

NYS Tug Hill Commission

Local Government Conference

“Ethics on the Edge”

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Big firm capability. Small firm personality.

THE BONADIO GROUP

CPAs, Consultants & More

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Principal,
Municipal Consultant

Nick is a Principal in The Bonadio Group's Government Compliance and Labor Division. After 35 years of managing New York State local governments, he joined Bonadio as a Municipal Consultant in 2009.

Nick's broad range of experience in intergovernmental operations extends from small City government to the County level. For 30 years, Nick served as the Chief Executive Officer and Budget Officer for three local governments (Livingston County, City of Cortland, and Cayuga County). In his role as Director of Finance and Administration at the City of Cortland, he also functioned as the Chief Financial Officer. In these roles, Nick developed expertise in assessing, developing, and implementing cost-saving measures for local government. He also has extensive experience in directing labor relations and managing municipal accounting and financial functions.

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ICMA-MA, MPA



Principal,
Municipal Consultant

Nick received his B.S. in Business and Public Management (Magna Cum Laude) from the State University of New York at Utica/Rome, and his M.A. in Public Administration from Syracuse University's Maxwell School of Citizenship and Public Affairs.

His community involvement and memberships include the Governor's Task Force on Retiree Health Care, the International City/County Management Association, and the St. Agnes Church Parish Council in Avon, NY. Nick is currently a member of the Board of Governors of the New York Municipal Insurance Reciprocal (NYMIR), as well as its past-president. He has also served as President of the NYS Municipal Management Association and the NYS Association of County Administrators.

The Headline Test

**What headline do you dread
to see about your government?**

New York State and County Conflicts of Interest Statutes (Called Ethics Laws)

Government Ethics Laws and Authority: Rules of the Road

- **NY General Municipal Law, Article 18**
- **Various state constitutional and statutory provisions**
- **Case law (e.g. dual office holding; prohibited appearance of impropriety)**
- **Penal Law Articles 195 (official misconduct) and 200 (bribery, unlawful gratuities)**
- **Federal honest services fraud; Hatch Act**

Government Ethics Laws and Authority: Rules of the Road

- **Informal opinions of NYS Attorney General and NYS Comptroller**
- **Local Municipal Ethics Code**
- **Advisory opinions of local Board of Ethics**
- **Regulations and policies of individual agencies**
- **NY Public Officer's Law sec. 74 (state employees)**

NY General Municipal Law Article 18

Who must comply?

Municipal Officers and Employees – paid or unpaid, including members of boards and commissions

Prohibited Interest in Contract with Municipality

Applicable: Gen. Mun. Law §§800 - 804, 805

- **Penalty for violation: misdemeanor, contract void**
 - **misdemeanor (if knowing and willful)**
 - **contract void (if willful)**

Prohibited Interest in Contract with Municipality

- **First element of violation:**
 - **Contract**
 - a claim against the municipality is considered a contract with the municipality
 - the official does not have to be a party to the contract

Prohibited Interest in Contract with Municipality

- **Second element of violation:**
 - **Financial benefit**
 - **as a result of the contract, a financial benefit will be received by the official, or the official's spouse, minor children, dependents, outside business or employer, or a corporation in which the official owns stock**

Prohibited Interest in Contract with Municipality

- **Third element of violation:**
 - **Control**
 - **the official has control over the contract. (i.e. the official, either as an individual or as a member of the board, has the power or duty to negotiate, prepare, or approve the contract, or approve payment under it, or audit bills under it, or appoint anyone who does)**

Public Perception

“Voters have a very low opinion of the New York State government, and I think for many voters, this is just a confirmation of their worst fears – that the Senators just don’t get it.”

“Government has become about winners and losers rather than governing.”

- Steven Greenburg – Siena College Poll – September, 2009

Public Perception

“Watershed Scam Ends in Arrests...”

“Two former employees ...are alleged to have cheated the city water and sewer department out of about \$1million in utility fees...The two men were technicians whose job was to track customer accounts... for cash, the men used their access to the computer billing system to clear indebted accounts...The [payoff] was usually a quarter to a third of the total water bill owed the city...”

- Atlanta Journal-Constitution, 11/23/05

Public Perception

“Probe... New York State Theater Director repeatedly employed family.”

“Owasco Highway Supervisor indicted, faces up to seven years in prison.”

- Syracuse Post Standard, 4/20/2010

Public Perception

“The worst thing a department head can do is hire a bad employee”... the County Manager explained defending the hiring of relatives. “You know that they have a strong work ethic, they come from a family with a strong work ethic, so it’s a known quantity.”

- Valley News, January 25 2010

Public Perception

“Bruno earned \$3.2 Million in fee’s from clients over 15 years and ran his multi-million dollar consulting business almost exclusively out of his Government office...”

- The New York Times, 11/22/09

Public Perception

Spitzer's Mistake

“Dopp and Baum, refused to be interviewed by investigators.”

“I’m not getting into details” – Spitzer

Former Governor, Eliot Spitzer’s staff and personal response to questions regarding his former staff members misuse of New York State Police Investigators on Senator Bruno’s use of State aircraft.

- Rochester Democrat and Chronicle, 2007

Public Perception

“Assembly Speaker Took Millions in Payoffs, U.S. Says...”

“Sheldon Silver, the speaker of the New York Assembly, exploited his position as one of the most powerful politicians in the state to obtain millions of dollars in bribes and kickbacks, federal authorities said on Thursday as they announced his arrest on a sweeping series of corruption charges.”

- NY Times, January, 2015

Public Perception

“Mr. Burlew looted the Town garage to fix his tractor and support his business as a mechanic.”

“Burlew, who was appointed Highway Superintendent in 1998, submitted 178 fraudulent vouchers to the Town since 2007. One voucher was for the purchase of forklift tires when the Highway Department does not own a forklift. Burlew also submitted a voucher for payment for 10 bundles of 10 reciprocating saw blades, despite the fact that the Highway Department does not have a reciprocating saw.”

- Town of Erin (Chemung County), October ,2013

Public Perception

“The Fire District Treasurer blatantly abused her position and misused taxpayer dollars. Her actions and other questionable spending occurred because District officials were lax in their oversight.”

“It’s unfortunate that my office (DiNapoli) continues to find public officials who abuse the trust of their communities.”

- West Seneca Fire District (Erie County), September, 2013

Public Perception

“Seven citizens who thought they were paying for activities and events were unwittingly padding the Director’s bank account. This type of flagrant behavior went undetected because the Town lacked basic checks and balances.”

- Town of Fishkill, NY February, 2014 (\$45,000)

Public Perception

“The former bookkeeper in the Town of Altona (Clinton County) altered cash receipts in order to embezzle \$25,000. This individual controlled Town finances with little oversight and had no difficulty in pocketing public money.”

- Town of Altona, May, 2014, 2007

Public Perception

“The Altmar Town Treasurer, (Oswego County), brazenly ripped-off more than \$100,000 from her community and nearly got away with it. She had the keys to the cash register and went on a spending spree, even going as far as doubling her own salary... without detection.”

- Village of Altmar, March , 2004

What is Ethics?

What is Ethics?

- **Ethics is a standard of conduct applied to personal and professional behavior.**
- **Ethical standards are based on shared values:**
 - **Fairness and equity**
 - **Integrity**
 - **Honesty**
- **One's own conscience and principles**

What is Ethics?

- **Ethical and legal actions are not the same.**
- **Just because something is legal, it does not mean that it is ethical.**

Can you think of something that is legal but is also unethical?

What is Ethics?

- **It's about choices and our use of discretion.**
- **Applying the appropriate public service values to achieve the right outcome in the right way.**

Ethics is not:

- **Following your feelings**
- **A religion**
- **Obeying the law**
- **Doing whatever is acceptable in your society**

- Markula Center for Applied Ethics

Why Focus on Ethics?

- **Loss of public trust.**
- **A 2010 study, (55%) said that leaders are worse today than 20 years ago.**
- **54% said that leaders are not a source of pride.**
- **Public leaders' honesty, integrity and ethics in work are rated as more important than knowledge & ability.**
- **52% of citizens have only “moderate” confidence in local government leaders.**

Ethics at 30,000 ft.

- **Critical to a thriving democracy**
 - **Applying public service values**
 - **Maintaining the public's trust**
- **Insufficiency of personal values**
- **Limitations of laws and rules**

Ethics at 30,000 ft.

- **No success without ethics**
- **Risk management strategy**
 - **Ethics inoculation**
 - **Media scrutiny**
- **Your legacy of leadership**

Ethics and Leadership

“Being seen as someone who can be trusted, who has high integrity, and who is honest and truthful is essential.”

- Kouzes and Posner

Preserving the Intangibles

“It takes 20 years to build a reputation and five minutes to ruin it. If you think about that you’ll do things differently.”

- Warren Buffett

Core Principles of Public Service

Core Principles of Public Service

- **No financial gain**
- **No personal advantages or perks**
- **Transparency and fairness are key**

Core Principles of Public Service

- **No Financial Gain**

Public officials are to make decisions solely on the basis of public interest.

Core Principles of Public Service

“Ex-manager goes to jail...”

“Anthony Biondi was sentenced to 18 months in prison for hiding his partnership with 2 businesses while he was awarding them municipal contracts.”

“Do not discount the magnitude of damage corruption has done to this town.”

- Philadelphia Inquirer, 8/16/06

Core Principles of Public Service

Conflicts of Interest

- **Avoid investments (other than your home) within your jurisdiction.**
- **Disclose the investments or business interest of family members or friends where there might be a conflict of interest (real or perceived).**
- **Don't do personal business with employees, officials or vendors.**
- **Publicly disclose any potential conflict of interest as early as feasible and recuse yourself.**

Core Principles of Public Service

Conflicts of Interest

The appearance of a conflict of interest can be just as serious as an actual conflict of interest.

Core Principles of Public Service

No Personal Advantages or Perks

Central to the concept of public service is that public officials receive only the stipends and salaries provided to them.

Core Principles of Public Service

No Personal Advantages or Perks

“Firms gave thousands for Building Department event...”

“Developers, builders and lobbyists donated as much as \$3,750 each in food, cash and door prizes at a LA Building and Safety Department charity event attended mostly by department employees... Mayor demanded that employees stop soliciting donations from people who do business with the department, practice could be perceived as “coercive.”

Core Principles of Public Service

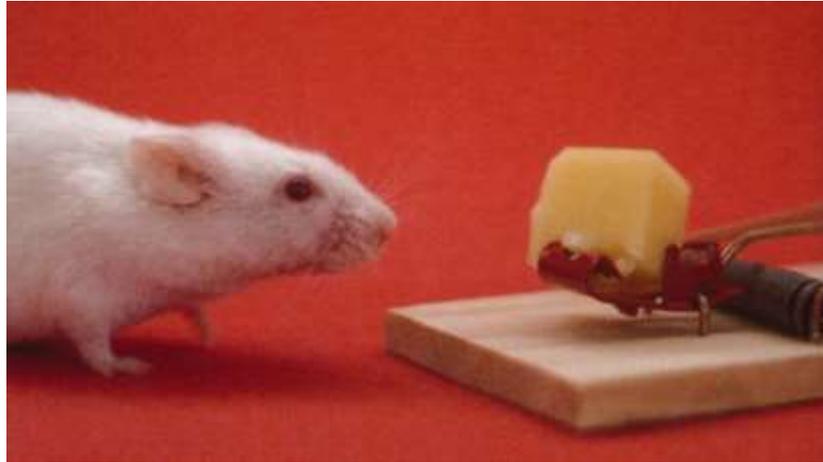
No Personal Advantages or Perks

The perils of accepting gifts...

- Apply the “reasonable person” standard:
 - Is the gift significant enough that a reasonable person would assume it was a reward or intended to gain favor?

Core Principles of Public Service

No Personal Advantages or Perks



There is always free cheese in a mousetrap.

Core Principles of Public Service

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Core Principles of Public Service

Transparency and Fairness are Key

The public expects public agencies to have nothing to hide and to be open with their processes.

Core Principles of Public Service

Transparency and Fairness are Key

“Chancellor may face no-confidence vote...”

“UC Davis Chancellor Larry Vanderhoef could be hit with a no-confidence vote by faculty members for approving a secret settlement with an administrator who got a plum job after she threatened to sue.”

The Ethics Edge

The Ethics Edge

- **Guiding principles for your organization**
- **Principled-centered rather than rule-centered**
- **Highest set of standards, not the lowest common denominator**
- **Doing the right thing the right way**

The Ethics Edge

ICMA Values for Public Service

- Equity
- Transparency and Trust
- Honor
- Integrity
- Commitment
- Stewardship

The Ethics Edge

Institute for Global Ethics

- **Trustworthiness**
- **Responsibility**
- **Respect**
- **Loyalty**
- **Compassion**
- **Fairness**

The Ethics Edge

The Six Pillars of Character

- **Trustworthiness**
- **Respect**
- **Responsibility**
- **Fairness**
- **Caring**
- **Citizenship**

The Ethics Edge

The Six Pillars of Character

- **Trustworthiness**
 - **Honesty**
 - **Reliability (Promise-keeping)**
 - **Integrity**
 - **Loyalty**

The Ethics Edge

The Six Pillars of Character

- **Respect**
 - **Civility, Courtesy and Decency**
 - **Autonomy**
 - **Tolerance**

The Ethics Edge

The Six Pillars of Character

- **Responsibility**
 - **Accountability**
 - **Pursuit of Excellence**
 - **Self-restraint**

The Ethics Edge

The Six Pillars of Character

- **Fairness**
 - **Process**
 - **Impartiality**
 - **Equity**

The Ethics Edge

The Six Pillars of Character

- **Caring**
- **Citizenship**

The Ethics Edge

Why Culture Matters



“Little Bucket of Blacktop”

The Ethics Edge

Why Culture Matters

Be proactive...

“In any moment of decision, the best thing you can do is the right thing, the next best thing is the wrong thing, and the worst thing you can do is nothing.”

Is Your Organization Ethically Fit?

Framework for Ethical Decisions

- **Understand the issue.**
- **Determine the options and consequences.**
- **Seek advice and counsel.**
- **Take action.**

Framework for Ethical Decisions

Phase 1: Understand the Issue

- **Gather the facts.**
- **Do you have a legal problem?**
- **Do you have an ethical problem?**
- **Define the ethical issue.**

Framework for Ethical Decisions

Phase 2: Determine Options and Consequences

- **Will this option:**
 - **Violate an existing code of ethics?**
 - **Conform to my values, community values, professional standards?**
- **What impact will it have on:**
 - **The local government.**
 - **My staff.**
 - **The community and its businesses.**

Framework for Ethical Decisions

Phase 3: Consider the Consequences

- Will either a family member or I gain personally or avoid a negative?
- What will be the public perception of this option?

Framework for Ethical Decisions

Phase 4: Take Action

- **Reach a conclusion.**
 - **Can you live with the headline if your decision or action is made public?**
 - **How would you explain your decision to a reporter?**
- **Stand by your decision.**

Ethical Fitness

Sample Questions

Part A: In my local government, I am ...

- **Encouraged to speak up about ethically questionable practices.**
- **Expected to report questionable ethical behaviors of others.**
- **Clear about where to turn to for advice about ethical issues.**
- **Expected to treat everyone who comes before the agency equally, regardless of personal or political connections.**

Ethical Fitness

Common Ethical Challenges

- **Conduct violates the law.**
- **Doing the right thing has a high personal cost, i.e. demonstrating moral courage.***
- **Right versus Right: Conflicting but correct values.***
- **Doing the right thing but the wrong way.**

* Rushworth Kidder

Ethics in the Trenches

Ethics in the Trenches

- **Case Studies:** Each table gets a case study to review, solve and report out.

- **Ethical Dilemmas:** Shorter cases. Each table is assigned one or two dilemmas to resolve and then report out to the group.

Leadership Matters

Leadership Matters

Leaders...

- Are always being “watched.”
- Set the “organizational tone.”
- Take action to *champion* ethical behavior.
- Understand the consequences to the organization.

Leadership Matters

Checklist for Leaders

- Walk the talk.
- Discuss how you make decisions.
- Conduct an ethics audit.
- Develop a code of ethics.
- Hire for values, not just talent and skills.

Leadership Matters

Checklist for Leaders

- ❑ Evaluate people on the basis of how they achieve goals, not just the results.
- ❑ Discuss ethical expectations in new employee orientations.

Leadership Matters

Ethics Tips

- **APPEARANCES matter!**
- **Disclosure doesn't cure all conflicts of interest.**
- **Just because it is legal, doesn't make it ethical.**
- **If the gift appears related to your official position, you should decline it.**

Leadership Matters

Ethics Tips

- **Will you think well of yourself when you look back on this decision in ten years? Perspective is the ingredient frequently missing from our decisions.**
- **Can you live with the headline if your decision or action is made public?**

Summary

- **Public office is a public trust. One shall not leverage his or her position for personal gain or benefit.**
- **Recognize that NO ONE is above the law.**

Questions?

Thank You!



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