

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

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In the Matter of the Inquiry of



ADVISORY OPINION

No. AO-2015-16*

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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.

ADVISORY OPINION REQUEST

1. *Advisory Opinion Inquiry:* The Suffolk County Board of Ethics has received a request from a County Employee seeking an opinion as to whether it would violate the Suffolk County Code of Ethics (Suffolk County §77-3(e) and §77-3(f)) to accept a gift of steaks valued at \$369.00 from a County vendor. (*Requestor's Exhibit #1*)

2. *Conclusion:* Based on the facts before the Suffolk County Board of Ethics, it is the opinion of the Board that it would violate §77-3(e) and §77-3(f) for the employee to personally accept the gift of steaks valued at \$369.00.

INTERPRETED LAWS

3. The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions; and Chapter 77, §77-3(e) and §77-3(f).

PROCEDURAL HISTORY

4. This Advisory Opinion was requested on 12/17/2015. (*Requestor's Exhibit #1*)
5. Standing vote occurred on 1/6/2016.
6. The Board voted on this Advisory Opinion on 1/20/16.

STANDING

7. The Board determined that standing exists for this Advisory Opinion request due to the requestor's position as a public servant employed by the Suffolk County [REDACTED] [REDACTED] which mandates compliance with the Suffolk County Ethics Laws (*Suffolk County Administrative Code §A30-1, Chapter 77, §77-1*).

INFORMATION PRESENTED TO THE BOARD

8. The Requestor received a perishable gift from a County vendor valued at \$369.00. (*Suffolk County Board of Ethics Exhibits #1 and #2*).

APPLICABLE LAW

9. Suffolk County Code, Chapter 77 "Ethics and Accountability" provides, in pertinent part:

§ 77-3. PROHIBITED CONDUCT.

- E. No public servant shall solicit or accept any gift having a value of \$75.00 or more from any person or firm which such public servant knows or intends to become engaged in business dealings with the County.
- F. No public servant shall receive compensation for performing any official duty except from the County or accept or receive any gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action.

OPINION AND CONCLUSION

12. The Board finds that a gift from a County vendor to a County employee valued at \$369.00 exceeds \$75.00 and as such is strictly prohibited under § 77-3(E).

13. As applied to § 77-3(F), no public servant shall receive compensation for performing any official duty except from the County or accept or receive any gift or gratuity from any person or entity whose interests will be affected by the public servant's official action or whose interests have been affected by the public servant's official action. As such, a County vendor cannot send an individualized gift to an employee valued at \$369.00.

14. In furtherance, the acceptance of this would result in an appearance that the vendor is attempting to influence the Suffolk County employee through gifts. Gifting of value is strictly prohibited in many jurisdictions and is regularly the source of violations and complaints. In NYC COIB case no. 2004-136 a City Assistant Principal was directed to turn over a \$100 gift card that was gifted from a firm that services their copy machines to the Department of Investigations and a City Secretary was fined \$100 for the acceptance of a \$100 gift card. (*See NYC COIB case no. 2004-136*).

15. As set forth above, the Board finds that a \$369.00 gift given personally to a County employee by a County vendor would be in violation of §77-3, 77-3(e), and §77-3(f).

BOARD DIRECTIVES

16. The requestor must 1) return the gift to the issuing company or 2) Return the gift to the vendor; **and** within 45 days of issuance of this advisory opinion sign and file with the Suffolk County Board of Ethics the below attestation that such gift has not been accepted and that the vendor has received a copy of the Suffolk County Ethics Laws pursuant to SOP A-06 paragraph 6(b)(3).

17. The opinion rendered herein, until and unless amended or revoked, is binding upon the Ethics Board in any subsequent proceeding concerning the person who requested it and who acted in good faith in reliance upon it, unless material facts were omitted or misstated by the person in the request for the opinion or in any related supporting documentation.

18. 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.

19. The forgoing is the opinion of the Board.

Dated: Great River, New York
January 20, 2016*

Linda A. Spahr - Chair

*Note: Scrivener's error at paragraph 3 corrected by Board on July 6, 2016.

Attestation Pursuant to Suffolk County Board of Ethics Directive

I, [REDACTED], hereby attest that the gift valued at \$369.00 from County Vendor _____ (insert vendor) has not been accepted by me and I elected the following option with respect the gift:

_____ 1) I returned the gift to the issuing company

_____ 2) I returned the gift to the vendor

[REDACTED] have since provided the vendor with the copy of the Suffolk County Ethics Laws pursuant to SOP A-06 paragraph 6(b)(3).

ATTESTATION

I hereby certify that I have read the foregoing information which is submitted as a Suffolk County Board of Ethics directive to the best of my knowledge and belief are true, correct and complete.

Sign: _____

Print: _____

STATE OF NEW YORK
COUNTY OF SUFFOLK

Sworn to before me this ____ day of _____, 20____.

Notary Public