



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
April 30, 2010

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General found that New York State Department of Correctional Services (DOCS) clerical staff member Marilyn Ramos improperly used sick leave in order to pursue unauthorized, paid outside employment by the Board of Elections on September 29, 2009.

Additionally, the Inspector General determined that DOCS employees Bahyya Abdul-Aziz, Nancy Rivera, Ethel Hart, Gail Johnson, and Pamela Guin-Washington had worked for the Board of Elections on a number of occasions using vacation time, but failed to seek required approval for outside employment.

The Inspector General referred these matters to DOCS for disciplinary action.

ALLEGATION

On October 3, 2009, DOCS Deputy Superintendent for Administration Tracy O'Bryan alleged to the Inspector General that DOCS employee Marilyn Ramos had failed to secure required approval and had instead improperly used sick leave in order to work for the Board of Elections on September 28 and 29, 2009. During the investigation of Ramos, the Inspector General discovered other employees who had worked for the Board of Elections but failed to seek required approvals for outside employment.

SUMMARY OF INVESTIGATION

Under state Civil Service Rules and DOCS policy, sick leave may only be used by an employee when “necessitated by personal illness or other disability, personal visits to a doctor or dentist, and illness or death in the employee's family.”¹ Sick leave may not be used in lieu of annual leave much less to ensure payment for the day while pursuing other outside activities. Additionally, DOCS employees must obtain authorization prior to engaging in outside employment. Pursuant to DOCS Directive 2218, employees who

¹ New York State Department of Civil Service’s Attendance and Leave Manual Section 21; DOCS Employee Manual § 26.5(a). Each employee is issued an Employee Manual.

wish to engage in outside employment must complete and obtain written approval from that employee's division director or superintendent before engaging in such employment.²

Deputy Superintendent O'Bryan informed the Inspector General that a number of DOCS clerical staff members at Edgecombe Correctional Facility in New York City have worked from time to time for the Board of Elections in the past as poll watchers. They included Marilyn Ramos, Bahyya Abdul-Aziz, Nancy Rivera, Ethel Hart, Gail Johnson, and Pamela Guin-Washington. The Inspector General interviewed these employees, reviewed their time and leave records, and compared them with Board of Elections employment records.

According to O'Bryan, due to DOCS administration's conclusion that staffing levels would be insufficient to allow all staff to take leave at their pleasure, employees were informed that fewer approvals for leave would be granted in general and specifically for employees to work for the Board of Elections. O'Bryan informed the Inspector General that a clerical staff member had informed her that Ramos had announced that, instead of seeking personal leave or vacation time, she would "just call in sick again." Thereafter, Ramos reported sick on September 28 and 29, 2009.

The Inspector General found that Ramos's signed time and leave record indicating that she was "sick" on September 28 and 29, 2009; however, Board of Election records indicate that Ramos worked for the Board on September 29, 2009, during the New York City mayoral primary runoff, earning \$299 from the Board for her work. DOCS records further reflect that Ramos never sought approval for outside employment from the facility superintendent as required by DOCS directive 2218.

In a joint interview conducted by the Inspector General and the DOCS Inspector General on October 15, 2009, Ramos claimed that she was unaware she needed permission for outside employment and did not comment about her use of sick leave to work for the Board of Elections. In a letter dated October 17, 2009, from Ramos to the DOCS Inspector General (and copied to an investigator from the State Inspector General's Office), Ramos admitted that she had worked "as an election poll worker without obtaining the required NYS authorized permission," claiming that "it was unbeknownst to me that working as a N.Y.C. election poll worker and a NYS civil service employee presented a dual payroll conflict."

Comparison of the other employees' DOCS attendance records with Board of Elections records reflected that they had worked for the Board on numerous occasions without receiving approval from the facility superintendent. These employees claimed to the Inspector General that they were unaware of the DOCS directive requiring approval from the facility superintendent.

² See also DOCS Employee Manual § 2.13. Directive 2218 provides exceptions for new employees already engaged in outside employment, and for part-time employees. Neither exception applies here.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that DOCS clerical staff member Marilyn Ramos improperly used sick leave in order to pursue unauthorized, paid employment for the Board of Elections on September 29, 2009. The Inspector General also found that Bahyya Abdul-Aziz, Nancy Rivera, Ethel Hart, Gail Johnson, and Pamela Guin-Washington had worked for the Board of Elections on a number of occasions using accrued annual leave credits, but failed to seek approval for outside employment as required by DOCS policy. The Inspector General referred these matters to DOCS for disciplinary action.

Response of the Department of Correctional Services

In response to the Inspector General's findings, Department of Correctional Services Commissioner Brian Fischer stated that DOCS "is pursuing disciplinary charges, pursuant to collective bargaining agreements, against each employee working without authorization for outside employment. Any employee that utilized sick leave to pursue paid outside employment will be dismissed as the proposed penalty."