

**Erie County Charter Revision Commission
Committee on Administration and Legislature**

**Resolution regarding Qualifications of Department Heads established in the Erie
County Charter**

Justification

The Charter Revision Commission is in receipt of a set of recommendations offered by City of Buffalo Human Resources Commissioner Leonard Matarese to increase requirements for certain appointed department head positions created by the County Charter and a response from Erie County Commissioner of Personnel John W. Greenan (both are attached).

Consistent with the purpose of the Charter Revision Commission established in its authorizing legislation to “study the operations of the County of Erie in their full scope” and determine whether the County Charter and Code shall be amended to improve its functions, the Administration and Legislature Committee reviewed the recommendations and response, as well as the relevant Sections of the Charter, 401, 501, 601, 701, 802, 901, 1001, 11-B-01, 11-D-01, 11-E-01, and both sections 11-F-01 pertaining to the required qualifications for appointed department heads.

Recommendations

The Committee agrees to forward both the recommendations from Commissioner Matarese and the response from Commissioner Greenan without recommendation.

Commissioners Comerford and Risman disagreed with the recommendations of Commissioner Matarese and did not favor advancing them.

Chairman Magavern and Commissioner Maggiore favored forwarding the recommendations of Commissioner Matarese with comment.

General advantages and disadvantages

General arguments favoring expanding or establishing qualifications include:

- Professional public management is a desirable public good. While charter requirements cannot guarantee the appointment of *able* managers, they can at least ensure that managers are *qualified*.
- The charter already establishes such qualifications for some department head positions, often in concert with New York State Law.
- While the establishment or strengthening of qualifications will restrict the pool of potential department heads, such resections are desirable, forcing the County Manager (or County Executive) to look outside the group of known potential appointees. In common parlance, this recommendation is designed as a counter to the “friends and family” philosophy of hiring at the highest levels.

- Other communities are able to recruit department heads at lower salaries who are required to have more stringent qualifications.

General arguments favoring preservation of the existing system include:

- Recruitment of able managers is already difficult given Erie County's comparatively low salaries, high-profile media scrutiny and political environment.
- While established qualifications may ensure appointees hold "on paper" qualifications, a whole pool of potential candidates with management skills learned through experience – especially in the ways specific to Erie County -- would be barred from service.
- In most instances, CEOs from the private sector are not limited in who they can hire. Their success, rather, rises or falls based on the performance of their subordinates. In the same way, the success or failure of the proposed county manager would similarly be linked to the performance of those hired by the county manager.

Specific Comments

Commissioner Maggiore

Commissioner Maggiore recommends establishing requirements for all appointed department heads so as to ensure professional management, using the Matarese recommendations as a starting point upon which to base specific qualifications. He acknowledges that some of Commissioner Matarese's specific recommendations are probably too restrictive. Regardless of the legislature's consideration of the Matarese recommendations, Commissioner Maggiore recommends establishing at least minimal degree and experiential requirements for all appointed department heads established by the charter.

Chairman Magavern

Chairman Magavern concurs with Commissioner Maggiore with the stipulation that all requirements be accompanied by exceptions for an equivalent combination of training, education and experience sufficient to indicate ability to perform the duties of the office.

Commissioner Comerford

Commissioner Comerford believes the proposed county manager system will ensure qualified appointees will be hired as department heads, eliminating the necessity for charter-required qualifications. Further, he believes many able potential appointees would be disqualified from service by overly restrictive qualification requirements.

Commissioner Risman

Commissioner Risman believes many able potential appointees would be disqualified from service by overly restrictive qualification requirements. Further, he believes the County Charter should outline the basic structure of county government and avoid this level of specificity.

County Personnel Commissioner Greenan

A summary of Commissioner Greenan's objections to the recommendations of Commissioner Matarese are as follows:

1. The qualifications as proposed serve only to create an artificial barrier to hiring and substantially limit a very well qualified pool of applicants. The result would be the inability of a County Executive or County Manager to select the people they feel are best equipped to implement their public policy initiatives.
2. A current system of checks and balances already exists.
3. The qualifications as written will not remove political influence.
4. The qualifications as written do not conform to generally acceptable principles of position classification.

Current Conditions in Erie County

The Erie County Charter currently establishes minimum qualifications for some, but not all department heads. Some such qualifications complement requirements established by New York State law for specific positions. The types of qualifications established are inconsistent throughout the Charter:

- The Charter incorporates New York State requirements for the commissioners of health (Sec. 501) and mental health (Sec. 11-B-01).
- The Charter requires baseline professional requirements relating to the relevant field for the commissioners of finance (Sec. 501), environment and planning (Sec. 901), public works (Sec. 1001), and the county attorney (Sec. 601).
- The Charter establishes experiential requirements for the commissioners of finance (Sec. 501) and environment and planning (Sec. 901).

The charter establishes no minimal qualifications for the commissioners of parks (Sec. 701), personnel (Sec. 802), central police services (Sec. 11-D-01), senior services (Sec. 11-E-01), youth services (Sec. 11-F-01) and the director of the office of the disabled (Sec. 11-F-01).

Methods of establishing minimum qualifications

There is no uniform or even predominant model for establishing minimum qualifications for appointed department heads in local government charters. The Erie County Charter itself demonstrates this inconsistency. That such qualifications exist for some positions answers the question of whether or not the matter *can* be addressed in the charter, however not whether the question *should* be.

A brief review of other New York State municipal charters revealed no uniform pattern:

- The Monroe County Code appears to establish fewer minimum requirements for positions than does the Erie County Charter.
- The New York City charter gives the mayor broad appointment discretion and does not establish requirements for department heads.
- The Albany County charter establishes some but different qualifications than does Erie County. For instance, Erie County requires its commissioner of environment and planning to “possess not less than a baccalaureate degree in an appropriate subject field and suitable experience in private or public administration and environmental control or regional, county or municipal planning,” Albany County requires its Director of the office of Economic Development, Conservation and Planning to be “a person qualified by professional training and experience in the Field of metropolitan, regional, County or municipal planning.”
- Broome County’s charter is augmented by recommended qualifications that are established outside the charter. For instance, “suggested minimum qualifications” for the head of the county’s Parks Department include:

SUGGESTED MINIMUM QUALIFICATIONS:*

- A) Graduation from a regionally accredited or New York State registered college or university with a Master's degree in park and/or recreation administration or a closely related field and five years of administrative parks/recreation experience, three of which included supervisory experience; OR
- B) Graduation from a regionally accredited or New York State registered college or university with a Bachelor's degree in parks and/or recreation administration or a closely related field and six years of administrative parks/recreation experience, experience; OR
- C) An equivalent combination of training and experience as defined by the limits of A), B) and C) above.

*Neither the Broome County Charter nor Administrative Code references minimum qualifications for this position.

Note, the salary for this position is \$66,000.

- In some instances, the City of Buffalo charter establishes stricter requirements for department heads. For instance, the only requirement for the county commissioner of public works is that he or she shall “be a professional engineer licensed and registered by the State of New York.” However, the charter requirements for the city commissioner are as follows:

“The commissioner shall either (a) be a civil engineer who has been engaged in the actual practice of his or her profession for at least five years; or (b) have had at least five years of full-time experience in a supervisory position in public service administration or business administration; or (c) an equivalent combination of training, education and experience sufficient to indicate ability to perform the duties of the office.”

More stringent requirements are commonplace outside of New York State. These requirements are not always established in the municipalities' charter, but are used in the types of national searches for professional managers more common in other parts of the country. Some examples:

- While Erie County places no requirements on its Parks Commissioner, the salary for which exceeded \$88,000 in 2005.
- The Village of Matteson, Ill requires of its Director of Recreational Services, “A Bachelor’s degree in Recreation and Leisure Services, Business, Public Administration or related fields is required. Master’s degree preferred. Three to five years of administrative experience in the parks and recreation discipline is essential.” The salary for the job is comparable, \$52,086 - \$87,108.
- Reno, NV requires of its Recreation Manager, “six years of increasingly responsible recreation experience, including four years of administrative and supervisory responsibility. A Bachelors degree or higher from an accredited college or university with major course work in recreation or a related field preferred. Certification through the National Recreation and Park Association is highly desirable.” This position pays \$63,411 - \$83,011.
- Roanoke, VA requires of its assistant director of recreation: “Education and experience requirements include a bachelor’s degree from an accredited college or university in Parks & Recreation or related field, and 5 years experience in recreation program management in a responsible supervisory position.” The salary for this job is \$48,000 - \$60,000.

Clearly, the charter is a possible place to establish or strengthen job requirements for appointed department heads, but not the only such place in county law to do so. Also, the experience of other municipalities suggests that stricter requirements will not eliminate the applicant pool. The question before the commission is whether or not such requirements are desirable.

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