



# TOWN OF SOUTHBURY

ETHICS COMMISSION  
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## **Advisory Opinion Case No. 13-003a**

The First Selectman has asked the Ethics Commission for an advisory opinion involving his pending re-election campaign and the Town's public communications coordinator (hereinafter, referred to as "Employee"). As the facts have been presented, the Employee is presently employed by the Town as a civil servant and reports directly to the First Selectman. The Employee had worked on the First Selectman's election campaign two years ago as a volunteer, was thereafter employed by the Town to perform work similar to the volunteer work performed for the campaign, and has volunteered to work on the First Selectman's re-election campaign this year while remaining in his/her present job position with the Town. The Employee's primary job responsibility for the Town is to coordinate public communications via email, website and social media. In this role he/she takes photos and creates videos, some of which are posted on the Town's website and Face-Book page. His/her role for the political campaign would be to take photos and create videos of campaign related events to advocate for the re-election of the First Selectman. The Employee would not use Town resources or equipment while working for the re-election campaign. However, he/she would use materials posted on the Town website for the campaign, including photos and videos he/she had created for the Town during the course and within the scope of his/her employment. The question is: would the Employee's work on the re-election campaign, by its very nature under the circumstances just described, constitute a violation of the Town's Code of Ethics?

By definition, under the existing Code of Ethics a "direct conflict of interest" exists if any Town employee has a financial or personal interest in any decision involving his/her employment, and an "indirect conflict of interest" exists where an employee might influence a decision or event so as to achieve gain on behalf of a friend or associate or create an actual or perceived monetary or personal indebtedness to any party. Any such conflict of interest is "material" where a reasonable person would conclude that the financial or personal interest would tend to impair or would to a reasonable person appear to impair one's independence of judgment and action in the performance of official duties. (*See, Town of Southbury Code of Ethics/Conflict of Interest Ordinance, Section B, subsections 1 and 4, respectively.*)

In the Commission's opinion, the Employee would have a material conflict of interest (both direct and indirect) as defined by the Code if he/she were to take photos and create videos for the purpose of the political campaign, even as a

Volunteer on his/her own time using his/her own equipment. This conflict is largely a result of the combination of circumstances that exist in this case:

- a. The Employee's core employment and volunteer duties overlap considerably;
- b. The work product the Employee produces for the Town within the scope of and during the course of his/her employment (photos and videos) could be readily used to serve the interests of the political campaign;
- c. The Employee has discretion during the course of his/her employment over the selection of photo shoots for the Town and placement on its website; and
- d. The beneficiary of the Employee's volunteer activities is his/her immediate supervisor who has direct influence over the Employee's employment career, compensation and working conditions.

Despite what may be the Employee's and First Selectman's best intentions and practices to avoid an actual conflict of interest, an apparent if not actual conflict of interest would remain.

For the reasons discussed above, the Commission's opinion based on the facts of this case as presented is that the proposed volunteer work would violate the Town's Code of Ethics.

By,  
The Ethics Commission for the Town of Southbury

  
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Date August 2, 2013

Roseann G. Padula, Chairperson