

ERIE COUNTY LEGISLATURE

BETTY JEAN GRANT

*Democratic Minority Leader
2nd District Legislator*



ECLEG MAY02'14 11:4:03

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Buffalo, New York 14215
716/894-0914
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Buffalo, New York 14202
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May 2, 2014

Lori Stilwell

FOIL Officer, Department of Information & Support Services
95 Franklin St., Room 1511
Buffalo, New York 14202

Dear Ms. Stilwell,

As you know, the Erie County Comptroller recently submitted to the Erie County Legislature a review of the Department of Information and Support Services' use and control of wireless devices concerning the period January 1, 2012 through June 30, 2013. The review was clocked into the public record of the Legislature on April 15, 2014.

Included in this review is the disclosure that a former employee of the Legislature, Mr. Bryan Fiume, somehow managed to acquire a DISS-provided "smart phone" for his use on a 24-hour-per-day, seven-day-a-week basis; even though all elected officials and all staff members of the Erie County Legislature are prohibited from the use of any taxpayer-paid wireless device pursuant to long-standing "policies and procedures" of the Legislature (please see attachments).

Additionally, according to the Wireless Devices' review, "Chapter X, Section 10, of the Erie County Personnel Policies and Procedures Manual details the official policy regarding the use of wireless telephones," and specifically lists "key administrative staff" as employees eligible for use of such devices. As the former Chief of Staff for the Minority Caucus at the Legislature, not only did Mr. Fiume have no authority allowing him use of a taxpayer-paid smart phone pursuant to Legislature policy, he also was not in any "key administrative staff" position while employed by the Legislature.

County wireless policy further prohibits, as stated in the Wireless Devices' review, "the transfer of wireless phones from departments or worksites and/or changes in services 'without the direct authority of supervision.'"

How any staff member of any department of Erie County government could surreptitiously circumvent long-established policies and rules warrant answers as to not only the acquisition of such a device by a low-level staff member, additional concerns about the propriety of Mr. Fiume hiding the smart phone from the administration at the Legislature, theft in the form of payment for Mr. Fiume's monthly smart phone expenses, and what exactly did Mr. Fiume do with this smart phone while in his possession, need to be answered.

continued

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Lori Stilwell
FOIL Officer, Department of Information & Support Services

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As the DISS employee and New York State Freedom of Information officer, Ms. Stilwell, I hope you can provide some information to gain insight into this matter.

Mr. Fiume was employed by the Erie County Legislature from January 2010 until December 2013 as the Legislature Chief of Staff Minority, and prior to that, he was employed by former County Executive Chris Collins in the executive's suite.

Accordingly, and pursuant to the provisions of FOIL, I hereby request any and all paperwork concerning the issuance of an Erie County smart phone to Mr. Bryan Fiume, including date(s) of issuance and any documents as to the reasoning why Mr. Fiume should have been provided with the smart phone.

Further pursuant to FOIL, please provide me with the name(s) of the individual(s) who authorized issuance of the smart phone to Mr. Fiume, together with any paperwork associated with such authorization.

As I stated above, Mr. Fiume was employed by the Erie County Legislature from January 2010 until December 2013 as the Legislature Chief of Staff Minority. It appears by the DISS Wireless Devices' review that Mr. Fiume did possess a taxpayer-paid DISS-issued smart phone while an employee of the Legislature, and perhaps prior to and following the review period.

I hereby request, under the provisions of the Public Officers Law, Article 6, §§84-90, documentation that qualified Mr. Fiume as "key administrative staff" at the Legislature that would provide him eligibility for a smart phone; and any information that would indicate a transfer of this smart phone from the Executive branch of County government to the Legislature branch.

You also may be aware that the Comptroller has issued a review of expenditures of the Erie County Legislature. This review was submitted by the Comptroller to the Legislature and clocked into the public record on April 30, 2014. Since the Legislature review was submitted two full weeks after the DISS Wireless Devices' review, the Comptroller had full knowledge of Mr. Fiume's use of a taxpayer-paid smart phone, yet the Comptroller chose not to include any mention of this fact in the Legislature review, despite the fact that Mr. Fiume's surreptitious circumvention clearly qualifies as "wasteful spending," as outlined in Chairman Mills' letter to the comptroller in seeking the Legislature review.

Therefore, and again pursuant to FOIL, I hereby request the department cost center/fund center charged with Mr. Fiume's monthly smart phone payments while he was employed by the Legislature. What was the monthly and total costs? Also, exactly how long did Mr. Fiume have access to this smart phone? Please provide exact dates. Further, what authority (including all documents available) did Mr. Fiume use to gain access to the smart phone while employed by the Legislature?

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Lori Stilwell
FOIL Officer, Department of Information & Support Services

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In a communication to the Legislature dated April 25, 2014, Michael Breeden, Chief Information Officer, Division of Information and Support Services, noted that Mr. Fiume surrendered his DISS-issued smart phone when he accepted a top level position in the comptroller's office in December of last year. As the Chair of the Legislature at that time, I have to note for the record that Mr. Fiume did not mention one word of his relinquishing possession of the smart phone when he left the staff of the Legislature.

Again, pursuant to FOIL, please provide me with any paperwork concerning Mr. Bryan Fiume's surrendering of the smart phone to DISS.

As an employee of the Legislature who had no authority whatsoever to gain access to a taxpayer-paid smart phone – the most expensive communication device provided to authorized staff by the County – the question of what Mr. Fiume did with this smart phone needs to be addressed. Please note for this request the fact that Mr. Fiume was not authorized in any way as an employee of the Erie County Legislature to be issued an Erie County smart phone, and therefore, shall not enjoy any confidentially and/or privileged exemption from FOIL due to the surreptitious nature of his gaining access to, and hiding knowledge of said issuance, of the smart phone.

Accordingly, and under the provisions of the Public Officers Law, Article 6, §§84-90, please provide me with a complete list of all calls to and from the smart phone that DISS issued to Mr. Bryan Fiume that were made/received only while Mr. Fiume was employed by the Erie County Legislature. I request all phone numbers called, all phone numbers received, dates of all calls, duration of all calls. Additionally, I request any and all data information, such as "texting" information, and website information, if available.

I really appreciate your help, Lori, in providing the information requested above. Should you need any additional information concerning this request, please don't hesitate to contact me at 716/602-5877.

Thank you again.

Sincerely,

BETTY JEAN GRANT
Democratic Caucus Leader
2nd District Legislator

cc: County Executive Poloncarz
Erie County Legislature
Comptroller Mychajliw

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ERIE COUNTY LEGISLATURE

BETTY JEAN GRANT

Chair of the Legislature
2nd District Legislator



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FAX: 716/858-8895

TO: ALL MEMBERS OF THE ERIE COUNTY LEGISLATURE

FROM: BETTY JEAN GRANT, CHAIR

RE: POLICIES AND PROCEDURES

DATE: APRIL 24, 2012

Payroll Time Sheets - County Personnel Rules require that a daily time sheet be submitted for each employee (this does not include Legislators). Thus, each district office employee is required to submit, daily Via fax or hand delivery for district office personnel stationed downtown, a copy of the daily time sheet. The previous day's time sheet must be sent to: Paul Henderson @ 858-8429 each day by 11:00 A.M. If the time sheet is not received, Erie County Personnel Department employees cannot authorize compensation. On Monday of each week, district office employees must mail or deliver the originals of the previous week's time sheets to the attention of Mr. Henderson.

The Legislature simply does not have the central staff personnel to track down district office daily time sheets, so please make it a priority to have all personnel adhere to this important and simple daily task.

All County payroll records are the property of Erie County and must be stored for seven years. When a legislator leaves office, all payroll records must be submitted to the Clerk of the Legislature for storage.

District Office Salaries - Each Legislator is budgeted \$ 38,275 for district office personnel. No Legislator is authorized to exceed this amount. Legislators who employ both Regular Part-Time (RPT) and Part-Time (PT) employees must be conscious of the weekly hours budgeted to be sure not to exceed the amount of hours budgeted.

Employee Leave Request Forms - All district offices must maintain a file for each employee where Employee Leave Request Forms can be filed. Each employee who uses Vacation, Personal Leave, or Sick Time must complete this form for all leave time, and the District Legislator signs the form authorizing employee leave. Once the form is completed and signed by the District Legislator, one copy is retained by the employee, and the other is to be kept on file in the district office as stated above. District Office employees can show their Legislator their County check pay stub to verify that they have the hours banked for leave time. Central staff downtown are also required to submit employee leave request forms to the Clerk of the Legislature for authorization and filing of same.

Please note that the Employee Leave Request Form file for each employee is subject to an audit by the Erie County Comptroller's Office on a periodic basis. Therefore, it is important to properly complete this form and maintain a file at the district office and/or downtown.

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Purchasing Procedures - All office supplies are available through the Clerk of the Legislature. The Clerk keeps a ready supply of most necessary office supplies. District offices are not authorized to independently purchase office supplies. All necessary office supplies are to be purchased by the Clerk and staff, as centralized purchasing allows this department to achieve necessary cost savings through discounts. If a district office needs supplies that are not available in-house, please make a request to the Clerk at Robert.Graber@erie.gov or Legislative Assistant Rebecca Brooks at Rebecca.Brooks@erie.gov.

Please make arrangements for picking up office supplies either when you are downtown for meetings, or when district office personnel are downtown. Curbside pick-up of office supplies is discouraged, unless heavy boxes (such as a case of copy paper) are involved. Please call Rebecca Brooks at 858-8815 in advance for such requests, and she can arrange for a staffer to be helpful.

Travel Reimbursement - Due to the current austerity budget there is no reimbursement for travel of any kind. Any extenuating circumstance requires authorization of the Legislature Chair.

District Office Rent Payments - Once your lease has been approved by the Legislature, the Comptroller's Office will forward your landlord rental payments on a timely basis, and according to the lease agreement. Please contact Rebecca Brooks should you have any questions concerning payment, or the lease process.

District Office Expenses - Each district office is provided telephone service and internet/e-mail access. Cable TV for district offices is not a reimbursable expense. Please remember to call the County Help Desk at 858-6715 for questions concerning computer and e-mail problems, and Rebecca Brooks at 858-8511 for billing concerns. Any additional request requires authorization of the Chair.

Cellular Telephone - Cellular telephones and other portable communication devices are not budgeted for 2012 and are not reimbursable expenses.

Subscriptions - Each district office is allocated a nominal budget for local weekly newspaper subscriptions or periodicals. Please determine what local newspapers or periodicals are located in your district, as well as their yearly subscription rate, and submit invoices for all such subscriptions directly to Rebecca Brooks with authorization from the Chair.

Petty Cash - The Legislature does not keep a petty cash account.

Postage - Each district office is allocated \$1,500 per year for postage, for incidental district office postage needs. A letter requesting district office postage must be submitted to Robert M. Graber with the dollar amount of postage needed. Once submitted, the Clerk will process your request and a check will be made payable to the Postmaster General, and delivered to you. Any additional postage needs authorization of the Legislature's Chair.

ERIE COUNTY LEGISLATURE

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Chair of the Legislature
2nd District Legislator



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TO: ALL MEMBERS OF THE ERIE COUNTY LEGISLATURE

FROM: BETTY JEAN GRANT, CHAIR

RE: POLICIES AND PROCEDURES FOR 2013

DATE: JANUARY 17, 2013

Payroll Time Sheets - County Personnel Rules require that a daily time sheet be submitted for each employee (this does not include Legislators). Thus, each district office employee is required to submit, daily via FAX (or hand delivery for district office personnel stationed downtown), a copy of the daily time sheet. The previous day's time sheet must be sent to: Paul Henderson @ 858-8429 each day by 11:00 A.M. If the time sheet is not received, Erie County Personnel Department employees cannot authorize compensation. On Monday of each week, district office employees must mail or deliver the originals of the previous week's time sheets to the attention of Mr. Henderson.

The Legislature simply does not have the central staff personnel to track down district office daily time sheets, so please make it a priority to have all personnel adhere to this important and simple daily task.

All County payroll records are the property of Erie County and must be stored for seven years. When a legislator leaves office, all payroll records must be submitted to the Clerk of the Legislature for storage.

District Office Salaries - Each Legislator is budgeted 40 hours each week for district office personnel. No Legislator is authorized to exceed this amount. Legislators who employ both Regular Part-Time (RPT) and Part-Time (PT) employees must be conscious of the weekly hours budgeted to be sure not to exceed the amount of hours budgeted.

Employee Leave Request Forms - All district offices must maintain a file for each employee where Employee Leave Request Forms can be filed. Each employee who uses Vacation, Personal Leave, or Sick Time must complete this form for all leave time, and the District Legislator signs the form authorizing employee leave. Once the form is completed and signed by the District Legislator, one copy is retained by the employee, and the other is to be kept on file in the district office as stated above. District Office employees can show their Legislator their County check pay stub to verify that they have the hours banked for leave time. Central staff downtown are also required to submit employee leave request forms to the Clerk of the Legislature for authorization and filing of same.

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Petty Cash - The Legislature does not keep a petty cash account.

Postage - Each district office is allocated \$2,000 in 2013 for postage - for incidental district office postage needs. A letter requesting district office postage must be submitted to Robert M. Graber with the dollar amount of postage needed. Once submitted, the Clerk will process your request and a check will be made payable to the Postmaster General, and delivered to you. Any additional postage needs authorization of the Legislature's Chair.