

STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion 2017-7
May 17, 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 assistant legislative analyst whose job duties do not include the analysis of contracts with labor unions can hold the union position of second vice president in the Hauppauge South Unit.

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

Procedural History: This Advisory Opinion Standing vote occurred on 4/19/17 and fact finding concluding on 5/10/17.

Opinion: The Requestor is a Suffolk County assistant legislative analyst. He has inquired with the Board if he can serve as the second vice president in the Hauppauge South Unit for AME.

In considering this inquiry, the Board employed the following three-step analysis to determine whether a prohibited conflict of interest would exist:

- a) Does the requestor have standing to obtain an Advisory Opinion from the Suffolk County Board of Ethics;
- b) Is the requestor seeking advice on proposed future conduct;
- c) Whether a conflict of interest automatically exist requiring declination of the position.

The Board determined that County employees have standing for this Advisory Opinion, deeming the Requestor a “public servant” and binding the Requestor to the Suffolk County Ethics Laws (*People of the State of New York v. Adolphus Ebuzome* 435 N.Y.S.2d 243, NYC COIB Advisory Opinion 2009-4).

As to potential conflicts of interest, the law states in pertinent part at § 77-3(C), Prohibited Conduct, “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 a person associated¹ with the public servant. Under § 77-7(A), Recusal and Disclosure, “a public servant shall promptly recuse himself or herself from acting on any matter when acting on the matter, or failing to act on the matter, would ... financially benefit ... a person or firm associated with the public servant”².

The Requestor has represented to the Suffolk County Board of Ethics that his county job duties do not include the analysis of contracts with labor unions. The Board finds that should his job duties expand, the Requestor must recuse himself under § 77-7(A) of any review of the AME budget or analysis of contracts with labor unions. Under the current facts presented, the Board finds that holding the position of second vice president in the Hauppauge South Unit is not prohibited conduct under § 77-3(C).

Conclusion: As set forth above, the Board finds that a Suffolk County assistant legislative analyst whose job duties do not include the analysis of contracts with labor unions can hold the union position of second vice

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president in the Hauppauge South Unit.

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
5/17/17

Linda A. Spahr, Esq. - Chair

¹ § 77-1. Definition of Associated: A person or firm associated with a public servant includes a spouse, domestic partner, child, parent or sibling; a person with whom the public servant has a business or other financial interest; and each firm in which the public servant has an interest.

² 77-7(A). RECUSAL AND DISCLOSURE. A public servant shall promptly recuse himself or herself from acting on any matter when acting on the matter, or failing to act on the matter, would constitute prohibited conduct under the Code of Ethics or would financially benefit the public servant, a person or firm associated with the public servant, a customer or client or any person from whom the public servant has received a gift, or any goods or services for less than market value in the preceding 12 months.

B. Whenever a public servant is required to recuse himself or herself under the Code of Ethics, he or she shall:

- (1) Promptly inform his or her immediate supervisor, if any;
- (2) Promptly file with the Board a signed statement disclosing the nature and extent of the conflict; and
- (3) Immediately refrain from participating further in the particular matter.