

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

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In the Matter of the Inquiry of

██████████ in capacity of Supervisory Official
of the Department of Social Services

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STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion 2017-16
December 20, 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: The Requestor, a Department of Social Services Supervisor, has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of their approval process in determining their employee's outside employment request. Under the facts presented, it is a conflict of interest for a Department of Social Services employee in the Clients Benefit Division title Social Services Examiner III to work part-time in a law firm¹ where the proposed outside employment duties include providing assistance in obtaining all of the necessary information/documentation to submit client's Medicaid applications. The Board finds, as it did previously in Advisory Opinion 2016-17, that that the subject population the County employee would be interacting with in such outside employment, is the same population served in her job duties with Suffolk County. Under these facts, recusals under Suffolk County Code 77-7, are not sufficient to mitigate the impermissible conflict.

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, SCBE and COIB Advisory Opinions; and Suffolk County Code Chapter 77, Section 77-3(B), 77-7, and the Suffolk County Board of Ethics Rules.

Procedural History: This Advisory Opinion Standing vote occurred on 12/6/17, with fact finding concluding on 12/15/17. On 12/20/17, the Board determined by majority vote that there is a conflict of interest under the facts presented.

Opinion: The Requestor, a Department of Social Services Supervisor, has submitted an advisory opinion request to the Suffolk County Board of Ethics as part of the approval process in determining their employee's outside employment request. Specifically, the Supervisory Official has asked whether a Department of Social Services employee in the Clients Benefit Division title Social Services Examiner III could work part-time in a law firm where the duties include providing assistance to the law office staff in obtaining all of the necessary information/documentation to submit clients' Medicaid applications. The Board determined that standing exists for this Advisory Opinion request due to the Requestor's position as a supervisory official in the Department of

¹ The Law Office of ██████████

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Social Services, and within its jurisdiction as future conduct (*Suffolk County Administrative Code §A30-1, §A30-3, Suffolk County Code Chapter 77, §77-1*).

The Requestor advised the Board that the DSS policies are intended to comply with the updated Suffolk County Code as including Sections 77-3(B) and County SOP which state that:

- B. No public servant shall engage in any business, transaction or private employment, or have any financial or private interest which is in conflict with the proper discharge of his or her official duties.

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.
- (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” (emphasis added).

Additionally, the employee’s civil service job duties include the following job functions relevant to this review:

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Social Services Examiner III:

- Assists in the formulation of policies and procedures that relate to financial eligibility for the various programs administered by the Department of Social Services;
- Interprets Federal, State and local policies and programs as they relate to financial eligibility;
- This may include representing the department at Fair Hearings to defend eligibility decisions

Under the facts presented here, the Board finds that subject population the County employee would be interacting with in such outside employment, is the same population served in her job duties with Suffolk County (*see SCBE Advisory Opinion 2016-17 holding that a County Probation Officer is in conflict with outside employment*). Under these facts, recusals under Suffolk County Code 77-7, are not sufficient to mitigate the impermissible conflict.

CONCLUSION

Accordingly, the Board finds that pursuant to the Suffolk County Code, the requested future conduct, as described herein, is impermissible.

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
December 20, 2017

Linda A. Spahr - Chair