

MEMORANDUM FROM THE

ULSTER COUNTY OFFICE OF THE COMPTROLLER

March S. Gallagher, Esq.
Comptroller



Alicia DeMarco, CPA
Deputy Comptroller

MEMORANDUM

TO: Charter Review Commission Chair Kathleen Mihm
Charter Review Commission Members

FROM: Comptroller March Gallagher

RE: Ulster County Charter Revision Comptroller Office Vacancy

DATE: November 10, 2022

Per your recent discussion regarding succession planning for elected officials generally within Ulster County and specifically as it pertains to both the elected Comptroller and Executive of the County, my office would like to offer the following additional information for your consideration.

Based on the current language, in the event of a vacancy, the County could see as many as four Comptrollers in a less than 12-month period. Given that half the staff (4/8) changes with a change in leadership, this causes significant uncertainty in the office affecting both employee morale and office productivity in the case of recent vacancies. The result of the filling of the vacancy in 2019 was the complete stop of work product for the majority of 2019 which is a detriment to the taxpayer.

Published Audits, Reports & Memos		
Year	Comptroller	Publications
2017	Auerbach	14
2018	Auerbach	14
2019	Auerbach, Gallo, Reiter	8
2020	Gallagher	21
2021	Gallagher	25
2022 YTD	Gallagher	20

In addition to work product concerns, the appointment of a Comptroller by an outside office or body results in a threat to independence. In Ulster County, our Charter created the independent office of an elected Comptroller. The Comptroller is independent of both the Legislature and the Executive. This allows the Office to perform work that may not be politically palatable but serves the taxpayers. In 2019, the vacancy was filled by a member of the former Executive staff which was a threat to independence as defined by the Government Auditing Standards known as Yellowbook:

Application Guidance: General

3.21 Independence comprises the following:

- a. **Independence of mind:** The state of mind that permits the conduct of an engagement without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional skepticism.
- b. **Independence in appearance:** The absence of circumstances that would cause a reasonable and informed third party to reasonably conclude that the integrity, objectivity, or professional skepticism of an audit organization or member of the engagement team had been compromised.

In advance of the 2019 interim appointment, professional organizations issued opinions that the appointment of former executive staff to the position of Comptroller created a problem of independence.

Also, per your request, we looked for examples of succession plans for other elected Comptrollers across the state. We recommend that the Charter Revision Commission consider the model used in the City of New York. Appointments by either the Legislature or the Executive can create a threat to independence. We were not able to find examples of the use of any of these provisions as apparently a vacancy in the office is very rare.

- Albany County- appointment by the Legislature
- Dutchess County – appointment by the Executive with confirmation by the Legislature
- Erie Comptroller -- appointment by the Legislature but must be same political affiliation of outgoing Comptroller
- Nassau County – appointment by the Executive with confirmation by the Legislature
- Onondaga County– appointment by the Executive with confirmation by the Legislature
- Suffolk County- appointment by the Executive with confirmation by the Legislature
- City of New York- automatically filled by the first deputy

Any vacancy in the office of comptroller shall be filled by popular election, in the manner set forth in this subdivision. In the event of a vacancy in the office of comptroller until an interim or permanent successor is first elected, or whenever by reason of sickness, absence from the city or suspension from office, the comptroller shall be prevented from attending to the duties of the office, or while the comptroller is acting as mayor, the

first deputy comptroller or in the case of his or her illness or absence the second deputy comptroller or in the case of his or her illness or absence the third deputy comptroller shall act as comptroller.

New York City's policy mimics our recommendation for the succession plan as it pertains to the vacancy for the Comptroller in Ulster County as it allows the County sufficient time to fill the vacancy without concerns for independence or political tension for the period leading up to the selection of a new candidate. It also allows for the proper democratic process and does not impede the productivity of the office by allowing for continuity in staffing. We appreciate that getting an elected comptroller in the position as soon as possible is the ideal for the taxpayer.