



November 21, 2016

Inspector General Randall J. Meyer
Office of the Inspector General
30 E. Broad Street, Suite 2940
Columbus, OH 43216

OFFICE OF
INSPECTOR GENERAL
2016 NOV 22 PM 12:54

Re: Agency Response to Investigation 2014-CA00051

The Ohio Department of Agriculture (ODA) has reviewed your office's report of investigation and the recommendations contained therein. ODA respectfully submits the following responses to your recommendations:

1. Review the conduct of Traci Orahood and consider whether administrative action is warranted.

Response: The Ohio Department of Agriculture completed an administrative review and issued a one week working suspension.

2. Consider the benefit of instituting a written policy governing secondary employment for agency employees.

Response: The Ohio Department of Agriculture has used an Outside Employment or Activity form since March 2004. We have attached the original policy from Section D of the Employee Handbook for your reference. ODA updated and reissued the Outside Employment Policy and the Outside Activity Approval Form in July 2015. We have attached the policy and the approval form for your reference. As a result of the findings outlined in the report, we deem it beneficial to have a follow-up training.

3. Take the steps necessary to ensure the integrity of the interview process and avoid letting personal bias affect the interview process and arrange for another person to be involved; specifically, when she knows the person being interviewed for a position.

Response: The Ohio Department of Agriculture has a standard operating procedure (SOP) for the recruitment process, which has been in place since July 1, 2013. We have provided the written SOP for your reference. However, per your recommendation, we will revise the SOP to incorporate language that would address situations where there may be personal bias for exempt positions by adding a Deputy Director or Assistant Director to the scoring and interview process.



4. Provide written notice to employees prior to submitting a request to change civil service status of their positions.

Response: The Ohio Department of Agriculture has followed the guidance of the Department of Administrative Services (DAS) for Civil Service Status changes per the memorandum that was issued July 22, 2013. The memorandum is attached for your reference. However, per your recommendation, ODA agrees to provide written notice to employees prior to submitting a request to DAS to change the civil service status of their position.

Sincerely,



David T. Daniels, Director



**OHIO DEPARTMENT OF AGRICULTURE
REQUEST FOR APPROVAL OF
OUTSIDE EMPLOYMENT OR ACTIVITY**

To: _____
 Division Chief

Through: _____
 Employee's Immediate Supervisor

From: _____
 Employee's Name

In connection with this request, I am attaching a detailed description of the outside employment, activity or investment in which I am engaged. (Please include employer's name and address.) I understand that approval is subject to the following restrictions:

1. My outside activity, employment or investment will be entirely confined to non-working hours. (Please include approximate hours.)
2. My outside employment, activity or investment will not in anyway interfere with my service to the Ohio Department of Agriculture.
3. Government equipment will not be used.
4. My outside activity, employment or investment will not imply official sanction, support or participation in a private undertaking.
5. My outside activity, employment, or investment will not create the appearance of impropriety to the respective Division or Department.
6. The business connections to be established or property interest acquired will not result in conflict between private or official interest or bias my judgment.

I understand that should this approval be granted, it will apply only to this particular activity, employment or investment only. A new approval must be requested for any other activity or when a change occurs in an approved activity, employment or investment.

 Signature of Employee Date

 Position

FORM (#P-100)

**Section D-7b – Operating Standards – Prohibited Acts
Ethics Law & Related Statutes: Ohio Ethical Conduct / Conflicts of Interest**

SUPERVISORS WILL CONSIDER THE FOLLOWING CRITERIA BEFORE RECOMMENDING APPROVAL OR DISAPPROVAL:

1. Provisions of the Ohio Ethics Law and applicable federal regulations.
2. Nature of the employee’s official duties in relation to the nature of the duties which would comprise the outside employment, activity or investment.
3. Amount of time and hours of work required by the outside employment, activity or investment.
4. The possibility of conflict of interest or appearance thereof. Actions taken or decisions made by the employee in carrying out duties of outside work, activities or investments must not:
 - a. Affect or influence actions taken or decisions made in connections with Department of Agriculture duties whether or not the effect is adverse.
 - b. Give the employee an advantage in state or federally sponsored programs not equally available to other Department of Agriculture employees or private citizens.
 - c. Permit use of the employee’s position for personal gain or influence.
 - d. Involve use of official Ohio Department of Agriculture information not generally available to the public.

AFTER SIGNING, FORWARD TO NEXT APPROPRIATE LEVEL OF REVIEW AS INDICATED BELOW. REVIEWERS SHOULD ATTACH APPROPRIATE COMMENTS.

		<input type="checkbox"/> Approve <input type="checkbox"/> Disapprove <i>Supervisor Recommendation</i>
<i>Signature of Immediate Supervisor</i>	<i>Date</i>	
		<i>Initialed</i>
<i>Signature of Assistant Director</i>	<i>Date</i>	

FORM (#P-100) Sample

Section D-7b – Operating Standards – Prohibited Acts
Ethics Law & Related Statutes: Ohio Ethical Conduct / Conflicts of Interest



Outside Employment Policy

Purpose

The intent of this Outside Employment Policy (Policy) is to provide uniform guidelines and procedures for requesting, reviewing and approving requests for outside employment which are in addition to the regular job duties of the position held by an employee at the Ohio Department of Agriculture (ODA).

Scope

This Policy is applicable to all current and prospective ODA employees, full time and part time, unless conflicting provisions exist within the collective bargaining agreement applicable to bargaining unit employees, in which case the provisions of the collective bargaining agreement control. All employees who engage in or plan to engage in any employment or activity shall submit a request for outside employment.

Prohibitions

In the event that an ODA employee holds or desires to hold a job or position outside of their normal position with ODA, the employee must notify their supervisor and the Chief of Human Resources immediately.

No employee shall accept or engage in any employment, occupation, or business outside of ODA without prior approval from the Office of Human Resources if:

- a. The activity interferes with the employee's job attendance or job performance;
- b. The activity is incompatible with the employee's job;
- c. The activity presents a conflict of interest or the appearance of a conflict of interest with the business of ODA; or
- d. The employee is on FMLA leave from ODA.

ODA employees must carefully consider the demands that additional work activity will create before accepting outside employment. Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If outside work activity causes or contributes to job-related problems at ODA, the employee will be asked to discontinue the outside employment, and the employee may be subject to the normal disciplinary procedures for dealing with the resulting job-related problem(s).

Employees shall not use ODA equipment or supplies for employment outside of ODA. Employees may not use sick leave to perform work for an outside employer.

Procedures

Requesting Approval of Outside Employment

Employees who are requesting approval of outside employment must comply with the following requirements:

- a. Complete a written request for approval by filling out the Outside Activity Employment Form. This form must:



- i. Include the outside employer's name, address, and approximate hours the employee will be conducting work outside of ODA;
 - ii. Provide a short summary of the type of work which is or shall be performed for the outside employer;
 - iii. Provide whether there may be a conflict of interest or appearance with the employee's current job duties at ODA, and if there is a conflict how the employee intends to resolve the conflict or the appearance of the conflict of interest; and
 - iv. Verify that the employee is not on FMLA leave.
- b. By completing and signing the Outside Activity Employment Form, the employee certifies and agrees to the following:
- i. The outside activity or employment will be entirely confined to non-working hours, and no solicitation shall occur during working hours;
 - ii. My outside employment or activity will not in any way interfere with my service to the Ohio Department of Agriculture;
 - iii. ODA equipment will not be used, and sick leave will not be used in order to perform work for the outside employer;
 - iv. My outside activity, employment or investment will not imply or create the appearance of ODA's official sanction, support, or participation in a private undertaking;
 - v. My outside activity, employment, or investment will not create the appearance of impropriety to the respective Division or ODA; and
 - vi. The business connections to be established or property interest acquired will not result in conflict between private or official interest or otherwise create bias my judgment in the performance of my ODA duties.
- c. Upon completion of the Outside Activity Employment Form, the employee must submit the form to the employee's supervisor, Division Chief, and the Office of Human Resources.

The form must be submitted no later than 30 days after appointment or within 30 days of engaging in the outside employment activities.

Review and Consideration

Upon receipt of an Outside Employment Approval Form, supervisors with the approval of their Division Chief shall provide the form and their recommendation as to approval or disapproval with their reasons why in a memorandum to the Chief of Human Resources, the Chief Legal Counsel, and the Assistant Director. Before recommending approval or disapproval, supervisors must consider the following:

- a. Provisions of the Ohio Ethics Law and applicable federal regulations;
- b. Nature of the employee's official duties in relation to the nature of the duties involved in the outside employment or activity;
- c. Amount of time and hours of work required by the outside employment or activity, and whether such work will reduce the employee's efficiency;
- d. Whether the ODA employee is currently on FMLA leave; and
- e. The possibility of conflict of interest or appearance thereof. Actions taken or decisions made by the employee in carrying out duties of outside work or activities must not:
 - i. Affect or influence actions taken or decisions made by the employee in connection with their ODA duties, including whether or not the influence would be adverse;



- ii. Involve an employer which ODA does significant business, or otherwise regulates the industry in which the employee is proposing employment;
- iii. Give the employee an advantage in state or federally sponsored programs not equally available to other ODA employees or private citizens;
- iv. Affect the image of ODA as a regulatory agency of the state of Ohio;
- v. Permit use of the employee's position for personal gain or influence; or
- vi. Involve use of official ODA information not generally available to the public.

Determination

Final determination for approval or denial of the outside employment request will be decided by the Assistant Director or his designee. In the event that additional information is needed, ODA may request and the employee shall submit the requested information in a timely manner.

Approval or disapproval of the requested outside employment shall be provided to the ODA employee in writing by the Office of Human Resources, and shall be maintained in the employee's personnel file. In the event of approval, the approval shall only apply to the employment or activity as submitted by the employee. If the employment or activity changes, a new Outside Employment Approval form shall be submitted by the employee within 30 days of the change.

Evaluation

Any ODA employee who receives approval for outside employment is subject to periodic evaluation to ensure that performance of ODA job duties is maintained. Any ODA employee whose performance at ODA suffers or deteriorates due to outside employment may be requested to terminate their outside employment, and is subject to progressive discipline.

Contact

The Human Resources Office and Legal Division are available for consultation or questions regarding the Outside Employment Policy.

This Policy supersedes any previously issued policy or directive and will remain effective until cancelled or superseded.

Revision History

Date	Description of Change
7/2015	Policy Update Issued





Outside Activity Approval Form

This form is to request approval of outside employment or activity. The form must be completed within 30 days of employment or within 30 days of engaging in outside employment activities. A detailed description of the outside employment, activity or investment in which you are/will be engaged in must be attached to the completed form to be considered.

ODA Information:

Name: _____

ODA Division: _____

ODA Position Title: _____

Outside Activity/Employment Information:

Outside Activity/Employer Name: _____

Employer Address: _____

Outside Activity/Employer Position Title: _____

Approximate Hours Conducting Outside Activity/Employment Work Per Week: _____

By completing and signing this form, I certify the following:

- a. The outside activity, employment or investment will be entirely confined to non-working hours;
- b. My outside employment, activity or investment will not in any way interfere with my service to the Ohio Department of Agriculture;
- c. Government equipment will not be used;
- d. My outside activity, employment or investment will not imply official sanction, support or participation in a private undertaking;
- e. My outside activity, employment, or investment will not create the appearance of impropriety to the respective Division or Department;
- f. The business connections to be established or property interest acquired will not result in conflict between private or official interest or bias my judgment.

Signature: _____

Date: _____

Forward this request for approval as indicated on Page 2.



Approval Signatures:

Division Chief: _____

Date: _____

Chief Legal Counsel: _____

Date: _____

Assistant Director: _____

Date: _____

Human Resources Director: _____

Date: _____





Recruitment Standard Operating Procedure

It is the policy of the Ohio Department of Agriculture to have a fair and non-discriminatory process for recruitment, interviewing and selecting candidates. This standard operating procedure (SOP) is to ensure the process adheres to these fair and non-discriminatory practices.

Considerations:

- The agency will consider and review any potential conflict of interest or appearance of such for any panel member prior to conducting interviews.
- If a situation should arise that there may be a potential conflict of interest or appearance of such, HR will seek guidance from Legal and/or the Assistant Director.
- The agency will adhere to the provisions in Article 17 of the OCSEA bargaining unit contract, where applicable.

Postings:

- Requests to fill any position must be submitted in the NEOGov system where approvals are done by:
 - Division Chief
 - Chief Fiscal Officer
 - Human Resources Director
 - Appointing Authority or Designee
- Prior to posting, the HR hiring analyst will verify with the division that the Position Description is up-to-date. These duties will be used to create the posting language.
- Postings for bargaining unit employees are advertised for 10 days.
- Postings for exempt employees are advertised for 3 days, minimum.
- A mass email will be sent to all ODA employees once the position has been posted to inform them of the advertised vacancy and the application deadline.
- Each posting will include language to address the need for a pre-hire background check and drug screen, where applicable.
- Each posting will include language regarding rate of pay:
 - *"Unless otherwise required by legislation or union contract, salary will be set at the lowest rate of the salary range."*
- Each posting will include supplemental questions designed to capture whether each candidate meets minimum qualifications for the classification.
- Each posting will also ask candidates if they are members of the OCSEA bargaining unit, current ODA employees and if they are currently serving a probationary period.
- Subject Matter Expert (SME) Criteria and interview questions are drafted prior to posting and finalized prior to the division reviewing any applications.

SME Criteria & Interview Questions:

- SME Criteria and Interview Questions are to be finalized before the division seeing applications.



- SME Criteria may total between 4 and 10 points and should not be a reiteration of the minimum qualifications. They should also take into account equivalent experience.
- Human Resources must review the questions prior to finalization. All interview questions have to be approved by HR.
- HR will review questions to ensure a passing score is attainable for applicant (e.g. the questions are not solely focused on information that is on-the-job training, questions are weighted appropriately, questions are relevant to the position's duties, reasonable expectations).
- The weights of the question will be determined by the importance or severity of the question/answer. Each interview question may not exceed 10 points.

Application Review:

- After the posting deadline has passed, Human Resources filters applications to ensure candidates meet the minimum qualifications required by the classification/position.
 - This process is done by applying filters that are set up by the hiring analyst utilizing the supplemental questions that are required to be answered in the application process.
- The applications that meet minimum qualifications are sent in the system to SME Review.
- Any applicant that does not meet the minimum qualifications is not eligible for consideration.
- Each SME review requires the direct supervisor of the position as well as the next level of supervision. The Division Chief or other administrator/manager/supervisor may also be included as an SME at the Chief's discretion.
 - For example: in the Division of Meat Inspection, the SME review is done by the Meat Inspection Supervisor, Agriculture Inspection Administrator, and the Regional Veterinarian, where applicable.
- Each application is scored by each reviewer based on the pre-set SME Criteria (SME criteria is set by the division prior to seeing any applications to ensure fair criteria).
- SME reviewers are unable to see any personal identifying information including name, address, birthday, age, phone number, email address, etc. This ensures applications are reviewed solely on the SME criteria.
- SME reviewers are also unable to view other reviewers' scores. The system averages the SME scores to determine the applicant's final percentage.
- All candidates whose average score is 70% or higher are eligible for consideration and interview, though an interview is not guaranteed.

Interviews & Interview Panel:

- When called for an interview, candidates will be asked if they are in need of an ADA accommodation for the interview.
- HR will prepare the interview packets for each interview.
- The panel will consist of one HR Representative, and at least one individual from the hiring division. It is preferred that the direct supervisor be on the panel.
- The panel should be the same for each interview unless there are extenuating circumstances.
- The HR representative on the panel will go through all of the following information:
 - Each applicant is informed of ODA's non-discrimination policy (i.e. all candidates are selected and hired without discrimination).



- Each applicant is provided a copy of the position description and unusual working conditions, when applicable.
- Each applicant is reminded that if an accommodation is necessary to perform the essential functions of the position (as listed in the position description) that they must notify HR in advance of hire so we can work with them ahead of time.
- Each applicant must sign the Application Certification acknowledgement form.
- Each applicant receives an explanation of the structured interview process including:
 - The panel can only score you on what you say. As a result, it is important to give as much information as possible and as many right answers as possible.
 - Each question is assigned a number of points and there are a set of predetermined criteria/anchors for each one. This ensures a fair process and equal expectations.
 - Candidates must score a 70% or above in order to be eligible for consideration.
- Each applicant signed an acknowledgement form that states they understand there is a 70% requirement for moving forward in the process. Any applicant that scores less than 70% is not eligible for consideration.
- Each applicant is provided a copy of the interview questions (without the scores or anchors) to read and follow along. They may write on them if they choose as well.
 - The applicant is also informed that the questions can be repeated but may not be clarified or explained to avoid any unfair advantages.
- Each panel member writes the applicant's answers to each question on their interview packet. These packets are maintained in the recruitment folder for the position.
- Following the interview, the panel will review and discuss each question and answer together and come to a consensus on what the score will be for each question.
- The applicant with the highest score is the eligible candidate unless the top scorers are within 10 points of each other. If that is the case, the division along with HR may consider which applicant is the best fit and most qualified for the position.
- If the highest candidates are within 10 points of each other, the division along with HR may consider conducting second round interviews in to clarify any concerns or to ask additional information from the applicant. These interviews do not utilize the same structured process as the initial interviews and may include individuals that were not previously on the interview panel.
- The selected candidate is referred for hire in the system where approvals are done by:
 - Division Chief
 - Chief Fiscal Officer
 - Human Resources Director
 - Appointing Authority or Designee

Revision History

Date	Description of Change
7/1/2013	Procedure Implemented
10/2016	Policy Reviewed for Compliance – No Updates



Memorandum



To: All HR Personnel of State Agencies
From: Stephanie Loucka, Deputy Director, *SML*
Department of Administrative Services, Human Resources Division
Date: July 22, 2013
Re: Process for Changing Civil Service Status

The purpose of this memorandum is to update the procedure for changing the civil service status of positions, effective August 1, 2013. Please note that the email address has changed from the last time this guidance was distributed.

If an agency is changing the civil service status of a filled permanent position, the agency must submit an ePAR. Simultaneously, the agency must submit the required documentation listed in the attached checklist via email to DASHRD.HRPolicy@das.ohio.gov. The ePAR will not be processed until the required documentation is received. Any agency that has not transitioned to the ePAR system must submit such requests along with the required documentation to DAS HRD via email at DASHRD.HRPolicy@das.ohio.gov or via mail to DAS HRD/OCB Policy, 100 E. Broad Street, 14th Floor, Columbus, Ohio 43215.

Once a determination has been made, the ePAR will be routed back to the requesting agency through the ePAR system. If an approved ePAR changes a position's civil service designation to unclassified, then the requesting agency should attach an unclassified acknowledgement letter from the employee stating that he or she understands that the civil service status designation for the position that he or she holds has been changed to unclassified. The unclassified acknowledgement letter may be attached when a decentralized agency enters the final approval or when a centralized agency enters the final agency-level approval prior to the ePAR being routed to DAS HRD State Services.

Agencies that have not transitioned to ePAR will receive a determination letter from DAS HRD. If approved, the agency must attach that letter to the personnel action. If applicable, the agency should attach an unclassified acknowledgement letter to the personnel action as well.

Agencies should consult with their legal counsel with respect to any civil service status questions.

Attachment

Memorandum



Civil Service Status Change Checklist

Process of Changing the Civil Service Status from Classified to Unclassified or Unclassified to Classified.

This form must be submitted with the following information to DASHRD.HRPolicy@das.ohio.gov at the same time the ePAR is submitted. Agencies that have not transitioned to the ePAR system must submit the following information to DAS HRD at DASHRD.HRPolicy@das.ohio.gov (preferred method) or DAS HRD/OCB Policy, 100 E. Broad Street, 14th Floor, Columbus, Ohio 43215 prior to submitting a personnel action.

Please submit the following documents:

- Request/Justification letter which includes a summary of job duties that have changed and any relevant Ohio Revised Code sections.
- Old Position Description – Signed & Dated
- New Position Description – Signed & Dated
- Old Table of Organization
- New Table of Organization
- List of employees in your agency in the same classification and their civil service status, noting any changes in civil service status in the past 4 years.

DAS USE ONLY

Notes:

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If you have any questions regarding the process, please contact DAS HRD/OCB Policy at (614) 752-5393.

December 9, 2016

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

Dear Inspector General Meyer:

This letter is in response to the recommendations made by your office to the Ohio Department of Administrative Services (ODAS) in File ID Number: 2014-CA00051. ODAS strongly believes in the need to carry out its mission to administer the state's human resources operations with integrity. The following action items detail how your office's recommendations are being implemented.

Recommendation #1:

Consider requiring an agency to submit any active disciplinary actions on employees when requesting a civil service status change request from classified to unclassified.

Action:

As part of our civil service status change review process, the Department of Administrative Services (DAS) will consider whether an agency shall submit active disciplinary actions on employees when requesting a change in civil service status. When appropriate, DAS will request such information prior to approving or denying the status change request in the ePAR system.

Recommendation #2:

Consider reviewing the interpretation of "fiduciary relationship" for consistency purposes.

Action:

The Department of Administrative Services reviewed the interpretation of "fiduciary relationship" in conjunction with creating the list in response to Recommendation #4.

December 9, 2016

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Recommendation #3:

Require the requesting agency submit a written employee acknowledgement of a request to change civil service status as part of the supporting documentation sent to ODAS.

Action:

The Department of Administrative Services is updating the "Process for Changing Civil Service Status" memo to require agencies to submit a written acknowledgement from the employee of a request to change civil service status. This memo will be updated and distributed shortly. DAS will also do a presentation on it at the December meeting of the Human Resources Administrators.

Recommendation #4:

Create a list of specific duties that would qualify a position as serving in a fiduciary or administrative role.

Action:

A list of duties that qualify a position as serving in a fiduciary or administrative role has been created and will be used by DAS staff in reviewing applicable requests.

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

Respectfully,

A handwritten signature in black ink, appearing to read "Robert Blair". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Robert Blair, Director