



Carolyn Pokorny
MTA Inspector General

Office of the Inspector General
Metropolitan Transportation Authority
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March 3, 2020

Mario Peloquin
Chief Operating Officer
Metropolitan Transportation Authority
2 Broadway, 30th Floor
New York, N Y 10004

**Re: Unauthorized Dual Employment
(NYC Transit Signal Maintainer)
MTA/OIG #2020-07**

Dear Mr. Peloquin,

The Office of the MTA Inspector General (OIG) substantiated allegations, received from the United States Postal Service (USPS), that for four months in 2019, a New York City Transit (NYC Transit) Signal Maintainer was simultaneously holding two government jobs without the permission of either employer—he was using sick leave from his position as a USPS Letter Carrier to work for the MTA. The Signal Maintainer did not have dual employment authorization from NYC Transit.

We recommend that the Signal Maintainer be disciplined as NYC Transit deems appropriate, up to and including termination.

I. BACKGROUND

On April 15, 2019, NYC Transit hired the Signal Maintainer, who is on probation until April 15, 2020. His work location is 96th Street and Broadway in Manhattan, and his hours are Mondays through Fridays from 10 p.m. to 6 a.m. His regular days off are Saturdays and Sundays.

According to the USPS, the Signal Maintainer was employed as a Letter Carrier from March 4, 2006 until his resignation, which was effective on July 26, 2019.

II. INVESTIGATION

A. Record Review

The OIG reviewed the Signal Maintainer's pre-employment application and other forms he completed as part of the NYC Transit on-boarding process. The Signal Maintainer's Pre-

Employment Application Background Verification Questionnaire is dated March 22, 2019. This form seeks a variety of personal, employment, and education information of the applicant. In the Employment Information section on page 1, the Signal Maintainer included the USPS as his most recent employment and indicated “present” under “Reason for Leaving.”

As part of the on-boarding process, the Signal Maintainer also submitted an All Agency Outside Activity Approval Request form (the dual employment form) twice, one dated March 22, 2019, and another dated April 3, 2019. In Section 4, titled Nature of Outside Activity, it requires the employee to provide information relating to the outside activity, including the name of the organization, title/position, nature of the business, work schedule and work hours. On each form, the Signal Maintainer wrote “none” in Section 4. On April 3, 2019, the Signal Maintainer signed a form acknowledging he has received an information package from NYC Transit containing various policies, including the NYC Transit Dual Employment Policy, NYC Transit Policy/Instruction Dual Employment, and the MTA All-Agency Code of Ethics.

The OIG reviewed the Signal Maintainer’s NYC Transit payroll records and provided USPS with the dates on which the Signal Maintainer worked between April 15, 2019 and August 16, 2019. USPS compared this information to the Signal Maintainer’s USPS timesheets and determined that during this four-month period, the Signal Maintainer did not report to work for USPS, but rather used a variety of types of leave to work at the MTA, including annual leave, sick leave, the Family Medical Leave Act, and leave without pay. A further analysis by USPS determined that the Signal Maintainer was paid for approximately 189 hours of sick leave by the USPS on days he was working for NYC Transit, which resulted in the USPS paying the Signal Maintainer approximately \$5,875 for sick leave to which he was not entitled. The USPS declined to bring criminal or other charges against the Signal Maintainer.

B. OIG’s Interview of the Signal Maintainer

In the OIG’s interview of the Signal Maintainer, he invoked his Fifth Amendment right against self-incrimination in response to questions related to his USPS employment. Regarding his MTA employment, when shown copies of the dual employment forms dated March 22, 2019, and April 3, 2019, he acknowledged he wrote “none” in Section 4 on both forms, but claimed it was because he believed the question was asking if he intended to apply for an outside activity, not whether he had one.

The outside activity form, Section 1, titled, Information and Instructions, clearly states that employees must obtain approval prior to engaging in any outside activities, including those who wish to *continue* their outside employment.

III. POLICIES AND ANALYSIS

A. MTA All-Agency Code of Ethics

1. *§ 4.07: Other Employment and Outside Activities*

The MTA All-Agency Code of Ethics, Section 4.07, states, in pertinent part, that employees may engage in outside employment /activity provided that (1) such employment/activity does not violate the specific guidelines for other employment set by their MTA Agency; and (2) they obtain the required approvals as set forth in the specific procedures for approval of other employment set by their MTA Agency.

Here, the Signal Maintainer failed to obtain the required approval for his active employment with the USPS in violation of NYC Transit policies.

2. *§ 4.02: Public Trust*

The MTA All-Agency Code of Ethics, Section 4.02, states, in pertinent part, that employees shall not engage in a course of conduct that will raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. Further, employees shall avoid even the appearance that they can be improperly influenced in the performance of their official duties, or induced to violate the public trust or impair their independence of judgment in the exercise of their official duties.

Here, the Signal Maintainer falsely reported sick to the USPS to work for the MTA and received pay for which he was not entitled. In addition, he falsely stated he had no outside activity on his dual employment forms on March 22, 2019 and April 3, 2019.

B. NYC Transit Rules and Regulations and Policy/Instruction

1. *Rule 4(g): General Duties and Obligation of Employees*

The NYC Transit Rules and Regulations, Rule 4(g), states, in pertinent part, that all employees must obtain NYC Transit approval before engaging in any occupation, business or professions, including self-employment, outside the Authority.

2. *Policy/Instruction Number 4.23.2: Dual Employment*

The NYC Transit Policy/Instruction Number 4.23.2 for Dual Employment, Section IV, states, in pertinent part, that a new hire who wishes to continue other employment must file a dual employment request prior to his/her appointment date. If the department subsequently denies the request, the employee will be required to terminate the outside employment within two (2) days of receiving notice of the determination, and Section VI, further provides, in pertinent part, that all newly appointed employees who wish to continue other employment must file a dual employment request prior to commencing employment with the Authority... Violation of these procedures may subject an employee to discipline, up to and including termination of employment, and/or may expose an employee to civil or criminal penalties.

Here, the Signal Maintainer violated these policies when he failed to file a dual employment request for approval prior to his employment with the NYC Transit. Also, although the Signal Maintainer continued to be employed by the USPS from when he was hired on April 15, 2019, through July 26, 2019, he never submitted a request for approval. Instead, the Signal Maintainer wrote “none” on the dual employment forms that specifically requested outside employment information.

IV. FINDINGS

1. The Signal Maintainer failed to submit a request for approval to continue his outside employment as a Letter Carrier for the USPS in violation of the MTA All-Agency Code of Ethics Section 4.07, and NYC Transit Policy/Instruction Number 4.23.2, Section IV(A)(4) and Section VI(B)(2).
2. The Signal Maintainer engaged in unauthorized dual employment as a Letter Carrier in violation of the MTA All-Agency Code of Ethics Section 4.07, NYC Transit Rule 4(g) and NYC Transit Policy/Instruction Number 4.23.2, Section IV(A)(4) and Section VI(B)(2).
3. The Signal Maintainer falsely stated that he had no outside employment on the All Agency Outside Activity Approval Request forms dated March 22, 2019 and April 3, 2019 in violation of the MTA All-Agency Code of Ethics Section 4.02.

V. RECOMMENDATION

We recommend that NYC Transit impose discipline on the Signal Maintainer as it deems appropriate, up to and including termination.

As always, we appreciate your continued courtesy and cooperation. Please advise us within thirty (30) days of any action you intend to take and the result of any action taken. Should you have any questions, or need additional information, please contact Executive Deputy Inspector General for Legal Pei Pei Cheng-de Castro at (212) 878-0072.

Very truly yours,

/S/

Carolyn Pokorny

cc: David Farber, General Counsel, NYC Transit
Kim Moore-Ward, Vice President, Office of Labor Relations, NYC Transit



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Agency Response
to
MTA/OIG #2020-07

Unauthorized Dual Employment of NYC Transit Signal Maintainer

In March 2020, in response to the OIG's investigation and report, NYC Transit terminated the Signal Maintainer's employment effective March 7, 2020.