

August 3, 2005

TO: Commissioners and Department Heads

FROM: Lawrence S. Schwartz
Deputy County Executive

RE: Abuse of Sick Leave and Excessive Lateness

Chronic lateness and abuse of sick leave results in significant cost to the County each year. I am concerned that Department Heads may have become somewhat lax in monitoring and acting on abuse of sick leave and excessive lateness by employees under their supervision. It is the Department Heads' responsibility to ensure that all of their offices have systems in place to monitor and address these problems.

Attached please find updated policies regarding sick leave abuse and excessive lateness. These policies describe the tools supervisors have at their discretion to deal with these issues. I ask that you and your supervisory staff familiarize yourselves with these policies. As Department Heads, you should instruct supervisory staff to diligently monitor sick leave use and lateness on a regular basis, to be consistent in disciplining employees who are chronically late and/or who have a pattern of sick time use that suggests abuse, and to use all tools at their disposal to limit these types of abuse.

I am also requesting that you submit reports to Mary Russell for the years 2003 and 2004 on employees who meet the following criteria:

- Employees who consistently exhaust their sick leave balances;
- Employees who have used over 70 hours of sick time each year;
- Employees who have a pattern of calling in sick on Mondays, Fridays or before or after holidays.

Reports should include employee name, length of employment, current sick leave balance, amount of sick time taken in each year and amount of sick time taken on Mondays, Fridays or before or after holidays. Please submit this report no later than August 26, 2005.

In addition, your monthly departmental reports should address whether your department is in compliance with this policy and what steps are being taken to resolve instances of abuse among your employees.

Your cooperation is appreciated.

LSS/MR

SICK LEAVE POLICY

CREDITING OF SICK TIME:

Pursuant to the Westchester County Personnel Rules, annual salaried employees are credited with one sick day at the beginning of each month for the preceding month. Unused sick leave accumulates and is carried over from one year to the next. Unlike annual leave, and personal leave, sick leave accumulation is unlimited.

DEFINITION:

Sick leave is defined as an absence from work because of illness, pregnancy, childbirth, injury, quarantine resulting from exposure to contagious disease, family illness and bereavement or for other absences as may be defined in the County's collective bargaining agreements.

Sick time may be used when either the employee or a member of the employee's immediate family is sick or if an employee or a member of the employee's immediate family has a medical or dental appointment and the employee is attending that appointment.

EMPLOYEES' RESPONSIBILITIES:

When an employee is reporting sick for work, that employee is obligated to call in before the start of the employee's shift. The employee must speak to his or her supervisor or some other person in charge. It is not sufficient to leave a message on voice mail or an answering machine.

Additionally, an employee who reports sick for work is obligated to call in every day the employee is absent for work unless the employee provides the Department Head with a medical note excusing the employee from work for a specific duration.

DEPARTMENT HEAD AND SUPERVISORS' RESPONSIBILITIES:

Supervisors should ensure that employees are instructed on the procedure for reporting sick to work including the name of the person they should call and a backup for that person.

While employees in the CSEA and Teamsters collective bargaining agreements do not have a provision subjecting the employees to call back or home visits when reporting sick for work, if a Department Head has a reasonably objective belief that the employee is abusing sick time, the Department Head may require the employee to produce a medical note substantiating the employee's absence from work.

A Department Head may request updated medical certifications. The frequency upon which a Department Head may request updated medical certifications is dependent upon the facts and circumstances of the situation; however, the law precludes an employer from asking for updated documentation within 30 days. The County's general rule is that updated medical documentation may be requested upon a minimum of 60 day intervals.

Department Heads should direct all supervisors to carefully track their employees' sick time usage on a regular basis to determine if there is a pattern abuse of sick time. An abuse of sick time can best be characterized as an excessive use of sick time for no apparent reason. A pattern may encompass a seasonal abuse of sick time, i.e. an employee who is absent predominantly in the summer months, or a weekend abuse of sick time, i.e. an employee who apparently becomes sick predominantly on Mondays and Fridays, or reports sick for work immediately before or following a long holiday weekend.

If a Department Head determines that an employee is excessively absent from work for no apparent reason, the first step in addressing this problem is for the Department Head, prior to the initiation of formal disciplinary charges, to verbally or formally counsel the employee.

In the event the excessive absences continue after the employee has been counseled, the Department Head may then refer the matter over to the Law Department for the initiation of disciplinary charges alleging incompetence. An employee may be denied an annual increment if disciplinary charges are pending and/or have been sustained against the employee within the review period. When preferring disciplinary charges against an employee for excessive absenteeism, a Department Head must ensure that the records regarding that employee's absence are clear and accurate. In addition, if an employee has been directed to produce a medical note to substantiate a prior use of sick time, and the employee failed to produce the medical note, the Department Head must ensure that there is some type of documentation to support the charge that the order to produce the medical note was issued.

POLICY REGARDING EXCESSIVE LATENESS:

If an employee is chronically late in reporting to work, that employee may have their leave accruals reduced to cover that period of lateness. This rule, however, does not apply to employees who are members of the Teamsters Unit. Those employees cannot have their leave balances reduced in increments smaller than one day. Therefore, if an employee who is a member of the Teamsters Unit is chronically late in reporting to work, it is up to the individual Department Heads to ensure that the employee is making the time up somewhere during the day.

All Departments should have some type of mechanism in place for keeping track of when employees arrive for work. Some departments have electronic sign in, others have sign in logs. It is important to be sure that sign in logs are consistently maintained and that the requirement to sign in is consistently enforced.

Employees should not be permitted to sign in for one another, nor should they be permitted to sign the log when they arrive for work in the event they arrive early for work and are performing non job related tasks at their work station.

Pursuant to the CSEA collective bargaining agreement, if an employee is late more than five times in a calendar month, the employee shall be placed on the docking program. Once an employee is on the docking program, periods of lateness will be taken out of the employees' pay even if that employee has available leave accruals. An employee can be removed from the docking program once that employee has reported to work in a timely manner for forty consecutive days. An employee may also be removed if, after four months, the employee has not been served with disciplinary charges based upon their inability to report to work in a timely manner. Once an employee has been removed from the docking program, should that employee report to work late five times in a calendar month, the employee may once again be placed on the docking program. The method of calculating the amount of money to be taken out of an employee's check on the docking program is set forth in the CSEA agreement.

The docking program is for chronic lateness only, not excessive absenteeism.

An employee who is chronically late in reporting to work does not get placed on the docking program automatically. It is the responsibility of the Department Head to affirmatively put an employee on the docking program.

If an employee has been on the docking program for a period of time, and the employee's conduct has not changed, the Department Head may request the initiation of disciplinary charges against the employee.