

STATE OF OHIO  
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF  
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF HIGHER EDUCATION  
FILE ID NO.: 2015-CA00046  
DATE OF REPORT: AUGUST 17, 2017

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*“Safeguarding integrity in state government”*

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Randall J. Meyer  
Ohio Inspector General



STATE OF OHIO

# OFFICE OF THE INSPECTOR GENERAL

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RANDALL J. MEYER, INSPECTOR GENERAL

## REPORT OF INVESTIGATION

**FILE ID NUMBER:** 2015-CA00046

**SUBJECT NAME:** Lauren McGarity

**POSITION:** Director of Special Projects

**AGENCY:** Ohio Department of Higher Education

**BASIS FOR INVESTIGATION:** Inspector General Initiative

**ALLEGATIONS:** Operating a Business or Private Interest on State Time;  
Misuse or Abuse of State Property or Equipment;  
Misuse or Abuse of Time

**INITIATED:** September 11, 2015

**DATE OF REPORT:** August 17, 2017

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

During the course of conducting two different Ohio Department of Rehabilitation and Correction investigations, 2015-CA00043 and 2015-CA00047, the Office of the Ohio Inspector General discovered that Lauren McGarity, former director of special projects at the Ohio Department of Higher Education,<sup>1</sup> was also the executive director of WinWin, Inc., which is a non-profit agency founded by McGarity. WinWin, Inc. was contracted with the Ohio Department of Rehabilitation and Correction to run the “LifeLine”<sup>2</sup> program at Marion Correctional Institution. It was further discovered that McGarity was identified as the agent and incorporator for several other active businesses (Alternative Solutions, LTD. and LTM & Associates, LTD.), as well as WinWin Academy, which was cancelled through the Ohio Secretary of State on December 29, 2015.

## **BACKGROUND**

The Ohio Department of Higher Education (ODHE), formerly the Ohio Board of Regents, was created by the General Assembly in 1963. At that time, the board was responsible for setting policy and appointing the chancellor, who served as an administrative officer. In early 2007, H.B.2 of the 127<sup>th</sup> General Assembly transferred the appointment of the chancellor from the board to the governor, with the advice and consent of the Senate, and transferred all of the board’s powers and responsibilities to the chancellor. The chancellor now reports directly to the governor and, in addition to administrative duties, has direct control over agency policy. The board serves as an advisory body to the chancellor and is responsible for creating an annual report on the condition of higher education in Ohio and the performance of the chancellor.<sup>3</sup>

The Ohio Department of Rehabilitation and Correction (ODRC) is charged with the supervision of felony offenders in the custody of the state, including providing housing, following their release from incarceration, and monitoring the individuals through the parole authority. The department also oversees the community control sanction system that provides judges with sentencing options to reduce the inmate population. There are currently 27 correctional

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<sup>1</sup> Lauren McGarity was terminated on November 28, 2016.

<sup>2</sup> LifeLine is a program at Marion Correctional Institution that offers social-emotional learning, foreign language studies, basic computing and employment-specific skills education to the inmates housed at Marion Correctional Institution.

<sup>3</sup> Source: Biennial budget documents.

institutions throughout the state. The director of ODRC is appointed by the governor and confirmed by the Ohio Senate. ODRC is funded through general revenue funds, federal funding, and revenue earned through sales from the Ohio Penal Industries.<sup>4</sup>

Marion Correctional Institution (MCI) is one of 27 institutions operated by ODRC and houses approximately 2,500 primarily medium-security inmates. MCI supports several programs to educate or provide service to the community. One of those programs was the LifeLine program self described as a place for healing and learning.

#### *Lauren McGarity's Business Interests*

WinWin, Inc. is a non-profit organization founded in 1992 by Lauren McGarity. The organization provided education and resources for non-violent conflict management to children and the adults who influence their development. WinWin initially worked in schools and communities, however, when WinWin became aware that many children they worked with were affected by incarceration, they expanded their work into the corrections environment. From July 1, 2008, through March 31, 2015, WinWin was contracted with ODRC to provide the LifeLine reentry services at Marion Correctional Institution. The most recent contract was terminated effective April 1, 2015, by McGarity, after all the employees and contractors who were providing the services on behalf of WinWin abruptly quit. The dates of services for the most recent contract was from July 1, 2013, through June 30, 2015, and was valued at \$102,900.00.

WinWin Academy developed from the work of WinWin, Inc., and McGarity served as the CEO and superintendent of WinWin Academy. In 2007, McGarity, ODRC Director Terry Collins and Ohio Central School System Superintendent Jerry McGlone began discussing the growing number of short-term offenders aged 18-22 who dropped out of high school before incarceration and whose prison sentences were too short for them to complete their education. WinWin Academy was created to respond to the needs of this specific population.<sup>5</sup>

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<sup>4</sup> Source: Biennial budget documents.

<sup>5</sup> Source: winwinacademy.org

However, for WinWin Academy to operate in a prison and to permit WinWin Academy to hire “Thinking Aides,” who are formerly incarcerated graduates of WinWin, Inc.’s educational program, Ohio law needed to be changed.<sup>6</sup> The proposed charter school would have operated both inside the prison and outside in the community to continue teaching the individuals after they are released from prison. WinWin Academy received \$50,000 from the Ohio Department of Education to start up a charter school from July 30, 2009, through May 25, 2010. The required legislation did not pass and WinWin Academy never opened or provided any educational opportunities to students.

On March 28, 1999, McGarity filed articles of organization with the Ohio Secretary of State for Alternative Solutions, LTD. The articles of organization did not define a specific purpose and used generic language, stating, “... the company is organized to transact any and all lawful business for which limited liability companies may be organized under Ohio law.” Additionally, on May 12, 1999, McGarity filed articles of organization with the Ohio Secretary of State for LTM & Associates, Ltd. These articles of organization also did not define a specific purpose, but used generic language, stating, “... the company is organized to transact any and all lawful business for which limited liability companies may be organized under Ohio law.”

McGarity’s son, Max McGarity, filed articles of organization with the Ohio Secretary of State on August 9, 2012, for Buckeye Back Ribs, LLC, listing the same address (4924 Reed Rd., Ste. C, Columbus, Ohio 43220), as four other businesses: WinWin, Inc., WinWin Academy, Alternative Solutions, LTD., and LTM & Associates, LTD. The property at that address was owned by Lauren McGarity until August 13, 2015. Based on documents found on Lauren McGarity’s state-issued computer, Buckeye Back Ribs, LLC operated a food truck and provided catering services. This company later operated as Papaya BBQ and most recently Max McGarity filed a trade name registration for Smoked on High. Smoked on High is a restaurant Max McGarity was in the process of opening at the time of this investigation, and is located at 755 S. High Street, Columbus, Ohio. The 755 S. High Street property is owned by Lauren McGarity.

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<sup>6</sup> Source: [winwinacademy.org](http://winwinacademy.org)

*Applicable Policies and Laws*

Ohio Revised Code 102.03(D) states:

No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the official or employee with respect to that person's duties.

The Ohio Department of Administrative Services policy IT-04 Use of Internet, Email and other IT Resources 2.1 Use of State-Provided IT Resources states, in part, "... Personal Use, if permitted by an agency, shall be strictly limited and can be restricted or revoked at an agency's discretion at any time." ODAS policy IT-04 2.2 states, in part, "... Personal use that is strictly prohibited includes, but is not limited to, the following ... operating a business, directly or indirectly, for personal gain is strictly prohibited."

The ODHE (formerly the Ohio Board of Regents) Information Technology Policy states, in part, "... Any personal use of IT resources that disrupts, or interferes with OBR [Ohio Board of Regents] business, incurs an undue cost to OBR, could embarrass OBR, or has the appearance of impropriety is strictly prohibited." The policy further states "... Personal use that is strictly prohibited includes, but is not limited to the following ... Operating a business directly or indirectly, for personal gain is strictly prohibited." The policy states "... Remote access to OBR electronic email, calendar, and other work related information is to be used as a convenience to OBR employees only. Working from home or away from the office using the remote access is considered as voluntary work and cannot be counted as work hours unless it is preapproved by your supervisor and the Chancellor that such work may be completed from a remote location."

The ODHE Assignment of IT Equipment policy states, in part, "... Employees are responsible for ensuring the security of any assigned equipment and they are expected to use the equipment responsibly and professionally." The policy further states, "... The Director of Human Resources and the Chief of Staff, in coordination with the employee's immediate supervisor, if applicable, will determine whether IT equipment is assigned to OBR employees."

The Ohio Department of Administrative Services policy HR-08 Compensatory Time for Overtime Exempt Employees states in part:

2.1.2 ...No compensatory time will be granted for office work that could have been completed during an 80-hour flexible work schedule...

2.2 ...Compensatory time may be earned for work completed at a location other than the employee's normal work location with supervisory approval or pursuant to an approved teleworking agreement.

The ODHE Time and Attendance policy states, in part, "... Employees are not permitted to work through their lunch period to make up time. A minimum of a half (1/2) hour lunch is required for all employees. Lunch should be taken near the middle of the employee's work day."

ODHE's Compensatory Time Policy states, in part, "No compensatory time can accrue during an employee's lunch hour unless there is an operational need for that employee to work through their lunch hour."

The ODHE Use of Telephone Policy states, in part, "... When using a state wired telephone service, the number, frequency and duration of personal calls shall be kept to a minimum and, whenever possible, made during lunch hours or authorized breaks." The policy further states, "... Personal business, which involves an activity undertaken for profit or gain of any kind, shall not be conducted using a state telephone service. Employees are prohibited from circulating their state telephone number as a telephone number at which they can be reached for personal business. Personal business cards and other such materials shall not have a state telephone number listed as a contact number.

The ODHE Ethics Policy states, in part, "... No employee shall ... use his or her public position to obtain benefits for the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship." The policy further states, "No employee shall ... Solicit or accept honoraria (see O.R.C. 102.01(H) and 102.03(H))."

## **INVESTIGATIVE SUMMARY**

The Office of the Ohio Inspector General requested and reviewed the following documents from ODHE:

- McGarity's complete personnel file, including discipline;
- McGarity's position description;
- McGarity's timesheets;
- ODHE policies.

The Office of the Ohio Inspector General requested ODHE's secondary employment policy. ODHE officials responded that the department did not have a formal secondary employment policy, and referred investigators to the ODHE Ethics Policy and Assignment of IT Equipment Policy. Drew White, human resources director at ODHE, pointed out that "... ethics limits the ability for staff to obtain jobs at a campus without notifying us of their intention to seek it and the IT policy prohibits the use of state resources for personal gain."

On November 16, 2015, the Office of the Ohio Inspector General obtained McGarity's desktop computer for forensic review. Shortly after obtaining McGarity's desktop computer, investigators were contacted by ODHE Chief Legal Counsel Michelle Chavanne, who advised investigators that she discovered McGarity was in possession of a state-issued laptop computer as well. Additionally, ODHE Chief of Staff Matt Whatley confirmed that neither him nor Chavanne were aware that McGarity had a state-issued laptop computer in her possession until investigators seized McGarity's state-issued desktop computer. Upon receiving that information, the Office of the Ohio Inspector General obtained the state-issued laptop issued to McGarity for forensic review. Whatley stated he was attempting to determine who provided it and authorized it for use to McGarity.

On December 17, 2015, investigators conducted an interview with Jeff Berry, former desktop administrator at the Ohio Academic Resources Network (OARnet),<sup>7</sup> one of the consortia that

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<sup>7</sup> OARnet was created in 1987 by ODHE through legislation by the Ohio General Assembly. OARnet was founded to provide Ohio researchers with their first online access to the high performance computing resources of the Ohio Supercomputer Center. OARnet is one of the four consortia that fall under the umbrella of OH-TECH.

makes up the Ohio Department of Higher Education's OH-TECH division. Berry stated that all ODHE information technology services are provided by OARnet, and that ODHE does not itself employ any information technology employees.

Berry was asked to explain the process for signing out a laptop computer from the pool of laptops. Berry stated,

... Um, being at the Regents we have a pool of laptops that the users could check out anytime, loaned them out to them. Uh at --- from what I can remember, Lauren needed a laptop. She was working on a project in one of the conference rooms and she normally had a desktop. So I assigned her a laptop to use and gosh, it's probably been ... she's had it for about two years, maybe. And we knew what the model number or the asset tag number was, but once it was pretty much assigned to her, I never really saw it back.

When asked if it was normal for an ODHE employee to request a laptop and retain it for two or more years, Berry stated, "No." Berry said that if McGarity took the laptop home, she would not have been able to remotely access her desktop. Berry added that the most McGarity could have performed on her laptop was to access her email through webmail. Berry noted that there is a VPN<sup>8</sup> process used by employees to "... VPN to their network shares." Berry stated that the VPN's availability was not common knowledge to ODHE employees and added that McGarity never requested him to show her how to perform the procedure.

The Office of the Ohio Inspector General requested and reviewed all documentation related to solicitation DRC-13-0929 from the Ohio Department of Rehabilitation and Correction (ODRC), as well as all contracts between ODRC and WinWin, Inc. The contracts provided by ODRC revealed that WinWin, Inc. has held numerous contracts with ODRC to oversee services in the LifeLine Reentry Community Center located within Marion Correctional Institution (MCI). The most recent contract, 413-13-0929, was renewed on June 29, 2013, and was effective July 1, 2013, through June 30, 2015, in the amount of \$102,900. ([Exhibit 1](#))

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<sup>8</sup> Virtual private network (VPN) is a method employing encryption to provide a secure access to a remote computer over the internet.

The Office of the Ohio Inspector General requested and reviewed all payments made to WinWin, Inc. (WinWin) and WinWin Academy from the Ohio Department of Education. The documents revealed that from July 30, 2009, to May 21, 2010, WinWin, Inc. received a total of \$50,000 from the Ohio Department of Education. ODE confirmed that the payments made to WinWin, Inc. were from a federal grant for public charter schools. ([Exhibit 2](#))

On November 16, 2015, the Office of the Ohio Inspector General conducted an interview with Lauren McGarity. McGarity explained that WinWin Academy "... was a school that was ... that was to be a ... public high school ... like under the community school law. ...that was ... it required legislation. The legislation didn't get through both of the chambers so it never was operational." McGarity stated that WinWin Academy received funds from the ODE for the development of the community school. McGarity was the superintendent of WinWin Academy.

McGarity confirmed that she is the founder and executive director of WinWin. McGarity noted that WinWin is a 501(c)(3)<sup>9</sup> organization with the "... purposes of educating conflict management and has worked with the Department of Rehab and Correction since 19--- I'm sorry, since ... yeah, about 1999, '98, something like that." McGarity stated that WinWin had two employees, Najmuddeen Salaam and Jackie Jolley, who were formerly incarcerated individuals that had completed the programming offered by WinWin.

McGarity explained that for more than a decade, WinWin had a series of contracts with the Ohio Department of Rehabilitation and Correction. Salaam, Jolley, and JoDee Davis, who was an independent contractor for WinWin, provided the program services at Marion Correctional Institution. McGarity said that in November 2014, Davis resigned from WinWin and formed her own organization, Healing Broken Circles, Inc. and in March 2015, both Jolley and Salaam resigned from WinWin. McGarity stated that she attempted to work with the business administrator and warden at MCI to hire new employees or contractors to provide the services. However, McGarity said the business administrator and warden would not work with her to resolve the situation and she had no other choice but to terminate the contract.

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<sup>9</sup> 501(c)(3) is the portion of the internal revenue code that allows for federal tax exemption of nonprofit organizations.

McGarity was asked by investigators if she disclosed to ODHE that she had a private business that had a current and ongoing contract with ODRC. McGarity replied, "... oh, yeah."

McGarity said that she disclosed that information directly to Jim Petro, former chancellor at ODHE. McGarity continued, stating,

And I mean really everybody --- I mean there wasn't any ... everybody knew. Because it was, it was kind of what I had been doing for so long. Everyone knew ... but I shouldn't say everyone. ... my direct supervisor knew, who was um Chief of Staff. I'm, I'm sorry. Uh General Counsel ... And I was never an employ --- I mean I never made any mon--- I seriously never paid any money from WinWin, you know. So at the times that I would do independent contract, I would be paid as an independent contractor. There was just not (laughs) any money-making deal. This was a 99.9% of the time, or more, volunteer work. So this wasn't like --- all the, the contracts with DRC were --- you know, I think it started off at like \$20,000.00, you know. These were not --- by the time that we left um -- or that you know, that my contract was terminated or WinWin's contract was terminated in March, it was [\$]102,000 a year and that paid for the employees. (Laughs) You know, I mean this is not --- nobody made money off this ... It was a second level of responsibility outside of my work. It wasn't a second income.

When asked if ODHE was aware of the contracts WinWin had with ODRC, McGarity answered, "Yes." When asked if after Petro left his post as chancellor and John Carey was appointed, if Carey was aware of the contracts between WinWin and ODRC, McGarity stated,

I did not expressly go to the new Chanc --- you know, like I did not follow that line of communication ... there was ... I mean I was appointed as the Chancellor's representative on behalf of his statutory responsibility to the Ohio Reentry Coalition because of my experience in corrections or working with corrections. So, I mean, there was a knowledge of ... my background.

McGarity was asked if Carey was aware that McGarity was the executive director of WinWin and that WinWin had a contract with ODRC when Carey appointed her as his designee for the Ohio Reentry Coalition. McGarity replied:

I did not have the com --- communication with him ... but I was under the impression that he was because of --- because people, you know, ...---the general counsel, Michelle, knew. I mean people --- you know this wasn't like a surprise to anyone ... people knew. But I did not go and say, "Just want to be clear. This is what, you know, I---we've had this existing contract with ODRC. Just want to let you know." I didn't say that.

McGarity was asked if ODHE had a secondary employment policy. McGarity stated, "Yes ... . As far as I know. I mean I just saw it last month or two months ago ... I don't know what there was in 2012."

The Office of the Ohio Inspector General conducted an interview with the ODHE chief of staff Matthew Whatley on November 28, 2016. Whatley stated that ODHE did not have a secondary employment policy. Whatley was asked if he was aware of McGarity's private business prior to the Office of the Ohio Inspector General's investigation. Whatley responded, "I was not." Whatley was asked if he was aware that WinWin, McGarity's private business, had contracts with the ODRC. Whatley stated, "I was not." When asked if he was aware McGarity had some background in corrections, Whatley said,

... I was aware that she had an interest in the area. That came up if I remember correctly when we had uh the person who worked on the --- I can't remember the title. The Offender Re-Entry Coalition um or Commission. Um that employee left and we were trying to figure out who should, who should be --- who should replace that person. ... and, and Lauren came as a suggestion because she had an interest in that area. So that, that I believe was the first time I became aware that she had that, that background with, with uh, you know, with re-entry offenders ... No I did not know she had an ongoing contract with DRC. I did not know she even had the Win-Win until you guys came in uh whenever that --- October-November of last year. I didn't even know she had that company.

The Office of the Ohio Inspector General conducted an interview with McGarity's supervisor, ODHE Policy Director Laura Padgett, on November 30, 2016. When asked if she was aware of McGarity's private business interests, Padgett stated,

... not in any specific nature. I knew she had some other engagements that she was involved with. ... but I didn't know much about personal business interests at all. And I ... specifically ... her involvement with the Win-Win Academy. ... and that was real --- that's really the only thing that I was aware of ... on a personal level.

Padgett was asked if she was aware of any other private businesses that McGarity was involved with in addition to the WinWin Academy. Padgett replied, "No." When asked if she was aware of WinWin, Inc., one of McGarity's private business interests that had contracts with the ODRC, Padgett responded,

Not specifically, no. I mean ... I --- no, I didn't know that ... I didn't know about --- I definitely didn't know about the company. I don't --- I mean if that's related to the Academy or how that's --- I don't ... I didn't have detail on that, no.

Investigators asked Padgett if she was aware of McGarity's son's restaurant business. Padgett responded,

I did know that he ... --- she had mentioned to me something about him owning a food truck and that he was working on um a bricks and mortar location. ... that's really ... that's really all I knew about that, that.

Padgett stated McGarity,

... did not talk to me about business interests. ... I was not aware of other, other businesses that she was engaged in ... and it wasn't something that I necessarily felt like I needed to ask. I mean we, we all have our, our ethics training and our things that are in place that I ... that she should have been aware of ... .

During a follow-up interview with Lauren McGarity conducted on January 17, 2017, McGarity told investigators that ODHE and its employees were aware of her involvement with WinWin. When asked if the upper management staff at ODHE was aware of her involvement with WinWin, McGarity replied,

... definitely Michelle [Chavanne]. Yes, Laura [Padgett]. And um John Carey, I would -- and I, I don't know about Matt [Whatley]. I mean I didn't have a direct conversation with Matt that I can recall. ... but he's in the upper management weekly meetings ...

### ***Email Account***

The Office of the Ohio Inspector General acquired and reviewed McGarity's ODHE email account, including all emails and Outlook calendar entries. The review found numerous emails that were of a personal nature, including several related to her private business interests.

Investigators specifically identified the following:

- 172 emails related to WinWin, Inc.;
- 80 emails related to WinWin Academy;
- 36 emails related to Papaya BBQ;
- 44 emails received by or sent from Patty Klein, executive assistant of academic affairs at ODHE;
- 166 personal emails.

Investigators found that most of the 44 emails received by or sent from Patty Klein included attachments. The attachments were documents that McGarity requested Klein scan for her and were related to McGarity's private business interests. A sample of these emails are attached as Exhibit 3a-3d. ([Exhibit 3](#))

On December 1, 2016, the Office of the Ohio Inspector General conducted an interview with Patty Klein. Klein explained to investigators that as executive assistant in academic affairs at ODHE, she was in a position of support to the staff: specifically, Stephanie Davidson, vice chancellor of academic affairs; Brett Visger, assistant vice chancellor for institutional collaboration and completion; and "... for about the last two years Lauren McGarity." Klein noted that she assisted with scheduling, copying, scanning, "... whatever they need." Klein stated that Stephanie Davidson was her direct supervisor, and noted to investigators that McGarity had no authority over Klein.

When asked if Klein was aware of McGarity's private businesses, Klein stated, "No, I was not." When asked specifically if she was aware of WinWin, Inc., Klein stated, "... not until the day the Inspector General's Office came in." Klein said prior to that day, she was not aware that McGarity had a private business.

Investigators asked Klein whether McGarity asked her (Klein) to scan personal documents for her. Klein responded,

I was asked to scan documents for her like I am in every other, like, as an assistant from other folks and I just scanned it, forwarded it on and deleted it. Um didn't rename it or anything, just scanned what she asked me to ... as an assistant, 'cause I was kinda like her assistant, ... So, no I, I really never paid attention.

A review of McGarity's ODHE email account also identified 60 emails related to a webinar hosted by ODHE on August 15, 2013. The emails were dated from May 23, 2013, through September 11, 2013. The emails identified Calista Smith, project manager at ODHE, and John Magill, assistant deputy chancellor of economic advancement at ODHE, as the organizers of this webinar. The topic of the webinar was, "Breaking the Soft Skills Barrier." According to the July 12, 2013, edition of "Friday Facts," which was a monthly newsletter sent out to all ODHE employees and consultants, two organizations conducted this webinar, one of which was WinWin. [\(Exhibit 4\)](#) The article described the WinWin Institute for Response-Able Re-Entry as,

... an educational program of WinWin, Inc. for incarcerated adult learners. The Institute integrates the teaching and learning of employability and personal enrichment skills. McGarity is WinWin's founder and also a director of special projects at the Ohio Board of Regents. Salaam graduated from the program, is now part of WinWin's staff, and is a finishing specialist with TNT Graphics in Columbus. He also authored and continues to facilitate the Institute's Helping Ourselves Pursue Excellence (HOPE), a mentorship program for inmates.

The August 2013 issue of "Friday Facts," which was sent via email to all ODHE employees and consultants, contained a reminder for the "Breaking the Soft Skills Barrier" webinar to be

conducted on August 15, 2013. This reminder stated, “Presenters include ... and Lauren McGarity and Najmuddeen Salaam of the WinWin Institute for Response-Able Re-Entry.”

(Exhibit 5)

On Wednesday, September 11, 2013, McGarity sent an email from her ODHE email account to Calista Smith. The email stated,

Good Morning Calista,

I received your generous “thank you” card and gift and Naj’s arrived at the office. I’ll give it to him this Sunday.

It was (and always is) a pleasure working with you!!

Lauren

During the interview with McGarity conducted on November 16, 2015, investigators showed McGarity a copy of the August 2013 issue of “Friday Facts” that contained the reminder for the webinar. McGarity stated:

... I mean there wasn’t money involved in this, but we did a webinar ... and actually I, I was there and talked about it, but talked about it from the perspective of, again, what formerly incarcerated individuals could attain from a post-secondary education perspective ... Do you know what I mean? It was more --- and then ... Salaam --- this is Naj Salaam. This is the Naj I was talking about. Um graduated from the program ... staff. Yep. ... and he talked about --- yeah. I mean it, it was a webinar. That was all it is --- mean it was --- we weren’t the only ones in there.

When asked by investigators if she felt conducting this webinar hosted by ODHE on behalf of her private business could present any issues, McGarity responded:

Not really because there was no money involved. There’s no --- this was about --- this is about trying to connect people. This was --- there was no like benefit. I didn’t receive a benefit to this. ... so no, to be honest with you, I didn’t --- didn’t see a benefit ...

The Office of the Ohio Inspector General conducted an interview with Calista Smith on December 6, 2016. Smith stated that she began working as a consultant for ODHE in 2011 under Chancellor Jim Petro. Smith added that around March 2013, ODHE hired her as an employee, and she resigned around October 2014 at which time she became a consultant again.

Smith was asked to explain her relationship with McGarity. Smith told investigators:

... in 2013 uh there were two projects where um I got to work with her and needed to work with her. Um one of them, we were um, through institutional collaboration, trying to help um adult learners and ... --- through the different institutions. And one of the things that the institutions were saying is well, you know, our biggest challenge is working with soft skills. So ... I then knew about Lauren's previous work around soft skills through the Win-Win Insti ---Win (stutters) Win Institute for Response Abled Reentry or something like that ... And um had her present on a webinar regarding ... that soft skills ...

Investigators asked Smith whether employees at ODHE were aware that McGarity owned this private business, WinWin. Smith replied, "Yes. That's my understanding is that um everybody knew that she had that involvement." Smith was asked if there was any concern at ODHE about McGarity's involvement in a program sponsored by ODHE where she (McGarity) was representing her private business. Smith stated, "No one ever expressed concern. Um and I didn't see a concern. Um we had another organization share their experience ..."

Smith was shown a copy of the email from McGarity dated September 11, 2013, thanking Smith for the "generous thank you card and gift." Smith was asked if she recalled what the "gift" was, and responded, "...I believe I gave them thumb drives. Um to all the presenters. I remember worrying if they would get through the mail. ... that's what I recall." Smith was asked if it was documented anywhere. Smith said, "No. We had these all Higher, Higher Ed thumb drives left over from, you know, some, some conference or something."

Investigators also found an email dated April 16, 2015, sent from McGarity to Ben Adelman, multi-media communications specialist at ODHE. ([Exhibit 6](#)) The subject line of the email was

“jpeg to vector????” The email contained an attachment, which was titled Papaya-Blackjpeg.jpg. In the email, McGarity said, “Thank you!” Investigators identified Adelman Creative, LLC as a business owned and operated by Ben Adelman.

The Office of the Ohio Inspector General conducted an interview with Ben Adelman on December 6, 2016. Adelman confirmed to investigators that he had an LLC, but noted, “... I’m not currently --- it’s --- I would call it more of a dormant thing. I had --- I keep it just as a --- in case I am doing any free lancing on the side.” Adelman added that he currently does not have any clients and has not done any free lancing for “over a year or so.”

Investigators showed Adelman a copy of an email sent from McGarity to him (Adelman), dated April 16, 2015. Adelman was asked if he created the attachment, “Papaya-Blackjpeg.jpg.” Adelman stated,

“No, I did not ... this came to me from her personal uh email address and it looked like it was a previous correspondence with what I would say it was her son or her son’s friend or whoever was working on the original design ... And then Lauren forwarded me these -- this attachment and I believe the words ... said something like, “Could you put this on a black backdrop?” Which as a designer, I could do that really quickly ... I noticed that I did drop it on a black background and forwarded it back to her.

Adelman was asked by investigators if McGarity or other employees frequently ask him for assistance with graphics. Adelman responded,

...I would say no in this --- ‘cause this is weird for, you know, obviously a little bit for another company that, that really --- the only thing that would --- I would --- generally would come in and someone would ask if we could touch up a photo or something for like a Linked In profile or, you know, if there was a, a picture that they needed cropped or something ... But this --- no, this --- I wouldn’t say that, that, that anything like this, especially being for another company ...

## ***McGarity's Desktop Computer***

### *Internet Activity*

The Office of the Ohio Inspector General conducted a forensic review of McGarity's state-issued desktop computer and McGarity's internet activity. From this review, investigators determined that McGarity had conducted non-ODHE activity on her state-issued desktop computer.

Investigators found artifacts<sup>10</sup> on McGarity's computer indicating non-ODHE activity had first appeared on April 23, 2014, and continued through November 16, 2015, a period consisting of 573 calendar days. Of the 573 days reviewed, investigators found that McGarity had conducted non-ODHE activity on 272 of those days. The following is a breakdown of what investigators had discovered:

- Artifacts related to McGarity's WinWin, Inc. business first appeared on April 23, 2014, and continued through November 16, 2015. Of the 573 calendar days covering that period, WinWin business-related activity was identified on 188 of those days.
- Artifacts related to McGarity's son's restaurant business, Papaya BBQ/Buckeye BBQ, first appeared on May 21, 2014, and continued through November 14, 2015. Of the 543 calendar days covering that period, restaurant business-related activity was identified on 33 of those days.
- Artifacts related to McGarity's purchase of and involvement with 755 S. High Street, Columbus, Ohio, first appeared on July 8, 2015, and continued through November 11, 2015. Of the 127 calendar days covering that period, 755 S. High Street-related activity was identified on 30 of those days.
- Artifacts related to McGarity's zoning activity<sup>11</sup> involving 755 S. High Street, Columbus, Ohio, first appeared on September 22, 2015, and continued through November 11, 2015. Of the 51 calendar days covering that period, zoning activity involving 755 S. High Street, Columbus, Ohio, was identified on 8 of those days.

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<sup>10</sup> Artifacts are a reference to digital evidence identified from a variety of sources. The sources include but are not limited to office application files (Word, Excel, PDF), internet browser activity, and associated metadata.

<sup>11</sup> Examples of zoning activity or issues may include food business plan review application, building permit application, fee schedules for board of zoning services, etc...

- Artifacts related to McGarity’s real estate activity, excluding 755 S. High Street, Columbus, Ohio, first appeared on May 16, 2014, and continued through November 14, 2015. Of the 548 calendar days covering that period, real estate activity, excluding 755 S. High Street, Columbus, Ohio, was identified on 101 of those days.

### *Document Review*

The document review conducted by investigators on McGarity’s state-issued desktop computer identified 110 documents related to McGarity’s non-ODHE activity. Specifically, the review identified the following:

- 49 documents related to McGarity’s personal business, WinWin, Inc.;
- 17 documents related to McGarity’s son’s personal business Papaya BBQ/Buckeye BBQ;
- 22 documents related to 755 S. High Street, Columbus, Ohio, the location of McGarity’s son’s new restaurant;
- 17 documents related to Columbus, Ohio, zoning issues related to 755 S. High Street, Columbus, Ohio;
- 5 documents related to McGarity’s personal real estate transactions.

### *McGarity’s Laptop Computer*

#### *Internet Activity Review*

The Office of the Ohio Inspector General conducted a forensic review of McGarity’s state-issued laptop computer and McGarity’s internet activity. From this review, investigators determined that McGarity had conducted non-ODHE activity on her state-issued laptop computer.

Investigators found artifacts on McGarity’s laptop indicating non-ODHE activity had first appeared on December 1, 2014, and continued through November 15, 2015, a period consisting of 350 calendar days. Of the 350 days reviewed, investigators found that McGarity had conducted non-ODHE activity on 118 of those days. The following is a breakdown of what investigators had discovered:

- Artifacts related to McGarity’s WinWin business first appeared on December 1, 2014, and continued through November 9, 2015. Of the 344 calendar days covering that period, WinWin business-related activity was identified on 75 of those days.

- Artifacts related to McGarity’s son’s restaurant business first appeared on May 21, 2014, and continued through November 14, 2015. Of the 543 calendar days covering that period, restaurant business-related activity was identified on 26 of those days.
- Artifacts related to McGarity’s purchase of and involvement with 755 S. High Street, Columbus, Ohio, first appeared on June 10, 2015, and continued through November 15, 2015. Of the 159 calendar days covering that period, 755 S. High Street, Columbus, Ohio, related activity was identified on 31 of those days.
- Artifacts related to McGarity’s zoning activity involving 755 S. High Street, Columbus, Ohio, first appeared on May 12, 2015, and continued through November 11, 2015. Of the 184 calendar days covering that period, zoning activity involving 755 S. High Street, Columbus, Ohio, was identified on 12 of those days.
- Artifacts related to McGarity’s real estate activity, excluding 755 S. High Street, Columbus, Ohio, first appeared on January 9, 2015, and continued through November 9, 2015. Of the 305 calendar days covering that period, real estate activity, excluding 755 S. High Street, Columbus, Ohio, was identified on 11 of those days.

*Document Review*

The Office of the Ohio Inspector General conducted a document review on McGarity’s state-issued laptop computer and found 180 documents related to McGarity’s non-ODHE activity. Specifically, the review identified the following:

- 74 documents related to McGarity’s personal business WinWin, Inc.;
- 43 documents related to McGarity’s son’s personal business Papaya BBQ/Buckeye BBQ;
- 16 documents related to 755 S. High Street, Columbus, Ohio;
- 12 documents related to Columbus, Ohio, zoning issues related to 755 S. High Street Columbus, Ohio;
- 9 documents related to McGarity’s personal real estate transactions;
- 26 documents related to McGarity’s personal mediation business Alternative Solutions.

During the interview conducted on November 16, 2015, McGarity was asked by investigators if she had ever used state-issued resources to conduct any work for WinWin Academy or WinWin,

Inc. McGarity claimed that WinWin Academy was not operational and had already closed by the time she came to work for ODHE. Regarding WinWin, Inc., McGarity stated:

... WinWin ... I mean I, I would use D ---yes, I used the computer during my lunch hour and stuff. I mean I was sitting here doing work, but it was ... ---I used the state computer ... I would go on the internet and pay my employees twice a month. ... respond to the occasional email, you know, over lunch where I would have to go on --- where I would go onto my WinWin email address. ... I --- that's really about it.

Investigators asked McGarity if she had ever used her state email address for WinWin Business and McGarity replied, "No, not that I can ever recall." Investigators asked McGarity if she was aware of any ODHE policies concerning the use of state resources for private business, and McGarity said, "I am currently aware of the policy ... You know, I'm not --- it's ... I would want to review it ... before I address that." McGarity told investigators that her scheduled work hours were "probably 7:30 to 4:30" and that she was required to take a half-hour lunch and then later noted, "... I usually don't actually take a lunch so I just eat at my desk. ..."

### ***Desk Phone Review***

The Office of the Ohio Inspector General conducted a review of McGarity's usage of her state-issued desk phone from February 2, 2012, to December 28, 2015. Investigators reviewed 1,515 call detail records for McGarity's ODHE desk phone. The review did not include any calls lasting less than 10 minutes, which equated to 390 calls, accounting for approximately 1,022 minutes of call time. The following is a breakdown of what investigators had found:

- 611 calls were determined to be work-related and accounted for approximately 5,008 minutes of call time.
- 143 calls were determined to be personal in nature and accounted for approximately 418 minutes of call time.
- 41 calls were determined to be business-related and accounted for approximately 127 minutes of call time. Most of these calls were from calendar years 2012 and 2013 and were to a number associated with either WinWin or Jo Dee Davis.

- 174 calls were determined to be unknown, but had subscriber names associated with the number, and accounted for approximately 1,616 minutes of call time.
- 156 calls were also determined to be unknown, but had no subscriber information associated with the number, and accounted for approximately 1,401 minutes of call time.

### ***Cell Phone Review***

The Office of the Ohio Inspector General conducted a review of McGarity's personal cell phone usage from June 1, 2014, to October 31, 2015. Investigators reviewed 30,536 calls and texts from McGarity's personal cell phone. Text records reviewed by investigators did not include actual text message content. Investigators identified 5,285 calls and 8,021 texts that occurred during reported work hours, as well as 5,155 calls and 11,160 texts that occurred outside of reported work hours. The remaining 333 calls and 582 texts fell outside of the available time reporting records and were excluded from the review. Investigators reviewed only phone calls and texts that occurred during McGarity's reported work hours. However, because McGarity failed to record the actual time for her lunch breaks, investigators could not determine which, if any, calls and texts occurred during her lunch. The review found that between June 9, 2014, and August 20, 2015, McGarity had either sent or received 191 personal business-related text messages during reported work hours. Additionally, during that same time-period, investigators discovered McGarity had made or received 112 personal business-related calls. Investigators determined that McGarity's phone calls made during reported work hours accounted for 358.5 minutes<sup>12</sup> or 5.9 hours.

During that same time-period, the review found McGarity had made or received 77 real estate-related calls during reported work hours and accounted for 258.8 minutes, or 4.3 hours. The review also found that between July 7, 2014, and August 26, 2015, McGarity sent or received 555 real estate-related text messages during reported work hours.

When conducting their analysis, investigators categorized Lauren McGarity's texts and phone calls involving Michael McGarity, Thomas McGarity, Max McGarity, and David Tishkoff, as

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<sup>12</sup> For calls that originated during work hours but ended during non-work hours, credit was provided for minutes that occurred during non-work hours.

“personal” due to their familial relationship. Though investigators were aware that Michael, Thomas, and David all served on the board for WinWin, Inc., and that Max is the operator of Papaya BBQ/Smoked on High, investigators could not determine whether the content of the texts and phone calls involving these individuals pertained to issues related to their businesses.

The Office of the Ohio Inspector General conducted an interview with Chancellor John Carey on November 21, 2016. Investigators asked Carey to specify McGarity’s scheduled work hours. Carey stated, “... I can’t tell you what the scheduled --- what her scheduled work hours are. I know she’s usually there when I’m there.” Carey said that McGarity is required by ODHE to take at least a half-hour lunch break.

Carey was asked if any of the ODHE employees are permitted to work from home or remotely. Carey noted that “there has been some circumstances...we have a person that’s elderly which means older than me...when it’s really cold then he asks to work from home like for one day.” Carey also stated that ODHE has two employees that report to a “public place” to work.

When asked if ODHE had a secondary employment policy, Carey said:

... I don’t know if we have the policy, but we know that, for example, uh if you’re reviewing someone else’s --- you can’t --- you have to clear it through the le --- you have to go through the legal proc --- the legal team ... what we told our employees is that if they’re going to seek ... employment with anybody that we have dealings with that they need to let us know so we can wall them off if they have any contact.

Investigators asked Carey if he was aware of McGarity’s private businesses. Carey replied, I’m vaguely aware uh because of the issues that we had ... with, with um --- ... ---was a non-profit that they had or ... And then I do know that um that she is going to open a rest --- she’s involved with a restaurant with her son. I don’t know if it’s her business, but I know she’s ... helping him.

Investigators asked Carey when he first became aware of McGarity's private business. Carey stated, "Probably when you started talking to me about it." When asked if he had any prior knowledge of McGarity's private business, Carey replied, "Not that I recall."

Carey admitted that at one time he may have appointed McGarity as his designee to the Reentry Coalition, but stated he believed it was currently Gary Cates. Carey stated he was not aware of McGarity's private business, WinWin, or the contract that WinWin had with ODRC, when he appointed her to the Reentry Coalition.

During the interview with Padgett conducted on November 30, 2016, investigators asked her about the selection of McGarity as the chancellor's designee to the Reentry Coalition. Padgett explained,

... so if I'm remembering correctly, the person that we --- that our designee, that person retired. And so there was some question as to who, who should do that and Lauren came up in the discussion. And I'm trying to think ... who originated the discussion, if it came from Whatley to me. And then I asked Lauren if she felt like that something that she would be interested in or that she would be willing to take on. ... I can't rem --- I can't remember the exact ... the exact way that happened. But I was, I was part of that discussion ... somewhere along the line.

Padgett told investigators that she recalled discussions with McGarity about conflicts of interest. Padgett stated,

... 'cause I was aware of the Win-Win Academy thing so I encouraged her to be very cognizant of, of that ... within that discussion. And then from there I'm not --- I don't ... remember exactly ... the timeline or how, how she was officially appoint ... or if she was officially appointed or what exactly came up with that.

Padgett was asked by investigators how McGarity responded to Padgett's recommendation to be cognizant of a conflict of interest. Padgett said, "She was like, oh yes. Very much like um --- very much in agreement ... seemed very aware that there could be a potential concern with that

because of her --- she had some engagement with, you know, corrections facilities and other things.”

However, from a review of McGarity’s email account, investigators found an email dated August 4, 2014, that was sent from Brett Visger to Barbara Nicol, former ODHE director and Anthony Landis, ODHE senior director, and carbon-copied to McGarity. The email stated:

Barb & Tony,

I’ve spoken with Matt and given her background, it seems to make the most sense if Lauren McGarity represents the Chancellor on this group. I appreciate your help on this. Can you coordinate with Lauren to figure out the best way to make the handoff?

Thanks,

Brett

### ***Time Reporting***

The Office of the Ohio Inspector General reviewed McGarity’s ODHE timesheets and McGarity’s OAKS<sup>13</sup> time reporting records from March 11, 2012, to October 17, 2015. Investigators determined that during the time period reviewed, McGarity failed to record the minimum half-hour lunch requirement on 342 of the 842 eligible work days, or 40.6 percent. The non-recorded lunches totaled 10,140 minutes or 169 hours, amounting to an overpayment total of \$2,970.91.

From a review of McGarity’s Outlook calendar and email communications, investigators also discovered records indicating McGarity had vacationed in Bar Harbor, Maine and Acadia National Park from July 22, 2015, through July 31, 2015. During this 11-day period, McGarity claimed regular or compensatory time earned on eight of the 11 days. In total, while on vacation, McGarity was compensated for 39.25 hours of “regular time” worked, 11.25 hours of “comp time earned,” and 24.75 hours of “comp time used.” Additionally, based on the review of

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<sup>13</sup> OAKS (Ohio Administrative Knowledge System) is the state’s computerized accounting system containing both fiscal and payroll records.

McGarity's timesheets, emails, calendar events, Microsoft Windows login events, building access swipe card records, and interviews with coworkers, investigators determined that McGarity regularly failed to accurately report her workday start times between June 2, 2014, and October 15, 2015.

The Ohio Department of Higher Education does not have a teleworking policy and according to the ODHE Time and Attendance policy, "... employees are expected to be in the workplace and ready to work at the start of their scheduled workday." Chancellor Carey informed investigators that two ODHE employees are permitted to work from a "public place." Carey noted that only under certain circumstances and with permission are ODHE employees permitted to work from home or other remote location.

During the interview with Matt Whatley conducted on November 28, 2016, Whatley informed investigators that though ODHE Policy Director Laura Padgett is McGarity's direct supervisor, he (Whatley) signs McGarity's timesheets. When asked how he verifies the accuracy of McGarity's timesheet if she does not report to him, Whatley stated, "I don't do any verification myself. I assume she is working through her supervisor and, and that what she is putting down is truthful."

Investigators asked Whatley if ODHE employees are permitted to work from home, and Whatley replied,

... there is no ability to work from home. I have --- I can remember two limited circumstances. One being an elderly employee on a very bad snow day we let him work from home. And then there was another employee this summer that had a surgery and needed a little bit of a, a little uh beyond her disability. So I think we allowed --- I'd have to check maybe 8 hours a week for two weeks or something like that ... strictly controlled. But there's no ability to work from home.

Whatley added that if McGarity was claiming time worked for sending and receiving emails or for performing work outside of the office, it would be against the ODHE policy.

During the interview with Laura Padgett conducted on November 30, 2016, Padgett told investigators that she was McGarity's supervisor for more than one year. Investigators asked Padgett if McGarity had scheduled work hours. Padgett responded,

Not specifically. ... I mean she's, as any other employee, required to do her 40 hours a week, 80 hours every pay period. ... she doesn't really have, that we talked about, like you need to be here from certain time to certain time. ... I didn't approve --- so she would fill out her timesheets on, on our like spreadsheet system ... And actually those went to Matt Whatley for his approval. I only saw her time if she put any kind of leave request into OAKS. And she would actually check in with me about ... she'd usually send me a text or an email or we'd talk about I'm gonna take some time off here or there and I would say yeah, that's okay. So it wasn't a real formal, formal time structure from my perspective ... I'm not sure exactly --- you know, I think because of the carryover from before I just probably had assumed that that was something that was established and so I was more ... my role had been more in the substance of her work ... and in checking in with, with, you know, what she is doing and hadn't been necessarily as engaged in that ... in like when she is here and when she's not here kind of thing because there were other checks in place with our finance department and then --- because Matt was her actual --- the signatory on the, on the timesheets.

Padgett was asked by investigators if she knew how Whatley was verifying McGarity's reported work time. Padgett stated, "I don't know the answer to that either ... I don't know for sure. I mean ... that was ... um ... yeah, I'm sorry. I don't ... ." Investigators asked Padgett if she granted McGarity permission to work from home or work remotely, and Padgett replied,

I never, to my knowledge, granted her position --- permission to work from home. There was um one time when it came up kind of --- and it came up kind of in a round-about way that that's what she was asking to do; and I said I cannot approve you to work from home. That would need to be approved up the channel from me. ... and I may have that on an e-mail somewhere that I told her that. Um but I never, to my knowledge, specifically granted her positi --- um approval to work from home.

Padgett provided a screenshot of a text message sent from McGarity on November 24, 2015, requesting to work from home. ([Exhibit 7](#))

Investigators asked Padgett if she had approved McGarity to work while she (McGarity) was on vacation in Maine from July 22, 2015, through July 31, 2015. Padgett stated, “No, not to my knowledge.” Investigators informed Padgett that McGarity had reported working regular hours and compensatory time earned on eight of the 11 days she was on vacation. Padgett stated, “I did not approve ... that ... And I don’t recall anything --- any kind of comp time approval hours coming through the OAKS system for my approval for that either.” Investigators asked Padgett, if she, as McGarity’s supervisor, was the person who would authorize McGarity’s request to work during her vacation. Padgett replied,

I would think I would likely be the first person that she should have asked about doing that. And then I would have taken it to Matt and Michelle ... as to whether that was appropriate or, or not. ... I don’t recall having that kind of a conversation with either of them ... or having her ask me ... about that.

Investigators asked Padgett whether McGarity was working on something of importance that required her to work eight of the 11 days she was on vacation in Maine. Padgett said,

... I would have to go back and look at what was going on at that time. I really don’t --- I really don’t know ... I don’t, I don’t think so, but I also don’t --- I can’t answer with ... any kind of certainty on that right now.

When investigators asked Padgett if McGarity would need authorization to work while on vacation in Maine, Padgett stated, “That’s my understanding of the policy that ... was in place.”

Investigators asked Padgett how she would know what time McGarity was reporting on her timesheets if she was not reviewing or approving them. Padgett stated,

Not necessarily. Um I ... what comes through to me is if she would put any particular leave time or comp time requests into the OAKS system. Those are --- those approvals come to me. So that’s what I would see of her time. ... the timesheets that she was

filling out didn't --- I was not the approval of --- I did not sign those. Those were not under my approval.

When Padgett was asked if she even looked at McGarity's timesheets, she responded, "Not generally."

Investigators asked Padgett if McGarity had provided to her any justification for requests for compensatory time earned. Padgett stated,

There was ... very rarely a request came through the system to be approved. So, no ... When it, when it gets submitted through the --- if she would submit it through the system, I'm saying that I'm not sure exactly how all of her comp time was approved through, through the system. Or through the timesheet process. Um if there was a request like that put into the system, yes, it would come to me.

During a follow-up interview conducted with McGarity on January 17, 2017, McGarity told investigators that she was permitted to work from home or work remotely. When asked who actually authorized her to work from home or work remotely, McGarity stated,

... I don't know .... I'm trying to remember who would have authorized that. ... you know, I don't --- I honestly don't remember who authorized that. It was kind of --- it, it evolved because the ... the report that I was drafting on behalf of the Chancellor for the Globalization Initiative, so I was given a laptop to go --- to work remotely and work at home. I don't know who ...

When asked what her scheduled work hours were, McGarity stated, "I ---everyone was there--- most everyone was there by 8 ... I was usually there at 6:30 and 7 ... Sometimes I'd be there at 8, but often I was there earlier."

Investigators asked McGarity who had authorized her to work while she was on vacation in Maine in July 2015. McGarity stated,

You know ... Oh, my God. ... it's the same... so I would --- let me think. Did I send my time into Laura? I think I had --- I think that was when I sent my time ... I hate to say

this if I'm wrong. Um ... 'cause there were several times when I was ... not in the office. Um and I would send my timesheet or my time for my time --- Laura would send me a timesheet and I would fill it out and I would send it back. ... so I mean she knew I wasn't in ---I mean. This wasn't ... ---she knew. I mean 'cause she would send me the timesheet ... I mean and I know this isn't um ... but, but in reality, Patty, the administrative assistant who helped out a lot ... knew it. She would help me put --- I would send her hours. She would put them --- she would log them for me. Um, you know, on the timesh --- because it had to --- because that has to go in at a certain time and ... if you're not there, you can't do that ... So other people were assisting in this.

The table below illustrates one of more than 200 instances where McGarity's reported time worked was questionable. On one occasion in July 2015, McGarity claimed a start time of 7:00 a.m.; however, her first email was not sent until 8:25 a.m., her first calendar appointment was not until 8:30 a.m., her first employee access badge swipe was not until 8:43 a.m., and her first state-issued desktop computer login event was not until 8:46 a.m.

**Table 1**

Day	Date	Time (HH:MM:SS)	Description	Reported Start vs. Entry Swipe (Difference in Minutes)	Notes
Tuesday	7/14/15	7:00:00	Start time per timesheet		
		8:25:00	First email sent		
		8:30:00	First calendar entry		ODE/BOR Intersection Meeting, Franklin B. Walter Conf. Rm.; Ross, Richard
		8:43:00	Building entry per swipe card	103	
		8:46:55	First Microsoft Windows login event		
		17:00:00	End time per timesheet		

### Additional Examples

Day	Date	Time (HH:MM:SS)	Description	Reported Start vs. Entry Swipe (Difference in Minutes)	Notes
Tuesday	8/19/14	7:30:00	Start time per timesheet		
		8:04:00	First email sent		
		8:16:00	Building entry per swipe card	46	
		8:19:19	First Microsoft Windows login event		
		10:00:00	First calendar entry		Globalization Initiative; OBR CR 7-035 Regents Conf. Rm.; Lauren McGarity
		16:30:00	End time per timesheet		

Day	Date	Time (HH:MM:SS)	Description	Reported Start vs. Entry Swipe (Difference in Minutes)	Notes
Friday	10/10/14	7:30:00	Start time per timesheet		
		9:00:00	Building entry per swipe card	90	
		9:03:51	First Microsoft Windows login event		
		9:06:00	First email sent		
		10:00:00	First calendar entry		Post-Secondary Globalization meeting; OBR CR B-004; Patty Klein
		13:30:00	End time per timesheet		

Day	Date	Time (HH:MM:SS)	Description	Reported Start vs. Entry Swipe (Difference in Minutes)	Notes
Tuesday	6/30/15	8:00:00	Start time per timesheet		
		8:25:00	First email sent		
		8:30:00	First calendar entry		ODE/BOR Intersection Meeting, Franklin B. Walter Conf. Rm.; Ross, Richard
		8:57:00	Building entry per swipe card	57	
		8:59:58	First Microsoft Windows login event		
		17:30:00	End time per timesheet		

Day	Date	Time (HH:MM:SS)	Description	Reported Start vs. Entry Swipe (Difference in Minutes)	Notes
Thursday	7/16/15	7:30:00	Start time per timesheet		
		8:44:00	First email sent		
		9:02:00	Building entry per swipe card	92	
		9:22:08	First Microsoft Windows login event		
		11:00:00	First calendar entry		Meet w/ Liz Grafious and Michelle Cahoon RE: College Credit Plus; OBR CR7035; Klein, Patty
		17:00:00	End time per timesheet		

Day	Date	Time (HH:MM:SS)	Description	Reported Start vs. Entry Swipe (Difference in Minutes)	Notes
Monday	8/31/15	6:15:00	Start time per timesheet		
		8:27:00	First email sent		
		8:33:00	Building entry per swipe card	138	
		8:36:56	First Microsoft Windows login event		
		12:30:00	First calendar entry		CCP/North Central State Prep; Steve's office; Gratz, Steven
		17:45:00	End time per timesheet		

Though investigators acknowledge sent emails, calendar appointments, and building access card swipe records alone do not indicate actual start times, the number of instances where McGarity's start times preceded both her building access card swipe records and state-issued desktop Windows logins suggest that she knowingly reported time worked prior to officially arriving to her ODHE office.

During the follow-up interview conducted with McGarity on January 17, 2017, investigators asked McGarity to explain the discrepancies between her reported start time, building access card swipe card records, sent emails, calendar appointments, and state-issued desktop Windows logins. McGarity said,

I want to see those. I mean I, I --- because that ... that's not---that was not a norm at all. I mean I was there ... Let me, let me tell you. In order to --- I mean there was um ... Oh, oh, oh! Hold on a second. Hold on a second. So sometimes when you come in at 6:30 or 7:00 the swipes don't always work. But if there was an 8:00 so the, the me --- the parking meter needs to be fed at 8:00. So I would get --- uh this is how I know --- I mean this is where it's like, no; that I'm emphatic about this. Because when I drove, I would need to park --- I would park at a meter. And I would park either at the meter --- I mean a lot of times it was the meter on Front Street, but more frequently it was on Broad Street, across by City Hall. And those meters don't become active for money until 8:00. So if I got there at 6:30 there should be a swipe to go through the turn style or whatever, those don't always work, by the way. Um so if I --- and I don't know if they go on -- -I, I don't know why they don't always work, but they don't always work. But if there's like a consistent 8 uh --- where I'm getting swiped at 8:00 it's probably because I got up from my desk, went to put money in the meter and came back.

## **CONCLUSION**

### *State-issued Desktop and Laptop Computers*

The investigation determined that former ODHE Director of Special Projects Lauren McGarity used state-issued resources to conduct her private business interests, including: WinWin, Inc.; WinWin Academy; Alternative Solutions; and her son's restaurant, Papaya BBQ/Smoked on High. The investigation further found that McGarity used her position with ODHE to attempt to further her private business interest, WinWin Academy. McGarity, identifying herself as an ODHE employee, used her state email account to contact several Ohio Senate staff members to discuss the progress of legislation that would have advanced the interest of WinWin Academy.

After ODHE hired her on March 12, 2012, McGarity continued to serve as the executive director of WinWin, Inc., which had an ongoing contract to provide services to ODRC, specifically MCI. This contractual relationship between WinWin, Inc. and the ODRC began in 2008 and continued through March 2015, at which time McGarity terminated the contract due to the resignations of the employees of WinWin.

Although McGarity denied the assertions in her first interview conducted on November 16, 2015, investigators determined that McGarity had used state resources, including her state email account, state-issued desktop computer, and state-issued laptop computer to conduct her multiple private business interests, including but not limited to: WinWin, Inc.; WinWin Academy; Alternative Solutions; and her son's restaurant business, Papaya BBQ.

A forensic review conducted by the Office of the Ohio Inspector General on both McGarity's state-issued desktop computer and state-issued laptop computer found the following:

- Artifacts of McGarity's internet activity on 272 of 573 days from April 23, 2014, through November 16, 2015, related to McGarity's private business interests on the state- owned desktop computer assigned to McGarity.
- Artifacts of McGarity's internet activity on 118 of the 350 days from December 1, 2014, through November 15, 2016, related to McGarity's private business interests on the state owned laptop assigned to McGarity.
- 110 documents on the state-issued desktop computer assigned to McGarity related to her private business interests.
- 180 documents on the state-issued laptop computer assigned to McGarity related to her private business interests.

The documents found on both the state-issued desktop computer and state-issued laptop computer assigned to McGarity that were related to her private business interests totaled 993 pages.

#### *State Email Account*

The review of McGarity's state email account found numerous emails related to her private business interests. Investigators specifically identified the following:

- 172 emails related to WinWin, Inc.;
- 80 emails related to WinWin Academy;
- 36 emails related to Papaya BBQ;
- 44 emails sent or received by Patty Klein, executive assistant academic affairs at ODHE;

- 166 personal emails.

While reviewing McGarity's email account, investigators discovered McGarity was utilizing the services of fellow ODHE employee Patty Klein to perform work related to McGarity's private business interests. In all the cases identified, Klein was scanning documents related to McGarity's private business interests, at the direction of McGarity.

#### *Cell Phone*

The Office of the Ohio Inspector General examined McGarity's personal cell phone records for the period from June 1, 2014, to October 31, 2015. Investigators reviewed only those calls and texts that had occurred during McGarity's reported work hours; however, McGarity failed to record the actual times of her lunch breaks. Therefore, investigators could not determine which, if any, calls and texts occurred during her lunch breaks. In total, investigators reviewed 30,536 calls and texts from McGarity's personal cell phone and identified 5,285 calls and 8,021 texts that occurred during her reported work hours.

Of the 5,285 calls that occurred on McGarity's personal cell phone during reported work hours, investigators determined:

- 189 calls related to personal business interests totaled 617.3 minutes, or 10.2 hours.
- 2,992 personal calls totaled 6,548 minutes, or 109.1 hours.

Of the 8,021 texts that occurred during reported work hours, investigators determined:

- 746 text messages were related to personal business interests.
- 2,900 were personal text messages.

While conducting the review, investigators categorized Lauren McGarity's texts and phone calls involving Michael McGarity, Thomas McGarity, Max McGarity, and David Tishkoff, as "personal" due to their familial relationship. Though investigators were aware that Michael, Thomas, and David all served on the board for WinWin, Inc., and that Max is the operator of Papaya BBQ/Smoked on High, investigators could not determine whether the texts and phone calls involving these individuals were discussions related to their businesses.

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

*Time Reporting*

The investigation further found that McGarity violated ODHE time and attendance policy by failing to record the minimum half-hour lunch requirement on 342 of the 842 eligible work days between March 11, 2012, and October 17, 2015. The non-recorded lunches on those 342 days amounted to 10,140 minutes or 169 hours, amounting to an overpayment total of \$2,970.91.

Investigators also discovered from their review of McGarity's Outlook calendar and email communications, records indicating McGarity had vacationed in Bar Harbor, Maine and Acadia National Park from July 22, 2015, through July 31, 2015. During this 11-day period, McGarity claimed regular or compensatory time earned on eight of the 11 days. In total, while on vacation, McGarity was compensated for 39.25 hours of "regular time" worked, 11.25 hours of "comp time earned," and 24.75 hours of "comp time used."

The investigation found that McGarity failed to accurately report her workday start times between June 2, 2014, and October 15, 2015. During the period reviewed, investigators identified more than 200 instances where McGarity reported questionable time worked.

Ohio Department of Higher Education does not have a teleworking policy and according to the ODHE Time and Attendance policy, "... employees are expected to be in the workplace and ready to work at the start of their scheduled work day." Ohio Department of Higher Education upper management and McGarity's supervisor confirmed that McGarity was not permitted to work remotely and cited one occasion when McGarity was denied authorization to work remotely. As a result, any time claimed prior to officially being in the workplace was in violation of the ODHE Time and Attendance policy.

The investigation determined that McGarity's questionable time reporting was, in part, due to a lack of oversight by ODHE management.

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

**RECOMMENDATION(S)**

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

1. Consider implementing a secondary employment policy, which requires all employees to report all outside employment.
2. Require all ODHE employees to complete a timesheet, either paper or electronic, that identifies starting time, ending time and lunch in and out times.
3. Require ODHE supervisors to review and sign off on all their employees time reporting.
4. Provide employees with a review of the policies on ethics, use of internet, email and other IT resources, time and attendance, compensatory time, and use of telephone.

**REFERRALS**

This report of investigation will be provided to the City of Columbus Prosecuting Attorney and the Franklin County Prosecuting Attorney for consideration.



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Department of Higher Education**

**FILE ID #: 2015-CA00046**

**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**  
**August 17, 2017**

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