

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

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Supervisory Official Inquiry of

██████████, ██████████

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STATE OF NEW YORK: COUNTY SUFFOLK  
COUNTY BOARD OF ETHICS  
Advisory Opinion 2018-23  
December 19, 2018

**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 ██████████ has asked the following three conflicts of interest questions in his supervisory official capacity regarding an employee holding the title of ██████████  
██████████:

1. Does the employee's spouse's County contract which pre-exists the County employee's hire date for "Emergency Medical Training Services" cause an impermissible conflict for the employee?
2. Does outside employment as a per diem paramedic for three local fire districts cause an impermissible conflict for the employee?
3. Does being a NYS certified instructor as an independent contractor for six local fire districts cause an impermissible conflict for the employee?

The County Department has advised there is no cross over with County job duties, and no Department prohibition on the above activity. Additionally, the Department continues to assess for appearance of impropriety under the County outside employment SOP.<sup>1</sup> The Board finds that the above outside income is permissible and that the pre-existing contract does not create a conflict pursuant to 77-8 and 77-5 (E).<sup>1</sup>

**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), 77-5(E), 77-8 and the Suffolk County Board of Ethics Rules.

**Procedural History:** This Advisory Opinion Standing vote occurred on 12/5/2018, with fact finding concluding on 12/17/2018 and vote occurring on 12/19/2018 finding there is not a conflict of interest under the facts presented.

**Opinion:** The ██████████ has asked the following three conflicts of interest questions in the supervisory official capacity regarding an employee holding the title of ██████████  
██████████:

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<sup>1</sup> 77-5. EXEMPTIONS **This article shall not prohibit:**

E. A contract between the County and a public servant for instructing approved emergency medical services training service programs.

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1. Does the employee's spouse's County contract which pre-exists the County employee's hire date for "Emergency Medical Training Services" cause an impermissible conflict for the employee?
2. Does outside employment as a per diem paramedic for three local fire districts cause an impermissible conflict for the employee?
3. Does being a NYS certified instructor as an independent contractor for six local fire districts cause an impermissible conflict for the employee?

As to question 1, the pre-existing spousal County contract, the Board notes that a public servant is deemed to have an interest in a County contract subject to Board disclosure and review of, "his or her spouse, except as to his or her spouse's employment agreement with the County". (*see, Suffolk County Code, § 77-8(B)(1)*) Further, there is currently an exemption to prohibited contracts at 77-5 (E). This exemption permits a county public servant to have a contract with the County for instructing, "approved emergency medical services training service programs". The Board upon review of the contract finds that the contract pre-exists the employee [REDACTED] hiring date and falls into the employee exempted category (and interest in the spousal County contract) of "emergency medical services training service programs". In furtherance, work assignments from this contract are arranged by a different County employee, [REDACTED] in the job title, [REDACTED]. As such, the Board finds the interest is not prohibited and there is no conflict. The board does recommend, to mitigate potential future conflict, two steps. First, full recusal should occur by the [REDACTED] regarding the spouse's contract should the spouse resubmit her qualification to the County. Second, that the Emergency Management Trainer Officer assignments of contract work should not fall into the purview of the [REDACTED].

As to questions 2 and 3, the employee's outside employment as a per diem paramedic and part time NYS Instructor in local fire districts, the Department has advised there is no Department policy prohibiting this activity. Additionally, as to the skills and subject matter, the Department advised that a [REDACTED] should have continuing field experience as a paramedic and that teaching in an adjunct or outside setting is acceptable. As to job duties and responsibilities, the Department has advised that the title of [REDACTED] does not have fiduciary responsibilities to the Fire Districts and provides to the Fire Districts in administrative functioning only standards and protocols. As such and on the facts presented, the Board finds that these two outside incomes are not a misuse of his official position, title, and job duties. *Suffolk County Code, § 77-3(C)*<sup>2</sup>.

**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 *permissible*. Under the facts presented, the board does recommend to mitigate potential future conflict that 1) full recusal occurs on the spouses contract should the spouse resubmit her qualification to the County and 2) The Emergency Management Trainer Officer assignments of the spouse's contract work should not fall into the purview of the [REDACTED].

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<sup>2</sup>*Suffolk County Code Chapter §77-3(C):*

"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." *See § 77-3(C)*

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[REDACTED]

Additionally, *all employees* should confer with their Department for all SOP and outside/dual employment procedures and appearance of impropriety assessments under the County SOP that governs County employment, including the part-time income conducted outside 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  
12/19/2018

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Eric A. Kopp - Chair

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1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]