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COMPTROLLER'S OFFICE
DEPARTMENT OF
AUDIT AND CONTROL

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December 5, 2023

President Darius G. Pridgen
Buffalo Common Council
City Hall, 65 Niagara Square, Room 1315
Buffalo NY 14202

Re: Investigatory Findings –Employee Suspended with Pay

Dear Council President Pridgen:

This report contains the findings of our investigation into a City of Buffalo Employee, Jill Repman formerly Parisi, who was suspended with pay for seven and one half (7 ½) years. As per our initial findings, she was hired on November 24, 1994, and assigned as a Senior Administrative Assistant at the Fire Department Headquarters. The objectives of this report are to determine the following:

- What factors led to the occurrence of this situation?
- Who were the approving authorities pertaining to the usage of Suspended with Pay designation that was documented, certified, and submitted to the Department of Audit and Control for payroll processing purposes?
- If there exists rampant abuse of the Suspended with Pay payroll designation throughout city government?
- A review of the Memorandum of Agreement Between the City of Buffalo and Local 650, AFSCME, AFL-CIO to determine if additional employment while on Suspended with Pay is permissible.
- What further action(s), including an Audit, may be necessary to properly address this matter by all parties involved in this specific incident and all other Leave with Pay matters which warrant review based on our investigation.

Our investigation is intended to protect, report, and strengthen the City of Buffalo's finances to help ensure an efficient, effective, and transparent government that will better serve the citizens, taxpayers and employees of Buffalo, New York.

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Scope and Methodology

We conducted this report to obtain sufficient and appropriate evidence to understand what happened in the Jill Repman Case and to see if Leave with Pay Designations were a widespread problem throughout the City of Buffalo government. The initial scope period for this investigation regarding Repman was from January 8, 2016 to March 19, 2016. The secondary scope period continued from March 19, 2016 through November 30, 2023. In addition, we reviewed related paid while not working pay code designations for all City of Buffalo Employees from July 1, 2019 to November 22, 2023 to determine if there were other employees on extended leave with pay, specifically the Suspended with Pay category as noted:

- The City Auditor exported all pertinent information from MUNIS, the City's Financial Software Program, and used a query tool whereby the raw data from MUNIS is exported onto a Microsoft Excel Program spreadsheet which sorted the data into usable reference information.
- We reviewed applicable rules, policies, and procedures regarding employee suspension with pay via the Union Contract and Charter of the City of Buffalo.
- We reviewed payroll records of employees in the suspended with pay category from July 1, 2019, to November 22, 2023.
- We conducted inquiries and/or had discussions with members of the City of Buffalo Administration, Buffalo Common Council, Local Labor Union Leadership, the Corporation Counsel, Investigative Post Reporter Geoff Kelly and Buffalo News Reporter Deidra Williams regarding the Repman incident.

Overview

- Jill Repman, formerly Parisi was suspended in 2016 due to allegations of tampering with payroll withholdings. At the time of the occurrences, the Department of Audit and Control staff immediately identified and corrected the irregularities.
- Based on our investigation, we could not determine if any further disciplinary action(s) were taken by the Fire Department or the Human Resources Department throughout the seven (7) year period as per the Union Contract, Article XX, Discipline and Discharge.
- Jill Repman may have worked another job in the private sector while in Suspended with Pay Leave status from the Fire Department as reported in local media sources. Outside employment while on Leave with Pay is not prohibited by the Union Contract.
- The Suspended with Pay category has been used infrequently totaling less than 1 percent (0.2) of total payroll from 2019-2023 during my tenure as City of Buffalo Comptroller.

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- The Department of Audit and Control continues to receive and process the certified payroll documents from all City Departments according to the Charter of the City of Buffalo.

As a result of all the information received and at the request of the Common Council, the Comptroller immediately had staff initiate an investigation in September 2023 to determine what happened and whether a full audit was warranted. As generally known, Governmental Audits are prescheduled and made public every year. Our Annual Audit Plan remains available via the Comptroller's Website and filed with the City Clerk's Office for inclusion on the Buffalo Common Council Agenda for review/discussion each year. Unanticipated audits are generally not financially feasible when an investigation can readily uncover pertinent information for a fraction of office resources and staff time commitments. The request for full audits is contingent upon the outcome of initial investigative research. Given that the investigation began immediately, initial updates were provided to the Common Council at the end of September and a request by the Comptroller to the Administration for additional information was made noting an October 2023 deadline submission.

Initial February 2016 Incident

A. Background

Based on our findings, former Comptroller Mark Schroeder forwarded an email dated March 3, 2016, "Payroll Requirements in the Charter" to serve as a reminder to those Department Leaders and Common Council Leadership responsible for certifying payroll submissions based on the City Charter to be used as a reference when submitting payroll documents to the Department of Audit and Control. Such requirements continue to be in effect under my leadership on a Bi-Weekly basis.

B. Relevant Facts.

In February 2016, former Comptroller Mark Schroder notified the City's Administration of alleged payroll irregularities by Buffalo Fire Department Clerk Jill Repman. The alleged irregularities included:

- **FICA/Federal Withholdings/NYS Withholdings Deductions** were allegedly turned off by user jiparisi prior to printing 1/8/16, 1/22/16 and 2/5/16 paychecks deductions were turned on by user jiparisi after printing 1/8/16 and 1/22/16 paychecks. It was discovered that deductions were turned off prior to printing 2/5/16 paycheck and deductions were turned back on by the Management Information Systems (MIS) staff as requested by the Department of Audit and Control Payroll Division personnel.

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- **NYS Retirement Loan deductions** were allegedly turned off by user jiparisi on 1/4/16. This affected 1/8/16 and 1/22/16 paychecks. Deductions were turned back on by user jiparisi on 1/21/16.
- **Medicare Deductions** were allegedly turned off by user jiparisi prior to printing 2/5/16 paycheck and deductions were turned back on by MIS staff as requested by the Department of Audit and Control Payroll Division personnel.

C. Findings and Recommendations

It must be noted that payroll must be prepared and certified as correct by the Department Head in which an employee works, as outlined in Chapter 16, Section 5, of the City of Buffalo Code. The Department of Audit and Control receives and processes all certified payroll documents submitted by the Division Heads either via hardcopy or the current computerized Executime System. It is the responsibility of the Administrative Director of Civil Service in the Human Resources Department to ultimately certify the payroll across the City, per the City Charter Section 11-12, and by Civil Service Law Section 100.

The process used by the Department of Audit and Control Payroll Division staff to catch the irregular entries by Jill Repman as the Timekeeper was successful in 2016 and was immediately reported to the proper Department.

Repman's Use of Suspension with Pay

A. Background

Jill Repman's unpaid suspension began on February 19, 2016, from the Buffalo Fire Department. She had an initial unpaid suspension of 30 days, consistent with the applicable Collective Bargaining Agreement and New York State Civil Service Law. We were not able to determine whether an informal hearing was held as per the Union Contract Article XX, Section 20.2(C) Discipline and Discharge. As of March 19, 2016, she remained in Suspension with Pay Status awaiting a formal hearing. She was ordered back to work in September 2023 and has since retired as of November 30, 2023.

We have identified two (2) central issues that are at the core of this incident as follows:

- The arbitrarily usage of Suspended with Pay payroll code for an extended period by the Fire Department Commissioner.
- The lack of resolution to the charges levied against Ms. Repman which led to her extended time as suspended with pay.

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B. Relevant Facts

Repman is a member of AFSCME Local 650 and therefore is subject to the Collective Bargaining Agreement that exists with the City of Buffalo under Article XX, Discipline and Discharge.

The AFSCME Local 650 CBA and New York State Civil Service Law allow an employee to be suspended without pay for a period not to exceed thirty (30) days pending the determination of an employee's charges. It is silent to what occurs to the employee after those thirty days if a hearing has yet to be held.

The Charter provides Department heads with the right to discipline and govern their departments. It is their managerial prerogative to determine whether a person should return to work after the thirty (30) day period or remain suspended until a formal hearing.

In September 2023, media outlets contacted the Comptroller's Office, and a Resolution was filed with the City of Buffalo Common Council requesting an audit about revelations that Jill Repman was on Suspended with Pay status for over seven and one half (7 ½) years and was paid nearly \$600,000 while awaiting a formal hearing. It has been alleged that she also was working another job during this time.

After these revelations were made, Jill Repman was ordered back to work whereby she was approved to use Vacation time by her supervisor and shortly thereafter filed retirement papers effective November 30, 2023.

The retirement benefits provided by Jill Repman's union includes vesting and eligibility rights as outlined in the collective bargaining agreement which grants union members financial payout incentives. As a result, based on our Payroll Division calculations she is entitled to receive a payout based on the calculation for the retirement benefit, which is a contractual right based on unused Medical (Sick), Vacation, Personal and Compensatory Time accumulations.

C. Findings and Recommendations

The absence of a formal hearing and the fact that Repman was placed in a Suspended with Pay status after thirty (30) days by the Fire Department precipitated the extended period of absence from her place of employment throughout the years.

There is no evidence to suggest that the charges levied against Ms. Repman were ever resolved, either via a settlement at an informal hearing, or after the commencement of a formal hearing as required by Section 20.2(C) of the collective bargaining agreement with Local 650.

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As such, we recommend the following:

- (1) That Department Heads ensure that charges are resolved in a reasonable amount of time via settlement or a formal hearing, when appropriate, to limit the amount of time an employee is suspended with pay while awaiting resolution of their charges.
- (2) That the Administration analyze the current state of Civil Service Law, the City Charter, and the relevant Collective Bargaining Agreements, and create guidelines for when department heads should use their authority to suspend an employee with pay. The guidelines should promote a fair and equitable policy/procedure that does not violate legal standards or collective bargaining rights, does not compromise employee's rights, and does not impact any management rights of the department heads.
- (3) The bi-annual submission of a report composed by all Department Heads listing employees on leave, their status and utilization of paid or any other applicable leave categories to be submitted to the Mayor, Common Council Members, Department of Audit and Control Payroll Division, the Corporation Counsel, Management Information Systems, Department of Human, and City Clerk for centralized oversight and coordination of information.

Working a Second Job while Suspended with Pay

A. Background

It has been alleged that Jill Repman worked another full-time position while she was suspended with pay from her position with the Buffalo Fire Department.

B. Relevant Facts

City Code, Article 1, Chapter 35, Section 35-5(C) requires that all "officers, deputies and employees of the City... give the whole of their time and attention to the performances of the duties of their office or employment during the hours of such employment as fixed by ordinance..."

There was also no confirmed evidence provided during this investigation that the employee worked another job during her regular hours.

It must be further noted that no information was available to show that any City Government representative advised the employee to remain available during business hours or that she was prohibited from working another job while on Leave with Pay status.

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C. Findings and Recommendations

We were unable to locate any written information regarding whether it is illegal or a violation of a rule/policy for an employee to be engaged in employment elsewhere while suspended with pay from the City.

Inquiry into the Current State of Suspension with Pay/Other Paid Leave

A. Background

The Common Council requested information about the number of current and former employees who were on paid suspension to determine how often a situation like Repman's occurred.

B. Relevant Facts

The City Auditor did a query of all known pay codes in which an employee could be paid without working including suspended with pay, administrative leave, etc. to determine if this was a systematic problem where other pay codes could be used to have an employee paid while not working. The number was less than one half of one percent of the City's payroll.

We did find that there were other employees who were on one (1) of the twenty-six (26) different pay codes for compensation without working for an extended amount of time. Based on our analysis, the other employees included less than twelve (12) employees at the start of Fiscal Year 24. Four (4) of the employees returned to work, one (1) resigned and seven (7) are currently on Suspended with Pay status as of September 17, 2023.

We were recently informed that an employee was also on extended Administrative Leave (Code 345) from the Department of Public Works which is unrelated to this matter.

Between July 1, 2019, and September 28, 2023, City of Buffalo Employees Suspended with Pay as a percentage of the total payroll fluctuated between 0.15% and 0.31%, for an average of 0.23%.

On July 6, 2023, twelve (12) City of Buffalo Employees were identified as Suspended with Pay. As of September 28, 2023, seven (7) of these twelve (12) Employees are still carried as Suspended with Pay.

As of September 28, 2023, the pay received by the seven (7) individuals who are Suspended with Pay accounts for approximately 0.23% of the total payroll for the City

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of Buffalo in Fiscal Year 2023-2024 thus far. For every 1,000 checks issued by the City of Buffalo, 2-3 of these checks are issued to individuals Suspended with Pay.

For the last payroll November 22, 2023, there are a total of eight (8) employees on paid leave, five (5) Police Department and three (3) Department of Public Works which accounted for .20%. Less than 1% of the City's payroll which is consistent with July 6, 2023 and September 28, 2023 figures.

The total amount spent on Suspended with Pay in July and September 2023 is approximately 0.2% less than 1% of the City's total payroll. The number remained consistent on the September 2023 to November 22, 2023 payrolls.

C. Findings and Recommendations

We did not find the issue of Employees Suspended with Pay to be a widespread issue throughout the City of Buffalo Government, and therefore do not believe a full audit is necessary in this matter. It is important to note that not escalating to a full-blown audit doesn't necessarily imply that significant issues were not found. It does indicate a strategic decision to address identified concerns through other means other than a resource-intensive audit.

The investigative findings uncovered challenges and problems that can best be addressed through a collective and cooperative approach between the Administration, Common Council and our Department of Audit and Control. As a result, we recommend the following for review and consideration by all responsible parties:

- Ensure the Departmental Head certify and approve the Biweekly time sheets for every employee for accuracy when reporting the use of paid and all other applicable leave categories as per the City Code, Chapter 16, Section 16-5-Salaries and Wages, Charter Section 11-12, and Civil Service Law Section 100 prior to submission to the Department of Audit and Control Payroll Division.
- Direct the Department Head to certify and properly review all Bi-Weekly payroll submissions to the Payroll Division.

Additional Comments

It must be further noted that during the investigation, the City of Buffalo's Administration officially announced that it would launch a new method for keeping track of its employees on paid leave status. The method would involve a system of reporting and certifying employees on paid leave involving the Department Heads, Human Resources and Administration and Finance Departments. To date we have received several Reports regarding the employees from the Administration.

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Our mission at the Department of Audit and Control remains focused on the receipt, processing, and detection of payroll irregularities. The scope of our mission includes the detection of payroll abnormalities, indicating a proactive stance toward ensuring accuracy and compliance. We look forward to working with you and the Administration to address, rectify and bring proper charges should it be legally determined that any actions were taken that violate laws, regulations or internal policies as we strive to ensure accuracy and legal compliance in payroll management. Should you require additional information regarding this Investigative Report, please contact Mr. Demone Smith, Special Assistant to the Comptroller at 716-851-4912.

Respectfully Submitted,



Barbara Miller Williams
City of Buffalo Comptroller

BMW/rb

Cc: Mayor Byron W. Brown, City of Buffalo
Attorney Cavette A. Chambers, Corporation Counsel, Department of Law
Council Member Mitchell P. Nowakowski, Civil Service Committee Chairman
Jeanette Robe, Executive Director, Buffalo Fiscal Stability Authority
Kevin Kaufman, City Auditor, Division of Audit
Demone Smith, Special Assistant to the Comptroller
Tracy Healy, Local 650, AFSCME, AFL-CIO
Tianna Marks, City Clerk

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