

STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion 2017-13
October 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: Under the facts presented a Suffolk County Department of Social Services employee can be employed part-time in the capacity remotely for webpage assistance on promotional information to [REDACTED]

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Suffolk County Code Chapter 77, 77-3(C), and the Suffolk County Board of Ethics Rules.

Procedural History: This Advisory Opinion Standing vote occurred on 9/6/17, with fact finding concluding on 9/28/17 and the Board determines there is not a conflict of interest under the facts presented.

Opinion: The current employee requests an ethics opinion about a Department of Social Services employee interested in accepting employment with a summer camp who receives County childcare subsidy payments. The employee's spouse has been employed at this summer camp for 11 years. The County Department of Social Services employee has been employed by the County since 2012. Neither the employee, nor the spouse, have an ownership interest in the summer camp/county vendor. This part time employment includes remote webpage assistance on promotional information with no financial, billing, or client responsibilities. The employee does not have access to information relating to subsidy funding in either her public, or prospective, employment.

The topic on employee-vendor employment has been previously presented to the Suffolk County Board of Ethics. The Suffolk County Board of Ethics previously held the following in Advisory Opinion, 2016-6 which was rendered to the Department of Social Services, stating:

"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 of being offered part-time remote work with a company who has employed her spouse for six years preceding her employment with the County, is not a use of his or her official position, title, and job duties to benefit her financially. *Suffolk County Code, § 77-3(C)*. This behavior is not self-promoting behavior within the County that is specifically prohibited under § 77-3.

The Board has not made a motion to modify previously rendered Advisory Opinion 2016-6, and finds it relevant to the Board's review. As the facts presented to the Board, the potential dual employer a Suffolk County vendor receiving child care subsidy payments for summertime child care services. However, as neither the employee, nor the spouse, hold an ownership interest in the vendor, such part-time employment is not prohibited under the Suffolk County Ethics Laws.

Conclusion: Under the facts presented, as set forth above, the Board finds that pursuant to Suffolk

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County Code, the requested future conduct, as described herein, is not impermissible under Sections 77-3(C). The Board further notes to the requestor that Section 77-3(B) prohibits private employment which is in conflict with the proper discharge of official duties. Under the facts presented, although it does not appear that working part-time troubleshooting the camp's website would conflict with the requestor's duties as an examiner in the Client Benefits Division, all employees should confer with their Department for all SOP and outside/dual employment procedures that govern County employment including the part-time work not being conducted on regular work time.

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
10/4/2017

Linda A. Spahr, Esq. - Chair

*Corrected Scrivener's Error