



Office of the Ohio Consumers' Counsel

July 13, 2016

Randall J. Meyer
Ohio Inspector General
Office of the Ohio Inspector General
30 East Broad Street, Suite 2940
Columbus, Ohio 43215

2016 JUL 13 PM 2:43
OFFICE OF
INSPECTOR GENERAL

Re: Report of Investigation 2014-CA00014 (April 28, 2016)

Dear Inspector General Meyer:

I am respectfully supplementing two of my four responses submitted to you on May 24, 2016. In the above-referenced report, you requested that I, as Chairman of the Consumers' Counsel Governing Board, respond to your recommendations. For your ease of reference, my May 24th response is included as Attachment A to this letter. While this supplement is outside of your requested 60-day response time, there is new information from state government that materially affects my original responses and therefore warrants providing this update to you. Thank you again for your report, regarding the Office of the Ohio Consumers' Counsel ("OCC" or "Agency") that serves Ohio residential utility consumers.

Recommendation 1: "Revise the existing OCC compensatory/overtime policy to ensure conformity with Ohio Administrative Code and ODAS directive HR-D-08."

Supplemental Response 1: The Agency took steps to implement your recommendation. However, the state policy (HR-D-08, dated September 1, 2009) that is a basis for your recommendation (and your report) has been replaced with a new policy by the Ohio Department of Administrative Services ("ODAS"). The new policy (HR-08, effective June 27, 2016) eliminates the provision in HR-D-08 referenced in your report as prohibiting state employees from accruing compensatory time at home. Therefore, the Agency has revised its internal policy for conformity with new ODAS policy HR-08, to allow Agency employees to accrue compensatory time while working from home on behalf of Ohioans.

Recommendation 3: "Suspend the existing OCC teleworking policy until the revised policy has been submitted and approved by ODAS to ensure compliance with the ODAS time and attendance policy."

Supplemental Response 3: The Agency took steps to implement your recommendation. However, ODAS then advised that the Ohio Consumers' Counsel is not among the state agencies that are

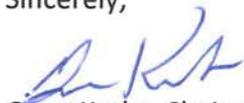
subject to a requirement for ODAS review and approval of the teleworking policy. The explanation of this circumstance follows.

Effective June 27, 2016, ODAS revised its guidance for state agency teleworking policies. In its cover email dated June 24, 2016, ODAS advised state agencies that the new teleworking policy was only applicable to agencies "under the purview of the Governor." The ODAS email is included as Attachment B to this letter. During a June 28th telephone call between the Agency's chief of staff and the ODAS policy administrator who signed the attached June 24th email, the Agency was informed of the following information: ODAS staff involved in the review and approval of the Agency's revised teleworking policy (submitted to ODAS on December 24, 2015, and approved by ODAS on February 23, 2016) were unaware that the Consumers' Counsel Governing Board members are not appointees of the Governor and not under the purview of the Governor. As a result of this Governing Board status, ODAS advised during the telephone call that the Agency is not subject to a requirement for ODAS review and approval of the Agency's teleworking policy. And ODAS further advised during the telephone call that the revised teleworking policy the Agency submitted for ODAS approval on May 26, 2016, after your report, does not require ODAS approval. Moreover, ODAS sent a letter, dated June 30, 2016, to the Agency's chief of staff, with similar information that the Agency is not required to obtain ODAS approval of the teleworking policy. The ODAS letter is included with this letter as Attachment C.

With these ODAS advisements, it seems plausible that ODAS approval was not required for the Agency's 2008 teleworking policy. In any event, the Agency has implemented a revised teleworking policy that permits Agency employees to telework and accrue compensatory time while working for Ohioans from home, consistent with these advisements from ODAS. Further, with regard to the ODAS time and attendance policy referenced in your recommendation, ODAS stated in its June 24th email to state agencies that the new time and attendance policy (as with the teleworking policy) is only applicable to agencies that are "under the purview of the Governor."

Thank you again.

Sincerely,



Gene Krebs, Chairman
Ohio Consumers' Counsel Governing Board

Attachments

Hunyadi, Monica

From: Brubaker, Ann
Sent: Friday, June 24, 2016 3:51 PM
Subject: Statewide HR Policy Update
Attachments: Compensatory Time Policy.pdf; Time and Attendance Policy.pdf; Teleworking Policy.pdf

Good afternoon Human Resources Administrators:

Attached are three statewide human resources policies that are effective June 27, 2016. As you review these policies, please note that some changes may need to be made to your own agency policies in order to comply with any statewide requirements.

The first attachment is the Compensatory Time for Overtime Exempt Employees Policy which has been revised and reissued. This policy applies to all overtime exempt employees at all agencies in accordance with Ohio Revised Code section 124.18 and Ohio Administrative Code chapter 123:1-43. This policy replaces DAS Directive HR-D-08 Compensatory Time. Agencies that choose to adopt a compensatory time policy for their eligible employees, must ensure that their policy complies with this statewide policy. Any agency that wishes to deviate from the statewide policy must have approval from the DAS Director prior to implementation.

The second attachment is the Time and Attendance Policy. Upon issuance of this policy, the 2008 DAS Time and Attendance Memorandum will no longer be effective. The Time and Attendance Policy applies to all agencies, boards and commissions under the purview of the Governor. This policy addresses accurate record keeping for hours worked, core business hours, and the use of flexible work schedules. In general, this policy clarifies that agencies must ensure adequate coverage during core business hours and may permit the use of flexible schedules, at the agency's discretion, so long as the schedule does not disrupt the agency's operation or customer service.

The third attachment is the Teleworking Policy. The Teleworking policy applies to all agencies, boards and commissions under the purview of the Governor. This statewide teleworking policy establishes statewide guidelines for agencies that choose to adopt a teleworking policy for their agency. It does not authorize teleworking for all state employees. Any agency that is considering adopting a teleworking policy must have that teleworking policy approved by the Department of Administrative Services, Labor Relations and Human Resources Policy Section prior to implementation. Agencies that already have approved teleworking policies in place must re-submit their policies to DAS within ninety days of the effective date of this policy (i.e. by September 26, 2016). Submissions can be sent to the Labor Relations and Human Resources Policy inbox at dashrd.hrpolicy@das.ohio.gov.

Please contact the DAS, Labor Relations and Human Resources Policy section at 614-752-5393 or dashrd.hrpolicy@das.ohio.gov with any questions or concerns. We will continue to provide updated information as we receive questions and feedback.

Thank you,

Aimee Szczerbacki
Policy Administrator
Office of Collective Bargaining
614-995-3459
Aimee.szczerbacki@das.ohio.gov



How are we doing?
Please take our brief customer
service survey by clicking [here](#).

June 30, 2016

Monica Hunyadi
Chief of Staff
Office of the Ohio Consumer's Counsel

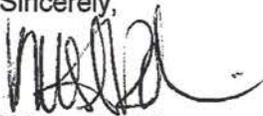
Dear Ms. Hunyadi,

The Department of Administrative Services, Human Resources Division has received your request to revise the current teleworking policy at the Office of the Ohio Consumer's Council. Thank you for submitting draft revisions for DAS review.

After receiving your draft revisions, it has come to our attention that the governing board responsible for selecting the Consumers' Counsel is appointed by the Ohio Attorney General. As such, our current statewide policy does not require that DAS approve your policy.

If you have any questions please contact Aimee Szczerbacki, Policy Administrator at (614) 995-3459.

Sincerely,



Kristen Rankin
Deputy Director
Office of Collective Bargaining
Department of Administrative Services



Office of the Ohio Consumers' Counsel

OFFICE OF
INSPECTOR GENERAL

2016 MAY 24 PM 1:48

May 24, 2016

Randall J. Meyer
Ohio Inspector General
Office of the Ohio Inspector General
30 East Broad Street, Suite 2940
Columbus, Ohio 43215

Re: Report of Investigation 2014-CA00014

Dear Inspector General Meyer:

Thank you for your report dated April 28, 2016, regarding the Office of the Ohio Consumers' Counsel ("OCC" or "agency"). As Chairman of the Consumers' Counsel Governing Board, I appreciate your recommendations for revising internal policies for this agency that serves Ohio residential utility consumers. You have provided for me to respond to the recommendations, and I respectfully submit the following responses.

Recommendation 1: "Revise the existing OCC compensatory/overtime policy to ensure conformity with Ohio Administrative Code and ODAS directive HR-D-08."

Response: The agency's compensatory/overtime policy has been revised in advance of your report. The policy has been further revised since the report. These revisions were made to address conformity with state policy, among other updates. The agency will continue to consider revisions to ensure conformity with state policy.

Also, in advance of the report, the Governing Board voted at its public meeting on March 15, 2016, to designate the Deputy Consumers' Counsel as the timekeeping approver for the Consumers' Counsel (agency director). The Deputy Consumers' Counsel is an appointee of the Governing Board as is the Consumers' Counsel, and therefore the Deputy has a direct reporting relationship to the Governing Board in addition to reporting to the Consumers' Counsel.

Recommendation 2: "Revise existing OCC teleworking policy to state overtime pay may only be earned or compensation time accrued after an employee is in active pay status in excess of 40 hours in a calendar week."

Response: The agency's teleworking policy has been revised in advance of your report. These revisions were made to address conformity with state policy, among other updates. The agency will continue to consider revisions to ensure conformity with state policy.

Response
May 24, 2016
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In the compensatory/overtime policy that the agency revised in advance of the report, a change was made to state that compensatory time may only be accrued after an exempt employee is in active pay status in excess of 80 hours in a pay period. This change to compensatory time accrual after 80 hours for exempt employees is in conformity with state protocol regarding the use of the programming in the new electronic timekeeping system (Kronos).

Recommendation 3: “Suspend the existing OCC teleworking policy until the revised policy has been submitted and approved by ODAS to ensure compliance with time and attendance policy.”

Response: The agency’s teleworking policy has been revised in advance of your report, as noted above. These revisions were made to address conformity with state policy, among other updates. The agency submitted its teleworking policy to the Ohio Department of Administrative Services (“ODAS”) for approval, on December 24, 2015. ODAS approved the agency’s teleworking policy on February 23, 2016. Nonetheless and pending further agency review, the agency director has suspended agency policy that allowed approval of teleworking at home when there is a need for an employee to perform work for Ohio consumers outside of the employee’s regular hours. As background for this issue, agency employees can have the need to telework from home, in the evening or on weekends, in providing services to Ohio consumers (such as for case preparation when there are hearings on complex utility proposals for rate increases or for legal filings that have external deadlines).

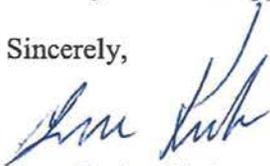
Additionally, a March 31, 2008 email is attached containing the agency’s submittal of its 2008 teleworking policy to ODAS for approval. The agency is not aware that the 2008 teleworking policy was ever approved by ODAS. As noted above, the agency’s teleworking policy has been revised and approved by ODAS in 2016.

Recommendation 4: “Consider whether development of a separate OCC policy governing flexible work arrangements is in order.”

Response: Thank you for this recommendation that will be considered within the agency. A committee within the agency will make proposals, as appropriate, for developing a separate agency policy on flexible work arrangements. Proposals will be provided to the Consumers’ Counsel (agency director) for a decision on whether instituting a new agency policy is in order.

Thank you for this opportunity to respond to your recommendations.

Sincerely,



Gene Krebs, Chairman

Ohio Consumers’ Counsel Governing Board

Attachment

Sauer, Larry

From: Repuzynsky, Charles
Sent: Monday, March 31, 2008 3:18 PM
To: DAS HRD HR Policy; Sara Craven
Cc: Janine L. Migden; Bruce Weston
Subject: Revised Teleworking Policy and Agreement
Attachments: OCC Teleworker Agreement 033108.pdf; OCC Teleworking Policy 033108.pdf

Sara,

Attached is the Office of the Ohio Consumers' Counsel's revised Teleworking Policy and Teleworker Agreement.

As you recall, the OCC has a teleworking policy in effect (since September, 2003) which I recently sent you. In light of information included in Director Hugh Quill's recent letter of February 5, 2008 (Time and Attendance Policies), revisions were warranted. All requirements addressed in Director Quill's letter are addressed in our policy (and agreement).

Your review and approval of our updated policy is appreciated.

Thank you for all of your input in addressing this matter.

Charles Repuzynsky
Director of Operations
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
614-466-7249
repuzynsky@occ.state.oh.us

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Office of the Ohio Consumers' Counsel Teleworking Policy

Effective: September 2, 2003, Revised March 31, 2008

PURPOSE

The purpose of this policy is to establish standard conditions and responsibilities for the Office of the Ohio Consumers' Counsel (OCC) teleworking program. The teleworking program is intended to enable OCC directors to consider allowing employees, with or without the use of telecommunications and computer technology, to perform assigned duties at locations other than their regular work location. An alternate workplace would generally be in an employee's home, but could also be elsewhere if acceptable to the director. Teleworking is not a universal employee benefit - it is a management option.

CLASSIFICATIONS/POSITIONS

The following classifications or positions may be eligible to participate in OCC's teleworking program if there is a demonstrated need or benefit to the OCC: Administrative staff and other staff including but not limited to outreach and education staff, attorneys, legal interns, analysts, department directors, Consumers' Counsel and Deputy Consumers' Counsel.

CONDITIONS AND RESPONSIBILITIES

1. Conditions of Teleworking

- 1.1 A Teleworking Agreement will make an employee eligible to participate in the teleworking program upon being signed by the potential teleworker, his/her director, and the Consumers' Counsel or designee. An employee who signs a Teleworking Agreement cannot engage in telework, however, without a separate and specific authorization from the employee's director.
- 1.2 A teleworker's salary, benefits, job duties, obligations and other terms and conditions of employment shall not change because of the teleworking arrangement.
- 1.3 Performance evaluation requirements will not change. The director's method of monitoring and evaluating performance will reflect a focus on results rather than process or direct supervision.
- 1.4 A teleworker will be responsible for documenting work accomplished during the teleworking.
- 1.5 Time spent traveling to or from the office is not reimbursable and is not considered time worked.
- 1.6 The standards regarding the duty of OCC employees to maintain confidentiality of information and security of documents while working at the office must be maintained while teleworking.

- 1.7 **Expectations as to compliance with all existing OCC policies and procedures are unaffected by any teleworking agreement.**
- 1.8 **Management retains the right to terminate any individual teleworking agreement, and/or to change or eliminate the teleworking program.**
- 1.9 **Employees needing to work overtime or other time in excess of an eight-hour day on office projects may do so from their home or elsewhere with the approval of their director.**

2. Work Schedule

- 2.1 **The director will establish scheduled work hours and any changes must be approved in advance.**
- 2.2 **Approval from the director must be obtained prior to working or teleworking overtime or other time in excess of an eight-hour day.**

3. Workspace

- 3.1 **The employee is responsible for establishing and maintaining a designated workspace at the alternate work site. The same safety, ergonomic, and cleanliness standards applicable at the regular work site must be maintained at the alternate site.**
- 3.2 **The OCC retains the right to make on-site inspections of the work area, at a mutually agreed upon time, to inspect equipment and observe working conditions.**

4. Communication

- 4.1 **Teleworkers must be accessible, via telephone or cell phone and via office e-mail, to their supervisor, co-workers, external stakeholders and contacts, and customers/clients during the agreed upon work hours.**
- 4.2 **The teleworker's office phone will be forwarded to the alternate work site as necessary.**
- 4.3 **Phones used by the teleworker for receiving calls will be answered in a business-like manner during work hours and the outgoing message on an answering machine or voicemail service will convey a professional office-like image.**
- 4.4 **Clients and external stakeholders and contacts will never be given the teleworker's home phone number for purposes of teleworking.**

5. Workstation Equipment, Software, and Maintenance/Support

- 5.1 Teleworkers who have their own equipment may use it. Employees who use their own equipment are responsible for its maintenance and repair. The employer assumes no liability concerning damage or loss of property owned by the employee at the alternate work site.
- 5.2 The employer may provide equipment depending on the nature of the job, equipment availability, and funds. The OCC is responsible for the maintenance and support of all equipment that is provided to employees.
- 5.3 Software may not be duplicated except as formally authorized and in accordance with the manufacturers' licensing agreements.
- 5.4 Any hardware or software purchased by the OCC remains the property of the OCC and must be returned upon OCC's request or upon the termination of the teleworker's employment with OCC.
- 5.5 The teleworker is responsible for protecting the integrity of copyrighted software, policies, procedures and practices to the same extent applicable at the teleworker's office location.
- 5.6 All equipment, furniture, software, supplies or other materials purchased or maintained by the OCC are to be used only by the teleworker and only for official OCC business.
- 5.7 The teleworker has the same responsibility for damage to agency property at the alternate work site as would exist at the regular office.
- 5.8 Surge protectors must be used with any computer, laptop or other electronic equipment. Responsibility for damages resulting from a power surge, if no surge protector is used, will be borne by the employee.
- 5.9 The OCC may, at its discretion, assume responsibility for all costs associated with the installation, operation, and maintenance of a second telephone line if OCC determines one is needed due to (or as a condition of) the teleworking arrangement. The OCC may, at its discretion, assume responsibility for additional costs to a teleworker for long distance calls pertaining to work, during the scheduled work hours.
- 5.10 Teleworkers will be responsible for the security of all items furnished by the OCC.

6. Supplies

Supplies required by the teleworker to complete assigned duties should be obtained from OCC's main office. Employees' expenses for materials and supplies, which are available at the office but purchased elsewhere will not be reimbursed.

7. Workers' Compensation

A teleworker may be covered by the state of Ohio's Workers' Compensation laws while in telecommuting status. Any injury that occurs within the course and scope of employment must be reported to one's supervisor immediately, using the standard injury reporting form and process. For the purposes of Workers' Compensation, a teleworker's designated home workspace is considered an extension of state workspace only during the telecommuter's scheduled work hours.

8. Third-Party Liability

The OCC does not assume responsibility for third-party injury or property damage that may occur at an alternative work site. A teleworker cannot hold state business-related meetings at the teleworker's residence or elsewhere while teleworking unless the teleworker's director approves the meetings.

9. Dependent Care

- 9.1 Teleworking is not a substitute for childcare, dependent care or elder care.
- 9.2 Teleworkers must continue to arrange for child, dependent or elder care to the same extent as if the teleworkers were working at the main office. Exceptions can be made in certain instances with prior authorization from one's director. Absent such arrangements or authorization, the teleworking agreement will terminate.

10. Miscellaneous Financial Responsibilities of Teleworkers

Individual tax implications, auto/homeowner's insurance, or incidental residential utility costs are the responsibility of the teleworker. In addition, a teleworker's pre-authorized expenditures that are incurred at the request of the employer will be reimbursed in accordance with OCC's policies and procedures.

11. Weather Emergencies

A teleworker, who is considered an essential employee and is scheduled to work at home on a day that is declared a weather emergency may be asked to work at home or the office, based on the needs of the OCC.

12. Training

Teleworkers and their supervisors will be expected to read and understand this policy prior to commencement of a telecommuting work arrangement.

**OFFICE OF THE OHIO CONSUMERS' COUNSEL
TELEWORKER AGREEMENT**

Name of Employee: _____

Department/Office: _____

The employee will work from home or other location at the following address:

The employee can be reached at the following telephone number(s):

Home/Location: _____ Mobile: _____

This agreement is entered to allow the employee to be eligible to participate in telework, which will be at OCC's option after the agreement is signed. The employee has read the current OCC Teleworking Policy and the employee agrees to comply with the attached Teleworking Policy for work from home or other authorized location. Violation of the Teleworking Policy of this agreement may result in discipline including termination of employment.

This agreement provides the employee the eligibility to work outside the OCC's office as specified below, and is not construed as superseding the requirement for prior approval to work outside the office on overtime or other time on any specific occasion in accordance with Section 2.2 of OCC's Teleworking Policy. This agreement may be terminated for any reason by a director or by the Consumers' Counsel. Management may also terminate the teleworking program, in their discretion.

Authorization for Teleworking is required when one's job description requires a need to telework, when there is a need to work in excess of eight hours on a workday, or when there is a need to work on a weekend.

The employee is responsible for documenting all OCC work accomplished from home or other authorized location.

The duty of OCC employees to protect the confidentiality and security of OCC information in any and all forms including paper and digital, as well as to protect the security of OCC computing and communications equipment, must be maintained while teleworking. The OCC employee's duty to protect OCC information and equipment outside the office continues for as long as the employee has OCC information and equipment outside the office, regardless of whether this agreement is terminated or the employee's employment with OCC ends.

The employee is responsible for any tax liability that may result from teleworking.

Signed by and agreed to:

Employee Signature

Date

Director Signature

Date

Consumers' Counsel Signature

Date