



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

January 30, 2013

Dr. Darlene Michalak, Plan Administrator
Erie 1 BOCES Health Benefits Plan Trust
355 Harlem Road
West Seneca, NY 14224

Re: Report on Examination -- Financial Condition as of June 30, 2008
Report Dated June 26, 2009

Dear Dr. Michalak:

The captioned report has been adopted by the Department, made an official record thereof, and filed accordingly.

Your attention is directed to the requirements of Section 312 of the New York Insurance Law that a copy of the report on examination as filed shall be furnished to each member of the board of trustees and each such member shall sign a statement which shall be retained in the organization's files confirming that such member has received and read such report.

Kindly forward to this office a certified transcript from the minutes of the meeting of the board of trustees indicating compliance as outlined above.

Very truly yours,

Mark McLeod
Supervising Examiner
Life Bureau

By: Bibi S. Ishak
Bibi S. Ishak
Senior Insurance Examiner

Enclosure



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
ERIES 1 BOCES HEALTH BENEFITS PLAN TRUST

CONDITION:

JUNE 30, 2008

DATE OF REPORT:

JUNE 26, 2009

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

ERIE 1 BOCES HEALTH BENEFITS PLAN TRUST

AS OF

JUNE 30, 2008

DATE OF REPORT:

JUNE 26, 2009

EXAMINER:

MARK MCLEOD

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

October 2, 2012

Honorable Benjamin M. Lawsky
Superintendent of Financial Services
New York, New York 10004

Sir:

Pursuant to instructions contained in Appointment No. 22799, dated February 15, 2012 and annexed hereto, an examination has been made of the condition and affairs of the Erie 1 Health Benefit Trust hereinafter referred to as "the Fund," at the principal office of the Fund, located at 355 Harlem Road, West Seneca, New York 14224.

Wherever "Department" appears in this report, it refers to the New York State Department of Financial Services.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The Fund violated Section 201.1(a)(4) of Department Regulation No. 38 when it failed to provide written notification to the Department within 10 days after changes in the membership of the board of trustees were made. (See item 3 of this report)

The Fund violated Section 201.1(a)(2)(i) of Department Regulation No. 38 when it failed to provide written notification to the Department within 10 days after an amendment was made to the plan.. (See item 3 of this report)

The Fund violated Section 200.2(a) of Department Regulation No. 36 when it failed to provide a copy of the annual report required to be filed with the superintendent to each employee-member not later than five months after the close of the fund's fiscal period covered by the report. (See item 3 of this report)

The examiner could not review a sample of self-insured claims to determine whether the members were treated fairly and in accordance with plan benefits because there was no readily available access to the claim files. (See item 6 of this report)

2. SCOPE OF EXAMINATION

This is the first examination of the Fund since it registered with the Department on September 25, 2003. This examination covers the period from July 1, 2003 through June 30, 2008. As necessary, the examiner reviewed transactions occurring subsequent to June 30, 2008 but prior to the date of this report (i.e., the completion date of the examination).

This examination comprised a verification of the Fund's assets and liabilities as of June 30, 2008 to determine whether the Fund's filed June 30, 2008 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification and utilized examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Fund history
- Management and control
- Fund records
- Member benefits and contributions
- Market conduct activities
- Growth of Fund
- Accounts and records
- Financial statements

This report on examination is confined to financial statements and comments on those matters which involve departures from laws, regulations or rules or which require explanation or description.

3. DESCRIPTION OF FUND

The Fund was established on May 15, 2003, pursuant to an agreement and declaration of trust ("the Trust Agreement") between The Erie 1 BOCES Board of Education ("the Grantor") and the Erie 1 BOCES Health Benefits Plan Trust ("the Trustees").

The purpose of the Fund is to purchase or provide health benefits to eligible and retired employees of the District.

The June 30, 2008 annual statement indicated that there were approximately 2,694 participants.

A. Management

The Trust Agreement requires that the board of trustees shall be comprised of eight trustees. The board of trustees shall consist of four managerial representatives employed by the Grantor and four non-managerial employees of the Grantor, each of whom shall be a member of, and separately designated by, one of the four labor organizations that has a collective bargaining agreement with the Grantor.

Following is a list of the trustees as well as their principal business affiliation, as of June 30, 2008:

<u>Name</u>	<u>Appointed by the Employer</u> <u>Principal Business Affiliation</u>	<u>Year First</u> <u>Appointed</u>
Nancy Bojanowski	Director Human Resources, Erie 1 BOCES Board of Education	2004
Rosemary C. Conley	Director, Career Development Services, Erie 1 BOCES Board of Education	2006
James Fregelette	Director Finance Services, Erie 1 BOCES Board of Education	2004
Doreen M. Kaled	Associate Director, Special Education Services, Erie 1 BOCES Board of Education	2004
Carol Troskosky	Chief Technology Officer / Executive Director, Erie 1 BOCES Board of Education	2006

<u>Appointed by the Labor Organizations or Employees</u>		
<u>Name</u>	<u>Principal Business Affiliation</u>	<u>Year First Appointed</u>
Deborah L. Arlington	President, Erie 1 Management Association	2005
Joe J. Borgisi	President, Erie 1 Professional Education Association	2004
Cynthia G. Kapturowski	President, American Federation of State County Municipal Employees AFL-CIO New York State Council 66, Local 2341	2006
John Kapturowski	Vice President, American Federation of State County Municipal Employees AFL-CIO New York State Council 66, Local 2567	2006
John W. Pope	Association Representative, Eris 1 BOCES Administrators Association	2004

Section 201.1 of Department Regulation No. 38 states, in part:

“The trustees of every employee welfare fund shall give written notice to the Insurance Department of:

- a) Any of the following changes, within 10 days after it shall have occurred . . .
- 4) Any change in the membership of the board of trustees or other like group having the overall management of a fund, or in its administrator or other person charged with the administration of the fund under the direction of such board of trustees or other like group. . . .”

On June 9, 2008 Gary Hyla replaced John Kapturowski as an appointed member of the board of trustees. The Plan did not inform the Department of this change.

The Fund violated Section 201.1(a)(4) of Department Regulation No. 38 when it failed to provide written notification to the Department within 10 days after changes in the membership of the board of trustees were made.

B. Investment Powers of the Trustees

The Trust Agreement empowers the trustees to deposit all monies received by them in such banks as they may designate and to purchase investments that are legal investments for trust funds under the laws of the State of New York.

As of June 30, 2008, the Fund's assets were mainly comprised of Government obligations (75%) and cash (25%).

C. Member Benefits

Prior to January 1, 2008 the Fund provided the following insured benefits through Independent Health Corporation. From January 1, 2008 through June 30, 2008 the Fund provided self-insured benefits (subject to stop-loss arrangements the Fund has with Standard Security Life Insurance Company of New York) to its members, member dependents, retirees and retiree dependents:

Section 201.1 of Department Regulation No. 38 states, in part:

“The trustees of every employee welfare fund shall give written notice to the Insurance Department of:

- a) Any of the following changes, within 10 days after it shall have occurred . . .
- 2) Any amendment to, substitute for, or other change in:
 - i) the plan . . .”

On January 1, 2008, the Fund changed their method of benefits provided from the use of insurance carriers to self-insured. The Fund did not notify the Department regarding these changes.

The Fund violated Section 201.1(a)(2)(i) of Department Regulation No. 38 when it failed to provide written notification to the Department within 10 days after an amendment was made to the plan.

D. Contributions

The collective bargaining agreement for the period under review called for the following annual contribution rates per employee, per year:

<u>Year</u>	<u>Single Amount</u>	<u>Family Amount</u>
2004	\$253.45	\$702.04
2005	\$264.18	\$731.97
2006	\$278.81	\$767.82
2007	\$305.30	\$829.25
2008	\$332.50	\$903.00

E. Information to Members

Section 200.2 of Department Regulation No. 36 states:

"It is hereby directed that each employee welfare fund shall distribute the annual report as follows:

(a) A copy of the annual report required to be filed with the superintendent shall be sent to each employee-member, contributing employer and participating labor organization not later than five months after the close of the fund's fiscal period covered by the report.

(b) Publication of the annual report in a periodical distributed to all employee-members, contributing employers and participating labor organizations shall be deemed compliance with the foregoing requirements providing attention is directed to such publication on the first page or the cover of the periodical, in type not less than 18 point."

The Fund's records indicate that annual reports were not distributed to members during the examination period.

The Fund violated Section 200.2(a) of Department Regulation No. 36 when it failed to provide a copy of the annual report required to be filed with the superintendent to each employee-member not later than five months after the close of the fund's fiscal period covered by the report.

Benefit booklets and eligibility requirements are given to all members describing the Fund's benefits and procedures.

4. FINANCIAL STATEMENTS

The following statements indicate the changes in assets, liabilities and reserve fund balance between the years ended June 30, 2003 and June 30, 2008, changes in the reserve fund balance for the period under examination, and a reconciliation of the reserve fund balance for each of the years under examination as extracted from the Fund's filed annual statements. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the June 30, 2008 filed annual statement.

A. STATEMENT OF ASSETS, LIABILITIES AND RESERVE FUND BALANCE

The following table indicates the Fund's financial growth during the period under review:

	<u>June 30,</u> <u>2004</u>	<u>June 30,</u> <u>2008</u>	<u>Increase</u> <u>(Decrease)</u>
Assets			
Cash	\$ 73,861	\$ 892,474	\$ 818,613
Receivable – Contribution from employer	0	830	830
Investments – Bank Deposits At Interest and Deposits or Shares in Savings and Loan Associations	351,103	0	(351,103)
Bonds – Government obligations		2,628,583	2,628,583
Total assets	<u>\$424,964</u>	<u>\$3,521,887</u>	<u>\$3,096,923</u>
<u>Liabilities and reserve fund balance</u>			
Accounts payable	\$ 3,677	\$ 42,416	\$ 42,416
Estimated health claims payable	19,461	2,944,448	2,944,448
Total liabilities	<u>\$ 23,138</u>	<u>\$2,986,864</u>	<u>\$2,986,864</u>
Reserve fund balance	<u>\$401,826</u>	<u>\$ 535,023</u>	<u>\$ 110,059</u>
Total liabilities and reserve fund balance	<u>\$424,964</u>	<u>\$3,521,887</u>	<u>\$3,096,923</u>

B. STATEMENT OF CHANGES IN RESERVE FUND BALANCE

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<u>Additions to fund balance:</u>					
Employer contributions	\$4,872,519	\$5,358,447	\$7,839,622	\$13,450,997	\$20,824,677
Employee contributions	0	232	0	0	0
	0	0	3,000	0	0
Investment income	<u>1,609</u>	<u>6,918</u>	<u>14,372</u>	<u>52,946</u>	<u>69,202</u>
Total additions	\$4,874,128	\$5,365,597	\$7,856,994	\$13,503,943	\$20,893,879
<u>Deductions from fund balance:</u>					
Insurance premiums to insurance carriers	\$4,163,389	\$4,768,960	\$7,155,534	\$12,310,370	\$ 8,443,913
Benefits paid directly by the Fund	214,074	246,018	329,107	494,997	300,387
Contract fees	0	0	3,268	46,510	11,561,538
Administrative expenses	94,839	103,052	141,619	284,531	1,221,241
Outstanding claims	<u>0</u>	<u>0</u>	<u>0</u>	<u>74,478</u>	<u>0</u>
Total deductions	\$4,472,302	\$5,118,030	\$7,629,528	\$13,210,886	\$21,527,079
Net increase (decrease) in fund balance	\$ 401,826	\$ 247,567	\$ 227,466	\$ 293,057	\$ (633,200)

The increase in contract fees between 2007 and 2008 was a result of the costs incurred as a result of the Fund becoming self-funded.

C. RECONCILIATION OF RESERVE FUND BALANCE

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Reserve fund balance, December 31, previous year	\$ <u>0</u>	\$ <u>401,826</u>	\$ <u>649,393</u>	\$ <u>870,371</u>	\$ <u>1,168,223</u>
Total additions during year	\$4,874,128	\$5,365,597	\$7,856,994	\$13,503,943	\$20,893,879
Total deductions during year	\$4,472,302	\$5,118,030	\$7,629,528	\$13,210,886	\$21,527,079
Change in fund balance	\$ <u>401,826</u>	\$ <u>247,567</u>	\$ <u>227,466</u>	\$ <u>293,057</u>	\$ <u>(633,200)</u>
Reserve fund balance, December 31, current year	\$ <u>401,826</u>	\$ <u>649,393</u>	\$ <u>876,859</u>	\$ <u>1,163,428</u>	\$ <u>535,023</u>

The differences between the 2006 current year Reserve fund balance and the 2007 beginning Reserve fund balance and between the 2007 current year Reserve fund balance and the 2008 beginning Reserve fund balance were due to adjustments made by the external auditors to reflect accruals in the Annual Statement.

5. ADMINISTRATIVE EXPENSES

The following table shows a breakdown of the administrative expenses for the fiscal year ending June 30, 2008:

Administrative Expenses

Allowances, expenses, etc	\$ 899,009
Rent	9,978
Fidelity bond premium	<u>312,254</u>
 Total administrative expenses	 <u>\$1,221,241</u>

The following schedule shows the number of members, contributions, administrative expenses, the ratio of administrative expenses to contributions, and the administrative cost per member for the period under review:

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Number of members	1,145	975	1,350	2,050	2,694
Contributions	\$4,872,519	\$5,358,679	\$7,839,622	\$13,450,997	\$20,824,677
Administrative expenses	94,839	103,052	141,619	\$ 284,531	\$ 1,221,241
Ratio of administrative expenses to contributions	1.95%	1.92%	1.81%	2.12%	5.86%
Administrative cost per member	\$82.83	\$105.69	\$104.90	\$138.80	\$453.32

The increase in administrative expenses between 2007 and 2008 was a result of the additional administrative costs incurred as a result of the Fund becoming self-funded.

6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Fund's market conduct activities affecting claimants to determine compliance with applicable statutes and regulations and the operating rules of the Fund.

The examiner could not review a sample of self-insured claims to determine whether the members were treated fairly and in accordance with plan benefits because there was no readily available access to the claim files.

7. SUMMARY AND CONCLUSIONS

Attention is directed to the following violations and recommendation contained in this report.

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Fund violated Section 201.1(a)(4) of Department Regulation No. 38 when it failed to provide written notification to the Department within 10 days after changes in the membership of the board of trustees were made.	6
B	The Fund violated Section 201.1(a)(2)(i) of Department Regulation No. 38 when it failed to provide written notification to the Department within 10 days after an amendment was made to the plan.	7
C	The Fund violated Section 200.2(a) of Department Regulation No. 36 when it failed to provide a copy of the annual report required to be filed with the superintendent to each employee-member not later than five months after the close of the fund's fiscal period covered by the report.	8
D	The examiner could not review a sample of self-insured claims to determine whether the members were treated fairly and in accordance with plan benefits because there was no readily available access to the files.	13

Respectfully submitted,

Mark McLeod
Mark McLeod
Supervising Insurance Examiner

STATE OF NEW YORK)
)SS:
COUNTY OF NEW YORK)

Mark McLeod, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

Mark McLeod
Mark McLeod

Subscribed and sworn to before me

this 27th day of Sept, 2012
Marion Kennedy
MARION KENNEDY
Notary Public, State of New York
Qualified in Kings County
No. KE6137029
Expires: November 14, 2013

APPOINTMENT NO. 22799

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

MARK MCLEOD

as a proper person to examine the affairs of the

ERIE 1 BOCES HEALTH BENEFITS PLAN TRUST

and to make a report to me in writing of the condition of said

WELFARE FUND

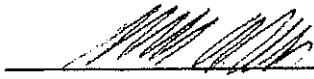
with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York

this 15th day of February, 2012

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:


MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

