

ERIE COUNTY BOARD OF ETHICS

95 Franklin St. 6th Floor Buffalo NY 14202,

Chris G. Trapp, Chair

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Annual Report of Activities for 2024

Executive Summary: The Erie County Board of Ethics provides an Annual Report of Activities to the Erie County Legislature and County Executive. The report identifies the legislative authority, powers and duties of the Board, membership and frequency of meetings.

The Board received complaints about alleged ethical violations, requests for disclosure under FOIL and requests for opinions or actions. These included requests to investigate the conduct of elected officials, the right of individuals to hold elective offices as well as being employed by the County, as well as some issues outside the jurisdiction of the Board.

The Board also was asked for or provided opinions on potential conflicts of interest of current or future employees. The Board answered questions concerning completing the Annual Financial Disclosure Form. Board also received and reviewed all Annual Financial Disclosure Forms. The Board contacted filers with incomplete forms and sought additional information to clarify initial submissions. The Board also sent follow-up letters to specific individuals identifying potential conflicts of interest.

The 2024 Financial Disclosure Forms (for calendar year 2024) included edits and explanations to clarify information requested and reduce errors and the need for follow-ups.

<http://www2.erie.gov/ethics/sites/www2.erie.gov.ethics/files/uploads/Financial-Disclosure-Form.pdf>

The Erie County Board of Ethics is an independent administrative unit of Erie County. The Board's powers and duties are derived from the updated Code of Ethics County Law (2-2018) and New York State Municipal Law Article 18. Section 10 (d) of the Code provides that "the Board shall be the repository for completed annual statements of financial disclosure required by this local law." Erie County employees who are elected officials or in policy-making positions or able to make County policy are required to complete an Annual Statement of Financial Disclosure for the County of Erie by May 15. Those who must file also include members of administrative boards, chairs of county political parties, and candidates for elective offices. The Board of Elections was again notified of this need.

The Erie County Board of Ethics was established and exists pursuant to the provisions of Article 19 of the Erie County Code, as amended. The Board is charged with enforcing and implementing the provisions of the Erie County Code of the Ethics, Local Law No. 2-2018 (hereafter 'Code') pursuant to operating procedures that govern the Board. The Board shall have the power and duty to:

- A. Initiate and receive complaints of violations of any of the provisions of the Code;
- B. Conduct investigations, inquiries and hearings concerning any matter covered by the Code;
- C. Subpoena persons or documents and, by a majority vote, issue subpoenas to the fullest extent authorized by law;
- D. Determine whether to investigate and whether to act upon any particular complaint;
- E. Request the assistance of other appropriate agencies in conducting investigations;
- F. Consult with County agencies, officials and employees on matters involving ethical conduct which are specific to the County of Erie Board of Ethics;
- G. Recommend such legislative action as it may deem appropriate to effectuate the policies within the Code;

- H. Promulgate rules and regulations for the conduct of Board of Ethics activities, including procedural rules consistent with the requirements of due process of law;
- I. Prescribe forms for the disclosure and registration of information as provided in the Code;
- J. Render advisory opinions with respect to the provisions of the Code;
- K. Advise any individual whose acts are the subject of a complaint to the board and consult with such individual early in the process;
- L. Accept and consider complaints of violations of the Code, and offer recommendations with respect to remedies for violation of that chapter; and
- M. Provide an annual report to the Erie County Legislature and the County Executive with respect to the actions of the Ethics Board during the preceding calendar year.

For 2023, the following served as members or staff of the Board:

Chris Trapp, Chair (Term 12/31/2025)
 Brian Downey, Vice Chair (until his untimely passing in November, 2024)
 Heather Gresham (Term 12/31/2024) - resigned
 Ellen Kennedy (Term 12/31/2028)
 Taunya Abaya (Term 12/31/2027)
 Anne Joynt (replaced Gresham with Term 12/31/2028)
 Aaron Rubin, Counsel, Department of Law
 Barbara A. Piazza, Chief Ethics Officer, Department of Personnel

The Board met nine times during 2023. All meetings were posted with the Ethics Board Minutes as well on the Board's website. The following were significant issues dealt with by the Board during 2023:

1. Recommendations to the Legislature:

- a. **The Board again recommends that the Legislature amend the Code of Ethics to include issues of nepotism. Model language is included from the 2014, City of Lockport Code of Ethics that added the following: § 18-15 Nepotism. Except as otherwise required by law: A. Effective *****, no municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board. Effective *****, no municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.** This request has been outstanding for years without resolution by the County.
- b. **The Board again recommends that, at the time of appointment or election, elected officials, affected employees and board members should be notified of the requirement to file Annual Financial Disclosures with the Board for the year they are elected or appointed.**
- c. The law requires that candidates for County offices are required to file timely Financial Disclosure with the Board of Ethics. The Board of Ethics is required to request a list of candidates for elected office from the Board of Elections. **The Board again recommends that the Legislature clarify which agency is required to notify candidates of the filing requirement.** This Board has notified the Board of Elections with respect to this requirement.
- d. **The Board again requests that electronic signatures on Financial Disclosures be allowed to facilitate electronic submission of the form, thus reducing time, storage issues, and costs.**

e. The Board recommends that the definition of “relative” and “spouse” be considered for modification.

2. Communications: The Erie County Board of Ethics website <http://www2.erie.gov/ethics/> and email erieethicsboard@gmail.com continued to be updated to improve public communication directly to and from the Board. The Chief Ethics Officer coordinates Website updates, including meeting schedules, reports, agenda, minutes, updated Rules and Regulations and the current Financial Disclosure Form. When possible, drafts of monthly minutes are posted two weeks following meetings. Email requests are forwarded to the Chair who responds between meetings, when practicable. A new Website was formatted on April, 2021: <https://www3.erie.gov/ethics/>
 - a. Website updated with 2024 meeting minutes, future meeting dates in 2025, draft agenda and updated Annual Report, Rules & Regulations, Financial Disclosure Forms, and Ethics Awareness Day activities and materials including an on- line ethics educational program . A link to meeting recordings by Legislature staff is established on the Board website (<http://www2.erie.gov/legislature/index.php?q=erie-county-board-ethics>).
 - b. Communications were received requesting advice on completion of the Disclosure Form. There were also complaints about alleged ethical violations, requests for copies of disclosures under FOIL and requests for opinions or actions.
 - c. The Annual Report of Activities for 2023 was submitted in October 2024 to the Legislature and County Executive
<http://www2.erie.gov/ethics/sites/www2.erie.gov.ethics/files/uploads/2016%20Annual%20Report%20Board%20of%20Ethics%20PDF.pdf> .
 - d. FOIL requests for Financial Disclosure Forms were received and answered. Requests were primarily disclosures of elected officials and candidates for elective offices. All those whose Financial Disclosures were released under FOIL are required to receive notice when their information is disclosed. Many FOIL requests that asked for electronic copies of Financial Disclosures were unable to be honored, because many forms are submitted by hard copy and original signatures. Some information related to minors is redacted. The Board may reconsider these requests for electronic copies as more forms are submitted electronically. No fees were waived for production of copies.
 - e. The Board examined the question of what constitutes a “relative” and “spouse” as those terms are defined by the Code.
 - f. If a FOIL request is made in the future, the Board will identify the person making the request and what documents are being requested. We will also send a copy of the Board’s response to the subject of the complaint. If the request is for a history of complaints, both the cover letter and the information request will include the disclaimer that a complaint is not evidence of an ethics violation. We will redact phone numbers from any documents provided. Our minutes will identify the complainant and the subject of the complaint.
 - g. The Board also received links to copies of the Legislature Submissions Pursuant to Erie County Code of Ethics, Disclosure of Family Members Employed by any governmental agencies.
 - h. The Board welcomed the addition of a Chief Ethics Officer position to manage executive functions such as answering inquiries, following up disclosures, working with departments and Boards and outlining and writing investigations for the Board. Additionally, The Chief Executive Officer:

1. presented a brief overview of the Erie County Code of Ethics and the role of the Board of Ethics at bimonthly (or monthly depending on demand) new employee orientation training.
2. created an online ethics education program for Erie County employees which is posted on the Erie County Board of Ethics website and will be included in a series of online training sessions that employees will be required to complete annually.
3. established an Ethics Awareness Day, to be celebrated annually, which included the opportunity for employees to both view films which addressed ethical dilemmas at the Erie County Central Public Library and review materials which addressed personal and professional ethics, including the Erie County Code of Ethics, and lists of fiction and non-fiction books and movies with ethical themes, on the Board of Ethics website.
4. presented a brief overview of the Board of Ethics training initiative to Erie County Commissioners, Supervisors and Heads of Department and upon request gave an ethics presentation together with Assistant County Attorney, Aaron Rubin, to the Erie Department of Social services.

The responsibilities of the Board have expanded in the years since the revision of the Local Law. Members of the volunteer Board do not have, nor can they be expected to spend, the time required to manage these expanded duties in the timely manner. All but one of the Board members is employed in a full-time capacity in positions outside of County government.

3. Complaints and requests for investigations:

- a. A question arose with regard to the payment of hotels and meals during training sessions by a third party vendor. It was determined that the participants in the program were not decision makers with respect to the vendor's product.
- b. Ethics Awareness Day was celebrated in the County with presentations by the Chief Ethics Officer.
- c. An issue was raised with respect to an allegation of a hostile work environment and the limits of the Ethics Board with regard to any investigation. The matter was referred to the appropriate Department Head.
- d. A question about moonlighting in a particular County position and it was determined that it was a personnel decision for the particular office and not an ethical issue based upon the information provided.
- e. An issue arose with respect to certain financial information and actions involving an elected official and it was determined that no documents existed with the Board of Ethics that would be responsive to the demand.
- f. There was a lengthy discussion about County personnel and Legislators attending sporting events which they used to include on their annual financial disclosure statements which have no longer been disclosed. The reference to "related to duties" was discussed both in terms of the tickets and transportation. The issue arose as part of the initial presentation for the ethics training to be undertaken.
- g. It was determined that the Citizen Salary Review Committee should be filing financial disclosure statements.

- h. There was discussion on how long financial disclosure statements should be retained and determined to be seven years.
 - i. If financial disclosure statements are sought with respect to a particular individual, they will be notified electronically,
 - j. and the CEO will prepare a protocol for such situations.
 - k. The Boards of Sewer Managers complained about email notices for Financial Disclosure statement completion because some individuals had not been notified.
 - l. A citizen complained about the timing of the filing of the agendas and minutes and the CEO was directed to work with the Personnel Department and IT to place the materials on the website in a more timely manner.
 - m. A former Legislator raised issues with regard to the Stadium Task Force which was reviewed by counsel.
 - n. The Chief Ethics Officer in concert with the County Attorney's Office presented a PowerPoint program for County employees on ethics for training purposes.
 - o. Some complaints and requests for investigations were outside the authority of the Board of Ethics. All complainants were given information on other venues available to pursue their complaints.
 - p. A request was made to review the definition of spouse and relative with respect to the Code.
 - q. The Board provides continued advice to county department on various issues.
4. Financial Disclosures – Letters were sent to department heads in February 2024 requesting lists of employees and board members required to file 2023 Financial Disclosures.
- a. Only minor updates to the 2023 Financial Disclosure Form were made to the form for purposes of clarification and to reduce errors. All forms must be hand signed. The Board reviewed the current barriers to use of electronic signatures on the forms (See recommendations to the Legislature above.). Scanned forms would be sent to a secure email address and faxed forms would be sent to a secure line.
 - b. Departments and Boards submitted lists of those required to file disclosures for 2023. The Board of Elections also provided names of possible candidates for elective offices as required by Ethics Law 2018 section 4c.
 - c. Financial Disclosure Forms were printed and distributed by mail or by personal service in April 2024, as required by law.
 - d. All of the required financial disclosures were received after sending delinquent letters to less than a dozen filers, imposing a penalty of \$2000 which could be waived upon receipt of their Financial Disclosures. All penalties were waived after timely submissions.
 - e. The Board as a whole reviewed all 325 of the individual disclosure forms for completeness and possible ethical violations.
 - f. Few disclosures required follow-up contacts by Chair or the Support Staff, as authorized by the Board. Follow-up communications were routinely required in instance of missed questions, missed pages, unclear abbreviations and unclear descriptions of membership on Boards. The Chair sent two letters cautioning against potential conflicts of interest. These two letters to elected officials or Board members cautioned them about avoiding conflicts of interest and informing them about any necessary recusals and requirements to report these potential conflicts to the Clerk of Legislature and the County Attorney. (The Board utilizes templates to request additional information, to warn of potential conflicts of interest, or to notify individuals that they had violated county law by accepting gifts in excess of allowable amounts. Copies are also sent to the department heads and the District Attorney, when appropriate.)
 - g. After all reviews, the Board noted ways to reduce errors and increase accuracy and made recommendations for improvement to the Financial Disclosure Form for the following year.

- h. The Financial Disclosure Form is in pre-fillable format on the website but still requires actual signatures. **In the future, the Board request that the county create an online Form able to accept an electronic signature. An electronic submission (fillable PDF) with proper signature provisions would substantially reduce paperwork, storage, and printing costs.**

<http://www2.erie.gov/ethics/sites/www2.erie.gov.ethics/files/uploads/Financial-Disclosure-Form.pdf>

5. Erie County Board of Ethics Rules & Regulations

- a. The Board maintained the policy on confidentiality of identities of complainants, subjects of complaints and results of investigations as effected by public information (i.e., news). Where parties to a complaint or request for investigation have disclosed their role in the matter in public (i.e. public meetings or in public media) the Board may also chose to discloses the names and issues at Board meetings which it determined to do.

“Section 6.13 Policy of Confidentiality

Investigations and consideration by the Board of potential violations of the Ethics Code shall be conducted confidentially and shall not be disclosed to the public, except as necessary to carry out the powers and duties of the Board. The final determination of the Board on an Investigation shall be made available to the public with such deletions as may be necessary to prevent disclosures of any information the Board determines to be confidential, in accordance with the Freedom of Information Act, as amended.” Ethics Board Policy and Procedures.

6. Other Issues:

- a. Since 2019 the Erie County Personnel Department requires completion of an Annual Erie County Code of Ethics Employee Disclosure Forms for all employees. The Personnel Department sends employees this financial disclosure for those not required to file the Annual Form from the Board of Ethics. This has created some confusion. **Although this is not within the purview of the Board, the Board of Ethics continues to recommend that these completed disclosure forms be reviewed by Departments before filing in personnel folders.**
- b. **The Board of Ethics lost a valuable member prematurely due to his passing in November during surgery. We remember the work, wit, and wisdom of Brian Downey in this annual report.**