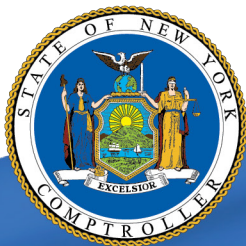


Ethics Oversight

DECEMBER 2020



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Ethics Oversight in 20 Local Governments

Audit Objective

Determine whether local governments used resources to implement certain ethics oversight standards.

Key Findings

Local governments must comply with New York State General Municipal Law (GML) and should do more to ensure proper ethics oversight. For the 20 local governments we examined:

- 95 percent of local governments did not ensure their Ethics Boards received formal training and 75 percent did not provide ethics training to all officers and employees.
- 90 percent did not comply with all of the GML requirements we tested.
- 90 percent did not ensure all required annual financial disclosure statements (disclosure statements) were filed and complete and none ensured that all disclosure statements were filed on time.
- 50 percent did not review disclosure statements for potential conflicts of interest and completeness.
- 50 percent (7 of 14) of Ethics Boards completed one or more of the following: meet at least annually, prepared an annual report and/or periodically reviewed the code of ethics.

Key Recommendations

- Ensure all GML requirements are met.
- Ensure ethics training is provided for all Ethics Board members, officers and employees.
- Ensure all required disclosure statement filers file complete and timely disclosure statements that are carefully reviewed for potential conflicts of interest.
- Ensure Ethics Boards comply with all code of ethics requirements.

Background

Local governments are responsible for ensuring that their officers and employees act in the best interest of taxpayers and without bias due to personal interests.

GML includes minimum ethics-related requirements. Local governments must establish a code of ethics, and those with a population of 50,000 or more are to require certain individuals to complete disclosure statements to help increase transparency about the private interests and activities of officers and employees, and help identify potential conflicts of interest.

Local governments can also establish boards of ethics and set additional standards to provide more comprehensive ethical guidance for their officers and employees.

This global report summarizes the significant ethics oversight issues we identified at the 20 local governments audited.

Quick Facts

Local Governments Audited	20	
Total Officers and Employees	31,758	
Disclosure Statements	2017	2018
Required Filers	3,365	3,512
Properly Filed	2,066	2,253
Not Properly Filed	1,299	1,259

Audit Period

January 1, 2017 – September 30, 2018

Ethics Oversight

Local governments should be transparent and ethical in their operations. Local officials make financial and operational decisions that affect the lives of their constituents, and are therefore responsible for acting in the best interests of those constituents without undue personal influences. A local government's adoption of a code of ethics, and local officials' adherence to its requirements is critical for establishing and maintaining an ethical environment.

How Can Local Governments Establish Proper Ethics Oversight?

A local government's governing body¹ must establish a code of ethics to set forth the standards of ethical conduct reasonably expected of its officers and employees. The code of ethics must address certain provisions including disclosure of interest in legislation before the governing body, holding of investments and private employment in conflict with official duties and future employment.

To reduce risk that officers' and employees' actions could violate a local government's code of ethics and public assets could be subject to misuse, the governing body should adopt a code of ethics that addresses each of the four required statutory provisions of GML and vigorously enforce the code provisions.² Within the code of ethics, the governing body may also set forth other standards of ethical conduct such as provisions addressing nepotism, public disclosures for recusals and abstentions and the proper use of municipal resources.³

To help reinforce ethics awareness, the local government's CEO is responsible for posting a copy of certain portions of the conflict of interest statute in each local government's public buildings.⁴ The statute must be posted in a place visible to its officers and employees. The local government's CEO is also responsible for distributing a copy of the code of ethics to every officer and employee. Although not required, the local government could also post the code of ethics on its website.

The governing body may also develop additional standards of conduct to provide more comprehensive ethical guidance to meet a local government's specific circumstances. For instance, the governing body may establish procedures to ensure that officers and employees receive ethics compliance training, including notifying officers and employees of the whistleblower provisions provided by State Law.

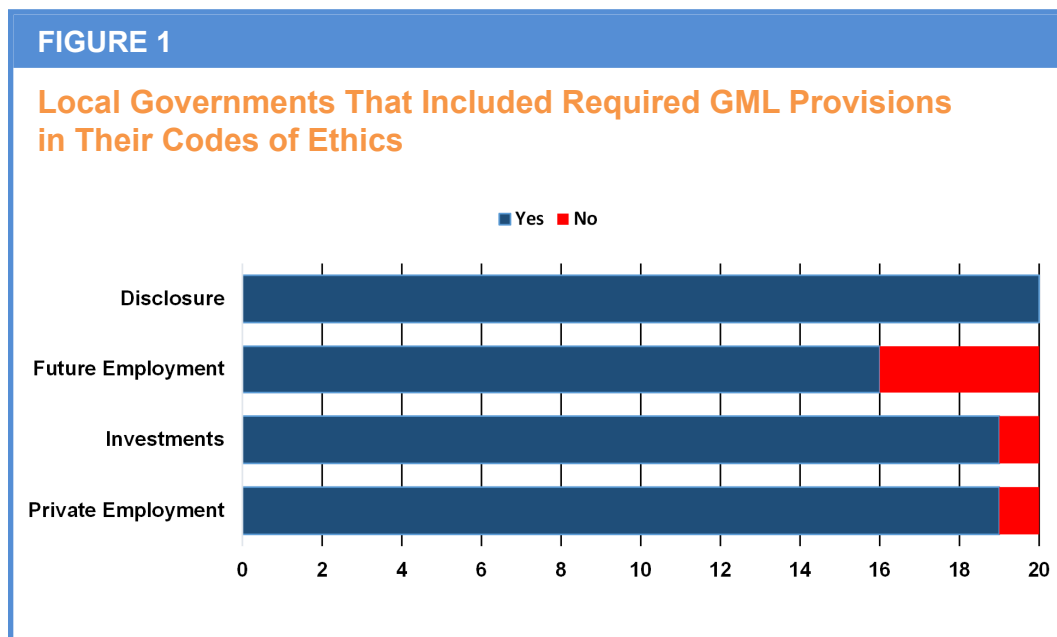
In addition, the governing body could require that every officer and employee attest to receiving and reviewing the code of ethics at the time of their election or appointment and at least once every five years.

In addition to establishing a code of ethics, local governments with a population of 50,000 or more are required to have certain individuals annually complete a disclosure statement. Filing annual disclosure statements helps increase transparency about the private interests and activities of officers and employees, which may identify potential conflicts of interest.

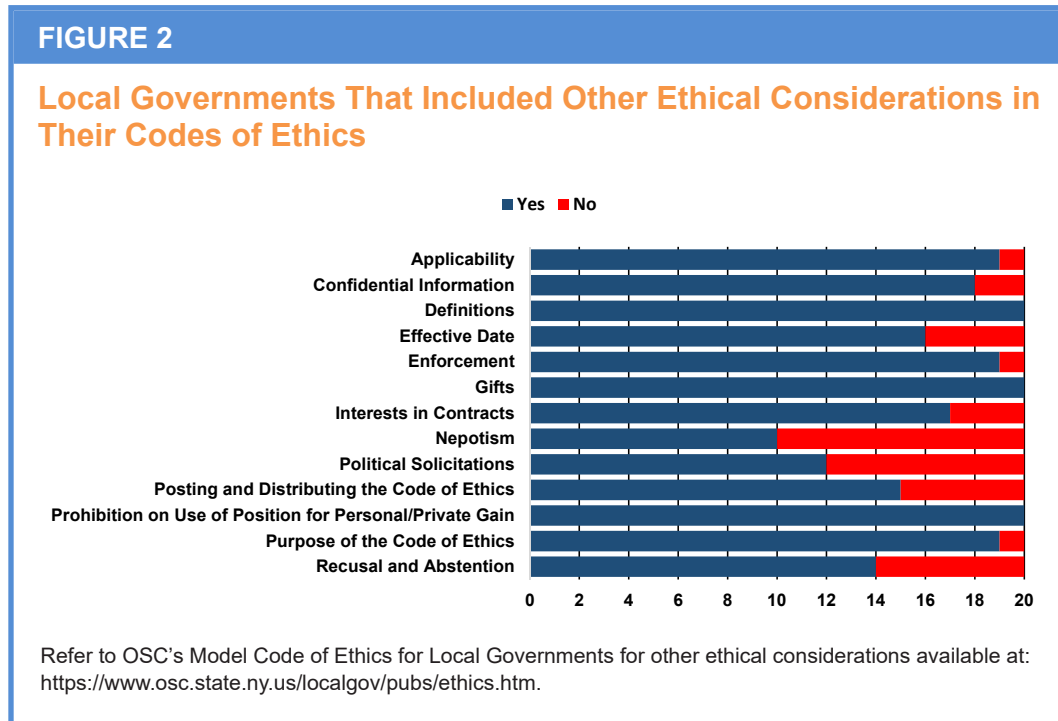
A board of ethics may be established by the governing body to administer a system to maintain the disclosure statement filings.⁵ The board of ethics, if established, should develop procedures to review and examine the disclosure statements filed, to promote compliance with the filing requirement, and verify that officials and employees are impartial and free from conflicts of interest in fulfilling their public responsibilities. A board of ethics can help ensure that the local government operates in a transparent and ethical manner, and local government officers and employees act in the best interests of taxpayers and are not conflicted by personal interests.

Local Governments Adopted Codes of Ethics but Some Local Governments Did Not Comply with GML⁶

Code of Ethics Provisions Required by GML – The governing boards of each of the 20 local governments adopted a code of ethics. However, four of the 20 codes of ethics we reviewed did not contain each of the four statutorily required provisions set forth in GML (Figure 1). Generally, officials from these four local governments indicated they were unaware that their respective codes of ethics did not contain each of the required provisions.

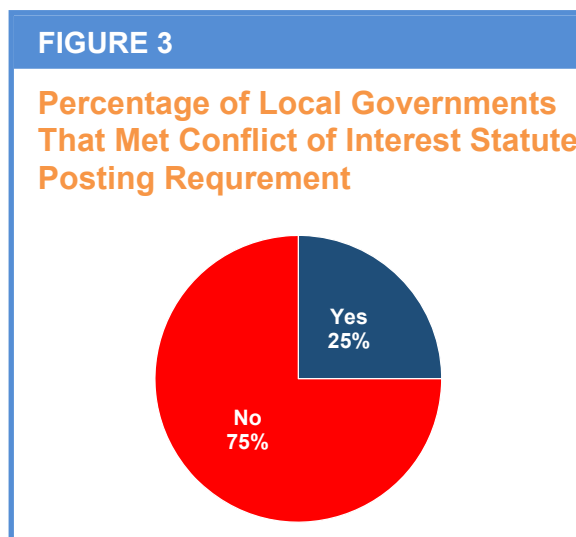


Other Ethical Considerations – While not statutorily required, all 20 local governments included certain other ethical considerations in their codes of ethics (Figure 2). However, half the local governments audited excluded provisions regarding nepotism, 40 percent (eight) omitted restrictions regarding political solicitations, and 30 percent (six) left out expectations regarding recusal and abstention.



Posting of the Conflict of Interest Statute – While GML requires the CEO of each local government to visibly post sections 800 through 809 of GML in each of its buildings, we found that 75 percent (15) of local governments did not fulfill this statutory requirement (Figure 3).

Officials told us either they were unaware of the requirement to visibly post the statute in each building or thought the statutes were posted and may have been inadvertently removed.



Distribution of the Code of Ethics – GML requires the CEO of each local government to distribute a copy of the code of ethics to every officer and employee. However, 10 percent (two) of local governments did not have a process in place to distribute the code of ethics to its officers and employees, or ensure its officers and employees reviewed the code ethics by having them attest to such.

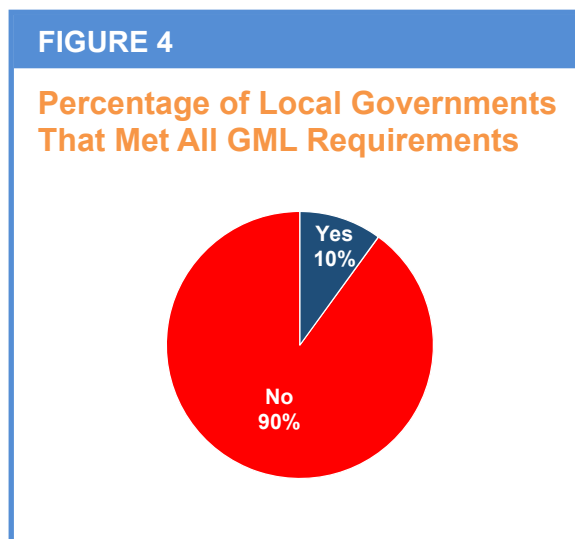
In addition, while 90 percent (18) of local governments had a process to ensure its officers and employees received, reviewed and/or understood the code of ethics, seven of them excluded certain classes of employees such as seasonal, part-time, temporary and/or hourly and one provided a one-page document pertaining only to prohibited activities rather than its entire code of ethics.

Generally, local government officials were either unaware of the requirement to distribute the code of ethics to all officers and employees, under the impression that it was distributed to all officers and employees, or inadvertently excluded certain classes of individuals from distribution.

Compliance With GML Requirements – Overall, 90 percent (18) of local governments failed to meet one or more of the statutory requirements set forth in GML (Figure 4) (i.e., including all four specific provisions in the code of ethics, posting the conflict of interest statute in each municipal building and distributing the code of ethics to every officer and employee).

By not ensuring compliance with GML, local governments may not be providing officers and employees with comprehensive guidelines regarding the conduct expected of them.

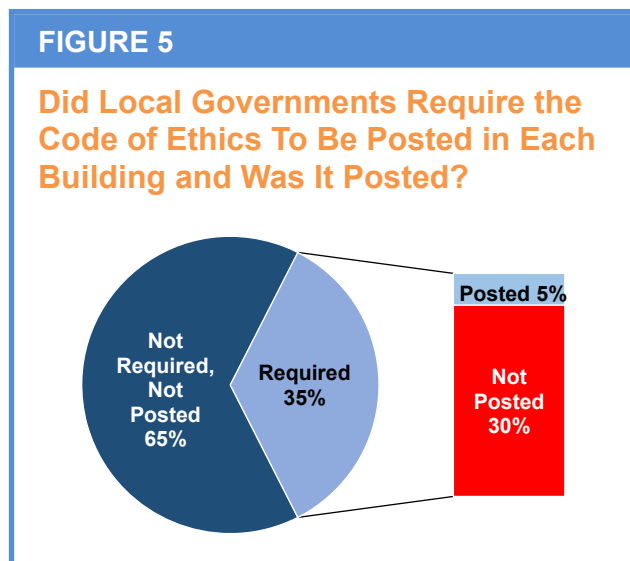
Although not required by GML, local governments could include other ethical considerations in their codes of ethics and distribute the code of ethics to all officers and employees whenever it is amended.



Some Local Governments Did Not Reinforce Code of Ethics Awareness or Provide Ethics Training⁷

Posting the Code of Ethics – Although not a GML requirement, all but one of the 20 local governments posted its code of ethics on its website. In addition, the codes of ethics of 35 percent (seven) of local governments specifically required copies of their codes of ethics be posted in each building (Figure 5). However, only one local government complied with that requirement.

Officials from 30 percent (six) of local governments told us they were unaware of their own codes of ethics requirements, unsure why the code of ethics was not posted or indicated the code of ethics may have been inadvertently removed.



Code of Ethics Attestations – Although not a GML requirement, 25 percent (five) of local governments included a requirement in their code of ethics that all officers and employees periodically attest to receiving, reading and/or understanding the code of ethics. We found only one of these five local governments administered this attestation requirement.

Attestations for the remaining four local governments ranged from none to those who only required attestations from newly hired employees. Another local government included a requirement in its code of ethics for required disclosure statement filers to annually attest to understanding the provisions of the code of ethics. However, we found 72 percent of required disclosure statement filers did not submit an attestation. In general, officials from the six local governments told us that these deficiencies were due to not being aware their codes of ethics attestation requirements.

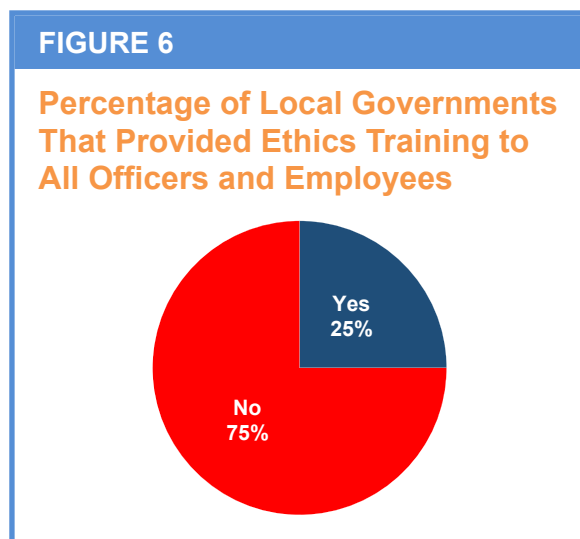
The codes of ethics for 70 percent (14) of local governments did not include an attestation requirement. However, we found that eight of these 14 local governments generally had newly hired employees attest to receiving, reading and/or understanding the code of ethics.

One local government required that disclosure statement filers attest to receiving and reading the code of ethics when they signed their completed disclosure statement. However, we found that 23 percent of these required filers did not complete a disclosure statement as required and therefore did not attest to receiving and reading the code of ethics.

Overall, 30 percent (six) of local governments did not have any officers or employees attest to receiving, reading and/or understanding the code of ethics.

Ethics Training for Officers and Employees – Although not a GML requirement, seven local governments included a requirement in their code of ethics for their Ethics Board to provide ethics training and/or training materials for officers and employees. Of these seven, four did not provide training or training materials, two provided annual ethics training and one provided ethics training twice a year. Two other local governments did not include ethics training as a requirement in their code of ethics but provided annual ethics training to officers and employees. Another local government, whose code of ethics did not include ethics training as a requirement, provided training only to newly hired employees and to two departments (at their request).

Overall, 75 percent (15) of local governments did not provide ethics training to all officers and employees (Figure 6). Generally, officials told us they did not provide training because it was not a requirement or that they were unaware of such requirement, if it was in their code of ethics.



Ethics Training for Ethics Board Members – Although not a GML requirement, none (20) of the local governments included a requirement in their codes of ethics for the Ethics Boards to receive training. We found that 5 percent (one) of local governments provided formal training for its Ethics Board members (Figure 7).

Local officials generally told us that it was up to Ethics Board members to request training, and were unsure what type of training to provide Ethics Board members or where to seek training for Ethics Board members.⁸

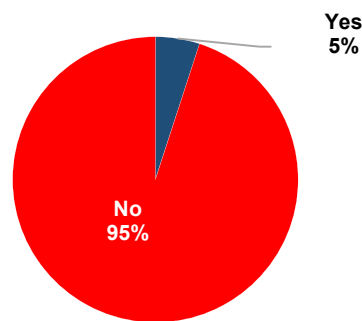
Local governments could reinforce code of ethics awareness of officers and employees by requesting that all officers and employees attest in writing to their review of the code of ethics at least once every five years. They could also post the code of ethics in each of their buildings, and distribute the code of ethics to all officers and employees upon beginning employment with the local government and whenever the code of ethics is amended.

Local governments should provide annual ethics compliance training to its officers and employees, including an overview of the code of ethics and whistleblower provisions. In an effort to help ensure proper ethics oversight, governing boards may also wish to have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics. For example, training could relate to the provisions of Article 18 of GML, codes of ethics, annual financial disclosure and decisional law relating to conflicts of interest and ethics.

Unless local governments vigorously enforce code of ethics provisions and reinforce officer and employee awareness of the code of ethics, there is a higher risk that officers' and employees' actions may violate the code of ethics and public assets could be subject to misuse.

FIGURE 7

Percentage of Local Governments That Provided Ethics Training to Ethics Board Members

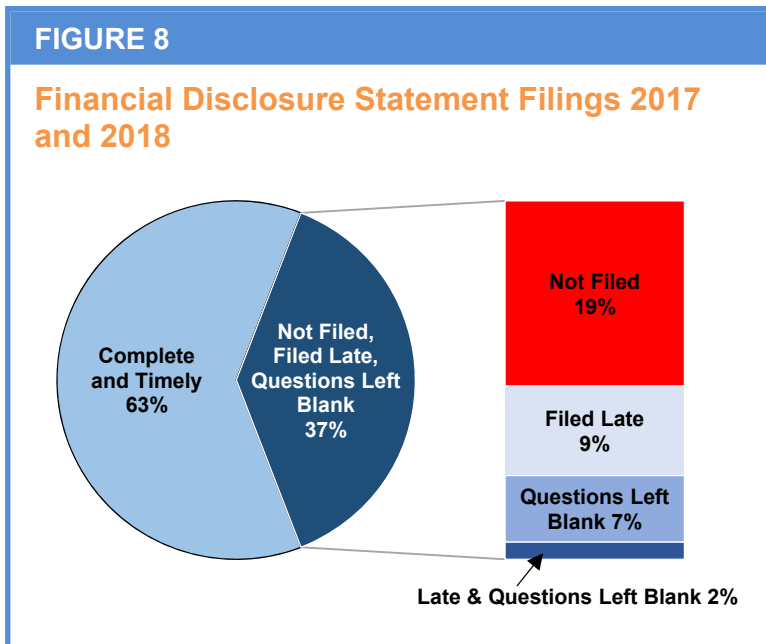


Local Government Officials Did Not Adequately Monitor Disclosure Statement Filings⁹

Disclosure Statement Filing Compliance – Each of the 20 local governments required individuals in certain titles or positions to complete disclosure statements, which are intended to help identify potential conflicts of interest. Overall, these local governments required 6,877 disclosure statements be prepared and submitted during our audit period. We reviewed all 5,579 disclosure statements that were actually filed for 2017 and 2018 to determine whether they were completely and properly filed on time and any potential conflict of interests were reported to the Ethics Boards.

Of those who were required to file a disclosure statement, we found 19 percent (1,298) were not filed, 9 percent (636) were filed late, 7 percent (496) were filed with questions left blank and 2 percent (128) were filed late and with questions left blank (Figure 8).

Only two local governments obtained all required disclosure statements. One local government obtained all required disclosure statement completed with less than 0.5 percent filed late and the other local government obtained all required disclosure statement completed with 12 percent filed late.



Local governments offered several reasons for disclosure statement noncompliance including the following:

- A lack of understanding of the requirements and responsibilities set forth in the codes of ethics.
- Incomplete or outdated required filer lists.
- Lack of procedures to identify required filers who became subject to the filing requirements after being hired or promoted into a required filer position.
- Lack of procedures to follow-up with individuals who did not file or filed a disclosure statement with questions left blank.

By not ensuring all required disclosure statements are filed, local governments reduce the usefulness of their own disclosure statement systems and risk not collecting important information from its officers and employees for purposes of identifying potential conflicts of interest.

What Are an Ethics Board’s Responsibilities?

A board of ethics is responsible for making recommendations with respect to drafting, adopting or amending the code of ethics, upon the request of the governing body. Therefore, a periodic review of the code of ethics by the board of ethics may be appropriate to help ensure the code continues to comply with GML. If requested, the board of ethics may also provide recommendations to the governing body as it relates to other ethical considerations that may help ensure ethical awareness for officers and employees.

In addition, the responsibilities of a board of ethics include administering a system to receive annual disclosure statements. The board of ethics may also develop procedures to review and examine the disclosure statements to help ensure that the filings are complete.

When a board of ethics is established by the governing body to administer an annual financial disclosure system, the board of ethics should establish a process to verify that all required filers have submitted their disclosure statement with the board of ethics. In addition, the board of ethics should ensure that the disclosure statements submitted by the required filers are complete.

To help verify the filing and completeness of the disclosure statements, the governing body could include procedures for an appointed official or support staff to assist the board of ethics in ensuring that each disclosure statement is filed, reviewed, all questions are addressed and any inconsistencies or missing information are followed-up on.

In addition, the board of ethics should develop procedures to help ensure that disclosure statements are reviewed to identify transactions that could pose

...[T]he responsibilities of a board of ethics include administering a system to receive annual disclosure statements.

conflicts of interest. For example, boards of ethics could maintain a list of filers' outside business interests, and supply the list to appropriate purchasing department personnel for their use in identifying potential interests in contracts that would be prohibited by GML.

Further, the board of ethics could obtain a list of vendors from the accounts payable department to reference during their review of the disclosure statements to help it identify potential conflicts of interest. If local governments' boards of ethics do not ensure compliance with filing requirements or review the information on disclosure statements to identify any conflicts of interest, taxpayers have less assurance that officers and employees in policy-making positions are free from conflicts of interest.

If a local government establishes specific ethics board responsibilities and requirements within its code of ethics (such as verifying or preparing a list of names of all officers and employees who are required to file disclosure statements, reviewing all disclosure statements to determine whether the required filers submitted deficient disclosure statements, failed to file or filed a disclosure statement that revealed a potential code of ethics violation, conducting a review of the code of ethics, and preparing and submitting an annual report to the CEO and governing board summarizing its activities), local officials should ensure that these code of ethics requirements are complied with. In addition, ethics boards should meet at least annually to fulfil their duties.

Local Government Ethics Board Responsibilities and Compliance With Responsibilities Varied¹⁰

Accuracy of Required Filer List(s) – Thirty percent (six) of local governments included a requirement in their codes of ethics for their Ethics Boards to either identify required filers or review a list(s) of required filers to determine whether the lists were accurate and complete. However, we found only one local government's Ethics Board ensured that the list of required filers was reviewed for accuracy and completeness.

The remaining five Ethics Boards did not identify required filers or review a list of required filers for accuracy and completeness, as required. Ethics Board members generally told us they were unaware of their codes of ethics requirements, relied on someone else to perform that duty or did not provide a specific reason.

One other local government included language in its code of ethics that could be interpreted to suggest that the Ethics Board was responsible for identifying required filers. However, the Ethics Board did not compile or review the list of required filers. In addition, although not required by their code of ethics, another Ethics Board prepared a list of required filers.

Disclosure Statement Filing Compliance – Of the 20 local governments we reviewed, fifty percent of local governments’ Ethics Boards were required to verify that required filers filed disclosure statements, in accordance with the codes of ethics. Of the remaining half of these local governments, two indicated the Ethics Board or someone else (i.e., clerk or attorney) was responsible for ensuring filing compliance, four required a specific individual (i.e., County Executive, Secretary, County Attorney or Corporation Counsel) to verify filing compliance, and four did not specifically assign this responsibility. However, we found that only two local governments obtained disclosure statements from every required filer.

On average,
19 percent of
required filers
did not file
a disclosure
statement.

On average, 19 percent of required filers did not file a disclosure statement. Officials generally told us that noncompliance with filing requirements was due to difficulty getting individuals to file, unawareness of responsibilities for reviewing a list of required filers to determine whether it was complete and proper, and/or confusion as to who was responsible for verifying whether required filers filed disclosure statements.

Even when governing boards specified who was responsible for verifying filing compliance in their codes of ethics, we found, in some cases, those individuals were unaware of their responsibility. The confusion over responsibility and the lack of specific assignment of this duty contributed to the number of required disclosure statement filers who did not file (Refer to Local Government Officials Did Not Adequately Monitor Disclosure Statement Filings).

Potential Conflicts of Interest – Codes of ethics for 80 percent (16) of local governments specifically required their Ethics Board and/or other specific individuals (i.e., Secretary, Attorney or Clerk) review the disclosure statements. However, the codes of ethics did not always clearly state the governing boards’ expectations for such a review.

For example, some codes of ethics required that the Ethics Boards and/or other individuals review the contents of the disclosure statements for any violations of the provisions of the code of ethics, which included conflicts of interest. Other codes of ethics were either vague regarding the purpose of the review or did not specify the intention of these reviews.

Officials from each local government told us disclosure statements were reviewed. However, we found that only 50 percent were reviewed for content and completion. The disclosure statement reviews conducted by half of local governments were limited to determining whether the forms were signed, complete and/or identified specific information such as a filer’s other employment and a spouse’s employer, rather than a review of all content reported by the filers.

Although not required to do so, the Ethics Boards of three local governments (or other individuals deemed responsible for reviewing disclosure statements) compared disclosed business interests to vendor payments or compiled a list

of filers' outside business interests for the purchasing department to identify potential interests in contracts that would be prohibited by GML.

Lack of procedures that require reviewing the submitted information reduces its usefulness. Without careful review of the information reported on disclosure statements, and procedures to identify transactions that could pose a conflict of interest, taxpayers have less assurance that the local governments have a strong stance on transparency and can identify potential conflicts of interest of officers and employees that could compromise impartiality in decision-making.

Specific Codes of Ethics Requirements – Although not a GML requirement, 70 percent (14) of local governments included other specific requirements in their codes of ethics requiring their Ethics Boards to review the code of ethics, meet at least annually, and/or prepare and submit annual reports to the CEO and governing board summarizing the Ethics Board's activities. Some Ethics Boards completed these requirements, while others did not.

Overall, 7 of 14 Ethics Boards completed one or more of the other specific tasks required by their codes of ethics. In addition, three local governments whose code of ethics did not include any other specific requirements, completed one or more of them (Figure 9).

Figure 9: Specific Code of Ethics Requirements

Ethics Board Activity	Local Governments			
	With Other Specific Code of Ethics Requirements		Without Other Specific Code of Ethics Requirements	
	Completed	Not Completed	Completed	Not Applicable
Meet at Least Annually	5	3	9	3
Prepare an Annual Report	3	10	0	7
Review the Code of Ethics	3	7	1	9

What Do We Recommend?

1. Adopt codes of ethics that address each of the four statutory requirements as set forth in GML and, if appropriate, include other ethical considerations and best practices.
2. Visibly post Sections 800-809 of the conflict of Interest statute in each public building.
3. Distribute the code of ethics to each officer and employee.
4. Visibly post the code of ethics in each municipal building.
5. Have all officers and employees attest in writing to the receipt and review of the code of ethics at least every five years and whenever the code of ethics is amended.
6. Require ethics compliance training for all officers and employees, including an overview of the code of ethics and whistle-blower protections.
7. Have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics.
8. Define expectations and responsibilities for the administration of disclosure statement system, including identifying individuals required to file disclosure statements and those hired or promoted into required filer positions mid-year. Carefully review the contents reported in the disclosure statements to identify interests that could pose a conflict of interest.
9. Develop procedures to provide for a thorough and meaningful review of the contents of disclosure statements in an effort to better identify transactions that could pose conflicts of interest.
10. Verify that all individuals covered by annual financial disclosure requirements file complete and timely disclosure statements.
11. Carefully review the information contained on the disclosure statements to identify interests that could pose a conflict of interest.
12. Obtain a list of vendors from the accounts payable department to reference during its review of disclosure statements to help identify potential conflicts of interest and maintain a list of filers' outside business interests to supply to appropriate purchasing department personnel for their use in identifying potential interests in contracts that would be prohibited by GML.

-
13. Review or request the Ethics Boards review the codes of ethics, at least every five years or sooner, if deemed necessary.
 14. Ensure the Ethics Boards prepare and submit annual reports summarizing their activities, and making recommended changes to the codes of ethics as they deem necessary.

Notes

- ¹ A “local government” includes a county, city (outside of New York City), town, and village.
- ² New York State General Municipal Law (GML), Section 806
- ³ State Comptroller’s Model Code of Ethics – Local Governments available at: www.osc.state.ny.us/localgov/pubs/ethics.htm.
- ⁴ GML, Section 807 requires the posting of GML Sections 800 through 809 in each public building.
- ⁵ GML provides that the board of ethics, if established by the governing body, is responsible for receiving the disclosure statements.
- ⁶ Refer to Appendix A for the 20 local governments included in our audit, the number of each local governments’ required disclosure statement filers and specific GML requirements met by each local government.
- ⁷ Refer to Appendix A for code of ethics awareness and training details for each local government.
- ⁸ OSC has prepared a number of resources, including our document *Conflicts of Interest: Municipal Officers and Employees – The Fundamentals of Article 18 of the General Municipal Law* available at www.osc.state.ny.us/files/local-government/resources/pdf/Article18GeneralMunicipalLaw.pdf.
- ⁹ Refer to Appendix A for the required disclosure statement filing details for each local government.
- ¹⁰ Refer to Appendix A for specific Ethics Board activities for each local government.

Appendix A: Local Government Information

Figure 10: Local Government Background Information

Local Government	Region	Number of Employees	Number of Required Filers		
			2017	2018	Total
City					
New Rochelle	Mid-Hudson	642	86	84	170
Rochester	Finger Lakes	3,709	222	199	421
Troy	Capital District	522	77	86	163
Utica	Mohawk Valley	507	84	84	168
County					
Albany	Capital District	2,471	434	419	853
Chautauqua	Western	1,382	272	282	554
Chemung	Southern Tier	1,061	174	172	346
Genesee	Finger Lakes	577	105	104	209
St. Lawrence	North Country	768	139	146	285
Steuben	Southern Tier	875	63	66	129
Suffolk	Long Island	12,778	255	459	714
Tompkins	Southern Tier	675	82	84	166
Town					
Clay	Central	108	60	60	120
Colonie	Capital District	933	712	686	1,398
Greece	Finger Lakes	1,534	49	51	100
Oyster Bay	Long Island	1,240	225	216	441
Ramapo	Mid-Hudson	312	56	51	107
Southampton	Long Island	634	142	138	280
Tonawanda	Western	863	84	81	165
Union	Southern Tier	167	44	44	88
Totals		31,758	3,365	3,512	6,877

Figure 11: Local Government Report Data (Cities)

	New Rochelle	Rochester	Troy	Utica
GML Requirements				
Code of Ethics Contains: Four GML Provisions	Yes	Yes	Yes	Yes
All Other Ethical Considerations^a	No	No	No	No
Posted Entire Conflict of Interest Statute	No	Yes	Yes	No
Process to Distribute Code of Ethics	Yes ^b	Yes ^b	Yes	Yes
Code of Ethics Awareness and Training				
Code of Ethics Posted to Website	Yes	Yes	Yes	Yes
Code of Ethics Posted in All Buildings	No	N/A	N/A	N/A
Code of Ethics Attestations	Yes ^{c,d}	Yes ^{c,d}	No	No
Ethics Training Provided to Officers and Employees	No	Yes ^e	No	No
Ethics Training Provided to Ethics Board Members	No	No	No	No
Required Disclosure Statement Filing				
Not Filed	9%	9%	12%	35%
Filed Late	20%	20%	28%	13%
Filed with Questions Left Blank	9%	9%	0%	14%
Filed Late with Questions Left Blank	4%	4%	0%	5%
Ethics Board Activities				
Verified Accuracy of Required Filer List	No	N/A	No	N/A
Ensured Disclosure Filing Compliance	No	N/A	No	N/A
Reviewed Disclosures for Conflicts of Interest	No	No	No	No
Reviewed Code of Ethics	No	Yes	No	No
Met at Least Annually	Yes	Yes	No	Yes
Prepared Annual Reports	No	N/A	No	No

a Not Required by GML, but included in this section for reporting purposes. Refer to OSC's Model Code of Ethics for Local Governments: www.osc.state.ny.us/localgov/pubs/ethics.htm.

b The process to distribute the code of ethics included only required disclosure statement filers or excluded certain classes of employee such as part-time, seasonal, hourly, and/or temporary.

c New hires were required to attest to receiving, reviewing and/or understanding the code of ethics.

d The attestation requirement excluded certain classes of employee such as part-time, seasonal, hourly and/or temporary.

e Training was provided only to new hires and to two departments, at their request, during our audit period.

Figure 12: Local Government Report Data (Counties)

	Albany	Chautauqua	Chemung	Genesee	St. Lawrence	Steuben	Suffolk	Tompkins
GML Requirements								
Code of Ethics Contains:								
Four GML Provisions	Yes	Yes	Yes	No	Yes	No	Yes	No
All Other Ethical Considerations^a	No	No	No	No	Yes	No	Yes	No
Posted Sections 800-809 of the GML	No	No	No	No	No	No	No	No
Process to Distribute Code of Ethics	Yes ^b	Yes	Yes ^b	Yes ^c	Yes	Yes	Yes ^b	Yes
Code of Ethics Awareness and Training								
Code of Ethics Posted to Website	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Code of Ethics Posted in All Buildings	No	N/A	No	N/A	N/A	N/A	N/A	N/A
Code of Ethics Attestations	Yes ^d	Yes ^d	Yes ^e	Yes ^d	Yes ^{d,e}	Yes	Yes ^{d,f}	No
Ethics Training Provided to Officers and Employees	No	Yes	No	No	No	Yes	Yes	Yes
Ethics Training Provided to Ethics Board Members	No	No	No	No	No	No	No	No
Required Disclosure Statement Filing								
Not Filed	35%	0%	72%	15%	67%	9%	0%	3%
Filed Late	9%	12%	1%	15%	6%	37%	0%	13%
Filed with Questions Left Blank	19%	0%	12%	7%	7%	5%	0%	34%
Filed Late with Questions Left Blank	6%	0%	1%	1%	4%	16%	0%	5%
Ethics Board Activities								
Verified Accuracy of Required Filer List	No	N/A	N/A	N/A	No	N/A	N/A	N/A
Ensured Disclosure Filing Compliance	No	N/A	N/A	N/A	N/A	No	Yes	N/A
Reviewed Disclosures for Conflicts of Interest	No	No	No	No	No	No	Yes	No
Reviewed Code of Ethics	No	Yes	N/A	N/A	No	N/A	Yes	No
Met at Least Annually	Yes	Yes	Yes	Yes	Yes	N/A	Yes	No
Prepared Annual Reports	No	Yes	N/A	N/A	No	N/A	Yes	No

a Not Required by GML, but included in this section for reporting purposes. Refer to OSC's Model Code of Ethics for Local Governments: www.osc.state.ny.us/localgov/pubs/ethics.htm.

b The process to distribute the code of ethics included only required disclosure statement filers or excluded certain classes of employee such as part-time, seasonal, hourly, and/or temporary.

c The document distributed was a one-page document rather than the entire code of ethics.

d New hires were required to attest to receiving, reviewing and/or understanding the code of ethics.

e Required disclosure statement filers were required to attest to receiving, reviewing and/or understanding the code of ethics.

f The attestation requirement excluded certain classes of employee such as part-time, seasonal, hourly and/or temporary.

Figure 13: Local Government Report Data (Towns)

	Clay	Colonie	Greece	Oyster Bay	Ramapo	Southampton	Tonawanda	Union
GML Requirements								
Code of Ethics Contains:								
Four GML Provisions	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
All Other Ethical Considerations^a	No	No	Yes	Yes	No	Yes	No	No
Posted Entire Conflict of Interest Statute	No	Yes	No	Yes	No	Yes	No	No
Process to Distribute Code of Ethics	Yes ^b	Yes	Yes	Yes	Yes ^b	Yes	No	No
Code of Ethics Awareness and Training								
Code of Ethics Posted to Website	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Code of Ethics Posted in All Buildings	No	N/A	No	Yes	N/A	N/A	No	N/A
Code of Ethics Attestations	Yes ^{d,f}	Yes ^d	Yes ^c	Yes ^e	No	Yes ^c	No	No
Ethics Training Provided to Officers and Employees	No	No	No	Yes	No	No	No	No
Ethics Training Provided to Ethics Board Members	No	No	No	Yes	No	No	No	No
Required Disclosure Statement Filing								
Not Filed	3%	10%	9%	23%	7%	8%	16%	10%
Filed Late	1%	6%	7%	3%	21%	18%	5%	8%
Filed with Questions Left Blank	63%	1%	10%	0%	2%	0%	1%	36%
Filed Late with Questions Left Blank	3%	0%	0%	0%	1%	0%	2%	5%
Ethics Board Activities								
Verified Accuracy of Required Filer List	N/A	No	Yes	Yes	N/A	No	N/A	N/A
Ensured Disclosure Filing Compliance	No	No	No	No ^g	No	No	N/A	No ^g
Reviewed Disclosures for Conflicts of Interest	No	No	No	Yes	No	Yes	No	No
Reviewed Code of Ethics	N/A	N/A	N/A	No	N/A	Yes	N/A	N/A
Met at Least Annually	No	Yes	N/A	Yes	Yes	Yes	Yes	N/A
Prepared Annual Reports	No	N/A	No	No	Yes	No	N/A	N/A

a Not Required by GML, but included in this section for reporting purposes. Refer to OSC's Model Code of Ethics for Local Governments: www.osc.state.ny.us/localgov/pubs/ethics.htm.

b The process to distribute the code of ethics included only required disclosure statement filers or excluded certain classes of employee such as part-time, seasonal, hourly, and/or temporary.

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e Required disclosure statement filers were required to attest to receiving, reviewing and/or understanding the code of ethics.

f The attestation requirement excluded certain classes of employee such as part-time, seasonal, hourly and/or temporary.

g The Ethics Board or someone else (i.e., attorney, clerk) was responsible for ensuring filing compliance.

Appendix B: Responses From Local Officials

We provided a draft copy of the global report to all 20 local governments we audited and requested a response from each. We received five written responses. Fifteen local governments chose not to respond (Cities of New Rochelle, Rochester, and Utica, the Counties of Albany, Chemung, Genesee, St. Lawrence, Steuben, Suffolk and Tompkins and the Towns of Clay, Colonie, Ramapo, Tonawanda and Union).

City of Troy, Town of Greece, Town of Oyster Bay and Town of Southampton officials provided comments that were specific to their own audit and were not included here. The following comments were excerpted from the one written response that addressed the draft copy of this report.

Chautauqua officials said:

“The County electronically posted the GML provisions in the same manner and location as other County employee postings and, in addition, the County sent e-mail notifications of the postings to County employees. If other municipalities were found to have not complied with the law due to use of electronic rather than paper postings, we would argue that the 90 percent statistic does not accurately depict municipal compliance.”

OSC Response: It has been the view of the State Comptroller’s Office that the posting be a physical copy in each public building. A physical posting helps ensure that the requisite conspicuousness is adhered to and promotes transparency by allowing taxpayers to see the statutorily-imposed duties on officers and employees.

“State law requires that financial disclosure statements be filed annually, but does not require a particular filing date...To the extent OSC auditors’ findings do not reflect local interpretations of municipal codes, this audit finding is inaccurate.”

OSC Response: While we agree that State law does not specify a filing date, each municipality audited set their own filing deadline in their codes of ethics and/or by local law. This audit finding is accurate and supported.

“If OSC auditors disregarded effective conflict of interest reviews by other municipalities because the municipalities’ approach differed from that the OSC auditors would use, we believe this global finding is invalid.”

OSC Response: We reported the methods used by officials to review information disclosed by required filers, if any. However, we question the ability to identify potential conflicts of interest if officials did not compare disclosed business interests to vendor payments or compile a list of filers’ outside business interests for the purchasing department to identify potential interests in contracts that would be prohibited by GML. We believe this audit finding is valid.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We used our professional judgment to select 20 local governments for audit (refer to Appendix A), based on those local governments with a population of 50,000 or more that established Ethics Boards and were located throughout the State.
- We interviewed local officials, employees and Ethics Board members to gain an understanding of the governing and ethics oversight.
- We reviewed policies, procedures and governing board and Ethics Board minutes related to ethics.
- We reviewed all 5,579 disclosure statements filed for 2017 and 2018 to determine whether they were completely and properly filed on time and any potential conflict of interests were reported to the Ethics Boards.
- We reviewed all advisory opinions issued by the Ethics Boards during the audit period.
- We reviewed procedures to receive ethical complaints from the public.
- We used our professional judgment to select a sample of 63 of 734 municipal buildings and walked through these buildings to determine whether the conflict of interest statute was posted. For our samples, we selected buildings with no expectations of greater or lesser results.
- We used our professional judgment to select a sample of 346 of 11,317 individuals during our audit period, with no expectations of greater or lesser results. We reviewed attestation documentation for our sample to determine whether they signed an acknowledgement to having reviewed the code of ethics.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.

The governing boards have the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the governing boards to make the CAP available for public review in the Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/local-government

Local Government and School Accountability Help Line: (866) 321-8503

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