



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL

Final Report
December 17, 2007

LABOR EMPLOYEE MISUSED SICK LEAVE WITH BOSS'S OK

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Office of the Inspector General substantiated an allegation of improper usage of sick leave accruals by a New York State Department of Labor (DOL) employee and improper approval of this usage by his immediate supervisor. The Inspector General referred this matter to the DOL for appropriate discipline.

ALLEGATIONS

On April 2, 2007, the Inspector General's Office received a complaint from a DOL official alleging abuse of sick leave by an hourly employee in the DOL Special Investigations Unit, Labor Service Representative Christopher Casey. It was also alleged that Casey's immediate supervisor, Senior Unemployment Insurance Investigator Robert Pearlroth, approved this improper use of sick leave. It was further alleged that Pearlroth stated to another DOL employee that he allowed Casey to use sick leave accruals when Casey depleted other leave accruals (annual and/or personal) and that Pearlroth's immediate supervisor also approved this use of sick leave.

SUMMARY OF INVESTIGATION

The Inspector General initiated an investigation which consisted of reviewing the applicable agency policy on use of sick leave, interviewing Casey, Pearlroth, and Pearlroth's supervisor, and analyzing the applicable time and attendance records. The following is a summary of the results of this investigation.

DOL's General Administration Manual (Topic No. 0651) contains DOL's policy on "sick" leave and vacation time, the latter of which includes "personal" and "annual" leave. The policy allows for the use of "sick" leave accruals only for personal illness or disability, death or family illness, medical or dental appointments or training a service

animal for a medical need. There is no provision for using sick leave in lieu of vacation or personal leave when those have been depleted.

The Inspector General interviewed Casey, who stated that he began his employment in the Special Investigation Unit in September of 2002. During two periods, from November 2003 to June 2004 and April 2005 through March 2007, he was directly supervised by Pearlroth. As his subordinate, Casey was required to submit leave requests and to transmit bi-weekly time and attendance records to Pearlroth. On the time and attendance records, Casey's endorsement indicated that he attested to the accuracy of the records.

Casey told the Inspector General's Office that he participates in several outside activities including pursuing a degree in teaching and coaching a hockey team. According to Casey, these activities often resulted in late nights of study and "exhaustion." As a result, he often depleted his vacation and personal accruals. Casey stated that at some point he requested and obtained permission from Pearlroth to use sick leave accruals when he was "exhausted" from his outside activities. Casey claimed that Pearlroth was aware and approved of this usage. Casey also noted that on other occasions he utilized sick leave accruals for authorized reasons. Casey maintained that he did not know if Pearlroth sought or obtained approval from his, Pearlroth's, immediate supervisor or if other individuals in the unit were afforded this special arrangement.

The Inspector General's Office interviewed Pearlroth. Pearlroth began his employment with New York State in 1999 at the Office of Children and Family Services and in 2001 he commenced employment at DOL. In November of 2003 he was promoted to Senior Unemployment Insurance Investigator. Pearlroth's duties included approving or disapproving leave requests and reviewing and attesting to the accuracy of bi-weekly time and attendance records that were submitted by subordinates, one of whom was Casey. (Note: As previously mentioned, Pearlroth, as a result of a temporary promotion, supervised Casey for only part of the period under review in this investigation.)

Pearlroth stated that during the periods he supervised Casey, he occasionally allowed Casey to utilize sick leave accruals for purposes other than those outlined in DOL policy. Pearlroth explained that Casey has many outside activities and often depleted his vacation and personal accruals to engage in these activities. According to Pearlroth, Casey would request permission of Pearlroth to use sick leave accruals when he was "exhausted" from these other pursuits. Pearlroth also noted that on other occasions Casey would utilize sick leave accruals for acceptable reasons.

Pearlroth stated that during a point early in his supervision of Casey, he approached his (Pearlroth's) supervisor and sought his counsel and approval of Casey's use of sick leave for this purpose. According to Pearlroth, his supervisor gave his approval. Pearlroth stated that he did not recall any other individuals in the unit who were allowed to use sick leave accruals for purposes other than those specified in DOL policy.

Subsequently, the Inspector General's Office interviewed Pearlroth's immediate supervisor regarding his supervision of Pearlroth and Casey. He stated that as the unit's leader he currently supervises 14 employees in the Special Investigations Unit. Regarding time and attendance issues, he has direct oversight of Pearlroth and four other employees. Pearlroth had oversight of two employees in the unit; one being Casey. When asked about his knowledge of the use of sick leave accruals by Casey for other than authorized reasons, Pearlroth's supervisor stated that he was neither aware of nor condoned such approval. He added that Pearlroth had never sought his approval to allow Casey to utilize sick leave for other than authorized purposes and he did not allow Pearlroth or others under his supervision to approve this type of leave. According to Pearlroth's supervisor, he does not review Casey's leave accrual usage as this function is Pearlroth's responsibility. However, he recognized that as supervisor of this unit he is responsible for oversight of all actions taken by subordinates, even those not directly supervised by him.

Lacking the ability to identify specific dates on which Casey misused his sick leave accruals with Pearlroth's approval, the Inspector General's Office can only assess the total amount of sick leave used by Casey. An analysis of Casey's "Attendance Record System Employee Time Sheets" for the period September 26, 2002 to April 18, 2007 was conducted. The time and attendance records indicate that Casey began to earn accruals in July 2003. In 2003, he used approximately 60 hours (8 days) of sick leave accruals while under the supervision of Pearlroth and others; in 2004 he used 124.5 hours (16.6 days) while supervised by Pearlroth and another supervisor; in 2005 he used 96.3 hours (12.8 days) while supervised by Pearlroth and another supervisor; in 2006, while supervised solely by Pearlroth, Casey utilized 99.2 hours (13.2 days); and in the first quarter of 2007, Casey used 6.45 hours of sick leave accruals while supervised by Pearlroth.

Additionally, Casey and Pearlroth claim, and there is no evidence that counters their assertion, that Casey also utilized sick leave accruals on some occasions during these periods for legitimate purposes. With no means to identify the specific days that Casey used sick leave accruals inappropriately, it is not possible to discern the extent of the misuse.

It should be noted that Pearlroth no longer supervises Casey and Pearlroth's supervisor has instituted a new leave request procedure in the unit to address the issues raised in this investigation.

FINDINGS AND RECOMMENDATIONS

The Inspector General's investigation substantiated the allegation of improper use of sick leave by DOL employee Christopher Casey and the improper approval of this leave by Casey's immediate supervisor, Robert Pearlroth. This Office recommended that DOL review Casey's and Pearlroth's actions and take appropriate disciplinary action. Given the lack of documentation and Pearlroth's complicity in Casey's sick leave misuse,

there appears to be no reasonable means of determining the amount of monetary restitution owed by Casey.

There is insufficient evidence to establish that Pearlroth's supervisor knew of or approved of this arrangement. As noted, Pearlroth no longer supervises Casey and Pearlroth's supervisor has instituted a new leave request procedure in the unit to address the issues raised in this investigation.

By letter dated December 10, 2007, DOL advised that it is reviewing this Office's recommendation.