



State of New Jersey

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Governor

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KEVIN D. WALSH
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September 28, 2023

Via Electronic Mail and U.S. Mail

The Honorable Philip D. Murphy
Governor of New Jersey

The Honorable Nicholas P. Scutari
President of the Senate

The Honorable Craig J. Coughlin
Speaker of the Assembly

Dear Governor Murphy, Senate President Scutari, and Assembly Speaker Coughlin:

Pursuant to N.J.S.A. 52:15C-11(b), the Office of the State Comptroller (OSC) is submitting this letter to report that certain local government units have refused to cooperate in the development of a corrective action plan. Through this letter, OSC provides the statutorily required notice and advises you and the municipalities addressed in this letter that, in 30 days, OSC may request that the State withhold the expenditure of state funds that may be due to be paid to the following nine municipalities for their failure to cooperate in the development of a corrective action plan by evaluating and addressing deficiencies in their sick and vacation leave policies:

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|-------------------------------|--------------------------|
| 1. Bridgewater Township | 6. Rutherford Borough |
| 2. Hamilton Township (Mercer) | 7. Sparta Township |
| 3. Pennsville Township | 8. Wantage Township |
| 4. Piscataway Township | 9. Town of West New York |
| 5. Red Bank Borough | |

As permitted by law, OSC may further request that the Director of the Division of Local Government Services in the Department of Community Affairs and the staff of the Local Finance Board require approval by OSC prior to the municipalities entering into contracts or expending funds.

I. Background

On July 7, 2022, OSC issued *A Review of Sick and Vacation Leave Policies in New Jersey Municipalities*, which examined the policies, ordinances, and contracts of 60 municipalities to determine if they implemented the cost-savings measures required by P.L. 2007, c. 92 (the “2007 law”) and P.L. 2010, c. 3 (“the 2010 law”).

The 2007 law mandated changes to sick leave policies for senior employees of municipalities and school districts, limiting payment for accumulated unused sick leave at \$15,000. The law also prohibited officers and employees covered by the law from receiving annual sick leave payments, stating that such supplemental compensation shall be payable only at the time of retirement. The 2007 law also limited accrual of vacation leave to two years’ worth of vacation leave for senior employees of non-civil service municipalities and school districts. Civil service municipalities had been limited to two years’ accrual since 1986. See P.L. 1986, c. 112.

As with the 2007 sick leave reforms, under the 2010 law, which went into effect on May 21, 2010, employees who are covered may be provided with one and only one form of sick leave payment: a payment of up to \$15,000 at retirement from a pension system. Annual payments to employees covered by the law are not permitted. The 2010 law also extends the one-year cap on carryover of vacation leave to all employees of non-civil service municipalities and school districts.

OSC’s July 7, 2022 review of 60 municipalities generally found that the laws have been ignored, sidestepped, or undermined, with 57 of the 60 municipalities failing to fully comply with the laws. More specifically:

- 41 of the 60 municipalities, or 68 percent, had policies and contracts that permitted payments to senior employees that would violate the prohibitions on sick leave payments contained in the 2007 law;
- 36 out of 60 municipalities permitted payments that exceed the \$15,000 sick leave cap;
- 48 of 60 municipalities permitted payments for sick leave at times other than retirement;
- 29 of 60 municipalities improperly allow for annual sick leave payments;
- 17 of 60 allow for early leave; and
- 16 of 60 have policies or contracts that allow for accrual of more than one year of vacation time.

As a result of the municipalities’ significant failure to conform policies and practices to existing state law, OSC required that 57 municipalities provide a corrective action plan (CAP) to address those failures. Each municipality was to provide the specific course of action – whether to change the policy manual, to amend an ordinance, or to remove the provision from various employment contracts. The municipalities as part of the CAP were also to provide a timeframe in which such changes were to be completed. In addition to addressing the specific findings, OSC asked that the CAP include the following:

1. A legal review: An attorney to review the findings in the report and the municipality’s employment contracts, personnel policies, and ordinances. The attorney should propose a

plan to the governing body to bring the municipality into compliance with the 2007 and 2010 laws, which should include the amendment of any non-compliant policies, contracts, or ordinances.

The attorney should also evaluate whether recoupment of any improperly spent funds or adjustment to employee leave balances is warranted and appropriate.

2. Independent fiscal assessment: An independent auditor or accountant to assess municipalities' sick leave and vacation accrual systems and controls. The assessment should: (1) calculate improperly paid or accrued leave balances, if any; (2) recommend adjustments to leave records to eliminate improperly accrued leave time; (3) identify improper leave payments for potential recovery; and (4) recommend improvements to internal policies, procedures, and controls to prevent unlawful payments, improper accruals, and increase transparency of future payments.
3. Evaluate and change internal controls: Municipalities should develop an effective system of internal controls for all supplemental payments that establish the criteria and processes for awarding, reviewing, and approving the payments.
4. Approval of the CAP by the municipality's governing body: Given that council-approved contracts, ordinances, and policies may include unlawful provisions, the CAP should be approved by a vote of the governing body.

To date, OSC has evaluated the CAPs provided to ensure that they are responsive to OSC's findings, recommendations, and CAP requirements. Generally, most municipalities have begun the process of making corrections to sick and vacation leave policies. The areas in which the municipalities have control—adjustments to policy manuals, non-contract employee benefits, or drafting ordinances—are the most likely areas in which municipalities have implemented the changes. Given the nature of collective bargaining agreements, municipalities have taken different steps to address the issues: they have sought and entered into side-agreements; are in the process of negotiating new contracts; or have sent correspondence to the union explaining the unenforceability of the provisions that do not comply with the 2007 or 2010 laws.

Of the CAPs received, 24 of 57 (42 percent) were satisfactory. Fifteen (26 percent) were initially deficient but corrected. Nine (16 percent) are in the process of correcting any deficiencies. Finally, despite the passage of several months, nine municipalities (16 percent) have not responded to OSC's request to correct deficiencies.

Further, the Local Finance Board has recently promulgated regulations as part as its update to N.J.A.C. 5:30 that requires counties and municipalities to comply with the 2007 and 2010 laws. See N.J.A.C. 5:30-15.

II. Municipalities Failing to Cooperate in Development of a Corrective or Remediation Plan

As noted, nine municipalities have failed to respond to OSC's correspondence requesting that they correct the deficiencies in the CAP.

Within weeks of the publication of the report, on July 26, 2022, OSC submitted a copy of the report, as well as a letter detailing the requirements needed for the CAP to the 57 municipalities. The deadline for submission of the CAP was September 30, 2022. For those municipalities that missed the deadline, OSC informed them again on October 7, 2022 of the requirement to complete the CAP and extended the deadline to October 21, 2022.

OSC extensively reviewed the submitted CAPs to determine whether the municipality met all requirements. In March and April 2023, OSC notified the municipalities whether the CAPs were accepted or required changes. That correspondence detailed the specific requirements that were lacking in the municipality's plan. A detailed history and the inadequacies of the CAP for each municipality is attached to this letter as Appendix A.

For the nine municipalities that have failed to respond, the CAPs are deficient in various ways. Some have failed to detail an evaluation of their internal controls, and others have failed to address the requirement to obtain governing body approval. The most common failure is the lack of obtaining an independent evaluation to identify potential improper payments. One municipality had reviewed prior payments, but OSC requested that the review be verified by an independent auditor, recommending that the municipality's current auditor perform the review as part of its annual audit. Six of the municipalities failed to address the requirement of an independent evaluation at all in the CAP.

Given that there is evidence that the majority of the 57 municipalities already made improper payments, OSC directed the municipalities to determine whether improper payments were made and to make that information public. The purpose for requiring an independent evaluation was three-fold – to assist in evaluating and strengthening internal controls in making such payments; to prevent self-dealing in the event that management also received improper payments or accruals; and, finally, to obtain information and evidence if the municipality determined, after obtaining legal advice, to recoup improper payments.

Six of the municipalities that failed to respond have not obtained governing body approval of the CAP. The intent for such approval was to provide transparency and notice to taxpayers and the governing body that there were improper terms and conditions in contracts and policies. Public examination of the CAP would enable taxpayers and the governing body to question the municipality on its management and operations. It would also allow the governing body to question the municipality on whether changes to contracts and policies made in the future are in compliance with the law.

The failure of the nine municipalities to prepare a CAP, as directed by OSC, creates risks that taxpayer funds will be wasted and that unlawful policies will remain in effect.

III. Request to Withhold Expenditure of State Funds and to Require Approval of Certain Municipal Contracts and Expenditures

The State Comptroller is authorized by law to request that the Governor withhold the expenditure of state funds that may be due to be paid to that unit of local government. N.J.S.A. 52:15C-11(d)(1). The State Comptroller is further authorized by N.J.S.A. 52:15C-11(d)(2) to request that the Division of Local Government Services impose a corrective or remedial action plan upon municipalities that includes the prior approval by the State Comptroller of the municipality's contracts and expenditures related to approval, accrual, and payment of all unused sick leave and accrual of vacation leave.

At this time, OSC does not request either of these actions to be taken, but it provides notice that, if municipalities remain in non-compliance upon the expiration of 30 days, OSC may request these actions be taken.

Thank you for your attention to this matter.

Sincerely,



Kevin D. Walsh
Acting State Comptroller

Enclosure: Appendix A – Municipalities with Inadequate Corrective Action Plans

- c: Jacquelyn A. Suárez, NJ Department of Community Affairs, Acting Commissioner
Michael Pappas, Township Administrator (Bridgewater Township)
Kathryn Monzo, Business Administrator (Hamilton Township – Mercer)
Jack Lynch, Township Administrator (Pennsville Township)
Timothy J. Dacey, Business Administrator (Piscataway Township)
Darren McConnell, Interim Business Administrator (Red Bank Borough)
Robert J. Kakoleski, Borough Administrator (Rutherford Borough)
Grant Rome, Acting Township Manager (Sparta Township)
Michael L Restel, Administrator (Wantage Township)
Luis Baez, Municipal Administrator (Town of West New York)

Appendix A: Municipalities with Inadequate Corrective Action Plans

The Office of the State Comptroller (OSC) extensively reviewed the corrective action plans (CAPs) that the following municipalities submitted and determined that the CAPs to address findings of non-compliance with the 2007 and 2010 laws regarding sick and vacation leave were deficient in certain areas. In March and April 2023, OSC notified the municipalities whether the CAPs were accepted or required changes. That correspondence detailed the specific requirements that were lacking in the municipality's plan. The detailed history and the inadequacies of the CAP for each municipality are outlined below. To date, the municipalities have failed to respond to OSC to correct those deficiencies.

1. Bridgewater Township

In the initial report, OSC determined that Bridgewater Township's ordinances may not comply with the 2007 law and that its ordinances and union contracts do not comply with the 2010 law.

Bridgewater Township Ordinance 26-32(D) allowed payment for accrued sick leave at retirement for employees hired prior to December 31, 2012, capped at 25 percent of a maximum of 180 sick days, and payment at resignation or termination for employees hired prior to January 1, 2012 with at least ten years of service at separation. Three of its contracts allow payment of accrued sick leave as of December 31, 2012 at the pay rate as of that date, limited to either: 25 percent value for a maximum of 240 days for employees at resignation or termination, or 33 percent for a maximum of 240 days for employees at retirement. Another contract has the same terms as the other contracts, except it allows payment to an employee with ten years of service of 25 percent value for a maximum of 200 sick days at resignation or termination.

OSC found that Bridgewater's Ordinance 26-32(D) may not comply with the 2007 law (N.J.S.A. 40A:9-10.2) because it may allow covered employees to receive payment of accrued sick leave at a time other than retirement and greater than \$15,000, or greater than the amount accrued at the time of appointment to the covered position.

OSC also found that Bridgewater's Ordinance 26-32(D)(2) and its four union contracts do not comply with the 2010 law (N.J.S.A. 40A:9-10.4) by allowing for sick leave payments at a time other than at retirement and greater than \$15,000 for employees hired after May 21, 2010.

On July 26, 2022, OSC notified Bridgewater of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. On October 7, 2022, OSC notified Bridgewater that the CAP was overdue and provided an extended deadline of October 21, 2022.

Bridgewater's CAP submission was received on December 8, 2022. Bridgewater's CAP stated that it planned to revise its ordinance to restrict the payment for unused sick leave to occur only upon retirement and not to exceed \$15,000 for those employees hired after May 21, 2010. Bridgewater stated that it had already revised its union contracts to reflect sick leave statute limits.

OSC's response on March 28, 2023 noted that the CAP did not address the finding regarding the 2007 law. The change in ordinance proposed would only apply for the 2010 law, those hired after May 21, 2010. It would not be effective to enforce the 2007 law for those specific employees either hired or promoted to a position covered by the 2007 law. Further, there was no mention of conducting an independent fiscal assessment to identify possible improper payments, nor mention of evaluating and correcting internal controls to ensure only those eligible employees could receive payments.

OSC requested an updated CAP to address these concerns by April 30, 2023. Bridgewater did not respond to the March correspondence. In response to the facts outlined above, Bridgewater provided evidence that it is in the process of obtaining governing body approval of changes to its policies. It has not addressed conducting an independent fiscal assessment or a review of internal controls.

2. Hamilton Township (Mercer)

In the initial report, OSC determined that Hamilton Township's sick leave policy and one union contract did not comply with the 2007 law, that its sick leave policy and eight union contracts did not comply with the 2010 law, and that four union contracts did not comply with the civil service vacation accrual law.

In all eight of Hamilton's union contracts, Hamilton limits payment for accrued sick leave at \$15,000. However, they all allow payment for accrued sick leave at retirement or if the employee dies before retirement. All eight contracts also allow for the payment of unused sick leave of up to five days annually. Hamilton's Employee Handbook also allows payment for unused sick leave of up to five days annually for all employees.

With regard to the accrual of vacation time, four of Hamilton's union contracts allow vacation time to accrue to the following year only. Four others allow for the carryover of vacation time for more than one year. Two of those allow employees to carry 240 hours year-to-year, which is more than one year's worth of vacation time for any employee with less than nine years of service. The two other contracts allow one year's worth of vacation to be carried to the following year but allow for accrual to continue beyond that year.

OSC found that the terms of Hamilton's sick leave policy in its Employee Handbook and one union contract do not comply with the 2007 law (N.J.S.A. 11A:6-19.1) because they allow payment of sick leave annually and potentially pay more than \$15,000 for covered employees. OSC also found that the terms of Hamilton's eight union contracts do not comply with the 2010 law (N.J.S.A. 11A:6-19.2) because they allow the payment of accrued sick leave at a time other than retirement. OSC also found that Hamilton's sick leave policy in its Employee Handbook and the terms of Hamilton's eight union contracts do not comply with the 2010 law (N.J.S.A. 11A:6-19.2) because they allow the payment of unused sick leave annually for employees hired after May 21, 2010. Finally, OSC found that the terms of four of Hamilton's contracts do not comply with N.J.S.A. 11A:6-3(e) because they allow vacation leave to accrue for more than one year. The provision in two contracts for extending vacation leave accrual does not match the exceptions allowed under N.J.S.A. 11A:6-3(e) (i.e., a gubernatorial issued state of emergency). The two other

contracts allow accrual based on hours, which is greater than what an employee with less than nine years of employment earns in one year.

On July 26, 2022, OSC notified Hamilton of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. Hamilton provided a response on September 27, 2022.

Hamilton's CAP submission made necessary changes to its Employee Handbook and union contracts. The CAP was approved by its governing body.

OSC's response on March 31, 2023 noted that Hamilton addressed all requirements for the CAP except that it did not make mention of conducting an independent fiscal assessment to identify potential improper payments. The CAP also did not address evaluating and correcting internal controls.

OSC requested an updated CAP to address these concerns by May 1, 2023. Hamilton did not respond to the March correspondence. In response to the facts outlined above, Hamilton stated that it is considering the engagement of an independent auditor or accounting professional but has not appointed one yet.

3. Pennsville Township

OSC found in the initial report that Pennsville Township's union contracts did not comply with the 2010 law with regard to sick leave or vacation leave accrual.

One of Pennsville's union contracts allowed a payment of \$100 per year of service to retiring employees with at least 15 years of service. Two other union contracts had the same provision but limited it to employees hired prior to January 1, 2011. One of those contracts allowed for the payment of up to 35 days for accrued sick leave paid upon retirement. For employees hired after January 1, 2011, the payment allowed was 50 percent of the value of accrued sick leave up to 35 days. Two other contracts capped accrued sick leave payments at retirement at \$15,000.

With regard to vacation leave accrual, under two of Pennsville's union contracts, employees were allowed to accrue ten vacation days to the following year. One of those contracts allowed a maximum of 15 banked vacation days, and the other contract also allowed those with 20 years of service to bank 90 vacation days for "early retirement or hardship." A separate contract allowed 40 vacation hours to accrue to the following year with a maximum of 80 total hours. Two other contracts allowed officers to accrue up to 30 vacation days to be used in the following year.

OSC found that the terms of one of Pennsville's union contracts did not comply with the 2010 law by allowing for payment of 35 accrued sick days, which may be greater than the \$15,000 limit. OSC also found that the terms of Pennsville's union contracts did not comply with 2010 law by allowing accrual of vacation leave beyond one year.

On July 26, 2022, OSC notified Pennsville of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. On

October 7, 2022, OSC notified Pennsville that the CAP was overdue and provided an extended deadline of October 21, 2022. Pennsville failed to respond. Because Pennsville had responded to a draft of OSC's original report outlining certain changes it intended to make, OSC considered that to be Pennsville's CAP.

Pennsville's CAP addressed the required changes to its ordinance and union contracts. It did not mention conducting an independent fiscal assessment to identify possible improper payments or evaluating and correcting internal controls.

OSC's response to Pennsville on April 5, 2023 noted these deficiencies and that Pennsville failed to obtain approval of the CAP by the governing body.

OSC requested an updated CAP to address these concerns by May 5, 2023. Pennsville has not responded to any correspondence since the publication of OSC's report.

4. Piscataway Township

OSC's initial report found Piscataway Township's policies did not comply with the 2007 law and its union contracts did not comply with the 2010 law regarding sick leave.

Piscataway's Personnel Manual allowed five sick days per year to accrue into the employees "Accumulated Sick Bank." Payment for accrued time in the sick bank could be paid at retirement only and was capped at \$15,000 or less. However, Piscataway also allowed the conversion of any remaining unused annual sick time in excess of five days to be "compensatory sick time." Such time was capped at 140 hours and payment for such time may be made at separation for any reason. Further, employees can use sick time and "compensatory sick time" to fund their deferred compensation plans.

The Personnel Manual's section concerning retirement did not cap "compensatory sick time" when paid to either retirees or employees leaving in good standing. The provisions allowed those employees to receive "all" compensatory sick time. Finally, Piscataway allowed payment of capped sick leave as terminal leave.

Two of Piscataway's union contracts allowed five days of unused annual sick leave to accrue toward "early retirement," capped at 240 days, or a maximum payment of \$15,000 or less. Any remaining unused sick days could be converted to "compensatory sick time," which may be used the following year in the same manner as personal time. If not used the following year, the "compensatory sick time" would be lost. Finally, the accumulated sick days for "early retirement" may also be paid to the heirs or designated beneficiary of any employee who dies while in the employment of the Township.

Two other contracts have similar provisions: both allow one day for every five accrued sick days for early retirement, up to 240 days, capping payment at \$15,000 for employees hired after September 2000 (or \$7,500 hired after July 4, 2012). That amount may also be used as terminal leave. However, the contracts also allow the conversion of excess unused sick time (over the five accrued sick days used for early retirement) to "compensatory sick time" or vacation time.

OSC found that the terms of Piscataway's Personnel Manual did not comply with the 2007 law and the 2010 law with regard to payment for accrued sick leave. Piscataway's Personnel Manual does not limit the payment of sick leave at retirement for covered employees or non-union employees hired after May 21, 2010. OSC also found the terms of two of Piscataway's contracts did not comply with the 2010 law by allowing payment of accrued sick leave other than at retirement and allowing conversion of sick leave to other forms of leave that could be received as payment by employees hired after May 21, 2010. Finally, OSC found that the terms of two other Piscataway contracts did not comply with the 2010 law by allowing payment of accrued sick leave other than at retirement, allowing terminal leave payments and allowing conversion of sick to other forms of leave that could be received as payment by employees hired after May 21, 2010.

On July 26, 2022, OSC notified Piscataway of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. On October 7, 2022, OSC notified Piscataway that the CAP was overdue and provided an extended deadline of October 21, 2022. Piscataway provided the CAP on October 7, 2022.

Piscataway's CAP detailed actions taken to address OSC's findings and plans to revise Piscataway's policies and union contracts.

OSC's response on April 27, 2023 noted that, although Piscataway addressed the specific findings, its CAP did not address conducting an independent fiscal assessment to identify possible improper payments and did not have the CAP approved by its governing body. OSC requested an updated CAP to address these concerns by May 26, 2023. To date, Piscataway has not responded.

5. Red Bank Borough

OSC's report found that one of Red Bank Borough's union contracts did not comply with the 2010 law regarding sick leave.

One Red Bank union contract allows payment for accumulated sick leave at retirement based on half-pay per day accumulated, capped at a total of \$20,000. The contract also allows payment of accrued sick leave should the employee die while still employed.

OSC found that the terms of one of Red Bank's contracts did not comply with the 2010 law with regard to sick leave by allowing payment of accrued sick leave at retirement for an amount greater than \$15,000 for employees hired after May 21, 2010, and by allowing payment at a time other than retirement for employees hired after May 21, 2010.

On July 26, 2022, OSC notified Red Bank of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. Red Bank provided its CAP on September 6, 2022.

Red Bank's CAP stated that it planned to modify its union contracts and had reviewed payments to ensure it was in compliance with state law.

OSC's response on April 5, 2023 noted that, although the town evaluated the payments made for unused sick leave, OSC had recommended it be done by an independent third party. OSC asked that its auditor for its annual audit perform a review and confirm the township's evaluation. Also, OSC noted that the CAP and additional recommended changes needed to be approved by the governing body.

OSC requested an updated CAP to address these concerns by May 5, 2023. To date, Red Bank has not responded.

6. Rutherford Borough

OSC initially found that Rutherford Borough's ordinance did not comply with the 2007 law and its union contracts did not comply with the 2010 law with regard to sick leave.

The Borough of Rutherford's Ordinance 70-24(A) stated that accrued sick leave will be paid out "upon regular retirement, disability retirement or resignation." Specifically, Ordinance 70-24 provided that non-union employees performing clerical or administrative duties are governed by terms set in "the [union contract] in effect at the time of retirement or by any individual agreement between the employee and the Borough." Additionally, non-union department managers are governed by the terms set in "the [union contract] in effect at the time of retirement or by any individual agreement between the employee and the Borough."

One of Rutherford's union contracts allowed payment for accrued sick leave at resignation, retirement, or death capped at \$15,000 for employees hired after December 31, 2011. Another contract allowed payment for accrued sick leave at "retirement, disability retirement or resignation or death," capped at \$15,000 for existing employees and capped at \$10,000 for all new hires and promotions. Another union contract allowed payment of accrued sick leave at death, resignation, or retirement with 25 years of service and is capped at \$10,000. One contract froze all accrued sick leave as of December 18, 2013, setting the cash value as "50% of each officer's last per diem rate just prior to retirement, and paid upon the separation of employment with the Borough." An additional \$15,000 cap for accrued sick leave is imposed on any sick leave earned after that date.

OSC found that the terms of Rutherford's Ordinance 70-24 did not comply with the 2007 law regarding payment of accrued sick leave by allowing payment of accrued sick leave at a time other than retirement for covered employees. OSC also found that the provisions of all four of Rutherford's union contracts did not comply with the 2010 law with regard to payment of accrued sick time by allowing payment for accrued sick leave to employees hired after May 1, 2010 at a time other than retirement. One also allowed employees who were hired after May 21, 2010 to potentially receive more than \$15,000 for accrued sick leave.

On July 26, 2022, OSC notified Rutherford of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. On October 7, 2022, OSC notified Rutherford that the CAP was overdue and provided an extended deadline of October 21, 2022. Rutherford provided its CAP on October 19, 2022.

Rutherford's CAP stated that it would revise its ordinance and negotiate its union contracts to address OSC's findings.

OSC's response on April 5, 2023 noted that Rutherford's CAP did not address the requirement to perform an independent fiscal assessment or a review of internal controls. OSC requested an updated CAP to address these concerns by May 5, 2023. To date, Rutherford has not responded to the April correspondence. In response to the facts outlined above, Rutherford provided evidence that it is in the process of obtaining governing body approval of changes to its policies. It has not addressed conducting an independent fiscal assessment or a review of internal controls.

7. Sparta Township

In OSC's initial report, it found that Sparta Township's policies did not comply with the 2007 law and its union contracts did not comply with the 2010 law regarding sick leave.

Sparta's Policies and Procedures Manual allowed employees with ten years of service to receive payment for up to ten unused sick days a year provided the employees have accrued at least 100 sick days. The annual payment counted against the maximum amount allowed at retirement.

Two of Sparta's contracts did not allow for payment of accrued sick leave at retirement for employees hired after December 31, 2012. One contract did not allow for such payment for employees hired after December 31, 2013. Those hired prior to those dates have the ability to receive payment for 75 percent value of 150 accrued sick days upon resignation with at least ten years of service and, if hired after 2002, payment at retirement with at least ten years of service of 75 percent value up to 267 accrued sick days. Eligible employees who have accrued over 100 sick days are also allowed to receive payment for 15 unused sick leave days per year.

Two contracts did not allow payment for accrued sick leave for employees hired after January 1, 2016. Those hired after January 2009 but before January 1, 2016 are entitled to sick leave payment at retirement or death up to 150 days at 75 percent value capped at \$20,000. Employees who have accrued over 100 sick days may receive payment for 15 unused sick days per year, capped at 125 total days for the employee's tenure. One contract capped sick leave payments at retirement, death, or resignation in good standing with ten years of service at \$15,000 for employees hired after January 1, 2009.

OSC found that the terms of Sparta's Policies and Procedures Manual did not comply with the 2007 law regarding payment for accrued sick leave by allowing payment for unused annual sick leave and did not reflect the requirements of the 2007 law regarding payments capped at \$15,000 at retirement only for covered employees. OSC also found that the terms of Sparta's union contracts did not comply with the 2010 law with regard to payment of accrued sick time by allowing employees hired after May 21, 2010 to receive payment at a time other than retirement, receive payment for unused annual sick leave, and to receive greater than \$15,000.

On July 26, 2022, OSC notified Sparta of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. On October

7, 2022, OSC notified Sparta that the CAP was overdue, and provided an extended deadline of October 21, 2022.

Sparta provided its CAP on October 21, 2022. Sparta's CAP addressed all but one aspect of OSC's requirements. It provided detailed plans to revise Sparta's policies, renegotiate its union contracts, and review prior payments.

OSC's response on April 6, 2023 noted that Sparta's CAP did not address obtaining governing body approval of the CAP. OSC requested an updated CAP to address these concerns by May 5, 2023. To date, Sparta has not responded.

8. Wantage Township

OSC's initial report found Wantage Township's policies did not comply with the 2007 law regarding sick leave and the civil service law regarding vacation accrual. OSC also found that Wantage's union contracts did not comply with the 2010 law regarding sick leave.

Wantage's Employee Handbook allowed payment for accrued sick leave at the time of resignation or retirement. It states that "[a]n employee who resigns or retires is entitled to unused Vacation, Sick and compensation time with the approval from Administrator and/or Chief Financial Officer." Wantage's two union contracts limit sick leave payments to a maximum of \$15,000 for employees. However, the contracts allowed payment for unused sick leave to occur annually with a maximum of \$3,000 per year to be applied against the \$15,000 limit for accrued sick leave.

Wantage's union contracts allowed vacation leave to accrue to the following year only, capped at 20 days total. However, its Employee Manual allowed for an unlimited amount of vacation accrual due to workload if approved by the governing body. According to the Employee Manual, Wantage's governing body may elect to pay for vacation days in lieu of time off.

OSC found that the terms of Wantage's Employee Manual did not comply with the 2007 law by allowing payment of accrued sick leave at a time other than retirement for covered employees. OSC also found that the terms related to sick leave in the Employee Handbook did not comply with the 2010 law by allowing for payment of accrued sick leave at a time other than retirement for employees hired after May 21, 2010.

OSC also found the terms of Wantage's union contracts did not comply with the 2010 law by allowing the payment for unused annual sick leave for union employees hired after May 21, 2010. Finally, OSC found the terms of Wantage's Employee Manual do not comply with N.J.S.A. 11A:6-3(e) with regard to accrual of vacation leave by allowing the accrual of vacation leave beyond one year based on workload not due to duties directly related to a state of emergency declared by the Governor.

On July 26, 2022, OSC notified Wantage of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. On October 7, 2022, OSC notified Wantage that the CAP was overdue and provided an extended deadline of October 21, 2022. Wantage provided the CAP on October 19, 2022.

Wantage's CAP addressed the specific findings of revising its policies and renegotiating its union agreement. OSC's response on April 27, 2023 noted that Wantage's CAP did not address whether it had conducted a legal review or conducted or planned to conduct an independent fiscal assessment to identify possible improper payments. Finally, OSC noted that the CAP needed to be approved by the governing body.

OSC requested an updated CAP to address these concerns by May 26, 2023. To date, Wantage has not responded.

9. Town of West New York

OSC's initial report found that the Town of West New York's union contract did not comply with the 2010 law regarding sick leave. Two of West New York's union contracts are phrased so as to limit payment for accrued sick leave to the statutory maximum. Another union contract allows payment of up to \$18,000 for any accrued sick leave at resignation, death, or retirement.

OSC found that the terms of one of West New York's union contracts do not comply with the 2010 law with regard to payment of accrued sick leave by allowing payment at a time other than at retirement and more than \$15,000 for employees hired after May 21, 2010.

On July 26, 2022, OSC notified West New York of its findings, detailing the requirements for the corrective action plan. OSC provided a September 30, 2022 deadline to respond with the CAP. On October 7, 2022, OSC notified West New York that the CAP was overdue and provided an extended deadline of October 21, 2022. West New York provided a copy of its Employee Manual on October 18, 2022. Because West New York had responded to a draft of OSC's original report outlining certain changes it intended to make, OSC considered that to be West New York's CAP.

OSC's response on April 27, 2023 noted that West New York's CAP did not address whether it had conducted or planned to conduct an independent fiscal assessment to identify possible improper payments. OSC also noted that the CAP needed to be approved by the governing body. OSC requested an updated CAP to address these concerns by May 26, 2023. To date, West New York has not responded to the April correspondence. In response to the facts outlined above, West New York requested additional time to respond.