

Thomas P. DiNapoli
State Comptroller



DIVISION OF
STATE GOVERNMENT ACCOUNTABILITY

MANAGING DUAL EMPLOYMENT

Agencies Can Strengthen Oversight
Of Employee Time and Attendance

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Executive Summary

State employees have the right and the opportunity to work more than one job. With this right, comes responsibility. Holding two jobs concurrently, also referred to as dual employment, can make managing employee time and attendance more difficult. Safety can be put at risk when workers are tired and exhibiting impaired judgment. Service quality can erode and taxpayers can lose out when public sector workers are compensated for work not performed. Fraud can also be occurring.

Nearly 4 percent of employed New Yorkers are working in more than one job at the same time. For State employees in State agencies, the trend is similar. The incidence of all dual employment among State workers is difficult to monitor because the State payroll system tracks secondary employment in State agencies and excludes local government, the public authorities and the private sector.

Recent audits of dual employment in six State entities found that managers and supervisors failed to monitor employee time and attendance. At every agency where auditors found employees who violated time and attendance policies, there were also supervisors and managers who didn't know where their employees were or who allowed employees to misrepresent the hours worked.

- A review of 345 employees found 75 with a pattern of violating time and attendance policies. These 75 received \$413,277 in compensation for 4,803 hours not worked. Statewide, agencies could be spending \$5 million on compensation for hours not actually worked.
- 69 employees claimed to have worked 3,536 hours in two jobs at the same time (overlapping hours); 22 did not accurately reflect travel time from one job to another (adjoining hours); and 16 improperly charged 511 hours of sick leave at one job, even though they were working at their second job.

Agencies can improve oversight of employee time and attendance by providing periodic time and attendance training to supervisors and staff. OSC will assist agencies by providing the data needed to identify workers with two State jobs. Before approving dual employment, agencies must also ensure that health and safety standards will be maintained. The audits also recommended that agencies recover overpayments, adjust unearned pension credits, and discipline staff when warranted.

Working Two Government Jobs

As noted above, most State workers do not take on a second State job. Earnings by workers with two State jobs exceed \$500 million annually, however. Dual employment is most prevalent at the senior colleges of the City University of New York (CUNY), the Department of Corrections and Community Supervision (DOCCS), the Office of Mental Health (OMH), the State University of New York (SUNY) and the Unified Court System Office of Court Administration (UCS). State employees also appear in the New York City municipal payroll. The most common secondary positions are as adjuncts, correction officers, election monitors, poll workers, and school hourly staff.

Regulating Dual Employment

State and City laws and regulations governing dual employment help to ensure the integrity of public service, and to reduce conflicts of interest, risks to public health and safety, and the abuse and waste of public resources. Generally, these laws and regulations require the employee to disclose and seek management approval to work in a second government job. Certain State employees designated as “policymakers” by their agencies must also seek permission from the Joint Commission on Public Ethics (JCOPE) before taking a second job either in or outside of State service.

The Office of the State Comptroller (OSC) requires the annual submission of a supervisor-approved “Dual Employment/Extra Service Form” in order to issue a second paycheck. The form describes the work performed in the second job, optionally reports the hours scheduled, and includes the employee’s and supervisor’s attestation that the secondary employment poses no conflict of interest.

Agency Personnel Management

Prior audits of overtime at the Metropolitan Transportation Authority (MTA) (2010-S-60 and 2009-S-88) and of timekeeping practices for stationary engineers at the City University of New York (CUNY) and the New York City Department of Parks and Recreation (2011-S-27) focused public attention on management's accountability for government operations.

One audit found that MTA managers approved excessive and unnecessary overtime such that overtime pay equaled 30 percent (or more) of salary for 15 percent of the MTA's workforce (10,909 employees). Among these employees, 147 received overtime pay that exceeded their regular salary. A second audit found that supervisors nearing retirement awarded themselves excessive overtime to pad their salaries and boost their retirement benefits. Supervisors also signed attendance records for themselves and their staff, and together they received \$1.2 million in potentially fraudulent compensation.

In another audit, eight stationary engineers with earnings ranging from \$150,000 to \$256,000 reported themselves as present at CUNY and the New York City Department of Parks and Recreation (NYCDPR) at the same time on 338 occasions over 364 days. The engineers also reported working excessive hours, calling into question their ability to effectively perform their jobs. One worked 16 consecutive hours at both jobs on 74 occasions, including 16 instances of 40 hours worked without a rest period. Management was not aware of staff time and attendance and, because of that, the engineers may have been paid for hours not worked. In addition, the engineers' fatigue and strain posed a safety risk to students, faculty and parks visitors.

Dual Employment Audits

To help agencies strengthen their management of time and attendance, the Comptroller conducted additional audits of staff with concurrent public employment, or "dual employment," at the Department of Corrections and Community Supervision (DOCCS); the Metropolitan Transportation Authority (MTA); the Office of Children and Family Services (OCFS); the Office for People with Developmental Disabilities (OPWDD); the Office of Mental Health (OMH);

and the Unified Court System Office of Court Administration (UCS). These audits asked whether employees worked their scheduled hours; health and safety standards were followed; and necessary approvals were obtained. Auditors examined time and attendance records, observed selected employees, and calculated travel times between jobs.

Audit Findings

The dual employment audits found that lax oversight allowed 75 employees to repeatedly violate time and attendance policies. These employees falsified timesheets by not reporting actual hours worked; abused sick leave by charging sick leave at one job while working at another; and misrepresented travel time from one job to another by reporting adjoining hours on both employers' time records. Every audit found a lack of supervision of employee time and attendance. Supervisors were sometimes complicit in allowing employees to violate time and attendance policies. Auditors determined that the 75 employees received \$413,277 in compensation for 4,803 hours not worked. This equates to about 4.5 percent of the salaries paid to these staff.

Considering that State employees with two or more public jobs are paid more than \$500 million annually, if even a small percentage of this time is not actually earned due to time and attendance violations, the cost to taxpayers could easily be several million dollars each year. Major findings are detailed below.

Agency managers and supervisors did not monitor and certify staff time and attendance as required, and routinely and knowingly approved inaccurate or falsified timesheets. At each agency audited, ineffective supervision resulted in dually employed staff being paid for time not worked.

- An MTA Transit Track Equipment Maintainer who also worked for the New York City Department of Environmental Protection (NYCDEP) had work schedules that overlapped four hours each week. He told auditors that a supervisor had approved an alternate schedule seven years ago, which allowed him to report earlier to work at the MTA (at 6:00 AM instead of 8:00 AM) in order to get to the NYCDEP on-time, even though his timesheets did not reflect this alternate schedule. Auditors visited his worksite and found that he arrived shortly before 8:00 AM. Over a twelve-month period, this employee reported 193.5

overlapping hours on his time and attendance records in 146 instances; he was paid \$8,232.

- An MTA Transit Track worker who worked 10:00 PM to 6:00 AM, Sunday through Thursday, was also employed full-time by the Bronx Community College from 9:00 AM to 5:00 PM, Monday through Friday. Auditors concluded that his work schedule did not provide sufficient time for the required rest of eight consecutive hours, and as a result, jeopardized his personal well-being and the safety of his co-workers and the transit-riding public.
- A part-time OCFS Youth Development Aide also worked as a full-time Police Officer with the New York City Police Department (NYPD). He conducted curfew checks on troubled youths for OCFS while reviewing surveillance monitors for the NYPD. His OCFS supervisor approved his timesheets knowing the records did not reflect actual hours worked, and that the aide's NYPD schedule conflicted with his OCFS schedule.
- A UCS employee also taught at two CUNY schools. Auditors found that he was teaching classes during the hours that he was supposed to be at UCS. He was paid by UCS for 344 hours that he spent either traveling to or teaching CUNY classes. The supervisor had given the employee permission to work the overlapping schedules and told auditors that the employee "made up" the time. The employee's time sheets did not support the supervisor's assertion.

State employees working second jobs repeatedly misrepresented hours worked on their timesheets. Auditors found overlapping hours, adjoining hours, and abuse of sick leave.

- A review of the time and attendance of 28 employees at OCFS identified 7 dually employed staffers who routinely misrepresented hours worked by claiming to be working for both employers in both places at once. Over 889 days, these 7 staffers misrepresented their time and attendance in 222 instances and, as a result, were compensated for 385 hours of work not actually performed.

- A Psychiatric Nurse employed by OMH, who also worked as a Public Health Nurse at P.S. 205 in the Bronx, submitted time records reporting the same end and start time for both jobs. She was paid for 205 hours not worked over twenty-two months. Twelve OMH employees (out of 139 reviewed) had misrepresented travel time in-between jobs in 531 instances and were paid for 310 hours not worked.
- An OPWDD Developmental Aide charged 64 hours of unscheduled sick leave even though he was actually attending out-of-state basketball games associated with his SUNY employment. Seven other OPWDD employees charged 214 hours of sick leave at their secondary jobs, while they were working at OPWDD.
- A UCS judge who also worked under contract for UCS to provide legal services to children was found on nine occasions to have hours on her contract that overlapped with hours when she should have been at court. This audit finding raises questions about whether this employee's contract represents a conflict of interest.

Employees did not obtain the permission needed to work a second job.

Among the agencies audited, managers and supervisors had difficulty verifying that necessary approvals for dual employment had been obtained. At the MTA, 58 employees had not obtained management approval for dual employment as required, including 44 with no record of having sought approval and 14 who had obtained outside jobs even after their requests were denied by MTA management.

Improving Agency Operations

The audit series created opportunities for State agencies to strengthen accountability in their management of time and attendance. Agencies responded proactively to the audits, and agreed to provide training and recover

overpayments for time not worked. Agencies also requested that OSC assist them by providing data to monitor staff in two government jobs.

Each of the six entities is performing its own internal investigation of employees identified in the audits. At OCFS, two employees were fired, while a third resigned. The OMH stated that it has been in the process of implementing an electronic time and attendance system, which will improve its personnel management. As part of that process, training on time and attendance policies is being given to all OMH employees.

Agencies could develop more comprehensive regulations than exist currently in order to protect public health and safety – when permitted by labor contracts. Agencies could also consider establishing procedures to communicate about employees with dual employment. Agencies might also consult with the Department of Civil Service and public employee unions to articulate more realistic time and attendance policies that reflect legally permissible practices, maximize productivity, and ensure adequate staff coverage. Agencies should also initiate a process to communicate about their dually employed staff.

In response to the agency audit comments, OSC is committed to revising payroll processes in order to assist agencies at better controlling dual employment. OSC expects to offer an electronic report that agency payroll officers can use to review dual employment. Internally, OSC will review its payroll processes to ensure that payments for dual employment have appropriate authorization.

Dual Employment Audits

2012-S-129	Department of Corrections and Community Supervision
2011-S-46	Metropolitan Transportation Authority
2011-S-48	Office of Children and Family Services
2011-S-47	Office of Mental Health
2011-S-22	Office for People with Developmental Disabilities
2012-S-79	Unified Court System Office of Court Administration

Major Contributors

Managing Dual Employment

Claire Eatz
 Abe Fish
 Teeran Mahtoo-Dhanraj
 Cheryl Pahaham
 Mary Roylance
 Aida Solomon

Dual Employment Audit Initiative

Raymond Barnes	Anthony Cartusciello	Joseph Fiore	Brian Lotz	Brian Reilly
Anthony Belgrave	Christine Chu	Abe Fish	Carmen Maldonado	Joseph Robilotto
Joel Biederman	Trina Clarke	Don Geary	Stacy Marano	Todd Seeberger
Wayne Bolton	Lidice Cortez	Steve Goss	Richard Moriarty	Rebecca Shanley
Bruce Brimmer	Salvatore D'Amato	Elijah Kim	Theresa Nellis-Matson	Francis Smith
Laurie Burns	Keith Dickter	Patrick Lanza	Joseph Paduano	Michael Solomon
John Buyce	Jeffrey Dormond	Carole Le Mieux	Frank Patone	Dmitri Vassiliev
Aurora Caamano	Lisa Duke	Ira Lipper	Sally Perry	Daniel Zimmerman

Elliot Pagliaccio, Deputy Comptroller **Brian Mason, Acting Assistant Comptroller**

The audits discussed in this report and other audits and reports can be found on the Comptroller's website at www.osc.state.ny.us. For hardcopies of our reports, please contact the Comptroller's Press Office at:

Albany Phone: 518-474-4015
 Fax: 518-473-8940

New York City Phone: 212-681-4840
 Fax: 212-681-4468
 Email: press@osc.state.ny.us