

BOARD OF ETHICS
WASHINGTON SUBURBAN SANITARY COMMISSION

ADVISORY OPINION # A-10-02

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

By request dated January 5, 2010, a WSSC Group Leader (the Requestor) has requested that the Board of Ethics (Board) issue an advisory opinion regarding the application of § 3-1(a)(2) of the Code of Ethics (Code) to an Employee in her Group (Employee). At the Board's request, the Requestor and the Employee attended the February 25, 2010 Board of Ethics meeting so that the Board could gather further information to aid in the drafting of this opinion.

The Employee currently holds the position of Senior Plumbing Inspector. The Employee's duties include performing plumbing inspections, supervising plumbing inspection staff, performing System Development Charge (SDC) inspections and audits, and issuing Notices of Violations and Civil Citations when WSSC Plumbing and Gasfitting Code violations occur. The Employee's adult son is a licensed Journeyman Plumber and a member of a local plumber's union. Companies often hire union plumbers to work on specific jobs. According to the Employee, when his son is hired by a company for a specific job, he becomes an employee of the company for the duration of the job. Recently, Employee's son has mostly worked in Washington D.C. and Virginia, however, he has had occasional jobs within the Washington Suburban Sanitary District (WSSD).

Section 3-1(a)(2) of the Code prohibits an employee from participating in any WSSC matter if one of the other parties to that matter is "a business entity with which either the employee or a qualifying relative is an officer, director, trustee, or employee." Per the definition set forth in the Code, "qualifying relative" includes a child of any age.

Per Code § 3-1(a)(2), the Employee is prohibited from inspecting or otherwise participating in any matter involving his son's employer. The difficulty here is that Employee's son may have several employers within a relatively short period of time. Requestor, therefore, seeks guidance from the Board as to how best to track and manage this information so as to ensure that the Employee is not assigned to inspect or otherwise participate in a matter involving a company for which his son is temporarily employed.

The Board recognizes that due to the nature of the son's work, this situation is impossible for the Requestor to manage without the assistance of the Employee. Per the Board's discussion with the Employee at the February 25, 2010 Board meeting, Employee is willing to communicate the name of the company for which his son is working and is also willing to update Requestor when his son switches employers. Therefore, the Board advises that Requestor establish a form or other means by which

Employee can update Requestor as to name of son's employer. The Board further advises that Requestor establish a system by which Employee may receive routine reminders to update this information. Upon notification from the Employee, Requestor can then establish the steps necessary to ensure that the Employee is not assigned to inspect or otherwise participate in any matter involving that company for the duration of the son's employment with that company.

Employee is reminded that if, despite these steps, Employee is ever inadvertently assigned to participate in any inspection, SDC audit, code violation proceeding, or any other matter involving his son's employer, Code § 3-1(a)(2) requires that he refuse to participate in the matter.

Finally, should additional questions regarding this situation arise, Requestor and/or Employee are encouraged to seek further guidance from the Board.

On Motion by George Pruden II, seconded by Robert Moore, the Board agreed at its meeting held on April 8, 2010 to adopt the foregoing advisory opinion.



Steven J. Hausman, Chair

4/8/2010

Date