

Code of Ethics Plain Language Booklet

ETHICS AND ACCOUNTABILITY

COUNTY OF SUFFOLK



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INTRODUCTION

Suffolk County public servants make official decisions every day. These decisions include answering questions, ensuring public safety, making equipment purchases, hiring employees, securing vendor contracts, and many more. The common thread amongst all public servants is upholding public trust which is governed by the Suffolk County Ethics and Accountability Laws.

This booklet highlights the laws that public servants are guided by in their daily job responsibilities. Inside you will find information regarding:

- Prohibited Conduct and Outside Interests;
- Recusal and Disclosure Requirements;
- Contracting with the County;
- Receipt of Gifts and Gratuities;
- Holding Dual Offices;
- Employment After Leaving County Service;
- Filing Financial Disclosure Statements;
- Penalties for Non-Compliance;
- Seeking Advisory Opinions;
- Resolving Complaints.

The complete law in full text can be found in the Board's 31 page "Code of Ethics Booklet," available for download from the Board's webpage.

"The Mission of the Suffolk County Board of Ethics is to practice and promote ethical literacy and conduct in government through Training, Transparency, and Trust."

PRINCIPLES OF ETHICAL CONDUCT FOR COUNTY PUBLIC SERVANTS

No Public Servant Shall...

1. Have an improper ownership interest in a firm engaged in business dealings with the County.
2. Take any action as a public servant which specifically affects one's personal interest in a firm.
3. Engage in a private transaction that conflicts with the proper discharge of one's official duties.
4. Use one's official position for personal financial benefit, or for the financial benefit of an associate, customer or client.
5. Disclose or use for personal gain any confidential information concerning any County matter that was obtained in the course of one's official duties.
6. Solicit or accept any gift having a value of \$75 or more.
7. Receive compensation for performing one's job except from the County.
8. Solicit, accept or receive any gift or gratuity from a lobbyist.
9. Represent private interests before a County agency or appear on behalf of private interests in matters involving the County, when either is done for compensation.
10. Appear as counsel against the interests of the County in any litigation where the County is a party.
11. Coerce, intimidate, or threaten another public servant to engage in political activities or to participate in a political campaign.
12. Attempt to influence the course of any proposed County legislation without publicly disclosing to the Legislature the nature and extent of any affected private interest.
13. Give or promise to give compensation to any person in consideration for being nominated, appointed, elected or employed as a public servant.
14. Make personal use of County letterhead, personnel, equipment, supplies or resources.
15. Disregard the post-employment restrictions after leaving County service.

Prohibited Interests in Firms Doing Business With the County

Suffolk County Code § 77-2

GENERAL RULE: PUBLIC SERVANTS CANNOT OWN, NOR HAVE A SIGNIFICANT INTEREST IN, A FIRM WHICH HAS BUSINESS DEALINGS WITH THE COUNTY.

Prospective public servants who have a prohibited ownership interest must divest of the ownership interest, or terminate the business dealing with the County, or disclose the interest to the Board and comply with its order.

Current public servants with a prohibited ownership interest who:

- Were previously unaware of the firm's dealings with the County; or
- Owned a firm with no County business dealings until now;
- Obtain a prohibited interest by operation of law after commencing County service (such as an inheritance),

must disclose the interest to the Board and within 15 days of learning of the interest, must:

- (1) Divest of the ownership interest; or
- (2) Terminate the business dealing with the County; or
- (3) Ask the Board to determine whether such interest, if maintained, would be in conflict with the proper discharge of his official duties.

The Board can make determinations as to whether the public servant's interest requires divestiture or other action if a conflict exists.

Recent Board Advisory Opinion

The Board found that a future contract between the County and County employees awarding a Suffolk County Aquaculture Lease Agreement to the employees would be prohibited as an improper interest in a firm doing business with the County. *AO 2013-18*

Related Definitions

Firm: A sole proprietorship, joint venture, partnership, corporation or any other form of business enterprise.

Business dealings with the county: Any transaction with the County involving the sale, purchase, rental, disposition or exchange of goods, services, or property, or any license, grant or benefit, and any performance with respect to any of the foregoing, except for transactions involving the public servant's residence or ministerial matters.

❖ *See page 13 of the Code of Ethics Booklet for more detail on what constitutes an ownership interest.*

Other Prohibited Interests

Suffolk County Code §77-3(A)(B)(C)

GENERAL RULE: PUBLIC SERVANTS CANNOT TAKE ANY ACTION THAT WOULD AFFECT A PERSONAL INTEREST, FINANCIALLY BENEFIT THEMSELVES OR AN ASSOCIATE, OR WHICH WOULD CONFLICT WITH THE DISCHARGE OF ONE'S OFFICIAL DUTIES.

A public servant who has an interest* in a firm which is not prohibited by the ownership interest rule (so, a less significant interest than described in the previous section) shall not take any official action particularly affecting that interest.

A public servant cannot engage in any business, transaction, or private employment, nor have any private or financial interest which is in conflict with the proper discharge of his or her official duties.

A public servant cannot use his or her official position or take any action which would result in a personal financial benefit, or in a financial benefit to an associate*, a customer or client, or anyone who has given gifts or services for less than fair market value in the past year.

Related Definitions

***Interest:** A financial interest in a firm or a position with a firm held by a public servant, the public servant's spouse, domestic partner or unemancipated child.

***Associate(d):** 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.

Recusal and Disclosure

Suffolk County Code §77-7

GENERAL RULE: PUBLIC SERVANTS ARE TO RECUSE THEMSELVES ON ANY MATTER THAT THEY COME ACROSS IN THE DISCHARGE OF THEIR OFFICIAL DUTIES WHICH WOULD CREATE A CONFLICT OR PROVIDE A FINANCIAL BENEFIT TO THEMSELVES, AN ASSOCIATE, CLIENT OR CUSTOMER.

Required steps for a public servant to take when recusing:

- (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.

Recent Board Advisory Opinion: Recusal

The Board determined that a public servant's son is an associated person under the County Ethics Laws which would require recusal in matters relating to the son, whereas a public servant's cousin with no financial interests in common, is not an associated person and recusal would not be necessary. *AO 2013-7/8*

Disclosure Involving County Contracts

Suffolk County Code § 77-8

GENERAL RULE: PUBLIC SERVANTS MUST INFORM THE COUNTY ABOUT ANY INTERESTS IN COUNTY CONTRACTS THAT THEY MAY HAVE AS SOON AS THEY BECOME AWARE OF THEM.

Where a public servant has, or acquires, an interest* in any actual or proposed contract or other agreement with the County, the public servant shall disclose the nature and extent of that interest in writing to his or her immediate supervisor and to the Board as soon as he or she has knowledge of the actual or prospective interest.

* in this section, **interest** means “a direct or indirect pecuniary or material benefit accruing to the public servant as a result of a contract with the County.”

A public servant shall be deemed to have an interest in the contract of:

- (1) His or her spouse, except for a spouse's employment agreement with the County;
- (2) A firm, partnership, or association of which the public servant is a member or employee; and
- (3) A corporation of which the public servant is an officer, director or employee.

Upon receipt of the required disclosure statement, the Board will catalog the statement. The statement is subject to release to the public through a Freedom of Information Law (“FOIL”) request.

Accepting Gifts and Gratuities

Suffolk County Code §77-3(E), (F), (G)

GENERAL RULE: PUBLIC SERVANTS SHALL NOT RECEIVE ANY COMPENSATION FOR THEIR OFFICIAL JOB DUTIES OTHER THAN COMPENSATION PROVIDED BY THE COUNTY.

Please and Thank You Gifts: Public servants cannot accept any gift or gratuity from a person or entity whose interests have been or will be affected by the public servant's official action.

Pleasure Doing Business with You: No public servant shall solicit or accept any gift having a value of \$75 or more from any person or company which such public servant knows is or intends to become engaged in business with the County.

Help My Cause: No public servant can accept any gift from a lobbyist.

Examples from Board Advisory Opinions:

Travel: An invitation of travel inclusive of expenses for an Elected Official is not permitted. *AO 2013-9*

Entertainment: Accepting a weekend at a pre-electoral friend's home at no cost is permissible. *AO 2013-12*

Value of Gift: An Elected Official's acceptance of one complimentary ticket to a not-for-profit fundraiser, hospital, or fire department installation dinner was permissible, but such attendee must not accept any door prizes, raffles prizes, or items of value. *AO 2013-12*



Prohibition on Dual Office-Holding: Elected and Political Party Officials

Suffolk County Code §77-4

Elected Officials

- Elected Officials cannot hold another paid position of employment with any federal, State, or local government
 - Public school teachers and public university or college professors are exempted.

Political Party Officers

- A Political Party Officer cannot also serve as an Elected Official, department commissioner, assistant district attorney or member of any board or commission whose members are appointed by the County Executive or County Legislature.
- A Political Party Officer may represent private interests before a County agency but only after disclosure to the Board the nature and scope of the services to be provided.
- No Political Party Officer or his or her firm shall have business dealings with the County, except for a contract from the County resulting from the competitive bidding process conducted in accordance with Article 5-A of the New York General Municipal Law.

Recent Advisory Opinions

- The Board determined that an Elected Official cannot simultaneously hold the position as an Elected Official while being an Administrator in a Suffolk County School District. *AO 2013-20.*
- The Board held that a newly Elected Official pending retirement from County employment, is not dually employed if the retirement occurs before the regularly scheduled swearing-in ceremony when the Elected Official accepts the Oath of Office. *AO 2013-17.*

Related County Definitions

Elected official: A person holding office as County Executive, District Attorney, Clerk, Comptroller, Treasurer, Sheriff or member of the County Legislature.

Post-Employment Restrictions

Suffolk County Code §77-6

GENERAL RULE: ALL PUBLIC SERVANTS MUST ADHERE TO THE POST-EMPLOYMENT RESTRICTIONS REGARDLESS OF WHETHER THEY RETIRE, VOLUNTARILY DEPART, ARE TERMINATED, OR LAID OFF.

Self-Dealing: Except for positions in the federal, state or local government, a public servant cannot solicit, negotiate for, or accept employment with any firm involved in business dealings with the County while he or she is directly concerned with, or personally participating in, those business dealings for the County.

Public Servant 2-Year Rule: A former public servant cannot appear before the County agency he or she served while working for the County, for a period of two years after leaving County service.

For elected officials, this rule applies to any agency in the branch of government that the official served.

** Under the Code, all County agencies are under the executive branch except for the County Legislature.*

Lifetime Ban on compensation for services and appearances by a public servant relating to any matter in which the public servant personally and substantially participated while a public servant of the County.

Elected Officials - 2 Year Employment Ban with Suffolk County for Premature Resignation (applies when official resigns prior to end of term).

Elected Officials - 2 Year Ban on Employment with a certified employee organization: No elected official, whether upon resignation or expiration of term of office, may be employed by a certified employee organization which engages in collective bargaining negotiations with the County for two years.

Confidential Government Information: No former public servant shall disclose or use for private advantage any confidential information gained from County service which is not otherwise available to the public.

- exception for disclosure of fraud, waste, or corruption

Exceptions to Post-Employment Restrictions:

1. A former public servant can be associated with a firm that appears before the County.
2. A former public servant can handle ministerial matters* before the County.

Recent Board Advisory Opinions: Post-Employment

- *AO 2013-4:*
 - The Board found that a non-ministerial appearance before the department served by the former public servant within two years of leaving County service would be prohibited.
 - The Board also maintained that there is no violation of the post-employment restrictions by the former employee holding a position with a firm which appears before a County agency within the two year time period.
 - The Board determined that entire firm does not have to be excluded from appearing before the County due to the former employee's recent County employment.
- *AO 2013-6:* The Board decided that an appearance before another government entity within two years post-employment is not prohibited.

Related County Definitions

***Ministerial matter** An administrative act, including the issuance of a license, permit or other permission of the County, which is carried out in a prescribed manner and which does not involve substantial personal discretion.

Financial Disclosure

*Suffolk County Code §77-10;
New York Public Authorities Law §2825 (3)*

GENERAL RULE: APPROXIMATELY 500 PUBLIC SERVANTS IN SUFFOLK COUNTY ARE REQUIRED TO FILE THE ANNUAL SUFFOLK COUNTY FINANCIAL DISCLOSURE STATEMENT.

Those required to file include:

- Elected officials, political party officers, candidates for certain offices (including legislature), department heads, employees engaged in real estate and real property transactions, certain boards and commissions.
- Agency heads, the County Executive, and the Presiding Officer of the County Legislature determine all other employees required to submit statements based upon employee categories defined in the Code, such as those employees in managerial or policymaking positions.

These forms assist in assessing potential conflicts of interests between private and public financial interest. The Board may assess fines for late filings and refer outstanding fines to the Suffolk County District Attorney's Office.

Fine Schedule:

30 days late	\$250
60 days late	\$500
90 days late	\$750
120 days late	\$1,000

FOIL Requests: These documents are public records that are available for public reproduction and inspection. As a matter of course, the Board redacts the filer's home address, home phone number, spouse's name, name(s) of unemancipated child(ren), and all categories of value. Filers can submit a privacy request to redact additional parts of the document.

Recent Board Hearing Decisions

- A credible affidavit setting forth a hardship as an affirmative defense resulted in no fine being imposed by the Board for a late filing. *Index No. FDS 157/2013.*
- Where there was no affirmative defense claiming a hardship for late filing, a \$250.00 fine was imposed for a late filing. *Index No. FDS 125/2013.*

Penalties

Suffolk County Code § 77-9, § 77-16

GENERAL RULE: THE BOARD MAY IMPOSE FINES AND PENALTIES FOR VIOLATIONS OF THE SUFFOLK COUNTY ETHICS LAWS.

The Board can:

- Determine a violation of the ownership interest rules has occurred;
 - The County may then elect to void the contract or transaction.
- Impose fines up to \$10,000 for prohibited interests and conduct, and for recusal and disclosure violations;
- Impose fines up to \$1,000 for knowing violations of any prohibition in the Code of Ethics (including financial disclosure statement violations);
 - The Suffolk County District Attorney's Office can assess criminal liability under these knowing violations with terms of imprisonment not in excess of one year.
- Impose fines of \$0 - \$1,000 for late Financial Disclosure Filings;
- Notify a delinquent filing employee's supervisor, resulting in the County Comptroller withholding the paycheck of the employee;
- Refer the matter to the appropriate County agency to be considered for disciplinary action, including removal from employment;
- Recommend to the public servant's hiring authority suspension or removal of the public servant from office or employment.

Advisory Opinions

Suffolk County Administrative Code §A30-3

GENERAL RULE: THE BOARD OF ETHICS CAN PROVIDE CURRENT, FORMER, AND PROSPECTIVE PUBLIC SERVANTS (AND SUPERVISORS) WITH WRITTEN ADVISORY OPINIONS ON THE SUFFOLK COUNTY ETHICS LAWS.

These opinions must be regarding proposed **future conduct** and requests for an opinion must be made **in writing**.

- In the event that a subsequent complaint is submitted to the Board on the same conduct for which the Board rendered an advisory opinion, the public servant is bound by the original advisory opinion decision.

I. Sample Advisory Opinion Questions that the Board can answer:

- I am a County employee working as a sanitation worker, would a part-time job as a store clerk be a violation of the ethics laws?
(current employee inquiring about future conduct regarding potential conflicts with official discharge of job duties)
- I am a former Elected Official in Suffolk County, can I ask my former subordinates to fundraise for me in an upcoming election?
(former Elected Official seeking an opinion about future conduct regarding potential conflicts with official misuse of position)
- I would like to become a non-paid Board member on a Suffolk County Board, will I have to recuse myself if one of my private sector clients has a matter with the Board I serve?
(prospective public servant asking about future conduct regarding potential conflicts private financial interest)

II. Sample Advisory Opinion Questions that the Board cannot answer:

- If one day I retire from my County job, what jobs can I accept?
(The Board does not advise on hypothetical concerns)
- I am a County employee and 5 years ago I accepted a gift from a lobbyist, did I break any laws by accepting the gift?
(The Board can only advise on FUTURE not PAST conduct)
- I am a concerned resident of Suffolk County and I know a County employee who has a private business, is this ok?
(The Board does not render third party Advisory Opinions. The Board does however, accept complaints from anyone)

Complaints and Hearings

Suffolk County Administrative Code §A 30-5, 30-6, 30-7

GENERAL RULE: ANYONE CAN FILE A COMPLAINT WITH THE BOARD ALLEGING A VIOLATION OF THE COUNTY ETHICS LAWS. THE BOARD CAN THEN CONDUCT INVESTIGATIONS AND HEARINGS TO DETERMINE IF VIOLATIONS HAVE OCCURRED.

Jurisdiction: The Board only has jurisdiction to process complaints as to violations of the County Code of Ethics or other applicable conflict of interest laws. Any complaints alleging offenses that are outside the Board's jurisdiction are rejected.

False Complaint: It is unlawful for a person to make or threaten to make a complaint, or offer to withdraw a complaint against a public servant in order to improperly influence that person's vote, judgment, action, or decision.

Investigation: Under the Board's investigatory power, it may subpoena witnesses and documents, compel attendance, and administer oaths.

Hearings: Assuming the complaint is found to have reasonable cause, the Board will conduct a hearing. The Board conducts two types of hearings.

Mail-in Hearing: Adjudication by mail hearings do not require personal appearance by the subject of the complaint (respondent).

In-Person Hearing: The respondent has the right to elect an in-person hearing, and the Board has the right to calendar an in-person hearing for any matter.

- Both types of hearings provide notice to all persons and an opportunity to be heard. Both hearings permit respondents to submit admissions or defenses on their own behalf or as represented by counsel.
- Hearings are digitally recorded to preserve a full record for appeal and are conducted in Executive Session. The votes of such hearings are all memorialized in hard copy and available directly to the respondents.

* Procedures for filing and resolving complaints, including procedures for Board hearings, are available on the Board of Ethics webpage.



TEST YOUR KNOWLEDGE

Q: Who is a public servant?

A: The Suffolk County Code defines a public servant as, “All officials, officers and employees of the County, whether paid or unpaid.”

Q: Who is a County Employee?

A: The Suffolk County Code defines a County Employee as, “All elected officials and public servants who are employed by the County and compensated for their services. This term shall not include members of the County's occupational licensing boards.”

Q: Who is an Elected Official?

A: The Suffolk County Code defines an Elected Official as, “A person holding office as County Executive, District Attorney, Clerk, Comptroller, Treasurer, Sheriff or member of the County Legislature.

Q: I am a public servant; can I accept a “thank you” gift for a job well done from a resident of Suffolk County?

A: No. Suffolk County Code §77-3 (F) prohibits accepting any gift or gratuity for performing any official duty.

Q: I am a public servant and I own a business but I do not know if my business can contract with Suffolk County under the Ethics Laws, who do I ask?

A: Under the Suffolk County Administrative Code, §A30-3, the Suffolk County Board of Ethics can render formal Advisory Opinions to address ethics questions.

Q: I am a Suffolk County Employee; do I have to file a Suffolk County Financial Disclosure Statement?

A: It depends on your job title and duties. The Suffolk County Code §77-11 requires that by February 15th of each year, each County Agency head shall determine which persons within the agency are required to file a Financial Disclosure Statement.

Q: I am no longer in Suffolk County Employment; can I engage in private sector business with the agency I once worked for?

A: The Suffolk County Code §77-6 (B) states that “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