ministerial matters.

“MINISTERIAL MATTER” An administrative act, including the issuance of a license, permit or other permission of the County, which is carried out in a prescribed manner and which does not involve substantial personal discretion.

“SUPERVISOR” Any person having the authority to control or direct the work of a public servant.

§ 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.

H. No public servant shall, for compensation, represent private interests before any County agency or appear directly or indirectly on behalf of private interests in matters involving the County. For a public servant who is not a County employee, this prohibition shall apply only to the agency served by the public servant.

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COUNTY PROCEDURE SOP A-15

The Suffolk County Standard Operating Procedure A-15 paragraph 5, “Policy for Outside Employment for County Employees” states,

(5) Employees represented by collective bargaining units are subject to any and all provisions and restrictions relating to outside employment contained in current collective bargaining agreements. These employees should review their collective bargaining agreements and determine whether they contain outside employment provisions and restrictions. Employees represented by collective bargaining units are also subject to current and future County and departmental procedures and policies which are not inconsistent with the terms of the existing collective bargaining agreements. Employees who are excluded from the collective bargaining units are subject to departmental or County policies and procedures regarding outside employment which are now in effect or which may be promulgated in the future.

All outside employment is also subject to the following provisions:

- (1) *Outside employment may not involve or appear to involve a conflict of interest or a potential conflict of interest.* (italics added).
- (2) Outside employment may not be undertaken on regularly scheduled work time.
- (3) Outside employment may not be undertaken on sick time.

The Suffolk County Standard Operating Procedure A-15 paragraph 6, “Conflicts of Interest” states,

(6) *“Suffolk County employees are prohibited from engaging in outside employment which would conflict, appear to conflict or potentially conflict with the proper performance of their official duties. Guidelines for what constitutes a conflict of interest are outlined in the Code of Ethics, Article XXX of the Suffolk County Charter. The Board of Ethics is empowered to render advisory opinions with respect to the Code of Ethics”* (italics added).

The Suffolk County Ethics law provides that, “[n]o 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 or a person or firm associated with the public servant.” As applied, the employee’s action receiving payment for a CLE lecture given to lawyers who interact with the County employee in their official capacity is not permissible activity under the Suffolk County Code and the Board opines that it does give an appearance of propriety. *Suffolk County Code, § 77-3(C)*.

Conclusion: As set forth above, the Board finds that pursuant to Suffolk County Code, the requested future conduct, as described herein, is not permissible under Suffolk County Code Chapter 77-3.

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.

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The forgoing is the opinion of the Board.

Dated: Great River, New York
1/18/2017

Richard Halverson - Vice Chair