

STATE OF NEW YORK: COUNTY SUFFOLK  
COUNTY BOARD OF ETHICS  
Advisory Opinion 2017-5  
May 3, 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 and as previously held in SCBE Advisory Opinion 2016-6, a Suffolk County Department of Social Services employee cannot be employed with a current Department Vendor as it is prohibited conduct under the Suffolk County Ethics Code.

**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 77-3(H) the Suffolk County Board of Ethics Rules.

**Procedural History:** This Advisory Opinion Standing vote occurred on 4/19/17, with fact finding concluding on 5/2/17 determining there is a conflict of interest under the facts presented.

**Opinion:** The current Supervisory Official requests an ethics opinion about a Department of Social Services employee interested in accepting employment with a Department of Social Services shelter vendor where the Department of Social Services places clients.

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 securing outside employment with a vendor who serves the County is clearly a use of his or her official position, title, and job duties to benefit her financially. *Suffolk County Code, § 77-3(C)*. This behavior of self-promoting within the County is specifically prohibited under § 77-3, and is further amplified in post-employment restrictions which prohibit public servants from negotiating job employment with vendors and places a 2-year limitation on appearances before their own agency.<sup>1</sup>”

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§77-6 POST-EMPLOYMENT RESTRICTIONS

- A.** No public servant shall solicit, negotiate for, or accept employment with any firm which is involved in business with the County while such public servant is directly concerned with or personally participating in those business dealings on behalf of the County. This prohibition shall not apply to positions in the federal, state or any local government.
- 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 another government entity as an elected representative or employee.
- 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.

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The Board has not made a motion to modify previously rendered Advisory Opinion 2016-6, and finds it applicable to the current request. As presented to the Board, the potential dual employer is a shelter where the Suffolk County Department of Social Services places clients. As such, the Board finds this future conduct prohibited under the Suffolk County Ethics Laws.

**Conclusion:** Under the facts presented, as set forth above, the Board finds that pursuant to Suffolk County Code, the requested future conduct, as described herein, is not permissible under Sections 77-3(C) and 77-3(H).

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  
5/3/17

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Linda A. Spahr, Esq. - Chair