REPORT TO THE ERIE COUNTY LEGISLATURE
92 FRANKLIN STREET
BUFFALO, NEW YORK 14202

JULY 2006

AUDIT OF PAYROLL AND PROCUREMENT TRANSACTIONS PROCESSED BY ERIE COMMUNITY COLLEGE

MARK C. POLONCARZ

ERIE COUNTY COMPTROLLER

Michael R. Szukala
Deputy Comptroller - Audit & Control

July 19, 2006

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed a compliance audit of payroll and procurement transactions processed by Erie Community College ("ECC") for the period September 1, 2003 to August 31, 2005. This audit was conducted according to Generally Accepted Government Auditing Standards ("GAGAS") with the exceptions of a peer review and auditor training.[1]

The audit included such tests of records, inquiries, and analyses considered as necessary.

BACKGROUND

ECC, New York State's first multi-campus public community college outside of New York City, provides educational opportunities for residents of Erie County, New York State and other states, as well as Canada. Degree programs, certificate programs, community education, and other special programs are offered at the three (3) campuses: South (in Orchard Park), North (in Amherst) and City (in Buffalo). ECC assumed authority to perform its own payroll, personnel and purchasing functions based upon a transition agreement with Erie County dated March 5, 2003 and approved through local law by the Erie County Executive and Legislature.

The ECC 2005-2006 budget includes 753 full time positions, an increase of 7 positions from the 2003-2004 budget. The 2003-04 budget listed 746 full time positions, while 2002-03 budget lists 730 full time positions. While ECC has received the same $15,429,317 in County funding for the last two years, this compares favorably with County Agencies and Departments which have endured substantial cutbacks over the same period. Personal service costs and the related employee benefits comprise about 84% of the average ECC budget during our audit period. The remainder of the budget is for equipment and contractual service costs.

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[1] A peer review is mandated every three years. This office is overdue for such a review. GAGAS also mandate a minimum of twenty hours of training per auditor per year, and recommend forty hours of training annually. Due to the County's fiscal cutbacks, no auditor in the Audit Department currently has received the minimum twenty hours of training this year.

The two component units of ECC, the Erie Community College Foundation, Inc. and Auxiliary Services Corporation of Erie Community College were not included in the scope of our review other than as noted in "*Auditor Comments.*"

I. FINDINGS AND RECOMMENDATIONS

A. Payroll payment errors went undetected and there were possible duplicate payments for the same work hours.

During our review of payroll payments to ECC employees we found the following:

The Faculty Federation of Erie Community College ("FFECC") bargaining unit members earned their full time salary and also additional duty payments for assignments performed during normal work hours. Since College faculty report their work hours on an exception basis, the Payroll Unit could not determine whether the additional duty payments were for the same hours already compensated. In addition to course load requirements, FFECC members must maintain office hours. For example, an Associate Professor was paid twice for the same time. The employee was paid her normal hourly rate plus $13.385 per hour for the additional duty assignment. The additional duties were performed during normal work hours. ECC is recovering the overpayment of $41.55, and the College has requested an office hour schedule for the employee in question to determine whether there were additional overpayments. There were other examples of possible work hour conflicts. College employees working additional duties were not required to report all work hours to eliminate any possibility of duplicate pay for the same time.

We reviewed 26 undistributed pay advices and payroll checks. A pay advice is the documentation that supports direct deposit payments to employee accounts.

During our review, this office discovered that a paycheck in the amount of $366.67 was erroneously issued. This office informed ECC management of this error through an Internal Audit Memorandum ("IAM"). In the period between our fieldwork and the issuance of the IAM, the check was claimed and cashed. Following our issuance of the IAM, ECC recouped the overpayment.

During the examination we discovered that an ECC employee was routinely working seven days a week. The employee was a full time fully-tenured professor and a department head. She performed additional duties during weekends on a grant related project. While we found no improper payments to this employee, we do find it unusual that an employee can routinely work and receive compensation for seven day weeks.

In our sample of 26 part-time employees, we discovered that two (8%) were paid for the wrong total hours, resulting in an underpayment of $196.77 and an overpayment of $16.25. The supervisory review designed to discover this type of error failed to detect it. Following our issuance of an IAM, ECC corrected these two errors.

In response to an IAM, ECC has begun the process of instituting procedures to confirm that as a condition for additional duty assignments, College employees will fully account for all work hours including course load hours and office hours prior to payment for these hours.

WE RECOMMEND ECC management strengthen review procedures over the processing of payroll transactions. We suggest that the Payroll Supervisor review a sample of payments to part-time employees to confirm that hours paid are in agreement with employee time records.

B. In the event of a processing error, the payroll system allows pay checks to be re-run utilizing the same sequence of check numbers that were used previously prior to the discovery of the processing problem.

Our review found that payroll checks are printed on blank, unnumbered check stock with a bottom-third serration to allow the check to be separated from the employee detail printed above. During our review of the payroll process, we noted that it was possible to stop the paycheck printing operation at any point. It may be necessary to halt printing either because a processing problem was noted or to scan the printed checks for errors. Where checks were found to contain errors, past procedure entailed the immediate shredding of the newly printed batch of checks by a subordinate of the Payroll Supervisor. That subordinate shredded the checks without any immediate supervision. This left open the possibility that a check could be misappropriated.

Once the printer problem or payroll check error is corrected, the check printing process is restarted. The restarting of the printing process means that the entire operation goes back to the very beginning as if there had not been an error at all. This includes reprinting the checks with the same number sequence that was used before the error was discovered resulting in the duplication of payroll checks. While we are not aware of any current or past problem with an individual cashing a check that was supposed to be shredded, the potential certainly exists for this to occur whether intentionally or unintentionally.

WE RECOMMEND that ECC management in concert with the Payroll Supervisor create and implement a procedure to provide reasonable assurance that all duplicate checks are shredded. At minimum, this procedure should not include the involvement of the Payroll Supervisor and the shredding process should be performed by one individual and overseen by another. In fact, following our IAM to the College concerning this point, ECC has already implemented this recommendation.

WE RECOMMEND that ECC management utilize check stock with control numbers on the reverse side as an additional safety feature for all checks printed including payroll, vendor and student.

C. There are no written procedures in place to document the process of handling both undistributed payroll checks and undistributed direct deposit advices.

Each pay period, undistributed pay checks and direct deposit advices are returned to the payroll office to be retained until next pay period or until contacted by the individual. On March 8, 2006, we reviewed these undistributed items on file through pay period #4 of 2006 and found 67 checks totaling $20,799.88. We also found 914 direct deposit advices.

The checks date back to December 16, 2005 and were all for part-time employees. Part-time employees include students employed by the College in work-study agreements in various departments and offices. Demographically, there were 12 checks from the City Campus, 23 from the South Campus and 32 from the North Campus. There were 42 checks for faculty, 14 checks for students and 11 checks for staff. The 914 direct deposit advices generally were from the first four pay periods of 2006.

In addition to these 914 "current" advices, there were approximately 10,000 other direct deposit advices that were never distributed or collected by employees. These advices date to pay period #1 of 2005.

Advices that have not been collected are not mailed out to employees due to an unwritten practice not to do so. Our office believes that having employees physically collect their payroll advices is a good internal control practice.

The primary reason for the uncollected advices and checks is the decentralization of the campuses, which makes it difficult to pick up checks and advices apart from the initial payday. If any advice or check on any campus is not picked-up by the Monday following payday, they are returned to the South Campus payroll office. Employees who have been paid correctly, as evidenced by the amount deposited into their bank accounts, may find no compelling reason to review a payroll advice informing them of something they already know. Secondly, the majority of the checks were for smaller dollar amounts and many employees may not deem the effort warranted for a low dollar amount item.

Because of the number of employees and job locations, the possibility and potential exists to exploit the system by cashing one or more of these uncollected checks or to take advantage of the system and create phantom employees. While we are not aware of any problem with an individual cashing a check that was intended for another employee, or phantom employees, the potential for this to occur should be minimized. In our testing of 26 undistributed payroll checks and pay advices, we found that one payroll check was issued in error (this finding was previously discussed on page two and has been corrected).

After we alerted the College about this through an IAM, this office was informed that ECC has implemented procedures to address the above issues.

WE RECOMMEND that ECC management in concert with the Payroll Supervisor develop and implement a procedure to provide reasonable assurance that all undistributed checks represent payments to bonafide employees. This procedure should include the review of payroll records for any employee with an undistributed check older than one month to ensure that they are still employed by the College.

WE RECOMMEND ECC management document how the handling of undistributed direct deposit devices should occur. This would insure that this important internal control process is not overlooked.

WE RECOMMEND ECC management begin documenting the retention and disposition of payroll items to maintain an important internal control process.

WE RECOMMEND ECC management periodically review payroll records to provide assurance that employees with accumulating advices are still employed by the College. This too, is an important internal control process.

D. There were errors or omissions in the processing of purchase orders and in the payment of invoices that were not detected by management in the normal course of their daily responsibilities.

During our procurement testing we noted the following exceptions in our sample of 30 purchase orders:

In our sample of thirty items were five purchases that individually were for more than \$10,000.00. New York State General Municipal Law, Section 103, requires that ECC:

- Advertise for written, sealed bids on any purchase of goods or services costing more than \$10,000 in annual requirements.
- Advertise for written, sealed bids on any Public Work (construction, etc.) costing more than \$20,000.
- Make any award to the low responsive and responsible bidder.

While reviewing the bid folders, we found no evidence of advertising for formal bids in four out of five of these purchases. However, when we raised this issue in an Internal Audit Memorandum, ECC produced proof of advertising for the missing formal bids.

For items with an annual cost between \$5,000 and \$10,000, only an informal bid is required. Informal bids do not need to be advertised in a newspaper, and the legal requirements imposed by New York State are less strenuous. Three informal bids are collected, usually by phone conversation, although bids received by fax are common after a phone request. It is expected that a supervisory-level employee would review these bids before any award is made. Four purchase orders met the requirement for informal bids to be let in New York State.

Documentation of supervisory review did not occur in all four cases and two cases had no evidence of three bids having been received. These four items sum to \$17,813. Without evidence of a supervisory review, ECC staff could find themselves vulnerable to accusations of not accepting the lowest bid. In ECC's response to our IAM on this issue, ECC states they will have the Business Manager sign the bid summary sheets from this point forward. ECC points out that the Business Manager signs the Purchase Order for informal bids.

It is Erie County policy that no work be done or goods provided before a purchase order is issued. There are exceptions to this policy, but only on a limited basis. It is unusual, therefore, for invoices for goods or services to be dated on the day of the purchase order. This occurred twice in our sample. Another invoice was dated the day before the purchase order. These three invoices sum to \$37,830.00. We raised this issue in an IAM and ECC responded by saying that for small, emergency type repairs, an invoice can be dated before the purchase order when a confirming order is placed.

Our review also found that the detail on a purchase order did not agree to the supporting invoice in two out of 30 instances. The two invoices summed to \$6,526.00. There was one instance where a change order was not properly approved by the Purchase Department in our sample as well. Although in no way fiscally material, these three items do demonstrate faults in the internal control process at ECC.

While different individuals are assigned to perform various tasks as part of the entire procurement/payables function, no one individual is ensuring that all these individual assignments have been satisfactorily completed. Ongoing errors involving the processing of purchase orders are indicative of a lack of performance monitoring and supervision.

A proper record of fixed assets owned by an entity is an important goal of proper internal controls. Failure to record a fixed asset misstates the entity's Balance Sheet and leaves the asset open to misappropriation. In two of the four cases in our sample, assets that qualify as fixed assets (items over \$500 in value) were not recorded in the Fixed Asset Summary. The two orders were for computer printers and auto tools and sum to \$6,764.00. This problem with recording fixed assets has been an ongoing problem at the College for several years.

The issue of improperly recorded fixed assets has been raised before. ECC's outside auditors were compelled to restate past financial statements as a result of errors in the fixed asset account. The "management letter" from ECC's outside auditors for the past two fiscal years has also referenced problems with recording fixed assets. Our findings here demonstrate that this problem has not been resolved. This is a serious issue, one that effects not just ECC's financial statements, but through incorporation, Erie County's statements as well. A greater effort must be made to address what appears to be a systemic problem.

When we discussed this with ECC staff, this office was informed that they are working to address this problem.

WE RECOMMEND that ECC management meet with managers in the College's purchase department to determine the steps necessary to correct the discrepancies noted above. Once implemented, these steps would provide additional assurance that: (1) all bids are properly awarded; (2) all purchase orders are properly issued; and (3) all assets are properly recorded.

During our review of selected procurement transactions, we noted several problems associated with one of the vendors that sold oxygen and other gas cylinders to the Dental Hygiene and Respiratory Care Departments. More specifically, we found the following:

The three invoices for purchase order number 28669 billed the gases at a different rate than what was quoted to ECC. This resulted in a $23.35 overpayment. When this item was brought to the attention of ECC via an IAM, EC did correct this overpayment.

WE RECOMMEND that ECC management take the steps necessary to either recoup the overpayment or receive a credit that can be applied to future purchases.

WE RECOMMEND that the College consider utilizing blanket purchase orders for these gas cylinder rentals to minimize confusion and erroneous billings.

E. Once a purchase order has been prepared and approved; the Datatel system allows changes to be made to the document without the need to void the original document. While this may appear to be a time saving process, established purchasing policies and procedures are circumvented.

During our testing we noted that once a purchase order is in the ECC's Datatel computerized accounting system, certain personnel have the ability to change the information on the purchase order. Lower-level staff can change portions of a purchase order, but such a change results in a suffix being added to the purchase order number. This clearly identifies that such a change has occurred, and the system records whom made this change, what changes were made and when.

Some staff at ECC can, in effect, override the Datatel system, leaving no trace of any changes made to a purchase order. Information that can be changed includes the items purchased, the quantity of each item purchased, the price of each item and the date of the order. In our review of invoice payments, we noted one instance where the preparation date of a purchase order had been changed, making it difficult to determine whether the purchase order was prepared before or after the receipt of an invoice. There is no control in the Datatel system that would prevent alterations to an existing purchase order once it is finalized in the system. The possibility exists that approved requisitions could be altered, resulting in ECC paying for items never actually ordered, or overpaying for items requisitioned at a lower price. Additionally, confirming orders could be adjusted to become quotes or purchase orders prepared after the receipt of an invoice could be changed to a date prior to the receipt of an invoice. Whether such changes occur intentionally or unintentionally is a moot point. The opportunity and the potential for this to happen should be eliminated.

It is worth noting that the County's SAP enterprise resource planning and accounting system has safeguards to prevent the above problem. ECC was offered the opportunity to join the County in implementing SAP, but declined to do so.

Datatel is working on a new version of the software that will correct this flaw. ECC management has stated they will implement this new version, called Release 18, as soon as practical.

WE RECOMMEND that ECC management together with managers in the College's Business Office and Datatel establish appropriate control mechanism(s) within the procurement module that would prevent changes of any kind to a purchase order once it has been prepared and approved. This will provide reasonable assurance that all purchase orders have not been modified without a record of what was modified and by whom.

F. There are confusing contract provisions within the ECC President's contract which resulted in an overpayment and undocumented compensatory time accruals.

ECC's President, William Mariani, was granted a $9,000 salary increase for 2005 in addition to a 2% raise. In 2005, all white collar employees received 2% raises. In our opinion, while his contract extension was confusing, it limited the increase to $9,000, not $9,000 plus 2%. At December 31, 2005, this represented an overpayment of $3,460. As of April 14, 2006, ECC calculated the overpayment as $4,525.00. From 2002 through 2004 the salary increases for the president totaled 11%.

It is this Office's assertion that the ECC President is actually covered under the January 2004 resolution that established the exempt Senior Executive Staff ("SES") employment classification at ECC. However, the President's status is not entirely clear, either in his employment agreement or the other memoranda that govern the ECC President's employment. What is clear is that fifteen Managerial Confidential ("MC") employees were folded into the SES classification in January 2004. The President clearly was an MC at that time and the College Board of Trustees resolution establishing the SES does not exempt the President. College employees who fall under the SES classification are prohibited from receiving compensatory time as of August 31, 2004.

The President received 181 hours, equating to $16,141, of compensatory ("comp") time in 2000 plus more undocumented comp time worth $2,000 in both 2003 and 2004. Compensatory time earned prior to 2000, 200 hours, should also have been forfeited at a value of $17,836.00. There were no time records on file at ECC's payroll office to support any of the comp time bonuses granted to the College President. After this Office reported the above findings to ECC in an

IAM, the College President agreed to return the 2% salary raise by reducing his comp time balance of 433 hours by an equivalent amount (51.71 hours times $89.181 per hour).

One of the President's contract amendments as referred to in a January 9, 2002 memorandum does state that the " . . . President's compensation time balance shall increase by the amount of $2,000 for each successive year President Mariani remains in the employment of Erie Community College as President up to a maximum of $4,000 following his original three-year deal." Nowhere in this memorandum is the President exempted from documenting his time. This office has been provided no records documenting the President's compensatory time.

ECC management vociferously denies that the President is covered by the SES agreement and as such believes that the prohibition on compensatory time does not apply. This, despite the President being listed as "SES" in the past two ECC budgets, 2004-2005 and 2005-2006. When this was discussed at the Exit Conference, ECC management stated that the President was incorrectly listed as SES and that error will be remedied in the next budget.

WE RECOMMEND that the College President repay the overpayments for the excessive salary increases.

WE RECOMMEND the College President provide either documentation for his credited comp time for 2000, 2003 and 2004 or pay back ECC for any time erroneously used before August 31, 2004. Furthermore, we recommend his current comp time balance be reduced to zero.

WE RECOMMEND that the President's current contract be redrafted and a new agreement be entered into by the parties, not an amendment to the previous agreements as has occurred, that fully and clearly articulates all terms of employment, including but not limited to, his compensation and employment status.

G. There are inconsistencies in the treatment of ECC staff

As previously mentioned, in January 2004, with the approval of their Board of Trustees, ECC changed the classification of their exempt MC employees into a new classification of SES.

Our review of contract terms for the SES employees found that:

SES employees receive their annual salary increases on April 1 of each year or five months before all other college faculty and administrators (September 1). The College's fiscal year begins on September 1. ECC's past practice has been to award raises on September 1 for faculty and administrative staff, with one exception being a retroactive pay dated January 1, 2005. Raises taking effect on April 1 are therefore inconsistent for faculty and administrators. In a typical year, a conservative estimate of the difference between the April 1 and September 1 payments to SES employees is $18,000. Additionally, SES employees received two salary raises in 2004 unlike the one salary raise granted to some ECC employees.

WE RECOMMEND that ECC's management move forward the effective date of SES employment agreements to coincide with the start of the College's fiscal period (September 1).

II AUDITOR COMMENTS

A. The ECC Foundation and the Auxiliary Services Corporation

ECC sponsors the Erie Community College Foundation, Inc., (the "Foundation") a New York State not-for-profit corporation established to support the College. The Foundation receives both rent-free use of facilities and also direct funding from the College for four staff members: Executive Director, Coordinator of Alumni Affairs, Secretary/Steno and Senior Account Clerk (part-time). The Foundation contributes 10% of the salaries for these employees. The Executive Director is also classified as a SES employee. The 2005-06 budget for the four staff positions totals over $167,000, with the Executive Director making $77,250 annually. This excludes costs for the employee fringe benefits and other miscellaneous costs. For fiscal year 2005 the Foundation recognized support from ECC totaling $263,188. The Foundation's portfolio of cash and investments was recently valued at over $1.5 million with net assets totaling over $1.7 million. In the latest fiscal period the Foundation spent $106,325 on scholarships, or 9% of total operating expenses.

WE RECOMMEND that all employees who work for the Foundation, but are actually paid by ECC, become Foundation employees and no longer classified as College employees.

ECC provides rent-free use of facilities to another component unit, the Auxiliary Services Corporation of Erie Community College (ASC). Unlike the Foundation, ASC budgets for and compensates employees from their own operating revenues. In addition, while Foundation staff are classified as ECC and thus union or SES employees, this is not the case for ASC employees. ASC has cash and investments totaling over $1 million with net assets valued at almost $1.3 million. The ASC receives rent-free use of ECC facilities for their offices, day care operations, vending, ATM, food services and the three campus bookstores.

Pursuant to an agreement between the ASC and ECC dated September 16, 2002, the ASC has contracted out the operation of the three (3) campus bookstores to Follett Corporation. ASC recognized $572,993 in bookstore contract revenues for the first year of a five-year contract. The contract only requires that ASC "expend a minimum of $6,000.00 each fiscal year on capital improvements, acquisition of equipment items, or other such category of expenditure".

WE RECOMMEND that ECC charge the ASC a modest fee for the use of ECC facilities. One dollar per square foot rental a month for the Bookstores and child-care centers alone would sum to about $236,460.00 annually.

WE RECOMMEND that ECC should assess a fee to ASC for the use of ECC space for ASC offices, day care operations, vending, ATM, food services and the three campus bookstore operations.

WE RECOMMEND that ECC should review the contract with the ASC and consider increasing the minimum $6,000 payment to the College.

We believe that employees from the two College component units should be treated consistently for both union and College employment purposes. For example, Foundation staff are ECC employees, both union and SES, whereas ASC staff are non-union Auxiliary Services employees and not employees of the College.

WE RECOMMEND that Foundation employees be paid from Foundation funds, and not College funds.

C. Other Payroll practices and issues

During the College's 2004-2005 and 2005-2006 budget preparation and adoption cycles, the Erie County Executive and Erie County Legislature, respectively, expressed reservations and concerns regarding SES salaries and raises.

In light of the county's financial situation, we offer the following observations and comments.

College SES employees have not received the same benefit reductions as their County counterparts in the MC class. The titles covered under SES are:

- Associate Vice-President for Marketing/Management
- Director of Equity and Diversity
- Assistant Director- Human Resources
- Executive Director – ECC Foundation
- Associate Vice-President Student Affairs
- Executive Vice-President Academic Affairs
- Secretary to the President
- Assistant to the President
- Associate Vice-President Transitional Program and Services
- Executive Vice-President Student Affairs
- Chief Administrator and Financial Officer
- Associate Vice-President of Finance
- Chief Information Officer
- Associate Vice-President for Academic Affairs
- Secretary to the Director of Human Resources
- Director of Human Resources
- Associate Vice-President of Liberal Arts *

- Associate Vice-President of Health Sciences *
- President of ECC

* Positions filled in December 2005

These job titles:

- Have received greater percentage salary increases than similarly classified County employees.
- Are not contributing 10% toward their health care premiums in 2006, estimated to be \$13,000.
- Will not contribute 15% toward their health care premiums in 2007, estimated to be \$19,500.
- Receive a greater rollover of unpaid sick days.
- Do not place unused sick leave in a catastrophic illness bank.
- New hires do not pay 50% of their health care premium in future years.
- Have not lost their eligibility for extended sick leave.

WE RECOMMEND that ECC management take into consideration Erie County's financial difficulties when preparing the College's budget for the next fiscal year, specifically regarding SES salaries and benefits.

AUDIT CONCLUSION

Payroll and procurement transactions were generally accurate and were properly authorized except as noted below. We have offered ECC management recommendations to improve operations and encourage the timely implementation of those not already in place. By implementing the recommendations presented in this report, we believe that *ECC could gain over one half million dollars* through reduced expenses and increased revenues.

ONE-TIME SAVINGS

\$18,000	SES raises effective 9/1 instead of 4/1
4,525	President's salary overpayment
17,836	President's comp time prior to 2000
16,141	President's undocumented comp time of 181 hours for 2000
4,000	President's undocumented comp time in 2003 & 2004
645	Miscellaneous Payroll & Procurement errors
\$61,147	One-Time Savings subtotal

POTENTIAL ANNUAL SAVINGS

\$263,188	Foundation Administrative costs including salaries
13,000	10% annual health care contribution by SES employees
19,500	15% annual health care contribution by SES employees

236,460	ASC rent – bookstore and day care only
$532,148	Annual Savings Subtotal
$593,295	Total of Potential Savings

RESULTS OF EXIT CONFERENCE

An exit conference was held with ECC management on June 29, 2006 at 9:00 AM at the ECC South Campus.

As part of the Exit Conference, ECC management alleged some bias on the part of Comptroller's office staff in the creation of this document. Bias on the part of an auditor is a very serious allegation. We acknowledge that the Principal Deputy Comptroller is a former ECC employee, and members of the audit team did directly report to the College's Chief Administrator and Financial Officer when he was formerly the Deputy Comptroller for Audit for Erie County. The current Deputy Comptroller for Audit reviewed the work of those involved in this audit. He interviewed separately and collectively those who worked on this audit and reviewed carefully the report itself. It is his opinion there exists no bias in this report.

On July 10, 2006, after our request for written documentation, a copy of a Board of Trustees Resolution governing SES employment was provided to this office. This resolution purports to confirm ECC's assertion that the President is not an SES employee. It is not definitive, however, in that the memo lists only the number of titles converted to the SES category, and not the names of the positions themselves, nor the individuals occupying such positions. We note that such a listing would contribute to ECC's assertion that the President is not covered under the SES agreement, but would not address the issue of the President's undocumented compensatory time.

As per existing policy, ECC will have thirty days from the date of this document to submit a written response to the County Legislature, with copies to be provided to this Office and to the Erie County Executive.

Erie County Comptroller's Office

cc: Dr. James Corasanti, Chairman, ECC Board of Trustees
Mr. William Mariani, ECC President
Hon. Joel A Giambra, Erie County Executive
Mr. James Hartman, Director of Budget, Management and Finance