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COUNTY OF DANE

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Date: February 17, 2025

To: Employee Group #720
Derek Wallace

From: Shelby Slaven
Assistant Director of Administration

Subject: Step 3 Grievance Decision – Bibiana Peretti Rescinded Vacation Request

A third step hearing was held on February 4, 2023. I have summarized the primary arguments of each of the parties below:

Employee Group #720

Derek Wallace presented:

- Ms. Peretti experienced a vacation request violation. There are provisions in the handbook regarding vacation that state the employees can take vacation.
- It's possible each department may have specific requirements and in this case, there is no difference. Ms. Peretti was bound by department work rules and vacation policies. Early in the year, Supervisor West had provided an email with individual instructions on how to request time off which included to let supervisor West know as soon as possible and also any planned or unplanned absences prior to the work day.
- The employee complied with the handbook and guidance and properly requested to take vacation on the dates in question.
- Another violation is that of existing benefits by having Ms. Peretti's vacation rescinded. Rescinding a vacation request changes the terms and conditions of employment which can cause significant effect on working conditions.
- Whether the reasons have merits is irrelevant, the county does not have the authority to rescind. If they wish to have that, there is a mechanism which is to go through the handbook.
- Since the filing of the grievance there has been troubling trend where the grievant is being shown as manipulative and dishonest and what she did was procured in bad faith. There is no supporting evidence.
- Ms. Peretti has been working for the department for 20 years and her personnel file shows no discipline nor bad performance evaluations.
- We request the employee be made whole by making sure Public Health is prohibited from retaliation and discrimination. That the county provides restitution at her hourly rate for each hour requested off and later rescinded. And that she have a single supervisor who she needs to request time off from.

Management

Janel Heinrich presented:

- Before Ms. Peretti submitted her vacation requests, an alternate schedule request was made. That alternate schedule request was refused because it would leave the program with insufficient staff.
- Ms. Peretti then asked for vacation days that started with 30 minutes and they were approved and not for a full day since that small amount would have no impact on WIC services. Once it was clarified it was for full days, the approval was rescinded because we needed to be able to deliver WIC services.
- Not all work rules were followed. If someone is making a vacation request then they need to arrange coverage, if not possible, then you ask the supervisor for support and that did not happen in this situation.
- We contend it is hard and we understand folks have right to vacation, but we have a requirement to fulfill our services.

Stephanie West presented:

- There were two separate requests for these dates. To clarify, these were the requests:
 - On October 28th, Ms. Peretti sent request to be off December 5 from 8-8:30. In the body of that email she indicated November 21, December 12, 19, 26 and January 2nd. She stated she needed those dates off as well. Since WIC doesn't start until 9, it was approved.
 - On November 5th, Ms. Goldberg noticed Ms. Peretti wasn't going to be at WIC for all Thursdays through the end of the year.
- In a conversation with Rachel, it was asked on how we were going to meet WIC services. It was also mentioned that Ms. Peretti had been already been denied for an alternate schedule request.
- When it was confirmed that her request was for the full days, we could not uphold the request. We have to do what's best for the program.
- We did have a process that was working where she sent requests to both myself and Supervisor Goldberg, but she specifically excluded Rachel showing deviance.

Decision

The grievance is denied.

The Employee Group (EG) argues that under the handbook an approved vacation cannot be rescinded under Section 2 "Vacation," however the handbook states "No employee having **properly selected** their vacation according to their seniority shall be denied such vacation." While the request was outside of the PHMDC annual process for vacation selection, this decision rests on whether Ms. Peretti "properly selected" her vacation day, which she did not.

Ms. Peretti requested an alternative work schedule from the WIC Director, Ms. Goldberg, for multiple Thursdays at the end of 2024, all of which would have impacted WIC operations. The request was denied because "it would result in the inability to provide full services for the WIC program according to the WIC staffing model [...]." After receiving the denial from Ms. Goldberg, Ms. Peretti then submitted a request only to her non-WIC supervisor, Ms. West, to use vacation time for the same days denied under her request for an alternative work schedule. Ms. Goldberg was not included on the request for vacation time and Ms. West approved those vacation days without knowledge that Ms. Peretti had already been denied absences on the requested days.

The EG argues that Ms. Peretti followed all policy for requesting days off, however the PHMDC policy clearly states that coverage of required duties must be arranged if an absence affects program operations. Not only did Ms. Peretti not arrange coverage, but her request to Ms. West for vacation days was done with the explicit knowledge that there would not be WIC coverage on the requested days. While an employee is within their right to request an alternative work schedule and vacation time, the type of leave requested and/or used does not change the impact of an employee absence and, in this case, would result in the same denial of time off had all information been shared. Per the same PHMDC policy, staff must have approval for absences from program-specific supervisors before requesting time off with their direct supervisor; via the denied request for an alternative work schedule, Ms. Peretti knew that she did not have approval for absences from her WIC program obligations. Lastly, Ms. Peretti has previously successfully requested time off following these same policies so it stands to reason she was aware of the proper protocol.

The EG argues that instruction given on July 1, 2024, via email to Ms. Peretti changed the policy for requesting time off. However, this argument leaves out that the email was sent in response to Ms. Peretti failing to show up to work or alert any manager of her absence. The request that Ms. Peretti inform Ms. West of time off is in line with policy that the direct supervisor be informed of any planned or unplanned absences. The policy also dictates that employees inform all impacted managers and programs on the day of the absence; Ms. Peretti informed neither impacted supervisor of her absence that preceded the July email communication.

In sum, it would be disruptive to the delivery of county services and to the people we serve to declare that vacation days cannot be rescinded when they are found to have not been properly selected. Purposeful omissions of information and deviations from understood and previously followed policy falls outside of a reasonable understanding of “properly selected” vacation.

Lastly, this decision did not consider the Employee Group Representative’s claims of “interference, domination, and discrimination” involving a subsequent disciplinary issue with Ms. Peretti. This grievance hearing was about an interpretation of the Employee Benefit Handbook and a grievance over any discipline would be a separate matter. As a result, these claims are not relevant to this grievance.

If you have any questions, you may contact me at (608) 261-9792.

Sincerely,



Shelby Slaven
Assistant Director of Administration

CC: Chad Haanan
Bibiana Peretti
Misha Dancing Waters
Ben Ratliffe
Janel Heinrich
Stephanie West
Rachel Goldberg

Kate Louther
Greg Brockmeyer
Nick Bubb
Linda Ramirez