



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

May 23, 2022

Hon. Michael P. Kearns
Office of the Erie County Clerk
92 Franklin Street
Buffalo, New York 14202

Re: CSEA Contract Requirements

Dear Clerk Kearns:

As a fellow elected representative of the people of Erie County, I know that you recognize the importance of serving the public, as well as working with our workforce to achieve that goal. As such, I regret to inform you I have been advised you have recently made changes to your office's practices that are in conflict with the current collective bargaining agreement entered into by the County of Erie with CSEA Local 815, the bargaining unit which represents all the white-collar employees of your office. As described to me, our Department of Labor Relations has attempted to advise you on the proper procedures to follow. However, it does not appear you have heeded their advice and have potentially opened the County to significant liabilities that may cost considerable money.

Violations of contract can be challenged by the bargaining unit who are a party to the contract, both in court or through the arbitration process. One past violation, which a joint employer of the County performed, resulted in litigation costs and penalties that well exceeded \$100,000. This type of "pay out" resulted in no benefit to the County. I fear now that your actions may eclipse even this sizable award.

You have been advised on numerous occasions to abide by the provisions of the CSEA contract and Civil Service Law which limit the use of part-time employees. Time keeping records show that your office routinely exceeds the 19 hours/week threshold. Each instance of exceeding this limit creates an actionable grievance which the union can challenge – a challenge that may very well prove successful.

Based on the number of occurrences of your failure to follow the contract's terms, successful challenges could result in hundreds of hours of unworked overtime being paid to county employees. This means that county tax dollars would be given to employees without any benefit (i.e., work hours) being realized by the County.

Further, the penalties associated with not providing health insurance to non-part time workers, the resulting financial commitment of providing this health insurance, and the added benefits which would result if these part-time employees are designated as anything but "part-time," would compound the

Executive Poloncarz Letter to Clerk Kearns

May 23, 2022

Page 2 of 2

financial burden. This would be a waste of money and a violation of the trust the citizens have placed in your office.

It has also been brought to my attention that other violations of the collective bargaining agreement may be occurring within your office as well. While these instances (i.e., improper reassignment, improper communication) may not result in any direct liability, they will undoubtedly result in litigation costs and may violate the agreements that we have made with the unions and our employees. This erodes trust and damages both our ability to work with these organization and recruit new employees.

I do not relish the prospect of squandering taxpayer money and am not inclined to defend these actions should they continue and rise to an actionable matter. I encourage you to contact Commissioner of Labor Relations Joshua Pennel to discuss this matter further and find a way to immediately resolve it. The commissioner and his department stand ready to facilitate conversations between your office and the bargaining units or to aid you in compliance.

Sincerely yours,



Mark C. Poloncarz, Esq.
Erie County Executive

MCP/jp

CC: Erie County Legislature
Hon. Kevin Hardwick
Joshua Pennel, Esq. Com. of the Dept. of Labor Relations
Michael A. Siragusa, Esq., Erie County Attorney