



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA STATE DEPARTMENT OF HEALTH (ISDH)
TITLE: ISDH EMPLOYEE GHOST EMPLOYMENT
CASE ID: 2020-02-0043
DATE: April 28, 2020

Indiana Office of Inspector General Staff Attorney Lyubov Gore, after an investigation by Inspector General Special Agent Michael Lepper, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch agencies of state government. Ind. Code §4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics violations within state government. Ind. Code §4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code §4-2-7-3(2).

Background

In early February 2020, the OIG received three complaints alleging that an employee (Employee) of the Indiana State Department of Health (ISDH) was engaged in ghost employment by leaving work earlier than his scheduled time and sleeping on the job. Many of the reporting parties' allegations in the complaint related to internal, human resources matters, such as work assignments, office policies and inappropriate workplace behavior. Initially, the OIG closed the complaint and referred it to ISDH and to the Indiana State Personnel Department (SPD) for an investigation. The OIG requested that ISDH report back to the OIG their findings related to the allegations of ghost employment.

Initial Investigation

Two SPD employees embedded in ISDH (Investigators) investigated the complaints. The Investigators limited their investigation to the time period between November 6, 2019, and February 7, 2020, when the complaints alleged the Employee engaged in the inappropriate conduct. During the course of their investigation, the Investigators obtained and reviewed records of the following: the Employee's payroll, the Employee's access card swipes into and out of the parking lot that he regularly used and the Employee's access card swipes into and out of the office (Office) where the Employee worked. The Investigators also reviewed emails between the Employee and his supervisors regarding an approved adjusted work schedule and days spent working from home. Based on the documentation, the Investigators concluded that ISDH overpaid the Employee for 16.27 hours of work that was not performed by the Employee.

The Investigators also interviewed the Employee's supervisor, the Employee's coworkers and the Employee. The Investigators learned that the Employee worked an approved adjusted schedule, was approved to work from home on occasion and completed all assignments quickly and well. The Investigators also learned that the Employee had interpersonal issues with his coworkers.

The Investigators recommended no further action with respect to the complaint about sleeping while at work because the Employee's supervisor had reported addressing these concerns earlier. The Investigators recommended, however, that the Employee be dismissed due to ghost employment concerns. The Investigators also recommended that ISDH forward the Investigators' results to the OIG for further investigation into a possible ethics violation. During the course of the investigation, the Employee handed in his resignation notice. ISDH

suspended the Employee until his last day, which resulted in a three-day suspension prior to the Employee leaving state employment.

OIG Investigation

On March 17, 2020, the OIG received a final investigation report and accompanying documentation from the SPD Investigators. OIG Special Agent Mike Lepper investigated the matter. Special Agent Lepper reviewed and verified the accuracy of the documentation and calculations the Investigators provided and interviewed the SPD Investigators. Special Agent Lepper conducted additional interviews with the Employee and the Employee's supervisor.

During his interview with Special Agent Lepper, the Employee confirmed that he had an approved adjusted work schedule and that he worked from home several days during the time period on which the SPD Investigators focused. The Employee stated that he always worked his reported hours and regularly worked from home on research projects. The Employee explained that he previously had worked for a different state agency for which he worked from home regularly and believed that working from home was acceptable at ISDH as well. The Employee told Special Agent Lepper that he assumed his work day began when he arrived in the state employee parking lot rather than when he entered the Office. The Employee described interpersonal issues with his coworkers and affirmed that his supervisors favored him with assignments and approved him to work from home on occasion.

Special Agent Lepper conducted an interview with the Employee's supervisor. The Supervisor confirmed the accuracy of the previous information she had provided to the SPD Investigators. The Supervisor reported that the Employee was the subject of coworker complaints due to his personality and that the Employee received preferential treatment in assignments. The Supervisor stated the Employee's work was "generally very good and done

quickly” and affirmed that the Employee had a smaller case load because he had only been at ISDH for six months. According to the Supervisor, several other employees in the Office had approved adjusted work schedules similar to the Employee’s. The Supervisor admitted that, at the time she approved the Employee’s adjusted work schedule, she was not aware that every employee was required to have a lunch break pursuant to SPD policies. The Supervisor also acknowledged that she should have been clearer with the Employee about ISDH’s work time policies, including when the workday began, and that, at ISDH, after-hours work was sometimes necessary but not the norm.

Conclusion

Based on review of SPD’s investigation and the OIG’s own independent investigation, the OIG declines to bring a complaint of ghost employment against the Employee before the State Ethics Commission (Commission). Documentation and witness interviews confirmed that the Employee had an approved adjusted work schedule and that he worked from home during the time period on which the SPD Investigators focused. The evidence showed that the Employee completed his work well and in a timely manner, the Employee had a smaller case load due to his transition to ISDH six months earlier and the Employee had interpersonal issues with his coworkers, due in part to the lack of transparency about his adjusted work schedule.

The OIG investigation found that the Employee likely misreported some of his travel time to and from the garage; however, the OIG is unable to calculate the exact amount, and the amount is likely minimal. Furthermore, the Employee alleges that he completed work outside of the office, which may have made up for any misreporting of travel time. As a result, the OIG did not have sufficient evidence to support a complaint of ghost employment under the Code of Ethics.

The OIG recommends that SPD provide ISDH supervisors with additional guidance regarding SPD policies on breaks and time reporting. ISDH should ensure both supervisors and employees are aware of these policies so that employees know how to accurately report their time in accordance with SPD and ISDH policies.

Although the OIG has decided not to pursue a ghost employment complaint against the Employee, the OIG appreciates ISDH's and SPD's efforts to investigate these complaints and to report their findings to the OIG. The SPD Investigators' final investigation report and accompanying documentation contained valuable information that the OIG utilized in conducting its own investigation into ghost employment and which supported ISDH's disciplinary decision.

In conclusion, the OIG is declining to bring an ethics complaint against the Employee before the Commission at this time and is closing this case for insufficient cause.

Dated: April 28, 2020

APPROVED BY:

A handwritten signature in black ink that reads "Lori Torres". The signature is written in a cursive, flowing style.

Lori Torres, Inspector General