

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY COMMISSION

ADVISORY OPINION # A-14-01

SUBJECT: CODE OF ETHICS § 3-1, RESTRICTIONS ON PARTICIPATION OF EMPLOYEES

By request received February 3, 2014, an Employee of the Washington Suburban Sanitary Commission (WSSC) (Requestor) asked the Board of Ethics to issue an advisory opinion regarding his participation on WSSC matters involving a firm that employs his brother.

As the Development Unit Coordinator, Requestor serves as a WSSC Principal Engineer for WSSC's Development Services Group (DSG), overseeing the review and approval of water/sewer mainline extensions and site utility project plans (onsite) as well as hydraulic planning of new water and sewer extensions. Requestor is involved in the quality assurance review and approval of all Home Extension System Permits (SEP) plans and the quality assurance review of all Site Utility plans. Requestor co-signs the SEP plans with the DSG Project Manager for approval, and the DSG Project Manager solely signs the SEP permits. The Requestor does not sign Site Utility plans for approval, nor does Requestor sign the Site Utility Permits.

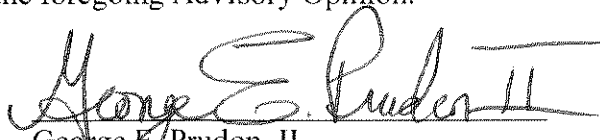
The Requestor's brother, a qualifying relative pursuant to the Code of Ethics (Code) § 1-3(s), is also a Principal Engineer and serves as the Vice President and General Manager of an engineering firm that prepares and submits water and sewer designs for review, approval and permitting to the DSG on behalf of private developers in the WSSC District (WSSD).

Section 3-1(a) of the Code generally restricts an employee from participating "in any matter, except to exercise a purely administrative or ministerial duty which does not affect the disposition or decision concerning that matter, if the employee or a qualifying relative has an interest in the matter, or the employee creates the appearance that he or she has an interest in the matter." Code § 3-1(a)(2) specifically restricts an employee from participating in any WSSC matter if a "business entity with which either the employee or a qualifying relative (if known to the employee) is an officer, director, trustee, or employee."

Since the Requestor oversees the Development Unit's functions, and as a result, oversees the review and approval of water/sewer mainline extensions and site utility project plans (onsite) as well as hydraulic planning of new water and sewer extensions, Requestor's job duties go beyond mere "administrative" or "ministerial" duties, and therefore, constitute participation as defined in the Code. Requestor's brother is not only an employee of the business entity, he is also an officer and director. Therefore, Requestor is in a position to review and approve (or reject) water and sewer plans submitted by his brother's firm that are signed by the firm's employees, representatives or agents including his brother.

In conclusion, based on the facts presented, the Board holds that Code §§ 3-1(a) and 3-1(a)(2) prohibit Requestor from participating in any matters involving the business entity that employs Requestor's brother. Requestor shall recuse himself from participation in any WSSC matter involving the business entity. The Board advises that a detailed recusal letter be signed by the Requestor and submitted to Requestor's Manager. To ensure compliance, the Requestor shall fully abide by the Code, including but not limited to Code § 3-1. Should circumstances change or additional concerns arise, Requestor must seek further guidance from the Board.

On motion by Steven Hausman, seconded by Robert Moore, the Board agreed at its meeting held on April 10, 2014 to adopt the foregoing Advisory Opinion.


George E. Pruden, II
Chair

4/28/14
Date