

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



**AGENCIES: OHIO DEPTS. OF ADMINISTRATIVE SERVICES, EDUCATION,
HEALTH, MENTAL HEALTH & ADDICTION SERVICES, REHABILITATION &
CORRECTION, TRANSPORTATION, VETERANS SERVICES, YOUTH SERVICES, AND
OHIO STATE BOARD OF PHARMACY**

FILE ID NO.: 2015-CA00008

DATE OF REPORT: DECEMBER 21, 2016

The Office of the Ohio Inspector General ... The State Watchdog

“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



STATE OF OHIO

OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2015-CA00008

SUBJECT NAMES: Various

POSITIONS: Current and Former State Employees

AGENCIES: Ohio Department of Administrative Services
Ohio Department of Education
Ohio Department of Health
Ohio Department of Mental Health and Addiction Services
Ohio Department of Rehabilitation and Correction
Ohio Department of Transportation
Ohio Department of Veterans Services
Ohio Department of Youth Services
Ohio State Board of Pharmacy

BASIS FOR INVESTIGATION: Agency Referral

ALLEGATIONS: Failure to Comply with State Law and/or Regulations

INITIATED: March 5, 2015

DATE OF REPORT: December 21, 2016

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On March 3, 2015, the Office of the Ohio Inspector General received a complaint from the Office of the Ohio Governor alleging eight state agencies and one state board failed to comply with Ohio Revised Code §124.134 (C), which regulates vacation leave for employees exempt from collective bargaining. Specifically, the complaint alleged several employees of these agencies received denied vacation leave payments in excess of the 80-hour limit allowed per fiscal year,¹ from fiscal year 2012 to the date of the complaint.

Two other agencies were also listed in the complaint provided by the governor's office – the Ohio Board of Nursing and the Ohio Legislative Services Commission. Due to the amount of hours allegedly overpaid by the Ohio Board of Nursing, the Office of the Ohio Inspector General opened a separate investigation, and issued Report of Investigation 2015-CA00007 on October 14, 2015. The Ohio Legislative Services Commission is not under the jurisdiction of the Office of the Ohio Inspector General and was referred to the Ohio Joint Legislative Ethics Committee for review.

A list of the employees by agency, and background information on each agency, is provided in [Exhibit 1](#).

BACKGROUND

Ohio Revised Code §124.134, *Vacation leave – employees exempt from collective bargaining*, states:

(C) Except as provided in division (D) of this section, beginning in fiscal year 2012, an employee may be paid for up to eighty hours of vacation leave each fiscal year if the employee requested and was denied the use of vacation leave during that fiscal year. No employee shall receive payment for more than eighty hours of denied vacation leave in a single fiscal year. An employee is only eligible to receive payment for vacation leave when the employee's vacation leave credit is at, or will reach in the immediately following pay period, the maximum of the accrual for three years and the employee has been denied

¹ The state operates on a fiscal year basis with the start of the fiscal year beginning on July 1st and ending on June 30th.

the use of vacation leave. An employee is not entitled to receive payment for vacation leave denied in any pay period in which the employee’s vacation leave credit is not at, or will not reach in the immediately following pay period, the maximum of accrual for three years. Any vacation leave for which an employee receives payment shall be deducted from the employee’s vacation leave balance. No employee is eligible to receive payment for denied vacation leave in either fiscal year 2010 or fiscal year 2011.

INVESTIGATIVE SUMMARY

The Office of the Ohio Inspector General requested and received timesheets, requests for leave, payroll and leave policies and procedures for 18 individuals from nine agencies listed in the complaint. Also obtained was information from the state accounting system (referred to as “state payroll records” in this report) to identify when the denied vacation leave payments were made and the amount paid to each employee. The following are the results of the reviews of the documentation obtained and interviews conducted with individuals at each respective agency.

Ohio Department of Administrative Services (ODAS)

Complaint documents indicated Julie Trackler, project manager 2 (who is no longer working with the agency), had been paid for 392 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2012, Trackler was paid for 160 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. For fiscal year 2012, documents obtained from the Ohio Department of Administrative Services (ODAS) confirm Trackler was overpaid. As a result, Trackler was potentially overpaid \$3,154.40 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Julie Trackler

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	160	80	80	72	392
Allowable	<u>80</u>	<u>80</u>	<u>80</u>	<u>72</u>	<u>312</u>
Variance	80	0	0	0	80
Earnings	\$3,154.40	\$0.00	\$0.00	\$0.00	\$3,154.40

On January 26, 2016, the Office of the Ohio Inspector General met with Marrisona Walter, ODAS human resources (HR) administrator, to discuss the ODAS processing of denied vacation leave payments. Walter stated ODAS does not have a written policy or procedure governing the process. ODAS encourages employees to use leave time if the employee is close to the maximum accrual limit. Walter noted that, in general, an employee must substantiate why they are unable to use the leave, documenting that their absence would not allow critical work to be completed. This information, typically specified in a written memo, is approved by the employee's supervisor before the employee forwards the information to human resources for further review. Walter said she would review the documentation and ensure the employee is of critical need to the agency. She would also check with the employee's fiscal department to ensure the proper funding is available. If approved, the request is forwarded to another HR staff member who processes the request. Walter stated there have been occasions when requests for payment of denied vacation leave were declined, and the requestor was informed they would need to take vacation when administrators determined the employee's duties could be covered by another individual within the department while the employee was out on leave.

When asked who is responsible for checking leave balances, Walter stated the employee is responsible for notifying their supervisor if they are close to or at the maximum leave accrual balance. Walter noted supervisors do have access to their employees' leave balances in the state payroll system, but the system does not provide an option to generate a report to document.

Ohio Department of Education (ODE)

Complaint documents indicated Steven Gratz, exempt education employee, had been paid for 240 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2015, he was paid for 160 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. For fiscal year 2015, documents provided by the Ohio Department of Education (ODE) and state payroll records confirmed Gratz was overpaid. As a result, Gratz was potentially overpaid \$4,227.20 in denied vacation leave based on his pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Steven Gratz

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	0	0	80	160	240
Allowable	<u>0</u>	<u>0</u>	<u>80</u>	<u>80</u>	<u>160</u>
Variance	0	0	0	80	80
Earnings	\$0.00	\$0.00	\$0.00	\$4,227.20	\$4,227.20

Complaint documents indicated Randy Russell, fiscal officer 3, had been paid for 136 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2015, Russell was paid for 96 hours of denied vacation leave, in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. Documents provided by ODE show Russell requested and received four payments of 24 hours each for a total of 96 hours of denied vacation leave. As a result, Russell was potentially overpaid \$690.08 in denied vacation leave based on his pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Randy Russell

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	0	0	40	96	136
Allowable	<u>0</u>	<u>0</u>	<u>40</u>	<u>80</u>	<u>120</u>
Variance	0	0	0	16	16
Earnings	\$0.00	\$0.00	\$0.00	\$690.08	\$690.08

State payroll records show the denied vacation leave payment for the first pay period of fiscal year 2015 was delayed in the state accounting system resulting in the employee receiving the payment two weeks later than requested.²

Complaint documents indicated Matt Telfer, labor relations officer 3, had been paid for 200 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2014, Telfer was paid for 120 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per

² The state operates on a two-week delayed payroll schedule. For example, work or leave taken between January 26, 2014, and February 8, 2014, will be paid on the paycheck received February 21, 2014.

fiscal year. As a result, Telfer was potentially overpaid \$1,575.20 in denied vacation leave based on his pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Matt Telfer

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	0	0	120	80	200
Allowable	<u>0</u>	<u>0</u>	<u>80</u>	<u>80</u>	<u>160</u>
Variance	0	0	40	0	40
Earnings	\$0.00	\$0.00	\$1,575.20	\$0.00	\$1,575.20

However, state payroll records for pay period January 26, 2014, to February 8, 2014, show the payment of 80 hours of denied vacation leave was subtracted from his paycheck. The following pay period, February 9, 2014, to February 22, 2014, the payment for the denied vacation leave was processed and the dollar amount for the denied leave was added to his paycheck. ODAS administrators told investigators that Telfer was only paid for 80 hours of denied vacation leave in fiscal year 2014 and was therefore not paid in excess of the allowable limits.

On December 7, 2015, the Office of the Ohio Inspector General met with Pamela King, executive director, ODE Office of Human Resources; Diane Lease, ODE chief legal counsel; and Immy Singh, ODE assistant legal counsel, to review the documents provided and discuss the ODE policies and procedures for processing denied vacation leave payments. King confirmed she was unaware of the limits in the Ohio Revised Code as indicated in emails investigators received from ODE. King said she was unaware the payment to Russell had been processed in a later pay period and she would need to review the HR records to determine why that occurred. King explained that Telfer initially completed a vacation leave denial form in January, but shortly thereafter, asked that it be rescinded. However, King noted that, inexplicably, the state accounting system processed the reversal but not the initial request to make the denied vacation leave payment. ODE had to work with ODAS to correct the error.

The Ohio Department of Education utilizes a specific form to request payment for denied vacation leave that cites the applicable section of the Ohio Revised Code, the dates for which the leave is being denied, a section to specify the reason for the denial, and signature fields for the

employee's supervisor and associate superintendent. King and Lease noted that it is not a requirement to complete the section specifying the reason the vacation leave is being denied. Lease also noted that since this issue was brought to their attention, ODE officials have begun a review of their denied vacation leave policy and are planning to make changes to both the policy and the corresponding request form used by ODE staff.

When processing a vacation leave denial request, King stated HR administrators do not refer to the state accounting system to determine if an employee had previously received a denied vacation leave payment during the current fiscal year. King also stated it is the employee's responsibility to monitor their vacation leave balance and notify supervisors when the employee is close to the maximum accrual of vacation leave.

On December 16, 2015, King contacted the Office of the Ohio Inspector General to state that a review of ODE records showed that human resources had processed Russell's denied vacation leave payment for the first week of fiscal year 2015 on July 2, 2014, which was reflected on his paycheck for the pay period ending June 28, 2014. ODE believed the reason the denied vacation leave was paid on the next paycheck might be due to a processing error on the part of ODAS. King also informed investigators that ODE had received repayment from Gratz for the excess denied vacation leave he was paid over the allowed 80-hour limit.

Ohio Department of Health (ODH)

Complaint documents indicated Elizabeth Bradley, program administrator 3 (retired May 30, 2015), had been paid for 320 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2014, Bradley was paid for 160 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. For fiscal year 2014, documents provided by the Ohio Department of Health (ODH) and state payroll records confirm Bradley was overpaid. As a result, Bradley was potentially overpaid \$2,847.20 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Elizabeth Bradley

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	80	80	160	0	320
Allowable	<u>80</u>	<u>80</u>	<u>80</u>	<u>0</u>	<u>240</u>
Variance	0	0	80	0	80
Earnings	\$0.00	\$0.00	\$2,847.20	\$0.00	\$2,847.20

Complaint documents indicated Lynn Giljahn, epidemiology investigative program manager, had been paid for 320 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2013, Giljahn was paid for 160 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. For fiscal year 2013, documents provided by ODH and state payroll records confirm Giljahn was overpaid. As a result, Giljahn was potentially overpaid \$3,463.20 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Lynn Giljahn

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	80	160	80	0	320
Allowable	<u>80</u>	<u>80</u>	<u>80</u>	<u>0</u>	<u>240</u>
Variance	0	80	0	0	80
Earnings	\$0.00	\$3,463.20	\$0.00	\$0.00	\$3,463.20

On November 25, 2015, the Office of the Ohio Inspector General met with Jamie Erickson, chief of ODH Human Resources; and Belinda Kerr, human resources administrator, to review the documents provided by ODH and discuss the department’s policies and procedures. Erickson and Kerr stated that, prior to August 2014, ODH had a specific policy governing payments for denied vacation leave and it listed the 80-hour limit. ODE employees were responsible for monitoring their leave balances and notifying their respective supervisors when close to reaching their maximum leave accrual. Requests for denied vacation leave payments were processed through the submission of a Request for Leave form. Using a spreadsheet, ODH HR tracked denied vacation leave payments to employees by fiscal year. However, ODH HR did not

perform a secondary check in the state payroll system to verify whether previous denied vacation leave payments had been made to the employee before the payment was processed.

However, Erickson and Kerr noted that in August 2014, the denied vacation leave policy was revised at ODH and employees were prohibited from receiving denied vacation leave payments, due to budgetary constraints. ODH employees are currently required to use their vacation leave when they are at or close to reaching their maximum leave accrual limit.

Erickson and Kerr stated that Giljahn’s first denied vacation leave request approved and paid in fiscal year 2013 was not entered into the ODH tracking spreadsheet and, therefore, Giljahn’s second denied vacation leave request in fiscal year 2013 was approved and paid in error. In regard to Bradley, Erickson and Kerr stated that Bradley’s second payout in fiscal year 2014 was processed one pay period early and should have been held for two weeks before processing. This would have moved the payment to fiscal year 2015 and she would not have been over the 80-hour limit of denied vacation leave paid in fiscal year 2014.

Ohio Department of Mental Health and Addiction Services (OhioMHAS)

Complaint documents indicated David Blahnik, mental health administrator 6, had been paid for 400 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In both fiscal years 2013 and 2014, Blahnik was paid for 160 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. As a result, Blahnik was potentially overpaid \$7,600.80 in denied vacation leave based on his pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – David Blahnik

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	80	160	160	0	400
Allowable	<u>80</u>	<u>80</u>	<u>80</u>	<u>0</u>	<u>240</u>
Variance	0	80	80	0	160
Earnings	\$0.00	\$3,793.60	\$3,807.20	\$0.00	\$7,600.80

Records provided by the Ohio Department of Mental Health and Addiction Services (OhioMHAS) show numerous issues with the processing of Blahnik’s denied vacation leave payments, including:

- Two separate payments occurred one pay period following the requests and resulted in Blahnik not accruing vacation leave because the system showed he had reached his maximum leave accrual;
- In one instance, during the same pay period, 80 hours of denied vacation leave was paid and 15.4 hours of vacation leave was added back to Blahnik’s vacation leave balance;
- A denied vacation leave form with a request for payment was submitted and approved for 72 hours of denied vacation leave, while state payroll records show 80 hours of denied vacation leave was paid; and
- A denied vacation leave payment occurred one week prior to the date of the request for payment of denied vacation leave being submitted and approved.

Complaint documents indicated Lynne Dickerson, mental health administrator 5, had been paid for 248 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2012, Dickerson was paid for 88 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. As a result, Dickerson was potentially overpaid \$370.80 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Lynne Dickerson

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	88	80	80	0	248
Allowable	<u>80</u>	<u>80</u>	<u>80</u>	<u>0</u>	<u>240</u>
Variance	8	0	0	0	8
Earnings	\$370.80	\$0.00	\$0.00	\$0.00	\$370.80

During a review of documents provided by OhioMHAS, investigators also discovered a denied vacation leave form submitted by Dickerson who had requested payment for 72 hours of denied vacation leave; however, when the request for payment was compared to state payroll records, investigators determined Dickerson was paid for 80 hours in denied vacation leave.

Complaint documents indicated Veronica Lofton, institution superintendent 3, had been paid for 256 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2013, Lofton was paid for 136 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. Documents provided by OhioMHAS and state payroll records confirm Lofton was overpaid in fiscal year 2013. As a result, Lofton was potentially overpaid \$2,674.56 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Veronica Lofton

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	40	136	80	0	256
Allowable	<u>40</u>	<u>80</u>	<u>80</u>	<u>0</u>	<u>200</u>
Variance	0	56	0	0	56
Earnings	\$0.00	\$2,674.56	\$0.00	\$0.00	\$2,674.56

Complaint documents indicated Joyce Montgomery, mental health administrator 4, had been paid for 248 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2012, Montgomery was paid for 104 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. For fiscal year 2013, documents provided by OhioMHAS and state payroll records confirm Montgomery was overpaid. As a result, Montgomery was potentially overpaid \$808.80 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Joyce Montgomery

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	104	80	64	0	248
Allowable	<u>80</u>	<u>80</u>	<u>64</u>	<u>0</u>	<u>224</u>
Variance	24	0	0	0	24
Earnings	\$808.80	\$0.00	\$0.00	\$0.00	\$808.80

On December 3, 2015, the Office of the Ohio Inspector General met with Vincent Connor, deputy director, OhioMHAS human resources; and Michaela Peterson-Baumann, deputy director of the OhioMHAS legal division, to review the documents provided by OhioMHAS and discuss

the department policies and procedures. Connor was unaware of the 80-hour limit for denied vacation leave payments and stated the agency does not have a specific policy regarding vacation denial payments. Each institution is responsible for issuing its own policies and procedures as well as processing payroll. Investigators reviewed the concerns identified with the employees – all identified as being assigned to the Twin Valley Behavioral Healthcare Hospital – with Connor and Peterson-Baumann. Both stated they would need to speak to officials at that institution, since the OhioMHAS central office does not process or monitor the denied vacation leave payments. Investigators provided a list of questions as well as copies of the supporting documentation to reference.

On December 11, 2015, Connor provided a response from Twin Valley Behavioral Healthcare Hospital (TVBH) regarding the issues identified. TVBH officials had no documentation to support why denied vacation leave payments for Blahnik were processed late. Because the payments were delayed, the employee was unable to accrue vacation, since the system showed Blahnik was at his maximum accrual limit. Therefore, TVBH added 15.4 hours back to Blahnik's leave balance for the time he lost due to the delay in processing. Officials noted Blahnik should have been entitled to an additional 7.7 hours due to the delays.

In regard to why officials processed two requests – one for Blahnik and one for Dickerson – above what was requested, officials had no documentation and did not supply an explanation as to why an additional eight hours for each was processed and paid out. Officials also could not explain why a payment for Blahnik occurred prior to receiving an approved denied vacation leave request form.

Ohio Department of Rehabilitation and Correction (ODRC)

Complaint documents indicated Tiffany Lightfoot, parole services supervisor, was paid for 120 hours of denied vacation leave in fiscal year 2013. State payroll records showed Lightfoot had recently been promoted and her new position was in a different classification that had a lower

maximum vacation accrual balance than was allowed in her previous position.³ The Office of the Ohio Inspector General confirmed with the Ohio Department of Administrative Services that they instructed the Ohio Department of Rehabilitation and Correction (ODRC) to process the difference between the two allowable leave balances as a payment for denied vacation leave. Therefore, this payment is not considered as being over the limit allowed in Ohio Revised Code §124.134 (C).

Ohio Department of Transportation (ODOT)

Complaint documents indicated John Wooldridge, realty specialist manager, had been paid for 87.4 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2014, Wooldridge was paid for 82.8 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. For fiscal year 2014, documents provided by the Ohio Department of Transportation (ODOT) and state payroll records confirm Wooldridge was overpaid. As a result, Wooldridge was potentially overpaid \$89.82 in denied vacation leave based on his pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – John Wooldridge

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	0	0	82.8	4.6	87.4
Allowable	<u>0</u>	<u>0</u>	<u>80</u>	<u>4.6</u>	<u>84.6</u>
Variance	0	0	2.8	0	2.8
Earnings	\$0.00	\$0.00	\$89.82	\$0.00	\$89.82

On October 7, 2015, the Office of the Ohio Inspector General met with ODOT District 5 officials Jason Sturgeon, deputy director 5, administrator, Planning and Engineering; Laura Philabaum, real estate administrator; and John Kalis, fiscal officer. Sturgeon, Philabaum, and Kalis told investigators they were unaware of the Ohio Revised Code §124.134 (C) limit on denied vacation leave payments and that ODOT did not have a specific policy governing denied vacation leave payments. All three stated that ODOT employees are required to submit their

³ In her former position, Lightfoot was covered under the District 1199, Health Care and Social Service Union, Service Employees International Union (SEIU), contract. This contract allows for a larger accrual leave balance under Article 10.02 than what was allowed in the position to which she was promoted.

requests for payment of denied vacation leave through the ODOT electronic payroll system, KRONOS, and the employee’s supervisor then approves or denies the request. They also told investigators that employees are responsible for monitoring their own leave balances and are to inform their respective supervisors if they are at or close to the maximum leave accrual limit. Payroll is processed at the district level; ODOT central office is only involved in payroll if there is an issue or error within the state payroll system.

According to his supervisor, Wooldridge was assigned to a project with a tight deadline, and from the beginning of the project he was approved to receive denied vacation leave payments. District 5 does not allow for lump sum payments, which is how other agencies process denied vacation leave payments. Instead, for each pay period, employees were required to submit a request of vacation hours to be paid equal to the amount of vacation time they had accrued that pay period. Wooldridge accrued vacation time at a rate of 4.6 hours every two weeks, and the denied vacation leave payments were processed each two-week pay period until the project had ended. District 5 officials stated they were not aware of the 80-hour limit and, therefore, did not track the total hours of denied vacation leave Wooldridge was paid for that fiscal year.

Ohio Department of Veterans Services (ODVS)

Complaint documents indicated Robert Breeckner Jr., deputy director 3, had been paid for 352 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2012, Breeckner Jr. was paid for 120 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. As a result, Breeckner Jr. was potentially overpaid \$1,710.00 in denied vacation leave based on his pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Robert Breeckner Jr.

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	120	72	80	80	352
Allowable	<u>80</u>	<u>72</u>	<u>80</u>	<u>80</u>	<u>312</u>
Variance	40	0	0	0	40
Earnings	\$1,710.00	\$0.00	\$0.00	\$0.00	\$1,710.00

Complaint documents indicated Thomas Gase, network administration supervisor, had been paid for 320 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2012, Gase was paid for 160 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. As a result, Gase was potentially overpaid \$3,352.80 in denied vacation leave based on his pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Thomas Gase

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	160	80	80	0	320
Allowable	<u>80</u>	<u>80</u>	<u>80</u>	<u>0</u>	<u>240</u>
Variance	80	0	0	0	80
Earnings	\$3,352.80	\$0.00	\$0.00	\$0.00	\$3,352.80

Complaint documents indicated Gerald Yun, nurse supervisor, had been paid for 280 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2013, Yun was paid for 120 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. As a result, Yun was potentially overpaid \$1,798.00 in denied vacation leave based on his pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Gerald Yun

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	0	120	80	80	280
Allowable	<u>0</u>	<u>80</u>	<u>80</u>	<u>80</u>	<u>240</u>
Variance	0	40	0	0	40
Earnings	\$0.00	\$1,798.00	\$0.00	\$0.00	\$1,798.00

Documents provided by the Ohio Department of Veterans Services (ODVS) and state payroll records confirm all three ODVS employees described above were overpaid denied vacation leave.

On August 18, 2015, the Office of the Ohio Inspector General interviewed Robert Day, ODVS fiscal officer and payroll administrator. ODVS had a denied vacation leave payment policy; however, starting in fiscal year 2015, the policy was suspended by the ODVS director. Currently, ODVS employees must use their vacation leave. Prior to the policy suspension, denied vacation leave payments were only issued if there was an operational need and the employee was unable to take leave. Day stated he was aware of the 80-hour limit, but the limit was not cited in the department policy. Employees were responsible for tracking their vacation leave balances and informing supervisors if the balance was at or near the maximum vacation leave accrual limit.

In regard to the denied vacation leave payments processed for Gase and Yun, Day stated their requests for payment had been approved toward the end of the fiscal year and were intended to be held back and submitted the following fiscal year. However, the requests for payment for both Gase and Yun were processed at the time of their approval, which resulted in the employees being paid over the denied vacation leave limit allowable for the fiscal year.

Ohio Department of Youth Services (ODYS)

Complaint documents indicated Katie Needham, facility superintendent (retired December 1, 2014), had been paid for 448 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal years 2013 and 2014, Needham was paid for 328 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours for each fiscal year. As a result, Needham was potentially overpaid \$5,881.68 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Katie Needham

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	80	168	160	40	448
Allowable	<u>80</u>	<u>80</u>	<u>80</u>	<u>40</u>	<u>280</u>
Variance	0	88	80	0	168
Earnings	\$0.00	\$3,080.88	\$2,800.80	\$0.00	\$5,881.68

Complaint documents indicated Damita Peery, human services program administrator 2, had been paid for 276.8 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal years 2012 and 2013, Peery was paid for 276.8 hours of denied vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. As a result, Peery was potentially overpaid \$5,428.56 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Damita Peery

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	104	172.8	0	0	276.8
Allowable	<u>80</u>	<u>80</u>	<u>0</u>	<u>0</u>	<u>160</u>
Variance	24	92.8	0	0	116.8
Earnings	\$974.16	\$4,454.40	\$0.00	\$0.00	\$5,428.56

Documents provided by the Ohio Department of Youth Services (ODYS) and state payroll records confirm the two ODYS employees described above were overpaid denied vacation leave.

On May 20, 2015, the Office of the Ohio Inspector General met with Harvey Reed, director of ODYS; Rochelle Jones, bureau chief, ODYS Human Resources; and Dustin Calhoun, ODYS chief legal counsel. All stated they were familiar with the denied vacation leave payment process but were not aware of the 80-hour limit per fiscal year. Jones stated that the first time she was informed of the 80-hour limit was earlier in 2015 at an ODAS meeting where the attendees were informed of the language in the Ohio Revised Code. Reed stated it was the employee’s responsibility to both monitor their leave balances and inform the appropriate individuals if the employee was at or close to the maximum leave accrual balance. Reed and Jones stated they would be changing the agency’s policy to ensure employees were aware of the denied vacation leave payment limit.

Ohio State Board of Pharmacy

Complaint documents indicated Nancy Little, deputy director 5 (retired May 1, 2013), had been paid for 200 hours of denied vacation leave from fiscal year 2012 to the date of the complaint as shown in the following table. In fiscal year 2012, Little was paid for 120 hours of denied

vacation leave in violation of Ohio Revised Code §124.134 (C), which only allows for 80 hours to be paid per fiscal year. For fiscal year 2012, documents provided by the Ohio State Board of Pharmacy and state payroll records confirmed Little was overpaid. As a result, Little was potentially overpaid \$1,986.80 in denied vacation leave based on her pay rate at the time of the payments.

Denied Vacation Leave Paid, Allowable and Variances – Nancy Little

	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15</u>	<u>Total</u>
Hours Paid	120	80	0	0	200
Allowable	<u>80</u>	<u>80</u>	<u>0</u>	<u>0</u>	<u>160</u>
Variance	40	0	0	0	40
Earnings	\$1,986.80	\$0.00	\$0.00	\$0.00	\$1,986.80

Nicole Dehner, chief legal counsel, provided a written statement asserting the members of the board were not involved in processing Little’s payroll or leave requests and were unaware of the payments. The board also did not have a policy that governed denied vacation leave payments and were unaware of the limit specified in Ohio Revised Code §124.134 (C). The Office of the Ohio Inspector General was informed the individuals who approved and processed the denied vacation leave payments no longer worked for the Ohio State Board of Pharmacy.

Other Matters

During the course of the investigation, other matters were noted:

Ohio Department of Administrative Services Communication

In interviews with the agencies noted above, the Office of the Ohio Inspector General found that very few agencies were aware of the 80-hour payout limit specified in Ohio Revised Code §124.134 (C). When investigators asked agency officials if they recalled receiving any communication from ODAS regarding the limit or changes to the applicable section of the Ohio Revised Code in 2009, only one agency official said yes. However, the agency official noted that he became aware of the 80-hour payment limit at the same time as the beginning of this investigation.

According to the ODAS website,

The Ohio Department of Administrative Services develops and promulgates State Administrative Policies established by the Director to provide management direction and guide the use of resources on behalf of the public trust. The Ohio General Assembly charges the Department with state policy authority for matters related to assets, facilities, fleet, procurement, records management and printing, human resources and information technology.

A search of the website did not locate any memos or other communications to state agencies, boards, or commissions regarding the 80-hour payout limit. Nor were there any directives or statewide policies identified governing denied vacation leave payment.

Leave Usage

During a review of the state payroll records by the Office of the Ohio Inspector General for the employees listed in this report, investigators noted several employees used extensive amounts of compensatory time⁴ (comp time) during the four years under review. In some instances, employees used comp time in the four weeks before and after the denied vacation leave payments were granted. And in several instances, employees used at least 40 hours of comp time in the same pay period payment was received for denied vacation leave.

While officials for one agency stated denied vacation leave payments were granted only to employees based on operational need, investigators found the employees of that agency who were paid leave had used an average of 450 hours of comp time during the four-year period under review. Over the same four-year period, one employee used 617 hours of accrued comp time for leaves of absence, and collected payments for 280 hours of denied vacation leave.

Pursuant to ODAS Directive HR-D-08 (effective September 1, 2009), Compensatory Time, employees have a maximum accrual limit of 120 hours of comp time. Employees must use the comp time earned within 180 days of its accrual. Additionally, the directive states, “Cash payment for accrued compensatory time is not permitted.” As the use of comp time is based on a

⁴ Compensatory Time – Time off from regular work hours as defined in the *Ohio Administrative Code Chapter 123:1-43 Overtime and Compensatory Time*.

“use it or lose it” policy and employees cannot receive payment when they have reached their maximum accrual, this policy may offer an explanation as to why the use of comp time instead of vacation leave is prevalent in the examples cited. However, the practice of agency administrators allowing employees to reach a maximum level of accrued vacation time and then denying their vacation leave so they can collect a cash payment could potentially strain agency budgets.

CONCLUSION

The Office of the Ohio Inspector General determined that over the course of several years, employees of several agencies and one state board received denied vacation leave payments in excess of allowable limits. In these instances, the agencies failed to comply with Ohio Revised Code §124.134 (C), which states, in part, that “...no employee shall receive payment for more than eighty-hours of denied vacation leave in a single fiscal year.”

In meetings with the agencies’ officials, only a few were aware of the 80-hour limit, per employee, per fiscal year. Most were not aware of the provision in the Ohio Revised Code. Those who were aware had instituted some controls; however, these controls did not work effectively and did not prevent improper payments from occurring. A review by investigators of communications, directives, and policies issued by the Ohio Department of Administrative Services found no mention on the processing of denied vacation leave or of the 80-hour payout limit per fiscal year.

In total, the following are the overpayments identified by agency:

<u>Agency</u>	<u>Amount</u>
Administrative Services, Ohio Department of	\$3,154.40
Education, Ohio Department of	\$6,492.48
Health, Ohio Department of	\$6,310.40
Mental Health and Addiction Services, Ohio Department of	\$11,454.96
Pharmacy, Ohio State Board of	\$1,986.80
Transportation, Ohio Department of	\$89.82
Veterans Services, Ohio Department of	\$6,860.80
Youth Services, Ohio Department of	\$11,310.24
TOTAL	\$47,659.90

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in these instances.

Investigators noted most agencies were able to provide documentation or explanations regarding the denied vacation leave payments issued to their employees. However, Twin Valley Behavioral Healthcare Hospital, one of the Ohio Department of Mental Health and Addiction Services' psychiatric hospitals, was unable to provide documentation or provide an explanation for the numerous issues identified with their processing of denied vacation leave payments. When questioned by investigators, OhioMHAS officials explained each institution develops its own policies and procedures, and noted that each institution processes payroll with minimal oversight by the central office.

RECOMMENDATIONS

The Office of the Ohio Inspector General makes the following recommendations and asks the director of the Ohio Department of Administrative Services to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Department of Administrative Services should:

- 1) Develop and issue to all state agencies, boards and commissions, a statewide policy to govern the processing and payment of denied vacation leave. The policy should address the proper form to be used by agencies instead of using the Request for Leave Form. An example of a form that specifically addresses denied vacation leave is the one created by the Ohio Department of Education.
- 2) Work with agencies to determine if repayment or other corrective action is necessary for those employees listed in this report of investigation who are still employed with the state of Ohio.

The Office of the Ohio Inspector General also makes the following recommendations and asks the director of the Ohio Department of Mental Health and Addiction Services to respond within

60 days with a plan detailing how these recommendations will be implemented. The Ohio Department of Mental Health and Addiction Services should:

- 1) Review the payroll processing procedures by Twin Valley Behavioral Healthcare Hospital to ensure it is following both the state requirements and the OhioMHAS policies and procedures. This review should include additional training for Twin Valley officials on the maintenance of appropriate payroll records and supporting documentation in accordance with state and OhioMHAS record retention policies.
- 2) Review the policies, procedures, and the processing of payroll by the other OhioMHAS state psychiatric hospitals to ensure compliance with state laws and regulations.
- 3) Have central office conduct periodic reviews of the payroll processed by the state psychiatric hospitals to ensure proper payments are granted to their employees.

REFERRAL

The Office of the Ohio Inspector General has determined that no referrals are warranted for this report of investigation.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

**AGENCIES: Ohio Depts. of Administrative Services, Education, Health,
Mental Health & Addiction Services, Rehabilitation & Correction,
Transportation, Veterans Services, Youth Services, and Ohio State Board
of Pharmacy**

FILE ID #: 2015-CA00008

KEEPER OF RECORDS CERTIFICATION

**This is a true and correct copy of the report which is required to be prepared
by the Office of the Ohio Inspector General pursuant to Section 121.42 of the
Ohio Revised Code.**

**Jill Jones
KEEPER OF RECORDS**

**CERTIFIED
DECEMBER 21, 2016**

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