

AD HOC COMMITTEE ON EMPLOYEE AND OFFICIAL CONDUCT & ETHICS
MEETING MINUTES
DECEMBER 8, 2020

The Ad Hoc Committee on Employee and Official Conduct & Ethics of the Broome County Legislature met remotely via Zoom Videoconferencing on Tuesday, December 8, 2020.

Members Present: S. Flagg (Chair), K. Myers, C. O'Brien, Legislature; K. McManus, County Exec's Office, R. Behnke, Law; T. Behan, Personnel

Members Absent: S. Ryan, Legislature

Others Present: D. Reynolds, M. Tanzini, R. O'Donnell, Legislature; B. Norris, Security

The remote Ad Hoc Committee on Employee and Official Conduct & Ethics meeting was called to order by the Chair at 4:05 PM. A motion was made by Mrs. O'Brien to open the meeting for discussion, seconded by Mr. Behan.

Mr. Flagg stated that the Committee should be close to wrapping up it's work. He stated the meeting would be to review the draft acknowledgement of all policies by County personnel, the draft Local Law changes to the County's Code of Ethics and a draft anti-bullying policy to consider.

Mr. O'Donnell presented the draft acknowledgement statement (see attached), which had been drafted by Mr. Behnke, the County Attorney. The committee members voiced their endorsement of the draft acknowledgement. Mr. Behan stated that the statement for the most part would be easy to complete electronically and track for most employees. He further stated the only issue stems from employees who don't generally access the computer (i.e. DPW-Highway). Mrs. Myers expressed support for having personnel complete the form at the time of employment and when changes are made to all the policies.

Mr. O'Donnell then presented the draft Local Law, which outlined proposed changes to the County's Code of Ethics (see attached). The changes include the following:

1. Further detailing what "nominal value" is in regards to the gift policy, which will be set at \$15.00 or less;
2. Acknowledgement in writing that county personnel have received and reviewed the Code of Ethics at the time of employment and within 30 days of when changes are made to the Code;
3. Includes a Duty to Report provision, where if a County employee knows that the Code of Ethics has been violated that they are required to report that;
4. And further details when an employee or official should recuse or abstain due to financial conflicts or material benefit to themselves, family member, or related organization.

Mr. Behnke stated that if the Legislature were to act on the Local Law this year, due to the State's requirement of it being on Legislators' desks for at least seven days (Sundays excluded), it would need to be in final form and on their desks by December 21st.

The committee also expressed its support for the Local Law.

Mr. O'Donnell then presented the draft Workplace Bullying Policy that was crafted by Legislature Chairman Dan Reynolds. Mr. Flagg stated that he thought the policy should be a standalone and not part of any other County policy. The committee agreed with Mr. Flagg's assessment.

Mr. Behnke expressed some concerns with the preamble language and with the reporting requirement to the Board of Ethics, which he believes has no administrative role on this subject. Mr. Flagg agreed with that. Mr. O'Donnell stated that the intent with reporting to the Board of Ethics was to include an independent organization to review the accusations should someone along the level of the Personnel Officer, County Attorney, Deputy County Executive, elected official, etc. be the one accused of bullying. Mr. Behnke stated that he believed it would be better in those situations for the County to seek an outside firm or counsel to review the matter.

Mr. Flagg requested that Mr. Behnke review the draft Workplace Bullying Policy and offer his thoughts/suggestions to the committee. He further mentioned that between now and the next meeting that the committee's report will be drafted, and he recommended that the next meeting be held on Tuesday, December 15th at 4:00 PM.

There being no further business to come before the Ad Hoc Committee at this time, a motion to adjourn was made by Mrs. Myers and seconded by Mrs. O'Brien. The meeting adjourned at 5:02 PM.

Acknowledgment and Certification of Compliance with the Code of Conduct

This is to acknowledge that I have received and reviewed the County of Broome Ethics Policy and Code of Conduct. I agree to comply with the standards referenced in the Code and all related policies and procedures. I acknowledge that the Code is a statement of principles for individual conduct and that it is my responsibility to understand and follow all policies and standards and to adhere to the ethical principles outlined in the Code of Conduct.

These policies and code together form the basis of our commitment to ethical behavior and compliance with legal requirements. Because we cannot include or anticipate every legal or ethical issue that may arise, employees must comply with all applicable laws, regulations, policies, and ethical practices whether or not they are specifically addressed in the Code. It is a duty to report any potential violation of which I become aware promptly to my supervisor. I understand that the County of Broome maintains a policy of non-retaliation provided that the report is made in good faith. I understand that any violation of the Code of Conduct or any ethics or compliance policy or procedure is grounds for disciplinary action, up to and including termination from employment.

LOCAL LAW INTRO
NO. OF 2020

A LOCAL LAW AMENDING CHAPTER 53
OF THE BROOME COUNTY CHARTER AND CODE

BE IT ENACTED, by the County Legislature of the County of Broome as follows:

Section 1. Section 53-2 of the County Charter and Code is hereby amended to read as follows:

§ 53-2 Definitions.

As used in this article, the following terms shall have the meanings indicated:

BROOME COUNTY GOVERNMENT OFFICER OR EMPLOYEE - An officer or employee of the County of Broome, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No individual shall be deemed to be a Broome County Government officer or employee solely by reason of being a volunteer fireman or civil defense volunteer.

GENERAL MUNICIPAL LAW - The General Municipal Law of the State of New York.

GIFT - Anything of more than nominal value given to an officer or employee in any form, including, but not limited to, money, service, loan, travel, lodging, meals, tickets, refreshments, entertainment, discount, forbearance, or promise, having a monetary value.

IMMEDIATE FAMILY MEMBER- Spouse, child, parent, sibling, grandparent, grandchild (including step and in-law relationships), legal guardian of or any other relative or individual residing in the same household as a Broome County Government officer and employee.

INTEREST - A pecuniary or material benefit accruing to a Broome County Government officer or employee or to a Broome County Government officer's or employee's spouse, minor children and dependents; or a firm, partnership or association of which such officer or employee is a member or employee; or a corporation of which such officer or employee is an officer or director; or a corporation, any stock of which is accrued or controlled, directly or indirectly, by such officer or employee.

NOMINAL VALUE - Nominal value means an item of minimal or insignificant value given as a routine social amenity which could not be reasonably interpreted or construed as attempting to influence a Broome County Government officer or employee. An item or service with a fair market value of fifteen dollars or less shall generally be considered as having a nominal value.

Section 2. Section 53-7 of the Code of Ethics shall be amended to read as follows:

§ 53-7 Distribution of Code of Ethics.

- A. The County Executive of the County of Broome shall cause a copy of this Code of Ethics to be distributed to every Broome County Government officer and employee by the Personnel Department within 30 days after the effective date of this article. Each Broome County Government officer and employee thereafter shall be furnished a copy by the Personnel Department, before entering upon the duties of his or her office or employment.
- B. Every County officer and employee shall acknowledge in writing that he or she has received and reviewed a copy of the Code of Ethics before entering upon the duties of his or her office. If the Code of Ethics is amended every County officer and employee shall acknowledge in writing that he or she has received and reviewed a copy of the Code of Ethics within thirty days of receipt of a copy of the amendment.

Section 3. Chapter 53 of the Charter and Code shall be amended by a new Section 53-7.1 to read as follows:

§ 53-7.1 Duty to Report.

Every County officer or employee shall have an affirmative duty to report promptly to the District Attorney and the County Attorney any action which may reasonably be interpreted as an improper attempt to influence them in the conduct of their office. Every County officer or employee shall have an affirmative duty to report promptly to the Board of Ethics any action which the officer or employee reasonably interprets to be a violation of this Code of Ethics.

County officers and employees shall be protected against reprisal for the lawful disclosure of information which the officer or employee reasonably believes to be a violation of this Code of Ethics.

Section 4. Chapter 53 of the Charter and Code is amended to add a new Section as follows:

§ 53-32 Record of Abstention.

- A. Recusal.** No County Officer or Employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter, acting on the matter, or failing to act on the matter, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, or on an immediate Family Member or Related Private Organization.
- B. Abstention.** Whenever a County officer or employee is required to recuse himself or herself pursuant to Section A of this Section he or she shall:
- (1) Immediately refrain from participating further in the matter and at no time have any communication, formal or informal, concerning the subject with any fellow officer or employee of the County;
 - (2) Promptly inform his or her superior, if any, and the County Executive.
- C. Action Following Recusal and Abstention.** In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:
- (1) If the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
 - (2) If the power or duty is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function; or
 - (3) If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power of duty.
- D. Prohibition Inapplicable; Disclosure, Recusal and Abstention Not Required.**

The provisions of Sections A and B of this Section shall not prohibit, or require, recusal or transactional disclosure as a result of:

- (1) An action specifically authorized by statute, rule, or regulation of the State of New York or of the United States;
- (2) The requirements relating to recusal and abstention shall not apply with respect to the following matters:

- a) Adoption of the municipality's annual budget;
 - b) Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - i. All municipal officers or employees;
 - ii. All residents or taxpayers of the municipality or an area of the municipality; or
 - iii. The general public; or
 - iv. Any ministerial act or other action that does not require the exercise of discretion.
- (3) Recusal and abstention shall not be required with respect to any matter:
- a) Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by Sections A and B of this Section.
 - b) Which comes before a municipal officer when the officer would be prohibited from acting by Sections A and B of this Section and the matter cannot be lawfully delegated to another person.

Section 5. This Local Law shall take effect upon filing with the Secretary of State.

matters underlined added
matters [bracketed] deleted

WORKPLACE BULLYING

Broome County Government does not stand for bullying and violence, in the workplace.

Victims of bullying suffer very real and serious harm as a result of these incidents, often showing signs of depression, anxiety, social isolation, nervousness, low self-esteem, declining work performance, hyper-vigilance, nightmares, changed eating and sleeping habits, and fear for their safety.

Broome County Government is committed to ensuring the physical, social and mental wellbeing of all of its employees.

For the purpose of this section, bullying within Broome County Government - shall mean:

Any form of verbal communication or written correspondence, with the malicious and willful intent to coerce, extort, abuse, torment, threaten, terrify or intimidate a specific other person, that serves no legitimate purpose, and causes such other person to suffer:

- a. Actual and reasonable fear of physical harm to himself or herself;
- b. Actual and reasonable fear of damage to the property of such person; or
- c. A substantially detrimental effect on his or her physical, mental or emotional health.

Written correspondence may be directly to or regarding an individual, and shall include, but not be limited to:

- a. Letters and memoranda, both in physical hard copy and/ or electronic copy;
- b. Emails; or
- c. Facsimile.

If any Broome County Government employee believes that they have been bullied, or has witnessed bullying occur, they should first consult his or her supervisor, notify Broome County Security as warranted, the Personnel Officer and the County Attorney by completing and submitting a Broome County General Incident Report form, or another communication with the same information contained within the General Incident Report form.

The Personnel Officer will review the matter in consultation with the County Attorney to ensure that all local, state and federal polices, rules, regulations and laws are followed accordingly. If the Personnel Officer or County Attorney are the subject of the Complaint they shall not participate in the investigation of the Complaint. If the Personnel Officer receives a Complaint against the County Executive or the Chair of the Legislature, the Personnel Officer and County Attorney, to ensure a fair investigation, shall retain an independent investigator not affiliated with County government to conduct the investigation.