



STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION  
THE HARRIMAN STATE CAMPUS – BUILDING 2

ANTHONY J. ANNUCCI  
ACTING COMMISSIONER

1220 WASHINGTON AVENUE  
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DANIEL F. MARTUSCELLO III  
DEPUTY COMMISSIONER  
ADMINISTRATIVE SERVICES

February 26, 2014

Mr. John Buyce, Audit Director  
Office of the State Comptroller  
110 State Street-11<sup>th</sup> Floor  
Albany, N.Y. 12236-0001

Re: 2012-S-129 Dual Employment

Dear Mr. Buyce:

The Department of Corrections and Community Supervision (DOCCS) has reviewed Report 2012-S-129 Dual Employment, and, as required by Section 170 of the Executive Law, this letter serves as the DOCCS official ninety day response to your report dated December 18, 2013. We have included our original comments from September 3, 2013 and have added additional comments in *italic bold print*.

**Recommendation #1:** Take appropriate actions as warranted in the cases we identified, including but not limited to:

- recovering inappropriate salary payments;
- identifying inappropriate salary and service and submitting resulting Adjustments to the New York State and Local Retirement System for the appropriate periods; and
- assisting in any further investigation.

Status – Partially Implemented

**DOCCS Response:** DOCCS agrees and has referred this matter and OSC's audit findings to the DOCCS Labor Relations who will work with the Inspector General's Office. DOCCS will seek to recover any inappropriate salary payments and make appropriate adjustments based upon the findings of Labor Relations.

***DOCCS Bureau of Labor Relations interviewed the two DOCCS employees and their supervisors.***

***The DOCCS Office of Budget and Finance has requested recoupment from one DOCCS employee for whom it was determined that there had been an overpayment in extra service and that it is recoverable. The recoupment has been submitted to OSC for processing.***

*The second DOCCS employee presented additional information and requested DOCCS investigate further by accessing key and sign-in logs. The investigation found evidence substantiating the employee was present on 22 days of the days in question. A letter was sent to the employee notifying him of the reduction in overpayment to 53.75 hours totaling \$2,436.38 and affording him a second opportunity to be heard.*

*A letter was sent to the OMH employee indicating that the extra service provided to DOCCS has been terminated. DOCCS received a check for the full amount of the time that was questioned.*

*Employees' retirement accounts will be adjusted when the overpayment is collected since extra service only has amounts reported to the New York State and Local Retirement System.*

**Recommendation #2:** Establish communication channels between facilities that utilize dually employed or extra service staff, as well as with other agencies that also employ DOCCS staff, to identify and prevent conflicts in scheduled work hours at different locations.

Status – Implemented

**DOCCS Response:** DOCCS agrees. Departmental Directive #2205, "Record of Attendance," Section V, E, states, in part:

Employment at more than one facility must be included and combined for attendance and leave purposes. Time records are to be maintained and monitored by the facility where the employee works the majority of the time. When the percentage of work at each facility is equal, the facility where the employee was first employed should maintain time records.

An all Superintendents memorandum was issued on June 6, 2013 directing them to have all Personnel/Timekeeping staff and all appropriate supervisors review Directive #2205 to ensure compliance with DOCCS policy. Additionally, the Deputy Commissioner for Correctional Facilities issued an all Superintendents memorandum, dated January 24, 2013, which advised staff that non-employees or non-departmental personnel visiting the facilities were incomplete or non-existent and they must sign in. The memorandum specifically identified extra service staff as an example of who should sign the logbooks.

**Recommendation #3:** Ensure that dually employed and extra service staff are working the time for which they are being paid.

Status – Partially Implemented

**DOCCS Response:** DOCCS agrees. As noted in response #2, Superintendents were reminded of the facilities responsibility to be in compliance with Directive #2205 and that extra service and dual employment employees are required to sign the facility logbooks which accounts for the employees' activities. Additionally, DOCCS is developing a process to randomly identify employees who have worked extra service hours at a particular facility, confirm that the employee has received approval to work extra service at the particular facility and review the facility logbook to ensure that the employee was not

overpaid or underpaid for the extra service worked. This process will become a routine part of the Central Office Time and Attendance audit.

***Commencing in March, the annual Time and Attendance Audits at facilities will include a new process to audit the logbook entries of extra service staff. These findings will be noted in the facility audit report.***

**Recommendation #4:** Provide pertinent time and attendance training to dually employed staff and their supervisors, and ensure that required policies and procedures are followed.

Status – Partially Implemented

**DOCCS Response:** DOCCS agrees. The Director of Personnel issued a memorandum on June 6, 2013 with direction to all appropriate Personnel and Payroll staff to review Personnel Procedure #134, Dual Employment/Extra Service, and to ensure compliance with the procedure including the approval of a "Dual Employment/Extra Service" form prior to any such service being worked. As noted above, memorandums were also sent to remind the facilities that extra service employees are to sign in and out of the entrance logbooks, direct staff to be in compliance with Directive #2205, and audits will be conducted on these extra service employees during Central Office Time and Attendance audits.

**Also as noted above, the annual Time and Attendance Audits at facilities will include a new process to audit the logbook entries of extra service staff. These findings will be noted in the facility audit report.**

The Department would like to thank the OSC auditors for their professionalism and goal to improve the Department's operations.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel F. Martuscello III", with a stylized flourish at the end.

Daniel F. Martuscello III  
Deputy Commissioner

cc: Darren Ayotte, Director of Personnel  
Vanessa Norton, Acting Director of Internal Controls  
Jeffery Nesich, Director of Internal Audit