



Office of The Ulster County Comptroller

Ethically Ulster

August 22, 2016

Introduction:

Search the words “ethics reform,” and New York State will appear on or near the top of the list. A recent Monmouth University poll stated that “[w]hen it comes to political corruption, it seems the entire country is in a New York state of mind.”¹ According to that same study, New York was voted the most unethical state in the public eye. With the recent arrests of former Assembly Speaker Sheldon Silver and ex-Senate Majority Leader Dean Skelos, it is hard to refute this public opinion. Nearly 40 New York State lawmakers have faced ethical or legal charges since 2000.²

Ulster County (“Ulster” or “County”) government appears to have taken a proactive approach to ethics oversight, including the establishment of a Board of Ethics (“Board”) and adoption of several laws and procedures aimed at maintaining public integrity for its employees and elected officials. The Board consists of five members who are selected by the County Executive and approved by the County Legislature, and no more than two members can be of the same political party. The Board is required to meet at least two times a year and serves without compensation. Prior to the adoption of the Ulster County

Charter and implementation of an Executive form of government, members of the Board were bipartisan appointments and could be removed by a majority vote of the County Legislature. Presently, the County Executive has sole discretion in their removal.

The Board has the authority to provide advisory opinions regarding County employees, handle complaints from the general public, and hold hearings if they deem an allegation to have merit. Additional information on Ulster County’s Board of Ethics can be found by reviewing Ulster County’s Ethics and Disclosure Law.³

As of May of 2016, the Board of Ethics consisted of the following members: David Massimi (Chair), Derek Spada, Clayton Van Kleeck, Alan Lomita, and Marjorie Revereto.

Scope and Methodology of Review:

For this report, we reviewed ethics legislation in counties that were either close geographically or in governmental structure (i.e. containing legislators, executives, and/or having a comptroller, etc.).

Finding A: There should be a cap limit on the amount of gifts someone can receive from one person over the course of a year.

Ulster County’s current policy on accepting gifts places a cap on the monetary amount someone can receive for a

¹ See “National: Most Corrupt State? New York,” by Monmouth University Poll (April 16, 2015). Available at <http://www.monmouth.edu/assets/0/32212254770/32212254991/32212254992/32212254994/32212254995/30064771087/b0fcba89-3ea1-42a6-aeaa-dd6a148158d2.pdf>

² See “Troubled NY Lawmakers – A compilation of lawmakers in New York state who have faced legal or ethical charges since 2000,” by NYDATABASES.COM. Available at <http://rochester.nydatabases.com/database/troubled-ny-lawmakers>

³ See “Chapter 44: Ethics and Disclosure; Section 44-8 (Board of Ethics)” of the Ulster County Code. Available at <http://ecode360.com/14066907>



single gift. The language fails to address how many gifts an individual can get from the same people or groups per year. Here is the excerpt from Ulster's code:

Gifts: A County officer or employee shall not accept or solicit any gift valued over seventy-five (\$75) dollars, nor shall he/she accept or solicit any gift or financial benefit under circumstances in which it could reasonably be inferred that the gift was intended to influence such County officer or employee in the performance of his/her official duties or was intended to be a reward for any official action on his/her part.⁴

The law, as codified, leaves substantial room for leeway despite its strong intention to preclude inappropriate gifting. As written and reasonably interpreted, an employee could receive multiple gifts without any repercussions, as long as the total of an individual gift does not exceed \$75. We suggest the adoption of an annual limit for all gifts from one entity that someone can receive. This approach is already utilized by various county codes. Here is an example of such a provision that Putnam County has put into place:

No County officer or employee shall, directly or indirectly, solicit any gift, or accept or receive any gift having a value of \$75 or more, or aggregating more than \$200 from one person in any twelve-month period[.]⁵

Adding a section about an aggregate dollar limit over a finite period of time would eliminate a major technicality that could be used to inappropriately sway County decision making.

⁴ See id. at Section 44-4 (Standard of conduct).

⁵ See "Chapter 55: Ethics, Code of, and Financial Disclosure; Section 55-3 (Prohibitions)" of the Putnam County Code. Available at <http://www.ecode360.com/6607285>

Finding B: Elected officials in advertisements should be regulated.

Ulster's ethics law does not currently prohibit or otherwise discuss the participation of elected officials in television, radio, newspaper, or similarly related advertisements. This practice can be problematic when the elected officials in these advertisements receive publicity for associating with people, places, or outcomes with which they may only have a loose connection at best or for solely the purposes of campaigning or self-promotion. This issue was exemplified through the actions of former New York Governor George Pataki: "over a 15-month period, nine state agencies had spent \$19 million on television, radio and print ads featuring Mr. Pataki, and \$18 million on ads that referred to him by name."⁶ A section in Broome County's ethics code demonstrates a means by which some of this type of activity could be curbed:

§ 19-7. Advertisements by elected officials and candidates. Pursuant to the provisions of § 73-b of the Public Officers Law, no elected government official or candidate for elected local office in the County of Broome shall knowingly appear in any advertisement or promotion, including public or community service announcements, published or broadcast through any print or electronic media (including television, radio and internet) by any private or commercial entity or any other entity that publishes such advertisement for a fee, if the advertisement or promotion is paid for or produced in whole or in part with funds of the state, a political subdivision thereof or a public authority.⁷

⁶ See "McCall Seeks Strict Limits On Pataki's Role in State Ads," by The New York Times (January 15, 2002). Available at <http://www.nytimes.com/2002/01/15/nyregion/mccall-seeks-strict-limits-on-pataki-s-role-in-state-ads.html>

⁷ See "Chapter 19: Ethics; Article I: Code of Ethics; Section 19-7 (Advertisements by elected officials and candidates)" of the



Additional steps should be taken to prevent elected officials from branding themselves on taxpayer funded items. Legislation proposed in Suffolk County aimed to accomplish this preclusion but failed to gain the support of the Legislature.⁸ The Supervisor of the Town of Brookhaven – with a population of nearly half a million people – voluntarily removed his name from park signs and other paraphernalia.⁹ He did so in part due to cost savings, thinking ahead to when the time came that he was no longer in office and the signage had to be removed.

Finding C: The amount of money an elected official may receive from a vendor for campaign contributions should be limited.

Ulster County should control the amount of money (i.e. campaign contributions) an elected official can accept from a vendor that is seeking governmental contracts. Increased attention to this area would potentially prevent an advantage gained by a vendor who is looking to forward business before the County's decision makers. This approach will ensure that vendors are selected for contracts based on merit rather than questionable economic influence. A local law pertaining to this topic had previously been proposed in Ulster County, but it was not ultimately adopted.¹⁰ Orange County passed a "Pay-

Broome County Charter and Code. Available at http://www.gobroomecounty.com/files/legis/Charter%20and%20Code/BroomeCountyCode_v38.pdf

⁸ See *gen* "A Local Law to Save Taxpayer Dollars on County Signs and Printed Publications," by the Suffolk County Legislature. Available at <http://legis.suffolkcountyny.gov/Resos2014/i2084-14.pdf>

⁹ See "Brookhaven Town Supervisor begins removing his name from town signs," by Newsday (July 29, 2014). Available at <http://www.newsday.com/long-island/towns/edward-p-romaine-brookhaven-town-supervisor-begins-removing-his-name-from-town-signs-1.8918319>

¹⁰ See "Ulster County Legislature chairman aims to tighten campaign finance rules," by the Daily Freeman (July 22, 2015).

to-Play" law, limiting the amount a company seeking a contract with the county can donate to the Executive to \$4,000 over a four year period.¹¹

However, such a law could be undermined through the use of the "LLC loophole."¹² Companies or employees are technically not prohibited through the Orange County law – or many other similar laws related to campaign finance – from establishing a separate LLC that just so happens to skirt contribution limits through duplicitous campaign donations. This practice greatly undermines the intent of the law to limit the influence of such associated entities – no matter the name attached to the company. This issue is not unique to Orange County and is a highly questioned maneuver in Albany and throughout the State.¹³

Accordingly, Ulster's ethics law should be amended to eliminate the ability of corporations or individuals to use this technicality as a means to unjustly magnify their financial assistance to elected officials.

Available at <http://www.dailyfreeman.com/article/DF/20150722/NEWS/150729906>

¹¹ See "Loopholes compromise Orange's pay-to-play law for political contributions," by the Times Herald-Record (July 23, 2016). Available at

<http://www.recordonline.com/article/20160723/NEWS/160729745>

¹² See *gen* "Loopholes found in Orange County's campaign-finance law," by the Times Herald-Record (July 29, 2015). Available at

<http://www.recordonline.com/article/20150729/NEWS/150729341>

¹³ See *gen* "New York's Big Money Loophole," by The New York Times (July 21, 2015) (stating that "since 1999, these fake companies have contributed more than \$118 million to various campaigns"). Available at

<http://www.nytimes.com/2015/07/21/opinion/new-yorks-big-money-loophole.html>



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Conclusion:

Ulster County should not use the Albany excuse when it comes to adopting meaningful ethics reforms. In light of recent issues regarding public integrity, leaders at all levels of government have a lot of work to do in regaining the trust of the public.

Instituting reasonable updates to our ethics code is just one of those steps. Ulster County has been innovative on many levels and should be a transformational force in this arena as well. The areas of concern highlighted in this report offer County officials the opportunity to be a trailblazer among municipalities, restore the public's faith in government, and take a proactive approach to ethics reform.