



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA DEPARTMENT OF CHILD SERVICES (DCS)
TITLE: OUTSIDE EMPLOYMENT; MISUSE OF STATE PROPERTY; GHOST
EMPLOYMENT
CASE ID: 2019-04-0127
DATE: July 9, 2019

Inspector General Chief Legal Counsel, Tiffany Mulligan, after an investigation by Inspector General Director of Investigations, Darrell Boehmer, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in executive branch agencies of state government. IC 4-2-7-2(b). The OIG investigates allegations of criminal activity and Code of Ethics violations within state government. IC 4-2-7-3. The OIG may recommend policies and carry out other activities to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. IC 4-2-7-3(2).

Background

In April 2019, the OIG received a complaint alleging that an employee with the Indiana Department of Child Services (the Employee) was representing an Indiana town (the Town) in meetings with state agencies. The complaint raised potential violations of the Code of Ethics (Code), which is found in IC 4-2-6 and 42 IAC 1. Specifically, the complaint raised potential concerns under the Code's outside employment, conflict of interests, ghost employment and misuse of state property rules.

Investigation

OIG Director of Investigations, Darrell Boehmer, investigated the allegations. During the course of his investigation, Director Boehmer interviewed the Employee. He also received information from DCS and reviewed the Employee's DCS email account.

Director Boehmer learned that the meetings in which the Employee represented the Town with other state agencies were unrelated to her work for DCS. They involved projects and grants with which DCS was not involved.

During her interview with Director Boehmer, the Employee stated that she had received permission from a prior supervisor to conduct her outside work for the Town. According to DCS, neither DCS's Human Resources Division nor DCS's General Counsel had a record of such permission. DCS has a Supplemental Employment policy that requires DCS employees to get written approval for outside employment. If the Employee failed to receive written approval for her outside employment, the Employee may have violated DCS's Supplemental Employment policy; however, Director Boehmer found no evidence that the Employee engaged in any activity that violated the Code's outside employment or conflicts of interests rules.

Also, the Employee told Director Boehmer that she regularly works extra hours at DCS. She stated that she only works for the Town about thirty minutes each month, and she only conducts her outside work outside of state time. She said if she performed any work for the Town at the DCS office, it would have been during a break or during her lunch hour. Director Boehmer found no evidence to dispute the Employee's statements; therefore, he found no evidence to support a ghost employment violation.

Director Boehmer reviewed the Employee's DCS email account and found twenty emails that were related to the Town or were otherwise unrelated to her DCS work. Thirteen of these

emails were in the Employee's deleted email files. In most of these emails, the Employee was forwarding emails from her personal email account or personal phone to her DCS email account. During her interview with Director Boehmer, the Employee said that she likely sent these emails to her DCS account so that she could print them from the office. Director Boehmer found seven emails that the Employee sent from her DCS email box that related to the Town or other private work. With the emails in the Employee's deleted or sent folders, Director Boehmer found attachments with approximately one hundred pages of material. Based on the Employee's statements during her interview with Director Boehmer, the Employee may have printed these attachments on a DCS printer.

Conclusion

Director Boehmer's investigation found no evidence to support a violation of the Code's outside employment, conflicts of interests, or ghost employment rules; however, he found evidence to support a violation of the Code's misuse of state property rule, which is found in IC 4-2-6-17, and DCS's Limited Personal Use of State Property/Resources policy. The Code's misuse of state property rule prohibits the use of state property or resources for anything other than official state business, unless the use is allowed for by an agency policy that has been approved by the State Ethics Commission. DCS's policy allows for certain limited personal use of state resources, but it prohibits use for an outside commercial activity.

Director Boehmer's review of the Employee's emails show that she used her state email for her private work, and she admitted that she likely used DCS's printer for this work. Although the Employee's use of her state equipment for private work likely violated the misuse of state property rule and DCS's policy, her use of state equipment had a minimal cost to the State. As a result, the OIG declines to file an ethics complaint with the Commission in this case.

Recommendations

Based on the investigation described in this Report, the OIG makes the following recommendations to DCS.

Recommendation 1

The OIG recommends that the Employee's supervisor counsel the Employee on the Code's misuse of state property rule, along with DCS's Limited Personal Use of State Property/Resources policy. The Employee's supervisor also should consult with DCS's Human Resources staff to determine whether the Employee's actions warrant any additional disciplinary action, such as a letter in the Employee's personnel file, for violating DCS's Limited Personal Use of State Property/Resources policy.

Recommendation 2

The OIG recommends that DCS's Appointing Authority or Ethics Officer distribute a written notice to all DCS employees reminding them that if they engage in any outside business, they must do so on their own time, without using state time or state property/resources. The reminders should note that while DCS's Limited Personal Use of State Property/Resources permits limited use of state property for purposes other than official state business, it prohibits employees from using any state property for outside commercial activity and that doing so is considered both a violation of DCS's policy and the Code.

Dated: July 9, 2019

APPROVED BY:



Lori Torres, Inspector General