

ROCHESTER FIRE DEPARTMENT (RFD)
REVIEW OF UNIFORM FIREFIGHTERS ABSENCE PROCEDURES

Office of Public Integrity
Date: July 8, 2015

I. EXECUTIVE SUMMARY

In this review, the Office of Public Integrity (OPI) examined policies and procedures that pertain to uniform Fire Department employee work absences due to on-duty injuries, off-duty injuries, and extended sick leave usage. The results of the review indicate that, in general, Rochester Fire Department (RFD) personnel comply with established RFD policies and procedures and that the vast majority of RFD members do not take an excessive amount of sick leave due to off-duty injuries or illnesses. However, we noted the following findings that require management attention to ensure maximum efficiency of City resources and to maximize staff attendance.

- ◆ The department's internal application for additional employment does not include a provision for discontinuance of additional employment while on limited duty or sick leave.
- ◆ Fire Department administration does not have a process for performing follow-up reviews of applicants that have excessive medical absences, for consideration of discontinuance of the employee's outside employment approval. In addition, outside employment requests are not renewed subsequent to initial approval.
- ◆ There are insufficient categories on the City's contractual medical provider evaluation forms pertaining to specific physical restrictions that may further aggravate or hinder an employee's ability to return to work in a timely manner.
- ◆ There are insufficient categories on the Fire Department's Weekly Update Medical questionnaire pertaining to specific physical restrictions which may further aggravate or hinder an employee's ability to return to work in a timely manner.
- ◆ The Fire Department does not utilize the City's payroll system to record sick absences or absences due to off-duty injuries.

II. BACKGROUND, OBJECTIVES AND SCOPE

A. Assignment

The Office of Public Integrity routinely conducts procedural examinations for compliance with internal controls and established policies and procedures. The Fire Department requested this review due to their concern of the potential financial impact uniform employee's extended absences have on the Fire Department's budget.

B. Background

The Fire Department's labor union contract allows uniformed members, with at least five years of service, up to six months paid sick leave per calendar year for non-duty related conditions. The labor union contract allows uniformed members with less than five years of service up to three months paid sick leave per calendar year for non-duty related conditions. Additionally, at the discretion of the Fire Chief, uniformed members are also entitled to an additional three months of light duty if the department physician determines that the employee will be able to return to regular duty within the three month period.

Unless waived by the Fire Chief, the union contract requires any uniformed member who has been off duty for an injury or illness for more than three days to provide a certificate of treatment from a licensed physician. The certificate of treatment must include diagnosis, dates of visit(s), dates of work disability, any restrictions upon return to work and the signature of the treating physician. Additionally, unless waived by the Fire Chief, members who have been off duty for more than 3 days due to an injury or illness must obtain a return to duty certificate from a physician appointed for that purpose by the City before returning to duty. Also, Fire management can require uniformed members to report for a medical examination by a physician designated by the City to verify a claim of illness or injury or to verify the member's ability to perform the essential functions of the job.

Per the union contract, unless authorized by the Fire Chief or his designee, employees on sick leave cannot leave their residence or authorized location during their normal work hours except to obtain professional medical treatment or perform exercise prescribed as part of their recovery or treatment program.

In addition to the union contract, the RFD issues directives that establish rules and regulations for sick leave and off-duty injury. These directives describe the procedures that members are to follow when they call in sick and/or are on sick leave. These directives include providing weekly medical updates to the Fire Department's Case Manager for members on extended sick and off-duty injury leaves.

As of November 30, 2014, the Fire Department had 468 active uniformed members. The following table summarizes member absences from work due to illness and off-duty injuries for the periods January 1, 2014 through November 30, 2014 and calendar year 2013:

Absences Due to Illness and Off-Duty Injuries
For the Periods 1/1 - 11/30/14 and 1/1 - 12/31/13

Period	Members Absent Due to Illnesses	Hours Absent Due to Illnesses	Percent of Hours:		Member Absences Due to Off-Duty Injuries	Hours Absent Due to Off-Duty Injuries
			Absences Due to Illnesses Less Than 3 Days	Absences Due to Illnesses Greater Than 3 Days		
1/1 – 11/30/14	286	28,157	89%	11%	66	12,303
1/1 – 12/31/13	306	28,407	93%	7%	56	17,664

The Fire Department does not utilize the City’s payroll system for determining lost wages resulting from time lost due to illness or off-duty injuries. As a result, OPI was unable to precisely quantify the amount of lost wages due to illness and off-duty injuries. However, we used an average salary base to determine the approximate amount of lost wages. During 2013 and 2014, the majority of members earned a base salary of \$32.07 per hour. We used this base salary to calculate the approximate amount of lost wages due to illness and off-duty injuries. The following table summarizes the approximate amount of lost wages due to illness and off-duty injuries for the periods January 1, 2014 through November 30, 2014 and calendar year 2013:

Estimated Lost Wages Due to Illness and Off-Duty Injuries
For the Periods 1/1 - 11/30/14 and 1/1 - 12/31/13

Period	Average Base Salary Per Hour	Hours Lost Due to Off-Duty Injuries	Estimated Lost Wages Due to Off-Duty Injuries	Hours Lost Due to Illnesses	Estimated Lost Wages Due to Illnesses	Total Estimated Amount of Lost Wages
1/1 – 11/30/14	\$32.07	12,303	\$394,557	28,157	\$902,995	\$1,297,552
1/1 – 12/31/13	\$32.07	17,664	\$566,484	28,407	\$911,012	\$1,477,496

The City’s contractual medical provider treats uniformed members of the Fire Department who are injured or taken ill in the performance of their

duties with the exception of emergencies and trauma services, which are treated at Strong Memorial Emergency Department or the closest emergency department.

For on-duty injuries, the member or the member's commanding officer completes a written injury report and forwards it to the Fire Chief. This injury report serves as an application for benefits under Section 8B-5 of the City's Charter. This section pertains to members who are permanently disabled as a result of any injury or sickness incurred or resulting from the performance of their duties and are granted an accidental disability retirement. The Fire Chief determines eligibility for benefits under Section 8B-5. The City is responsible for the remaining balance of the salary for retired members that receive a partial disability benefit under 8B-5 status.

The City's Charter and the Fire Department's uniformed labor contract prohibits employee's absent from work due to an on-duty injury to engage in outside employment. Members who violate this policy may forfeit their entitlement to any payments and benefits.

The following table summarizes the cost to the City for on-duty injuries for the periods January 1, 2014 through November 30, 2014 and calendar year 2013:

Cost to City for On-Duty Injuries
For the Periods 1/1 - 11/30/14 and 1/1 - 12/31/13

Period	Members Absent Due to On-Duty Injuries	Hours Lost Due to On-Duty Injuries	Cost of Hours Lost Due to On-Duty Injuries	Retired Members Who Received Partial Disability Benefits	Amount City Paid to Retirees For Disability Benefits	Total Amount City Paid to Members For On-Duty Injuries
1/1 – 11/30/14	79	38,046	\$1,254,373	68	\$2,294,041	\$3,548,414
1/1 – 12/31/13	64	29,640	\$999,324	72	\$2,690,116	\$3,689,440

C. Objectives and Scope

We examined the Rochester Fire Department's (RFD's) oversight and control of uniformed members sick leave usage and on-duty injury absence procedures for the period January 1, 2013 through November 30, 2014. The objective of our review was to evaluate the adequacy of the actions taken by RFD in exercising its oversight and control. To

accomplish our objective, we reviewed RFD sick leave directives and related procedures, examined certain records maintained by RFD, and interviewed RFD officials.

Management is responsible for establishing and maintaining a system of internal accounting and administrative control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of accurate, informative reports that are fairly stated.

Because of inherent limitations in any system of internal accounting and administrative control, errors or irregularities may nevertheless occur and not be detected. Also, projection of any system evaluation to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with procedures may deteriorate.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The recommendations presented in this report include the more significant areas of potential improvement that came to our attention during the examination, but do not include all possible improvements that a more extensive review might develop.

III. RESULTS OF REVIEW

The results of the review indicate that, in general, RFD personnel comply with established RFD policies and procedures and that the vast majority of RFD members do not take an excessive amount of sick leave due to off-duty injuries or illnesses. However, we noted the following findings that require management attention to improve existing sick leave and on-duty injury absence policies and procedures to provide greater accountability and oversight of absences.

A. Additional Employment Application Lacks Work Absence Criteria

RFD Administrative Policies and Procedures Section APP 10.1 pertains to additional employment. This policy requires that any member who wishes to engage in an outside business or occupation during off-duty hours must obtain permission from the Fire Chief. Per this policy, Fire Department personnel who wish to work a second job must complete a Request for Additional Employment or Business Form. Currently this application does not include a provision for discontinuance of additional employment while on limited duty or sick leave.

Additionally, the department's labor agreement requires that, unless authorized by the Fire Chief or his designee, employees on sick leave are not allowed to leave their residence or authorized location during their normal duty hours except to obtain medical treatment or perform exercise prescribed as part of a recovery or treatment program. However, the labor agreement does not address criteria related to additional employment while on leave due to sickness or an off-duty injury.

In some instances, working another job while injured or sick could interfere with or further aggravate an employee's illness or injury and increase the time that the employee will be absent from work. Additionally, an employee working another job while on sick leave could potentially result in negative publicity to the City.

The City and the Fire Department union are currently in contract negotiations to implement language in the labor agreement pertaining to additional employment while on limited duty or sick leave.

◆ Recommendation

We recommend that, in the new labor agreement, Fire Department management address issues related to additional employment while on sick leave or limited duty. Any changes in this policy should be included on the Fire Department's Additional Employment Application.

B. Additional Employment Requests Not Reviewed for Follow-Up or Renewed

As noted above, RFD Administrative Policies and Procedures Section APP 10.1 pertains to additional employment. Per this policy, the Fire Chief may disapprove a request for additional employment due to an abuse of sick time or when the applicant's sick time is significant enough

to testify to their poor state of health and additional employment would further impair their ability to perform their Fire Department duties. OPI noted that Fire Department administration does not have a process for performing follow-up reviews of applicants that have excessive medical absences, for consideration of discontinuance of the employee's outside employment approval.

Also, all outside employment requests are not renewed subsequent to initial approval.

As previously noted, the City and the Fire Department union are currently in contract negotiations to implement language in the labor agreement pertaining to additional employment.

◆ Recommendation

We recommend that Fire Department administration consider revising this policy to include a process for following-up on members that have exhibited excessive work absences to determine if the employee's additional employment further adds to the employee's poor state of health and would further impair the employee from performing their firefighter's job duties.

Additionally, we recommend that Fire Department administration review and renew all requests for additional employment annually.

C. Medical Provider Forms Lack Physical Restrictions

The City contracts with Strong Occupational and Environmental Medicine (OEM) to provide medical examinations and occupational medical services to sworn employees and disabled retirees of the RFD. OEM personnel complete evaluation forms when they examine an injured RFD member. This evaluation form includes diagnosis, description of services, orders and instructions, and follow-up appointments.

OPI noted that there are insufficient categories on the City's contractual medical provider evaluation forms pertaining to specific physical restrictions. The evaluation forms do not address any restrictions for hobbies, outside employment, or other physical activities that may further aggravate or hinder an employee's ability to return to work in a timely manner.

◆ Recommendation

We recommend that the Fire Department request OEM to revise their medical evaluation forms to include physical restrictions.

D. Weekly Update Medical Form Does Not Address Physical Restrictions

Fire Department administration requires members who are absent from work for over two consecutive weeks to complete a Weekly Update Medical form. The Fire Department's Case Manager calls the member and completes the form over the phone. This form contains information such as last appointment date, next appointment date, any light duty restrictions, and treatment recommendations.

OPI noted that there are insufficient categories on the Weekly Update Medical questionnaire pertaining to physical restrictions that may aggravate or hinder an employee's ability to return to work in a timely manner. These restrictions include but are not limited to hobbies, outside employment, and other physical activities.

◆ Recommendation

We recommend that the Fire Department update the Weekly Update Medical questionnaire to include a category for physical restrictions. Additionally, we recommend that the Weekly Update form include a category for off-duty injuries indicating if the injury resulted from outside employment.

E. City's Payroll System Not Utilized for Sick and Off-Duty Injury Reporting

The Fire Department reports on-duty injury absences on the City's payroll system. However, OPI noted that the RFD does not utilize the City's payroll system to record sick absences or off-duty injury absences. Rather, they report sick and off-duty injury absences on their personnel reporting system (Red Alert). This reporting system does not include employee wages nor does it tie into the City's payroll system. As a result, it is not possible to accurately track costs associated with wages lost due to sick and off-duty injury absences.

OPI discussed this situation with the City's Payroll System Supervisor and she indicated that their unit would prefer that the RFD report absences due to sickness and off-duty injuries on the City's payroll system.

◆ Recommendation

We recommend that the Fire Department report all absences on the City's payroll system.

IV. DEPARTMENTAL RESPONSE

The response of the Fire Department follows.



June 23, 2015

T. Weir, Director
Office of Public Integrity
City of Rochester

Director Weir:

I have reviewed the OPI report on the RFD Firefighter Absence Procedures and would like to address some of the items in this document. I thank your office for taking the time to provide us with a thorough review of our practices and procedures.

Section III A of the report discusses the Request for Additional Employment form and its lack of criteria for work absence. In the recently adopted labor agreement between the City of Rochester and IAFF Local 1071 we have addressed this issue. The abovementioned labor agreement states in Article 5, Section 3, "An employee on sick leave will not work outside employment until released to full duty unless authorized by the Fire Chief, his designee, or the Fire Department Surgeon, or a physician appointed by the City. Ownership of a business in the operation of which the Firefighter is not actively engaged, shall not be considered outside employment."

Section III B of the report discusses follow up on employees that have been approved for additional employment. Currently the RFD follows the disciplinary processes as detailed in Section 75 and adheres to the rules and regulations as specified by the Collective Bargaining Agreement between the City of Rochester and IAFF Local 1071. We plan to, per your recommendation, implement an annual update process for approved additional employment requests.

Section III C of the report cites the lack of physical restrictions on the medical provider's form. It should be noted that the process for evaluating and categorizing Firefighter injuries resides with a third party contractor, currently the University of Rochester's Occupational and Environmental Medicine (OEM), and therefore is not within the scope of control of the RFD. We recognize the merit of this suggestion and will request that the contractor (currently OEM) improve the clarity of definitions and physical restrictions for employee injuries.

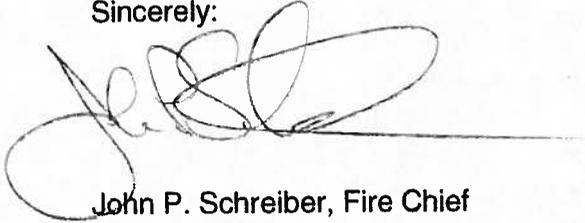
In Section III D, the report cites a lack in the RFD weekly medical update form, specifically the lack of categories regarding non-work related restrictions. As stated above, the categorizing of work-related and non-work related injuries resides with the third party contractor. We will address this suggestion with the contractor.



Section III E, of the report notes that the tracking of sick and off-duty injuries is not done within the RFD payroll system, but within the personnel tracking system (Red Alert). As you know, the City of Rochester as a whole is in process of developing a new payroll system. It is part of this process to rectify this issue. Currently, our records management system does not allow for us to track these items in the system we use today.

Again, I wish to thank you for taking the time and effort to review our processes in this arena. We are always working to improve our efficiencies and accuracy in all areas and appreciate the assistance your review has provided to us.

Sincerely:

A handwritten signature in black ink, appearing to read 'John P. Schreiber', written over a horizontal line.

John P. Schreiber, Fire Chief
Rochester Fire Department

JPS:jkf