



**SUFFOLK COUNTY  
OFFICE OF THE COMPTROLLER  
AUDIT DIVISION**

**John M. Kennedy, Jr.  
Comptroller**

An Audit of the  
Time Reporting Practices and Related Payroll Payments of Selected  
Employees of the Suffolk County Board of Elections  
For the Period January 1, 2016 through December 31, 2017

**Report 2017-25  
Date Issued: May 2, 2019**

**SUFFOLK COUNTY  
OFFICE OF THE COMPTROLLER**

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## **EXECUTIVE SUMMARY**

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### **Introduction:**

As a result of a legislative request, the Suffolk County Comptroller's Office has conducted a limited scope audit of the Time and Accrual Records and supporting documentation submitted by selected employees of the Suffolk County Board of Elections (Board), and related payroll payments made by the County for the period January 1, 2016 through December 31, 2017.

### **Purpose:**

The purpose of our limited scope audit was to determine if the selected Board employees' Time and Accrual Records were properly processed in accordance with applicable contracts, SOPs, Directives of the Office of Labor Relations and related payroll documentation; to determine if the selected Board employees' Time and Accrual Records accurately reflect employee hours worked and benefit hours accrued and utilized during the audit period; and to review the Board's current payroll procedures related to the selected employees in order to determine if the Board has adequate procedures in place to record, process and properly claim payroll expenses to the County.

### **Summary of Significant Findings:**

- There is conflicting guidance as to the rules governing Board employees.
- We were unable to ensure the accuracy of hours worked and benefit hours utilized by the Board's Democratic Commissioner and Deputy Commissioner.
- We were unable to ensure the accuracy of hours worked and benefit hours utilized by the Board's Republican Commissioner.
- The Democratic Deputy Commissioner's Time and Accrual Records were improperly completed due to prior period carry-forward errors.
- The Board Commissioner's Time and Accrual Records were approved by subordinate employees during the audit period.
- Board Commissioners and Deputy Commissioners did not comply with the provisions of the Suffolk County Comptroller's Payroll Advisory # 1.

**Summary of Significant Recommendations:**

- Board Commissioners and Deputy Commissioners should abide by all rules and regulations applicable to Management Exempt Employees. These employees are paid with taxpayer money of Suffolk County residents and receive all of the benefits (health insurance, holidays, longevity, etc.) of the Suffolk County Association of Municipal Employees (AME) contract in accordance with the provisions of Suffolk County Resolution No. 659-1988 which established a policy of affordable fringe benefits for exempt employees. Furthermore, the Board should not have the authority to close its doors and use taxpayer funds to pay its employees for the day off.
- The Board's Commissioners and Deputy Commissioners should maintain daily attendance records which support the hours reported on their Time and Accrual Records. In addition, the Board's Commissioners and Deputy Commissioners should record actual hours worked each day on their Time and Accrual Records and ensure that the Time and Accrual Records accurately reflect employee hours worked and benefit hours utilized.
- The Board's Payroll Representatives should ensure that employee Time and Accrual Records accurately reflect the employee's accrued balances.
- The Suffolk County Legislature should adopt an approval process for the Board Commissioner's Time and Accrual Records.
- Board employees should comply with the provisions of all Payroll Advisories issued by the Suffolk County Comptroller. In addition, a Leave Slip must be accurately completed for all leave time utilized and should include the required signatures and dates associated with the approval.

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## **BACKGROUND**

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The Board was established in 1935 as a bipartisan agency responsible for all aspects of the electoral process and became part of the New York State Board of Elections in 1976 with the adoption of New York State Election Law, which expanded their regulatory duties.

The Board oversees all elections including federal, state, county, town, primary and general elections within Suffolk County. The Board encourages voter participation, appoints and trains bipartisan teams of election inspectors, and protects the rights of voters within Suffolk's jurisdiction. In addition, the Board produces and/or updates all election materials required at the polls and accepts filings for ballot placement from candidates and from municipalities for propositions.

New York State Election Law § 3-300 provides that the Board has the authority to appoint and remove Board employees, establish salaries within the appropriated budget, and secure the appointment of employees with equal representation of the major political parties. The Commissioners are approved by the Legislature based on a recommendation by the Party County Committee. The Deputy Commissioners are appointed by the Commissioners and the Board has a bipartisan staff which is equally represented by the Democratic and Republican parties.

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## SCOPE AND METHODOLOGY

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We conducted our performance audit in accordance with generally accepted government auditing standards. 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 objectives.

In order to accomplish our audit objectives, we performed the following procedures:

- Reviewed relevant Suffolk County Laws, Resolutions, Standard Operating Procedures (SOPs), All Department Head Memorandums, Memorandums of Agreement, Payroll Memorandums, Comptroller's Payroll Advisories, the Suffolk County AME contract, and Board policies and procedures.
- Conducted interviews of Board personnel as deemed necessary to obtain an understanding of the procedures used to record and process employee time sheets.
- Conducted an interview of Suffolk County Office of Labor Relations personnel to obtain an understanding of the laws, regulations, SOP's, legislative resolutions, and contracts that Board personnel are required to follow.
- Requested a legal opinion from the Suffolk County Attorney regarding Board employees since they are not covered under a collective bargaining agreement.
- Performed testing procedures as deemed necessary for all Time and Accrual Records submitted by the Board's Commissioners and Deputy Commissioners during the audit period in order to accomplish our audit objectives.

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.

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## AUDIT FINDINGS

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*There is conflicting guidance as to the rules governing Board employees.* Board Commissioners and Deputy Commissioners are classified as Bargaining Unit 21, Management Exempt Employees, in the Suffolk County Payroll System and are paid bi-weekly with county resources. Board employees abide by the provisions of Suffolk County Resolution No. 659-1988 which established a policy of affordable fringe benefits for exempt employees. Board Commissioners and Deputy Commissioners receive their accruals twice a year (January 1<sup>st</sup> and July 1<sup>st</sup>) and receive the benefits (health insurance, holidays, longevity, etc.) of the Suffolk County Association of Municipal Employees (AME) contract. However, Board employees do not comply with all of the rules and regulations which apply to Management Exempt employees.

New York State Election Law § 3-300 specifically states, “Every board of elections shall appoint, and at its pleasure remove, clerks, voting machine technicians, custodians and other employees, fix their number, prescribe their duties, fix their titles and rank and establish their salaries within the amounts appropriated therefor by the local legislative body and shall secure in the appointment of employees of the board of elections equal representation of the major political parties.” The Suffolk County Office of Labor Relations stated that the Board is under the purview of New York State and could not confirm that the Board should comply with the provisions of the AME Contract or the Payroll Advisories issued by the Suffolk County Comptroller. In addition, the County Attorney provided limited guidance as to our questions pertaining to Board employees.

On January 4, 2018 the Board closed for business due to impending inclement weather pursuant to a special meeting held by the Board on January 3, 2018. Employees were not required to use leave time for this seven (7) hour work day and employee hours were entered as “Extraordinary Leave” on employee Time and Accrual Records. It is unclear whether the Board has the authority to close its doors, claiming a snow day, and use taxpayer funds to pay its employees for the day off when both the Suffolk County Executive and the Governor of New York State did not do the same. We believe the closing of the Board of Elections while all other County Offices remained open can be construed as a gift of public funds which would violate the New York State Constitution.

*We were unable to ensure the accuracy of hours worked and benefit hours utilized by the Board’s Democratic Commissioner and Deputy Commissioner.* The Board’s Democratic Commissioner and Deputy Commissioner do not utilize a daily attendance sheet and do not sign in when they arrive to work. In addition, both employees do not record the actual hours worked on their Time and Accrual Records as required by the Comptroller’s Payroll Advisory # 3, but record seven hours worked on their Time and Accrual Record even if they work beyond the normal work day. At the end of each four week time and accrual period, the Democratic Commissioner and Deputy Commissioner notify the Democratic Payroll Representative as to any leave time taken so that the Payroll Representative can prepare the Time and Accrual Records.

When employee hours worked and benefit hours utilized are not properly monitored, there is an increased opportunity for errors or fraud to occur which could result in employees being paid more than they are entitled.

***We were unable to ensure the accuracy of hours worked and benefit hours utilized by the Board's Republican Commissioner.*** The Board's Republican Commissioner does not utilize a daily attendance sheet and does not sign in when he arrives to work. While the Board's Republican Commissioner stated that he records actual hours worked on his Time and Accrual Records, he stated that he records time spent on emails and phone calls while away from the office on his Time and Accrual Record. At the end of each four week time and accrual period, the Republican Commissioner notifies the Republican Payroll Representative as to any leave time taken so that the Payroll Representative can prepare the Time and Accrual Records.

When employee hours worked and benefit hours utilized are not properly monitored, there is an increased opportunity for errors or fraud to occur which could result in employees being paid more than they are entitled.

***The Democratic Deputy Commissioner's Time and Accrual Records were improperly completed due to prior period carry-forward errors.*** There were five (5) instances in which the Democratic Deputy Commissioner's Time and Accrual Records contained prior period carry-forward errors, resulting in the employee's vacation and sick leave accrued balances being overstated by 11 and 11.5 hours, respectively. The employee retired in 2018 and Audit & Control will adjust the employee's final payment of accumulated vacation and sick leave time by the amount of the overstated balances.

When employee Time and Accrual Records are not properly completed, there is an increased risk that employees can be paid more than they are entitled.

***The Board Commissioner's Time and Accrual Records were approved by subordinate employees during the audit period.*** Our audit interviews revealed the following:

- The Republican Commissioner's Time and Accrual Records were approved by the Deputy Commissioner during the audit period. Our interview with the Republican Commissioner revealed that he records time spent answering emails while out of the office as hours worked on his Time and Accrual Record and our interview with the Deputy Commissioner revealed that she does not track the Commissioner's hours, but considers the Commissioner's reported hours to be on the honor system. Therefore, it would be unlikely that the Deputy Commissioner would be able to ensure the accuracy of the Commissioner's Time and Accrual Records when approving them.
- The Democrat Commissioner's Time and Accrual Records were approved by the Senior Assistant Commissioner of Elections during the audit period.

When a subordinate employee is approving Time and Accrual Records of a higher level employee, a situation of undue influence between the two staff members may be created. Furthermore, an employee should not be approving another employee's Time and Accrual Records without monitoring the employee's attendance.

***Board Commissioners and Deputy Commissioners did not comply with the provisions of the Suffolk County Comptroller's Payroll Advisory # 1.*** Payroll Advisory # 1 which details the requirements for reporting leave time and applies to all employees, except elected officials, specifically states, "SCIN 49 (11/04) entitled "Application For Leave" (Leave Slip) must be used by all County employees, **including management and management confidential employees**. The Leave Slip should be completed by the employee and submitted to his/her supervisor for review." The Advisory further states, "All Leave Slips should be used to verify the accuracy and propriety of employee Time and Accrual Records, attached to the employee's Time and Accrual Record and retained for a period of six years in accordance with Suffolk County Laws, Chapter 1079, Records Retention."

Our audit testing revealed that Board Commissioners and Deputy Commissioners did not complete or submit a Leave Slip for any accrued leave time (sick, vacation, or personal) expended during the audit period.

When Leave Slips are not completed, there is an increased risk that benefit hours utilized will not be accurately reported on the employee's Time and Accrual Record.

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## RECOMMENDATIONS

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- Board Commissioners and Deputy Commissioners should abide by all rules and regulations applicable to Management Exempt Employees. These employees are paid with taxpayer money of Suffolk County residents and receive all of the benefits (health insurance, holidays, longevity, etc.) of the Suffolk County AME contract in accordance with the provisions of Suffolk County Resolution No. 659-1988 which established a policy of affordable fringe benefits for exempt employees. Furthermore, the Board should not have the authority to close its doors and use taxpayer money to pay its employees for the day off.
- The Board's Commissioners and Deputy Commissioners should maintain daily attendance records which support the hours reported on their Time and Accrual Records. In addition, the Board's Commissioners and Deputy Commissioners should record actual hours worked each day on their Time and Accrual Records and ensure that the Time and Accrual Records accurately reflect employee hours worked and benefit hours utilized.
- The Board's Payroll Representatives should ensure that employee Time and Accrual Records accurately reflect the employee's accrued balances.
- The Suffolk County Legislature should adopt an approval process for the Board Commissioner's Time and Accrual Records.
- Board employees should comply with the provisions of all Payroll Advisories issued by the Suffolk County Comptroller. In addition, a Leave Slip must be accurately completed for all leave time utilized and should include the required signatures and dates associated with the approval.

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## **APPENDICES**

**APPENDIX A**



**BOARD OF ELECTIONS**  
County of Suffolk  
PO Box 700  
Yaphank, NY 11980-0700  
Telephone (631) 852-4500 Fax (631) 852-4590  
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**Commissioners**  
ANITA S. KATZ  
NICK LA LOTA

**Deputy Commissioner**  
GAIL M. LOLIS  
IRENE D'ABRAMO

*By Electronic Mail (frank.bayer@suffolkcountyny.gov)*

March 21, 2019

Frank Bayer, CPA  
Office of the County Comptroller  
100 Veterans Memorial Highway  
PO Box 6100  
Hauppauge, NY 11788-0099

**RE: Draft Audit of the Time Reporting Practices and Related Payroll Payments of Selected Employees of the Suffolk County Board of Elections ("BOE") for the period January 1, 2016 through December 31, 2017 ("Draft Audit")**

Dear Mr. Bayer:

I am writing to address inconsistencies, errors and omissions contained in the Draft Audit which was forwarded to me under your cover letter dated March 12, 2019. This response is limited solely to statements concerning Democratic employees and should not be construed to reflect any opinion of the Republican Commissioner.

The Draft Audit acknowledges the legal authority granted to a county board under NY Election Law § 3-300 and the opinion of the Office of Labor Relations and presumably the County Attorney that the BOE is not bound to follow the provisions of the AME contract. Thus, any assertion that BOE management employees acted improperly for not following a term of such contract is unjustified and should be omitted.

The following errors and omissions in the Draft Audit should be corrected or noted.

1. Daily attendance and or sign in sheets are not required.
  - There is no contract requirement or local law that requires any County Commissioner or Deputy Commissioner to utilize a daily attendance or sign in sheet.

- Local Law 5-94 requires time sheets be filed on a monthly basis and the Comptroller's Advisory directs that the time sheet shall be submitted within ten days of the completion of the time and accrual period. The Democratic Commissioner and Deputy Commissioner have both complied with this requirement and there is no assertion to the contrary.
2. Recording actual hours worked beyond the normal work day is not required.
    - There is no law or contract term that requires an employee to record hours worked beyond the normal work day.
    - Democratic management employees are required to work a minimum of seven hours within the normal business hours of 9:00 am to 5:00 pm except on election days. Management employees are not entitled to additional compensation for the additional hours worked on election days so failure to record same is not required.
    - I agree best practices would require noting actual hours worked in excess of a normal workday in situations where a Flex-time policy is instituted and employees are permitted to work other than the normal seven hour workday. The Draft Audit should note that only the Republican Commissioner has instituted such a Flex time policy.
  3. Although not required, contemporaneous time records are created.
    - Hours not worked on any given day is reduced to writing and communicated to the payroll clerk at the end of the month who then prepares the official Time and Accrual sheet which is subsequently certified by the employee. Whether the contemporaneous record notes "five hours worked" versus "two hours - vacation" is a distinction without a difference.
  4. Process followed regarding Commissioner's Time and Accrual Sheet was recommended by the then Director of Civil Service, Alan Schneider.
    - Consistent with state law, there is no higher County official to which I report. The practice of having the Senior Assistant Commissioner that sits outside of my office sign my Time and Accrual Sheet was recommended by the former Director of Civil Service who followed the same policy.
    - There is no other County official or employee who can verify the hours I am working based upon personal knowledge.

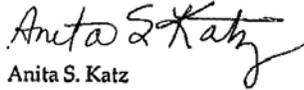
5. Closure of BOE during a severe snow storm on one day in January 2018 should be omitted.

- Incident occurred outside of the Audit period.
- BOE voluntarily agreed to require employees to utilize accruals in such situation prior to Draft Audit Report.

In sum, I always seek to follow best practices and in most instances, follow County employment procedures regardless of the authority granted under state law. The recommendation that leave slips be utilized is currently under consideration. As a public employee, I take my responsibilities and obligations very seriously and understand the importance of accurate time accounting. When I certify my time accounting, I am accurately reflecting the hours I worked in any given pay period.

Thank you for your consideration.

Very truly yours,



Anita S. Katz  
Commissioner

Suffolk County Board of Elections

cc: Hon. John M. Kennedy, Jr., County Comptroller  
Louis A. Necroto, Chief Deputy Comptroller  
Joseph S. Pecorella, Chief Auditor  
Stacey Quinn, Senior Auditor

**APPENDIX B**

**Comptroller Office's Comments on the Board's  
Democratic Commissioner's Response**

**Auditee: Suffolk County Board of Elections (Board)**

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The Board's Republican Commissioner did not submit a written response to the audit report. The Board's Democratic Commissioner submitted a written response to the audit report (Appendix A, p. 10). Our assessment of the Board's Democratic Commissioner's response is as follows:

**Finding 1:**

There is conflicting guidance as to the rules governing Board employees.

**Board's Democratic Commissioner's Response:**

The Board's Democratic Commissioner contends that the finding pertaining to the closure of the Board on January 4, 2018 should be omitted because the incident occurred outside of the audit period.

**Comptroller's Response:**

The Comptroller's Office agrees that this issue occurred 4 days after the audit period; however, it came to the auditor's attention during field work and should be reported on. The Board closed for business on January 4, 2018 due to impending inclement weather pursuant to a special meeting held by the Board on January 3, 2018. However, the Suffolk County Executive and the Governor of New York State did not close offices for this day and Suffolk County employees were required to use accrued leave time on January 4, 2018. The Board should not have the authority to close its doors and use taxpayer money of Suffolk County residents to pay its employees for the day off.

No modification of the audit report for this finding is warranted.

**Finding 2:**

We were unable to ensure the accuracy of hours worked and benefit hours utilized by the Board's Democratic Commissioner and Deputy Commissioner.

**Board's Democratic Commissioner's Response:**

The Board's Democratic Commissioner contends that there is no contract requirement or local law requiring any County Commissioner or Deputy Commissioner to utilize a daily attendance or sign in sheet and that there is no law or contract term that requires an

employee to record hours worked beyond the normal work day. In addition, the Commissioner states that both the Democratic Commissioner and Deputy Commissioner have complied with the requirements of Payroll Advisory # 3 which requires time sheets to be submitted within 10 days of the completion of the time and accrual period.

Comptroller's Response:

The Comptroller's Office agrees with the Board's assertion that there is no contract requirement or local law requiring any County Commissioner or Deputy Commissioner to utilize a daily attendance or sign in sheet. In addition, the Comptroller's Office agrees that both the Democratic Commissioner and Deputy Commissioner have complied with the requirements of Payroll Advisory # 3 which pertains to Time Accounting by Commissioners, Department Heads & Deputies by submitting their time sheets within 10 days of the completion of the time and accrual period. However, Payroll Advisory # 3 also requires these employees to record the actual hours worked on their Time and Accrual Records and both the Democratic Commissioner and Deputy Commissioner are not complying with this requirement.

The provisions contained in Payroll Advisory # 3 should be followed by all Commissioners, Department Heads & Deputies as these are Suffolk County employees who are paid with taxpayer money of Suffolk County residents.

No modification of the audit report for this finding is warranted.

**Finding 3:**

We were unable to ensure the accuracy of hours worked and benefit hours utilized by the Board's Republican Commissioner.

Comptroller's Response:

The Board's Republican Commissioner did not submit a written response to the audit.

No modification of the audit report for this finding is warranted.

**Finding 4:**

The Democratic Deputy Commissioner's Time and Accrual Records were improperly completed due to prior period carry-forward errors.

Board's Democratic Commissioner Response:

The Board's Democratic Commissioner did not address this finding in her response.

Comptroller's Response:

No modification of the audit report for this finding is warranted.

**Finding 5:**

The Board Commissioner's Time and Accrual Records were approved by subordinate employees during the audit period.

Board's Democratic Commissioner Response:

The Board's Democratic Commissioner contends that there is no higher County official to report to and that the former Director of Civil Service recommended having the Senior Assistant Commissioner approve her time and accrual records.

Comptroller's Response:

The Comptroller's Office believes that the Suffolk County Legislature should adopt an approval process for the Board Commissioners Time and Accrual Records.

No modification of the audit report for this finding is warranted.

**Finding 6:**

Board Commissioners and Deputy Commissioners did not comply with the provisions of the Suffolk County Comptroller's Payroll Advisory # 1.

Board's Democratic Commissioner Response:

The Board's Democratic Commissioner stated in her response that she is considering the recommendation of utilizing leave slips.

Comptroller's Response:

Board employees should comply with the provisions of all Payroll Advisories issued by the Suffolk County Comptroller. All Board employees should accurately complete a leave slip for all leave time utilized and should include the required signatures and dates associated with the approval.

No modification of the audit report for this finding is warranted.

We extend our gratitude to the personnel at the Board for their cooperation during the audit.