

**ERIE COUNTY BOARD OF ETHICS**  
**95 Franklin Street, Room 604**  
**Buffalo, New York 14224**

**David C. Mineo**  
**Chairman**

August 7, 2013

On August 5, 2010 the Erie County Comptroller issued to the Erie County Legislature "A Review of the Erie County Board of Ethics for the period January 1, 2007- December 31, 2009". The review listed a summary of findings and also presented eight recommendations.

The Erie County Board of Ethics would like to present to the Erie County Legislature, Comptroller and County Executive a response to each of the findings and also comment on the eight recommendations directed to Board.

**Listed below are the review Summary of Findings followed by our response;**

- *The Board is presently comprised of one (1) member.*

The Board has had a full complement of five members appointed by the County Executive and approved by the Legislature, one ex-officio member from the Department of Law and support staff from the Erie County Department of Personnel. One board member is waiting for reappointment.

- *The Board has no written by-laws, policies, procedures, manuals or formal guidelines.*

The Board adopted by-laws, policies, procedures and guidelines on February 7, 2011. A copy is available at our web site which is found at [www2.erie.gov/ethics/](http://www2.erie.gov/ethics/)

- *Board members believe the Board does not have the authority to investigate the data disclosed in Ethics Disclosure Forms.*

The Board has actively investigated information disclosed on the Ethics Disclosure Forms by follow-up communication with employees, other board appointees and elected officials, resulting in hearings, referrals to the District Attorney and actions in Small Claims Court.

- *Not all Ethics Disclosure Forms were returned for 2007, 2008 or 2009 by required individuals.*

All required Ethics Disclosure Forms have been returned for 2010 and 2011.

- *The Board has incomplete minutes for the years 2007 and 2009 and no minutes for 2008.*

There are complete minutes of every meeting for the years 2010, 2011, 2012 and 2013. The minutes are available at our web site.

- *County employees are not disclosing to the Clerk of the Legislature their interests in County contracts, as required under the Code.*

This is beyond the scope of the Board of Ethics.

- *The Board did not exercise its authority to fine those who did not comply with the Code of Ethics or General Municipal Law for the period of our review.*

Fines have been levied in 2010 and 2011 for non-compliance. Some fines were waived when forms were submitted. Small Claims Court would not allow the collection of fines for employees or board appointees not currently employed by the County or serving on Boards.

- *The Board reviewed only a small sample of all the Ethics Disclosure Forms for 2007, 2008 or 2009.*

The Board reviewed all forms submitted for 2010 and 2011.

- *For those forms the Board reviewed, there are no formal criteria on what was examined.*

All forms submitted in 2011 and 2012 (disclosure periods 2010 and 2011) have been reviewed for completeness and potential conflicts of interest. We developed a review checklist for use when reviewing the disclosure forms. The focus is for completeness of the form and a review of specific items. The Board has contacted individuals directly, when necessary, for clarification and additional information.

- *The Board has discovered no apparent ethics violations for 2007, 2008 or 2009.*

For ethics violations identified in 2010 and 2011, we have advised those individuals in writing and have also notified the District Attorney.

- *There is no mechanism for persons to report conflicts of interest to the Board of Ethics.*

The Board of Ethics has established a website and an email address for the public to report conflicts of interest. Meeting dates are on the first Monday of each month and also are listed on the website.

- *Ethics Disclosure Forms are not being returned timely.*

By the May 15<sup>th</sup> due date, historically fewer than 4% of the required submissions are outstanding. The majority of the delinquent forms are from members of county boards. By making calls to department heads and sending reminder letters, compliance reaches 100% each year.

- *Copies of the Code of Ethics are not being provided by the County Executive's administration to newly-hired County employees, as per the Code.*

This is beyond the scope of the Board of Ethics. We suggest that members of county boards, prior to their appointment and approval, be provided a copy of the Code of Ethics and told of the annual requirement to submit the financial disclosure form. The Code of Ethics can be found on our website.

- *There are inconsistencies between County departments determining which positions are required to file annual Ethics Disclosure Forms.*

Department Heads are advised in writing what the law is regarding who should be required to file. The Chair continues to confer with Department Heads and answers all inquiries regarding who should be required to submit disclosure forms.

- *Some candidates for County elective office are not filing Disclosure Forms.*

We obtain a list of candidates from the Board of Elections and mail disclosure forms to candidates. Since 2010 all candidates have filed Disclosure Forms.

- *The instructions for the Ethics Disclosure Form are not being followed.*

Each year we look at the format for the disclosure form and have made changes to make the form easier to read and understand. Revisions in some of the instructions and form, and audits asking for additional information have resulted in a higher rate of compliance.

- *The Board did not issue any "Advisory Opinions" for the period of our review, nor do we have any evidence that any were requested.*

The Board has issued advisory opinions as requested by Erie County employees, board members and department heads.

• *For those employees who are required to complete and file an Ethics Disclosure Form, there is no evidence that they are being notified they must complete the Form within ten (10) days of being hired.*

This is beyond the scope of the Board of Ethics. We suggest that appointed Board Members, prior to taking office, be provided with copies of the Code of Ethics and told of the requirement for annually filing the financial disclosure form.

• *The Board has properly abided by the law requiring that no more than three members of the Board be from the same political party.*

The Board is still in compliance.

**Listed below are the review Recommendations directed to the Board followed by our response;**

- 1) That the County Executive submit names of qualified candidates to the County Legislature for consideration to serve on the Board, and the Legislature act expeditiously to either confirm or reject these appointments.

REPLY: This is not a responsibility of the Board. We have a full board and should an opening exist, we will contact the County Executive to ask that a new member be appointed or an existing member is re-appointed. We are currently waiting for one current board member to be reappointed.

- 2) That the Erie County Legislature revise the Code to expressly grant the powers noted above, powers that presently exist but are more implicit in nature.

REPLY: A complete reading of the review indicates this recommendation was made to make the Board's authority clear and less implicit in nature. The Board is fully aware of our authority and powers granted by Local Law 10-1989. Should the Legislature want to revise the Code, the Board will fully cooperate if requested.

- 3) That the Board be provided additional staff assistance that, at a minimum, be trained in the use of the County's SAP system and the Erie County Legislature, with the cooperation of the County Executive, consider authorizing a staff, even if only one person part-time, for the use of the Board. Allocation of such a resource would send a strong message that Erie County takes the Board of Ethics and conflicts of interest seriously.

REPLY: If the County authorizes additional staff, the Board will be able to cross reference County contracts with employees, board members and elected officials to identify conflicts of interest that were not disclosed.

- 4) That the Board, the Legislature and the Administration do more to publicize the powers and duties of the Board, as well as responsibilities under the Code of Ethics for those so covered. Audit suggests an annual insert in one of the Administration's many Employee Newsletters as a start. The County's ability to print notices on County paystubs may be another vehicle. Space should also be provided on the Erie County website.

REPLY: The Board publicizes the powers, duties and activities through the web site. The additional above recommendations directed to the Legislature and Administration would also be helpful.

- 5) That the Board, with the assistance of the Department of Personnel and Law institute some type of ethics training for Erie County employees. The City of Buffalo has held such a training session and we believe Erie County could benefit from such training as well.

REPLY: It is not a duty of the Board to institute training. This may well be a task for the Department of Personnel and/or Department of Law. The Board is willing to cooperate with any presentations.

- 6) That the Board review all the forms submitted.

REPLY: since 2010 the Board reviews every form submitted.

- 7) That the Board establish rules and procedures as per the Local Law as well as establish by-laws and other rules of procedure for the operation of its regular business.

REPLY: The Board adopted by-laws, policies, procedures and guidelines on February 7, 2011.

- 8) That the law be amended to include only those employees (or relatives of those employees) who have an ownership interest in a county vendor, or are on the board of directors of a vendor, or are otherwise a corporate officer of a vendor as those who would need to file with the Clerk of the Legislature.

REPLY: This recommendation is outside of the Board's authority. Additionally, the Board disagrees with the recommendation since it would miss other conflicts of interest including the improper acceptance of gifts.