

**Buffalo Niagara Coalition
for
Open Government**

Local Government Ethics
Boards Keep the Public in the
Dark

June 12, 2019

The Buffalo Niagara Coalition for Open Government is a nonpartisan charitable organization comprised of journalists, activists, attorneys, educators, news media organizations, and other concerned citizens who value open government and freedom of information.

Mission Statement:

Through education and civic engagement, the Buffalo Niagara Coalition for Open Government advocates for open, transparent government and defends citizens' right to access information from public institutions at the city, county, and state levels.

Statement of Purpose:

We believe that, if government is of the people, by the people and for the people, then it should also be open *to* the people. Government exists to serve its citizens, so access to public information should be simple. Freedom of Information Laws and the New York Open Meetings Law make access to public records a right.

When government operates openly and honestly, we, the people, can hold our elected officials accountable, fulfilling our duties as an informed citizenry. The Buffalo Niagara Coalition for Open Government works to ensure that all people have full access to government records and proceedings on the city, county, and state levels. Such access fosters responsive, accountable government, stimulates civic involvement and builds trust in government.

Buffalo Niagara Coalition for Open Government

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The following individuals also contributed to the completion of this report:
Stephen Lyle.

Our meetings are held at 6:30 p.m. the first Thursday of the month, at the
Williamsville Library on Main Street. Board President Paul Wolf, Esq. can be
contacted at (716) 435-4976, or by email at paulwolf2@gmail.com. Our website is
www.nyopengov.org and we have a Facebook page.

Introduction

This report focuses on the information made available to the public by ten local government Ethics Boards in Erie and Niagara counties. Members of the Buffalo Niagara Coalition for Open Government reviewed websites in five key areas as follows:

- The existence of an Ethics Board is indicated on the local government website with contact information such as a telephone number/email;
- Meeting Agendas are posted online;
- Meeting minutes are posted online;
- Meetings are video or audio recorded and posted online;
- Members of the public are allowed to speak at Ethics Board meetings.

NEW YORK STATE GOVERNMENT ETHICS LAW

Article 18 of the New York General Municipal Law establishes minimum standards of conduct for the officers and employees of all municipalities within the State, except the City of New York. Local municipalities are authorized by Article 18 to adopt their own codes of ethics and to create their own Ethics Board.

New York Open Meetings Law

Ethics in government is an important issue and local government Ethics Boards serve an important role in ensuring honesty and integrity in government. Ethics Boards are public bodies subject to the requirements of the Open Meetings Law.

The declared purpose of the New York Open Meetings Law is:

“It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonweal will prosper and enable the governmental process to operate for the benefit of those who created it.”

The Open Meetings Law requires that items being discussed at a public meeting are to be made available prior to the meeting and that if an agency maintains a regularly and routinely updated website, such records shall be posted on the website to the extent practicable prior to the meeting.

Under the Open Meetings Law, meeting minutes are required to be available to the public within two weeks of a meeting.

The Open Meetings Law requires that to the extent practicable, meetings should be streamed in real-time and posted on a website within and for a reasonable time after the meeting.

METHODOLOGY

Buffalo Niagara Coalition for Open Government members independently rated the information posted on each local government website regarding their Ethics Board. The rating sheet and the criteria used are attached as **Appendix A**. Feedback regarding our ratings was sought from each Ethics Board before a final rating was issued. Some Ethics Boards responded with information seeking an adjustment to their rating, some confirmed their rating and some did not respond at all. Letter grades are based on the following scale:

A	All five rating items were met
B	Four out of five rating items were met
C	Three out of five rating items were met
D	Two out of five rating items were met
F	One out of five rating items or zero out of five were met

GRADES RECEIVED

Ethics Board	Grade
Erie County	B
Cheektowaga	B
West Seneca	B
Amherst	C
Niagara County	F
City of Lockport	F

Orchard Park	F
Clarence	F
Town of Lewiston	F
Buffalo	F

SUMMARY OF FINDINGS

PROVIDING CONTACT INFORMATION

The fact that an Ethics Board exists is indicated on nine out of ten of the local government websites reviewed. The City of Buffalo does not indicate on their website that a Buffalo Ethics Board exists. Information on who the Ethics Board members are and how to contact them was not originally posted by six out of ten local governments: Buffalo, Clarence, West Seneca, Niagara County, Lewiston, Lockport. The Town of West Seneca in response to our initial rating has added contact information to their website.

A majority of the local governments reviewed did not provide information on who their Ethics Board members are and how to contact them, which is concerning. How are members of the public supposed to bring ethical concerns to the attention of an Ethics Board if they do not know who the Board Members are or how to contact them?

Erie County, Amherst, Cheektowaga, West Seneca and Orchard Park to their credit do provide information about who serves on their Ethics Board and how to contact them.

POSTING OF MEETING AGENDAS

A basic requirement of open government is simply making information available to the public. Agendas for all meetings should be posted online in advance of a meeting so that the public can be made aware of what items the Ethics Board is discussing.

The Open Meetings Law requires that items being discussed at a public meeting are to be made available prior to the meeting and that if an agency maintains a regularly and routinely updated website, such records shall be posted on the website to the extent practicable prior to the meeting.

Every one of the local governments reviewed has a website that is updated regularly and there is no reason why Ethics Board meeting documents cannot be posted for the public to see.

A majority of Ethics Boards (seven out of ten) do not perform the basic task of posting meeting agendas: Buffalo, Amherst, Niagara County, Orchard Park, Clarence, Lewiston, Lockport.

Erie County, Cheektowaga, West Seneca, to their credit do post meeting agendas for their Ethics Board.

POSTING OF MEETING MINUTES

Posting meeting minutes is another basic task that must be a greater priority. The Open Meetings Law requires that minutes of a publicly held meeting be available within two weeks of a meeting. While the Open Meetings Law does not require the posting of meeting minutes online, the Coalition for Open Government supports posting minutes within two weeks of a meeting.

It is important for the public to be able to see the minutes of the last meeting before the next meeting occurs. Draft meeting minutes can and should be posted prior to the next meeting.

The following Ethics Boards (six out of ten) do not post meeting minutes: Buffalo, Niagara County, Amherst, Clarence, Lockport, Lewiston.

To their credit Erie County, Cheektowaga, West Seneca, Orchard Park post their meeting minutes online.

VIDEO RECORDING OF MEETINGS

The Open Meetings Law requires that the meetings of public bodies to the extent practicable be streamed in real-time and posted on the agencies website within and for a reasonable time after the meeting.

Providing the public who may be interested in a meeting but unable to attend the opportunity to watch or to listen to a meeting at a later date is a great tool that can be done with today's technology, often at minimal cost.

Amherst Ethics Board meetings are video taped and posted online for the public to see. Erie County audio records their meetings and posts the audio online for the public to hear.

The other eight Ethics Boards reviewed do not video or audio record their meetings.

OPPORTUNITY FOR PUBLIC TO BE HEARD

Citizens should have the opportunity to speak at an Ethics Board meeting to state their opinion and concerns. Shockingly the Open Meetings Law does not mandate that citizens have an opportunity to speak at a public meeting.

Despite there not being a legal mandate, the following Ethics Boards allow the public to speak at their meetings: Erie County, Amherst, Cheektowaga, West Seneca, Clarence, Orchard Park.

Without meeting agendas or minutes being posted for review and no response having been received from our inquiry we do not know if Buffalo, Niagara County, Lockport, Lewiston, allow members of the public to speak at their meetings.

The Buffalo Niagara Coalition for Open Government recommends that meeting agendas state when on the agenda members of the public can be heard. Some Ethics Boards allow the public to speak at their meetings but that is not stated on their meeting agenda.

EXPLANATION OF GRADES

Erie County	Grade	B	4/5
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Information regarding the Erie County Ethics Board is posted on the Erie County website. An email address is provided to contact the Ethics Board. Meeting agendas and meeting minutes are posted online. Meetings are audio recorded and posted online. The meeting agenda does not state that members of the public can speak at meetings, however according to the Ethics Board Chair members of the public can speak if they contact the Chair prior to the meeting.

Cheektowaga Grade B 4/5

Information regarding the Cheektowaga Ethics Board is posted on the Town of Cheektowaga website. A telephone number is provided to contact the Ethics Board. Meeting agendas and meeting minutes are posted online. Meetings are not video or audio recorded and posted online. The meeting agenda does not state that members of the public can speak at meetings, however according to the Ethics Board Chair a sheet is placed on a podium for interested members of the public to sign up.

West Seneca Grade B 4/5

Information regarding the West Seneca Ethics Board is posted on the Town of West Seneca website. An email address for the Ethics Board was not provided on the Town website, when our initial review was done. After the Ethics Board Chair was contacted to provide feedback regarding our rating, the Chair took steps to add a contact email address to the website. Meeting agendas and meeting minutes are posted online. Meetings are not video or audio recorded and posted online. Members of the public are allowed to speak at Ethics Board meetings as indicated on meeting agendas.

Amherst Grade C 3/5

Information regarding the Amherst Ethics Board is posted on the Town of Amherst website. An email address for the Ethics Board is provided. Meeting agendas and meeting minutes are not posted online. Meetings are video recorded and posted online. In response to our request for feedback, the Ethics Board Chair has added language to the Amherst website stating that the public is welcome to speak at Ethics Board meetings.

Niagara County Grade F 1/5

Information regarding the Niagara County Ethics Board is posted on the Niagara County website. A mailing address for the Ethics Board is provided, which directs that correspondence be sent to the Niagara County Human Resources Department. Meeting agendas and meeting minutes are not posted online. Meetings are not video recorded and posted online. Unknown whether members of the public are allowed to speak at Ethics Board meetings as meeting agendas are not posted. An email was sent to the Niagara County Department of Human Resources requesting feedback regarding our rating, but no response was received.

City of Lockport Grade F 1/5

Information regarding the Lockport Ethics Board is posted on the City of Lockport website, however no contact information is provided. Meeting agendas and meeting minutes are not posted online. Meetings are not video recorded and posted online. Unknown whether members of the public are allowed to speak at Ethics Board meetings as meeting agendas are not posted. No response was received to an email sent to the Corporation Counsel.

Orchard Park Grade F 1/5

Information regarding the Orchard Park Ethics Board is posted on the Town of Orchard Park website. Contact information is provided. Meeting agendas and meeting minutes are not posted online. Meetings are not video recorded and posted online. Members of the public are not allowed to speak at Ethics Board meetings. The Orchard Park Ethics Board Chair, confirmed by email that our rating is correct.

Clarence Grade F 1/5

Information regarding the Clarence Ethics Board is posted on the Town of Clarence website. Contact information is provided. Meeting agendas and meeting minutes are not posted online. Meetings are not video recorded and posted online. Members of the public are not allowed to speak at Ethics Board meetings. The Clarence Ethics Board Chair, provided feedback regarding our rating.

Lewiston Grade F 1/5

Information regarding the Town of Lewiston Ethics Board is posted on the Town of Lewiston website. Contact information is not provided. Meeting agendas and meeting minutes are not posted online. Meetings are not video recorded and posted online. Members of the public are not allowed to speak at Ethics Board meetings. We reached out to the Lewiston Ethics Board Chair, but did not receive a response back.

Buffalo

Grade

F

0/5

Information regarding the Buffalo Ethics Board is not posted on the City of Buffalo website. Contact information is not provided. Meeting agendas and meeting minutes are not posted online. Meeting minutes are filed with the Buffalo Common Council, but are not posted online where the public can easily find them. Meetings are not video recorded and posted online. It is unknown whether members of the public are allowed to speak at Ethics Board meetings. An email sent to the City Clerk's Office did not receive a response.

CONCLUSION

The fact that four out of ten local governments did not respond to our attempt to communicate with them regarding their Ethics Boards is disappointing (Buffalo, Niagara County, Lockport, Lewiston). Our goal is that the evaluated Ethics Boards will interpret this report as constructive criticism. We are interested in assisting Ethics Boards to improve their websites so that citizens can have access to their important work.

We understand that Ethics Boards are run by volunteers and we appreciate those that dedicate their time to serving. The fact that an Ethics Board exists needs to be highlighted on local government websites, along with an email address so that members of the public can contact the Board.

The failure in providing basic information to the public is unacceptable. There is no reason why meeting agendas cannot be posted online. Scanning and posting meeting agenda documents is not a difficult task, yet 70% of Ethics Boards are not posting meeting agendas!

The posting of meeting minutes is a basic task that is not occurring at 60% of Ethics Boards!

Videotaping/audio recording of meetings and posting them online is an important step in allowing individuals to view/hear at any time what Ethics Boards are doing. However, 80% of Ethics Boards are not recording their meetings!

Members of the Buffalo Niagara Coalition for Open Government welcome the opportunity to speak about this report at a future Ethics Board meeting.