

# COUNTY OF ULSTER

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## OPINION 2012-002 FOR PUBLIC RELEASE

### RECONCILIATION OF CERTIFIED PAYROLL WITH OTHER RECORDS OF HOURS OR PAYROLL

**This opinion represents the views of the Office of the Ulster County Comptroller at the time they were rendered, based upon facts and records as presented to this office by the persons or departments making the inquiry or contacted in order to render this opinion. This opinion may no longer represent those views if, among other things, facts provided are determined to be inaccurate, or there have been subsequent court cases or statutory amendments that bear on the issues discussed in this opinion.**

**Issue Presented:** Whether a *de facto* Department Head (“Employee”) was entitled to payment of compensatory time and, if so, whether said employee is currently being compensated at the correct salary. Questions are also raised as to the validity of the record keeping for time and attendance, as well as the verification and certification of such records.

We have been provided documentation including copies of time and attendance sheets, accrual schedules and scheduling calendars. In addition we have reviewed a copy of the years of service report, a salary schedule, a “report of personnel change” (RPC) form and an “alternative work schedule” request form (AWS or form ADM-D-1010) all of which were pertinent to answering the questions.

We are advised that the salary for the position now held by the Employee had been increased from \$73,354.00 in 2010 to \$78,293.00 in 2011, while the Employee’s Deputy’s salary had been decreased from \$60,970.00 to \$56,940.00 during the same period, and that the Employee was the authorizing signature on the request. The position held by the Employee is not set forth explicitly in the Administrative Code as that of “Department Head,” but practice within the department in question gives rise to a sense that the Employee’s position functions as such. If so, the Code would prohibit payment of compensatory time, although the Employee was credited for, and used, over forty (40) hours of compensatory time. The Employee had been recorded on the time and attendance payroll sheets as being “present” although the corresponding calendar and “other records” indicated that the Employee was not present.

The Office of the Ulster County Comptroller has reviewed the aforementioned documents and sought clarification from the *Personnel Policy Manual For Ulster County*, the Director of Personnel, Payroll Manager and The Director of the Budget on several of the matters which have been raised. In addition, on January 13, 2012, members of my Office conducted a payroll processing review and “tested” several of the areas of inquiry which were raised.

As to the Employee’s Salary: On the matter of the Employee’s salary it is the opinion of the Budget Director that *“the change in annual salary...was due to a change in work schedule. For the Employee, the schedule went from 70 hours to 75...”* There is also an Alternative Work Schedule (AWS) signed by the appropriate authority approving the increase in hours, although the copy of the Report of Personnel Change (RPC) was in fact approved and signed by the Employee as the Department Head. Therefore, it appears that the Employee is being compensated at the correct base salary.

As to the Department Head Issue: As to the question of whether the Employee should be considered a department head, this position is supported by the written statement of Director of Personnel, Brenda Bartholomew, which clearly affirms that “the position of [the] Employee is categorized as a department head.” Moreover, absent the Employee’s functioning in this capacity, the department, including the Deputy and any other part-time or full-time staff, would be functioning without a supervisory officer. That the Employee signed the aforementioned AWS is indicative of the Employee’s own understanding that they function in the capacity of department head. For the foregoing reasons, it is our opinion that the Employee is a Department Head.

As to Compensatory Time: The *Personnel Policy Manual* at Section C(5), p. 6, sets forth that: “Department Heads are not eligible for compensatory time or overtime.”

However, after reviewing the payroll records with the Payroll Manager, it was determined that the hours of compensatory time in question were accumulated by the Employee prior to her as department head, while in their previous position, in which the Employee was eligible for compensatory time. Therefore, it is our opinion that the Employee is entitled to payment of the compensatory time specifically in question here, but is not eligible for compensatory time from January 2010 to present, or so long as they shall hold the position of Employee of the Legislature.

As to Approving Authority: On the matter of whether the Employee may act as the approving authority for their own time, it was pointed out by this office that the practice of a single employee countersigning on their own time was inappropriate in our February 14, 2012 letter to the Chairwoman (copy attached). While ministerial, a recommendation to correct the defect was put forth. The Comptroller stands behind that February 14, 2012 recommendation. Time should be verified by the employee, and, in the case of a department head, by another employee in the department with knowledge of the time worked.

As to Accurate Recording of Hours Worked: Finally, the matter of correctly recording days present could be perceived as egregious if one were to rely on the accuracy of the hand-written scheduling calendar you provided and compare it strictly to the “hours worked” box on the time and attendance payroll sheets signed and authorized by the Employee. Under those pretenses it appears that at least one hundred thirty (130) hours of recorded “off” time on the scheduling calendar were partially or completely reported as time present on the official payroll sheets. However, upon further review of the time and attendance payroll sheets, signed and authorized by the Employee, it was noted that an additional one hundred thirty-seven (137) hours were catalogued by the Employee for work related to special sessions, informational meetings,

monthly legislative sessions, committee meetings and public hearings outside of typical work hours. This Office understands that during the period of accumulation, this was acceptable past practice referred to as “flexing” one’s time. This office therefore finds the time reported acceptable on that basis, and notes that if it is your intention or practice not to allow flex time, it should be set forth in a written memoranda or department policy.

Conclusion: In connection with the foregoing, on all of these matters we have determined that record keeping limitations, poor oversight and the lack of authorization procedures contributed to these weaknesses and we have worked closely with you to institute corrective action.

Elliott Auerbach, Comptroller

March 30, 2012