

November 19, 2016

Mr. Randall J. Meyer
Ohio Inspector General
Office of the Inspector General
James A. Rhodes State Office Tower
30 East Broad Street, Suite 2940
Columbus, OH 43215-3414

Dear Inspector General Meyer:

This letter is in response to the recommendations made by your office to the Ohio Department of Administrative Services (ODAS) in File ID Number: 2015-CA00018. ODAS strongly believes in the need to carry out its mission to administer the state's human resources operations with integrity and to ensure that taxpayer dollars are spent properly. The following action items detail how your office's recommendations are being implemented.

Recommendation #1:

Ensure agencies, institutions, boards and commissions are aware of the policy requiring ODAS to approve all written plans to extend overtime pay to overtime exempt employees.

Action:

Following the Report of Investigation by the Office of the Inspector General, the Department of Administrative Services took steps to ensure that all agencies, institutions, boards and commissions were aware of the policy requiring DAS to approve any written plan to pay overtime to overtime exempt employees. DAS issued two separate electronic communications to both human resources and policy contacts at state agencies, boards and commissions.

The first communication was sent on September 21, 2016. This communication was provided through the DAS, Human Resources Division weekly newsletter that is distributed to Human Resources Administrators at agencies, boards and commissions (including institutional agencies). This communication reiterated the policy requirement that overtime exempt employees are not entitled to overtime compensation unless there is approval from the Director of DAS. This communication included the process that agencies, boards and commissions must follow in order to get approval and also provided links to the current DAS Statewide Policy (HR-D-06) and memorandum. A one page attachment was also provided, that further outlined the process for approval and the information that must be submitted to DAS for review in order to gain approval from the Director of DAS. The Human Resources contacts were instructed to review all related materials to ensure compliance.

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The second communication was also sent on September 21, 2016, to the DAS Labor Relations and Human Resources Policy contacts within the agencies, boards and commissions. The same information that was communicated to the Human Resources Administrators in the newsletter was communicated to the policy contacts via email.

Agencies, boards and commissions were reminded in both communications that once DAS has approved any request, DAS reviews the payments every pay period to ensure compliance with the approval. Both of the electronic communications mentioned above are attached to this response.

Recommendation #2

Create Restrictions in the state payroll system limiting the use of overtime codes exclusively to those outlined in approved plans.

Action:

DAS has reviewed the current payroll system in order to determine the potential for creating restrictions that limit the overtime codes exclusively to those that have been approved. There is not a feasible and/or efficient mechanism for creating a restriction that would block all overtime exempt designated employees from earning overtime.

Currently, employees have an identified status in the system of either overtime eligible or overtime exempt. There are existing rules in the system that allow anyone to post overtime in the system for an employee. When an employee who is designated as overtime exempt is approved to earn overtime, the system can accommodate this because of the aforementioned rule allowing that overtime to post. A restriction would require a new rule for each individual employee while they are eligible and would then have to be manually removed when the approval expired. The fact that there are hundreds of employees at any given time that can be approved, makes this process subject to maintenance error and inefficiencies, which eliminates it as an option.

Although there are no specific "restrictions", in approximately June of 2015, DAS began a monitoring practice to ensure that only those overtime exempt employees who have been approved by the Director of DAS to receive overtime payment are receiving overtime compensation. When an agency, board or commission seeks approval from the Director of DAS to pay overtime compensation to overtime exempt employees, they are required to provide a list of the employees to DAS. Upon approval, this list is provided to the DAS, State Payroll office. Each pay period, DAS State Payroll is able to run a report which compares the list of approved employees to a list of employees that received overtime compensation. When there is an instance of an overtime exempt employee who is not on the approval list receiving overtime compensation, the human resources contact at the agency is notified in order for circumstance to be investigated and rectified as needed.

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We appreciate the opportunity to detail the actions that ODAS has undertaken in response to your recommendations. Should you have any questions regarding our response, or need any additional information, please don't hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Robert Blair". The signature is written in a cursive style with a horizontal line extending to the right.

Robert Blair, Director

Szczerbacki, Aimee

From: Luers, Michael
Sent: Wednesday, September 21, 2016 11:20 AM
Subject: 9.21.16 HRD Weekly Newsletter
Attachments: Policy Requirements for Paying Overtime to Overtime Exempt Employees.pdf; IT Optimization Weekly NEWS Update - 16 September



Human Resources Division

September 21, 2016

In This Issue

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Hello!

Please continue to share this newsletter with your appropriate staff members based on the newsletter topics!

Sincerely,
Your DAS HRD Team

Flexible Spending Accounts Open Enrollment

To: All HR Administrators
Communication Type: General Information

Postcards were recently mailed to employees announcing the Open Enrollment period for 2017 Flexible Spending Accounts, which will be held from October 17 through October 28, 2016. The State of Ohio offers two types of Flexible Spending Accounts (FSA) to its permanent employees. FSAs are voluntary pre-tax accounts established by the IRS to pay for eligible expenses. The Dependent Care Spending Account (DCSA) assists in paying for daycare services so that employees can go to work, while the Health Care Spending Account (HCSA) can be used to pay for medical expenses not paid for by medical, dental and/or vision insurance. Please visit the www.das.ohio.gov/flexiblespendingaccounts for more information.

The ACA and Rehired Employees

To: All HR Administrators
Communication Type: General Information

Benefits are to continue without interruption when an employee is terminated and rehired within 31 days. In order for this to happen, agencies must timely notify DAS HRD HCM Benefits team at das.hrd.hcm.benefits@das.ohio.gov, to insure the service page is properly updated and any missed deductions are posted.

- A permanent employee terminated and rehired into another permanent position **within 31 days** maintains his or her eligibility and enrollment status for medical, dental, vision, life and ancillary plans. In addition, leave and retirement plans should remain active to receive leave accruals and retirement deductions timely.
 - If the employee was full-time permanent but rehired as part-time permanent, the standard hours must remain at 40 until the end of the **Standard Stability Period (SSP)** which ends on June 30th. Any changes to coverage resulting from the **Standard Measurement Period (SMP)** will be applied at Open Enrollment and effective July 1.
 - If the employee has benefit payments in arrears, the retro benefits program will pick up any unpaid deductions as a payback on the next check with earnings.

- A permanent employee terminated and rehired as a temporary employee **within 13 weeks** maintains his or her ACA eligibility and enrollment status for medical coverage until the end of the **SSP**, which ends on June 30th for permanent employees with at least 2 years of service without a break in service greater than 13 weeks.
 - Standard hours for this temporary appointment must be set at 40 until June 30th to comply with ACA regulations.
 - However, if the rehired temporary employee fails to work 1,560 hours, or an average 30 hours over the **SMP**, the employee will be dis-enrolled in medical benefits effective July 1.

Learning on Demand Impact Analysis Survey

To: All HR Administrators

Communication Type: Action Required

All Learning on Demand users will receive an invitation from their Learning on Demand account on September 27, 2016 to participate in the annual Learning on Demand Impact Analysis Survey. The intent of the survey is to assess the benefit and impact of the online learning courseware, books and resources powered by Skillsoft. Please remove this red text line then share this communication with exempt, Information Technology (IT) professionals (both Bargaining Unit and exempt) employees in your agency.

The survey will take approximately 3-5 minutes to complete and it must be completed by **October 7, 2016**.

If you have any questions, please contact Mary Cornwell at (614)-995-0154.

Thank you in advance for participating in the Learning on Demand Impact Analysis Survey.

Appointment Type "I" Title Change

To: All HR Administrators

Communication Type: General Information

Appointment type **I: Interim/Temporary-Internal** is now available for agencies use in ePAR when processing the action/reason **Data Change/Internal Interim BU or Data Change/Temporary Internal-Ext Leave**. The title was changed to add "temporary" in the title description in order to capture both internal interims and internal temporary extended leaves.

The appointment type "I" should be limited for use only to the above two mentioned action/reasons. This will ensure that current permanent bargaining unit employees serving in an Internal Interim BU or permanent exempt employees serving in a Temporary Internal-Ext Leave have an appointment type that reflects their Interim/temporary assignment, and they will continue to maintain their benefits while serving in the interim/temporary position.

If you have questions, or need assistance in updating a current employee's appointment type to I: Interim/Temporary-Internal, please feel free to contact your assigned DAS State Services Analyst or 614-466-4194.

Policy Requirements for Paying Overtime to Overtime Exempt Employees

To: All HR Administrators

Communication Type: Action Required

Pursuant to Ohio Revised Code 124.18(A), employees who are exempt from the payment of overtime pursuant to the Fair Labor Standards Act of 1983, are **not** entitled to be paid overtime compensation unless the Director of the Department of Administrative Services (DAS) has approved payment of such compensation. Please find the full policy communication attached.

In accordance with this section of the Ohio Revised Code, current DAS statewide policy, HR-D-06, outlines the process that agencies, boards and commissions are required to follow in order to pursue payment of overtime exempt employees. In addition, DAS also issued a memorandum to the all agencies boards and commissions in March of 2010, regarding the payment of overtime compensation to overtime exempt employees, identifying the process by which agencies must seek approval from DAS prior to paying such compensation. Both HR-D-06 and the memorandum are available on the DAS Labor Relations and Human Resources Policy website and the DAS State of Ohio Administrative Policies website. Links to both websites are available below.

<http://das.ohio.gov/Divisions/HumanResources/HRDOCBPolicy.aspx>

<http://das.ohio.gov/Divisions/AdministrativeSupport/StateAdministrativePolicy.aspx>

If you have any questions about these requirements, please contact your assigned DAS Labor Relations and Human Resources Policy analyst at 614-466-0570 or dashrd.hrpolicy@das.ohio.gov

New FLSA Overtime Regulation Update

To: All HR Administrators

Communication Type: Action Required

Following our discussion at the August 17, 2016 Human Resources Administrators (HRA) meeting, we have been working on additional guidance concerning the changes to the FLSA overtime regulations. As a reminder, the final rule makes significant changes to the salary basis test for overtime exemptions.

A number of states, including Ohio, have filed a complaint in United States District Court, seeking a declaratory judgment and injunctive relief, asking the Court to stop the implementation of the new overtime rules and regulations.

Until you are provided additional guidance from DAS, do not move forward with any further implementation steps. If you have any questions please contact your Labor Relations and Human Resources Policy Analyst at 614-466-0570 or dashrd.hrpolicy@das.ohio.gov.

IT Optimization

To: All HR Administrators

Communication Type: General Information

Please see the [attached weekly IT Optimization newsletter](#) for weekly IT news and notes.

HR Related Articles & Links

If you have any HR-related articles you wish to share, please forward them to Ann Brubaker @ ann.brubaker@das.ohio.gov for inclusion in the weekly newsletter.

Szczerbacki, Aimee

From: DAS HRD HR Policy
Sent: Wednesday, September 21, 2016 1:46 PM
Subject: Policy Requirements for Paying Overtime to Overtime Exempt Employees

Good Afternoon Policy Liaisons,

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To ensure compliance with the ORC and DAS statewide policy, DAS wants to remind agencies, boards and commissions of these policy requirements. Prior to paying overtime compensation to any overtime exempt employee, an agency, board or commission **must** submit a request to DAS for approval. The request for approval must include:

- Classifications of exempt employees eligible to receive payment for overtime and the duties performed by those exempt employees;
- Criteria for selecting individual employees, positions or classifications eligible to receive overtime;
- The specific hours, days per week, times of the year or situation where an exempt employee would be eligible to receive overtime;
- Justification of the need for the payment of overtime. The request must show that the employee either:
 - Performs functions essential to maintain the safety, security, and health of Ohio's citizens, or
 - Works in a 24-hour operation and must work overtime because of direct care, safety or security reasons;
- Statement certifying that the payment of overtime is affordable within existing payroll appropriations; and
- For agencies, boards and commissions that address the payment of overtime to overtime exempt employees in an overtime policy, a copy of that policy.

These requirements are outlined in more detail in the applicable statewide policy. Agencies, boards and commissions are responsible for reviewing the policy and complying with the specific requirements. Once DAS has approved any agency, board or commission's request, DAS reviews these payments each pay period to ensure compliance with the approval. If you have any questions about these requirements, please contact your assigned DAS Labor Relations and Human Resources Policy analyst at 614-466-0570 or dashrd.hrpolicy@das.ohio.gov

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