

# Suffolk County

## Ethics Oversight

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DECEMBER 2020

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

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# Report Highlights

## Suffolk County

### Audit Objective

Determine whether Suffolk County (County) officials used resources to meet certain ethics oversight standards.

### Audit Result

County officials met certain ethics oversight standards. However, our audit identified opportunities for the County to enhance its ethics oversight.

We commend the Board of Ethics (Ethics Board) for their efforts in monitoring the filing of disclosure statements to ensure taxpayers have a greater assurance that the County has a strong stance on transparency and identifying potential conflicts of interest of its officers and employees that could compromise impartiality in decision-making.

County officials agreed with our recommendations and have initiated or indicated they planned to initiate corrective action.

### Background

The County is located in the Long Island region of New York. The County is governed by the County Legislature (Legislature) composed of 18 elected Legislators, one of whom serves as the Presiding Officer.

The County Executive is the County's CEO and is responsible, along with other administrative staff, for day-to-day management.

The Legislature established an Ethics Board responsible for providing ethics oversight.

#### Quick Facts

Population	1,493,350
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Officers and Employees	12,778
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#### Required Disclosure Statement Filers

2017	255
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2018	459
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### Audit Period

January 1, 2017 – September 30, 2018

# Ethics Oversight

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## How Can Local Governments Establish Proper Ethics Oversight?

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

To reduce risk that officers' and employees' actions could violate a county'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 the GML and vigorously enforce the code provisions.<sup>1</sup>

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.<sup>2</sup> The county's CEO is responsible for distributing a copy of the code of ethics to every county officer and employee. Although not required, the county could also post the code of ethics on the county website.

In addition to establishing a code of ethics, counties with a population of 50,000 or more are required to have certain individuals annually complete a financial 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 financial disclosure statement filings.<sup>3</sup> The board of ethics, if established, should develop procedures to review and examine the financial disclosure statements filed with the county, 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.

The governing body may also develop additional standards of conduct to provide more comprehensive ethical guidance to meet a county's specific circumstances. For instance, the governing body may establish procedures to ensure that county

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<sup>1</sup> New York State General Municipal Law (GML), Section 806

<sup>2</sup> State Comptroller's Model Code of Ethics – Local Governments available at: <https://www.osc.state.ny.us/localgov/pubs/ethics.htm>

<sup>3</sup> GML provides that the Board of Ethics, if established by the governing body, is responsible for receiving the annual financial disclosure statements.

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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.

To help ensure proper ethics oversight, the CEO is also responsible for posting a copy of certain portions of the conflict of interest statute in each county building.<sup>4</sup> The statute must be posted in a place visible to its officers and employees.

### **The County Established an Ethics Board and Adopted a Code of Ethics**

The County established an Ethics Board, which is composed of members appointed by the County Executive and the Legislature. The Ethics Board is responsible for receiving financial disclosure statements. The County adopted a code of ethics that provides general authority for the Ethics Board or its staff to ensure that the disclosure statements are filed and complete.

In addition, the County administrative code provides that all newly hired employees attest at their orientation session that they have reviewed the code of ethics booklet, which includes the code of ethics.<sup>5</sup>

### **The Code of Ethics Complied With GML but the CEO Did Not Post the Conflict of Interest Statute**

The Legislature adopted a code of ethics, which was posted on the County website. The code of ethics includes all four statutorily required provisions set forth in GML.<sup>6</sup> While the CEO is required to visibly post certain sections of GML in each County building, we found that the statutory provisions were not posted in the four buildings tested.

The Assistant Deputy County Executive told us that he was unaware that posting these sections of the conflict of interest statute is a statutory requirement.

### **The Ethics Board Did Not Receive Ethics Training and Code of Ethics Attestations Were Not Enforced**

Although County officers and employees received annual ethics compliance training, which included an overview of the code of ethics and any amendments to

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4 GML, Sections 807 requires the posting of GML Sections 800 through 809 in each public building.

5 The booklet Ethics and Accountability contains ethics related sections of the County charter, the administrative code and the code of ethics.

6 GML, Section 806, Refer to Appendix A, Figure 4

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the code, the Ethics Board did not receive similar training. Therefore, in an effort to help ensure proper ethics oversight, the Legislature may 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.

We reviewed code of ethics attestations for 20 newly hired employees during our audit period to determine whether these employees attested to having received the code of ethics. We found that 11 part-time employees did not attest to having received the code of ethics. The Personnel Officer told us that part-time employees have not been required to attend orientation sessions. As a result, part-time employees did not receive or attest to having received the ethics booklet. Although not required by law, the Legislature could also reinforce code of ethics awareness of officers and employees by posting the entire code of ethics visibly in all County buildings and requesting that all officers and employees attest in writing to their review of the County's code of ethics at the time of their hire, election or appointment and at least once every five years.

Unless the Legislature reinforces employee awareness of the code of ethics and ensures that the conflict of interest statute is posted in each building, there is a higher risk that officers' and employees' actions may violate the code of ethics and public assets could be subject to misuse.

### **What Are the Responsibilities of the Ethics Board for Reviewing the Code of Ethics and Disclosure Statements?**

The 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 may be appropriate to help ensure the code continues to comply with GML. If requested, the board 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 financial disclosure statements. The Ethics Board may also develop procedures to review and examine the financial 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.

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

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To help verify the filing and completeness of the disclosure statements, the governing body could include procedures for an appointed officer or support staff to assist the board of ethics in ensuring that each financial 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 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.

The County administrative code, charter and code of ethics establish certain procedures for the Ethics Board to administer the annual financial disclosure system, including assigning responsibilities to certain officers. For instance, the code of ethics requires that, by March 1 each year, each agency head, the County Executive and the Presiding Officer provide the Ethics Board with a list of certain individuals within their agency and offices who are required to file disclosure statements. In general, disclosure statements are to be filed by May 15 each year, unless an extension is requested by the filer and granted by the Ethics Board.

The County code of ethics provides that if a required filer fails to file or files a deficient disclosure statement, the Ethics Board shall notify the individual's supervisor and the County Comptroller of such failure.

Further, the County charter allows for the Ethics Board to appoint an executive director, a secretary, independent counsel and such other staff necessary to exercise its powers and fulfill its obligations. The Ethics Board is responsible for receiving and retaining the disclosure statements and the Ethics Board, or its staff, is responsible for reviewing each filed disclosure statement for compliance with the code of ethics.

The Ethics Board is required to meet at least once a month and submit an annual report to the County Executive and Legislature summarizing its activities from the preceding year.

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## The Ethics Board Adequately Monitored the Filing of Disclosure Statements

The Ethics Board appointed the following staff to provide assistance in administrating the disclosure statement system and collect the disclosure statements: an executive director, a secretary and an investigator. The executive director and the investigator ensure that all disclosure statements have been collected and are complete and review the statements for potential conflicts of interest. Their review for conflicts of interest includes reviewing filers' outside employment or investments listed on disclosure statements against a list of County vendors with the assistance of a legal research software program.

We found that required disclosure statements for most officers and employees, as indicated by each agency head, the County Executive and the Presiding Officer, were complete and filed on time. In 2017 and 2018, all Legislator, all officer and employee and 97 percent of other required filer<sup>7</sup> disclosure statements were filed, complete and filed timely.

In 2017 and 2018, 18 Legislators were required to file disclosure statements. All these disclosure statements were filed, complete and filed timely.

In 2017, 190 officers and employees were required to file. All these disclosure statements were filed, complete and filed timely. In 2018, 376 officers and employees were required to file. All these disclosure statements were filed, complete and filed timely.

In 2017, 47 other individuals associated with the County were required to file. All these disclosure statements were filed, complete and filed on time. In 2018, 65 individuals were required to file disclosure statements. However, three filed late disclosure statements.

We commend the Ethics Board for their efforts in monitoring the filing of disclosure statements to ensure taxpayers have a greater assurance that the County has a strong stance on transparency and identifying potential conflicts of interest of its officers and employees that could compromise impartiality in decision-making.

## The Ethics Board Periodically Reviewed the Code of Ethics and Provided Annual Reports

The Ethics Board met twice each month, reviewed the code of ethics during our audit period (April 2017) and provided amendments to the code of ethics to

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We found that required disclosure statements for most officers and employees... were complete and filed on time.

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<sup>7</sup> Other required disclosure statement filers included the following individuals associated with the County: members of the Farmland Commission, Judicial Facilities Agency, Long Island Commission of Aquifer Protection, Long Island Regional Planning Council, Parks Board of Trustees, Planning Commission and the Suffolk County Political Committee Chairpersons.

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agency heads for distribution to their employees. Furthermore, the Ethics Board submitted annual reports summarizing its activities to the County Executive and the Legislature during the audit period, as required by the County administrative code.

## **What Do We Recommend?**

The Legislature should:

1. Have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics.
2. Visibly post the code of ethics in each County building.
3. Ensure all officers and employees attest in writing to the receipt and review of the code of ethics at the time of their election or appointment, as required. Amend the code of ethics to require all officers and employees attest in writing to the receipt and review of the code of ethics at least once every five years or upon amendment to the code.

The County Executive should:

4. Visibly post GML Sections 800-809 of the conflict of interest statute in every County building.

# Appendix A: County Code of Ethics Information

**Figure 1: Required Code of Ethics Provisions<sup>a</sup> and Other Ethical Considerations<sup>b</sup>**

Required Provisions	Included in the County's Code of Ethics?
Disclosure of Interests in Legislation Before the Local Governing Body	Yes
Future Employment	Yes
Holding of Investments in Conflict With Official Duties	Yes
Private Employment in Conflict With Official Duties	Yes
<b>Other Ethical Considerations</b>	
Applicability	Yes
Confidential Information	Yes
Definitions	Yes
Enforcement	Yes
Effective Date	Yes
Establishing a Board of Ethics	Charter
Gifts	Yes
Interests in Contracts	Yes
Nepotism	Yes
Political Solicitations	Yes
Posting and Distributing the Code of Ethics	Yes
Prohibition on Use of Municipal Position for Personal or Private Gain	Yes
Purpose of the Code of Ethics	Yes
Recusal and Abstention	Yes
Ethics Board Members Term Limits <sup>c</sup>	Charter

a GML, Section 806

b Refer to OSC's Model Code of Ethics for Local Governments available at: <https://www.osc.state.ny.us/localgov/pubs/ethics.htm>.

c Not included within OSC's Model Code of Ethics for Local Governments but should be considered as a best business practice

# Appendix B: Response From County Officials

## COUNTY OF SUFFOLK



### OFFICE OF THE COUNTY EXECUTIVE

**Steven Bellone**  
SUFFOLK COUNTY EXECUTIVE

September 25, 2020

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**Re: Ethics Oversight Audit Draft Report, Suffolk County Board of Ethics, Examination | S9-19-4**

Dear Chief Examiner Ms. Landcastle,

This letter serves as the County of Suffolk's (the "County") written response to the Office of the New York State Comptroller's ("OSC") draft audit report entitled, "Ethics Oversight" (the "Draft Report").

As set forth in the Draft Report, the objective of the audit was to determine whether County officials used resources to meet certain ethics oversight standards. The County's Board of Ethics has advised that it participated in this Countywide multi-department and multi-jurisdictional State of New York audit pursuant to the authority of the New York State Comptroller under 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 (see September 23, 2020 letter to OSC from Suffolk County Board of Ethics, attached).

The Draft Report found that County officials met certain ethics oversight standards and commended the County's Board of Ethics for their efforts in monitoring the filing of financial disclosure statements to ensure that county taxpayers have a greater assurance that the County has a strong stance on transparency and identifying potential conflicts of interests of its officers and employees. The County applauds the work of its Board of Ethics in interpreting and administering the County's Ethics Law (Chapter 77 of the Laws of Suffolk County) with the goal of creating accountability and public trust in the integrity of government.

In the Draft Report, the OSC identified recommendations for actions that would enhance the County's ethics oversight even further. More specifically, OSC recommended that:

- the County Board of Ethics members complete training on the provisions of law relating to conflicts of interest and ethics;

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- the County visibly post the County’s Code of Ethics in each municipal building and that, as required by New York State General Municipal Law Section 807, the County should also post General Municipal Law Sections 800-809 in every municipal building;
  - the County should take additional steps to ensure that all officers and employees attest in writing to the receipt and review of the Code of Ethics at the time of their election or appointment; and
  - the County consider amending the Code of Ethics to require all officers and employees attest in writing to the receipt and review of the Code of Ethics at least once every five years or upon amendment to the code.

Steven Bellone, the County Executive and Robert Calarco, Presiding Officer of the County Legislature, have reviewed and concur with the findings of the OSC audit as outlined in the Draft Report. In addition, the County Board of Ethics, as indicated in its letter dated September 23, 2020 (attached), likewise has reviewed and concurred with the Draft Report findings. The County appreciates the OSC’s recommendations as contained in the Draft Report and, in furtherance of these recommendations, the County is taking the following actions:

**1. Have Ethics Board members complete training on the provisions of law relating to conflicts of interest and ethics**

The Presiding Officer of the County Legislature is filing Suffolk County Introductory Resolution No. 1771, which proposes a charter amendment that would require members of the Board of Ethics to be trained on ethics laws annually. The Presiding Officer will have this Introductory Resolution laid on the table on October 6, 2020 for the consideration of the County’s Legislature.

**2. Visibly post the code of ethics in each municipal building**

The Presiding Officer of the County Legislature is filing Suffolk County Introductory Resolution No. 1772 with the County Legislature, which will require posting of the County Code of Ethics in all County buildings. The Presiding Officer will have this Introductory Resolution laid on the table on October 6, 2020 for the consideration of the County’s Legislature.

In addition, the County Executive, acting through the County’s Civil Service Department and the County’s Department of Public Works, is currently having copies of New York State General Municipal Law Sections 800-809 printed and will be posting these provisions in all County buildings forthwith. The County Executive is also having copies of a booklet containing the County’s Code of Ethics (Chapter 77 of the Laws of Suffolk County) printed and will have the County’s Department of Public Works likewise post these booklets in each County building forthwith.

Finally, in addition, while not required by the OSC’s recommendations, the County Executive has had the County’s Civil Service Department post a link to the County’s Code of Ethics prominently on the front page of the County’s intranet site so that County employees may have ready access to the Code.

**3. Ensure all officers and employees attest in writing to the receipt and review of the code of ethics at the time of their election or appointment, as required. Amend the Code of Ethics to require all officers and employees attest in writing to the receipt and review of the Code of Ethics at least once every five years or upon amendment to the code**

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The Presiding Officer of the County Legislature is filing Suffolk County Introductory Resolution No. IR 1773, which introduces a local law that would update the procedures for employee receipt of the County Code of Ethics and the associated attestation, as well as require the distribution of copies of the County Code of Ethics to employees no less than once every 5 years. The Presiding Officer will have this Introductory Resolution laid on the table on October 6, 2020 for the consideration of the County's Legislature.

Currently, the County's Civil Service Department distributes a copy of the County's Code of Ethics to newly hired full-time employees at their orientation and receives attestations that the copy has been received. For part-time employees, the County Executive has directed the County's Department of Civil Service to have booklets containing the County's Code of Ethics printed and distributed to the individual County department payroll representatives who will in turn, distribute the booklets to new part-time employees, along with an attestation that the part-time employee has received and pledges to read the Code of Ethics. The booklets are currently being printed by the County Department of Public Works.

The County appreciates the time spent by the OSC on performing this audit and looks forward to implementing OSC's recommendations so that it can continue ensuring the public's trust in public service.

Very truly yours,

Lisa M. Black  
Chief Deputy County Executive

cc: Robert Calarco, Presiding Officer  
Hon. Members of the Board of Ethics  
Dennis M. Cohen, County Attorney  
Sarah E. Simpson, Counsel to the Legislature  
Samantha L. Segal, Esq., Executive Director, Board of Ethics

## Appendix C: Audit Methodology and Standards

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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 interviewed County officials, employees and Ethics Board members to gain an understanding of the governing and ethics oversight.
- We reviewed policies, procedures and Board minutes related to ethics.
- We reviewed all 714 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 Board.
- We reviewed all advisory opinions issued by the Ethics Board during the audit period.
- We reviewed procedures to receive ethical complaints from the public.
- We used our professional judgment to select a sample of four buildings from a list of 424 County buildings provided by the Executive Director of Audit Services. We walked through these buildings to determine whether the conflict of interest statute was posted. For our sample, we selected the two buildings where we conducted a majority of our fieldwork and two additional nearby County buildings, with no expectation of greater or lesser results.
- We used our professional judgment to select a sample of 20 out of 2,294 newly hired employees during our audit period, with no expectations of greater or lesser results, to determine whether they attested to receiving and reviewing the code of ethics in 2017 and 2018.

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 Legislature has 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 Board to make the CAP available for public review in the County Clerk's office.

## Appendix D: Resources and Services

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### **Regional Office Directory**

[www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional\\_directory.pdf](http://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](http://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](http://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](http://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](http://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](http://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](http://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](http://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](http://www.osc.state.ny.us/local-government/academy)

## Contact

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