

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY COMMISSION

REQUEST FOR ADVISORY OPINION # A-08-03

SUBJECT: CODE OF ETHICS § 3-1 CONFLICTS OF INTERESTS AND PARTICIPATION OF EMPLOYEES

By request dated February 12, 2008, an employee of the Washington Suburban Sanitary Commission (WSSC) has asked that the Board of Ethics issue an advisory opinion regarding the employment of a family member with a WSSC Contractor. The Requestor works in WSSC's Engineering and Construction Team. The Requestor's college age son would like to apply to work as a part-time "plan runner" with an architecture and engineering firm that currently does business with WSSC.

Section 3-3 of the WSSC Code of Ethics (Code), titled "Restrictions on Other Employment and Financial Interests" does not prohibit family members of employees from holding jobs with companies that do business with WSSC. However, Section 3-1 of the Code does prohibit a WSSC employee from participating in matters involving contractors who employ relatives of WSSC employees. Specifically, § 3-1 states that an employee may not participate in a matter (except to exercise a "purely administrative or ministerial duty") if a business entity that employs a "qualifying relative" is a party to that matter. *See* § 3-1(a)(2). In addition, an employee may likewise not participate in a matter if a business entity to which a qualifying relative has applied for employment is a party to the matter. *See* § 3-1(a)(3). A child is considered a "qualifying relative" under the Code.

The Requestor has "on occasion" reviewed designs and plans submitted by this contractor and has also "on occasion" served as an advisor to the WSSC Project Manager for this contract on various technical matters. All of these tasks, in our opinion, go beyond mere "administrative" or "ministerial" duties and therefore constitute "participation" as defined in the Code. Therefore, during any periods that Requestor's son is applying for employment, negotiating employment, or holding employment with a WSSC contractor, Requestor may not, pursuant to Code Sections 3-1(a)(2) and (a)(3), review plans submitted by the contractor, advise the WSSC Project Manager on any matters pertaining to the contract, or otherwise "participate" in any matter involving this contractor.

Section 3-1(c) of the Code does permit the Board to issue a waiver which would allow the Requestor to continue to participate in WSSC matters involving this contractor. However, a waiver is not appropriate given the facts and circumstances that Requestor has presented. The Requestor works within the Engineering and Construction Team, which oversees the contractor with whom Requestor's son is seeking employment. In addition, Requestor has had specific involvement in work submitted to WSSC by this contractor.

As stated above, the Code does not prohibit Requestor's son from seeking employment from a WSSC contractor. However, for any time periods during which Requestor's son is either seeking employment or working at the architecture and engineering firm that does business with WSSC, Requestor may not participate in any WSSC matter involving this contractor.

On motion by Steve Hausman, seconded by Bill Walton, the Board agreed at its meeting held on March 13, 2008 to adopt the foregoing advisory opinion.



Charles Kuderna, Chair

3-26-2008

Date