Ohio Department of Commerce

# POLICY, PROCEDURE & INFORMATION MANUAL

**Department of Commerce**

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# ACCESSING CONFIDENTIAL PERSONAL INFORMATION

## *Policy Number: 510.1*

| | |
|---|---|
| Purpose: | To develop and implement information access policies and controls to ensure the privacy and security of information stored by the department |
| Revised Date: | July 2011 |
| Cross Reference: | ORC §1347.15; OAC §1301-1-03 |

## I. General Information

The Ohio Department of Commerce (the "Department") is dedicated to developing and implementing information access policies and controls that enhance and ensure the privacy and security of Ohio's citizens who have information stored in personal information systems maintained by the Department. Consistent with Section 1347.15 of Ohio Revised Code, Ohio Administrative Code Section 1301-1-03 and any related management directives (collectively "Ohio's Access Rules"), this policy furthers this goal.

Employees and agents acting on behalf of the Department (hereinafter referred to as "employees") who handle confidential personal information are subject to and should become familiar with Ohio's Access Rules and this policy. Failure of a Department employee to adhere to Ohio's Access Rules and this policy may result in disciplinary action up to and including termination of employment, and/or criminal prosecution.

## II. Information Subject to Ohio's Access Rules

Ohio Revised Code Section 1347.15 requires state agencies to promulgate rules and adopt policies governing Department employees' access to confidential personal information ("CPI"). CPI includes personal information about a natural person that the law prohibits an agency from releasing. Examples of personal information that fall within the scope of CPI collected and maintained by the Department include but is not limited to:

1. Social Security Numbers;
2. Medical, health and benefit-related information; and
3. Certain information relating to children and income tax information.

Division Heads in consultation with division chief counsels are responsible for developing a list of CPI for each Division. It is imperative that employees be familiar with Ohio Revised Code Section 102.03(B), which prohibits the disclosure or use of confidential information acquired during the course of official duties. In addition, employees should be familiar with any confidentiality requirements that apply to information specific to each Division, which is outlined in the attached addendum ("Addendum A"). Violation of Ohio Revised Code Section 102.03(B) is a violation of Ohio's ethics laws and may lead to criminal prosecution of the Department employee.

## III. Other Definitions

"Personal Information System" is a system of records that contains all of the following attributes:

1. It is a group or collection of records that are kept in an organized manner in either electronic or paper formats;

2. It contains “personal information” which is a person’s name or other identifier (such as SSN or driver’s license number) associated with any information that describes anything about a person or indicates that a person possesses certain personal characteristics;
3. Personal information is retrieved from the system by name or other identifier; and
4. The agency has ownership of, control over, responsibility for, or accountability for that system of records.

Division Heads are responsible for working with the Department’s Data Privacy Point of Contact to identify Personal Information Systems used by each Division. The Department’s Data Privacy Point of Contact will maintain a list for each Division.

“Access” for the purposes of this policy means the opportunity to view or copy. For purposes of the logging policy included herein, “access” means the retrieval of CPI from a personal information system by name or personal identifier so that CPI is viewed, or so that CPI is copied or retained outside of the personal information system.

## IV. Safeguarding CPI and Other Confidential Information

Personal Information Systems maintained by the Department and used by its Divisions are managed on a "need-to-know" basis. Each Division Head will determine the level of access required for an employee to fulfill his or her job duties. The determination of access to CPI must be approved by an employee's supervisor and Division Head prior to providing the employee with any access to CPI within a Personal Information System. In addition, Division Heads are responsible for establishing procedures to determine revisions to an employee's access to CPI upon a change to that employee's job duties or job status/classifications including, but not limited to, transfer, reclassification, reassignment or termination. Whenever an employee's job duties no longer require access to CPI in a Personal Information System, the employee's access to CPI will be revoked.

Employees may only access CPI when directly related to the exercise of the Department’s or a Division’s powers or duties regardless of whether the Personal Information System is a manual system including paper records or a computer system. Performing the following functions constitute valid reasons for authorized employees of the Department to access CPI:

- Responding to a public records request;
- Responding to a request from an individual for the list of CPI the Department or Division maintains on that individual;
- Administering a constitutional provision or duty;
- Administering a statutory provision, administrative regulation or duty;
- Complying with any state or federal program requirements;
- Processing or payment of claims or otherwise administering a program with individual participants or beneficiaries;
- Auditing or inspection purposes;
- Licensure, registration, permitting, etc., processes;
- Investigation or law enforcement purposes;
- Administrative hearings;
- Litigation, complying with an order of a court, or subpoenas;
- Human resource matters (e.g., hiring, promotion, demotion, discipline, salary/compensation issues, leave requests/issues, training, time sheet approvals/issues, and employment verifications);
- Complying with an executive order or policy;
- Complying with an agency policy or a state administrative policy; or
- Complying with a collective bargaining agreement provision.

In addition to the reasons specified above, for employees of the Division of Liquor Control and fiscal staff, the following functions also constitute valid reasons for authorized employees of the Division to access CPI:

1. Carrying out duties and responsibilities for the operation, management, and control of the Division of Liquor Control's spirituous liquor agency stores; and
2. Carrying out duties and responsibilities to maintain a state monopoly of the distribution of spirituous liquor.

Keeping in mind the sensitive nature of CPI, employees should consider how information they work with should be handled, and what measures need to be taken to safeguard CPI. Records including CPI and other confidential information (see Appendix A) should be maintained electronically or in lockable filing cabinets or locked rooms when not in use. In addition, employees should be careful CPI or other confidential information is not disclosed to anyone unless disclosure is made in the furtherance of official duties and authorized by law.

Note: all the requirements specified above apply to both paper and electronic records.

## V. Logging Policy – Accessing Electronic or Computer Records

Each employee of the Department or a Division thereof who accesses or directs another employee to access CPI from a computer Personal Information System shall record that specific access whenever it is directed toward a specifically-named individual or a group of specifically-named individuals. Each employee should record such access either electronically through a computer system that the Department Data Privacy Point of Contact has verified creates an appropriate CPI Log or in an appropriate CPI Log manually maintained for each of the Department's computer Personal Information Systems governed by Ohio's Access Rules and this policy (see example at "Addendum B").

Consistent with Section 1347.15 of the Ohio Revised Code, access to CPI that occurs as a result of a request of the person whose information is being accessed is not required to be recorded. Also, access to CPI that is not targeted to a specifically-named individual or group of individuals is not required to be recorded. To manually log access to CPI, employees must use the attached CPI Log, which must list the name of the personal information system, the individual whose CPI is to be accessed, date and time of access, and the name of the employee accessing CPI.

Access logs created pursuant to this policy shall be secured monthly by each Division's ITG Point of Contact. Access logs will be retained by the Department or Divisions thereof pursuant to the Department of Administrative Services General Retention Schedule No. IT-OP-07 for "System Users Access Records" until they are no longer of administrative value, and then destroyed. For purposes of this policy, "administrative value" shall be defined as an audit cycle (one year), or longer if there is a possibility of litigation related to employees' access to CPI.

## VI. Improper Access

Upon discovery or notification that CPI of an individual has been accessed by an employee for an invalid reason, the Director, Division Head and the Department's Chief Counsel must be immediately notified. The Department's Chief Counsel will notify the individual whose information was invalidly accessed in accordance with procedures specified by Ohio Administrative Code Section 1301-1-03.

Employees should be aware that knowingly improperly accessing, using or disclosing CPI is a violation of law and may lead to disciplinary action up to and including termination of employment, and/or criminal prosecution.

**Addendum "A"**

Following is an overview of confidential information maintained by each of the Divisions:

## I. Division of Financial Institutions

A. Commercial Banks:

1. O.R.C. § 1121.18: Prohibits the disclosure of information leading to, arising from, or obtained in the course of the examination of a bank or any examination conducted pursuant to the authority of O.R.C. §§ 1121.10 or 1121.11. Information obtained is treated as privileged and confidential property of the Division the disclosure of which is strictly prohibited except as provided in the statute.[1] In addition, information obtained under this statute is not discoverable in a court of law, except in a criminal proceeding, when necessary in the opinion of the Superintendent, or by agreement with financial institution regulatory authority. Failure to abide O.R.C. § 1121.18 may result in a conviction of felony in the forth degree.

2. O.R.C. § 1121.25: Allows applicants to request treatment of certain information relating to submission of an application or notice to the Division. If request for confidential treatment is denied based on the criteria in the statute applicants can withdraw the information otherwise it will be treated as a public record.

B. Savings and Loan Associations:

1. O.R.C. § 1155.16: Prohibits the disclosure of information leading to, arising from, or obtained in the course of the examination of a savings and loan association and treats the information as privileged and confidential property of the Division the disclosure of which is strictly prohibited except as provided in the statute. In addition, this statute goes a step further treating any other information obtained by reason of the Division's position as regulator as confidential and privileged. Information obtained pursuant to this statute is not discoverable in a court of law, except in a criminal proceeding, when necessary in the opinion of the Superintendent, or by agreement with financial institution regulatory authority. Failure to abide O.R.C. § 1155.16 may result in a conviction of felony in the forth degree.

C. Savings Banks:

1. O.R.C. § 1163.20: Prohibits the disclosure of information leading to, arising from, or obtained in the course of the examination of a savings bank and treats the information as privileged and confidential property of the Division the disclosure of which is strictly prohibited except as provided in the statute. In addition, this statute goes a step further treating any other information obtained by reason of the Division's position as regulator as confidential and privileged. Information obtained pursuant to this statute is not discoverable in a court of law, except in a criminal proceeding, when necessary in the opinion of the Superintendent, or by agreement with financial institution regulatory authority. Failure to abide O.R.C. § 1155.16 may result in a conviction of felony in the fourth degree.

D. Money Transmitters:

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[1] O.R.C. § 1121.18(B) allows the Division's agents and employees to disclose information to (i) the governor, director of commerce, or deputy director of commerce; (ii) the banking commission; (iii) other financial institution regulatory authorities; (iv) the directors, officers, agents, and parent company of the bank or other person examined; and (v) law enforcement authorities conducting criminal investigations. Please note similar exceptions apply under O.R.C. § 1155.16 for savings and loan associations and O.R.C. § 1163.20 for savings banks.

1. O.R.C. § 1315.122: Prohibits the disclosure of information leading to, arising from, or obtained in the course of the examination of a licensee or other person conducted pursuant to the authority of O.R.C. § 1315.01 et. seq. Information obtained is treated as privileged and confidential property of the Division the disclosure of which is strictly prohibited except as provided in the statute.[2] In addition, information obtained under this statute is not discoverable in a court of law, except in a criminal proceeding, when necessary in the opinion of the Superintendent, or by agreement with financial institution regulatory authority. Failure to abide O.R.C. § 1315.122 may result in a conviction of felony in the fourth degree.

2. O.R.C. § 1315.03: Allows applicants to request confidential treatment of certain information relating to submission of an application for a money transmitter license. If request for confidential treatment is denied based on the criteria in the statute applicants can withdraw the information otherwise the information will be treated as a public record.

3. O.R.C. § 1315.10: Allows applicants to request confidential treatment of certain information relating to submission of an application for a change of control of a money transmitter licensee. If request for confidential treatment is denied based on the criteria in the statute applicants can withdraw the information otherwise the information will be treated as a public record.

E. Credit Unions:

1. O.R.C. § 1733.32(H): Provides that all information obtained as a result of or arising out of the examination, independent audit of a credit union, or because of Division position as regulator, shall be confidential. This information may be disclosed or introduced into evidence in limited circumstances in connection with criminal proceedings, or in the manner authorized in O.R.C. § 1181.25. Further, the Division may exchange this information with other financial institution regulatory authorities, credit union insurer or surety.

2. O.R.C. § 1733.327: Prohibits the disclosure of any supervisory conference or administrative hearing, including any fact of their actual or anticipated occurrence, and all notices, agreements, hearings, orders, records, evidence, transcripts, and other writings, happenings, or things pertaining to those conferences or proceedings. These conferences and proceedings are treated as confidential. These conferences and proceedings may be disclosed or introduced into evidence in limited circumstances in connection with a criminal action, forfeiture action relating to violation of an order or liquidation proceeding. The Division may furnish information relating to above with financial institution regulatory authority or credit union insurer. Failure to abide O.R.C. § 1733.327 may result in a misdemeanor of the first degree.

F. Credit Union Guaranty Corporations:

1. O.R.C. § 1761.08: Allows the Division to share with a credit union guaranty corporation copies of un-audited financial statements and examination reports of any state chartered credit union. The information in the possession of the credit union guaranty corporation is treated as privileged and confidential.

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[2] O.R.C. § 1315.122(B) allows the Division's agents and employees to disclose information to (i) the governor, director of commerce, or deputy director of commerce; (ii) the banking commission; (iii) other financial institution regulatory authorities; (iv) the directors, officers, agents, and parent company of the bank or other person examined; and (v) law enforcement authorities conducting criminal investigations.

2. O.R.C. § 1761.21: Prohibits the disclosure of any supervisory conference or administrative hearing, including any fact of their actual or anticipated occurrence, and all notices, agreements, hearings, orders, records, evidence, transcripts, and other writings, happenings, or things pertaining to those conferences or proceedings. These conferences and proceedings are treated as confidential. These conferences and proceedings may be disclosed or introduced into evidence in limited circumstances in connection with a criminal action, forfeiture action relating to violation of an order or liquidation proceeding. The Division may furnish information relating to above with financial institution regulatory authorities or credit union insurer. Failure to abide O.R.C. § 1733.327 may result in a misdemeanor of the first degree.

G. General applicability to all sections:

1. O.R.C. § 1181.25: Allows the Division in limited circumstances to disclose or introduce into evidence information that is otherwise is privileged, confidential, or otherwise not public information under Sections 1121.18, 1155.16, 1163.20, 1315.122, 1321.09, 1321.48, 1321.55, 1321.76, 1322.06, 1322.061, 1733.32, 1733.327, and 4727.18 of the Ohio Revised Code. The Division can only make such disclosures when deemed appropriate by the Superintendent in relation to an enforcement action brought by the Division or other financial regulatory agencies or when litigation has been initiated by the Division in furtherance of its duties.

H. Consumer Finance:

1. Check-Cashing Act – No specific confidentiality provisions.

2. Credit Service Organization Act – No specific confidentiality provisions.

3. Insurance Premium Finance Act – All information obtained by the superintendent or the superintendent's deputies, examiners, assistants, agents, or clerks by reason of their official position, including examination information, is privileged and confidential except when used for law enforcement purposes or when released to other financial institution regulatory authorities. R.C. 1321.76(C) & (D).

4. Mortgage Broker Act – Annual reports mandated by R.C. 1322.06(D) are not public records. Information leading to or from an examination or investigation is confidential except when necessary to take official action regarding the affairs of a registrant or licensee, or in connection with criminal or civil proceedings to be initiated by a prosecuting attorney or the attorney general. All application information <u>is public</u> *except* social security numbers, employer identification numbers, financial account numbers, the identity of the applicant's financial institution(s), fingerprint cards, and criminal background checks. The Division may release information relating to registrants and licensees to the attorney general, the superintendent of real estate and professional licensing, the superintendent of insurance, the commissioner of securities, or local law enforcement, and fellow financial institution regulatory agencies but said information remains confidential. R.C. 1322.061.

5. Mortgage Loan Act – Annual reports mandated by R.C. 1321.55(B) are not public records. Information leading to or from an examination or investigation is confidential except when necessary to take official action regarding the affairs of a registrant or licensee, or in connection with criminal or civil proceedings to be initiated by a prosecuting attorney or the attorney general. All application information <u>is public</u> *except* social security numbers, employer identification

numbers, financial account numbers, the identity of the applicant's financial institution(s), fingerprint cards, and criminal background checks. The Division may release information relating to registrants and licensees to the attorney general, the superintendent of real estate and professional licensing, the superintendent of insurance, the commissioner of securities, or local law enforcement, and fellow financial institution regulatory agencies but said information remains confidential. R.C. 1321.55(C) – (G).

6. Pawnbroker Act – Information arising from, obtained by, or contained in an investigation of a licensed pawnbroker is confidential and may only be disclosed to a law enforcement agency, in connection with criminal proceedings, or through administrative enforcement action by the (deputy) superintendent.

7. Precious Metals Dealers Act – No specific confidentiality requirements.

8. Short-Term Loan Act – Annual reports mandated by R.C. 1321.422(B) are not public records.

9. Small Loan Act – Annual reports mandated by R.C. 1321.09(A) are not public records but may be disclosed as authorized by R.C. 1181.25, may be exchanged with other financial institution regulatory authorities, or may be disclosed in connection with criminal proceedings.

## II. Division of State Fire Marshal

A. Ohio Fire Academy:

1. The Federal Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g(b)(1), requires that significant portions of student educational records maintained by the Ohio Fire Academy must kept confidential by the Division unless the student consents to the release of the information or the release of the information is otherwise required by FERPA and/or other applicable law.

B. Fire and Explosion Investigations Bureau (FEIB) and Forensic Lab:

1. Although R.C. 1347.04(A)(1)(a) exempts the law enforcement functions of the FEIB and Forensic Lab from the provisions of Chapter 1347, these sections of the SFM's office also have to comply with the following independent confidentially requirements:

   i. R.C. 3737.16(E), which requires the SFM to hold certain types of information received from an insurance company during the course of a fire investigation confidential.
   ii. R.C. 3737.23, which specifies that "testimony" obtained in the course of a fire investigation is not a public record.
   iii. R.C. 3737.29, which states that fire investigations by or under the direction of the fire marshal may, in the discretion of the fire marshal, be private.

C. Bureau of Underground Storage Tank Regulation

1. Attorney - Client information.

2. Enforcement Case development and prosecution.

3. Licensee information for: UST Installers, UST inspectors, UST annual registration; [Name, Address, DOB, educational history, ODL, phone numbers, financial account numbers, conflicts of interest statements].

4. RP (Responsible Party) information: Financial data for inability to pay assessments [Tax returns (federal and state), SSNs, Financial account numbers; Company Data (profit & loss statements, balance sheets, shareholder information)], PUSTRCB (Petro Board) Financial Data on RP's;

5. Accurint reports [Name, Address, DOB, phone numbers, SSN].

## III. Division of Real Estate and Professional Licensing

A. R.C. 4763.05(A)(1)(a), which states that the home addresses of appraisers are confidential.

B. R.C. 4735.05(D) and R.C. 4763.03(D), which states the information received and the work product produced during an investigation and/or audit is confidential.

## IV. Division of Liquor Control

A. R.C. 4303.17(A)(1), which states the roster of membership of a D-4 permit holder shall not be open to public inspection or examination and may be divulged only in hearings before the liquor control commission or in a court action in which the division or the superintendent is a party.

## V. Division of Unclaimed Funds

A. Ohio's Unclaimed Property Law, Revised Code Chapter 169, *et seq.*, protects the confidentiality of social security numbers by restricting their use to specific purposes related to the recovery and payment of unclaimed funds. In addition, the law protects holder audit/examination information by barring disclosure, except for limited purposes, requiring auditors to maintain the confidentiality of records, and providing for confidentiality agreements. The specific provisions of the Revised Code and Ohio Administrative Code are cited and described below.

1. Social Security Numbers

   i. Social security numbers are not permitted to be used by the Department of Commerce "for any purpose other than to enable the division of unclaimed funds to carry out the purposes of . . . [Revised Code Chapter 169] and for child support purposes in response to a request made by the office of child support in the department of job and family services made pursuant to section 3123.88 of the Revised Code." ***ORC 169.03(I)***.

2. Confidentiality of Holder Audit/Examination Records

   i. "Records audited pursuant to division (F) [of RC 169.03, i.e., an unclaimed funds examination ordered by director] shall not be disclosed except as required by section 169.06 [publishing of unclaimed funds] or as the director considers necessary in the proper administration of this chapter." ***ORC 169.03(F)(4).***

   ii. The director may enter into contracts for the sole purpose of examining a holder's records to determine compliance with Chapter 169, provided the contractor "agrees to maintain the confidentiality of the records examined, as required under (F)(4)." ***ORC 169.03(F)(3)(a).***

iii. Holder records audited in accordance with 169.03(F) are confidential and shall not be disclosed except as required by section 169.06 [publishing of unclaimed funds] or as the director considers necessary in the administration of ORC Chapter 169. ***OAC 1301:10-3-04(B)(1).***

iv. The contract auditor and division auditor shall agree that they are prohibited from disclosing information obtained during the involuntary examination to anyone other than a participating state, unless pursuant to or required by law. ***OAC 1301:10-3-04(B)(2)***.

v. The contract auditor, upon the written request of the holder, shall sign a confidentiality agreement to which the holder is a signatory. ***OAC 1301:10-3-04(B)(2).***

vi. The auditor must inform the holder that, at the holder's request, the auditor will enter into a confidentiality agreement for an involuntary audit. ***OAC 1301:10-3-04(H).***

**Appendix B**

## SAMPLE Log of Access to Confidential Personal Information (CPI)

Instructions: Employees must log access to electronic records maintained by the Department/Division if all of the following apply:

- The employee is accessing an electronic record maintained on Commerce/the Division's computer networks or shared drives;

- The record includes "confidential personal information" maintained by the Division (varies by Division, including but not limited to social security numbers, financial account numbers, criminal records checks, certain examination/investigation information, etc.); and

- Access is specifically directed toward a specifically-named individual or a group of specifically-named individuals.

Logs must be forwarded every Friday to the Division's Point of Contact, _____ via e-mail at _____.

| **Name of Employee Accessing CPI:** | | |
|---|---|---|
| **<u>Acknowledgment</u>:** I acknowledge that the information on this log is true and complete, and I have accessed CPI only for the purposes relating to my job duties or my agency's governmental function. _____ Initials _____ Date | | |
| **Name (or Identifier) of Person Whose CPI was Accessed** | **Personal Information System Used** | **Access Date/Time** |
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# AGENCY INFORMATION

## *Policy Number: 100.0*

Purpose: To give managers and employees resources to obtain vital information regarding policies, procedures, benefits and useful information during their employment at the Department of Commerce.

Revised Date: October 2011

Cross Reference:

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## I. Obtaining Useful Information

Commerce employees and managers have three (3) primary resources that they can utilize in order to obtain vital information regarding personnel policies, procedures, benefits and information. These three (3) resources are:

1) The Employee's Union Contract

   The Department of Commerce maintains two contracts through the state. Bargaining unit employees should refer to either:

   a) The OCSEA/AFSCME- State Collective Bargaining Contract, or
   b) The F.O.P., Ohio Labor Council, Inc. - State Collective Bargaining Contract.

   These contracts delineate rules that pertain to bargaining unit employees and supersede any and all conflicting state laws, except Ohio Revised Code Chapter 4117. However, where the contract is silent, rules and procedures set forth in the Ohio Administrative Code (OAC) and Ohio Revised Code (ORC) shall prevail.

2) The Department of Commerce Policy & Procedure Manual

   This manual contains specific policies and procedures that relate directly to the department. If you find that you do not understand any of these procedures or need additional information, please contact the Office of Human Resources at (614) 995-7009.

3) The Ohio Department of Administrative Services (DAS) Website (for both exempt and bargaining unit employees)

   DAS is the central administrative agency for the State of Ohio. Their website introduces both exempt and bargaining unit employees to general state policies and procedures, employee services, benefits and professional development opportunities. The information contained on this website is very general in nature and is not intended to be exhaustive. Here are some helpful links:

   Policies:
   http://das.ohio.gov/Divisions/HumanResources/PolicyDevelopment/tabid/342/Default.aspx
   Benefits:
   http://das.ohio.gov/Divisions/HumanResources/BenefitsAdministration/tabid/190/Default.aspx
   Training:
   http://das.ohio.gov/Divisions/HumanResources/LearningandProfessionalDevelopment/tabid/236/Default.aspx

## II. Disclaimer

The Ohio Department of Commerce reserves the right to change its policies and procedures at any time upon notice to its employees, and in accordance with the applicable collective bargaining agreements. The language used in this manual is not intended to create, nor is it to be construed to constitute, a contract between the department and any one, or all, of its employees. This manual is not intended to supersede federal or state law or the collective bargaining agreement provisions relating to similar subject matter. In the event of conflict between this manual and law or contract, the law or contract shall prevail. Any verbal assurances to the contrary of department policies and procedures shall not be binding on the department.

# AMERICANS WITH DISABILITIES ACT

## *Policy Number 202.0*

| | |
|---|---|
| Purpose: | To prevent discrimination against individuals with disabilities and to address requirements for accommodating the needs of individuals with disabilities. |
| Revised Date: | October 2011 |
| Cross Reference: | The Americans with Disabilities Act (ADA) of 1990<br>OAC §123:1-49; ORC Chap. 4112; Executive Order 2011-05K |

## I. Policy

It is the policy of the Department to maintain a work environment free from any discrimination and to prohibit harassment of applicants, customers, clients, employees, temporary employees, interns, contractors and consultants, including harassment adversely affecting an individual's terms and conditions of employment. It is the policy of the Department to provide equal access in the employment process, programs, activities or services provided by the agency and to fully comply with the Americans with Disabilities Act of 1990.

Pursuant to the Americans with Disabilities Act, qualified individuals with a disability may request a reasonable accommodation. The Americans with Disabilities Act defines a qualified individual with a disability as an individual with an impairment that substantially limits a major life activity. The individual must be able to perform the essential functions of his/her position or the position for which they are applying with or without a reasonable accommodation.

## II. Definitions

For the purposes of the ADA and this policy, the following definitions shall apply:

- Disability: A physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such impairment; or being regarded as having such an impairment.

- Essential Job Functions: Those functions of the position which are considered fundamental. To determine if a job function is essential, it is necessary to determine a variety of issues including whether the job exists to perform that function, whether removing that function would fundamentally alter the job, the amount of time spent performing the function and whether or not the function is highly specialized.

- Major Life Activities: Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

- Qualified Individual with a Disability: An individual with a disability who can perform the essential functions of his/her job with or without a reasonable accommodation.

- Reasonable Accommodation: A modification or adjustment to the job, the workflow or the work environment that enables a qualified individual with a disability to perform the essential functions

of the job. A reasonable accommodation is required unless it is substantial, disruptive or unduly costly for the employer. Additionally, an accommodation is not considered "reasonable" if it would fundamentally alter the nature or operation of the Department.

- Substantially Limits: An impairment that significantly restricts the duration, manner or condition under which an individual can perform a particular major life activity as compared to the ability of the average person in the general population to perform the same major life activity.

- Undue Hardship: An action requiring significant difficulty or expense when considered in light of a number of factors such as the employer's size, financial resources, and the needs of the business.

## III. Procedure

A. Employees requesting a reasonable accommodation shall initiate the process by contacting his/her supervisor or the Equal Employment Opportunity (EEO) Administrator.
B. Any supervisor who receives a request for accommodation shall report it to the EEO Administrator in a timely manner.
C. Upon receiving a request for an accommodation, the EEO Administrator will determine if the individual is a qualified individual with a disability for purposes of the Americans with Disabilities Act. The EEO Administrator will determine the essential functions of the job and the scope of the employee's abilities and limitations regarding these essential functions.
D. During this process, the EEO Administrator will work in consultation with the employee requesting an accommodation and the employee's physician. (Medical documentation may be required in order to complete the request.)
E. After a determination of the individual's status under the ADA, an evaluation of the essential functions of the position, and a review of the employee's abilities and limitations, the EEO Administrator will work in conjunction with the Human Resources Director, Chief Legal Counsel and Division Leadership to establish viable accommodation options for the person requesting the accommodation.
F. The Department is not required to provide the exact accommodation the employee or job applicant is requesting. If more than one accommodation works, the Department may choose which accommodation to provide.
G. If a request for reasonable accommodation is denied, the employee making the request will be informed of the denial and the specific reasons for such.
H. An employee has the right to appeal any denial by filing a complaint with the Department of Administrative Services, Equal Employment Opportunity Division (EOD) within thirty (30) days of the notice of denial. For further information, contact EOD at (614) 466-5628.

If you have any questions about this policy or need to request an accommodation pursuant to the ADA, please contact:

EEO Administrator
Ohio Department of Commerce
77 South High Street, 23rd Floor
Columbus, Ohio 43215-6123
Telephone: (614) 728-4292
Fax: (614) 466-6183
**EEO.Administrator@com.state.oh.us**

# BEREAVEMENT LEAVE

## *Policy Number 301.0*

| | |
|---|---|
| Purpose: | To provide paid leave for permanent employees in order to grieve and/or attend to personal matters following the death of immediate family members. |
| Revised Date: | October 2011 |
| Cross Reference: | Ohio Revised Code §124.387<br>OAC §123:1-34-09<br>OCSEA Art. 30.03; FOP Art. 41 |

## I. General Information

A. Bargaining Unit Employees - Three consecutive work days of bereavement leave with pay at regular rate will be granted to a full-time permanent or part-time permanent employee upon the death of a member of his/her immediate family.

B. Exempt Employees - Each full-time permanent employee shall be granted three (3) consecutive days - not to exceed twenty-four (24) hours - of bereavement leave with pay upon the death of a member of the employee's immediate family. Compensation for bereavement leave shall be equal to the employee's base rate of pay.

"Immediate family" (OAC §123:1-47-01(A)(39)) means an employee"s spouse or significant other („significant other" as used in this definition means one who stands in place of a spouse and who resides with the employee), parents, children, grandparents, siblings, grandchildren, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, step-parents, step-children, step-siblings, or a legal guardian or other person who stands in the place of a parent (in loco parentis).

## II. Part Time Permanent Employees

Part-time employees shall receive bereavement leave for three (3) consecutive days with pay for the hours that they are normally scheduled to work, not to exceed twenty-four (24) hours.

## III. Requesting Bereavement Leave

Bereavement leave requires the completion of the Leave Request Form on the electronic timesheet system and subsequent approval from the employee"s immediate supervisor. The department may grant vacation leave, sick leave, personal leave or compensatory time to extend the bereavement leave. Bereavement leave and any extension may be subject to verification.

Management retains the right to request verification if necessary. Bereavement leave will be granted in the case of a stillbirth. In this situation, the tendering of a death certificate may be required.

# CHARITABLE & FUNDRAISING ACTIVITIES

## *Policy Number 507.0*

| | |
|---|---|
| Purpose: | To provide employees with guidelines for charitable and fundraising activities on state property. |
| Date Revised: | October 2011 |
| Cross Reference: | ORC §124.135; OAC §123:1-28-01 |

## I. General Information

This policy is designed to set forth the following guidelines related to charitable solicitations, fundraisers and other charitable activities conducted by state employees during normal working hours. The policy is further intended to: (1) strictly prohibit any form of gambling; (2) limit the number of state-sanctioned charities which can actively raise funds on state time; (3) provide guidance on the types of fundraising activities which are acceptable; and (4) allow non-charitable, employee-oriented fundraising activities at the discretion of the Director. The following guidelines and restrictions apply:

1) The Combined Charitable Campaign ("CCC") is the primary state-sanctioned fundraising program.

2) Any activities sponsored by individual charities which belong to the CCC shall not be officially supported by the department. For example, charities such as the Ohio Hunger Task Force receive donations through payroll deduction and should not receive official state support for his/her non-CCC charitable fund-raisers, such as the Task Force Bike-a-Thon. This does not mean that individual employees are not permitted to participate or encourage fellow employees to participate as part of an individual effort by that employee.

3) Operation Feed and Holiday Food Basket, on the other hand, are not members of the CCC and are permitted to sponsor events and fundraisers on state time. Participation in Operation Feed and Holiday Food Basket by employees is to be strictly voluntary.

4) Fundraising activities such as bake sales, dress casual days, craft sales, etc., associated with CCC and for other programs which are not a part of CCC, may only be conducted with prior approval of the Director, and must comport with all state laws and regulations.

5) At the Director's discretion, fundraising events may be held to raise money to benefit an individual employee. Examples may include purchasing retirement gifts, funeral flowers, collecting donations to assist a fellow employee with some family or medical hardship, and to support DAS-approved employee recognition awards.

6) Miscellaneous fundraising activities that include individual voluntary efforts such as the annual Girl Scout cookie sale, sales of candy bars to support a child's school, various walk-a-thons or swim-a-thons, etc., are permissible with approval by the Director. Individual efforts to support these miscellaneous fundraising activities shall be conducted before or after normal work hours, or during authorized breaks.

7) No other fundraising events may be conducted on state property during normal business hours.

8) Solicitation of items from a vendor, retail store, restaurant, or any other such private entity with which the department does business is prohibited. Solicitation of any entities with which the department does not do business needs to be authorized by the Director's Office.

9) No raffles, door prizes, cake-walks or other games of chance in any form may be used as a fundraising activity.

## II. Accountability

Each division's leaders and volunteers should consider the following to safeguard contributions:

1) Designate a coordinator and treasurer for the charity activity: Dual control translates into two-person accountability for all funds collected.

2) Follow cautious cash and check handling procedures: Maintain a revenue log recording cash and checks received; record all receipts as soon as possible; try to exchange cash for a Money Order payable to the charity on a weekly basis or at every $100.00 to $200.00 accumulation; and, the two-person team should reconcile funds collected each week.

3) All funds collected should be stored in the division safe, or alternative secured location every night. Charitable or fundraising monies should be stored separately from other items stored in the safe or secured location.

4) Document funds disbursed or payments made. Promptly pay all contributed funds to the respective charity at the conclusion of the designated fund raising time period; obtain the charity's receipt or other official acknowledgment for the total of all funds paid to the charity; keep all financial records and payment documentation about the fund raising activity for three years after the conclusion of the activity.

Any questions regarding specific charitable or fundraising events may be directed to the Office of the Director at (614) 466-1286, or the Office of the Chief Legal Counsel at (614) 644-1983.

# CHILDBIRTH / ADOPTION LEAVE

## *Policy Number 300.0*

| | |
|---|---|
| Purpose: | To provide an opportunity for employees to take leave to provide parental care, bonding, and/or acclimation immediately following the birth of a child or the adoption of a minor child, up to a maximum of six (6) weeks. |
| Revised Date: | October 2011 |
| Cross Reference: | Collective Bargaining Agreements – OCSEA Art. 30.08, FOP Art. 45.08<br>Department of Administrative Services(DAS) Adoption/Childbirth Leave Policy |

## I. Eligibility

To qualify for Childbirth/Adoption leave an employee must be a permanent Commerce employee who works an average of thirty (30) or more hours per week, and be the biological parent of the child, or in the case of adoption, the employee must be the legal guardian of and reside in the same household with the newly adopted child.

For part-time employees, the average regular hours worked (including holidays and use of paid leave) over the preceding three (3) month period shall be used to determine eligibility and benefits under this policy, provided that such benefits shall not exceed forty (40) hours per week. If the employee has not worked for a three (3) month period, the average number of hours for which the employee has been scheduled per week will be used to determine eligibility and benefits.

## II. Triggering Event / Procedure

Leave begins on the date of the birth of an employee's child or the placement of an adopted child into the employee's legal custody. Employees who desire to use Childbirth/Adoption leave are encouraged to apply in writing to the Office of Human Resources (HR) within two (2) working days following the birth or adoption of a child. The employee must also submit a leave request through the electronic timesheet system. If electronic submission of the leave request is impractical, the employee shall contact his/her immediate supervisor, HR representative or payroll administrator to facilitate the process.

## III. Leave and Benefit Amount

To qualify for Childbirth/Adoption leave, an employee must complete a fourteen (14) day waiting period, which commences on the date eligibility is established. An employee may work at the discretion of his/her appointing authority and/or may take unpaid leave, or may use any form of accrued paid leave or compensatory time for which they are qualified, or any combination thereof, during the waiting period. The waiting period under this section shall satisfy the waiting period for disability leave benefits for employees who qualify for additional leave due to disability, provided the employee does not work during the two (2) week waiting period. The remaining four (4) weeks of Childbirth/Adoption leave shall be paid at 70% of the employee's regular rate of pay.

For the duration of Childbirth/Adoption leave, employees are eligible to receive all applicable employer-paid benefits and accrue all forms of leave at their regular accrual rates as if they were in active pay status.

Eligible employees who adopt a minor child may elect to take two thousand ($2,000) dollars for adoption expenses in lieu of taking time off for Childbirth/Adoption leave. Payment may be requested upon placement of the child in the home. In the event the child is already residing in the home, payment may

be requested at the time the adoption is approved. Requests must be made in writing and provided to the Human Resources Director.

If an employee adopts multiple children, the event shall be considered a single qualifying event, and will not serve to increase the length of leave for the employee or the amount of adoption expenses received in lieu of receiving paid leave, so long as the children are adopted within six (6) weeks of each other.

## IV. Holidays

Employees shall not be eligible to receive holiday pay while on Childbirth/Adoption leave. Holidays shall be counted as one (1) day of Childbirth/Adoption leave and be paid as Childbirth/Adoption leave. The exception being during the waiting period, if an employee works the day before a holiday, the employee will be eligible to receive holiday pay as normal. Employees who work during a holiday shall be entitled to pay as provided pursuant to Policy # 305.0 the appropriate collective bargaining agreement, law or administrative rule.

## V. Use of Other Leave

Employees may utilize sick, vacation, personal leaves and/or compensatory time to receive pay during the fourteen (14) day waiting period and to supplement the 70% wages for the remaining four (4) weeks or any portion thereof. Employees may supplement their wages up to a combined total of 100% of their regular bi-weekly rate of pay. Employees using Childbirth/Adoption leave who meet the eligibility requirements of the Family and Medical Leave Act (FMLA) (i.e. must have worked for the State of Ohio for at least twelve (12) months and worked a minimum of 1,250 hours during that time) shall have the entire non-working period of Childbirth/Adoption leave counted toward the employee's twelve (12) week FMLA entitlement.

## VI. Working During Adoption/Childbirth Leave Period

Employees may work a reduced schedule during any portion of the six (6) week period, contingent upon the approval of the Division Head and the Director. Employees who are permitted to work a reduced schedule during such period shall establish a schedule that is acceptable to the Division Head. Only the time spent in non-work status during the period of Childbirth/Adoption leave may be applied as FMLA leave.

## V. Credit for Hours Worked or Supplemented

Employees who work or supplement their pay during the latter four (4) weeks of leave, as described above, shall have their pay for hours worked or supplemented, calculated so that working or supplementing 30% of their normally scheduled work hours during the pay period shall result in a bi-weekly pay amount equal to their regular bi-weekly pay. Supplemented hours worked shall be scheduled in advance. Employees who work more than 30% percent of his/her regularly scheduled hours shall forfeit paid Childbirth/Adoption leave on an hour for hour basis for all excess hours.

## VI. Duration

Childbirth/Adoption leave may not be taken beyond six (6) weeks from the date of birth or placement of a child for adoption. Childbirth/Adoption leave shall not be used to extend the layoff date of employees or to extend a period of employment.

## VII. Payment

Employees on Childbirth/Adoption leave shall receive leave pay, as described above, over the four (4) week period through the regular payroll process until 160 hours of Childbirth/Adoption leave time, or 160 hours of Childbirth/Adoption leave combined with hours worked, has been exhausted or the appropriate pro-rated number of hours for part-time employees has been exhausted.

## VIII. Overtime

No portion of Childbirth/Adoption leave is to be included in calculating overtime.

## IX. Coordination with Disability Leave

Employees who are receiving disability leave benefits prior to becoming eligible for Childbirth/Adoption leave shall continue to receive disability leave benefits for the duration of the disabling condition or as otherwise provided under the disability leave benefits program. In the event that an employee is receiving disability leave benefits for a pregnancy and such benefits terminate prior to the expiration of any benefits the employee would have been entitled to under Childbirth/Adoption leave, the employee will receive Childbirth/Adoption leave for such additional time without being required to serve an additional waiting period.

# COMPREHENSIVE COMPUTER USE

## *Policy Number 501.0*

| | |
|---|---|
| Purpose: | This policy is intended to summarize and clarify the position of the State of Ohio and the Department regarding the use of state-owned computers, computer software, computer systems or networks, and computer facilities. |
| Revised Date: | April 2012 |
| Cross Reverence: | DAS-OIT Statewide Information Technology Policy http://das.ohio.gov/Divisions/InformationTechnology/StateofOhioITPolicies/tabid/107/Default.aspx |

## I. General Information

The Ohio Department of Administrative Services Office of Information Technology (DAS-OIT) has issued a series of Policy Statements and Directives regarding the use by state employees of computer systems, encompassing all system components such as hardware, software and networks owned by or accessible through the State of Ohio. DAS-OIT has issued specific Policies and Directives to the various state departments regarding securing and protecting all state computer systems (DAS ITP B.1 through DAS ITP B.12 and DAS ITP E.8). DAS-OIT has the authority to set computer security and use policy under ORC §125.18 and ITP A.1. These policies apply to all employees of the Ohio Department of Commerce.

## II. Responsibility

All state employees or other persons who use state computers, systems, and/or computer facilities are responsible for using those resources appropriately. Misuse or abuse of the Department's computer systems components will be considered a violation of Department policy and in certain circumstances may constitute a crime under state or federal law. Recent changes to Ohio Revised Code Section 1347.15 (HB 648, effective 04-07-2009) places additional responsibilities on state employees and agencies with regard to handling of confidential personal information contained within the Department's systems. All persons using any Department's computer system components are required to understand and comply with this Comprehensive Computer Use Policy and the laws and statewide policies associated with it.

## III. Expectations of Privacy

Any users of Department computer systems shall have no expectation of personal privacy in regard to the use of such systems. Employee access to Department systems may be logged and system activity may be monitored and recorded. All files stored on servers and individual computers, including data files, e-mail, and other documents may be copied to tape or another media, recovered, and subjected to review or audit by designated Department personnel. Any review will be in compliance with federal and state law, as well as appropriate Department policies and procedures. The Department does not routinely review employees' files, but when circumstances warrant, computing personnel, security personnel and administrative personnel shall have the authority and right to review and audit individual employee files, including e-mail. Individual employee files and computers may also be reviewed, audited or searched when subject to a court order, subpoena or other process of law.

No Department employee shall take any action to protect the privacy of his/her computer files or e-mail, including, but not limited to, encryption or password protection, without prior approval of the Department Chief Information Officer (CIO).

## IV. Inappropriate Offensive Use of Computer Systems

No obscene or offensive material shall be entered into the computer or sent through Department networks and servers, the Internet, or any other electronic mail system. At all times, deliberate access of web sites containing

pornographic or sexually explicit material by any Department employee using state owned equipment or through state owned network lines is forbidden.

Computers and access to networks and servers shall not be used as an instrument or method to intimidate or offend any person. Using the computer as a means of communication to terrify, intimidate, harass, annoy or offend another person may result in disciplinary or legal action to the extent that such communication would be actionable under any other means of communication.

## V. Personally and Contractor Owned Computing Devices

Any personally owned (including contractor owned) computing device must receive written authorization from the Department's Information Technology Group (ITG) prior to that device's deployment to and/or connection with the state network. Any personal computing device, laptop computer, or personal digital assistant (PDA) that is connected to a state-owned computer or network shall comply with all state policies in regard to computer systems, including being subject to audit. The Department is exempt from maintenance of non-state owned computing device or the maintenance of the data stored thereon, even if either is used in support of official state business or while acting as an agent of the state. The Department disclaims any agency liability for the safeguarding of personally owned computer devices or data, including protecting personal data from corruption.

## VI. Personal Use of Computing Systems or Devices

The Department's computers and computer systems must only be used for the purposes for which they are authorized. Department computer systems and access to networks, storage drives, files and servers, including e-mail and internet services, shall not be used for personal or commercial purposes without the authorization of the Director or his/her designee.

## VII. Policy Affecting Personnel with Computer System Administrative Rights

Those employees or contractors specifically designated with administrative access rights shall not abuse administrative rights or privileges associated with computer systems. Abuse of administrative rights or privileges can be defined as;

1) Using system administrative rights to access or read e-mail associated within any user's e-mail account other than his/her own, without that user's permission or the written permission, or personal direction of the Chief Information Officer or the Human Resources Director. Access without permission from these sources is considered unauthorized.

2) Copying or transferring databases and files, including e-mail databases, e-mail accounts, or e-mail files in preparation for unauthorized access to data and communications by anyone.

3) Providing administrative rights or privileges to another person for the purpose of obtaining unauthorized access to data files and communications, including e-mail.

4) Using administrative rights or privileges to change or disable any security, access control list, active directories, logging, or tracking function within the computer system in order to hide unauthorized access to files and communications, including e-mail.

## VIII. Physical Security

Individuals shall protect computing devices, removable storage components and removable computer media from unauthorized access. Computing devices, computer media and removable components, such as disk drives and network cards, shall be stored in a secure environment when not in use. Devices should not be left unattended without employing adequate safeguards that would hinder unauthorized access. Safeguards shall also be taken to avoid unauthorized viewing of sensitive or confidential data, especially with portable computing devices used in public or common areas. Portable computing devices shall not be checked as baggage when traveling and they, along with associated removable computing components and computer media, must remain under visual control while traveling. If visual control cannot be maintained, then necessary safeguards should be employed to protect the physical device, storage components, removable media and associated data.

No computer hardware or software shall be removed from the premises of the Department, except with the approval from an authorized manager. Authorized managers are responsible for tracking location of equipment removed from the premises. Computers and software of the Department used off the premises shall be subject to the same limitations as set out in this Comprehensive Computer Use Policy as computers and software of the Department used on the premises of the Department.

## IX. Lost or Stolen Computing Devices

In the event that a computing device (including personally owned devices authorized for official state use) or computing media containing departmental data is lost or stolen, employees must immediately report it to his/her immediate supervisor. Employees shall follow-up with a written report which shall specify the time the computing device or media was noticed as missing, any circumstances surrounding its loss, and a description of the missing item.

## X. Intentional System Damage and Degradation

Department employees shall not deliberately attempt to damage or degrade computer and computer system performance or capability. Personal knowledge of loopholes in the computer systems, special passwords or other information shall not be used to damage a system or file, or to change or remove information in a system or file without authorization, and employees shall not make such personal knowledge available to others for such purposes.

Intentional circumvention of computer network security devices, software, or methods without prior approval of the agency CIO is prohibited.

## XI. Software and Software Licensing

The computer software in use at the Department is subject to licensing arrangements. Unauthorized copies of copyrighted material shall not be created, distributed, or knowingly utilized. Employees may use software on computers only if it has been legally obtained and if its use does not violate license or copyright restrictions.

Employees shall not modify, copy, install, or remove software on your computer without the express authorization of the division head or administrative chief, in consultation with the CIO. The Department reserves the right to remove any software or data from its computers and systems at any time and without notification.

Installing gaming software and playing computer games on computers is prohibited.

Use of automated software upgrades via the internet is prohibited unless authorized by ITG.

## XII. Responsibility for Password Protection

Each employee has the responsibility to protect any assigned computer password. Employees will take appropriate steps to safeguard his/her passwords and keep them confidential. Employees that are required to construct a password for Department computers or software shall refrain from constructing a password that contains obvious information such as nicknames or dates. Employees should construct passwords that are at least eight characters long and are composed of both alpha and numeric characters. Employees may not use a social security number as a password.

## XIII. Internet Use

Employees, temporary personnel, contractors, or other agents of the state shall be held accountable for his/her use and misuse of government resources, including access to the Internet. Acceptable use of the Internet is defined in Ohio IT Policy ITP-E.8, “Use of Internet, Electronic Mail and Other IT Resources.”

Department employees shall not use Internet access for any activity other than official business. Employees should only visit trusted sites associated with their official activities and in pursuit of information for official

business. Access to the internet is granted to the employee by the Department and such access may be removed without notice.

Downloading information from non-work-related sources is prohibited. Employees have the expressed duty to assist in the protection of its computer systems from malicious code "viruses". Therefore files downloaded from the Internet shall be checked for malicious code. Employees shall refrain from opening a file downloaded from the Internet with an ".exe" name extension. In the event or suspicion that malicious code has been received, the employee, temporary personnel, contractor or other agent of the state shall report the activity to division senior management or ITG.

Participation in chat rooms, open forum discussion groups, interactive messaging, or posting to Internet news groups is not permitted without the written authorization of the Superintendent of the division for which the employee works, the Chief of Communications and the CIO (see section XV below).

## XIV. E-mail Use

Employees, temporary personnel, contractors, or other agents of the state shall be held accountable for use and misuse of state e-mail accounts. Acceptable use of state e-mail is defined in Ohio IT Policy ITP-E.8, "Use of Internet, Electronic Mail and Other IT Resources." Also, as per the section entitled, "No Expectations of Privacy" contained in this Policy, there shall be no expectation of privacy on the part of the employee in regard to a departmental e-mail account.

Department employees shall not use state e-mail accounts for any activity other than official business. Employees should only use e-mail for official communications in conjunction with his/her job duties. Employees shall use only the authorized Department Signature Line as their e-mail signature. Use of personal quotes, graphics, or other unauthorized information in signature line is prohibited. In addition, the use of background themes, wallpaper, or other graphic representations not authorized by the Department is also prohibited. Access to a state e-mail account is granted to the employee by the Department and any account may be removed without notice.

Department employees shall not have "read receipts" and "received receipts" activated on all outgoing e-mail messages. Such receipts create unnecessary traffic on the network and should only be used when necessary. All employees shall treat e-mail attachments with caution. Employees shall refrain from opening an e-mail attachment with an ".exe" or a ".com" name extension or enable a spreadsheet attachment's macros without first verifying, through telephone or other communications with the author of the e-mail and/or document, that the attachment is legitimate and virus free particularly if the author of the email is unfamiliar to them.

Employees shall not attempt to use or access personal e-mail accounts from outside vendors (hotmail, Google mail or gmail, yahoo mail, etc.) from his/her state owned computers, unless authorized to do so by the agency CIO. Forwarding email from a state account to a personal e-mail account or from a personal email account to a state email account is permissible. However, the employee must understand that if they do so, their personal email account could then be subjected to audit or public information requests under certain circumstances.

Employees shall not attempt to send messages to the entire Department. Any broadcast message request shall be reviewed and sent by a member of the Director's Office, the Communications Chief or the Human Resources Director.

The forwarding of unauthorized "chain letters" is prohibited.

## XV. Use of Social Media

The use of social media platforms (e.g., Facebook, YouTube, Twitter) by employees at work is prohibited and considered to be in violation of this policy, except when expressly authorized by the Director for official business.

Examples of proper official business use may be a communications, marketing or outreach strategy. Any Commerce division that wishes to use any social media platform as part of their communications plan or outreach effort must obtain approval from the Director and Commerce Chief of Communications and adhere to any applicable guidelines published by the State.

Even if use is granted to an individual employee or division, Commerce reserves the right to delete or block the following types of content:

- Vulgar or offensive language
- Content (or a user) that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation
- Spam
- Content that advocates illegal activity
- Promotion of particular services, products
- Content that supports or opposes political campaigns or ballot measures.
- Infringement upon copyrights or trademarks
- Information that may tend to compromise the safety or security of the public or public systems

## XVI. Additional Responsibilities for Protecting Computer Systems from Malicious Code

In addition to the responsibilities stated in the sections entitled “Internet Use” and “E-mail Use” of this policy regarding malicious code or viruses, employees shall check all removable media, such as diskettes and CD-ROM’s for malicious code before they are used on Department systems.

Employees, temporary personnel, contractors, or other agents of the state shall not knowingly distribute malicious code nor shall they disable anti-virus software.

Employees with laptops and mobile devices in the field shall regularly connect those devices to the state network in order to automatically obtain the latest anti-virus or malware protection patterns from the agency’s anti-virus systems.

## XVII. Non-Compliance

Individuals who violate this Comprehensive Computer Use Policy shall be subject to disciplinary procedures and sanctions. This policy applies to all computer system components of ODOC as well as all computer system components operated and managed by individual divisions of ODOC. Disciplinary action for violating the policy shall be governed by, but not limited to, the applicable provisions of employee handbooks, policies of the department and its divisions, as well as applicable state and federal law. Persons who violate this policy may have his/her access privileges to department’s computing systems revoked, may be subjected to disciplinary action, up to and including removal, or may be personally liable for civil and criminal penalties.

# COURT LEAVE

## *Policy Number 306.0*

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|---|---|
| Purpose: | To provide employees the ability to attend to civic responsibilities related to jury or witness duty, court appearances and/or hearings. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC §124.135; OAC §123:1-34-03, OCSEA Art. 30.05, FOP Art. 46 |

## I. General Information

Leave with pay at regular rate shall be granted to any employee who:

1) is summoned for jury duty by a court of competent jurisdiction, or

2) is subpoenaed to appear before any court, commission, board or other legally constituted body authorized by law to compel the attendance of witnesses, where the employee is not a party to the action.

## II. Requesting Leave

Employees must notify his/her supervisor immediately upon receiving a jury/witness duty notice, subpoena or summons. Court leave requires the submission of an electronic leave request. Tentative effective date and time shall be entered in the "comments" section of the form. A copy of the jury duty notice, subpoena or summons shall be provided to the supervisor and the Office of Human Resources (HR). The leave request and documentation will be held by supervisor until the end of the court leave. When the court leave is concluded, the employee shall document attendance at court showing dates and hours of service.

Jury Duty: Employees shall be granted court leave for jury duty. When not impaneled for actual service and only on call, the employee shall report to work as soon as reasonably possible after notification that his/her services will not be needed. In cases where the employee would report with less than four (4) hours remaining in the work day, the employee need not report.

Employees called to jury/witness duty shall submit any payments for services received in excess of fifteen ($15) dollars per day to the department's fiscal office. Any statement from the court, together with payment for jury/witness duty received in excess of $15 dollars per day, shall be attached to a copy of the request for leave form and forwarded through proper chain of command to the fiscal office. Failure to turn in compensation from court leave will be cause for denial of the excused leave. Employees would then be responsible for utilizing accumulated leave time to cover the absence.

## III. Employee Who is a Party to the Matter Before a Court

Court leave does not apply to an employee who is appearing before a court or other legally constituted body in a matter in which he/she is a party. In order to attend to these matters, an employee may be granted vacation time, personal time, accrued compensatory time or leave without pay. Such instances would include, but not be limited to:

1) criminal or civil cases;
2) traffic court;
3) divorce proceedings;
4) custody proceedings; or
5) appearance as directed as parent or guardian of juveniles.

## IV. Employee Who is an Appellant in Action Before State Personnel Board of Review

An employee who is the appellant in any action before the State Personnel Board of Review and is in active pay status at the time of a scheduled hearing before the Board shall be granted court leave with full pay for purposes of attending the hearing.

## V. Employees Appearing Before Boards or Commissions Established by Law

Employees in active pay status who need to appear before the following boards or commissions shall be granted the actual time necessary for the appearance plus reasonable travel time. These boards are:

1) Bureau of Worker's Compensation;
2) State Personnel Board of Review;
3) Ohio Civil Rights Commission;
4) Equal Employment Opportunity Commission; or
5) State Employees Relations Board.

The Director, at his/her discretion, may grant actual time necessary for appearance plus reasonable travel time for employees that are required to appear before any other board or commission not listed above.

Employees appearing for, or representing, the agency in any hearing of a court of law will be carried in work status and should charge his/her time to his/her normal project or functions.

# Customer Service Standards

*Policy Number 401.0*

| | |
|---|---|
| Purpose: | To define expected stands for interaction with Commerce customers |
| Date Revised: | October 2012 |
| Cross Reference: | ORC §121.91 |

## I. Definitions

Customer: Any individual who contacts the Department. This includes external individuals, state employees from another agency and fellow Commerce employees.

## II. Policy

Employees are expected to provide the highest level of service to all customers at all times.

Employees will communicate with customers, whether in person, in writing, via telephone and/ or via email, in a manner that is respectful, courteous and professional at all times. Employees are expected to use plain language to communicate. This includes being free of acronyms that would only be understood by internal employees who are fully versed in the subject. Employees will listen to customers with the goal of understanding their issue or concern and will assist them in finding a final resolution to their issue. Employees will respond to all inquiries in a timely manner.

Employees, when responding to an inquiry, will provide accurate and complete information to the customer by the deadline agreed upon when the request is made. Initial inquiries should receive a response no more than 48 hours, even if only to acknowledge receipt of the inquiry and to set a deadline to provide additional information to fulfill the request. Employees should inform the consumer if they are unable to meet the agreed upon deadline as soon as they become aware that the deadline will be missed. If an employee cannot answer a customer's inquiry, the employee will find another appropriate employee, whether in Commerce or another State agency, who can be of assistance. If an employee is unable to find such person, the employee will notify his/her supervisor and the Supervisor will work with the employee to find an appropriate individual to assist the customer. If a customer's request cannot be granted, the employees will clearly explain the reason(s) why the request cannot be granted. Employees who are unable to resolve the customer's issue to the customer's satisfaction will immediately notify their supervisor and provide them with the customer's contact information and a brief description of the issue. Supervisors are expected to follow up with the customer to try to resolve the issue.

Commerce realizes that not all customer issues will be resolved to the satisfaction of the customer. In those situations, employees should continue to provide the highest level of service, maintain a professional tone at all times.

## III. Education and Awareness

As part of the Department's education and awareness program for employees, the contents of this Policy will be described in all new employee orientations, and a copy of this Policy will be provided to all contractors, temporary personnel and other agents of the Department. Various classes/seminars with be offered to employees so they further develop their customer service skills.

## IV. Penalties

Violation of this Policy may result in disciplinary action up to and including removal.

# DEFERRED COMPENSATION

## *Policy Number 503.0*

| | |
|---|---|
| Purpose: | To inform employees about an opportunity to invest through payroll deduction. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC Chap.148; OAC §148-1-01 |

## I. General Information

The Ohio Public Employees Deferred Compensation Program (Deferred Comp) is a supplemental retirement plan that offers all Ohio public employees the opportunity to accumulate tax-deferred assets to meet their long-term financial goals and to provide a desirable lifestyle and peace of mind in retirement.

As a supplement to other retirement benefits or savings that you may have, this voluntary program allows you to save and invest extra money, tax-deferred, for retirement. If you are interested in saving and investing additional money for retirement, and/or reducing the amount of current federal and state income taxes you pay each year, Ohio Deferred Compensation may be an excellent tool to help make your future more secure.

## II. Before-Tax Wages

Under the Deferred Comp, you may save before-tax wages as a retirement investment through a payroll deduction. You pay no current federal or state income taxes on money deposited to the program, and such deposits can accumulate with current interest earnings that are also tax deferred.

## III. Enrollment

Any public employee who is eligible for membership in one of the state's statutory retirement systems (including the City of Cincinnati retirement system) is eligible to enroll.

Upon hire, employees will be provided information on Deferred Comp regarding the benefits of long-term savings through deferred compensation. Employees must complete an election form regarding their desire to participate or not participate in the program. The Office of Human Resources will forward the election form to Deferred Comp no later than forty-five (45) days after the employee's hire date.

## IV. Contact Information

Ohio Deferred Comp is located at:

Ohio Deferred Compensation
257 East Town Street
Suite 457
Columbus, Ohio 43215-4626

Toll-free at (877) 644-6457 or locally at
(614) 221-9457

Further information can be found on-line at www.ohio457.org.

# DISABILITY BENEFITS

## *Policy Number 504.0*

| | |
|---|---|
| Purpose: | To inform employees of the guidelines of the disability leave program. |
| Revised Date: | October 2011 |
| Cross Reference: | Ohio Administrative Code 123:1-33<br>DAS Benefits Administration Services<br>OCSEA Contract (Article 35); FOP Unit 2 Contract (Article 43) |

## I. Eligibility

After one (1) year of continuous state service, full-time permanent employees may be eligible to receive disability benefits for illnesses, pregnancy and injuries that occur away from work from the Department of Administrative Services (DAS). Part-time permanent employees who have worked fifteen hundred (1,500) or more hours within the twelve (12) calendar months preceding disability shall be entitled to disability benefits based upon the average regular weekly earnings.

## II. Waiting Period

There is a mandatory fourteen (14) consecutive day waiting period prior to the start of any paid disability benefit. If you are aware that a disability will exceed the waiting period, you should contact the agency's Disability Administrator immediately to obtain the proper forms and instructions to file for disability benefits.

## III. Benefits Entitlement

Effective March 1, 2006, employees are entitled to a one (1) year lifetime maximum of disability leave benefits. All claims filed before March 1, 2006, would not be counted towards that one (1) year lifetime maximum.

Once disability benefits have been approved and the mandatory fourteen (14) day waiting period has been served, disability benefits will begin. Disability benefits are paid at sixty-seven percent (67%) of an employee's wages. An employee may choose to supplement disability leave benefits to one hundred percent (100%) of his/her pay by utilizing their accrued leave balances. If an employee wishes to supplement their disability leave, this would need to be indicated on the application for disability benefits.

Employees who are eligible for the Family and Medical Leave Act (FMLA) would have the first twelve (12) weeks of disability benefits, including the waiting period, counted concurrently as FMLA hours.

If an employee's disability is deemed permanent, the employee is required to file an application for disability retirement with the state employee's retirement system. The disability retirement process is separate from State of Ohio's disability program.

## IV. Applying for Disability Leave

Employees must apply for disability benefits within twenty (20) days of his/her last day worked. The employee, a member of the employee's family, or a representative of the employee, may file an application for disability leave benefits with the Disability Administrator. The application must be filed on the designated forms, completed in its entirety and submitted to DAS through the agency Disability Administrator within twenty (20) days of the last day the employee worked. Where extenuating circumstances prevent an employee from filing an application for disability leave benefits within the

required time frame, a written statement explaining such extenuating circumstances must be filed within a reasonable time after the twenty (20) day time period has expired.

It is the employee's responsibility to provide written documentation to substantiate the cause, nature, and extent of the disabling illness, injury, or condition for which the employee is requesting disability leave benefits. A medical examination report shall be required prior to the granting of disability leave benefits and the employee shall be responsible for the cost of obtaining such report. If deemed necessary, DAS may order a medical examination.

An employee is obligated to consult a state licensed practitioner to receive necessary medical care and is obligated to follow prescribed treatment for the disabling condition to receive disability benefits. In the case of alcohol or other drug addiction diagnoses or mental health diagnoses, employees will be obligated to follow prescribed treatment in accordance with section 123:1-33-01(D) of the Ohio Administrative Code (OAC). If an employee does not consult a state licensed practitioner for necessary medical care or does not consistently follow prescribed treatment for the disabling condition, then the employee may be disqualified from receiving disability leave benefits in accordance with section 123:1-33-11 of the OAC.

The employee will be notified in writing of the disability determination within forty-five (45) days of receipt of the application by DAS and will also be advised of the right of appeal pursuant to OAC section123:1-33-04. If a determination cannot be made within forty-five (45) days of receipt of the application, then the Director or designee will notify the employee of the delay.

## V. Disability Extension and Appeal

While on disability, if it becomes necessary to submit additional information, if there is a need to be off longer than anticipated, or if there is a change in the employee's condition, contact the agency Disability Administrator immediately to obtain the proper forms and instructions for extension. Additional information must be submitted to the agency within twenty (20) calendar days from date on the DAS letter or twenty (20) calendar days from the last date of benefits, whichever is greater.

If the employee disagrees with the determination regarding the request for disability leave benefits, the employee may request to appeal the decision. DAS will send a letter notifying the employee the reason for the decision and what information is needed in order to reconsider the claim. An appeal must be filed within thirty (30) calendar days from the date of the DAS notification. Failure to meet this deadline will result in the closing of the disability claim.

# DISCIPLINE

## *Policy Number 201.0*

| | |
|---|---|
| Purpose: | To standardize the procedures used to impose disciplinary actions, and to provide a list of offenses along with the recommended corrective action. |
| Revised Date: | January 2013 |
| Cross Reference: | ORC §124.34;<br>OAC §123:1-31; §123:1-46-07<br>OCSEA Art. 24; FOP Art. 19 |

## I. Disciplinary Guidelines

Disciplinary action is intended to correct employee behavior and will be imposed at the lowest level appropriate for the offense. This policy provides a list of offenses and the recommended corrective action associated with each violation. An employee may also be charged with violating a specific policy or procedure that was issued or communicated at the Department, Division, Bureau, Section, or front line supervisor level.

Discipline of classified employees who are exempt from collective bargaining shall be consistent with the statutes of ORC §124.34 and OAC 123:1-31.

In a case where disciplinary action is contemplated, voluntary participation in the Employee Assistance Program (EAP) may be considered as a mitigating circumstance, but only if a formal EAP agreement is entered into. Upon successful completion of the EAP agreement, the agency head or designee may give consideration to modifying the contemplated disciplinary action (See the description of the EAP program contained in this manual).

## II. Progressive Discipline

The Department follows the principles of progressive discipline. Discipline will become more severe if misconduct is not corrected. Disciplinary action will progress as follows:

1) Verbal Reprimand
2) Written Reprimand
3) 2 Day Suspension
4) 5 Day Suspension
5) Removal

All 5 Day Suspensions will be treated as a final notification to rehabilitate. If it is determined that discipline should progress after the issuance of a 5 Day Suspension, the employee shall be removed from his or her position.

Working suspensions may be used at the discretion of the Director or designee in lieu of an unpaid suspension away from work. Working suspensions hold the equivalent level as unpaid suspensions for purposes of progressive discipline, but an employee will be required to work on the day(s) of suspension and will receive pay.

The decision to issue a reprimand will usually be made at the Division, Bureau, Section, or front line supervisor level. Supervisors shall consult HR Labor Relations prior to issuing discipline. The decision to issue a suspension and/or a disciplinary removal shall be made at the Department level by the Director or designee.

## III. Appeals

Bargaining unit employees shall follow applicable OCSEA/AFSCME/AFL-CIO or FOP/Ohio Labor Council, Inc. contract provisions. Classified exempt employees shall follow applicable rules of the State Personnel Board of Review. Unclassified exempt employees do not have the right to appeal disciplinary actions.

## IV. Retention of Disciplinary Record

Bargaining unit employees should consult the contract for guidelines pertaining to the removal of any disciplinary action.

Exempt employees follow OAC §123:1-46-07 as it pertains to retention of disciplinary records:

1) All records relating to verbal and/or written reprimands will cease to have any force and effect and shall be removed from an employee's file twelve months after the date of the verbal and/or written reprimand if there has been no other discipline imposed during the past twelve months.

2) Records of other disciplinary actions beyond verbal and/or written reprimands shall cease to have any force and effect and shall be removed from an employee's file twenty-four months after the date discipline was imposed if there has been no other discipline imposed during the past twenty-four months.

3) The retention periods established above may be extended by a period equal to employee leaves of fourteen consecutive days or longer, except for approved periods of vacation leave.

## V. Disciplinary Grid

Disciplinary action shall be commensurate with the offense. The following is a list of offenses and their penalty. This list is merely illustrative and is not intended to be all inclusive. The Department reserves the right to impose lesser or greater discipline depending on the circumstances of the offense. Factors considered in applying the appropriate penalty for an infraction include, but are not limited to, the severity of the offense, the employee's disciplinary record, and mitigating circumstances if any. Discipline does not have to be for like offenses to progress to the next level.

# *DISCIPLINARY GRID*

| VIOLATION | | | RECOMMENDED DISCIPLINE | | | | |
|---|---|---|---|---|---|---|---|
| | | | **1st Offense** | **2nd Offense** | **3rd Offense** | **4th Offense** | **5th Offense** |
| 1 | Neglect of Duty | Endangers life, property or public safety | 5 Day Suspension Or Removal | Removal | | | |
| | | Fails to timely and/or accurately perform any job duty and/or impedes another employee's work performance | 2 Day Suspension | 5 Day Suspension | Removal | | |
| | | Performs any job duty inefficiently or at a substandard level | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal | |
| 2 | Insubordination | Knowingly and/or willingly refuses to follow a direct order; open defiance of authority | 5 Day Suspension or Removal | Removal | | | |
| | | Failure to follow written or known policies, procedures, practices and/or supervisory direction | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal | |
| 3 | Exercising poor judgment in carrying out and/or following assignments, instructions, written policies, procedures and/or work rules | | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 4 | Failure of Good Behavior - any actions disruptive to the workplace; unprofessional conduct; discourteous and/or rude treatment of another or the public | | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 5 | Any act that embarrasses, discredits or interferes with the Department's mission | | Depends on the severity of the offense | | | | |
| 6 | Violation of the computer use policy | | Depends on the severity of the offense | | | | |
| 7 | Dishonesty - to include, but not limited to, falsifying, altering or removing an official document or electronic record; providing false information in an investigation; or filing a knowingly false complaint/accusations | | 5 Day Suspension Or Removal | Removal | | | |
| 8 | Violation of Ohio Ethics Law | | Depends on the severity of the offense | | | | |
| 9 | Interfering with, and/or failing to cooperate in an investigation or review | | 2 Day Suspension To Removal | 5 Day Suspension To Removal | Removal | | |
| 10 | Engaging in outside employment without agency registration | | Depends on the severity of the offense | | | | |
| 11 | Engaging in prohibited political activities | | Depends on the severity of the offense | | | | |
| 12 | Sleeping while on duty | | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal | |
| 13 | Participating in an illegal work stoppage, slow down, illegal strike or sit out | | 5 Day Suspension Or Removal | Removal | | | |
| 14 | Violation of anti-drug and alcohol policies | | 5 Day Suspension Last Chance Or Removal | Removal | | | |

| VIOLATION | | RECOMMENDED DISCIPLINE | | | | |
|---|---|---|---|---|---|---|
| | | **1st Offense** | **2nd Offense** | **3rd Offense** | **4th Offense** | **5th Offense** |
| 15 | Intentional destruction or damage to state property including issued equipment and vehicles, property of visitors, general public and/or other employees | 2 Day Suspension To Removal | 5 Day Suspension To Removal | Removal | | |
| 16 | Unauthorized use of state time, phones, supplies and/or equipment | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 17 | Carelessness in the use of state equipment or property | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 18 | Unauthorized use of a state vehicle to include violation of traffic code; unauthorized transport | Depends on the severity of the offense | | | | |
| 19 | Failure to report an auto accident as outlined in travel and vehicle use policies; failure to report a traffic violation or citation | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 20 | Failure to report a workplace accident or injury | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 21 | Threat or act of physical violence; violation of policies dealing with workplace violence | 5 Day Suspension Or Removal | Removal | | | |
| 22 | Possession of an unauthorized weapon while on or in state property or while performing official job duties | 5 Day Suspension Or Removal | Removal | | | |
| 23 | Any act of discrimination, harassment and/or retaliation based upon a protected class to include, but not limited to, race, color, sex, national origin, ancestry, disability, religion, age, veteran status, military status, sexual orientation or genetic information | Depends on the severity of the offense | | | | |
| 24 | Sexual harassment | 5 Day Suspension Or Removal | Removal | | | |
| 25 | Immoral, obscene or indecent conduct | Depends on the severity of the offense | | | | |
| 26 | Failure to supervise e.g. failure to impose discipline, enforce policy, carry out directive(s) or otherwise lack accountability | Depends on the severity of the offense | | | | |
| 27 | Violation of ORC 124.34: Dishonesty, incompetence, inefficiency, insubordination, drunkenness, immoral conduct, neglect of duty, failure of good behavior, discourteous treatment of the public, acts of misfeasance, malfeasance or nonfeasance | Depends on the severity of the offense | | | | |
| 28 | Theft | Removal | | | | |
| 29 | Felony Conviction | Removal | | | | |
| 30 | Failure to adhere to Ohio's Access Rules regarding confidential personal information (CPI) | Depends on the severity of the offense | | | | |
| 31 | Commit acts that impair or compromise the ability to carry out his/her duties as a public employee effectively e.g. allowing licensure to expire, be suspended or revoked; failure to obtain, maintain or renew certification licenses, etc. | 5 Day Suspension Or Removal | Removal | | | |

| VIOLATION | | | RECOMMENDED DISCIPLINE | | | | |
|---|---|---|---|---|---|---|---|
| | | | **1st Offense** | **2nd Offense** | **3rd Offense** | **4th Offense** | **5th Offense** |
| 32 | Leaving work area, extending breaks or lunch, or leaving work early without authorization | | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 33 | Working in excess of scheduled hours without authorization; unauthorized overtime | | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 34 | Alter work hours, to include adjusting lunch periods, without authorization | | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 35 | Tardiness - arriving at work 30 minutes or less after start time (See Hours of Work Policy 313.0, Section III Tardiness) | | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 36 | Failure to notify supervisor or designee within 1/2 hour of start time of any absence or tardiness | | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 37 | Failure to provide a valid physician's statement or medical/emergency certification when requested and/or when sick leave balances are below 17hours | | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| 38 | Unauthorized Or Unapproved Absence<br><br>(Any leave not approved in advance, exceeding available leave balances, or lacking appropriate documentation) | Under 1 Day | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| | | 1 Day | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal | |
| | | More than 1 Day, or up to 2 Days Consecutive | 2 Day Suspension | 5 Day Suspension | Removal | | |
| | | More than 2 Days, or up to 3 Days Consecutive | 5 Day Suspension | Removal | | | |
| | | More than 3 Days Consecutive | Removal | | | | |
| | | 3 Consecutive Days without notification | Removal | | | | |
| 39 | Violation of sick leave policies | Pattern abuse: to include, but not limited to, the requirements outlined in the policy | Verbal Reprimand | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal |
| | | Misuse of sick leave | Written Reprimand | 2 Day Suspension | 5 Day Suspension | Removal | |
| | | Providing a fraudulent physician's statement or other medical document | 5 Day Suspension Or Removal | Removal | | | |
| 40 | Misuse or abuse of any approved leave to include workers' compensation, FMLA, disability, military, vacation, etc. | | 5 Day Suspension Or Removal | Removal | | | |

# DRUG-FREE WORKPLACE

## *Policy Number 505.0*

| | |
|---|---|
| Purpose: | The department is committed to providing an alcohol and drug free environment for our employees. This policy provides necessary assistance in assuring minimal health and safety risks within the department. |
| Date Revised: | October 2011 |
| Cross Reference: | State of Ohio Drug Free Workplace Policy; OCSEA Appendix M; FOP Appendix E |

## I. Requirements

Employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing or using alcohol or a controlled substance in the workplace. "Controlled substance" means those substances defined in Sections 3719.01 and 3719.41 of the Ohio Revised Code.

Employees are required to report to work in a fit condition to perform his/her duties. If an employee reports to work under the influence of alcohol or other drugs, it will be considered a violation of this policy, and the employee will be subject to disciplinary action.

The department prohibits employees on official business, on or off the worksite, from purchasing, transferring, using or possessing illegal drugs, consuming and/or being under the influence of alcohol, or abusing prescription drugs in any way that is illegal. Employees found to be under the influence of alcohol and/or other drugs while on official business, on or off the worksite, will be subject to discipline.

The sale or possession of alcohol or illicit drugs in the workplace or any location where employees conduct official business shall be reported to the Ohio State Highway Patrol or other appropriate law enforcement authorities. Additionally, employees who possess or sell alcohol or illicit drugs in the workplace or any location where employees conduct official business will be subject to discipline. Sale of illicit drugs in particular will result in the strongest form of discipline possible, up to and including termination.

An employee is required to notify the Human Resources Director within five (5) days after he/she is convicted of a violation of any federal or state criminal drug statute where such violation occurred at the workplace or any location where official business is conducted. A conviction means a finding of guilty, no contest (including a plea of *nolo contendere*) or the imposition of a sentence by a judge or jury in any federal or state court. Any employee who fails to report such a conviction will be subject to immediate termination. Within thirty (30) days of such notification, the Director will be required to take appropriate disciplinary action against such an employee, up to and including termination.

## II. Categories of Drug/Alcohol Testing

1) Random Testing: Random drug-testing that is conducted on employees identified as safety-sensitive under the collective bargaining agreements or Federal law. For more information on drug testing procedures, go to the http://das.ohio.gov., or review Ohio Administrative Code section 123:1-76 Drug-Free Workplace Program.

2) Reasonable Suspicion Testing: Drug-testing where there is reasonable suspicion to believe that an employee, when appearing for duty or on the job, is under the influence of, or his/her job performance is impaired by, alcohol or other drugs. The employee may be required to submit a urine specimen for testing the presence of drugs or a breath sample for testing the presence of alcohol.

3) Pre-Employment Testing: All applicants for unclassified positions, commercial driving positions (those requiring a commercial driver's license) and positions designated as safety-sensitive must submit to urine drug tests prior to employment with the department.

4) Return-to-Duty Testing: If an employee tests positive for controlled substances or tests .04% or over for alcohol, the Office of Human Resources (HR) shall schedule a return-to-duty alcohol or drug test at the collection site before an employee may return to duty. The employee shall not return to duty unless the controlled substances test is negative; four hours has elapsed since the employee used alcohol; and his/her blood alcohol content tests below .02%. A return-to-duty test may be for alcohol or drugs or both, depending upon the recommendation of HR. The employee shall be responsible for the cost of return-to-duty testing.

5) Follow-Up Testing: Any employee referred through administrative channels to a counseling or rehabilitation program as a result of the employee's on-the-job substance abuse may be subject to follow-up testing according to specifications and provisions of the collective bargaining agreement or the Director of the Department of Administrative Services. The employee attending and adhering to a counseling or rehabilitation program may still be subject to disciplinary action for workplace or job-related incidents that may be directly or indirectly associated with the drug and/or alcohol test results. These tests are to be scheduled as directed by HR. Follow-up testing for alcohol shall be scheduled just before, during or just after the performance of safety-sensitive duties. Drug testing may be scheduled at any time. The employee is responsible for the cost of follow-up testing.

6) Post-Accident Testing: When an employee is involved in an ON-DUTY accident in which there is a fatality, the employee shall submit to post-accident drug and alcohol testing. When an employee is involved in a recordable accident and receives a citation for a moving violation arising from the accident, the employee must contact the employer as soon as possible. In the event an employee is so seriously injured that the employee cannot provide a urine or breath specimen at the time of the accident, the employee must provide necessary authorization for the employer to obtain hospital records or other documentation that would indicate whether there were controlled substances or alcohol in the employee's system at the time of the accident.

An employee cannot be forced to submit to a drug and/or alcohol testing against his/her will. Refusal to submit to a pre-employment drug and/or alcohol test will be grounds for refusal to hire or promote applicants. Additionally, refusal to submit to post-accident testing, random testing, return to duty testing, reasonable suspicion testing or follow-up testing shall be considered a positive drug test and/or a positive alcohol test of .04% blood alcohol concentration. Refusal to submit to proper testing constitutes refusal of a direct order (insubordination) which is subject to disciplinary action.

Any drug and/or alcohol testing shall be conducted in accordance with applicable federal laws and/or regulations and the rules of the DAS Drug-free Workplace Program.

## III. Prohibited Conduct

- No employee shall report for duty or remain on duty while having an alcohol concentration of .04% or greater.

- No employee shall use alcohol while performing safety-sensitive functions.

- No employee shall perform safety-sensitive functions within four (4) hours after using alcohol.

- No employee required to take a post-accident alcohol test shall use alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.

- No employee shall refuse to submit to a post-accident alcohol or drug test, a random alcohol or drug test, a reasonable suspicion alcohol or drug test, or a follow-up alcohol or drug test.

- No employee shall report for duty or remain on duty when the employee uses any controlled substance. The exception would be when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to operate a commercial motor vehicle or perform safety-sensitive functions.

If the employer has actual knowledge or has reason to believe that an employee has engaged in prohibited conduct, the employer may require the employee to submit to drug and/or alcohol testing.

If an employee engages in prohibited conduct, the employee is not qualified to drive a commercial motor vehicle, or perform safety-sensitive functions and shall be immediately removed from his/her normal job duties. Such employee may be assigned other job duties until he or she becomes re-qualified.

## IV. Disciplinary Process and the EAP

On the first occasion in which any employee is determined to be under the influence of, or using, alcohol or other drugs while on duty as confirmed by reasonable suspicion drug testing pursuant to this provision, the employee will be given the opportunity to enter into and successfully complete a substance abuse program through the Ohio Employee Assistance Program (EAP) certified by the Ohio Department of Alcohol and Drug Addiction Services. No disciplinary action shall be taken against the employee provided he or she successfully completes the program and is never again found to be under the influence of, or using or abusing, alcohol or drugs while on duty.

However, discipline would be imposed if the employee:

1) Violates the terms of the formal EAP Agreement;

2) Attempts to tamper with the test results;

3) Refuses to be tested; or

4) Refuses to enroll in a rehabilitation/treatment program.

The confidential nature of the medical records of employees with substance abuse problems shall be preserved. Similarly, all records relating to drug tests and his/her results shall be maintained in strictest confidence by HR.

# EDUCATION LEAVE & EMPLOYEE DEVELOPMENT

## *Policy Number:* 208.0

| | |
|---|---|
| Purpose: | To provide information to employees about professional development opportunities and the requirements for using Education Leave. |
| Revised Date: | October 2011 |
| Cross Reference: | OCSEA Art. 37; FOP Art. 36 |

## I. General Information

It is the policy of the department to provide training that is designed to:

1) Improve productivity, effectiveness and efficiency of government service by the development and better utilization of talents, abilities and potential of employees.

2) Help employees increase their current knowledge, skills and abilities so that they might become better qualified to perform the duties of their present jobs and advance to higher level positions.

3) Educate and prepare employees to conduct themselves and perform their job duties in a professional, legal and ethical manner.

## II. Education Leave

Each fiscal year, employees will be granted up to forty (40) hours of state time to participate in *position or career-related* educational or professional development programs. Programs may include college-credit courses, short-term training programs, workshops, seminars, conferences, computer training, and online courses. Study time is not applicable to this form of leave. A reasonable amount of travel time may be granted in conjunction with an educational or professional development program. To be eligible, full-time permanent employees must have completed their initial probationary period with the department and have a performance level that is satisfactory or better, unless otherwise determined by the Division Head. Part-time employees will be eligible for pro rata amount of Education Leave based upon their hours worked in a fiscal year.

Continuing education classes that are required for continued employment, are mandatory for licensure and pertain to the specific duties of the employee's position with the department (as determined by the employee's supervisor) are *excluded from this policy* and do not count against the forty (40) hour allotment. Employees will be granted paid time for any of these job-related trainings, unless otherwise determined by the Division Head or Director.

Continuing education classes that are necessary to maintain a state license, but do not correspond to the nature of the employee's duties with the department may be counted towards Education Leave. Employees who do not wish to use Education Leave for discretionary training will be required to use a form of accrued leave (vacation leave, personal leave or compensatory time) to attend the training.

If the employee wishes to use his/her (40) hours for an eligible training, the employee will be required to provide documentation of the class (e.g. Flyer, Brochure, etc…) detailing dates, times and a description of the program. If the employee chooses not to disclose this information, he/she will be denied Education Leave and will be required to use a form of accrued leave (vacation leave, personal leave or compensatory time) to attend the training.

For a training to be considered under Education Leave, it must be either:

1) Position-related Training: Programs not *required* for the employee's current position, but are related to the development of skills or knowledge, which may enhance an employee's ability to perform in their position. Examples include: effective communication in the work environment or software applications that enhance the employee's ability to volunteer for projects; or,

2) Career-related Training: Programs associated with the development of skills, knowledge and other abilities that prepare an employee for future assignments or positions within the department. Examples include: a workshop in teambuilding skills or a leadership workshop for an employee whose current position does not include supervisory responsibilities, but who is interested in applying for a supervisory position.

Education Leave shall not accumulate or roll over from fiscal year-to-fiscal year. On July 1st of the next fiscal year, any available balances will be zeroed out and a new forty (40) hours will be allotted to every employee.

## III. Requesting Education Leave

Employees are required to complete a Request for Education Leave form and provide the request through his/her immediate supervisor for review. The request should contain supporting documentation of the program.

After review of the information, the supervisor will recommend approval or denial and forward a copy of the request packet to the department's Training Administrator at the Office of Human Resources. The Training Administrator will review the packet for policy compliance and verification of available Education Leave hours for the requesting employee. The Training Administrator will provide the necessary information to the Division Head or Director for final approval. Additionally, the Training Administrator will maintain the request packet for record-keeping purposes.

Approval must be obtained in a reasonable amount of time before the leave is scheduled to begin. Forms must be submitted in a reasonable amount of time so that final approval may be obtained at least 10 business days prior to the start of the course. Approval is subject to operational need and budget considerations.

Upon completion of a training approved under education leave, and in accordance with departmental procedures, the employee may be required to submit verification of attendance or successful completion. To track the education leave hours in the timesheet system, the employee will create a leave request for the date(s) of the program under the "Other" category and indicate in the comments box that the request is for "education leave."

## IV. Union Education Trust (UET) / Employee Development Funds (EDF)

Generally, any employee may use UET (OCSEA bargaining unit employees) or EDF (exempt employees and FOP bargaining unit employees) funds for any position or career-related educational or professional development program. These funds can also be used in conjunction with an employee's forty (40) hours of education leave. However, it should be noted that approval for Education Leave does not necessarily translate into approval for the use of UET or EDF funds for the eligible training. Employees are encouraged to find more information regarding eligibility application at the following websites:

UET: https://www.uedtrust.org/

EDF: http://das.ohio.gov/Divisions/HumanResources/LearningandProfessionalDevelopment/EmployeeDevelopmentFunds.aspx

Supervisors are prohibited from mandating job-related training and requiring the employee to use his/her funds provided by the UET or EDF.

## V. Denial of Education Leave - Appeal Process

If the employee is denied education leave, the employee has the ability to appeal the decision.

The Request for Educational Leave Appeal form must be completed, signed and dated by the employee and submitted to the supervisor and Division Head for review. The supervisor and Division Head will review the request, provide a justification of denial and submit it to the Director or Director's designee for final review. The Director or the Director's designee will review the appeal and make a final determination.

If the employee is denied education leave or has exceeded his/her allotted forty (40) hours, the employee must use available personal leave, vacation leave or compensatory time in order to attend the requested training.

## VI. Training Payment Guidelines

The department will pay 100% of position-related or career-related courses required by the department or the division through direct payment or reimbursement to the employee (payment or reimbursement may be dependent upon the successful completion of the program or course).

All training requests made by the employee will be paid for by the employee or with his/her state issued funds (i.e. UET or EDF funds).

Employees are encouraged to utilize training programs provided by various state agencies that are provided to employees free of charge. Employees should work with their division training coordinators or the department Training Administrator for more information regarding these training opportunities.

Continuing education courses for the maintenance of state licenses, which are a requirement for employment in the employee's present position, are not automatically considered career-related or professional development programs and do not necessarily, qualify for fee reimbursement.

## VII. Attendance / Cancellation

Any employee registered for any scheduled training is required to attend the training. The scheduled hours for the training, including reasonable travel time, will be the same as the hours the employee will normally work in a scheduled workday. When scheduled trainings last less then the normally scheduled work day, employees are expected to return to work or make the appropriate request for leave with their supervisors for the remainder of the scheduled shift.

An employee who registers for a training program under Education Leave and does not attend may lose one full year of Education Leave forty (40) hours and may be required to reimburse the department for the cost of the training, if applicable.

If the employee becomes sick or an emergency arises that may cause an employee to miss a scheduled training, the employee is required to contact his/her supervisor to explain why he/she cannot attend, and must use accrued leave to cover the absence. Additionally, it's the employee's responsibility to cancel with the training provider in accordance with the provider's cancellation policy. The department retains the right to request documentation of the illness or emergency, if necessary.

# REQUEST FOR EDUCATION LEAVE

**(Please Type or Print)**

| | |
|---|---|
| **Employee Name:** | **Date:** |
| **Division:** | **Work Section:** |
| **Immediate Supervisor:** | |

***COURSE INFORMATION***

| Course Name | Dates of Class | Days of Week | Time of Class | # of hours |
|---|---|---|---|---|
| | | M T W TH F | | |
| | | M T W TH F | | |

| | |
|---|---|
| ***Total hours requested: _____*** | ***Total hours available: _____*** |
| ***Verification of hours:***<br>***Training Administrator***<br>***Signature:_____*** | |

I understand that the submission of this form does not guarantee educational leave time unless approved by the Office of Human Resources. I have reviewed the Education Leave and Employee Development Policy outlined in the Policies and Procedures Manual and agree to abide by the policy.

Signature of Employee: _____ Date: _____

**Supervisor _____ Date_____**

**_____Approved _____Denied**

**Superintendent _____ Date _____**
(if required by division policy)

**_____Approved _____Denied**

**Reason request denied:**

**Signature _____ Date _____**

***ANY DENIED REQUEST FOR EDUCATON LEAVE MAY BE APPEALED BY PROPERLY COMPLETING AND FILING THE APPEAL REQUEST FOR EDUCATIONAL LEAVE FORM.***

# REQUEST FOR EDUCATION LEAVE APPEAL

Please complete the **EMPLOYEE SECTION** of this form and submit it directly to your immediate supervisor/designee within five (5) business days of your educational leave request denial.

**Employee Section** (Please type or print)

| | |
|---|---|
| **Name:** | **Division:** |
| **Work Section:** | **Telephone No.:** |
| **Immediate Supervisor:** | **Supervisor's Telephone No.:** |
| **Date Of Denial:** | **# of available hrs.:** |

*Course Information*

| ***COURSE NAME*** | **Dates of Class** | **Days of Week** | **Time of Class** | **# of hours** |
|---|---|---|---|---|
| | | M T W TH F | | |
| | | M T W TH F | | |

***Total hours of educational leave requested:*** _____

Please state the reason you are requesting educational leave:

_____

_____

_____

_____

**For Division Use Only (Please type or print)**

IMMEDIATE SUPERVISOR: DATE RECEIVED _____/_____/_____
DATE OF RESPONSE _____/_____/_____

Response by Immediate Supervisor:

_____

_____

_____

_____

Immediate Supervisor Signature: _____ Date ____ /____ /____

DIVISION HEAD: DATE RECEIVED _____/_____/_____
DATE OF RESPONSE _____/_____/_____

Response by Division Head:

_____

_____

_____

Division Head Signature: _____ Date ____/____/____

Status of Appeal:

_____

_____

Director (Appointed Authority) Signature:

_____

Date____/____/____

Recommendation:

_____

_____

# EMPLOYEE ASSISTANCE PROGRAM

*Policy Number 506.0*

| | |
|---|---|
| Purpose: | To inform employees of a program for assistance with matters that may affect the employee's well-being. |
| Date Revised: | October 2011 |
| Cross Reference: | ORC §3701.041; 42 CFR Part 2 |

## I. Program Information

The Ohio Employee Assistance Program (EAP) is an informational, referral and support service for state employees and their family members. The EAP is designed to help employees cope with personal problems such as family and parenting issues, alcohol and other drug abuse, emotional concerns such as anxiety, anger, grief or depression, and legal and financial difficulties. Personal problems can affect an employee's health and well-being as well as his/her job performance. These problems can be resolved. Unresolved problems may result in family disruption, job loss, health problems or even death.

The EAP ensures strict confidentiality as governed by state law and federal regulations to protect clients. No information regarding an employee's participation in EAP is released unless the employee authorizes it in writing.

The decision to participate in the EAP is strictly voluntary. A supervisor, union representative or co-worker may recommend an employee seek help, but the final decision is the employee's.

The EAP is part of the employee benefit package and there is no charge for using this service. However, if a referral is made for ongoing counseling, a co-payment will be charged for each session for which the employee is responsible. An employee may contact EAP for services regardless of whether he/she carries health insurance.

## II. Contact Information

EAP staff can be contacted at the numbers below during regular office hours which are 7:45 AM to 4:30 PM, Monday through Friday. There are no EAP services available on holidays or weekends. In an emergency, an employee should contact his/her local mental health agency or United Behavioral Health (UBH) at 1-800-852-1091.

**Ohio Employee Assistance Program**
246 North High Street
P.O. Box 118
Columbus, Ohio 43216-0118

(800) 221-6EAP (6327) Toll-free statewide OR (614) 644-8545 (Franklin County)

FAX: (614) 466-8745

The Ohio EAP is supported by both labor and management. For more information, please visit the Ohio EAP website at http://www.odh.ohio.gov/eap/eapfaq.aspx.

# EQUAL EMPLOYMENT OPPORTUNITY POLICY

*Policy Number 205.0*

| | |
|---|---|
| Purpose: | To ensure employees can work in an environment free from discrimination and/or harassment. |
| Revised Date: | October 2011 |
| Cross Reference: | Title VII of the Civil Rights Act of 1964 and subsequent amendments; The Genetic Information Nondiscrimination Act of 2008; ORC Chap. 4112; OAC §123:1-49-02; Executive Order 2011-05K |

## I. General Information / Policy

The department is committed to addressing Equal Employment Opportunity (EEO) concerns and continually improving our EEO program. The department's EEO strategic plan is updated according to the Department of Administrative Services (DAS) guidelines and a copy can be obtained from the Office of Human Resources (HR) upon request. The EEO Section displays informational posters from the Ohio Civil Rights Commission (OCRC) and the United States Equal Employment Opportunity Commission (EEOC) to publicize this commitment to equal employment opportunity.

It is the policy of the department to maintain a work environment free from any discrimination and to prohibit harassment of employees, temporary employees, interns, applicants, customers, clients, contractors and consultants, including discriminatory sexual advances or harassment adversely affecting an individual's terms and conditions of employment.

The department will not tolerate threats or acts of discrimination. The department will fully comply with the State of Ohio's EEO program and all applicable city, state and federal laws, rules, regulations and guidelines as they relate to non-discrimination in employment. It is illegal to discriminate against an applicant or employee due to his/her race, color, sex (including sexual harassment and pregnancy), national origin, ancestry, disability, religion, age (40 years or older), veteran status (e.g. Vietnam Era, Desert Storm/Shield), military status, sexual orientation, or genetic information.

In addition, retaliation against an individual because they have filed a charge of employment discrimination or participated in an investigation of such a charge is also illegal.

The department will not tolerate harassing conduct, including sexual harassment that affects tangible job benefits, that unreasonably interferes with another's work performance, or that creates an intimidating, hostile work environment, based upon an individual's race, color, sex, national origin, ancestry, disability, religion, age, veteran status, military status, sexual orientation, or genetic information.

Employees who violate this policy or any part thereof may be subject to discipline, up to and including termination.

## II. Definitions

- Discrimination: Adverse treatment of one person or group based on their race, color, religion, sex (including sexual harassment), sexual orientation, national origin, ancestry, disability, age (40 years or older), veteran status, military status or genetic information.

- Retaliation: Retaliation occurs when an employer, employment agency, or labor organization takes an adverse action against an individual because he/she engaged in a protected activity.

- Harassment: Harassment is unwelcome conduct that is based on race, color, religion, sex (including sexual harassment), sexual orientation, national origin, ancestry, disability, age (40 years or older), veteran status, military status or genetic information. Harassment becomes unlawful where (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

- Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature by a superior, subordinate or peer when: (1) submission to the conduct is an explicit term or condition of employment; (2) submission to or rejection of the conduct is used as the basis for an employment decision; and (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

- Hostile Work Environment: An environment where unwelcome conduct based on a person's membership in any protected class has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

## III. Filing Procedures

A. Reporting in General:

Any employee, temporary or intern who believes that he/she is a victim of harassment or discrimination based upon his/her membership in a protected class should report such incidents to his/her supervisor, the department's EEO Administrator or the Human Resources Director.

All managers and supervisors shall report any allegation or complaint they receive or any possible violation of this policy to the EEO Administrator within twenty-four (24) hours. Failure to do so may result in disciplinary action.

Every attempt will be made to resolve the situation in a timely manner. Resolutions may include non-formal discussions between the parties, internal investigations and possible recommendations for additional training and/or disciplinary action, up to and including possible termination. The nature of the resolution will be determined based upon the individual circumstances of the situation and the results of the internal investigation.

B. Filing a Charge Internally:

1. Once the EEO Administrator has received an allegation of an EEO violation, an informal inquiry will be conducted.
2. If the informal inquiry substantiates a possible EEO violation, the person accused of engaging in improper activity will be notified that the issue has been brought to the attention of the EEO Administrator/HR.
3. Upon determination by the EEO Administrator that a formal investigation is warranted, further interviews will be conducted with any individual who is believed to have relevant information concerning the issues involved.
   a. Written statements detailing the information will be prepared and provided to each witness for his/her review and signature.
   b. All employees are expected to fully comply with any EEO investigation and must provide a truthful statement upon request. Failure to do so will be considered a violation of the EEO policy.
4. Once the evidence has been gathered, the EEO Administrator will review the findings and prepare a position statement.
5. If the EEO Administrator determines that there has been a violation of the EEO policy or that further administrative action is necessary, appropriate recommendations will be made to the Human Resources Director.

6. The complainant, the complainant's supervisor, and the person accused of improper conduct will be notified of the conclusion of the investigation and will have the results communicated to them.
7. The complainant has the right to appeal the department's findings to the DAS Equal Opportunity Division within fifteen (15) days.

C. Filing a Charge Externally:

An employee can file a charge of discrimination and/or harassment outside of the department's internal filing process.

- An employee may elect to file his/her charge with DAS Equal Opportunity Division (EOD).
  - A complainant has thirty (30) calendar days after the alleged discriminatory act in which to file with the EOD.
  - Further information is available on-line at www.das.ohio.gov/eod or by visiting 30 East Broad Street, 18th Floor, Columbus, Ohio 43215-3414. Telephone: 614-466-8380.
- An employee may elect to file his/her charge with the Ohio Civil Rights Commission (OCRC). The primary function of the OCRC is to enforce state laws against discrimination. OCRC receives and investigates charges of discrimination in employment, public accommodations, housing, credit and higher education on the bases of race, color, religion, sex, national origin, disability, age, ancestry or familial status.
  - Charges may be filed within six (6) months (180 days) of the date of alleged discrimination with OCRC.
  - Further information is available on-line at www.crc.ohio.gov or at 1-888-278-7101.
- An employee may elect to file his/her charge with the U. S. Equal Employment Opportunity Commission (EEOC). EEOC is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.
  - Charges may be filed within three hundred (300) days of the date of the alleged discrimination with EEOC.
  - Further information is available on-line at www.eeoc.gov or at 1-800-669-4000. The TTY number is 1-800-669-6820.

If you have any questions about this policy or believe that you have been subjected to harassment or discrimination in violation of this policy, please contact:

EEO Administrator
Ohio Department of Commerce
77 South High Street, 23rd Floor
Columbus, Ohio 43215-6123
Telephone: (614) 728-4292
Fax: (614) 466-6183
**EEO.Administrator@com.state.oh.us**

| State of Ohio<br> <br>Department of Commerce | Subject/Policy:<br>Ethics | Page 1 of 6<br>Policy #: 200.0 |
|---|---|---|
| | Rule/Code Reference: ORC § 102.03; Executive Order 2011-03K | Purpose: To ensure the appearance of impropriety and the misuse of power do not interfere with the public's trust in state government. |
| | Effective Date:<br><br>June 13, 2016 | |
| | Signature of Appointing Authority: Jacqueline D. Williams<br>Date: May 31, 2016 | |

*This applies to **all** employees of the Ohio Department of Commerce and will not supersede the language agreed to in the collective bargaining agreement.*

I. General Information

The Ohio ethics law prohibits the misuse of an employee's state position or power for personal gain. It is also imperative that employees avoid violations and even an appearance of impropriety in their dealings on behalf of the Commerce.

II. Prohibitions

In accordance with Ohio law, the department prohibits the following conduct:

A. Misuse of Official Position

1) Employees must avoid situations in which they may potentially realize personal gain as a result of the decisions they make or influence.

2) Employees are prohibited from soliciting or accepting gifts or other items of value that may create an improper influence on the employee.

3) Employees may not use their authority to secure approval of a public contract or influence the investment of public funds in which the employee, a family member or a business associate has an interest.

B. "Revolving Door" Restriction / Representation of Clients

A present or former employee is prohibited by state law from representing a private client before any public agency, including the department, on any matter in which he/she personally participated within his/her official capacity. This prohibition remains in effect for one year following departure from public service. It does not pertain to representation regarding

legislative matters that the employee was not involved with during their employment, nor does it prohibit a former employee from representing the department on such matters.

C. Sale of Services

1) Employees are prohibited from receiving compensation, other than from the department, for job-related services. Employees cannot receive additional compensation to perform their official state duties. Employees are prohibited from selling services to state agencies, except by competitive bidding.

2) An employee may be exempted from the prohibitions above if all interested agencies agree, and if all of the following conditions are met:

a. The employee conducts the business with a public agency other than his or her own; and

b. That public agency has no direct or indirect relationship with the employing agency concerning the nature of the employee's business, either by contract, grant, loan, memorandum of understanding or agreement or statute; and

c. Prior to conducting the business, the employee files an affidavit with his/her own agency and the appropriate ethics agency. The affidavit must contain the following:

1. The names of the public agencies involved and a brief description of the business to be conducted; and
2. The employee's declaration that he/she will not participate in any matter involving the personnel of the agency with which he/she is conducting business.

III. Outside Employment & Self-Employment Requests

A. Outside employment or self-employment performed at times other than department working hours shall not be incompatible with the official duties of a department employee or, in the judgment of the Director, not contravene the best interests of the department.

B. No department employee shall accept employment or engage in any business that will require him/her to disclose confidential information that he/she has gained by reason of his/her official position or authority. An employee requesting to engage in employment outside the agency or self-employment shall ensure that participation in such outside employment will not conflict with or interfere in the proper discharge of his or her duties as an employee of the Department of Commerce. This includes volunteer or compensated participation on boards or commissions.

C. Each employee is accountable for devoting his or her entire work schedule to his/her official state duties, and shall not hold any position of trust for profit, or engage in any occupation or business interfering with or inconsistent with his/her duties. At the discretion of the Director, any interference which prevents an employee from carrying out his/her daily job duties may be barred.

D. Requests for employment outside the agency or self-employment must be reviewed by the department. The "Registration of Outside Employment" form ("Registration") is available from the Office of Human Resources and is included in this manual. The Registration, which identifies the nature of duties to be performed and the amount of time to be devoted to such outside activity, shall be submitted through the employee's chain of command and eventually to the Human Resources Director. This Registration must be submitted and approved annually. Initial registration should be submitted at the time outside employment is obtained. Annual renewal of the Registration is due to the department by January 30th of each calendar year.

E. The Human Resources Director, in consultation with the Chief Legal Counsel, will review the Registration form for any apparent or immediate conflicts. If the department determines that a conflict of interest exists, or is likely to arise, the request shall be denied. If the requesting employee takes exception to that determination, he or she may appeal the decision to the Director.

    1) If no apparent or immediate conflicts are found, the Human Resources Director will sign the Registration indicating that the department has been put on notice of the employee's outside employment. The Registration shall be subject to further review for potential conflicts for the duration of the outside employment.

    2) The signature of the Human Resources Director shall not be interpreted as an approval; however, it should indicate an acknowledgment that the employee has appropriately informed the department in accordance with this policy.

F. Once reviewed, copies of the Registration are then forwarded to the employee and the Division Chief/Superintendent. The original is maintained in the employee's personnel folder.

G. Violation of the provisions listed above shall be grounds for disciplinary action up to and including removal.

IV. <u>Financial Disclosure Statements</u>

A. The Director, Assistant Director, Deputy Directors, Bureau Chiefs or employees of equivalent or similar ranks are required to file an annual financial disclosure statement with the Ohio Ethics Commission annually as required by the Commission. If an employee in any of these classifications is hired after the specified date, he or she has ninety (90) days after the starting date to file the statement. The Office of the Chief Legal Counsel can advise any employee if he or she must file such a statement.

B. Any employee who is engaged for at least a portion of his or her time to actively advocate legislation as one of his or her main purposes are required to register with the Joint Legislative Ethics Commission within 10 days of his/her engagement, and to file expenditure statements three times a year: January 31, May 31, and September 30 or other date designated by the Commission.

C. While the department normally pays the filing fee for such statements, if the employee fails to properly update and submit such a statement or otherwise prevent its timely filing, the employee shall be required to pay the late fee.

V. Ethics Training and Requirements under Executive Order 2011-03K

A. Training Requirements

1) All Commerce employees must undergo one (1) hour training as set forth in Executive Order (EO) 2011-03K. Newly hired employees will receive such training during New Hire Orientation, and annually thereafter. All other employees will receive such training annually.

2) Commerce employees who are required to file Financial Disclosure Forms as set forth in Ohio Revised Code Section 102.02 and Section IV above shall annually receive additional instruction on the Ethics Laws in the areas of misuse of official position, revolving door restrictions, soliciting or receiving improper compensation, public contracts and disclosure of financial information.

B. Guidance and Reporting Requirements:

1) Commerce employees are required to report any alleged ethics violations by a State official or employee to the Chief Legal Counsel, the Ohio Ethics Commission and/or to the Inspector General, and are also required to fully cooperate with any official investigation of a potential ethics violation.

2) Commerce employees are strongly encouraged to consult with Chief Legal Counsel and/or the Ohio Ethics Commission concerning questions about the Ethics Laws, particularly before they undertake any action about which they have question concerning compliance with the Ethics Laws.

VI. Conflict of Interest Prohibition for Division-Specific Employees

A. Division of Financial Institutions Employees

1) No employee of the Division of Financial Institutions (DFI) may, directly or indirectly, own an equity interest in, obtain an extension of credit from, be employed by, serve as a director for, any financial institution, consumer finance company, or licensed person that is under

the supervision of the Superintendent of DFI. An employee is not prohibited from establishing a depositor relationship with such entities.

2) Debt or equity ownership which predates hire or subsequently occurs outside of the control of the employee (as provided in section 1181.05 of the Revised Code) may be retained. In the case of debt, the debt must be repaid without additional draws or re-negotiation of the terms. Upon discovering that a conflict of interest involving debt or equity ownership exists, the employee must notify the division, and the employee will be disqualified from participation in any decision, audit, examination or other action involving the financial institution or consumer finance company.

3) No employee of the Division of Financial Institutions may purchase from, obtain an extension of credit from, sell to, or pledge any personal property to, a pawnshop licensed or subject to licensure by the Superintendent of Financial Institutions.

4) Each employee shall complete an Annual Disclosure Form to be filed with the Superintendent of DFI within fifteen (15) days of being employed by DFI and at least once each calendar year thereafter. Forms may be obtained from your division manager.

B. Division of Liquor Control Employees

1) In accordance with ORC section 4301.07, no employee of the Division of Liquor Control shall have any direct financial interest in, or any interest otherwise prohibited by Chapter 102 or section 2921.42 or 2921.43 of the ORC, in the manufacture, distribution, or sale of beer or intoxicating liquor. Such interests shall be reviewed on a case by case basis and may include, but are not limited to, an employee or a family member residing in the same household involved in the following:

   a. Having an ownership or management interest in a liquor permit holder's operations;

   b. Participating in the process of obtaining or maintaining a liquor permit;

   c. Receiving income or revenues which are based or dependent upon the proceeds of the manufacture, distribution, or sale of beer or intoxicating liquor;

   d. Receiving a share of the income, proceeds, profits, or revenue from the manufacture, distribution, or sale of beer or intoxicating liquor;

   e. Having employment responsibilities that include participation in the administration or maintenance of a liquor permit or the responsibility to oversee persons who administer or maintain a liquor permit;

f. Being employed by an employer which is engaged in a business that receives any of its revenue from a liquor permit; or

g. Having employment that is dependent upon that employer maintaining its liquor permit.

*2)* Each employee shall complete a Division of Liquor Control Employee Disclosure Form to be filed with the Superintendent of the Division of Liquor Control prior to being employed by the division, and at least once each calendar year thereafter. Forms may be obtained from your division manager.

VII. Ohio Law Applicable

The conflict of interest provisions of the Ohio Ethics Law [Section 102.03(D) to (I) of the ORC], the criminal sanctions of sections 2921.42 [having an unlawful interest in a public contract] and 2921.43 of the ORC [soliciting or receiving improper compensation], and the conflict of interest provisions of section 1181.05 of the Revised Code continue to be applicable.

Revision History

| | | |
|---|---|---|
| 6/2017 | Scheduled Review | |
| 6/13/2016 | Policy Update | New format; general update |
| 2011 | Existing Policy | |

# REGISTRATION OF OUTSIDE EMPLOYMENT

**This registration must be submitted and approved at the time outside employment is obtained <u>and</u> annually on January 30th.**

| | |
|---|---|
| **Employee Name:** | |
| **Division:** | **Work Phone:** |
| **Name of Outside Employer:** | |
| **Address of Outside Employer:** | |
| **Outside Employer Contact Name:** | **Phone:** |
| **Type of Company:** | |
| **Title of Outside Job:** | |
| **Explain the Duties You Will Be Performing:** | |
| **Duration of Job (Permanent, Temporary, until…, etc.):** | |

**My signature below indicates that the outside employment will not interfere with my regularly scheduled duties in Commerce and that my part-time employment is not a conflict of interest for me as an employee of the Department of Commerce. I also acknowledge that I am prohibited from using any state resources in any manner connected to my outside employment.**

_____ _____
Employee Name Date

**REVIEW:**

_____ _____
Immediate Supervisor Date

_____ _____
Division Chief/Superintendent Date

_____ _____
Department Chief Legal Counsel Date

_____ _____
Human Resources Director Date

**Reviewers' Comments:**

_____

_____

_____

# EXCUSED ABSENCE WITH PAY

## *Policy Number 302.0*

Purpose: To allow employees paid time away from work under special circumstances.
Revised Date: October 2011
Cross Reference: OAC §123:1-9-01; ORC §§124.132, 124.1310

## I. General Information

An excused absence with pay is an authorized absence away from regular work that is not chargeable to other leave. The instructions below indicate whether a submission of an electronic leave request is required. Employees are responsible for notifying his/her supervisor prior to exercising any of the following leave options

1) Ohio Civil Service Examinations: Subject to the approval of the Director, an excused absence may be allowed for an employee to compete in any civil service examination conducted by the Director of the Department of Administrative Services (DAS), without loss of pay. The absence is limited to actual time necessary to take the examination plus reasonable travel time. The Director may grant time off without loss of pay for up to two (2) examinations during any one (1) calendar year. Electronic leave request is required.

2) Internal Job Interviews: Reasonable time away from normal work hours will be permitted for the purpose of participating in an internal job interview with the department. An electronic leave request is not required. Supervisors are responsible for monitoring an employee's time away for this excused absence.

3) Selective Service or Enlistment Physical Examination: Subject to the approval of the Director, this excused absence may be granted to an employee for the purpose of Selective Service pre-induction or an enlistment physical examination. The notice to report for physical examination shall be presented to the Director and the division head. Electronic leave request indicating "Other" leave is required and the employee must reference the notice to report in the "comments" section.

4) Excused Absence to Donate Blood: Donating blood is considered such a valuable public service and the department has adopted a policy of granting excused absences for this purpose. The donation may be for a specified individual or the Red Cross Blood Bank. An excused absence may be approved for the time actually required to donate blood plus a brief recuperation period and travel time. An electronic leave request is not required. Supervisors are responsible for monitoring an employee's time away for this excused absence.

5) Public Safety Emergency (PSE) Declaration or Departmental Emergency: Only the Governor and the Director of the Department of Public Safety have the authority to declare a PSE or a weather emergency. The Director of Commerce, with the approval of the Governor, is authorized to approve an excused absence for the time that employees cannot work due to emergency conditions affecting the operation of an office or department (e.g. flood, fire, breakdown of electrical, heating or sanitary facilities). An electronic leave request is not required. *See also Policy 515.0 Public Safety Emergency.*

6) Disaster Service Volunteer: Upon the request of the American Red Cross and subject to the approval of the Director, an employee who is a certified disaster service volunteer of the American Red Cross may be granted leave from his/her work not to exceed thirty (30) work days in each year to participate in specialized disaster relief services for the American Red Cross. The employee shall be compensated under this section at his/her regular rate of pay for those regular work hours during which the employee is absent from his/her work. Certification shall be presented to the division head. Electronic leave request

indicating “Other” leave is required and the employee must reference the certification in the “comments” section.

7) Service as EMS Worker or Volunteer Firefighter: An employee who is a certified EMT-basic, EMT-I, first responder, paramedic, or volunteer firefighter shall receive forty (40) hours of leave with pay each calendar year to use during those hours when the employee is absent from work in order to provide emergency medical service or fire-fighting service. The employee shall be compensated under this section at the employee’s regular rate of pay for those regular work hours during which the employee is absent from work. Certification shall be presented to the division head. Electronic leave request indicating “Other” leave is required and the employee must reference the certification in the “comments” section.

# FAMILY AND MEDICAL LEAVE ACT

## *Policy Number 304.0*

| | |
|---|---|
| Purpose: | To provide information to employees about the Family and Medical Leave Act (FMLA) and the requirements for using leave under the Act. |
| Revised Date: | October 2011 |
| Cross Reference: | The Family and Medical Leave Act of 1993<br>Ohio Administrative Code §123:1-34-01 |

## I. Policy

The Family and Medical Leave Act (FMLA) of 1993 entitles eligible employees to take up to twelve ( 12) workweeks of unpaid leave per twelve (12) month period for certain "qualifying events."

## II. Employee Eligibility

Employees are eligible for FMLA if they meet both of the following criteria:

- They have been employed by the state for at least twelve (12) months and,
- They have actually worked (i.e. in "active work status") at least 1,250 hours during the past twelve months.

Previous employment with the state in which the employee was paid directly by warrant of the Director of Budget and Management shall count toward meeting the twelve-month employment requirement.

For purposes of determining FMLA eligibility, the Uniformed Services Employment and Reemployment Rights Act (USERRA) requires that a person reemployed under its provisions be given credit for any time he or she would have been employed *but for* the military service. Each month served performing military service counts as a month actively employed by the employer. The employee's pre-service work schedule can generally be used to determine the number of hours that would have been worked during the period of military service.

The department must notify employees in writing of their eligibility or non-eligibility status within five (5) business days after:

- The first time an employee requests leave for a particular qualifying reason in a rolling twelve (12) month period, or
- An employer receives knowledge that the reason for an employee's leave may be FMLA qualifying. This notice only indicates whether the employee is eligible for FMLA leave and is not determinative as to whether the employee's leave qualifies for FMLA.

## III. Qualifying Events

### A. Basic Leave Entitlement

FMLA allows an eligible state employee to take up to twelve workweeks for the following qualifying events:

1) Incapacity due to pregnancy, prenatal medical care or child birth;
2) Caring for the employee's child after birth, or placement for adoption or foster care;
3) Caring for the employee's spouse, child, or parent with a serious health condition; or
4) The serious health condition of the employee that makes the employee unable to perform the employee's job.

An eligible employee is entitled to twelve (12) workweeks of FMLA leave within a twelve (12) month period. The twelve (12) month period begins on the first date FMLA leave is taken. Full time employees' are entitled to 480 hours of FMLA leave within the twelve (12) month period. Part time employees' entitlement will be prorated based on the last year's average workweek.

The department tracks FMLA on a "rolling" twelve (12) month period. This means that each time an employee takes FMLA leave, the remaining entitlement would be any balance of the twelve (12) weeks which was not used during the preceding twelve (12) months.

FMLA leave taken for the birth, adoption, or foster care placement of a child must be taken within twelve (12) months of the birth or placement and must be taken as a consecutive block of time.

B. Qualifying Exigency Leave Entitlement

Eligible employees with a spouse, child, or parent on federal active duty or call to federal active duty status in the National Guard or Reserves in support of a contingency operation may use their twelve (12) week leave entitlement to address certain qualifying exigencies. Qualifying exigencies include activities related to short-notice deployment, attending military events, arranging for alternative childcare or attending school activities, addressing financial and legal arrangements, attending counseling sessions, attending post-deployment reintegration briefings, and spending time with a covered military member who is on rest and recuperation leave.

C. Military Caregiver Leave Entitlement

Employees may also be eligible to take up to twenty-six (26) weeks of leave to care for a covered military servicemember during a single twelve (12) month period.

The twenty-six (26) weeks of leave is to be applied on a per-covered-servicemember, per-injury basis such that an eligible employee may be entitled to take more than one period of twenty-six (26) workweeks of leave if the leave is to care for different covered servicemembers or to care for the same servicemember with a subsequent serious injury or illness, except that no more than twenty-six (26) workweeks of leave may be taken within any “single twelve (12) month period.”

The “single twelve (12) month period” begins on the first day the employee takes leave to care for the covered servicemember and ends twelve (12) months after that date. An employee who is entitled to take leave due to a different FMLA-qualifying reason make take leave during the same single twelve (12) month period in which leave is taken to care for a covered servicemember, but the total leave taken for any purpose during the single twelve (12) month period may not exceed twenty-six (26) workweeks overall.

## IV. Coordination and Certification

In the Department of Commerce, FMLA is centrally monitored and coordinated from the Office of Human Resources by the designated FMLA Coordinator. The FMLA Coordinator or its designee is responsible for approving requests for FMLA certification and keeping the confidential information. The coordinator is also responsible for requesting certification, designating leave as FMLA leave and keeping records for hours used and/or hours available.

A. Certification Process

1) When requesting FMLA leave, the employee shall submit the applicable completed certification form to the FMLA Coordinator in the Office of Human Resources. To maintain confidentiality, the employee will forward the completed Certification Form directly to the FMLA Coordinator (Human Resources) in a sealed envelope marked “CONFIDENTIAL.”

2) Upon receipt of the applicable form, the employee has fifteen (15) days to return the completed form to the FMLA Coordinator. If the form may not be returned within fifteen (15) days, the employee is responsible for providing the FMLA Coordinator with a reasonable period of time in

which the form will be returned. Certification is needed as soon as possible for approval of FMLA leave. It is the employee's responsibility to ensure the original forms are received timely by Human Resources.

3) The FMLA Coordinator will notify the employee's immediate supervisor of the FMLA status once the appropriate physician's certification is approved or denied. That notification shall only state whether or not the employee's condition is FMLA-certified, it shall not state any other information related to the condition.

B. Leave Usage

A request for FMLA leave must be submitted at least thirty (30) days prior to taking the leave or, if this is not possible, notice must be given as soon as practicable and must comply with the department's normal call-in procedures.

If leave is to be taken due to a foreseeable serious health condition of the employee (e.g., physical therapy), the employee must make a reasonable effort to schedule the leave so as not to unduly disrupt the operations of the department. Based upon the circumstances, employees may also take intermittent leave when medically necessary. The applicable certification form can be obtained through the FMLA Coordinator and it must be certified by the appropriate physician/medical professional, along with any applicable certification or documentation due to the circumstances of the request (e.g., birth certificate; or, in the case of an adoption/foster care, equivalent legal documentation).

Once approved, a request for FMLA leave must be submitted via the electronic timesheet system request for leave form and must specifically state that leave is requested pursuant to FMLA. The employee must indicate the type of leave requested and mark the appropriate block to indicate whether the absence is FMLA-related.

Holidays that occur during a full week of FMLA leave will count against the employee's FMLA entitlement. However, if an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and is expected to work during the holiday.

An employee on FMLA leave shall not hold outside employment while on FMLA leave without the prior written approval from the Office of Human Resources.

## V. Certifications

When requesting FMLA leave, employees must sufficiently complete one (1) of the following certification forms, depending on the nature and condition of the leave requests:

1) *Certification of Health Care Provider for Employee's Serious Health Condition*
2) *Certification of Health Care Provider for Family Member's Serious Health Condition*
3) *Certification of Qualifying Exigency for Military Family Leave*
4) *Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave*

To determine the appropriate form, employees requesting FMLA shall consult with the FMLA Coordinator in the Office of Human Resources.

Appropriate documentation must be provided in cases of adoption or foster care.

Provided the employee has authorized the release of information in Section II of the FMLA form, the department may contact the employee's health care provider for the purpose of clarification and authentication of the medical certification after the department has given the employee an opportunity to cure any deficiencies.

1) To make such contact, the department must use a health care provider, human resources professional, management official or payroll administrator. The employee's direct or intermediate supervisor may not contact the employee's health care provider.
2) Additionally, the requirements of the Health Insurance Portability and Accountability Act (HIPAA) must be satisfied when individually identifiable health information of an employee is shared with an employer by a HIPAA-covered health care provider.

For leave taken because of an employee's own serious health condition or the serious health condition of a family member, the department may require a second opinion from a second health care provider designated by and paid for by the department. If the first and second opinions conflict, the department may require the employee to submit to a third examination at the department's expense by a health care provider chosen jointly by the employee and the department. In choosing the third health care provider, both the employee and the department must be reasonable and act in good faith. The opinion of the third health care provider is final and binding.

## VI. Designation Notice

Within five (5) business days after receiving enough information to determine whether the leave is taken for a FMLA-qualifying reason (e.g., after receiving a complete and sufficient certification), the department shall notify the employee whether the leave will be designated and counted as FMLA leave. Only one (1) notice of designation is required for each FMLA-qualifying reason per applicable 12-month period.

If the department determines that the leave will not be designated as FMLA-qualifying, the agency must notify the employee of that determination.

The department must notify the employee of the amount of leave counted against the employee's FMLA entitlement. If the amount of leave needed for the FMLA Qualifying event is not known, then the agency must provide notice of the amount of leave counted against the employee's FMLA leave entitlement upon the request by the employee, but no more often than once in a 30-day period and only if leave was taken in that period.

## VII. Recertification

An agency may require an employee to provide recertification of an employee or family member's serious health condition at any time if:

1) The employee requests an extension of leave;
2) Circumstances described by the previous certification have changed significantly (*e.g., the duration of the illness, the nature of the illness, complications);* or
3) Leave taken by the employee is inconsistent with the circumstances described in the employee's certification.

Absent such circumstances, if the medical certification indicates that the minimum duration of the condition is more than 30 days, an agency must wait until that minimum duration expires before requesting a recertification. However, in all cases, the department may request a recertification of a medical condition every six (6) months in connection with an absence by the employee.

Second and third opinions are not permitted on an employer's request for recertifications for basic leave, qualifying exigency leave, or military caregiver entitlements.

Where the employee's need for leave due to the employee's own serious health condition, or the serious health condition of the employee's covered family member lasts beyond a single leave year, the agency may require the employee to provide a new medical certification in each subsequent leave year. Such new medical certifications are subject to the provisions for authentication and clarification, including second and third opinions.

## VIII. Employee Call-Off Form

In an effort to comply with notification standards under FMLA and to capture leave that should be designated as FMLA, managers, supervisors, or designees are required to complete the call-off form on the electronic timekeeping system whenever an employee calls off work. The manager, supervisor, or designee taking the call must indicate the type of leave requested, and shall also document why the leave is being requested.

If an employee has been off work for three (3) or more consecutive days, the manager, supervisor, or designee should contact the FMLA Coordinator to inform him/her of the absence and to determine if an FMLA Certification form should be sent to the employee.

## IX. Employee on Disability Leave

An employee requesting disability leave benefits who is also eligible for FMLA leave shall have up to the first twelve (12) weeks of an approved disability leave period, including the required waiting period, count concurrently as FMLA leave. The department may also grant FMLA leave to an employee while the employee's disability leave request is being reviewed. The granting of FMLA leave shall have no bearing on the approval or disapproval of an employee's disability leave request.

## X. Employee Applying for Worker's Compensation Benefits / Salary Continuation

An employee who is applying for Workers' Compensation benefits / salary continuation and is also eligible for FMLA leave shall have any time (sick leave or other applicable leave) used as a result of the pending Workers' Compensation claim counted concurrently as FMLA leave.

## XI. Employee on Approved Adoption/Childbirth Leave

An employee requesting Adoption/Childbirth leave benefits who is also eligible for FMLA leave shall have the entire non-working portion of Adoption/Childbirth leave, including the required waiting period, count concurrently as FMLA leave.

An employee who is not eligible for FMLA leave *(e.g., the employee has not been in active work status for 1,250 hours during the previous twelve months or has already used his or her twelve workweeks of FMLA leave)* shall retain his or her right to Adoption/Childbirth leave upon meeting the Adoption/Childbirth leave eligibility requirements.

## XII. Use of Paid Leave to Supplement FMLA Leave

An employee must use all accrued sick leave before taking other forms of leave. An employee must use all accrued sick, vacation, personal leave, and compensatory time balances, as appropriate, prior to taking unpaid leave under FMLA.

## XIII. Employee Health Benefits

The department will continue to pay the employer's portion of health insurance premiums during approved FMLA leave.

Employees are required to continue paying the employee portion of health insurance premiums. Information on how health insurance premiums are to be paid while on FMLA leave may be obtained from the Human Resources or Payroll office. Employees shall be given a thirty (30) day grace period from the due date of their health insurance premium. Employees who fail to pay their portion of the health insurance premium within this grace period may, with fifteen (15) days notice from the Human Resources or Payroll office, be removed from their respective health insurance plan. If an employee chooses not to continue health care coverage during FMLA leave, the employee will be entitled to reinstatement into the benefit plan upon return to work.

The department may seek reimbursement for any health insurance premiums paid on behalf of the employee if the employee's failure to return to work from FMLA leave, unless the reason for the

employee failing to return to work is due to the continuation or recurrence of the serious health condition or is otherwise beyond the employee's control as defined in the FMLA.

Employees who are reinstated will not lose any service credit and FMLA leave will be treated as continuous service for the purpose of calculating any benefits that are based on length of service.

## XIV. Maintenance / Accrual of Benefits During Leave

An employee taking FMLA leave will retain any employment benefits, other than the leave required to be used, that the employee had earned prior to commencement of the leave. During any period of unpaid FMLA leave, the employee will not accrue personal leave, sick leave or vacation leave. Employees who return to work following FMLA leave will not lose any service or seniority credit. FMLA leave will be treated as continuous service for purposes of calculating any benefits which are based upon length of service.

## XV. Reinstatement

An employee taking FMLA leave is entitled to reinstatement to the position he/she held when the leave began, or to be placed in a same or similar position with equivalent employee benefits, pay and conditions of employment. The exception are scenarios involving layoff situations.

An employee who takes leave based upon his/her own serious health condition shall be required to provide certification from a health care provider that he/she is able to resume work. Such certification will indicate that the employee is fully capable of performing all of the essential functions of the job to which he/she is assigned. If any limitation(s) are indicated, they must be thoroughly defined (e.g., what is/are the limitation(s); is/are the limitation(s) permanent; if not permanent, for what period are the limitation(s) imposed; is a reasonable accommodation being requested).

Acceptable “return to work” certification may be requested prior to the employee’s return. Employees are cautioned to allow ample time for this process when required. Employees will not be granted excused leave or administrative leave to pursue the required certification.

## XVI. Recordkeeping

The department shall maintain records of leave balances and FMLA leave usage. Medical records accompanying FMLA requests will be kept separate from personnel files in a confidential manner within the Office of Human Resources.

# HOLIDAYS

## *Policy Number 305.0*

| | |
|---|---|
| Purpose: | To provide general information about holidays for which employees are granted paid leave. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC §124.19; OAC §123:1-44<br>OCSEA Art. 26; FOP Art. 38 |

## I. General Information

State employees receive the following ten (10) paid holidays each year:

1) New Year's Day (January 1);
2) Martin Luther King, Jr's. Birthday (third Monday in January);
3) President's Day (third Monday in February);
4) Memorial Day (last Monday in May);
5) Independence Day (July 4);
6) Labor Day (first Monday in September);
7) Columbus Day (second Monday in October);
8) Veteran's Day (November 11);
9) Thanksgiving Day (fourth Thursday in November); and
10) Christmas Day (December 25).

Full-time permanent employees who are in active pay status for any part of his/her normal work day before a holiday, regardless of his/her work shift or schedule, are entitled to 8 hours of holiday pay. Part-time permanent employees are entitled to holiday pay for that portion of any holiday for which they would normally have been scheduled to work. Non-permanent employees, e.g., interns, intermittents, are not entitled to holiday pay.

When a holiday falls on a Sunday, the holiday is observed on the following Monday. When a holiday falls on a Saturday, it is observed on the preceding Friday.

Since many important religious observances occur on days not designated as legal holidays in the list above or under ORC §124.19, an employee may request paid leave, i.e. vacation, compensatory time or personal leave, in accordance with normal leave request procedures, or ask to be approved for leave without pay, to engage in these observances. However, the department reserves the right to approve a leave without pay only after other paid leaves are exhausted.

If a holiday occurs during a period of sick or vacation leave of an employee, the employee shall receive his/her normal pay and shall not be charged for sick leave or vacation for the holiday.

Any employee who is in no-pay status, e.g., Leave Without Pay, Disability, on the workday immediately preceding a holiday shall not receive holiday compensation. Bargaining unit employees should review the appropriate collective bargaining unit agreement for specific holiday pay forfeiture issues.

Overtime eligible employees required to work on the day observed as a holiday will be compensated at their discretion either at the rate of one and one-half (1 ½) times their regular rate of pay, or granted compensatory time at the rate of one and one-half (1 ½) times, plus straight time pay for the holiday. The choice of wages or compensatory time will be made by the employee. Payment at such rate shall be excluded in the calculation of hours in active pay status.

# HOURS OF WORK

## *Policy Number 313.0*

| | |
|---|---|
| Purpose: | To provide direction for employees as to work schedules; to maintain compliance with federal and state employment laws, including the Fair Labor Standards Act of 1938; and, to provide standardization and consistency in enforcement of the Hours of Work policy. |
| Revised Date: | October 2011 |
| Cross Reference: | Fair Labor Standards Act of 1938 and subsequent amendments<br>Ohio Revised Code §4111.03<br>Ohio Administrative Code §123:1-43<br>Collective Bargaining Agreements |

## I. Definitions

Throughout this policy it is important to pay attention to the difference between "overtime eligible" and "overtime exempt" employees. When interpreting this policy all employees should consider themselves "overtime eligible" unless his/her status has been otherwise determined by the Office of Human Resources.

Overtime eligible employees:
Employees determined under the Fair Labor Standards Act (FLSA) and/or the appropriate bargaining unit contract to be eligible to receive overtime pay for hours worked in excess of forty (40) during any calendar week. Notwithstanding such designation, an employee may be eligible to accrue compensatory time, even if not "overtime eligible".

Overtime exempt employees:
Employees who are not eligible to receive overtime pay, as determined under the FLSA, for hours worked in excess of forty (40) during any calendar week.

## II. Standard Workweek

The Department recognizes its obligation to provide superior customer service and accountability to Ohio taxpayers. The standard workweek for all full-time employees is eight (8) hours per day Monday through Friday. Customer service hours, or standard hours of operation for the Department is 8:00 AM to 5:00 PM (customer service hours may be extended to as early as 7:30 A.M. or to as late as 6:00 P.M where needed for operational purposes).

Division Heads will determine the standard workweek for part-time and other non-fulltime employees based on operational needs, subject to approval by the Director. Absent any designation otherwise or exception noted herein, each employee is deemed to have standard workweek hours. Any designated deviation of an employee's schedule from the standard workweek shall be approved and documented by the Division Head.

Core hours of operation for the department are from 9:00 AM to 4:00 PM. "Core hours" are defined as the times of operation in which all work units within the department are required to be fully staffed. All employees' schedules shall include the core hours, regardless of start and end Times.

No employee may work more than forty (40) hours in a calendar week (i.e. Sunday through the following Saturday) without prior approval from his/her supervisor. Overtime and compensatory time requests and approval shall be made in accordance with the Overtime/Compensatory policy.

The Director maintains the authority to approve variations from the standard workweek for any employee. If approved by the Director based upon operational needs, a non-standard work week schedule may be established to include more than eight (8) hour workdays, while still limited to forty (40) hours in a calendar week.

## II. Reporting to Work - Start Time and End Time

"Start time" is that time when an employee commences the performance of duties for which he/she is employed. All employees shall be at his/her report-in location ready to commence work at his/her Start Time. "End time" is that time when an employee is scheduled to stop performing those duties for which he/she is employed. Division Heads shall determine Start Times and End Times for all employees based upon operational needs.

> *Start Time* - If an overtime eligible employee arrives at his/her work station prior to his/her start time, he/she is prohibited from engaging in any activity that is considered to be, or may be construed as, work-related activities. Activities may include, but are not limited to operating the computer or any other electronic equipment, answering or making telephone calls, opening mail, reading business material, etc.
>
> *End Time* - Overtime eligible employees must stop working at his/her End Time. If any overtime eligible employee remains in the workplace beyond his/her scheduled hours of work, he/she shall abide by the same rules as indicated above for early arrival.

These start and end time restrictions are a key component of this policy and the Division Head may take steps to maintain compliance, which may include a prohibition from entering the workplace prior to Start Time or staying in the workplace after the End Time. Violation of such a prohibition may result in discipline.

*Tardiness* - Tardiness is defined as arriving at work at a time later than the employee's pre-determined Start Time. Unexcused tardiness is subject to disciplinary action. While the Department *may* consider unexcused tardiness of less than thirty (30) minutes as Absence Without Leave (AWOL), any period of unexcused tardiness in excess of thirty (30) minutes *must* be considered AWOL.

Tardiness may be excused only where sufficient documentation has been provided, which allows the supervisor to determine that the circumstances causing that tardiness were beyond the employee's control.

Employees who are tardy are not considered to be in an approved leave without pay status, but must make up the time by which they are tardy either through use of approved leave or, with Division Head approval, schedule adjustment. If neither approved leave nor schedule adjustment is appropriate, a tardy employee's pay will be reduced by the amount of time they were late.

## III. Meal Breaks

All employees shall take no less than a thirty (30) minute or no more than a one (1) hour lunch break at or near the mid-point of his/her workday. Overtime eligible employees may not stay at their workstations, or otherwise conduct department business during the lunch break. Under no circumstances may an employee defer or reduce his/her lunch break for the sole purpose of ending his/her workday early. The Division Head shall determine employees' schedules, including breaks, based upon operational needs and subject to Director approval.

## IV. Reporting Hours Worked - Electronic Timesheets

All overtime eligible employees must accurately complete and submit the "Time Report for Overtime Eligible Employees" form electronically in the Enterprise Timesheet System. Overtime exempt employees must also complete and submit an electronic report, accurately indicating the total hours worked for each day of the workweek and the total hours worked for the pay period.

Employees in the field that do not have access to a department-issued computer shall submit their hours to their supervisor or a Division designee. The "Time Report for Overtime Eligible Employees" paper form shall be completed and signed by the employee, certifying that the submission is an accurate representation of hours worked. The supervisor or Division designee shall be responsible for accurately submitting the hours worked on behalf of these employees electronically. For FLSA purposes, paper forms evidencing hours worked and employee certification shall be maintained by the Division in accordance with the Records Retention Schedule.

## V. Adjusted Work Schedules

For the purpose of this policy, an Adjusted Work Schedule (AWS) is a permanent eight (8) hour / M-F schedule, whereby the employee's start time is an alternative time other than 8:00 AM. These schedules may be established at the discretion of the Division and must be approved by the Director or Director's designee(s) based upon the Division's operational needs. Start times may vary between 7:30 AM and 9:00 AM only, depending on the needs of the work unit. End times should be no earlier than 4:30 PM.

Once approved, the AWS becomes the regular, permanent working schedule for the employee. Management retains the right to adjust the number of employees approved for AWS as necessary. Previously approved AWSs may be revoked when operational needs require. Management will give the employee reasonable notice of any alteration or revocation of the AWS, unless impractical.

If AWSs are to be established in a work unit, core hours of operation shall remain 9:00 AM to 4:00 PM and official department office hours shall remain 8:00 AM to 5:00 PM, Monday through Friday.

## VI. Holidays

If the Director, based upon operational needs, approves a non-standard schedule for an employee outside of the standard work week, the employee shall be required to revert back to standard schedule of eight (8) hour shifts M-F during the week of any state holiday.

## VII. Enforcement & Accountability

Supervisors shall be responsible for active enforcement of this policy and shall regularly monitor the work area to ensure compliance. Supervisors failing to monitor subordinate employees and/or failing to enforce this policy in any way may be subject to discipline.

# INVESTIGATIONS

## *Policy Number 209.0*

| | |
|---|---|
| Purpose: | This policy sets forth the procedures for processing violations of agency work rules and the procedures to be followed when illegal activity by any state employee or official is suspected or alleged. |
| Revised Date: | October 2011 |
| Cross Reference: | OCSEA Art. 24.04; FOP Art. 18; 2011 Governor's Memo on Policies and Procedures for Notification of Suspected Illegal or Improper Activity within State Departments and Agencies |

## I. General Information

The investigative procedures contained herein are general directions for conducting department investigations. They are not designed to cover every situation encountered but they are a sufficient foundation to direct and guide investigators in conducting investigations.

Each Division Head is responsible for ensuring that all incidents that occur in his/her work unit that require an investigation are reported in accordance with this policy's procedures and protocols, and that his/her staff are fully informed of their responsibilities and trained on these procedures and protocols.

## II. Administrative Investigations

An administrative investigation is an objective fact-finding process into alleged violations of department, division, bureau, office or section policy and/or procedure. When a violation occurs, the following steps should be followed:

1) Prior to initiating any administrative investigation, all supervisors shall ensure that their Division Head is notified of the suspected violations and all parties involved.

2) Before an administrative investigation is initiated, the Division Head or designee shall notify the Office of Human Resources (HR) (If the misconduct that is leading to the investigation is of a nature that could be deemed illegal, it should be immediately reported to the Director and the Chief Legal Counsel).

3) The investigation will be assigned a Commerce Investigation number by the Labor Relations Administrator in HR, and a file will be started.

4) The Division Head, in consultation with HR, will determine a management employee to be the case investigator. Usually this will be the immediate supervisor to the employee who was allegedly engaged in the misconduct.

5) Upon gathering all relevant information related to the alleged violation, it is the role of the investigator to prepare an objective fact-finding report. The investigator need only determine if the alleged violation is supported or unsupported by the evidence contained in the report.

## III. Criminal Investigations

A criminal investigation is an objective fact-finding process into alleged violations of state or federal criminal statutes conducted by a designated law enforcement agency.

When a violation occurs, the following process should be followed:

1) Any state employee that becomes aware of suspected non-emergency illegal activity shall immediately notify the Director or the Chief Legal Counsel of the department for which the reporting employee works.

   Whenever it appears that any alleged illegality has occurred or is occurring where an immediate law enforcement response is necessary, the State Highway Patrol Office of Investigative Services (SHP/OIS) should be the first police agency notified. In central Ohio, employees should call (614) 752-0234 during normal business hours; after hours call (614) 466-2660. In other areas of the state, reports should be directed to the local State Highway Patrol Post. The Director as well as the Chief Legal Counsel shall be notified as soon as possible after contacting the Patrol.

2) Although the departments and agencies are reminded of their duty to comply with the whistleblower statutes ORC § 124.341 and ORC §4113.52, employees who report conduct that they believe is illegal or unethical should have a reasonable factual basis for believing that improper activities have occurred, and should provide as much specific information as possible to allow for proper assessment of the nature, extent, and urgency of the incident.

3) When the Director or Chief Legal Counsel of a department is notified or becomes aware of suspected or alleged illegal activity by any employee, the Director or the Chief Legal Counsel of the department shall notify the Chief Legal Counsel to the Governor (or designee), the SHP/OIS, and the Ohio Inspector General (or designee) as soon as possible in writing. To the extent possible, said written notice shall be provide to all of the preceding and shall include the following factual details:

   a. A description of the activity believed to be illegal and improper;
   b. What action/investigation, if any, has been taken by the department;
   c. Where the activity occurred;
   d. Name and position of the person(s) suspected of acting illegally or improperly;
   e. Time frame in which the activity is believed to have occurred or will occur;
   f. How and when the department learned of the activity;
   g. Department contact person with contact information.

4) Upon the receipt of a written notice of suspected illegal activity, the Chief Legal Counsel to the Governor, the SHP/OIS, and the Ohio Inspector General or their respective designees will confer to determine how to proceed with the investigation.

5) Because a criminal investigation may be necessary, the department should not conduct an internal investigation unless and until specifically directed to do so by the appropriate investigating agency. Administrative inquiries must give way to criminal investigations and no one suspected of illegal activity should be approached, disciplined or placed on administrative leave without authorization. Upon completion of the law enforcement investigation, the Chief Legal Counsel, shall be notified by the appropriate investigating agency.

6) Any employee who becomes aware of, or suspects, illegal or improper activity by the Governor or any member of his immediate staff may directly contact the State Highway Patrol <u>and</u> the Ohio Inspector General. In such cases, the State Highway Patrol and the Inspector General shall confer without the Governor's Chief Counsel and decide whether an investigation is warranted. Employees observing suspect illegal or improper activities always have the option of reporting such activities directly to the Ohio Inspector General, the State Highway Patrol, the Ohio Ethics Commission, or any pertinent law enforcement authority.

## IV. Administrative Investigation Closure

1) Investigation reports shall be completed at the division level for all initiated investigations regardless of the findings.

2) When an investigation is complete and has been reviewed by the Division Head, the following shall be forwarded to the HR Labor Relations Administrator:

    a. Investigative Report (including all attachments), signed by Investigator and his/her supervisor; and,

    b. A recommendation memo from the Division Head to the HR Director which requests further administrative action to be undertaken when supported by investigative findings, or which deems the investigation inconclusive.

3) After review by the HR Director, the Labor Relations Administrator will review the report of investigation and the recommendation to identify the specific violation(s) that is applicable, and begin the pre-disciplinary process.

4) Employees who are the focus of investigations that result in no administrative action shall receive, in writing, notification that the investigation has been completed and closed.

# LEAVE DONATION PROGRAM

## *Policy Number 307.0*

Purpose: To establish procedures for the agency's leave donation program
Revised Date: October 2011
Cross Reference: ORC §124.391; OAC §123:1-46-05; OCSEA Art. 29.06; FOP Art. 40.06

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## I. Background

It is the intent of the leave donation program to allow employees to voluntarily provide assistance to their co-workers who are in critical need of leave due to the serious illness or injury of the employee or a member of the employee's immediate family. Employees of the department may donate paid leave to any such employee who is eligible to accrue and use sick leave, and meets the eligibility requirements outlined below.

## II. Definitions

For the purpose of this policy, the following definitions apply:

1) Serious Illness or Injury: a medical condition of an employee or an immediate family member of such employee that is likely to require the prolonged absence of such employee from duty.

2) Immediate Family: an employee's spouse or significant other ("significant other" as used in this definition means one who stands in place of a spouse and who resides with the employee), parents, children, grandparents, siblings, grandchildren, brother- in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, step-parents, step-children, step-siblings, or a legal guardian or other person who stands in the place of a parent (in loco parentis).

3) Prolonged Absence: An absence relatively long in duration, not less than five (5) work days.

## III. Eligibility

An employee may receive donated leave up to the number of hours the employee is scheduled to work each pay period, if the employee who is to receive the donated leave or a member of the employee's immediate family:

1) has a serious illness or injury; and,

2) has a zero balance of sick leave (new sick and old sick), vacation leave, personal leave and compensatory leave; and

3) has applied for any paid leave, Workers' Compensation, or benefits program (e.g. Disability Benefits) for which the employee is eligible. Donated leave may be used during the waiting period for any applicable benefit programs offered by the state. However, donated leave may not be used to supplement the benefit.

## IV. Donating Employee

An employee may donate leave if the donating employee:

1) voluntarily elects to donate leave and does so with the understanding that donated leave will never be returned; and,

2) donates a minimum of eight (8) hours; and

3) retains a combined leave balance of at least eighty (80) hours of paid leave. Leave shall be donated in the same manner in which it would otherwise be used. Employees may choose to donate vacation, sick, personal or compensatory leave; however, new sick leave must be exhausted before donating old sick leave.

## V. Procedures

In order to determine if an employee is eligible to receive donated leave, the Human Resources Director must be provided sufficient documentation to establish that a serious medical condition exists. It is the responsibility of the employee, or employee's designee if impracticable, to contact the Human Resources Director and provide sufficient documentation. Leave donations will not be processed until all necessary documentation is provided.

Employees who wish to donate leave shall inform the Human Resources Director and certify the following information:

1) the name of the employee for whom the donated leave is intended;

2) the type of leave and number of hours to be donated (up to the number of hours the employee is scheduled to work during the pay period);

3) that the employee donating leave will have a minimum combined leave balance of at least 80 hours, and

4) that the leave is donated voluntarily and the employee understands that the donated leave will not be returned.

All documentation related to donating leave or receiving donated leave should be forwarded to the Human Resources Director in an envelope marked "confidential." The Human Resources Director will notify all pertinent parties of the approval or denial of the leave donation request.

## VI. Other Information

The leave donation program shall be administered on a pay period by pay period basis. Employees using donated leave shall be considered in active pay status and shall accrue leave and be entitled to any benefits to which they would otherwise be entitled. Leave accrued by an employee while using donated leave shall be used, if necessary, in the following pay period before additional donated leave may be received.

An employee using donated leave who is serving an initial or promotional probationary period will not have his/her service credited towards the completion of his/her probationary period upon return to work.

Donated leave shall be considered sick leave, but shall never be converted into a cash benefit.

# LEAVE WITHOUT PAY & UNPAID LEAVE OF ABSENCE

*Policy Number 308.0*

| | |
|---|---|
| Purpose: | To provide employees with leave alternatives when they have exhausted his/her accrued leave balance. |
| Date Revised: | October 2011 |
| Cross Reference: | Ohio Administrative Code §123:1-34-01; OCSEA Art. 31; FOP Art. 45 |

## I. Leave Without Pay

Leave without pay may be requested for short term absences of less than two weeks or when an employee has insufficient leave balances to cover an absence. Except to the extent required by the FMLA and in accordance with the appropriate contract, the Director is not obligated to grant leave without pay. Requests will not be routinely granted because an employee has exceeded their available leave balances. Employees may be required to provide documentation for in order to substantiate a request for leave without pay.

Requests for leave without pay must be submitted through the Division head to the Director or his/her designee for approval prior to any leave without pay being taken, or as soon as practicable. Such requests must state the reasons for taking leave without pay and the dates for which such leave is being requested. Leave without pay for an entire pay period or more is an unpaid leave of absence and is subject to the provisions below. Authorization of leave without pay is at the Director's discretion, and each case will be determined on its own merits.

## II. Unpaid Leave of Absence

An unpaid leave of absence for personal reasons may be granted for a maximum duration of six (6) months. Other requests for an unpaid leave of absence may be granted for a maximum period of two (2) years for purposes of education or training which would be of benefit to the service; or for voluntary service in any governmentally sponsored program of public betterment. Renewal or extension beyond the two-year period shall not be allowed (**Bargaining Unit employees should refer to the appropriate Collective Bargaining Agreement for details)**.

### A. Requests

Approval of most unpaid leaves of absences requests are at the Director's discretion, and each case will be determined on its own merits. Requests for leave without pay must be submitted, through proper supervisory channels, to the Director or his/her designee for approval prior to any leave without pay being taken, or as soon as practicable. Requests for leave without pay shall be submitted in writing, stating the reason for the leave of absence and the dates for which such leave is being requested. Unpaid leave of an entire pay period or more is a leave of absence and is subject to approval by the Director of the Department of Administrative Services (DAS), except for FMLA qualifying leave. Except to the extent required by the FMLA and in accordance with the appropriate contract, the Director is not obligated to grant unpaid leave. Requests for leave of absence may be approved for only exceptional cases, i.e., those cases indicating that extreme hardship would result for the employee if the leave without pay was not approved.

## B. Service Credit

Time spent on an approved unpaid leave of absence will count as service credit for annual step increases, layoff purposes, and for computing the amount of vacation leave, provided the employee is properly returned to service and is not serving a probationary period. Employees that do not return to service from a leave of absence shall not receive service credit for the time spent on such leave.

## C. Probationary Period Employees

Time spent on leave without pay shall not be counted towards the employee's original or promotional probationary period.

## D. Abuse of Leave

If it is found that a leave of absence is not actually being used for the purpose for which it was granted, the Director may cancel the leave and direct the employee to report for work by giving notice to the employee and the Director of the Department of Administrative Services. Abuse of leave is also subject to disciplinary action, up to and including removal.

## E. Return to Service

Upon completion of a leave of absence without pay, the employee shall be returned to the same or similar position within the employee's former classification. If the employee's former classification no longer exists, the employee shall be assigned to a position in a classification similar to that formerly occupied. The employee may return to active pay status prior to the originally scheduled expiration of the leave, if such earlier return is agreed to by both the employee and the Director. Return of an employee in the unclassified service to active pay status shall be at the discretion of the Director.

Failure to return from a leave of absence after the expiration date thereof may be cause for discipline, up to and including removal (in accordance with the agency's disciplinary policy, unless an emergency situation prevents the employee's return and evidence of such is presented to the employer as soon as possible).

# LONGEVITY PAY and STEP INCREASES

## *Policy Number 508.0*

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|---|---|
| Purpose: | To provide general information to employees about the longevity pay benefit and step increases. |
| Date Revised: | October 2011 |
| Cross Reference: | ORC 124.181, 124.15; OCSEA 36.03, 36.07; FOP 55.05, 56 |

## I. Longevity Pay - Exempt Employees

Except as otherwise provided in the ORC Chap.124, beginning on the first day of the pay period within which the employee completes five (5) years of total service with the state government or any of its political subdivisions, each employee in positions paid under salary schedules A and B of Section 124.15 or under salary schedule E-1 of Section 124.152 of the ORC shall receive an automatic salary adjustment equivalent to two and one-half percent of the classification salary base, to the nearest whole cent. Each employee shall receive thereafter an annual adjustment equivalent to one-half of one percent of his or her classification salary base, to the nearest whole cent, for each additional year of qualified employment until a maximum of ten percent of the employee's classification salary base is reached. Longevity pay adjustments shall become effective at the beginning of the pay period within which the employee completes the necessary length of service. Time spent on authorized leave of absence shall be counted for this purpose.

An employee who has retired in accordance with the provisions of any retirement system offered by the state and who is employed by the state or any political subdivision of the state on or after June 24, 1987, shall not have his or her prior service with the state or any political subdivision of the state counted for the purpose of determining longevity pay.

## II. Longevity Pay - Bargaining Unit Employees

Unless otherwise provided in the appropriate collective bargaining agreement, beginning on the first day of the pay period within which an employee completed five (5) years of total state service, each employee will receive an automatic salary adjustment equivalent to one-half percent (1/2%) times the number of years of service times the first step of the pay rate of the employee's classification up to a total of twenty (20) years. Longevity Pay will be added to the step rate of pay.

Longevity adjustments are based solely on length of service excluding any service time earned between July 1, 2003 and June 30, 2005. Longevity pay shall not be affected by promotion, demotion or other changes in classification.

## III. Step Increases

Unless otherwise specified by law or collective bargaining agreement, newly hired employees will move to the next step in his/her pay range after completion of probation. The probationary period will depend on the classification in which the employee is hired. A subsequent step increase will occur after one (1) year of satisfactory service following completion of probation, and every year after on that date.

During an authorized leave of absence, an employee shall continue to accrue service credit for purposes of determining vacation benefits, annual step increases, longevity, and retirement benefits. The period during which an employee receives disability leave benefits shall not count towards an employee's probationary period.

# MILITARY DUTY

## *Policy Number 309.0*

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|---|---|
| Purpose: | To provide information regarding the rights of employees who are called to duty in the military service. |
| Revised Date: | October 2011 |
| Cross Reference: | Uniform Service Employment and Reemployment Rights Act of 1994 (USERRA); ORC 124.311, Chap. 5923; OAC §123:1-34-04; OCSEA Art. 30.02, 31.02; FOP Art. 47 |

## I. General Information

Any permanent employee who is a member of the Ohio National Guard, the Ohio Military Reserve, the Ohio Naval Militia, or any other reserve component of the armed forces of the United States, is entitled to a military leave from his/her duties without loss of pay, for such time as they are in the military service for a period not to exceed 22 work days or 176 hours per calendar year. Military leave requires the employee to request leave electronically and submit a published military order, or a written statement from the appropriate military commander as evidence of military duty to the Office of Human Resources. Unless a national or state emergency prevents it, employees are required to give advance notice of any type of military service.

While on paid military leave, employees shall accrue sick, vacation and personal leave as normal. After the 176 hours of paid military leave expires, employees do not accrue any form of leave.

## II. Leave Without Pay

Any permanent state employee who has held a position for a period of at least 90 days shall be granted a military leave of absence to be inducted or otherwise enter military duty. This military leave shall be without pay and shall be considered as a separation from service with reinstatement rights.

Upon giving notice to the Director, a permanent employee shall be granted a leave of absence to serve in the uniformed service, as defined in section 5923.05 of the revised code. This leave shall be without pay and shall be considered as a leave of absence from service with reinstatement rights. No single leave of absence or combination of uniformed service leaves of absence may exceed five years or a single longer period required to complete an initial period of obligated service.

Employees who are members of the Ohio National Guard shall be granted emergency leave without pay for mob, riot, flood, civil defense or other such duties when so ordered by the Governor to assist civil authorities, when such duty exceeds military leave with pay authorized for the year. Such leave shall cover the official period of emergency.

The Leave Request (Military) Form must be used to request a personal leave of absence without pay for military reasons, for 1 through 365 days. This military leave may be voluntary or involuntary.

Unless the employee has requested to use his/her available leave balances after the 176 hours have been exhausted, all leave balances (vacation, personal or compensatory will remain intact throughout this period.

Employees on an approved leave of absence (1-365 days) may retain their health and medical insurance plan during this period by making direct payments OR they may let insurance lapse until their return to a pay status.

## III. Reinstatement

Upon reinstatement from military leave without pay, bargaining unit employees receive credit for sick leave they would have accrued while on unpaid military leave. Exempt employees are not entitled to any sick leave they would have accrued. Step increases continue for the duration of the leave. Hospitalization and life insurance benefits are suspended while the employee is on leave. Employees on military leave without pay are not required to make direct payments into these programs; payment into the programs while on leave is optional. Hospitalization and life insurance benefits will be re-instituted upon reinstatement with no loss in amount of coverage.

An employee who re-enlists while on active duty, or a commissioned officer who voluntarily enters on extended active duty beyond that required on accepting a commission, is not eligible for reinstatement.

A veteran separated or discharged under honorable conditions must make application for re-employment to his or her former position within 90 days from the date of his or her release from service or within 90 days after release from hospitalization due to in-service injury or illness which has not exceeded a period of more than one year.

The division head will notify the Office of Human Resources when a veteran is separated from the armed forces and applies for reinstatement. Indicate approximate date when the veteran will be ready for reinstatement and attach a copy of his or her discharge paper or certificate of service. Reinstatement must be accomplished within 30 days after application is received.

The veteran must be physically qualified to perform the duties of his/her position. Where a disability (sustained in military service) precludes restoration to the original position, the veteran shall be placed in a position of like status and pay, compatible with his or her physical condition, provided the accommodation does not cause an undue hardship to the employer.

## IV. Military Funeral Honors Detail Leave (FHDL)

An employee is entitled to a lifetime maximum of twenty (20) hours of paid leave for those hours the employee is absent from work in order to participate in a funeral honors detail at the funeral of a veteran. The employee must be a retired or active member of the armed forces of the United States or of a reserve component of the armed forces of the United States, including the Ohio National Guard, and must be trained to participate in a funeral honors detail.

Requests must be made at least twenty-four (24) hours in advance, if practicable, using normal agency procedures for requesting leave. Employee must submit proof his/her veteran status and completion of the require training. Upon completion of the assignment, an employee must also show proof of his/her participation in the honor detail (e.g., written verification from the Honor Coordinator or Veterans Services Organization, or a military earnings statement if paid for the detail).

If the employee participating in a funeral honors detail receives actual orders for the assignment and has paid military leave still available, paid military leave should be used to cover the time off. In all other situations where an employee participates in a funeral honors detail, FHDL should be used to cover the time off if available. This policy does not prevent an employee from using vacation leave, personal leave or compensatory time off to participate in a funeral honors detail. Uses of these other types of leave are subject to the normal agency procedures for requesting such time off.

# NEPOTISM

## *Policy Number 203.0*

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| Purpose: | To ensure no interference exists between employees' commitment to employment and commitment to persons having a significant relationship to the employee. |
| Revised Date: | October 2011 |
| Cross Reference: | DAS Directive HR-D-02<br>ORC §124.09; OAC §123:1-45-01<br>OCSEA Contract (Art. 17.09); FOP Unit 2 Contract (Art. 31.04) |

## I. General Information

The Department of Administrative Services established a statewide policy on nepotism to ensure that hiring and supervision in state government is conducted in a manner which enhances public confidence in government and prevents situations which give the appearance of partiality, preferential treatment, improper influence, or a conflict of interest. In accordance with this objective, the following is the Department of Commerce's policy, as well as the State of Ohio's policy on hiring and supervision.

## II. Definitions

For purposes of this policy, the following definitions apply:

1) Public Official or Employee: Any person who is elected or appointed to an office or is an employee of any public agency under the jurisdiction and control of the Governor or his appointees. Public employee includes part-time interns, paid student help, temporary, intermittent and seasonal employees.

2) Closely Related by Blood or Marriage: Spouse, children (whether dependent or independent), parents, grandparents, siblings, aunts, uncles, in-laws, step-children, step-parents, step-grandparents, step-siblings, step-aunts, step-uncles, and other persons related by blood or marriage who reside in the same household. (For bargaining unit employees, this also includes grandchildren, great-grandchildren, legal guardian or other who stands in the place of a parent.)

3) Significant Relationship: Persons living together as a spousal or family unit when not legally married or related, where the nature of the relationship may impair the objectivity or independence of judgment of one individual working with the other.

4) Business Associates: Parties who are joined together in a relationship for business purposes or acting together to pursue a common business purpose or enterprise.

5) Supervision: The direct ability or power to effectively recommend the hire, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, discipline or settlement of disciplinary grievances/appeals of other public employees, including the authority of a board or committee to order personnel actions affecting the job.

## III. Prohibitions

All public officials and state employees are prohibited from authorizing or using the authority or influence of his or her position to secure the authorization of employment or benefit (including a promotion or preferential treatment) for a person closely related by blood, marriage, or other significant relationship, including business association. This includes, but is not limited to, the following circumstances:

1) Neither the Governor nor Lieutenant Governor shall authorize or use the authority or influence of his or her position to secure authorization of the employment of a person closely related by blood, marriage, or other significant relationship, including business association, to serve in any position within state government.

2) Except as provided in Section (d) below, no public official or employee serving as a Department Director, Assistant Director, Deputy Director, or any person of equivalent rank shall have in the employ of his or her Department any person closely related by blood, marriage, or other significant relationship, including business association.

3) Except as provided in Section (d) below, the Human Resources (HR) Personnel Administrator and the HR Director shall not have in the employ of his or her Department any person closely related by blood, marriage, or other significant relationship, including business association.

4) No employee in the personnel section of HR shall process any personnel actions or use authority or influence of that employees' position to secure the employment of a person related by blood, marriage, or other significant relationship, including business association.

5) No employee in HR shall review or be involved in the disciplinary actions of a person closely related by blood, marriage or other significant relationship, including business association.

6) The above prohibitions shall not apply to those circumstances in which:

    a) a marital or other significant relationship develops subsequent to both the public official's and/or employee's employment with the Department;

    b) the public official or employee is employed by the Department prior to the appointment of a person closely related by blood, marriage, or significant relationship to the position of Director, Assistant Director, Deputy Director or personnel employee (e.g., a husband is employed at the agency and his wife is offered the appointment of Deputy Director. Neither the husband nor the wife must leave the agency);

    c) a person closely related by blood, marriage, or significant relationship obtains employment with the same Department as the result of bumping, displacement, recall, or some other non-discretionary personnel action;

    d) the public official or employee served in a capacity other than Director, Assistant Director, Deputy Director, or personnel employee at the time the person closely related by blood, marriage or significant relationship was hired by the Department (i.e., a sister and brother are both employed by a Department and the sister achieves a promotion to the personnel area of the Department. A conflict does not exist provided the sister does not process any personnel actions for her brother).

    e) A person closely related by blood or marriage or has other significant relationship including business association with the Assistant Director, Deputy Director or any person of equivalent rank other than the HR Personnel Administrator and the HR Director is not prohibited from working in the same department as long as the Assistant Director, Deputy Director or any person of equivalent rank does not participate in the hiring of the employee and has no direct line of supervision.

## IV. Supervision

No public official or employee shall supervise any person closely related by blood, marriage, or other significant relationship, including business association, except as provided in section (6) above.

Should a supervisory conflict arise, the Department shall work expeditiously to relocate or transfer one of the individuals to eliminate the conflict to the extent permitted by law and/or collective bargaining

agreement. This relocation or transfer should be to a comparable position. The Department will attempt to minimize the inconvenience for the transferring employee.

## V. Procedures

The HR Generalist assigned to each Division will be responsible for requesting nepotism information and accurately documenting any information received by the applicant/transferring employee. Nepotism information must be verified with every new hire or transfer.

Human Resources will not process any personnel action for new hire, promotion or transfer without proper verification.

## VI. Enforcement

Any employee who fails to comply with this policy may be subject to disciplinary action. Additionally, violation of Section 2921.42(A)(1) of the Ohio Revised Code (ORC) is considered to be a felony (per Section 2921.42(D) of the ORC) subject to criminal prosecution.

Any violations of the criminal or ethics laws should be reported to the Governor's Office of Chief Legal Counsel, as required by the Governor's Procedures for Responding to Illegal Activity. Any violation of Ethics laws may also be reported to the Ohio Ethics Commission.

# OHIO PUBLIC EMPLOYEE RETIREMENT SYSTEM (OPERS)

*Policy Number 503.1*

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|---|---|
| Purpose: | To inform employees about their retirement system. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC Chap. 145; OAC Chap. 145 |

## I. OPERS

All employees who are paid in whole or in part by the State of Ohio, a county, municipality, or any other political subdivision of state or local government in Ohio must become members of OPERS unless they are covered by another state retirement system in Ohio or by the Cincinnati Retirement System.

## II. Retirement

Membership begins from the first date of employment. Members of OPERS are required to make contributions to the System through payroll deductions. A percentage of your gross salary is deducted from each paycheck and paid into a retirement fund and that amount is matched or exceeded by the state's contribution. Federal tax law makes it possible for employers to pay (pick-up) member contributions to OPERS. This enables employers to designate member contributions picked up by the employer as tax deferred.

A Personal Statement of Benefits based on a member's account value as of the previous December 31 is mailed during the first half of each year.

## III. Contact Information

OPERS is located at:

Ohio Public Employee Retirement System
277 East Town Street
Columbus, Ohio 43215-4642
Please dial 1-800-222-PERS (7377).

Further Information can be found online at www.opers.org

# OVERTIME & COMPENSATORY TIME

## *Policy Number 310.0*

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|---|---|
| Purpose: | To define conditions under which overtime pay and compensatory time can be earned and used. |
| Revised Date: | October 2011 |
| Cross Reference: | Fair Labor Standards Act (FLSA) of 1938 and subsequent amendments<br>ORC §4111.03, 124.18; OAC §123:1-43; OCSEA Art. 13; FOP Art. 22; DAS Dir. HR-D-06 |

## I. Definitions

The following definitions apply to compensation for authorized overtime worked.

1) Overtime: Hours worked in excess of forty (40) hours in active pay status in a calendar week for which the employee is authorized and entitled to receive overtime compensation.

2) Time in Active Pay Status: For purposes of calculating overtime, time in active pay status includes:
   a) Time worked; or,
   b) Time the employee is not working but is on approved paid leave (i.e. vacation, personal, military, jury/witness leave, holiday, compensatory time off and excused paid absence, with the exception of sick leave). For simplification, the term "paid leave time" is used throughout the overtime instructions.

3) Overtime Eligible Employees: Employees who are eligible to receive overtime pay, as determined by the FLSA, for hours worked in excess of 40 during any calendar week.

4) Overtime Exempt Employees: Employees who are not eligible to receive overtime pay, as determined by the FLSA, for hours worked in excess of 40 during any calendar week.

## II. Overtime Compensation

Throughout this policy it is important to pay attention to the difference between overtime eligible and overtime exempt employees. All employees are considered overtime eligible unless otherwise determined by the Office of Human Resources.

Bargaining unit employees and bargaining unit exempt employees designated as overtime eligible are entitled to receive overtime compensation for any hours worked in excess of 40 hours in any one calendar week. Such overtime compensation will be at a rate of one-and-one-half times the employee's total rate of pay. Overtime eligible employees may elect to accrue compensatory time in lieu of cash payment. Such compensatory time will be accrued at a rate of one-and-one-half hours of compensatory time for each hour of overtime worked. The decision whether the overtime is paid as cash or earned as compensatory hours should be made at the time the overtime assignment is made. Overtime compensation for a single assignment cannot be divided between pay and compensatory time.

## III. Authorization to Work Overtime

Requests to work overtime must be submitted in writing and must be recommended by the supervisor and approved by the division prior to the performance of overtime. In emergency situations, the authorization

may be obtained by telephone but must later be confirmed in writing. Authorizations shall be maintained by the requesting office for internal audit purposes.

FIELD STAFF EMERGENCIES: In extreme cases, there may be occasions that warrant employees' discretion in determining overtime. In those situations, if an employee estimates that he/she can finish a job by working an additional 15 minutes to 45 minutes above and beyond a normal eight-hour work day, and contacting the supervisor would add unnecessary time to the project, he/she may finish the job without supervisory approval. Any overtime worked beyond 45 minutes must receive prior authorization. In such cases, the employee must document the necessity for performance of such overtime. These are exceptional cases, where finishing the job would be more efficient than returning for another visit.

## IV. Compensatory Time

Maximum accrual of compensatory time per year shall be as follows:

1) Bargaining unit employees – Refer to the appropriate Collective Bargaining Agreement

2) Exempt employees designated as overtime eligible – 240 hours

3) Overtime exempt employees – 120 hours of compensatory time at straight time

Employees designated as "overtime exempt" are subject to additional limitations as listed below:

a) Compensatory time accrues on an hour-for-hour basis and shall be accrued in no less than one-half hour increments. Requests to use compensatory time are made in one tenth of an hour increments.

b) Compensatory time is not available for use until it appears on the employee's earnings statement and the compensation described in the earnings statement is available to the employee (i.e. payday-Friday).

c) Employees accruing compensatory time must justify on the time sheet the reason(s) for working the additional hours.

d) All compensatory time must be used before an employee is granted a leave of absence without pay.

e) An employee may use compensatory time only at a time mutually convenient to the employee and his supervisor within three hundred sixty-five (365) days after earning such compensatory time.

f) Cash payment for accrued compensatory time is not permitted.

## V. Payment of Overtime/Compensatory Time

1) Paid Overtime: Overtime for which payment is to be made must be reported to the Fiscal Section at the end of the pay period in which the overtime was worked.

2) Accrued compensatory time: OCSEA employees must be use accrued compensatory time within 365 days from when it was earned. Compensatory time not used within 365 days shall be paid to the employee at the employee's current regular rate of pay. Any employee who has accrued compensatory time off and requests use of this compensatory time shall be permitted to use such time off within a reasonable period after making the request or, if such use is denied, the compensatory time requested shall be paid to the employee at his/her option. When the maximum hours of compensatory time accrual is reached, payment for overtime work shall be made. (FOP employees: please refer to the appropriate article of the FOP Contract, Article 22)

   Accrued compensatory time for all employees exempt from collective bargaining must be taken within 365 days after accrual and at a time mutually convenient to the employee and the Division Head. Only those employees exempt from collective bargaining and are overtime eligible shall be paid for compensatory time earned which has not been used within 365 days. When payment is to be made for compensatory time not used, it shall be paid at the rate of pay which was effective for the employee at the time the compensatory time was earned.

## VI. Termination of Employment

1) Overtime Eligible Employees: When payment is to be made for compensatory time not used, it shall be paid at the rate of pay which was effective for the employee at the time the compensatory time was earned.

2) Overtime Exempt Employees: All compensatory time balances will be forfeited upon termination of employment.

3) Bargaining Unit Employees: In accordance with the labor agreement, upon termination of employment, an employee shall be paid for unused compensatory time at a rate which is the higher of:

   a) the final regular rate received by the employee; or

   b) the average regular rate received by the employee during the last three years of employment.

# PERFORMANCE EVALUATIONS

## *Policy Number: 400.0*

| | |
|---|---|
| Purpose: | To provide guidance to employees and supervisors for using the performance management tool, while also defining expectations for employee ratings and development. |
| Revised Date: | July 2013 |
| Cross Reference: | OAC §123:1-29; OCSEA Art. 22; FOP Art. 32; DAS HR-38 |

## I. General Information

Performance evaluations provide employees with an increased awareness of his/her work, job duties and performance expectations. A performance review is used to: work toward the attainment of the department's mission, goals and objectives; inform the employee of his/her strengths, weaknesses and progress; improve an employee's performance and productivity; strengthen work relationships and improve communication among employees; help in developing employee skills; and recognize accomplishments and exceptional performance. Supervisors are expected to see that each employee receives a fair and timely review of his/her job performance.

## II. Performance Cycles

Performance for exempt employees shall be evaluated annually based on one of two established performance cycles. Exempt employees in the Divisions of Administration, Financial Institutions, Securities and State Fire Marshal shall be evaluated January 1 of each calendar year. Exempt employees in the Divisions of Industrial Compliance, Real Estate & Professional Licensing, Liquor Control and Unclaimed Funds shall be evaluated April 1 of each calendar year.

Bargaining Unit employees will continue to be evaluated on the cycles established by the applicable collective bargaining agreement, and step dates will remain unchanged.

Exempt employee step dates shall not be affected by the establishment of these performance cycles. This performance cycle shall not apply to employees in his/her initial probationary period. Probationary evaluations will be conducted at the midpoint and prior to the completion of the probationary period. Subsequent reviews will be completed in accordance with the above listed performance cycles (Exempt employees). The rating period following successful completion of probation may be shortened or lengthened depending on where it falls relative to the established rating cycles, but will be no less than six months and nor more than 17 months.

An ad hoc evaluation may be conducted for an underperforming employee outside the scheduled performance cycles. A Performance Improvement Plan (PIP) should be utilized prior to conducting ad hoc performance reviews. Supervisors wishing to conduct an ad hoc evaluation must first consult with the Office of Human Resources.

## III. Employee Evaluation Procedures

Each evaluation is designed to promote communication between employees and supervisors and to provide opportunities for improvement when needed. All evaluations must be completed through the electronic ePerformance system located at www.myOhio.gov. Near the beginning of the exempt performance cycle, or the annual review date of the Bargaining Unit employees, supervisors will be contacted electronically by ePerformance Notification or by the Office of Human Resources to initiate the process. Supervisors must:

a) Initiate the evaluation process 30 days prior to the performance cycle date, or 60 days prior to the probation or anniversary date.

b) Schedule a pre-evaluation meeting with the employee. A self-evaluation form is not required. However, if an employee submits a form through the ePerformance system, it will become part of the final evaluation and must be considered as part of the final evaluation.
c) Hold the pre-evaluation meeting with the employee and review his/her performance and the self-evaluation form before completing the electronic evaluation.
d) Following the pre-evaluation meeting, complete and submit the electronic evaluation no later than 30 days after completion of the performance cycle date, or 30 days prior to the probation or anniversary date. The evaluation will be routed electronically for approvals.
e) Following approval by the appointing authority/designee, ensure the employee signs the electronic evaluation. Signature only indicates acknowledgement that he/she has reviewed the completed evaluation, and does not indicate agreement with its contents. An electronic signature is a valid form of signature on the evaluation.
f) Document any refusal to sign an evaluation, and note the employee was given an opportunity to review the evaluation. Refusal will result in the employee waiving his/her right to appeal.

Any documents referenced by the supervisor or attached to the evaluation must be appropriate to share with the employee and may be considered a public record. Appropriate materials include position descriptions, prior evaluations, work product files, written observations on job performance, significant job related incidents, goals & objectives, accomplishments, certificates, awards and thank you notes. Items that are inappropriate and should not be referenced in an evaluation include medical records or diagnoses, specific disciplinary action, undocumented comments or complaints. Supervisors may comment on job related behaviors that led to the discipline, but should not base comments solely on the fact that an employee was disciplined. Supervisor comments should not be subjective and should be based on objective facts that are consistent with other performance records. Comments should adequately assess the employee's job performance and list any opportunities for improvement.

Evaluations shall be reviewed by the immediate supervisor of the rater, and the Director or designee. The third party nomination function will not be used to nominate additional raters.

Supervisors shall develop an action plan for an employee that is marked below "Meets Expectations" in one or more rating area of the evaluation. This action plan shall be attached to the evaluation and state the rating area in need of improvement, deadlines for improvement, and the expected results. When an employee receives an overall rating of "Does Not Meet" on either an annual or ad hoc performance evaluation, supervisors are required to complete a Performance Improvement Plan (PIP) using the ePerformance tool.

Supervisors should continue to set goals related to the Agency or Division Mission. These goals should state an objective, a method or metric for evaluating the goal, and a timeline for completing the goal.

Career Development plans are not required to be completed, but may be initiated at the request of an employee. All plans must be reviewed by the Division and the Office of Human Resources in order to ensure the plan complies with operational needs and other agency policies. Plans may be denied if the employee is not following the plan or the plan does not comply with operational needs or agency policy.

## IV. Competencies

Employees will be evaluated based on a set of predetermined competencies issued by the Department of Administrative Services. All evaluations will include one statewide competency and the following choice of agency competencies:

a) "Communicating With People Outside the Organization" **OR**
"Performing for or Working Directly with the Public"
b) **AND** "Communicating with Supervisors, Peers, and Subordinates."

Classification competencies should be determined at the Division level based on the specific functions of those classifications in each Division. It will be the responsibility of each Division to determine which competencies and how many are appropriate for each classification. This should be consistent for similar classifications within the unit &/or Division, regardless if they have different supervisors. The Office of Human Resources will monitor classification competencies to ensure consistency across the Agency.

## V. Bargaining Unit Employees

Evaluations for Bargaining Unit employees shall be conducted in accordance with applicable collective bargaining agreements. Procedures for completing the evaluations will also follow the sections listed above. Employees are not entitled to Union representation during performance reviews.

## VI. Appeals

Bargaining Unit employees may appeal his/her performance evaluation in accordance with the procedures of the applicable collective bargaining agreement.

Exempt employees may appeal a performance evaluation if they receive an "Overall Performance Rating" of less than "Meets Expectations." A rating of less than "Meets Expectations" in any of the individual rating categories (i.e., Statewide Competencies, Agency Competencies, Classification Competencies, Goals & Performance Expectations) will not be appealable, unless the "Summary" of that category is also less than "Meets Expectations."

Exempt employees appealing his/her performance evaluation should first discuss the disputed ratings with his/her supervisor. If the disputed ratings cannot be resolved, the employee must submit in writing to the Office of Human Resources an appeal stating his/her objection to or comment(s) regarding the evaluation. This appeal should be submitted within ten (10) working days after the date discussed with his/her supervisor. A paper review of the evaluation and appeal will then be conducted by a representative of the Office of Human Resources. A meeting with the employee may be held at the discretion of the Office of Human Resources, but is not required. A written response will be issued to the employee within ten (10) working days of the receipt of the appeal.

If it is determined modification of an evaluation is necessary, a revised copy of the evaluation will be completed and re-submitted electronically, or filed in the employee's personnel file, as appropriate.

Refusal of the employee to sign the evaluation form shall constitute waiver of the employee's right to a review of the performance evaluation. An electronic signature is a valid form of signature on the evaluation.

## VII. Removal of Probationary Employee

Should the work performance of an employee serving a probationary period be considered unsatisfactory at any point during the probationary period, such employee may be removed prior to the completion of the probationary period.

## VIII. Step Increase Denial

The agency may deny the next annual step increase of an Exempt employee receiving an overall rating of "Does Not Meet" on either an annual or ad hoc performance evaluation. Evaluations resulting in a Step Increase Denial shall also include a PIP for the deficient areas of the evaluation.

Bargaining unit step increases may be denied in accordance with the applicable collective bargaining agreement.

## IX. Resources

The agency will hold periodic training to support supervisors in the completion of the evaluation forms. Other resources can be found under "Career Resources" at www.myOhio.gov, or under the Office of Workforce Administration, DAS/Human Resources Division at www.das.ohio.gov.

# PERSONAL APPEARANCE

## *Policy Number: 509.0*

Purpose: To give guidelines on what is considered professional attire for the workplace.
Revised Date: October 2011
Cross Reference:

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## I. Professional Image Required

All employees are required to maintain a "professional image" in attire and appearance during their regularly scheduled work hours.

## II. Professional Image Standards

The Department of Commerce maintains a professional image by necessitating that our employees dress in traditional business attire. Traditional business attire is that which is common and traditional in formal business settings. It is characterized by clothing that is designed to present a competent business image. Employees are expected to be reasonably aware of what professional business people normally wear when attempting to dress in a formal business setting. Under this standard, attire such as jeans, tennis shoes or flip-flops is strictly prohibited.

Clothing should always be clean, in good repair, and well-fitting. Traditional standards of personal hygiene must be observed at all times. A failure to exercise good judgment as to what constitutes a professional image in work attire may result in discipline. Employees may also be required to leave the workplace on their own time if their attire does not comport to the professional image standard.

Division Heads will be responsible for enforcing the professional image of their respective divisions. Employees should consult their supervisor if they have questions regarding this policy.

## III. Uniforms

Uniformed employees are considered to be in professional attire for purposes of this policy. Employees who have been issued uniforms by the department must follow policies for wearing uniforms of the division or office in which the employee is assigned. Please refer to your respective division's internal policies regarding uniforms.

## IV. Business–Casual Authorization

Employees must be in traditional business attire unless specifically authorized by the Director, or by the Division Head with the approval of the Director. Business-casual attire is that which is designed to present a professional image while allowing for more relaxed style of clothing.

## V. Casual Attire

In general, attire that is not designed to present a professional image or is more appropriate in a non-business setting is prohibited. On occasions when traditional business and business-casual attire are not appropriate for the work being performed, employees may request to wear casual attire. The use of casual attire shall only be approved by the Director or Division Head. At times when casual attire is approved, employees are still expected to wear clothing that is clean, in good repair, and well-fitting.

For the purpose of this policy the term "casual attire" and "dressed-down" are synonymous.

# PERSONAL LEAVE

*Policy Number: 311.0*

| | |
|---|---|
| Purpose: | To provide guidelines and rules for accrual, approval and use of personal leave. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC §124.386; OAC §123:1-32; OCSEA Art. 27; FOP Art. 39 |

## I. Accrual & Use - Bargaining Unit Employees (Refer to appropriate bargaining unit contract)

Full-time, permanent OCSEA employees are automatically credited with eight (8) hours in each of the pay periods that include the first day of January, April, July and October for a total possible accrual of thirty two (32) hours per year (F.O.P employees accrue personal leave at 1.23 hours per pay period, not to exceed thirty two (32) hours per year). Full-time, permanent employees who are hired after the start of a calendar quarter will be credited with personal leave on a prorated basis for that quarter. Part-time employees will be credited with personal leave on a prorated basis. Prorated hours will be based upon a formula of .015 hours per hour of non-overtime work.

Personal leave shall be granted if an employee makes the request forty eight (48) hours prior to the leave date. In an emergency, the request shall be made as soon as possible and the supervisor will respond promptly. Leave shall not be unreasonably denied.

Employees on approved paid leave of absence, union leave or receiving Workers' Compensation benefits shall be credited with those personal leave hours which they normally would have accrued upon his/her approved return to work. Employees on approved disability or approved Leave Without Pay (LWOP) will be credited with personal leave on a prorated basis for hours remaining in the quarter upon his/her return to work.

Maximum balance of personal leave shall be forty (40) hours. Personal leave for bargaining unit employees may be used in one-tenth hour increments. Personal leave may not be used to extend an employee's date of resignation or retirement.

## II. Accrual & Use - Exempt Employees

Full-time employees are credited with thirty two (32) hours each year in the pay period that included December 1. Employees hired after the pay period that includes December 1 will receive his/her yearly allotment on a prorated basis.

Employees not credited with his/her annual personal leave balance due to being in an inactive pay status (e.g., disability leave) during the pay period which includes December 1 shall be credited with personal leave in a prorated amount based upon his/her return to work.

Maximum balance of personal leave shall be forty (40) hours. Personal leave may be used in minimum units of one-tenth of one hour. Employees may use personal leave upon giving reasonable notice to the employee's supervisor. Such requests should be in writing, unless otherwise authorized. Requests should, when possible, be made within a reasonable time in advance of the date or dates requested unless the use is for an emergency situation. Personal leave may not be used to extend an employee's date of resignation or retirement.

## III. Change in Status

If an employee's status changes to other than full-time or the employee separates from service, the personal leave balance will be adjusted to reflect a reduction of 1.2 hours for each pay period remaining until the next base period. If such reduction at the time of status change results in a negative personal leave balance, such negative amount shall be deducted from any compensation that remains payable to the employee.

## IV. Conversion of Personal Leave at Year End

During the pay period which includes December 1 of each year, employees have the following options which they may select with regard to unused personal leave balances:

1) Carry forward balance not to exceed forty (40) hours. Personal leave in excess of forty (40) hours will automatically be paid out.

2) Convert personal leave to new sick leave.

3) Receive a cash benefit for all or any part of the personal leave balance. The cash benefit conversion shall equal one hour at the employee's base rate of pay for every hour of unused credit that is converted, up to a maximum of forty (40) hours.

## V. Conversion of Personal Leave Upon Separation from Service

### Exempt Employees

An employee, upon separation from service for any reason is entitled to a cash benefit conversion for all accumulated personal leave. The cash benefit conversion shall equal one hour at the employee's base rate of pay for every one hour of unused personal leave converted. At the time of separation from service, the personal leave balance will be adjusted to reflect a reduction of 1.2 hours for each pay period remaining until the next base period (period which includes December 1). If such reduction at the time of separation results in a negative personal leave balance, such negative amount shall be deducted from other pay due the employee.

### Bargaining Unit Employees

An employee who is separated from state service shall be entitled to convert the unused earned amount of personal leave. This payoff shall be at the employee's regular rate of pay. Upon the death of a permanent employee, unused earned personal leave shall be converted to cash and credited to his/her estate.

# PERSONNEL FILES

## *Policy Number 510.0*

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|---|---|
| Purpose: | To inform employees of the department's custody procedures for personnel files and their right to review their personnel file as maintained by the department. |
| Date Revised: | October 2011 |
| Cross Reference: | ORC Chapter 1347; ORC §149.43<br>OCSEA Art. 23; FOP Art. 17 |

## I. Custody of Personnel Files

The official personnel files for employees of the department are maintained in the Office of Human Resources. The Human Resources Director is the official custodian of the department's personnel files.

An employee's personal information located within his/her personnel file shall be acquired, processed, stored and accessed in accordance with ORC Chapter 1347 and any rules promulgated there under.

No other files pertaining to employees of the department, which may be maintained at any other department location, shall be considered a personnel file.

## II. Confidentiality

All information regarding employees of the department shall be considered confidential to the extent permitted by the ORC §149.43 and ORC §1347.15

Information in personnel files will be maintained in confidence by the Office of Human Resources in accordance with all applicable laws and rules and treated with the utmost sensitivity. All Human Resources employees must sign a confidentiality agreement annually.

## III. Access to Information in Personnel Files

An employee's rights to access his/her personnel file maintained by the department are described in ORC §1347.08. The department will grant an individual access to personnel files in accordance with this statute. Specific provisions regarding access to personnel files of bargaining unit employees are contained in the appropriate collective bargaining agreement.

Any department employee wishing to review his/her own personnel file must contact the Office of Human Resources in advance to schedule an appointment during normal work hours. A Human Resources representative must be present to conduct the review. No information, documents or materials may be added to, or taken from, without authorization from the Human Resources Director.

Any employee request for duplication of material or documents within the personnel file will be handled by the Human Resources representative assigned to the file review.

# POLITICAL ACTIVITIES

## *Policy Number 204.0*

| | |
|---|---|
| Purpose: | To provide employees guidelines for participation in political activities for the purpose of ensuring against undue political influence. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC §124.57<br>OAC §123-1-46-02 |

## I. General Information

The Department of Commerce adheres to the guidelines issued by the Governor's office regarding political activities by State employees. Please be advised that state and federal law also provide for fines and/or criminal penalties for unauthorized political activity.

All State of Ohio employees are strictly prohibited from using state time, facilities or resources for political purposes.

All State of Ohio employees under the supervision and control of the Governor, directly or indirectly, are prohibited from soliciting another State employee for any political contributions for any state-wide candidate or issue.

Permissible participation in political activity varies for State employees depending upon the classification of the employee. Generally, unclassified employees may participate in political activities on their own time unless otherwise specifically precluded by federal or state law; while classified employees have stricter limitations on participation. The following are general guidelines regarding state employee participation in political activities. These guidelines are not intended to be exhaustive in scope, but rather to provide general guidance on political participation by Commerce employees.

## II. Classified Employees are Prohibited from Engaging in the Following Activities at *Any* Time:

1) Participating in partisan political activities, including active involvement in the elections process for primaries and partisan ballots;

2) Participating in or declaring to be a candidate for public office in a partisan campaign;

3) Campaigning by writing for publications, by distributing political material, or by writing or making speeches on behalf of a candidate of a partisan elective office;

4) Identifying his/her position as a state employee in letters to the editor, or for any other media forum when expressing their own personal views regarding political activities;

5) Being a candidate for public office in a non-partisan general election if the nomination to candidacy was obtained in a partisan primary or through the circulation of nominating petitions identified with a political party;

6) Soliciting political contributions from any state employee;

7) Receiving or collecting money for a partisan campaign;

8) Soliciting contributions or selling political party fundraising tickets;

9) Holding office, elected or appointed, in a political party or within a partisan candidate's campaign organization;

10) Participating in a political action committee or a political caucus which supports partisan activity;

11) Circulating nominating petitions in partisan election; and

12) Distributing partisan political material.

## III. Classified Employees are Allowed to Participate in the Following Activities on Their Own Time:

1) Register to vote and vote;

2) Voluntarily contribute to political candidates or organizations;

3) Attend political rallies;

4) Sign nominating petitions in support of individuals;

5) Express written and oral opinions, except as stated in section III(4) below;

6) Display political materials at home or on a personal vehicle;

7) Wear political badges or buttons;

8) Circulate non-partisan petitions relating to legislation; and

9) Running for office for which the candidates are not selected by political parties; and

10) Serve as poll workers (See Poll Worker Leave policy # 315.0).

## IV. Unclassified Employees are Prohibited from:

1) Participating in political activity on state time;

2) Using state equipment while engaged in political activities. State equipment may include but is not limited to, computer equipment, copiers, printers, faxes, PDAs, bulletin boards, vehicles, telephones, cellular phones or "smartphones"; and

3) Soliciting political contributions from any state employee for the financial benefit of a political party or candidate for public office.

## V. Unclassified Employees are Allowed to:

1) Run for part-time non-partisan elected office such as school board, city council, or township trustee;

2) Run for or hold political party leadership positions such as local or state central committee positions; and

3) Run for full-time elected office, subject to the restrictions set forth below.

Prior to seeking an elective position, all persons must forward their request to Commerce's Chief Legal Counsel and Human Resources Director. This request must receive approval from the Governor's Chief of Staff prior to participating in allowed activities.

Unclassified employees who are running for full-time elected office must, at a minimum, take a leave of absence from his or her position no later than the date of filing the certification of the petitions for the office to which he or she seeks election, or, if the employee does not have an opponent in a primary election, the employee must take a leave of absence no later than July 1 in the year of the general election. The Chief of Staff may authorize an earlier or later leave based upon an assessment of how the employee's candidacy will affect his/her ability to fulfill his/her job responsibilities. Additionally, the Chief of Staff may place other appropriate restrictions on such political activity as may be warranted under the circumstances.

Unclassified employees who wish to participate in political activities during normal business hours must use their lunch hour, vacation time, compensatory leave, personal leave or leave without pay.

## VI. Ballot Issues

Officials and employees have a right to express his/her personal opinions freely. However, state officials and employees must be careful to ensure that no taxpayer dollars are spent to advocate for or against a ballot issue, or to express a personal opinion that is or can be interpreted as a "State of Ohio" position or "Ohio Department of Commerce" position.

As state employees disseminate information or answer questions regarding ballot issues, they must keep in mind that the information they provide as a state employee, on state time or with state resources, must be objective and must leave the final interpretation of the information or answer up to the recipient.

## VII. Ohio Political Activity Policy

This policy is intended for general procedural review for Commerce employees and is a representative portion of Ohio's Political Activity Policy. The State of Ohio's Political Activity Policy governs all state agencies and should be reviewed in order to obtain a comprehensive understanding of this policy. For reference, a copy of the policy can be found in Appendix B.

Any questions related to this policy should be directed to the Office of the Chief Legal Counsel, 23rd Floor-Riffe Center.

# POLL WORKER LEAVE

## *Policy Number 315.0*

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|---|---|
| Purpose: | The purpose of this work rule is to establish procedures in accordance with the State of Ohio Policy on Poll Worker Leave. |
| Revised Date: | October 2011 |
| Cross Reference: | State of Ohio policy on Poll Worker Leave<br>Ohio Revised Code 3501.28 |

## I. General Information

The Department of Commerce recognizes the need for a pool of available individuals to serve as judges of elections in order for our democratic process to operate in a fair and efficient manner. Accordingly, the department will allow its permanent full-time and part-time employees, certified by the local board of elections, to be eligible for paid leave, or poll worker leave, on election day to serve as judges of elections. The ability to be away from work as contemplated by this work rule is subject to the terms and conditions set forth below.

## II. Eligibility

Poll worker leave only applies permanent employees who work full time or part time for the department. Employees who are classified as non-permanent appointment types such as seasonal, intermittent, etc., are not eligible for poll worker leave. This work rule shall be uniformly applied to all permanent Commerce employees. An employee who is on any type of paid or unpaid leave of absence is not eligible for poll worker leave.

## III. Procedures

A. A request for paid time off to serve as a judge of elections on election day must be submitted to the employee's immediate supervisor at least 14 calendar days prior to the date of the election or as soon as practicable. To request time off the employee must complete the standard leave request on the electronic timesheet system. The employee must check the box for "Other", and type in "Poll Worker Leave" on the form.

   Additionally, the employee must provide a copy of the employee's certificate of appointment issued by the board of elections pursuant to ORC §3501.27(A), a commitment card, or another form of confirmation from the local board of elections that the employee will be serving as a judge of elections on a particular election day, to his/her supervisor. Any request for time off that is not timely or presented in the proper manner shall be denied.

B. Upon receiving a properly completed leave request and review of the required documentation, the immediate supervisor shall note the date and time the request was received in the supervisor's "Remarks" section on the leave request. The supervisor is responsible for notifying an employee when the form is not completed properly or when documentation is missing. If this occurs, such notification shall be given by the supervisor prior to marking the leave form as being received for processing.

C. Approval for poll worker leave shall be subject to the operational needs of the employee's work unit. Requests for poll worker leave will be given the lowest priority as compared to all other types of leave requests received from employees within the work unit for the same date.

D. If the number of employees requesting poll worker leave would cause a work unit operational hardship, then requests for poll worker leave will be granted in the order they were received. The supervisor's date and time in the remarks section is the sole factor in determining when a request was submitted. Incomplete forms or forms with missing documentation will not be considered submitted until the error is corrected.

E. Management can revoke the approval of poll worker leave if operational circumstances of the employee's work unit so necessitate. It is the employee's responsibility to notify the board of elections if the employee is no longer available to serve as a judge of elections on a particular election day.

F. An employee must verify to the department the employee's service as a judge of elections in each instance that the employee utilizes poll worker leave. On the workday following the election on which the employee returns to work, the employee shall deliver a properly completed and signed Poll Worker Leave Verification Form to the employee's immediate supervisor. Additionally, within 5 working days of receiving payment from the local board of elections for his/her duties, the employee shall submit proof of the payment to the his/her immediate supervisor. Verification will not be considered timely if submitted more than 6 months beyond the date the employee utilized Poll Worker Leave. Failure of the employee to timely submit the required verification discussed above to the employee's immediate supervisor will cause the employee to be considered absent without leave (AWOL) for that day and may subject the employee to discipline, up to and including removal.

G. Any employee who fails to follow the procedures set forth in this policy may be subject to disciplinary action, up to and including removal. The department will notify the Director of the Department of Administrative Services of any circumstances where fraud is suspected so that any improper payments can be recovered.

## IV. Leave Usage

In accordance with ORC §3501.28(G)(1)(c), employees may receive paid leave for time serving as a judge of elections. Employees will only receive paid leave on an hour-for-hour basis, up to the maximum number of hours the employee was regularly scheduled to work on the day of the election. For example, an employee must work 8 hours as a judge of elections in order to receive 8 hours of poll worker leave. If an employee serves as a judge for 5 hours, then the employee will only receive 5 hours of poll worker leave. Also, if an employee is regularly scheduled to work 8 hours and works longer than 8 hours at the polls on elections day, the employee is only entitled to 8 hours of poll worker leave. Any discrepancy in the amount of time an employee is regularly scheduled to work and the amount of time the employee serves as a judge will be considered time during which the employee was absent without leave (AWOL). An employee in AWOL status may be subject to discipline, up to and including removal. Discrepancies will be determined from the verification documentation submitted by the employee.

# PUBLIC SAFETY EMERGENCY

## *Policy Number: 515.0*

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|---|---|
| Purpose: | To inform employees of the policy and procedures to follow when a public safety emergency is declared. Such emergencies may include, but are not limited to, severe weather conditions. |
| Revised Date: | October 2011 |
| Cross Reference: | OAC §123:1-46-01; DAS Directive HR-D-11; OCSEA Art. 13.15(A); FOP Art. 61(B) |

## I. Public Safety Emergency (PSE) Defined

For purposes of this policy, Public Safety Emergency (PSE) is a term of art which refers to all formal declarations or proclamations for a specific geographical area which may limit an employee's obligation to travel to and from work for a specific period of time. Such emergencies may include, but are not limited to, severe weather conditions like snowstorms. Only the Governor or the Director of the Ohio Department of Public Safety (DPS) as the Governor's designee, has the authority to declare a PSE for any part of the state for all or any portion of a given day for which department employees would be eligible for paid emergency leave.

A PSE cannot be declared by an individual department, director, or other public official, including county sheriffs. Emergency declarations or proclamations by the Congress of the United States or a chief executive for situations such as natural disasters, man-made disasters, hazardous materials incidents or civil disturbance do not constitute a PSE as defined in this policy.

Employees are responsible for keeping informed of any declared PSEs. DPS will notify designated radio and television stations of closings on a county-by-county basis. Ohio Highway Patrol Posts can provide information regarding whether or not a county in your area has been declared under PSE for state employee travel.

Additionally, employees can call the State of Ohio Employee Emergency Information Line toll-free at (866) 643-6756 for any PSEs, or (614) 821-9999 for information pertaining to weather emergencies.

## II. Work or Travel in a PSE

A PSE may be declared for specific counties or the entire state. Only employees living or working in the counties declared to be PSE areas will be eligible for emergency compensation.

Where an employee lives in a county which requires travel through one or more other counties in which PSEs have been declared, it is the employee's responsibility to account for his/her time should he/she be prohibited from getting to work. Field staff who must work in any county in which a weather emergency has been declared, may seek approval from his/her supervisor to alter his/her work itinerary.

> Example: if your headquarters is your home in Cuyahoga County, your assignments are scheduled for Lake and Ashtabula Counties (which have been declared PSEs) and you could conduct alternative work assignments within other assigned areas (such as Cleveland city limits), upon your supervisor's approval, you may alter your schedule. If there is no possibility to alter your schedule, you must seek guidance from your supervisor. In this instance, you may be eligible for compensation. If, however, under the previous example, Cuyahoga is declared to be under a PSE, then, unless you are declared a designated employee required to work in a PSE, you must not report to work, and are eligible for compensation.

In the event that a local official (i.e. one not speaking on behalf of the Governor) issues a weather emergency restricting travel to emergency and public safety vehicles within any county through which an employee must travel, the employee may elect to use vacation or personal leave rather than reporting to work. Employees with no or inadequate accrued leave shall be granted leave without pay.

## III. Designated Employees

Designated employees are defined by the Department of Administrative Services (DAS) to be those employees who are required to work during a PSE. These employees are considered critical to the continuing operation of the agency or institution. This would include employees whose positions must be filled on a 24-hour-a-day basis, and employees whose positions require them to be available during an emergency. Designated employees are determined by the agency. Employees of the department should not consider themselves to be designated employees unless they are informed otherwise.

## IV. Compensation During PSEs for Non-designated Employees

Non-designated employees who do not report to work or are sent home as a result of a declared weather emergency shall be paid for his/her full scheduled shift at his/her regular rate of pay.

Non-designated exempt employees who voluntarily stay at work during a weather emergency shall be paid at his/her regular rate of pay.

When non-designated exempt employees are required to remain at work due to the absence of designated employees, such non-designated employees shall be paid their regular rate of pay and entitled to overtime or compensatory time for all hours worked during the PSE based upon their FLSA status.

Non-designated bargaining unit employees who are required to remain at work due to the absence of designated employees, shall be paid at their regular rate of pay plus any applicable stipend per their collective bargaining agreement for hours worked during a PSE.

## V. Compensation During PSEs for Designated Employees

Designated exempt employees who work during a PSE shall be paid at their regular rate of pay plus the applicable overtime or compensatory time rate during the emergency.

Designated bargaining unit employees who work during a PSE shall be paid at their regular rate of pay plus a stipend for all hours worked during an emergency.

Designated employees who are instructed not to report to work or are released from work during a PSE by the Director shall be paid at his/her regular rate of pay. No compensatory time will be granted to designated employees who voluntarily work after being advised to leave or not to report for work.

Designated employees, who do not report for work and have not been instructed otherwise, must use accrued vacation, personal, or compensatory time to cover the absence.

## VI. Approved Leave and Departing Work Before Announcement of a PSE

Employees on approved leave (i.e., vacation, personal, compensatory, sick, leave without pay) that started before the weather emergency was declared (including employees who report to work but choose to leave early, before any declaration of weather emergency) shall be charged the full amount of approved leave.

## VII. Departing Work After Announcement of a PSE and Reporting to Work Late After a PSE is Declared to be Over

Employees who depart work before the weather emergency start time, but after the announcement of a weather emergency, must utilize his/her own leave from the time of departure until the start of the

weather emergency (e.g., emergency is declared effective 3 p.m. and an employee decides to leave work at 2 p.m. -- the employee must utilize available leave time to cover the hour from 2-3 p.m. and will be charged with excused leave from 3 p.m. until the end of the scheduled work day). In situations where a delayed starting time is imposed due to a weather emergency declaration, those employees reporting to work after the emergency is over (e.g., emergency is declared to be over at 10 a.m. and employee reports to work at 10:30 a.m.) must utilize his/her own leave time to compensate for his/her late arrival to work. Time used before or after the start of the weather emergency is declared to be over is to be reported as normal leave usage. The remainder is to be reported as excused leave (weather emergency).

# REFERENCES & EMPLOYMENT VERIFICATION

*Policy Number: 518.0*

Purpose: To protect the department from liability for giving out inappropriate information to parties making reference checks or verifying employment on current or former employees.

Revised Date: October 2011

Cross Reference:

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## I. Handling Requests For Employee Information

Any reference checks or requests, employment verifications or any other request for employee information regarding current or former department employees must be referred directly to the Human Resources Director, or in his/her absence, the Human Resources Personnel Administrator.

Any written requests for a reference or employment verification should be immediately forwarded to the Office of Human Resources for processing and response.

## II. Telephone Inquiries

Under no circumstances should any employee release any information about any current or former department employee over the telephone, or otherwise. All telephone inquiries regarding any current or former employee must be forwarded to the Office of Human Resources at (614) 995-7009 for review and processing by the Human Resources Director.

## III. Authorization

Once the Office of Human Resources reviews the request for information, an appropriate manager may be designated to provide the HR-authorized information to the requesting person.

## IV. Providing Reference / Recommendation Letters

No employee may issue a reference or recommendation letter to, or for, any current or former employee without first consulting with the Human Resources Director.

# SECURITY

## *Policy Number: 517.0*

Purpose: To assist in assuring a secure work environment at department facilities.
Revised Date: October 2011
Cross Reference:

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## I. General Information

The department will identify one person to act as a security coordinator for purposes of implementing the procedures at each Commerce facility. Additionally, each division is responsible for designating a security coordinator. The department security coordinator may be contacted at (614) 466-1286.

## II. Identification Badges

The department will issue security identification badges to all employees of Commerce at each of the three facilities – Riffe Center, Commerce East and the State Fire Marshal's Office - for the purpose of daily access to the workplace. The following procedures will apply to the issuance and use of identification badges:

1) Requests for an identification badge or cancellation of an identification badge must be made in writing to the department security coordinator five days prior to the effective date of the action requested. The request should include the following information: employee's full name, division/office, floor and hours of access.

2) All employees shall acknowledge, in writing, receipt of identification badges and a copy of this security policy.

3) Division security coordinators should review employee identification lists monthly to ensure they are accurate and the listed employees are current. The department security coordinator shall be notified of any cancellations, transfers, new hires or other corrections to the list.

4) If an employee transfers or leaves service, the employee's identification badge shall be delivered to the Office of Human Resources, who will deliver the identification badge to the Ohio Building Authority (OBA), located in the Riffe Center basement. For Commerce East and SFM facility employees, identification badges should be turned into the division security coordinators.

5) All identification badges must be worn visibly at all times, and must be shown upon the request of any designated security official. Failure to wear identification badge or follow security procedures may lead to disciplinary action.

## III. Building Access

Because of the variety of work undertaken by employees of the department, access to the building requires some flexibility while maintaining a responsible level of security. The following rules shall be followed when accessing the building:

- Employees will be required to present his/her identification badge for access into facilities. If an employee forgets his/her identification, the employee will report to the front desk. The employee will be required to sign in and be issued an unescorted visitor badge to wear for the day.

- No visitor may enter any facility without showing some form of identification and signing in. The front desk will issue a visitor badge. A visitor is defined as anyone who is not an employee (including delivery persons and guests).

- Employees will only be given routine access to the buildings between 6:00 AM and 6:00 PM, Monday through Friday. Full-time access (i.e., twenty-four hours, seven days per week) requires approval from the division head and the Assistant Director. Such access is generally limited to approved ITG staff and senior management.

- All sign-in logs are to be reviewed weekly and submitted to the department's security coordinator monthly.

- Non-routine access (i.e. before 6:00 AM or after 6:00 PM) by an employee who does not have full-time access can be permitted as follows:

    1) The employee's supervisor will give an overtime form to the division superintendent for approval.
    2) Upon approval, the supervisor will send a copy of the overtime form to the reception desk and OBA security.
    3) The employee will sign in and out on this form at the reception desk when he or she is utilizing the building for approved non-routine access.
    4) The forms will be reviewed and turned into the security coordinator monthly.

## IV. Non-Employee Access

When necessary to allow non-employees to access department facilities, the following procedures shall be used:

1) The reception desk of each division will be notified of all freight elevator deliveries. The receptionist will call the contact person and that person will escort the deliverer from the freight elevator, or pick up the package from the delivery person at the elevator. The delivery person must wear a visitor badge.

2) For frequent deliveries an approved badge will be issued for freight access only. Request for such access shall be submitted in writing by the division coordinator. Requests require approval by the division superintendent, and Assistant Director. The approved requests will be given to the security coordinator. Delivery people will sign for cards, agree to security procedures and wear identification badges.

# SICK LEAVE

## *Policy Number 312.0*

| | |
|---|---|
| Purpose: | To provide guidelines and rules for accrual, approval and use of sick leave. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC §124.382; OAC §123:1-32<br>OCSEA Art. 29; FOP Art. 40 |

## I. Sick Leave Defined and Accrual

Sick leave is to be used for absence(s) based upon a medical reason, i.e. personal illness or injury, pregnancy, exposure to contagious disease which could be communicated to other employees, illness or injury to a member of the employee"s immediate family (see below). In addition, sick leave may be used for pre-arranged or scheduled medical appointments.

"Immediate family" (OAC §123:1-47-01(A)(39)) means an employee"s spouse or significant other („significant other" as used in this definition means one who stands in place of a spouse and who resides with the employee, parents, children, grandparents, siblings, grandchildren, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, step-parents, step-children, step-siblings, or a legal guardian or other person who stands in the place of a parent (in loco parentis). Bargaining unit employees should refer to applicable contract articles of the collective bargaining agreements for particular guidance on this section of the policy. Bargaining unit employees should note the CBA may require that the family member reside with the employee in order to qualify as an "immediate family" member.

All full-time permanent and part-time permanent employees shall be credited with sick leave of 3.1 hours for each completed eighty (80) hours of service, excluding overtime hours. New accrual periods begin each year with the pay period that includes December 1.

## II. Call-off Notification

An employee requesting sick leave must notify his/her immediate supervisor by calling no later than one-half hour after the time the employee is scheduled to report for work, unless circumstances prevent this type of notification. No absence is considered approved until a supervisor at least gives verbal approval**.** A division may also elect to establish a list of designees for notification purposes in the instance that the immediate supervisor is not available. Neither voicemail nor e-mail is a valid form of notification. If notification is not made, the absence may be charged as an unexcused absence. In this case, the employee will not be paid for the time and discipline may follow.

If sick leave continues past the first day, the employee must notify his/her supervisor or designee every day thereafter unless prior notification was given regarding the number of days off and a call-in schedule was established between the employee and the supervisor. When institutionalized, hospitalized or convalescence at home is required, the employee is responsible for notifying the supervisor at the start and end of such period.

## III. Request for Leave

Sick leave is not available for use until it appears on the employee"s earning statement and the compensation described in the earning statement is available to the employee.

All requests for sick leave shall be submitted electronically on the Leave Request form, unless otherwise authorized. The employees shall be paid for sick leave used at his/her regular rate according to the following schedule:

| | |
|---|---|
| 100% | up to 40 hours used |
| 70% | hours 40.1 - 80.0 used |
| 100% | after 80 hours if using banked time |

If the employee on sick leave requires overnight hospital stay or outpatient surgery, the following applies:

(a) If the hours or portions thereof are associated with an overnight hospital stay by the employee, the employee"s spouse or a child residing with the employee or are used before or after the aforementioned hospital stay and are contiguous to the hospital stay, the sick leave hours shall be paid at a rate equal to the employee"s base rate of pay;

(b) If the hours or portions thereof are associated with an outpatient surgery by the employee, the employee"s spouse or a child residing with the employee or are used before or after the outpatient surgery and are contiguous to the outpatient surgery, the sick leave hours shall be paid at the rate equal to the employee"s base rate of pay.

(c) Sick leave requested at least thirty (30) calendar days in advance for prescheduled medical appointments for the employee, the employee"s spouse or a child residing with the employee may be supplemented at the employee"s request to one hundred per cent of pay with available sick leave balances provided that a doctor"s statement is submitted on the first day the employee returns to work following the absence.

The amount of sick leave charged against an employee"s accrual shall be the amount of time used, charged in one-tenth hour increments. An employee will be charged with sick leave only for days on which he or she otherwise would be scheduled to work. If a holiday occurs during a period of sick leave, sick leave will not be charged for the holiday.

After employees have used all of his/her accrued sick leave, the use of vacation leave, personal leave or compensatory time in lieu of sick leave will be allowed at the discretion of the division head.

## IV. Return to Work

Exempt employees are not credited with any sick leave upon his/her return to work from an approved leave of absence, workers compensation or disability leave. However, bargaining unit employees are credited with those sick hours which normally would have accrued upon his/her approved return to work (see provisions of the appropriate collective bargaining agreement).

## V. Leave Abuse and Monitoring

All supervisors actively monitor the sick leave usage of their staffs. Supervisors are charged with administering the policy and ensuring that consistent patterns of abuse are not permitted to develop. The supervisor has the responsibility to review and may deny sick leave use that may be considered questionable. Examples of such questionable usage include, but are not limited to:

1) Usage before, and/or after holidays;
2) Usage before, and/or after weekends or regular days off;
3) Usage after pay days;
4) Consistent usage on any one specific day;
5) Absence following overtime worked;
6) Usage for half days;
7) Continued pattern of maintaining zero or near zero leave balances;
8) Excessive absenteeism.

## VI. Illness or Injury During While on Other Approved Leave

If an employee, while on other approved leave, such as vacation leave or personal leave, suffers an interruption of his or her time off for reasons associated with sick leave, he or she may request that the portion of the approved leave affected be charged to sick leave.

## VII. Physician"s Statement or Verification

When required or requested, a physician"s statement or verification must be signed by the physician or his/her designee and must include the date(s) the employee was under the doctor"s care and termination of such care. An example of an acceptable physician"s verification may be on a prescription pad or a return to work/school slip.

A physician"s statement is required under the following circumstances:

1) In cases of serious illness or injury, when the absence may be for an extended period (eighty (80) work hours or more), a physician"s statement shall give duration (or probable duration if definite duration cannot be determined) and nature of illness and should be submitted without undue delay. If the employee"s condition requires that the absence extend beyond the period shown on the certification, additional certification will be required. If the employee"s condition progresses so that he/she is able to return to work in advance of the date originally certified by the physician, an additional certification of his/her ability to return to work will be required.

2) When an employee has reached a sick leave balance of fewer than seventeen (17) hours, the employee, after using the sick leave and returning to work, must provide a statement signed by a physician or the physician"s designee who examined the employee or the member of the employee"s immediate family. This requirement will remain in effect until such time as the employee"s sick leave balance reaches or exceeds seventeen (17) hours. Failure to provide the statement may result in denial of the leave, which may result in disciplinary action.

3) In cases where the request for sick leave is questionable, the employer may request a statement from a physician who has examined the employee or the member of the employee"s family, which must be submitted within a reasonable period of time.

Note: Nothing in this section shall prohibit the department from requiring a physician"s statement at any other time, as permitted by the collective bargaining agreements.

## VIII. Effect of Separation and Retirement on Accrued Sick Leave

An exempt employee having been employed for at least one (1) year, or a bargaining unit employee with a minimum of five (5) years of state service, separating from state employment shall have the following options regarding his/her unused accumulated sick leave balances:

1) Receive a cash benefit for all accumulated sick leave at the rate of 50% if the employee separates without retiring;
2) Receive a cash benefit for all accumulated sick leave at the rate of 55% if the employee separates by retiring;
3) Receive a cash benefit for a portion of the accumulated sick leave with the remainder being held for reinstatement for future public re-employment; or
4) Retain all accumulated sick leave for reinstatement if re-employed within ten years or for cash conversion at any time within three years (if the cash conversion is not made within 3 years, the hours remaining on record are credited upon return to state employment within ten years from separation).

## IX. Effect of Transfer on Accrued Sick Leave

An employee who transfers from one public agency or political subdivision of the state to another may be credited with the unused balance of his/her accumulated sick leave up to the maximum of the sick leave accumulation permitted in the public agency to which the employee transfers. Employees should contact the Office of Human Resources for any necessary clarification.

## X. Conversion of New Sick Leave at Year End

At the beginning of the pay period which includes December 1 of each year, full-time permanent and part-time permanent employees who are in active pay status have the following options which they may select with regard to the unused balance of his/her new sick leave:

1) Carry forward the balance of new sick leave; or
2) Receive a cash benefit for all or any part of unused new sick leave up to a maximum of 80 hours according to the following schedule:

| | |
|---|---|
| 47.9 hours or less accrued | 55% |
| 48 to 55.9 hours accrued | 60% |
| 56 to 63.9 hours accrued | 65% |
| 64 to 71.9 hours accrued | 70% |
| 72 to 79.9 hours accrued | 75% |
| 80 hours accrued and unused | 80% |

Note: Any balance which the employee did not convert shall be carried forward.

# SMOKE-FREE WORKPLACE

*Policy Number 512.0*

Purpose: To provide a work environment free from the effects of second-hand smoke.
Date Revised: October 2011
Cross Reference: ORC Chap. 3794

## I. Policy

The smoking of cigarettes, pipes, cigars or the burning of any smoke-producing substance is prohibited in all enclosed structures and vehicles owned, leased or operated by the department. This policy applies to all employees, customers, visitors and occupants of facilities owned, leased or operated by the department.

## II. Smoking Cessation

Employees may use a reasonable amount of accrued sick, personal or vacation leave to attend any bona fide smoking cessation program within his/her geographic area. This includes programs sponsored by cancer societies, lung associations, health care providers or personal physicians. Leave will be granted, subject to reasonable verification and the operational needs of the department.

## III. Violations

Discipline for violation of the smoking policy will be corrective rather than punitive. Emphasis will be placed on counseling and reprimands. Higher levels of progressive discipline will be issued only after repeated violations have occurred.

Completion of a bona fide smoking cessation program may be considered as a mitigating factor in the imposition of discipline for a violation of this policy. Employees having completed a bona fide smoking cessation program shall submit his/her certificate of completion to their immediate supervisor with a copy to the Office of Human Resources.

# TRANSITIONAL WORK

## *Policy Number: 504.5*

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|---|---|
| Purpose: | To provide an individualized program that allows an employee who has a temporary work limitation due to injury or illness to return to work while they complete his/her recovery. |
| Revised Date: | October 2011 |
| Cross Reference: | OCSEA Contract Art. 34.05; FOP Contract Art. 42.09, 42.10 |

## I. Policy

The transitional work program allows employees who suffer from a temporary work limitation due to an accident, injury or illness to return to work while completing his/her recovery. The transitional work program will assist eligible employees in returning to work as quickly as possible, thus reducing the financial burden and emotional impact on the employee and the overall costs associated with salary continuation / workers' compensation, Occupational Injury Leave (OIL), disability and other forms of approved leave.

The transitional work program does not contradict the spirit or purpose of the Family Medical Leave Act (FMLA) or the Americans with Disabilities Act (ADA). It is a joint labor / management venture intended to encourage an employee's return to work.

## II. Eligibility

All employees who are temporarily limited from fully performing their job duties will be eligible for the program provided they:

1) have an injury, illness, accident or reoccurrence of a pre-existing condition,
2) be released for participation by his/her physician, and
3) have the potential to return to his/her original position through recovery within ninety (90) days.

Program participation is mandatory unless the employee is excluded from participation by his/her physician.

## III. Program Terms and Conditions

If an employee is eligible to participate in a transitional work program, the employee (and his/her Union representative if applicable), the agency designee and the employee's supervisor will enter into a transitional work program agreement. The agreement will provide that the duties assigned to the employee are within that employee's physical capabilities and will assist that employee in returning to his/her regular job within ninety (90) days. Transitional work assignments may be made in, or up to, thirty (30) day increments, or as agreed upon. The duration of each transitional work program assignment is based upon the medical need of the individual up to a maximum duration of ninety (90) days. Continuation through the program will require ongoing documentation of the medical necessity. All participants will have his/her case reviewed by the transitional work committee and/or the agency designee on a bi-weekly or as-needed basis.

Transitional work programs may be terminated due to a lack of medical necessity, a lack of progress or a change in the employee's medical/psychological condition. If it appears that the employee will never be able to return to his/her regular full time duties, the transitional work program agreement will terminate. The department will not protest the reinstatement of benefits for terminated programs except as provided in Article 34.05 of the OCSEA collective bargaining agreement and Articles 42.09 and 42.10 of the Fraternal Order of Police Contract.

Throughout the transitional work program, the employee will be expected to follow all of the department's policies and procedures regarding attendance and tardiness. If an employee needs to attend physical therapy or physician's appointments, the employee must attempt to schedule those appointments during non-working hours or use available leave balances. If an employee is working less than a full time schedule during the transitional work program, any non-worked hours will be counted towards the employee's FMLA entitlement, if applicable.

If the employee refuses to participate in the transitional work program while receiving Salary Continuation or OIL, the Salary Continuation or OIL benefit will end and the department can seek repayment or substitution of paid leave from the employee for any OIL or Salary Continuation received during the time that the employee was capable of participating in the program.

## IV. Hours of Work and Rate of Pay

During the transitional work program employees will be required to work a minimum of twenty (20) hours a week and a minimum of four (4) hours a day. The temporary work assignment will be designed to meet the operational needs of the employee's work unit. The employee may be assigned to his/her original job with modified duties, provided the duties remain within the limitations established by the physician of record and correspond with departmental needs.

Employees participating in the transitional work program will be paid at his/her normal rate of pay and will be in active pay status. Participating employees will not be eligible to earn overtime during his/her participation in the program.

Provided the transitional work assignment is less than the employee's regularly scheduled work hours, the employee may use any remaining hours of salary continuation or OIL to supplement up to the amount of his/her regularly scheduled hours.

Participants using transitional work under disability may have the remaining hours paid in accordance with the Disability Benefits policy. Any hours worked in a transitional work program shall not count towards the employee's lifetime maximum disability benefits.

## V. Transitional Work Program Committee

Transitional work programs will be implemented and reviewed by a transitional work committee. The transitional work program committee will be comprised of a representative from the employee's union (If applicable), the agency designee and the employee's supervisor.

The transitional work program committee will be responsible for determining suitable temporary work assignments based upon the medical information provided. The committee will only receive information pertaining to the limitations covered with the transitional work program agreement. As needed, the committee may consult with any assigned claim representative for vocational or medical expertise. Other confidential medical information will not be provided to the committee. The transitional work committee will be responsible for a bi-weekly or as-needed review of all transitional work program agreements and for determining the need for continuation or termination of a program.

The agency designee will determine transitional work assignments for persons who have physical limitations anticipated to last less than fourteen (14) days.

## VI. Transitional Work Program Agreement

Prior to the implementation of a transitional work program, the employee and the transitional work committee will enter into an agreement that acknowledges the work restrictions provided by the physician of record, and is consistent with the operational needs of the department. By signing the agreement all parties are stating that they will abide by the provisions set forth in the transitional work program agreement.

# TRAVEL

## *Policy Number: 513.0*

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|---|---|
| Purpose: | To standardize work/travel policies for field personnel and other employees who are in a travel status during the week. |
| Date Revised: | October 2011 |
| Cross Reference: | ORC 126.31; OAC 126-1-02; OCSEA Art. 32; FOP Art. 59; DAS Dir. HR-D-07 |

## I. Work Assignments and Travel Status

Work assignments for field employees can be single-day assignments, multi-day assignments or week-long assignments based upon operational need and the logistics of the report-in location. For many of our field personnel, their personal residences are their headquarters location, and for others, the Riffe Center, Commerce East or the State Fire Marshal's Office may be their headquarters location. If a field employee is on the road in travel status for more than a day, the headquarters location temporarily changes to the location (hotel) in which he/she is lodging.

In all of these cases, field employees are to leave their specified headquarters at the usual start time and arrive to the report-in location after reasonable travel time. Field employees are to depart the report-in location at a time, which with reasonable travel time would return them to their headquarters location by their usual end time.

If the report-in or work assignment location to which the employee is currently reporting to is located over forty-five (45) miles from the employee's headquarters, the employee may elect to stay overnight in the vicinity of the assigned work location, or commute to and from their headquarters. Should an employee traveling in a personal vehicle elect to commute rather than stay overnight, the minimum on-site work hours will not be altered to allow for commuting, and no additional travel time will be provided. When an employee traveling in personal vehicle declines to stay overnight, travel time will be provided only for one round trip to and from the work location.

Whenever possible, work assignments in a specific geographic area will be scheduled together as part of a multiple day assignment, and carpooling may be mandated in order to control expenses.

## II. Non-Standard Work Hours

It is recognized that there will be certain instances where an employee may not be able to work during regular working hours because a work site, e.g. institution, may not open for business until a certain time or because of an evening board meeting. In these situations, employees may adjust his/her work hours to accommodate the opening of business and meetings outside of normal work hours, subject to the prior approval of his/her supervisor.

## III. Adjusted Work Schedules

Division Heads may elect to implement adjusted work schedules for field personnel or travel status employees. Any deviation from the normal start and end times of employees or work units must be requested from the Director in writing. All adjusted work schedules should be in accordance with Policy # 313.0 Hours of Work.

## IV. Specialized Division Procedures

Division Heads may elect to implement alternative travel arrangements which will apply to the entire division, provided that the arrangement is requested and approved by the Director and the Human Resources Director.

## V. Travel Authorization

Prior approval for in-state travel, outside of the normal scope of job duties, and all out-of-state travel, is required from the supervisor, Division Head and the Director. All requests should be reviewed and submitted to the Director's Office for final approval.

## VI. Travel Expense Authorization Reports and Reimbursement

Any meals, lodging and mileage (for personal vehicle if state vehicle is unavailable) costs used in the furtherance of an employee performing his/her job duties as directed by management will be reimbursed in accordance with the OBM Travel Rules.

Employees are required to complete Travel Expense Authorization Reports online and submit them to OBM Shared Services through the OAKS Travel and Expense Module.

More information can be obtained at http://ohiosharedservices.ohio.gov/TravelandExpense.aspx.

## VII. Effects of Travel

The department continues to be concerned about the health and welfare of its employees as a result of excessive commuting distances to the individual work assignment(s). Excessive commutes can compromise an employee's overall efficiency and effectiveness. Therefore, employees are encouraged to stay overnight near a work assignment location in accordance with OBM Travel Rules.

# UNAUTHORIZED WEAPONS

## *Policy Number: 207.0*

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|---|---|
| Purpose: | To ensure the safety and wellbeing of all employees by prohibiting the unauthorized possession and/or use of weapons at work. |
| Revised Date: | October 2011 |
| Cross Reference: | DAS Directive HR-D-05; ORC §§2923.11, 2923.126 |

## I. Definitions

For the purpose of this policy, the following definitions apply:

"Deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

"Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

"State property" means any property that is owned by the State of Ohio and all portions of any building that is not owned by the State of Ohio but are leased by the State of Ohio. This also includes State owned or leased vehicles, and parking facilities or surface lots used by Commerce employees.

"Work status" means any condition under which an employee is eligible to receive pay or other compensation or where the employee is representing the Department of Commerce.

## II. Prohibited Conduct

Employees are prohibited from carrying or possessing a firearm or deadly weapon while on State property and/or while in work status.

This prohibition applies to Commerce employees who are authorized by an employer other than the Ohio Department of Commerce to carry a weapon concealed or otherwise (i.e. commissioned peace officers).

This prohibition does not apply to those employees who carry a firearm as authorized by the department and are acting within the scope of his/her departmental job duties.

## III. Reporting Responsibilities

All employees are required to immediately report any unauthorized possession or use of a firearm or deadly weapon that they have witnessed, received, or of which they are aware, to their supervisor, division head, the Office of Human Resources or Chief Legal Counsel. Failure to report any unauthorized possession or use of a firearm or deadly weapon may result in disciplinary action.

## IV. Supervisory Employee's Responsibility

Any supervisory employee aware of unauthorized possession or use of a firearm or deadly weapon shall, in addition to informing his or her supervisor, immediately contact the Human Resources Director or Chief Legal Counsel. The Human Resources Director shall notify the Assistant Director and the Ohio Highway

Patrol. The Assistant Director shall initiate an administrative investigation of any report of unauthorized possession or use of a weapon.

## V. Discipline

Violation of this policy by any employee may lead to disciplinary action up to and including removal. Additionally, violations of this policy may result in criminal prosecution or other legal action, as appropriate.

# USE OF STATE TELEPHONE/FAX

## *Policy Number 511.0*

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|---|---|
| Purpose: | Provide clarification of the department's position regarding personal use of state telephones and fax machines |
| Date Revised: | July 2011 |
| Cross Reference: | Ohio IT Policy # ITP-H.2 |

## I. Definitions

1) Landline: Traditional wired telephone used for local and long distance telephone service.

2) Cell phone: Cellular/digital telephone service.

3) Telephone: Unless otherwise stated, telephone includes both landlines and cell phones.

## II. Policy

State employees are assigned telephones to facilitate communication in the course of performing state business. In addition to landlines, cell phones are increasingly being used by state employees to link employees whose job responsibilities regularly carry them from one job site to another. Employees who are issued cell phones or other wireless devices are expected to have his/her equipment turned on for the duration of their regular work day. As with any other resource provided by the State of Ohio, the expectation is that telephones will be used for state business.

## III. Limitations

1) Personal Calls

In general, employees, contractors, temporary personnel and other agents of the state shall refrain from using state-issued telephones for personal use unless it is absolutely necessary. The Department recognizes that it may be necessary to make or accept a limited number of personal telephone calls while at work.

When using **state cell phones**, personal calls made or received are only acceptable in emergency situations when landline telephone service is not available.

When using **state landlines**, the number, frequency and duration of personal calls shall be kept to a minimum and, whenever possible, made during lunch hours or authorized breaks.

Except in the case of emergencies, personal **long distance calls made from a landline** are only acceptable if charged to a personal credit card or to a party other than the state.

2) Record Keeping/Reimbursement

The costs of personal long-distance phone calls made on state-issued telephones are not required to be reimbursed to the state. Employees may, but are not required to, record personal calls on a long distance telephone log for verification purposes.

A detailed list of telephone usage ("phone sheet") for each state-issued telephone will be provided to the employee as bills are received. Each person who receives a phone sheet must review the detailed listing, initial and provide a brief explanation for any personal calls listed**,** sign and date the phone sheet verifying that each remaining call listed was for state-business purposes, and return their verified phone sheet to their immediate supervisor.

Supervisors shall review the verified phone sheets for the purpose of detecting and responding to violations and/or instances of abuse of the personal call privileges provided in this Policy. Supervisors shall sign each phone sheet and return them to the appropriate person at Commerce Fiscal for audit.

## IV. Pay-Per-Calls

Pay-per-call numbers (*e.g*. 1-900, etc.), collect calls to state telephones and other calls billed to state telephones are prohibited unless related to official state business. Care should be taken in returning calls to unrecognized area codes and telephone numbers, as the number could be a pay-per-call number.

## V. Facsimiles (FAX)

Departmental fax machines should be restricted to departmental business, unless other uses are specifically authorized by the employee's immediate supervisor.

## VI. Personal Business Prohibited

Personal business, which involves an activity undertaken for profit or gain of any kind, shall not be conducted from a state telephone or facsimile machine. Employees are prohibited from circulating his/her state telephone number as a telephone number at which they can be reached for personal business. Personal business cards and other business materials shall not have a state telephone or fax number listed as the contact number.

## VI. Education and Awareness

As part of the Department's education and awareness program for employees, contractors, temporary personnel and other agents of the state regarding the appropriate use of state issued telephones, the contents of this Policy will be described in all new employee orientations, and a copy of this Policy will be provided to all contractors, temporary personnel and other agents of the Department. All Department managers and supervisors will also be provided with information on how to detect and respond to instances of abuse of this Policy.

## VII. Penalties

Violation of this Policy may result in disciplinary action up to and including removal.

# USE OF STATE VEHICLES

## *Policy Number: 514.0*

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|---|---|
| Purpose: | Guidance for use of state-owned vehicles to maintain proper documentation and for preventive actions. |
| Revised Date: | July 2012 |
| Cross Reference: | DAS Directive GS-D-02 |

## I. State Vehicles

The use of state owned vehicles is for official state business only. All persons driving state-owned vehicles must have in his/her possession a valid Ohio driver's license. This license must be shown when obtaining a pool car. Any person who drives a state car or who is a passenger in a state car driven by an authorized state employee is covered by liability insurance. Employees shall obey all applicable state laws, executive orders, and rules. Failure to do so may result in disciplinary action.

Employees who drive state vehicles for work are responsible for the maintenance and upkeep of these vehicles. Arrangements should be made for any needed repairs by contacting the Division for authority to have repairs made.

A personally owned vehicle may be used for state business only if a pool car is not available. When a personal vehicle is used, the expense will be reimbursed in accordance with state travel regulations. There is no liability insurance coverage from the state for employees who use his/her personal vehicles for state business.

It is the employee's responsibility to report to his/her immediate supervisor any accident or traffic violation/citation which he/she may have been involved with or received while on state business. The Supervisor's Accident Report form, obtained from your Division, will be completed and submitted in the event of any accident.

## II. Rules & Regulations for State Vehicles

The Trip Ticket (ADM 3263) is to be completed as indicated on the form by each driver of a departmental pool car for each trip taken. The Monthly Report (ADM 3602) must be completed in accordance with Department of Administrative Services (DAS) fleet management reporting requirements by each employee to whom a departmental vehicle has been permanently assigned. The Trip Ticket shall be turned in to the fiscal office and the Monthly Report to the employee's supervisor.
Employees who drive state owned vehicles shall ensure that his/her operation of the vehicle is within state and local laws and does not give the appearance of impropriety. Examples of impropriety include, but are not limited to:

1) Operating a vehicle in an unsafe manner, including operation of a vehicle while under the influence of alcohol or drugs;

2) Unauthorized use of a state credit card;

3) Driving without use of seatbelts by driver and/or passenger;

4) Abuse of vehicle, including failure to comply with appropriate preventive maintenance requirements;

5) Failure to obey traffic laws, including non-payment of traffic tickets;

6) Arrest and conviction for serious traffic offense;

7) Transporting passengers who are not state employees unless the non-employee's presence in the vehicle is in connection with official state business;

8) Transporting passengers who are state employees but who are not on official state business;

9) Using state vehicle for activities not approved in advance; and/or

10) Failure to file appropriate paperwork as required for use of vehicle.

Operators may be held liable for traffic citations and damages resulting from abuse or neglect. An employee found to have violated this policy will be subject to disciplinary action up to and including removal, and may be required to reimburse the Department for the costs incurred for his/her improper activity. Authorization for a permanently assigned vehicle or pool car may be withdrawn or withheld from any employee who fails to exercise good judgment in the use of a state vehicle.

The operator is responsible for inspecting the vehicle prior to its return to the pool for any damages or defects. Damages from abuse, neglect, or unknown sources are the responsibility of the operator and/or the operator's division. Mechanical deficiencies of pool cars are to be promptly reported on the Trip Ticket form.

In addition, receipts for gasoline, oil and maintenance services must be returned to the dispatcher upon completion of the trip.

The driver of a permanently assigned vehicle is responsible for preventative maintenance services and safety checks that must be performed on regular intervals. Any repairs the operator feels are necessary beyond the scheduled service must have the expressed approval of the fiscal officer before the repairs are made. Any repairs, except emergency, that are accomplished without prior approval will be the responsibility of the operator.

Emergency services are repairs that must be made to restore a vehicle to a safe, drivable condition. Prior approval for emergency repair is not normally required. However, emergency repairs will require telephone approval from the fiscal officer.

## III. Credit Cards

State of Ohio credit cards will be used with each permanently assigned vehicle and made available to pool car users for gasoline, oil, and emergency repairs. Lost or stolen credit cards must be reported to the fiscal officer immediately. This report must include a written confirmation of the date and circumstances. When a lost or stolen credit card is found or recovered and a replacement credit card has been issued, the card reported lost or stolen should be forwarded to the fiscal officer without delay.

## IV. Insurance

Drivers of departmental vehicles are protected from liability as provided by the state's motor vehicle liability insurance program administered by DAS. Further information on coverage is available from the Office of Risk Management (ORM) at (614) 466-6761.

## V. Accidents

Whenever an accident occurs which involves a departmental vehicle, the driver must abide by the following procedures, in addition to that which is prescribed by DAS on the Accident Kit envelope located in each departmental vehicle:

1) The driver shall telephone ORM at (614) 466-6761 within one day of the accident. ORM will handle arrangements with the other party's insurance company. ORM will furnish an accident claim number which must be included on all reports and correspondence.

2) The driver also shall telephone his or her supervisor. If anyone in the departmental vehicle is injured, the supervisor shall complete a Supervisor's Accident Report form. The supervisor or division chief shall send the director a brief memorandum stating whether or not the vehicle was being used on state business at the time of the accident. The appointing authority's signature, verifying authorized use of a state owned vehicle, will be required on all accidents.

A DAS Employees Automobile Accident Report form and the BMV Motor Vehicle Accident Report form are to be found in the glove compartment of each departmental vehicle or the brochure provided to each driver of a pool car. Those forms are to be completed by the driver and sent to ORM within three days of the accident. If available, a police, sheriff or patrol report is to be secured as soon as possible and sent to ORM along with any forms or letters received by insurance companies. Copies of each piece of information described in this paragraph shall be sent department Fleet Manager. In addition, in case of an accident or other emergency occurrence:

1) Render every possible assistance to any injured person(s);

2) Do not discuss whose fault the accident was, nor limits of insurance coverage;

3) Do not discuss details of the accident with anyone except the investigating law enforcement officer;

4) Notify the nearest State Highway Patrol post and request that an investigation be made;

5) Obtain names and addresses of all witnesses and person(s) involved;

6) Determine and record the name and address of the other person(s) insurance company;

7) Notify your supervisor as quickly as possible (accidents occurring after normal working hours may be reported the following day); and

8) Obtain name, address, and telephone number of the investigating police department if other than the State Highway Patrol.

# VACATION LEAVE

## *Policy Number 314.0*

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|---|---|
| Purpose: | To provide information about vacation leave, the accrual system and procedures for requesting paid vacation leave. |
| Revised Date: | October 2011 |
| Cross Reference: | Ohio Revised Code §124.134; Ohio Administrative Code §123:1-32<br>OCSEA Art. 28; FOP Art. 37 |

## I. General Information

All full-time permanent employees will accrue or earn vacation time at the designated rate depending upon their length of service. Part-time permanent employees shall earn vacation on a prorated basis.

Vacation leave must be approved in advance and within a reasonable time prior to the requested date(s), unless mutually agreed upon.

Under certain circumstances, vacation leave may be denied if operational needs of the work unit make it necessary for the employee to work. Under normal circumstances, vacation leave shall not be unreasonably denied

Vacation leave may be charged in one-tenth hour increments and vacation leave will be paid at the employee's regular rate of pay.

## II. Leave Accrual

New employees begin accruing 3.1 hours for every eighty (80) hours in active pay status. At the end of their probationary period, the employee is eligible to use any vacation hours that have been earned once they appear on the employee's earning statement. Accrued vacation hours will be indicated within one to two pay periods subsequent to the employee's end of probation. The following schedule indicates accrued vacation hours based on an employee's length of service.

| LENGTH OF SERVICE | ANNUAL ACCRUAL | ACCRUAL PER PAYPERIOD | MAXIMUM ENTITLEMENT |
|---|---|---|---|
| Less than 4 years | 80 hours | 3.1 hours | 240 hours |
| 4 years (or more) | 120 hours | 4.6 hours | 360 hours |
| 9 years (or more) | 160 hours | 6.2 hours | 480 hours |
| 14 years (or more) | 180 hours | 6.9 hours | 540 hours |
| 19 years (or more) | 200 hours | 7.7 hours | 600 hours |
| 24 years (or more) | 240 hours | 9.2 hours | 720 hours |

Vacation leave will cease to accrue if the total amount accrued exceeds what can be accumulated in a three (3) year period according to the employee's length of service. When crediting of leave is resumed, it will be for leave earned in the current pay period but may not exceed the maximum entitlement balance based upon length of service (see chart above).

## III. Determining Length of State Service

The following criteria apply in arriving at the length of creditable service in determining an exempt and bargaining unit employee's vacation entitlement: employment with any state agency or political subdivision of the state shall be counted, and the service need not be continuous; part-time creditable service, and

time while on authorized leave of absence without pay, is counted, but the employee must be working on a full-time basis to earn vacation credit.

Each employee should be sure that the Office of Human Resources (HR) has been furnished complete and accurate information concerning prior state or other eligible public employment, including names of agencies or other political subdivisions, and starting and ending dates of employment. HR will take necessary action to obtain verification of actual time in state service, and then forward the information to the Department of Administrative Services (DAS) for inclusion on the employee's earnings statement.

The length of state service, in terms of years, months and days, will be shown on the employee's earnings statement. Any questions concerning the length of service shown on the statement should be directed to HR.

An employee who has retired in accordance with the provisions of any retirement plan offered by the state and who is employed by the state or any political subdivision of the state on or after June 24, 1987, shall not have his/her prior service with the state or any political subdivision of the state counted for the purpose of computing vacation leave. The accrual rate for any employee who is currently receiving a higher rate of vacation accrual will not be retroactively adjusted. All previously accrued vacation will remain to the employee's credit.

## IV. Vacation Leave Conversion upon Transfer

An employee transferring from one state agency to another state agency shall retain the accrued and unused vacation leave for subsequent use. An employee who transfers from one public agency to another shall be credited with the unused balance of the accumulated vacation leave up to the maximum vacation leave accumulation permitted by the public agency to which the employee transfers.

## V. Vacation Leave Conversion upon Separation

Both Bargaining Unit and Exempt Employees shall be entitled to compensation at 100% of his or her current rate of pay for all unused vacation leave accrued upon separation of state service. However, OCSEA bargaining unit employees with less than six (6) months service will not be paid for any accrued vacation. Similarly, employees with less than one (1) year of service under the FOP Contract will not be paid for any accrued vacation leave.

# VOLUNTARY COST SAVINGS PROGRAM

## *Policy Number: 519.0*

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|---|---|
| Purpose: | To set forth guidelines to allow employees to reduce their bi-weekly schedule of hours or take an unpaid leave of absence without reducing certain benefits or requiring employees to first exhaust paid leave. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC 124.392; OAC 123: 1-34-10; OCSEA Appendix R; FOP Appendix C |

## I. General Information

Any full-time or part-time bargaining unit employee that has successfully completed their initial or probationary period may participate in the Voluntary Cost Savings Program (VCSP). Likewise, any full-time or part-time exempt employee that has completed their initial or promotional probationary period may participate in this program. Employees participating in this program will not be required to exhaust other accrued leave prior to taking unpaid leave.

## II. Guidelines

Participation in this program is strictly voluntary. Employees participating in the program shall not be eligible for unemployment benefits during their time off. Employees shall have the option of participating in one of the following plans:

1) Reduction of Hours: Full-time employees shall have the opportunity to reduce their bi-weekly schedule by no less than eight (8) hours and no more than forty (40) hours. Leave used under this plan shall be considered leave without pay and as inactive pay status, and leave accruals will be adjusted accordingly. Employees participating in the plan shall maintain their full-time status for the purposes of health care premiums. In addition, employees shall not incur a break in State service or seniority. Seniority and state service credit will be based on eighty (80) hours per pay period. The maximum number of hours available to be reduced by an employee is five hundred twenty (520) in a fiscal year or a total of six (6) months, whichever comes first; or,

2) Unpaid Leave of Absence: Full-time and part-time employees shall have the opportunity to take unpaid leaves of absence in blocks of time no less than two (2) weeks and up to a maximum of thirteen (13) weeks within a fiscal year. The department will continue to pay its share of health insurance premiums during utilization of this plan, but employees choosing Option 2 shall be responsible for their share of health insurance premiums for all insurance programs in which they are enrolled at the time of the leave. Leave used under this plan will be considered leave without pay and as inactive pay status. Employees will not incur a break in state service or seniority as long as the employee returns to employment on or before the date indicated in the Voluntary Cost Savings Agreement (VCSA).

Upon the approval of the Human Resources Director, employees may utilize both options within the same fiscal year provided the total number of hours used does not exceed five hundred twenty (520) hours in a fiscal year.

## III. Procedures

a. An employee desiring to participate in the program must complete and sign a VCSA at least ten (10) days prior to the commencement of the leave, unless this notice requirement is waived by the Human Resources Director.
b. The Human Resources Director will review the request and confer with the employee's direct supervisor to ensure that any impact on operations is minimal and additional costs do not result.
c. If an employee's request to participate in the program is approved, the Human Resources Director will notify the employee at least seven (7) days before the effective day of the implementation of the reduced schedule, or as soon as practicable.
d. The Human Resources Director, in consultation with the Director, has the sole discretion to approve or deny an employee's VCSP leave request. Denial of a VCSP leave request shall not be subject to appeal or be grievable.
e. The Human Resources Director, in consultation with the Director, may terminate an employee's VCSP by providing ten (10) working days' notice in writing to the employee. Such termination shall not be subject to appeal or grievable.
f. The employee may terminate his/her VCSP upon ten (10) working days' notice in writing unless mutually agreed to otherwise.

The parties will continue to monitor the application of the VCSP through the department's Labor / Management Committee on an ongoing basis.

## IV. Continuation of Benefits

Leave Accrual – An employee's accruals of vacation, sick, or personal leave shall not be impacted by the employee's participation in a VCSP.

Service Credit – Employees who reduce their hours pursuant to with Option #1 shall not experience a break in service. Employees who take an unpaid leave of absence pursuant to Option #2 shall not incur a break in service provided the employee returns to employment.

Health Insurance – Employees who reduce their hours pursuant to with Option #1 shall experience no change in healthcare coverage, benefits and premiums. Employees who take an unpaid leave of absence pursuant to Option #2 are responsible for their share of insurance premiums for all insurance programs in which the employee is enrolled at the time of the leave. Employees selecting Option #2 are responsible for making payment arrangements with payroll officer prior to the leave commencing. The state will continue to pay the employer share of the premiums during this leave.

Holiday Pay - An employee participating in a VCSP on a day contiguous to a holiday is eligible to receive holiday pay pursuant to section 124.18 of the Revised Code.

# WORKERS' COMPENSATION, SALARY CONTINUATION & OCCUPATIONAL INJURY

*Policy Number 504.1*

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|---|---|
| Purpose: | To inform employees of general guidelines for reporting workplace injuries and the benefit programs available to injured workers. |
| Revised Date: | October 2011 |
| Cross Reference: | ORC 124.381; OAC 123:1-33-17; 4123-3; OCSEA Art. 34; FOP Art. 27 & 42 |

## I. General Information

Employees who are injured in the course of their duties or who sustain a job-related illness may be eligible to receive medical or lost time benefits through the Workers' Compensation program. Should such an injury or illness occur, you must inform your supervisor and Human Resources of the accident immediately (within twenty four (24) hours). Human Resources will assist you in obtaining medical attention and the necessary forms.

Employees may elect to receive Salary Continuation benefits in lieu of Workers' Compensation for up to a maximum of four hundred eighty (480) hours per injury claim. Emloyees must meet established eligibility requirements to receive this benefit.

Bargaining unit employees represented by the Fraternal Order of Police may also be eligible for Occupational Injury Leave (OIL) benefits in accordance with the provisions of their collective bargaining agreement.

## II. Workers' Compensation

Any accident that occurs in the course of and arising out of employment with the department may qualify for workers' compensation benefits. Injuries or illnesses must be as a direct result of performing one's job duties. Injuries resulting from fraud, horseplay, that are self inflected, that have no known cause, or that are as a result of being under the influence of drugs or alcohol may not be covered. Other exclusions shall include recreational/social activities sponsored by the department where an employee has signed a waiver of workers' compensation. Before participating in such activities, employees will be required to sign a workers' compensation waiver form.

Workers' compensation benefits for lost time cannot be paid over sick leave or other lost time benefits such as salary continuation. Time spent on leave due to a workers' compensation injury will be counted concurrently with available FMLA hours.

## III. Reporting Procedure

Employees report any accident or injury that occurs while on duty to his/her supervisor and Human Resources immediately (within twenty four (24) hours of the incident), regardless of whether or not medical attention is sought. **To report an injury, contact the department workers' compensation coordinator at (614) 995-7009.**

Following initial report, an employee should obtain a CareWorks Injury Reporting packet from their division human resources contact or Human Resources. Included in the packet is information regarding seeking medical attention and ADM 4303 Accident or Illness Report form. **This form must be**

**completed and forwarded to your supervisors, who shall complete their portion and forward the report to Human Resources within 48 hours of the incident. Reports may be faxed to (614) 466-6183.** Employees will also be responsible for completing any internal division accident/incident report forms. Failure to timely submit these forms may result in a delay in benefits and/or disciplinary action for failing to report a workplace accident or injury.

The Accident or Illness Report form should indicate which benefit is being requested and a detailed report of what caused the injury. Details shall include where the injury occurred (including the name of any buildings or the location within a particular building), how the accident occurred, what the employee was doing immediately prior to the accident, and any witnesses to the accident (name title and relationship to the incident). Employees should also indicate specifically what body part was affected and what hazard caused the accident to occur. Supervisors will be expected to review the employee's statement and investigate any causes or discrepancies.

## III. Seeking Medical Treatment

In emergency situations, injured workers should seek immediate treatment at the nearest medical facility (or call 911 or a local emergency number). For injuries not requiring immediate attention, injured workers should seek treatment from a CareWorks network provider or BWC-certified provider. To find a certified provider, contact CareWorks at 1-888-627-7586 or go on-line to the CareWorks Injury Reporting Center at **www.careworks.com/injuryreport/**. All treatments after the initial treatment must be provided by a CareWorks network provider or BWC-certified provider. The department shall submit the ADM 4303 for the injured employee as fully as possible to CareWorks upon receipt from the injured worker or supervisor.

## V. Salary Continuation

Employees may elect to receive salary continuation benefits in lieu of workers' compensation for up to a maximum of four hundred eighty (480) hours per injury claim. While on salary continuation employees will continue to receive their regular salary. An employee receiving salary continuation benefits may not also receive lost time benefits from the Bureau of Workers' Compensation during the same period. In order to be eligible for salary continuation benefits, an employee must follow previously stated guidelines for reporting a workplace injury. Employees must also file an application with BWC within twenty (20) days of the incident and receive treatment by an approved medical provider. Evidence from the provider that time off work is medically necessary is required. The list of approved providers can be found on the State of Ohio website at http://apps.das.ohio.gov/dasocbwilmapc/m.aspx. Salary continuation hours will be counted concurrently with available FMLA hours.

Upon return to work sick leave and personal leave accruals will be restored, but vacation accruals will not be restored. While receiving Salary Continuation, PERS contributions and service time will continue. Employees on salary continuation will not receive pay for the holiday, but will be paid salary continuation for that day. Regular health care deductions will be taken during periods of salary continuation.

In the event that the WC claim is subsequently denied and all administrative appeals have been exhausted, employees will be responsible for repaying salary continuation benefits using available leave balances or by making direct payment to the department for the amount of benefits received.

Salary continuation will terminate upon reaching four hundred eighty (480) hours, upon physician release to return to work or upon denial of the employee's workers' compensation claim. If an employee refuses a good faith transitional return to work assignment or accepts temporary total compensation benefits from BWC salary continuation will also be terminated. If an employee is still disabled and unable to return to work after exhausting four hundred eighty (480) hours, the employee may be eligible to receive temporary total disability benefits from BWC. All rules and benefits available under Workers' Compensation will be available to the employee.

Salary continuation may be paid on an hourly basis if the employee is on an approved transitional return to work program. While on a transitional work program, an employee must attempt to schedule any

doctor appointments during their off hours. If this cannot be done during off hours, employees may receive leave up to one (1) hour per appointment with a maximum of three (3) appointments per week.

Bargaining unit employees may appeal the denial of Salary Continuation benefits through the grievance procedure.

## VI. Occupational Injury Leave

This benefit is only available to employees who are members for the Fraternal Order of Police, Ohio Labor Council. Please see Article 42, FOP Contract for application procedures.

# WORKPLACE DOMESTIC VIOLENCE POLICY

*Policy Number: 206.1*

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|---|---|
| Purpose: | To set forth procedures and guidance for management and employees which address and minimize the impact of domestic violence at the workplace. |
| Revised Date: | October 2011 |
| Cross Reference: | Exec. Order 2011-04K; ORC §2919.25 |

## I. Domestic Violence Defined

"Domestic Violence" is a pattern of coercive behavior used by one person to establish or maintain power and control over family or household members, which includes intimate partners, spouses, former spouses, persons living together as spouses, persons who have a child in common (regardless of whether they have been married or have lived together at any time), and adult persons related by blood or marriage. Domestic violence may include physical violence, sexual, emotional and psychological intimidation, verbal abuse, stalking, and economic control, and may occur among people of all racial, economic, educational, religious backgrounds, in heterosexual and same sex relationships.

## II. General Information / Policy

The department is committed to promoting the health and safety of its employees and to making a significant and continual difference in the fight to end domestic violence. Nothing in this policy is intended to reduce or modify the effect of existing Department of Administrative Services and departmental directives and policies on the prevention of violence in the workplace.

Therefore, the department will not tolerate any form or threat of domestic violence in the workplace. No employee shall engage in threats or acts of domestic violence, involving or affecting department employees, or which occur on state property or department work sites.

## III. Employee Awareness

The department will maintain, publish, and post in locations of high visibility, such as bulletin boards and break rooms, a list of resources for survivors, victims and perpetrators of domestic violence. The following are resources related to domestic violence:

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|---|---|
| **Action Ohio Coalition for Battered Women** | 1-888-622-9315<br>http://www.actionohio.org/ |
| **Buckeye Region Anti-Violence Organization**<br>(Lesbian, Gay, Bisexual and Transgender) | 1-866-862-7286<br>http://www.bravo-ohio.org/ |

| | |
|---|---|
| **Local Domestic Violence Resources** | See the *Ohio DV Program List* at http://www.odvn.org/ for a list of resources in your area. |
| **National Domestic Violence Hotline** | 1-800-799-SAFE<br>http://www.ndvh.org/ |
| **National Teen Dating Abuse Hotline** | 1-866-331-9474<br>http://loveisrespect.org |
| **Ohio Domestic Violence Network** | 1-800-934-9840<br>http://www.odvn.org/ |
| **Ohio Employee Assistance Program** | 1-800-221-6327<br>http://www.ohio.gov/EAP |
| **Ohio Office of Criminal Justice Services Family Violence Prevention Center** | 1-888-448-4842<br>http://www.fvpc.ohio.gov/ |

Employees will receive training on the policy and the risk factors and impacts associated with domestic violence.

For incidents that occur outside of the workplace, employees are highly encouraged to report incidents of threats or acts of domestic violence of which they are aware to local law enforcement authorities. Domestic violence incidents that occur while on state property, while conducting state business or during state-sponsored social events shall be reported pursuant to the reporting requirements of the Workplace Violence prevention Policy # 206.0, or to the Office of Human Resources if not practicable. Employees in immediate danger should call 911, or 9-911, if from state telephone.

## III. Non-discriminatory and Responsive Personnel Policies

The department is committed to working with employees to prevent abuse, harassment and discrimination that may result from domestic violence. Employees shall not discriminate against victims or survivors of domestic violence based on any assumptions or knowledge of the victim's or survivor's current or past domestic violence incidents.

In cases where the batterer and the victim or survivor are employed at the same work site, due consideration may be given to a victim's or survivor's request for a modification of duties, a reassignment to another position or work shift, or a relocation to separate work sites. The victim or survivor should be consulted in making decisions about such modifications, reassignments and relocations, and should not be involuntarily penalized by this process. Such decisions may impact the rights of bargaining unit members, and in such cases, a union representative should be consulted.

All employees must adhere to state and agency time and attendance policies. If an employee needs to be absent from work due to current or past domestic violence incidents, the employee and supervisor should first explore whether paid options can be arranged to accommodate the absence(s). Depending on the employee's circumstances, and subject to applicable collective bargaining agreements, other available options may be used through mutual agreement between the employee and supervisor (and union representative if requested by a bargaining unit employee), such as Leave Without Pay, Family Medical Leave Act, Adjusted Work Schedules, etc.

## IV. Disciplinary Process

Victims or Survivors: Employees may not be penalized or disciplined solely for being a victim or survivor of domestic violence, although agencies retain the right to discipline employees for cause.

Victims and survivors of domestic violence may have performance-related issues that include, but are not limited to, chronic absenteeism, exhaustion from sleep deprivation, or an inability to concentrate as a result of the violence. Supervisors should be mindful that the effects of domestic violence are very serious—tantamount to chronic illnesses—and may take extended periods of time to fully address.

If an employee subject to discipline discloses that the job performance issues are caused by domestic violence, the following steps should be taken:

1) The first time the employee discloses that the job performance issues are caused by domestic violence, the agency should ordinarily refer the employee to the Ohio Employee Assistance Program (EAP). The employee's supervisor, through the Office of Human Resources, may request that the employee enter into an EAP Participation Agreement with the agency. The EAP Participation Agreement serves as an agreement between the employee, the employee's supervisor and the employee's union representative (if applicable), and ordinarily holds the disciplinary action in abeyance for a minimum of one hundred eighty (180) days while the employee obtains assistance. Exceptional circumstances may arise when a referral may be inappropriate or under which a shorter period of time may be appropriate.

2) Upon successful completion of the program, the agency should modify or dismiss the disciplinary action.

3) If the employee rejects the suggested referral, refuses to enter into or fails to complete an EAP Participation Agreement, and/or has not remedied any job performance issues, the agency has the right to carry out the discipline originally contemplated. Such discipline will carry an effective date of the date of the employee's referral to EAP. An employee's failure to comply with the EAP Participation Agreement will also constitute a violation of any Last Chance Agreement in place for the employee. The employee, the employee's supervisor, and the employee's union representative (if applicable) shall meet before any disciplinary action is taken. The union representing the collective bargaining employee shall be notified within three (3) working days of any potential disciplinary action.

Disclosure is very difficult for victims or survivors of domestic violence, and requests for documentation may threaten an employee's ability to disclose. If a supervisor has reason to believe that the individual is not a victim of domestic violence, then the supervisor should inform the Human Resources Director who will consult with EAP regarding further documentation that may be requested to substantiate the assertion.

Perpetrators or Abusers: Employees who are perpetrators of domestic violence are encouraged to access services through the Ohio Employee Assistance Program (EAP). Both the decision to enter into an EAP Participation Agreement with the perpetrator and the decision to hold any disciplinary action in abeyance during the course of EAP services are made at the discretion of the Director.

Any state employee who commits acts or threats of domestic violence while on state property or conducting state business or sponsored social event, or uses state resources (e.g., state vehicle, work time, workplace telephones, cell telephones, facsimile machines, mail, computers, land and electronic mail, telephone answering machines, other electronic or computer technology, or other means) to commit acts or threats of domestic violence is in violation of the state policies on the use of state telephones, Internet, E-mail and other IT resources. Employees found to have violated these policies may be subject to corrective or disciplinary action, up to and including termination.

Pursuant to section 2919.25 of the Ohio Revised Code, individuals who commit acts of domestic violence may be charged with a misdemeanor or a felony. A conviction of these charges may subject the individual to additional discipline or removal under section 124.34 of the Ohio Revised Code and/or applicable collective

bargaining agreements. Additionally, pursuant to federal law, a person convicted of a domestic violence-related crime or subject to an order of protection, under certain circumstances, forfeits the right to legally possess a firearm. Employees who are authorized to carry a firearm as part of their job responsibilities are required to notify their appointing authority if they are convicted of a domestic violence-related crime and/or served with an order of protection.

## V. Confidentiality

In all responses to domestic violence, the department will respect the confidentiality and autonomy of the reporting employee and the victim or survivor, by informing others only to the extent necessary to protect safety or comply with the law and/or applicable collective bargaining agreements. Whenever practicable, advance notice will be given to the reporting employee if the agency needs to inform others about the domestic violence situation.

## VI. Other References

Copies of the DAS State of Ohio Workplace Domestic Violence policy and the Governor's Executive Order 2011-04K are located in the appendix section of this manual under App. C and App. D. Resources and awareness materials can be found on-line at www.ohio.gov/hrpolicy under the "Workplace Domestic Violence Policy" header.

# WORKPLACE VIOLENCE PREVENTION

*Policy Number: 206.0*

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|---|---|
| Purpose: | To help ensure a workplace free from threats or acts of violence and to provide employees with guidance for reporting such hostile behavior. |
| Revised Date: | October 2011 |
| Cross Reference: | DAS Directive HR-D-04; OCSEA Art. 11.04 |

## I. Threats or Acts of Violence Defined

"Threats or acts of violence" are defined as conduct against persons or property that is sufficiently severe, offensive, or intimidating to affect the conditions of employment, or to create a hostile, abusive, or intimidating work environment for other employees.

## II. General Information / Policy

The Ohio Department of Commerce is committed to providing its employees a work environment that is safe, secure and free of harassment, threats, intimidation and violence. Therefore, the department will not tolerate any form or threat of workplace violence. No employee shall engage in threats or acts of violence, involving or affecting department employees, or which occur on state property or department work sites.

Prohibited conduct includes, but is not limited to, the following:

- All threats or acts of violence occurring on state property, regardless of the relationship between the state and the individual involved in the incident.
- All threats or acts of violence not occurring on state property, but involving someone acting as a representative.
- All threats or acts of violence not occurring on state property, but involving a department employee, if the threats or acts of violence affect the legitimate interests of the state.
- Any threats or acts of violence by an employee or agent of the department (including an individual performing services by contract or employed on a temporary basis) that are illegal under any criminal law.

People displaying violent or potentially violent behavior may do so in a variety of ways. These may include, but are not limited to:

- Actions that are inappropriate but not overtly physical or violent - e.g. refusal to cooperate with supervisors, harmful rumors and gossip, consistently arguing with co-workers, belligerence toward customers/clients, constantly swearing at others or making unwanted sexual comments.

- Actions that are obviously wrong but not always considered violent - e.g. property damage, arguing increasingly with customers or management, refusing to obey Department policies and procedures, stealing for revenge, giving sexual or violent notes to other workers, or seeing oneself as victimized by supervisors or Department management.

- Actions that are clearly threatening and violent - e.g. bringing firearms or other weapons to work, any act of violence against another person, any display of intense anger, suicide threats, destruction of property, or committing violent crimes.

## III. Reporting Responsibilities

All employees are required to immediately report any form of violence that they have witnessed, received or of which they are aware. In absence of an actual threat, employees should still report any behavior that they regard as threatening or violent. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat and the person threatened.

Employees can report threats or acts of violence by notifying his/her supervisor or another supervisory representative. Additionally, employees may make an anonymous report of violence. To make an anonymous report, employees should complete the report (exclude his/her own name) and submit it to the Division head's office, the Office of Human Resources or Chief Legal Counsel. Oral reporting is acceptable, but written reports are preferred.

All incidents of workplace violence should be reported and should include the following:

1) The date and time of the event;
2) The location of the event;
3) Names of all people involved including any witnesses; and
4) A brief description of the event.

If the situation is such that violence is occurring or is imminent, building security and the Ohio Highway Patrol Office shall be contacted immediately if in the Riffe Center. If the incident is taking place at Commerce East or the State Fire Marshal's Office, the local police should be contacted immediately. The following critical telephone numbers are helpful:

| | |
|---|---|
| Emergency Services – Police, Fire, Rescue | 9-911 |
| Ohio Building Authority (Riffe Center): | 614.644.5390 |
| Ohio Highway Patrol: | 614.466.2660 |
| Columbus Police: | 614.645.4545 |
| Reynoldsburg Police: | 614.866.6622 |

## IV. Protective Orders

All employees who apply for or obtain a protective or restraining order which lists locations as protected areas, must provide to the Chief Legal Counsel, a copy of the petition and declarations used to seek the order until such order has been issued, and a copy of any protective or restraining order that is granted. The Office of the Chief Legal Counsel will retain these records so that, under appropriate circumstances, persons who are in violation of the protective or restraining order may be removed from the premises.

## V. Supervisory Employee's Responsibility

Any supervisory employee aware of a threat or act of violence shall immediately contact the Human Resources Director. The Human Resources Director shall notify the Assistant Director and the Ohio Highway

Patrol. If appropriate, the matter will be referred to the proper authorities for prosecution. The Assistant Director shall initiate an administrative investigation of any report of violence. If the incident is occurring or is imminent, supervisors should immediately contact the agencies listed above.

## VI. Workplace Assessment & Training

The Human Resources Director, the Assistant Director and one department manager at-large shall meet as often as necessary for the purpose of assessing any threats or acts of violence, coordinating Department response to acts of violence, providing emergency response and support, and assessing effectiveness of this policy.

As a result of these meetings, the Office of Human Resources Training and Employee Development section shall provide opportunities for employees to be trained in the risk factors associated with workplace violence, and proper handling of emergency situations in order to minimize the risks of violent incidents occurring in the workplace.

## VII. Employee Assistance Program Referral

Where a supervisor suspects that an employee has work-related and/or personal problems, the supervisor should recommend that the employee contact the Ohio Employee Assistance Program (EAP) for counseling and support at (614)644-8545 or 1-800-221-6327. (See Policy # 506.0)

EAP should be consulted immediately in the event of a critical incident to assist in defusing the situation. EAP should also be consulted (within 24 hours of the incident) for purposes of conducting a critical incident stress debriefing. Examples of critical incidents include:

- Violent incidents in the workplace
- Hostage or riot situations
- Serious injury or death of a co-worker
- Incidents involving use of force
- Catastrophic accidents

## VIII. Fitness-for-Duty Evaluation

At the discretion of the Director, an employee showing symptoms of potentially violent behavior may be ordered to submit to a psychological evaluation to determine the employee's fitness-for-duty. Such an evaluation shall be conducted pursuant to Ohio Administrative Code section 123:1-30-03.

## IX. Discipline

The prohibition against threats and acts of violence applies to all persons involved in the departments' operation, including but not limited to, personnel, contract and temporary workers, and anyone else on state property. Violation of this policy by any employee may lead to disciplinary action up to and including removal. Failure to report or failure of a supervisor to act in accordance with this policy may also be subject to discipline.

Additionally, violations of this policy by department employees may result criminal prosecution or other legal action, as appropriate.

JOHN R. KASICH
GOVERNOR
STATE OF OHIO

# Executive Order 2011-03K

Establishing an Ethics Policy and Requiring Ethics Training

**WHEREAS,** Ohio's Ethics Laws applicable to public officials and employees, which first became effective January 1, 1974, have created high ethical standards for public officials and employees, including all individuals employed in the Executive Branch of State government and all members of its boards and commissions, by: requiring an annual personal financial disclosure; prohibiting unethical conduct in government and providing criminal sanctions for engaging in such unethical conduct; and, establishing uniform review of ethics issues by statewide commissions located in each of the three branches of State government.

**WHEREAS,** nearly four decades of decisions by Ohio courts and advisory opinions by the Ohio Ethics Commission have provided guidance to public officials and employees on the requirements of Ohio's Ethics Laws.

**NOW THEREFORE,** I, John R. Kasich, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and the laws of this State do hereby order and direct that:

1. All individuals employed in the Executive Branch of State government and members of its boards and commissions shall adhere to the highest ethical standards in government as embodied in Ohio's Ethics Laws as codified in Chapters 102 and 2921 of the Ohio Revised Code and as interpreted by the courts of this State and by the Opinions of the Ohio Ethics Commission (the "Ethics Laws");

2. The Chief Legal Counsel of each State agency, board or commission (or, in the absence of a Chief Legal Counsel, the highest ranking in-house attorney at the State agency, board or commission) shall also be the Chief Ethics Officer for that agency, board or commission. In that role, the Chief Legal Counsel of each State agency, board or commission shall be responsible for assisting all employees of that agency, board or commission in complying with the requirements of the Ethics Laws and to answer any questions regarding the same. The Chief Legal Counsel shall also provide or arrange for some form of annual instruction on Ohio's Ethics Laws to all employees of that agency, board or commission, including guidance on areas of concern based upon the particular responsibilities or duties of that agency, board or commission;

3. The Chief Legal Counsel of each State agency, board or commission shall also annually provide, to all employees of that agency, board or commission subject to the financial disclosure requirement of Ohio Revised Code Section 102.02, additional instruction on the Ethics Laws in the areas of misuse of official position, revolving door restrictions, soliciting or receiving improper compensation, public contracts and disclosure of confidential information. Beginning January 31, 2012 and by each January 31st thereafter, each agency, board or commission Chief Legal Counsel shall report to my Chief Counsel the nature of the Ethics Laws instruction provided to their agency, board or commission employees in the previous calendar year;

4. All State officials and employees are strongly encouraged to consult with their Chief Legal Counsel and/or the Ohio Ethics Commission concerning questions they may have about the Ethics Laws, particularly before they undertake any action about which they have questions concerning compliance with the Ethics Laws;

5. All State officials and employees are directed to report any alleged ethics violations by a State official or employee to the Ohio Ethics Commission and/or to the Inspector General; and

6. All State officials and employees are directed to fully cooperate with any official investigation of a potential ethics violation.

I signed this Executive Order on January 21, 2011 in Columbus, Ohio and it will expire on my last day as Governor of Ohio unless rescinded before then.

John R. Kasich, Governor

ATTEST:

Jon Husted, Secretary of State

**To:** **All Appointing Authorities**
**Chief Legal Counsel**
**HR Administrators**
**Governor's Senior Staff**

**From:** **Kent Markus, Chief Legal Counsel** KM

**Date:** **February 16, 2010**

**Re:** **Political Activity Policy (Update.2)**

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The election season has once again prompted inquiries about political activity by state employees, so we thought this would be a good time to provide an updated set of administration policies on that topic. This memo provides guidance for state employees who want to participate in political and other election-related activities, make campaign contributions, or run for elected office. It also provides guidelines regarding appropriate employee activities concerning ballot issues.

1. Election-related activities. Different laws and rules apply to the permissibility of various election-related activities of classified versus unclassified state employees. As explained more fully below, so as to avoid any suggestion that governmental resources are being improperly used to assist candidates for public office, both classified and unclassified employees must avoid engaging in election-related activity on state time, on state property, or using state equipment (including conference rooms, computers, printers, office supplies, e-mail systems, telephone, copiers, fax machines, vehicles, or any other state property or equipment). In addition, state employees may not engage in any election-related activities which interfere with, or pose a conflict of interest with respect to, their state duties and responsibilities.

2. Classified employees are prohibited by law from engaging in certain election-related activities. Persons in active pay status serving in the competitive classified civil service are significantly limited, by law, in their ability to engage in various partisan political activities at any time, particularly elections involving candidates selected by the various political parties. Examples of both permissible and impermissible activities by classified employees are detailed below.

    2.1. Permissible election-related activities for classified employees. On their own time, classified employees may, by law, play only a relatively limited role in partisan campaign activities and may be somewhat more involved in non-partisan election-related activity. The following are examples of activities employees in the classified service may participate in **on their own time**:

    - Registration and voting;
    - Making voluntary contributions to political candidates or organizations;
    - Attending political rallies;

- Wearing political buttons or badges.
- Signing nominating petitions in support of individuals;
- Expressing, to other individuals, opinions orally or in writing;
- Displaying political materials at home or on their own personal vehicle;
- Circulating non-partisan petitions or petitions relating to issues;
- Running for office for which the candidates are not selected by political parties; and
- Serving as an official election judge (poll worker) in accordance with the applicable poll worker leave policy. (See Section 8 of this memo for more information).

2.2. Prohibited election-related activities for classified employees. The following are examples of activities in which employees in the classified service may not, by law, participate, **even on their own time**:

- Candidacy for public office in a partisan election (i.e. – an election in which candidates are selected by political parties);
- Candidacy for public office in a nonpartisan general election if the nomination to candidacy was obtained in a partisan primary or through the circulation of nominating petitions identified with a political party;
- Filing of petitions meeting statutory requirements for partisan candidacy to elective office;
- Circulation of official nominating petitions for any candidate participating in a partisan election;
- Service in an elected or appointed office in any partisan political organization;
- Acceptance of a political party-sponsored appointment to any office normally filled by partisan election;
- Campaigning by writing for publications, by distributing political material, or by writing or making speeches on behalf of a candidate for partisan elective office, when such activities are directed toward party success;
- Solicitation, either directly or indirectly, of any assessment, contribution or subscription, either monetary or in-kind, for any political party or political candidate;
- Solicitation of the sale, or actual sale, of political party tickets;
- Partisan activities at the election polls, such as solicitation of votes for other than nonpartisan candidates and nonpartisan issues;
- Providing assistance to any political candidate, political party or other partisan political organization with organizational and recruitment activities, when such activities are directed toward party success;
- Service as witness or challenger for any party or partisan committee;
- Participation in political caucuses of a partisan nature; and
- Participation in a political action committee which supports partisan activity.

2.3. Disciplinary Action. The director of an agency may institute an investigation when there is reason to believe a classified employee has engaged in prohibited election-related and/or partisan activity. Such actions, if proven, may amount to a violation of Ohio law and could result in discipline of the employee up to and including removal.

3. Unclassified employees may, on their own time, engage in election-related and partisan activities. Employees in the unclassified service, who serve at the pleasure of the appointing authority and are

not subject to competitive examination, may, on their own time, engage in partisan and election-related activities, unless otherwise specifically precluded by federal or state law. Unclassified employees may not solicit classified state employees for the financial benefit of a political party or a candidate for public office.

4. Use of state time, property and equipment. Even when state employees may participate in election-related activities, they may not, in general, engage in those activities while on state time, on state property, or using state equipment. Further guidance is provided below:

   4.1. Ideally, if a state employee chooses to participate in election-related activities, those activities should be conducted on the weekends or outside normal work hours to eliminate any chance of an inadvertent violation of the law, or even the appearance of impropriety. However, a state employee may engage in permissible political activity during normal work hours if the employee uses a lunch hour, personal leave, compensatory time, or vacation leave for that purpose.

   4.2. State employees who choose to participate in permissible election-related activities should, in general, do so only using a personal phone, computer or other communications device.

   4.3. In order to maximize compliance with limitations against using state time, property and/or equipment for political purposes, employees should take the following precautions:

      4.3.1. Direct incoming election-related telephone calls away from state government offices.

      4.3.2. Accurately and carefully document the use of the lunch hour, personal leave, compensatory time, or vacation leave when used for any permissible election-related activities. This includes ensuring that all proper approvals have been obtained.

      4.3.3. Interpret the terms "property" and "equipment" broadly to include state offices, conference rooms, computers, printers, office supplies, email systems, telephones, copiers, fax machines, vehicles, or any similar place or item.

      4.3.4. Take steps to avoid even the inference of the endorsement of a candidate or issue by the State of Ohio or an agency of the state by exercising caution when displaying a political pin, badge or other political paraphernalia at work.

         4.3.4.1. It is best if state employees – classified or unclassified -- do not wear political pins, badges, clothing or other political paraphernalia to work, especially at any time they are interacting with members of the public or other state employees.

         4.3.4.2. While the display of a pin, sign or other political paraphernalia at a desk or in an office/cubicle is permissible when it is an employee's dedicated personal workspace, to the extent that an employee's workspace has exposure to others, and especially exposure to members of the public, the display of political paraphernalia is strongly discouraged.

4.3.4.3. When determining the appropriateness of any display of political paraphernalia, supervisors should determine if the display has crossed, or would give others the impression of crossing, the line from personal expression to advocacy and/or could give members of the public the impression that the State of Ohio or any of its agencies are supporting a particular candidate for public office.

4.4. There are certain very limited, exceptional circumstances where it is permissible for a state employee to engage in communications regarding election activity during the course of the standard business day.

4.4.1. Such communication may be permissible if, because of the nature of an employee's position and/or the nature of a matter being handled by the employee, it is not practically feasible to separate the employee's state-related work from such communication. Such communications should be highly limited in time and scope, keeping in mind the principle that such communications are permissible only to the extent they are necessary to avoid the inefficiencies in the operation of state government that would flow from a more stark separation of governmental and election-related communications.

4.4.2. State employees should always inform third parties that it is best if they are not contacted on state time and on state equipment about political matters. Moreover, it is always best to refer political inquiries to appropriate non-state employees for comment, such as a campaign office or campaign volunteer. If the employee wishes to receive further contact on the matter, he or she should provide a personal phone number and/or email address.

4.5. Avoid even the suggestion of impropriety by considering the appearance of any conduct given the surrounding circumstances, even if that conduct is permissible under the law.

5. Solicitation by or acceptance of political contributions by elected officers

5.1. No **current** state elected officer, campaign committee of such an officer, employee of the state elected officer's office, or any other person or entity shall solicit or accept a contribution, from any of the following:

5.1.1. A state employee whose appointing authority is the state elected officer;

5.1.2. A state employee whose appointing authority is authorized or required by law to be appointed by the state elected officer;

5.1.3. A state employee who functions in or is employed in or by the same public agency, department, division, or office as the state elected officer.

5.1.4. Of particular importance is that fact that this section of the law restricts employees who work in a cabinet agency from making any contributions to the Strickland

Committee. This limitation does not in any way prohibit those same employees from making campaign contributions to other statewide or legislative candidates.

5.2. No **candidate** for a state elective office, campaign committee of such a candidate, employee of the candidate's office if the candidate is a state elected officer, or any other person or entity shall solicit or accept a contribution to a candidate for a state elective office or to such a candidate's campaign committee, from any of the following:

5.2.1. A state employee at the time of the solicitation, whose appointing authority will be the candidate, if elected;

5.2.2. A state employee at the time of the solicitation, whose appointing authority will be appointed by the candidate, if elected, as authorized or required by law;

5.2.3. A state employee at the time of the solicitation, who will function in or be employed in or by the same public agency, department, division, or office as the candidate, if elected.

6. Running for elected office

6.1. Classified employees. As noted above, classified state employees, by law, may not be a candidate in a partisan election or a candidate in a non-partisan election if their nomination was obtained in a partisan primary or through the circulation of nominating petitions identified with a political party.

6.2. State employee candidacy guideline. State employees who choose to run for office and who are otherwise permitted to do so under Ohio law, must also abide by the following guidelines:

6.2.1. Conflicts. Avoiding any appearance of impropriety is a critical aspect of maintaining public confidence in public employees. When state employees run for public office, there is inherent risk that the public will confuse their state duties and responsibilities with policy positions they may take as candidates. Accordingly, conflicts of interest and appearances of conflicts of interest must be avoided in the following ways:

6.2.1.1. Because the General Assembly determines the budgets and policy direction of the agencies, boards, commissions, and other entities at which state employees work, no state employee may be a candidate for the General Assembly. State employees must leave state service prior to taking any official action in support of a candidacy (e.g. – creating a candidate committee, soliciting campaign contributions, etc.) for the General Assembly.

6.2.1.2. Candidacies for other significant elected positions (e.g. – mayor or council member of a major metropolitan area, an office with county-wide jurisdiction, etc.) also pose the kinds of risks noted above. To avoid such risks, state employees may be required to leave state service prior to taking

any official action in support of such a candidacy. State employees who are otherwise permitted to do so may run for local school boards, city councils in smaller jurisdictions, and other similar positions as long as no substantial conflict exists, as determined by the employee's appointing authority, between the employee's state duties and the proposed candidacy. The person at an employee's agency, board or commission responsible for guarding against conflicts of interest should be consulted prior to any employee embarking upon any formal candidate related activity. Failure to engage in such a consultation could result in the removal of an employee who has already undertaken candidate activity.

6.2.1.3. Nothing in this section is intended to impact the activity of state officers, as opposed to state employees.

6.2.2. If a state employee runs for an office with duties which conflict with the employee's governmental duties, the employee may be informed that assuming that office, if elected, will necessitate termination of state employment. In some circumstances, activities undertaken as a candidate may, themselves, pose a conflict with an employee's current job duties and appropriate steps should be taken to avoid such conflicts.

6.2.3. Notice Requirement. Prior to initiating any formal actions to run for an elected office, a state employee must provide notice of his or her intent to run to the agency's chief legal counsel or to the person responsible for legal compliance. This notice allows agency legal counsel to:

6.2.3.1. Consult with the agency's appointing authority to determine whether an apparent or potential conflict of interest exists between the employee's job duties and the duties of the elected office or any activities likely to take place during the employee's candidacy;

6.2.3.2. Ascertain whether the employee is required to leave state service prior to taking any official action in support of such a candidacy, is seeking (or should seek) a leave of absence to accommodate campaign activity and whether such a leave is operationally feasible for the agency (see discussion below); and

6.2.3.3. Provide and discuss with the employee the attached document entitled "Political Activity Restrictions" to help assure that the employee does not violate this policy.

6.2.4. Instances requiring notice include:

6.2.4.1. Classified and/or unclassified employees running for non-partisan elected office, such as school board member, township trustee, or city council member.

6.2.4.2. Unclassified employees running for political party leadership positions, such as local or state central committee positions.

6.2.4.3. Unclassified employees running for full-time partisan office.

6.2.5. Leaves of Absence. Because campaigns for certain elected offices can be extremely time-consuming, some employees may wish to request unpaid leaves of absence from their state jobs when running for elected office.

6.2.5.1. When such requests are made, agency legal counsel should consult with agency leaders to determine if such a request is reasonable and if so, the period for which such a leave should be granted, considering the employee's position and how the leave of absence would impact the operations of an agency.

6.2.5.2. If it is decided that such a leave should be granted, legal counsel and the agency director may recommend a specific time period for the employee to take a leave of absence if, in their view, the particular election campaign is likely to adversely affect the employee's ability to fulfill his or her job responsibilities, but the agency can work around the employee's leave of absence.

7. Use of Vacation and Other Leave for Campaign Activity. A state employee wishing to take time off from work to assist in permissible campaign activity may do so if the employee has obtained standard permission to be absent from work. Because an employee may use vacation or other similar leave for any purpose, such an employee may engage in any permissible campaign activity while on any such approved leave. An employee wishing to take an extended leave to work on a campaign may request unpaid leave, up to six months. Unpaid leave may be granted by the employee's appointing authority and will be denied if such leave would pose operational problems to the agency.

8. Ballot issues

8.1. State employees may, without violating this policy, use state time and equipment to provide information relating to ballot issues that may affect the State and its departments.

8.2. While state employees should, in general, avoid the use of state time, equipment, or supplies to support or oppose a ballot issue, in limited circumstances it is appropriate for state employees to publicly indicate their support for or opposition to ballot issues which directly impact their state duties or responsibilities.

8.2.1. The Governor, Lt. Governor, Cabinet Members and other senior state officials are often asked to respond to questions concerning a ballot measure or asked to speak in support of, or in opposition to, a ballot measure at a public gathering or other event. These officials are well-qualified to comment on the impact any ballot initiative may have on the state or an agency's operations. This situation is similar to a cabinet member or administration official testifying before the Ohio General Assembly in support of or in opposition to a legislative measure. It is reasonable

and appropriate for these state officials to advance the administration's publicly-advocated and announced policy in support of, or in opposition to, a legislative proposal impacting their official state duties. It is likewise reasonable and appropriate for administration officials to take the same approach when advocating the administration's position relative to a ballot issue.

8.2.2. Determination of when it is appropriate for a state employee to articulate an administration or agency position regarding a ballot issue resides in the discretion of the agency director.

8.3. Other permissible employee conduct. Concerning issues relevant to state responsibilities, employees may:

8.3.1. Disseminate, either verbally or in writing, objective information concerning the issue and its impact, particularly as it may relate to a specific department. The public may direct questions to affected departments and, as a result, those departments may need to prepare and disseminate objective information sheets about the issue in order to prepare their employees to answer questions;

8.3.2. Correct or clarify factual errors or misinformation concerning an issue.

8.4. Impermissible employee conduct. State employees may not use state resources to:

8.4.1. Engage in activities unrelated to their job duties or the responsibilities of state government; or

8.4.2. Develop, produce and /or disseminate campaign materials regarding a ballot issue.

9. Poll worker service. Classified or unclassified state employees who wish to work on Election Day as a poll worker (also known as an election judge) may do so in accordance with the Poll Worker Leave policies of their respective agencies. For those agencies which have not adopted such a policy, employees may use approved vacation, compensatory, or personal leave to work at the polls. For more information on this subject, please visit the DAS Human Resources Division, Policy Development website at http://ohio.gov/hrpolicy.

10. When in doubt, ask! Employees with questions regarding the propriety of a particular activity should address them to their agency chief legal counsel or the person at their agency or board or commission responsible for legal compliance.

## Political Activity Restrictions

The following is a short summary of the political restrictions related to running for office as a State of Ohio employee:

- Employees in the classified service may run for non-partisan offices but may not run for partisan political office. The classified service is defined as all "persons in active pay status serving in the competitive classified civil service of the state."

- Partisan political offices are those in which candidates are selected in a partisan primary or by nominating petitions identified with a political party or in which candidates are associated on the ballot with a political party.

- **Only an employee in the unclassified service may run for partisan political office.**

Those running for office must abide by these restrictions (see very limited exceptions in Section 4.4 of the Political Activity Policy):

- All state employees who intend to run for office must provide notice as provided in the Political Activity Policy so as to assure compliance with its provisions

- State employees may not participate in political activities while on State time, property or while using State equipment.

- Unclassified employees may not solicit classified state employees for the financial benefit of a political party or a candidate for public office.

- It may be necessary to request a leave of absence to run for political office. Agency Directors have discretion to decide if a request for leave is reasonable or if it should be granted.

- State equipment and time may not be used for campaigning.

  - All political telephone calls must be directed away from state offices.

  - If an employee receives an e-mail or phone call related to political activity, the employee has an affirmative obligation to respond that he or she should not be contacted on state time and on state equipment. If the employee wishes to receive further contact on the matter, he or she should provide a personal phone number and/or email address.

  - State employees may not use state offices, conference rooms, computers, printers, office supplies, e-mail systems, telephone, copiers, fax machines, vehicles, or any other state property or equipment to engage in election-related activities.

- When in doubt, consult your agency legal counsel.

JOHN R. KASICH
GOVERNOR
STATE OF OHIO

# Executive Order 2011-04K

Establishing State Government Workplace Domestic Violence Policy

**WHEREAS,** the implementation of the "Barbara Warner Workplace Domestic Violence Policy" under Executive Order 2008-08S required each State agency to:

1. Maintain, publish, and post a list of resources for survivors and perpetrators of domestic violence:
2. Give due consideration and accommodation, within established personnel policies, to employees who are victims or survivors of domestic violence by:
    a. Modifying their work duties, assignments, or work sites when the perpetrator and victim are employed at the same work site;
    b. Granting leave requests if an employee needs to be absent from work due to current or past domestic violence;
    c. Working collaboratively with the Ohio Employee Assistance Program when considering corrective actions related to the job performance of a victim of domestic violence.
3. Refer, to the extent permitted under established personnel policies, an employee who is a perpetrator of domestic violence to the Ohio Employee Assistance Program for services and/or short-term counseling;
4. Take necessary corrective action, up to and including termination, and contact appropriate law enforcement personnel regarding employees who commit acts or threats of domestic violence while on State property, conducting State business at a State-sponsored event, or when using State resources;
5. Not discriminate, penalize, or discipline a State employee, solely for acts resulting from being a victim or survivor of domestic violence; and
6. Respect the confidentiality of the reporting employee and/or the victim or survivor by informing others in the employee's and/or victim's workplace about facts associated with the domestic violence incident only to the extent necessary to protect safety or comply with the law and/or applicable collective bargaining agreements. Whenever practicable, advance notice will be given to the reporting employee and/or victim if the State agency needs to inform others about the domestic violence situation.

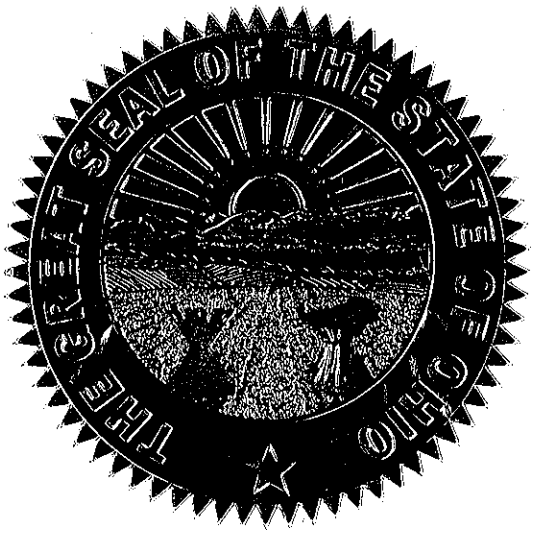
**WHEREAS,** this policy has proven to be a vital part of creating and fostering efficient governmental practices and ensuring that all State employees receive the support and services that they need.

**WHEREAS,** the continuation of this policy demonstrates the State's commitment to working with all State agencies, boards and commissions to create and to foster safe working environments, while also working with State employees to prevent the abuse, harassment and discrimination that may be the results of domestic violence.

**NOW THEREFORE,** I, John R. Kasich, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and laws of this State do hereby order and direct that:

1. The Workplace Domestic Violence Policy established and implemented under Executive Order 2008-08S shall remain in effect for all State agencies, boards and commissions.

I signed this Executive Order on January 21, 2011 in Columbus, Ohio and it will expire on my last day as Governor of Ohio unless rescinded before then.




John R. Kasich, Governor

ATTEST:

Jon Husted, Secretary of State