

Department of Corrections and Rehabilitation

Investigations of Improper Activities by State Employees, July 2005 Through December 2005

INVESTIGATION I2005-0781 (REPORT I2006-1), MARCH 2006

Department of Corrections and Rehabilitation's response as of March 2007

We investigated and substantiated an allegation that the Department of Corrections and Rehabilitation (Corrections) failed to exercise its management controls, resulting in gifts of public funds at the Sierra Conservation Center (center).

Finding #1: Corrections improperly allowed center employees to accrue holiday credits when these employees were not required to work.

Contrary to the terms in the collective bargaining agreement, when a holiday fell on a scheduled day off, the center allowed exempt employees represented by the American Federation of State, County, and Municipal Employees (Union A) to accrue holiday credits for later use, even though they had not worked.

The current collective bargaining agreement between the State and Union A (Union A agreement), which is effective through July 1, 2006, specifically states that exempt employees accrue holiday credits when they are required to work on holidays.

The center improperly allowed nine exempt Union A employees to accrue 516 hours, resulting in gifts of public funds totaling \$17,164 between January 2002 and May 2005.

Corrections' Action: None.

Two of the nine exempt employees we reported on are no longer working at the center. We conducted additional analysis on the remaining seven employees for the time period from June 2005 to December 2006. We determined that exempt employees continued to earn holiday credits when a holiday fell on their regularly scheduled day off, resulting in an additional accrual of 268 hours and an additional gift of public funds of \$8,909 for seven employees.

Finding #2: Center employees do not charge leave credits to account for their full workday.

The collective bargaining agreement for Union A requires exempt employees to post leave only in eight-hour increments (or their fractional equivalent depending on their time bases) for each full day of work missed. At the same time, the center allowed nine exempt employees to work alternate work schedules consisting of 10-hour days.

Investigative Highlights . . .

The Department of Corrections and Rehabilitation:

- » *Allowed nine exempt employees to improperly accrue 516 hours of holiday credits, resulting in gifts of public funds of \$17,164.*
- » *Allowed the same nine exempt employees to work alternate work schedules resulting in 1,460 hours of leave that did not have to be charged and gifts of public funds totaling \$49,094.*

The Union A agreement specifies that exempt employees can charge leave balances only in increments of eight hours, regardless of actual hours worked each day when leave credits are charged. It also requires the State to reasonably consider employees' requests to work alternate schedules. Alternate work schedules include, but are not limited to, working four 10-hour days in one week. The center allows both full- and part-time exempt employees represented by Union A to work alternate schedules. For example, a full-time employee can work four 10-hour days, a three-quarter-time employee can work three 10-hour days, and a half-time employee can work two 10-hour days to perform the requisite number of work hours in one week.

This presents a problem when these employees take a day off, because the center charges only eight hours against their leave balances for each day they are absent, although they are missing 10 hours of work per day. Overall, between July 2002 and May 2005 the center did not charge 1,460 hours to the leave balances of Union A employees who work alternate work schedules, resulting in a gift of public funds for \$49,094.

Corrections' Action: Partial corrective action taken.

We conducted additional analysis on seven employees at the center for the time period from June 2005 to December 2006. The center continues to allow the employees to work alternate work schedules consisting of 10-hour days, but still requires them to charge leave only in eight-hour, six-hour, and four-hour increments, for employees working full-time, three-quarter time, and half-time schedules. As a result of this practice, the State paid these employees \$21,161 for 620 hours they did not work.

In January 2007 the State and the union representing the employees in this case adopted a new collective bargaining agreement. This agreement specifies that exempt employees shall not be charged leave in less than whole-day increments.