

LAURA CURRAN
COUNTY EXECUTIVE



**COUNTY OF NASSAU
BOARD OF ETHICS**
One West Street
Mineola, New York 11501-4820
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BOARD OF ETHICS

KENNETH L. GARTNER
CHAIR

JARED A. KASSCHAU
COUNTY ATTORNEY

CHRISTOPHER DEVANE
MEMBER

DANIEL PALMIERI
MEMBER

MICHAEL PERNICK
MEMBER

STEVEN G. LEVENTHAL
COUNSEL

NICHOLAS VEYANTE
SECRETARY

March 25, 2019

Hon. Laura Curran Nassau County Executive
Office of the County Executive
Theodore Roosevelt Executive & Legislative Building
1550 Franklin Avenue
Mineola, NY 11501

Hon. Richard Nicoletto Presiding Officer
Nassau County Legislature
Theodore Roosevelt Executive & Legislative Building
1550 Franklin Avenue
Mineola, NY 11501

Hon. Kevan Abrahams Minority Leader
Nassau County Legislature
Theodore Roosevelt Executive & Legislative Building
1550 Franklin Avenue
Mineola, NY 11501

Re: Board of Ethics Annual Report -- Year Ended December 31, 2018

Dear County Executive Curran, Presiding Officer Nicoletto, and Minority Leader Abrahams:

This Annual Report is provided by the Board of Ethics pursuant to Nassau County Charter § 2218(10)(k).

1. The Board of Ethics.

The Board of Ethics is comprised of four members serving for staggered terms of five years, and the County Attorney. Two members were appointed in April 2018, and two members were appointed in August 2018. The County Attorney is a standing member of the Board. The Board of Ethics functions without regard to politics. No more than two of its members are enrolled in the same political party. The appointed members serve without compensation. They

include two retired judges and two respected members of the bar. Pursuant to Nassau County Charter § 2218(10)(a), the Board of Ethics elected member Kenneth L. Gartner to serve as its chair.

The Board of Ethics is assisted by an independent counsel and by a secretary assigned by the County Attorney. A request for qualifications to serve as ethics counsel was issued in 2018, multiple candidates were interviewed and evaluated by the Board of Ethics.

Although the Board of Ethics is required to meet quarterly, it met nine times between May and December 2018, including twice in each of the months of May and November. The Board has already met three times in 2019, and scheduled further meetings to take place on May 1, May 3, July 11 and October 10, 2019. Additional meetings will be scheduled as the work of the Board requires.

2. Board of Ethics Website.

The Board of Ethics has actively engaged in updating and improving its presence on the County website and has made information about the Board of Ethics more accessible to the County workforce. These efforts by the Board of Ethics have required, and continue to require, significant coordination among the Board of Ethics, the Office of the County Attorney and the Information Technology Department.

Recent additions and upgrades to the Board of Ethics website include the following:

- A new online form for submitting requests for advisory opinions electronically.
- A new online form for submitting complaints electronically, with the option to submit complaints anonymously.
- The names and biographies of members of the Board of Ethics.
- Redacted copies of advisory opinions that the Board of Ethics determined could be published while protecting the identity of the requestor and posted those advisory opinions on its website. The Board of Ethics believes that it is helpful to make redacted advisory opinions public whenever possible, notwithstanding the need to carefully review and redact a significant number of advisory opinions. The Board of Ethics will continue to post redacted advisory opinions on its website when it believes it can do so while protecting the identity of the requestor.
- All policies and procedures adopted by the Board of Ethics. This includes policies and procedures for: (1) determining who must file Annual Statements of Financial Disclosure; (2) conducting adjudicatory proceedings and appeals; (3) reviewing annual disclosure forms; and (4) responding to requests for inspection and copying of Board records made pursuant to the Freedom of Information Law.
- The Board of Ethics has posted a portal on its website to make it easier for the public to submit FOIL requests.

The Board of Ethics website also includes:

- The Code of Ethics.
- A “plain language guide” to the Code of Ethics.
- Meeting dates, agendas and minutes of meetings of the Board.
- A contact phone number, mailing address, and email address.

The Board of Ethics believes that a comprehensive and accessible website allows it to better carry out its mission, and will continue to improve its website and online presence over the coming months.

In addition, the Board of Ethics, with the assistance of the County Executive’s Office and the Information Technology Department, has developed, and will soon implement, a program for the secure electronic filing of Annual Statements of Financial Disclosure. This important development will reduce the administrative burden of distributing, collecting and reviewing the disclosure forms. It will permit the Board to determine electronically whether any person required to file a disclosure form has failed to do so, whether the filed disclosure forms are complete, and whether county officers and employees have secondary employment with, or an ownership interest in any county vendor, contractor or consultant.

3. Ethics Education and Training.

Educating County officers and employees on their ethical obligations is a central function of the Board of Ethics. In 2018, the Board of Ethics implemented a training program for its members, and provided ethics training to the Office of the County Executive, the Legislature, the Office of the County Attorney, and Department Heads and their deputies. The Code of Ethics, along with a plain language guide, is available to all County officers and employees on the Board of Ethics website. The Board of Ethics is working to make it easier for County officers and employees to learn about their ethical responsibilities through its expanded online presence and innovative ethics training.

New hires are provided with a copy of the Code of Ethics booklet as a part of their orientation packet. The current Code of Ethics booklet, revised to incorporate the 2017 amendments to the Code of Ethics, is posted on the Board of Ethics website. The Board of Ethics will continue to update the Code of Ethics booklet to reflect legislative changes to the Code as they are adopted.

The Board has prepared a new, comprehensive Code of Ethics which will soon be submitted for consideration by the County Executive and Legislature. If the new Code of Ethics is adopted, the Board of Ethics will prepare a new Code of Ethics booklet containing a Plain Language Guide and a copy of the newly adopted Code of Ethics for distribution and posting on the Board of Ethics website. If the new Code of Ethics is adopted, the Board of Ethics will provide ethics training and related educational materials to assist County officers and employees in understanding their obligations under the new Code, and will post the educational materials on its website. At that time, the Board of Ethics will recommend that all County officers and employees receive ethics training.

4. Ethics Advice and Investigations

The Board of Ethics responded to 18 requests for ethics advice received from County officers and employees in 2018. The Board is diligent and thorough in its analysis of the legal issues raised by the inquiries and complaints that it considers. It regularly employs a three-step analysis to determine whether, under the circumstances presented, the contemplated conduct would give rise to a prohibited conflict of interest. The Board considers: (i) whether the contemplated conduct would violate Article 18 of the New York General Municipal Law, (ii) whether the contemplated conduct would violate the Nassau County Code of Ethics, and (iii) whether the contemplated conduct would give rise to a prohibited appearance of impropriety under common law principles.

The Board conscientiously responds to all complaints that it receives. The Board of Ethics received only one complaint in 2018. The Board commenced an investigation, interviewed witnesses, and expeditiously took appropriate action.

The goals of the Board of Ethics are to foster public confidence in government by ensuring both the reality and the appearance of integrity, and to guide and protect honest county officers and employees so that they will be more likely to avoid unintended ethics violations. The Board of Ethics believes that these goals are best achieved through ethics advice and education. Nevertheless, the Board of Ethics has the power and duty to investigate ethics complaints and impose penalties when warranted, and will not hesitate to make judicious use of this power when it is appropriate and necessary to do so.

5. Annual Financial Disclosure.

The Board of Ethics has consistently obtained 100% compliance with the financial disclosure requirements. While some filers are tardy in their compliance, all officers and employees who have been required to file disclosure forms have eventually complied. That experience is repeating itself in the current cycle, with the list non-filers steadily dwindling. The Board of Ethics will take appropriate enforcement action if necessary to compel compliance.

The Board of Ethics, with the assistance of the County Executive's Office and the Information Technology Department, has developed, and will soon implement, a program for the secure electronic filing of Annual Statements of Financial Disclosure. This important advance will reduce the administrative burden of distributing, collecting and reviewing the disclosure forms. It will permit the Board to determine electronically whether any person required to file a disclosure form has failed to do so, whether the filed disclosure forms are complete, and whether County officers and employees have secondary employment with, or an ownership interest in any County vendor, contractor or consultant.

The Board of Ethics has adopted procedures for the review of Annual Statements of Financial Disclosure, which it has posted on the Board of Ethics website. In performing its inspection of the financial disclosure statements, the Board of Ethics or its designee:

- Determines whether all persons required to file annual statements of financial disclosure have done so by comparing the filed disclosure statements with the list of persons required to file pursuant to Admin. Code Section 22-4.3, subdivisions (2)(a) and (4).
- Confirms that all questions have been answered.

- Determines whether the annual statements of financial disclosure may reveal an actual or potential conflict of interest by comparing the secondary employers and investments with a list of county vendors, contractor and consultants.
- Determines whether the annual statements of financial disclosure may reveal an actual or potential conflict of interest by conducting a facial review of the disclosure statements.

The Board devoted significant time and resources in 2018 and early 2019 responding to an audit undertaken by the Nassau County Comptroller. The Board of Ethics welcomes discussion of its work and is committed to its dual goals of ensuring both the reality and the appearance of integrity in county government, and assisting county officers and employees to avoid unintended ethics violations.

Very truly yours,



Kenneth L. Gartner
Chair