

MEMO

To: ALL HUMAN RESOURCE DIRECTORS OF ALL DEPARTMENTS, INDEPENDENT ADMINISTRATIVE BOARDS AND COMMISSIONS, AND OTHER STATE AGENCIES UNDER THE GOVERNOR'S JURISDICTION


From: James A. Honchar, SPHR
Deputy Secretary for Human Resources Management

Date: November 10, 2011

Re: Work Release Requests and Approvals

The following information updates the policy and process used for work release approval requests.

Employee behavior has a large impact on public perceptions of an organization and, in many cases, employees are the first direct contact between the commonwealth and the citizens we serve. Protecting the reputation of the commonwealth is critical to maintaining public confidence and trust. Therefore, it is imperative that agencies carefully evaluate situations in which an employee is convicted of a criminal offense and requests approval for work release.

Work release approvals apply to those instances where an employee has been sentenced by the courts to serve time in a correctional facility. It also includes situations where an employee has been sentenced to in-home confinement (also known as house arrest) and/or is required to wear an electronic monitoring device.

Employees are not entitled to an automatic approval of a work release request. Supervisors do not have the authority to approve or disapprove any work release request, and must immediately forward any such requests to the agency's central Human Resources bureau/office. Agencies have the delegated authority to disapprove any work release request.

For those instances where an agency believes that a work release request should be approved, the agency must obtain prior approval from the Office of Administration before agreeing to the arrangements. Agencies are required to use due diligence

and conduct a thorough investigation to ensure that granting a work release request is in the best interests of the agency and the commonwealth. Agencies must:

- Identify all conditions associated with the work release, including any restrictions that will be placed upon the employee. This includes obtaining documentation about the work release conditions and restrictions, and may require contact with the district attorney, the employee's probation/parole officer, and/or the employee's attorney.
- Conduct a complete review of the impact of those conditions and restrictions upon the employee's job functions and upon commonwealth operations, and determine if any modifications to the employee's job functions are necessary. Conditions/restrictions must not result in unacceptable impact upon commonwealth operations, such as a requirement that the employee's computer be available for inspection by court officers.
- Review the employee's personnel records to ensure that he/she reported all criminal charges (both current and past) as required by the Governor's Code of Conduct and internal agency policies.
- Utilize the criteria found in Part III of the Governor's Code of Conduct to review the impact of the criminal conviction upon the agency, including the extent to which the employee must deal directly with the public, and the extent to which the public's trust and confidence in the commonwealth would be undermined if the work release were to be approved.
- Obtain the approvals of the agency's chief counsel and agency head.

If after this internal review process the agency determines that a work release request is appropriate, the agency should provide the following information to the Office of Administration as part of their written request:

- Employee name and job title;
- Employee work location, including bureau, division and/or work unit;
- Length of employment with the commonwealth, previous discipline history, and performance ratings;
- Nature of the charges that led to the conviction and incarceration;
- Previous convictions, including dates and nature of the charges;
- Projected dates, length and nature of incarceration;
- Documentation of the investigation results, including copies of all court documents and analysis of impact of conditions and restrictions;
- Rationale for agency request for work release approval, including results of the investigation;
- Whether there have been previous requests or approvals of work release for the employee; and
- Written approvals of the agency's chief counsel and agency head.

Agencies must remember that no form of approved paid or unpaid leave is permitted for employees who are incarcerated. Agencies are therefore encouraged to initiate their internal review and investigation in advance of the sentencing date.

Absent extenuating and mitigating circumstances, the Office of Administration will not approve more than one work release for an employee during his/her commonwealth employment. In such circumstances, a Condition of Continued Employment (COCE) or a last chance agreement will be required as a condition of a subsequent work release approval. A COCE will only be considered as part of an initial work release approval if there is a nexus between the nature of the charges that led to the conviction and the employee's job.

All agency requests for approval of work release and questions about this policy should be directed to:

Donna Hoskins-Helm, Chief
Workplace Support Services Division
Bureau of Employee Benefits and Services
Office of Administration
513 Finance Building
Harrisburg, PA 17120-0040
717.787.8575
dhoskinshe@state.pa.us

cc: Kelly Powell Logan, Secretary of Administration
Jullia Sheridan, Chief Counsel, OA
Jay Gasdaska, Director of Labor Relations, OA
Matt Waneck, Director of Employee Benefits and Services, OA