



COMMONWEALTH *of* VIRGINIA

DEPARTMENT OF EDUCATION
P. O. BOX 2120
RICHMOND, VIRGINIA 23218-2120

February 26, 2020

[REDACTED]
Office of the State Inspector General
P. O. Box 1151
Richmond, Virginia 23218-1151

Dear [REDACTED]:

As requested, I am providing a condensed hotline report for use by your agency in responding to inquires, including Freedom of Information Act (FOIA) requests, relative to this hotline case. This summary report is provided after the completion of a more detailed official investigative report submitted to you on February 13, 2020. The case was closed as of this date.

As you know, the VDOE Office of Business and Risk Management received a hotline complaint from the Office of the State Inspector General (OSIG) dated September 10, 2019, requiring an investigation into alleged violations of state and agency policies/procedures. Broadly speaking, these allegations are listed below.

Allegations:

1. The Director of Equity and Community Engagement is using state resources to establish a consulting business. It further states that this business offers similar services that are also performed in the individual's state government position.
2. The outside business activity might not be reported on a statement of economic interest and OSIG suggests that VDOE should determine if the employee has an approved outside business form on file and is not using state time for this business.

As a result of the above allegations, nearly a dozen investigative steps were undertaken spanning over 330 hours by the conclusion of this investigation. VDOE payroll and fringe benefits costs exceed \$25,000 for the investigation.

Finding of Fact – Allegation #1

An initial search for a potential outside business involving Ms. Dozier-Walker revealed the following two websites with Internet domains established in her name:

<https://leahdozierwalker.com/>

<https://leadingimpactnow.com/>

February 26, 2020
Page 2

Note that both of these sites are closely linked together allowing the website visitor to see content, sometimes unknowingly, after being launched between these two sites. In reviewing both websites, it is clear that Ms. Dozier-Walker has posted a number of pictures, documents and at least one video that was created by VDOE. Some photos show Ms. Dozier-Walker at various conferences while working in an official capacity of VDOE.

Some of these photos include “Virginia is for Learners” apparel that is a modification of the Virginia Tourism Corporation’s (VTC) “Virginia is for Lovers” brand. VDOE is granted a narrow approval for use of this modified slogan for statewide public education campaigns. There is no record of permission granted for using this brand in a commercial setting. Additionally, it is unlikely that the Virginia Tourism Corporation would allow the branded “Virginia is for Learners” in a for-profit business. Finally, this type of usage may be a copyright violation and subject VDOE and/or Ms. Dozier-Walker to unfavorable legal consequences.

Ms. Dozier-Walker’s Employee Work Profile (EWP) was obtained from the VDOE Office of Human Capital. An analysis concluded that the state duties in the EWP were either identical or nearly identical to the consulting services listed on the websites. While one of the websites includes a disclaimer: *“In accordance with my strict adherence to ethics requirements, I will not accept any work that conflicts with my obligations to the Commonwealth of Virginia.”* It is debatable whether this disclaimer is sufficient or would negate any appearance of conflict of interest.

During the course of the investigation, Ms. Dozier-Walker’s position was reorganized. This reorganization occurred in late 2019. As a result, the functions for communications, website, and constituent services were reassigned to another director. As of the date of this report, no EWP has been provided by the VDOE Office of Human Capital for the reorganized position.

Allegation # 1 – Conclusion:

The allegation is sustained. The websites in question include a number of confirmed VDOE photos, documents and video produced as a result of Ms. Dozier-Walker’s employment. Several resources were developed under her direct work supervision. The services offered in the outside business are either entirely duplicative or closely resemble duties performed by Ms. Dozier-Walker in her state position.

Finding of Fact – Allegation #2

Leading Impact Now, LLC, was incorporated on August 25, 2019, with the State Corporation Commission. Consequently, an annual statement of economic interest (SOEI) was not due until the following calendar year (February 4, 2020). Two statements of Economic Interest were filed by the Director of Equity and Community Engagement on January 31, 2020. The SOEI filed in relation to her state position indicates “no” on the questions regarding: (1) receiving income from an outside business and (2) owning a business with a value greater than \$5,000. A due process response from Ms. Dozier-Walker (discussed later) claims that the business, while incorporated, did not have a business license or Federal tax identification number and therefore, “no business has been established.” It cannot be readily determined if the SOEI questions referenced above are accurate. A definitive determination is beyond the scope of this hotline investigation.

February 26, 2020
Page 3

During staff interviews (total of three), the [REDACTED] alleged that [REDACTED] supervisor, the Director of Equity and Community Engagement, is “never around” in the office and these absences create challenges in the management and direction of the office. Additionally, it was learned that a tweet dated August 26, 2019, at 1:54 p.m., was sent by Ms. Dozier-Walker announcing she “started new job at Leading Impact Now (Owner and Founder).” This tweet was confirmed as occurring on state time.

The VDOE [REDACTED] also indicated that Ms. Dozier-Walker, asked for a “favor” during work hours to review a personal logo (Be Impacted Blog) logo that was designed for her outside business in early September 2019. Ms. Dozier-Walker apparently paid an outside firm to draft a prototype logo. The [REDACTED] was asked to proof it and make suggestions, which [REDACTED] did while on the job. The estimated time involved in this request was approximately one hour.

No Authorization for Outside Employment Form has been filed by Ms. Dozier-Walker while working for VDOE. However, she requested this form in an email to the Human Capital Director on August 26, 2019 at 2:26 p.m. Ms. Dozier-Walker acknowledged receipt of the form at 3:33 p.m. the same day.

Since both a tweet and a staff interview indicates that the target of the investigation may not be working customary office hours, a review of the Hours of Work Form, timesheets, leave, calendar, travel, selected emails, and employee DGS swipe card history for the James Monroe Building was conducted. Ms. Dozier-Walker has a telework agreement on file (dated November 9, 2017) with the VDOE Human Capital Office. Friday is the designated/approved telework day with a standard Monday-Friday 8:30-5:00 p.m. work schedule (with a 30-minute lunch period). A certificate of completion for “Safety Tips for Telecommuters” is also on file.

The scope of the time and attendance review was January 1, 2019, to early September 2019. A total of 125.5 hours were initially identified as unexplained exceptions. This total was reduced to a **net 95.5 hours of unexplained exceptions** when taking into account Ms. Dozier-Walker response and additional concessions for inconclusive variances. Due to the number of salary increases and the enormous amount of time expended in this investigation, the following salary information is provided regarding Ms. Dozier-Walker during 2019. In the interest of time, an exact amount will not be calculated for this report. However, using a simple average of \$45/hour plus an average fringe benefit rate of 35%, this amount is approximately \$5,800.

Leah Walker's Salary - 2019	Annual Salary	Annual Work Hours (2,080) & Hourly Rate
Jan. 1 – Feb. 24, 2019	\$88,300	\$42.45
Jan. 1 – Feb. 24, 2019	\$92,715	\$44.57
Jan. 1 – Feb. 24, 2019	\$97,351	\$46.80
June 25 - Present	\$102,219	\$49.14

Allegation # 2 – Conclusion:

The allegation is largely sustained. It cannot be readily determined if the SOEI questions referenced in the VDOE-related SOEI are accurate as a definitive determination is beyond the scope of this hotline investigation. However, no approved VDOE outside business form is on file for Ms. Dozier-Walker and a sustained finding is taken for using state time and the time of a subordinate.

Interview of Ms. Dozier-Walker

The VDOE Director of Business and Risk Management, Human Capital Director, and two sworn investigators from OSIG participated in a due process interview on January 8, 2020. Ms. Dozier-Walker was provided with a summary of six violations (see below) and a due process letter granting a five business day period to respond in writing. An extension was approved by senior management due to work scheduling conflicts. Ms. Dozier-Walker’s response was received by the Office of Human Capital on January 21, 2020, and forwarded to the Director of Business and Risk Management for analysis. After this review, the following assessment was provided to the VDOE Human Capital Director:

- No emails were found asking for an adjustment to work or telework schedules.
- Several days identified as exceptions, were not addressed at all with material provided by Ms. Dozier-Walker.
- Submitted emails in some instances, did not address the particular point of the exception, but instead reflected routine, work-related email traffic. Some of this email activity is identified as coming from a mobile device.
- No documentation was provided regarding an apparent conflict of interest of an outside business and supporting websites as mentioned above. Ms. Dozier-Walker requested, and received an Outside Business form from the Human Capital (HC) Director on August 26, 2019. However, there is no record of her submitting this form to the HC office. She stated that: “I am willing to remove the LLC from my digital portfolio and close the website to avoid the perception of a conflict of interest.”
- After review of building access history, timesheets, etc., it appears that Ms. Dozier-Walker took broad latitude in modifying her established office hours, telework, attend offsite meetings, and networking at coffee shops, etc. during work hours.
- Telework was used extensively on other days than her approved Friday telework day.

Based up the investigation, the following table provides a summary of violations of state or VDOE policies/procedures.

Summary of Substantiated Violations of Policy and Procedures

No.	Identified Issue	Prevailing Authority	Work Paper Evidence	Comments
1	Lack of agency approval of outside employment.	State policy – DHRM Employee Handbook, page 10, Section I; VDOE Administrative Manual, Section 5.2.1.	No approval on file per the VDOE Human Capital Office (email); screen shot of SCC business registration – Leading Impact Now, LLC.	The State Corporation Commission (SCC) reflects an 8/25/2019 initial registration (not renewal).

Summary of Substantiated Violations of Policy and Procedures (Continued)

No.	Identified Issue	Prevailing Authority	Work Paper Evidence	Comments
2	Incompatible duties of services provided in outside employment compared to VDOE position creating an actual or perceived conflict of interest.	VDOE Administrative Manual, section 5.2.1, Virginia Conflict of Interest Act	Employee Work Profile, outside business websites.	VDOE Admin. Manual: "This policy is particularly important because an employee may have the opportunity or need to work outside the agency in positions that appear to be related to his or her assigned duties or the general mission of the agency."
3	Posting VDOE materials on outside, for-profit websites. These materials include, but are not limited to documents, pictures, and at least one video.	State policy – DHRM Policy 1.75, Section D – "Prohibited Activities Using proprietary agency information, state data or records, and social media to promote potential business. Also, posting photos, videos, or audio recordings taken in the work environment without written consent."	Numerous screen shots of outside business websites.	Posting photos, documents, logos, videos, etc., taken in the work environment should not be used without prior written consent. It is unlikely that the Virginia Tourism Corporation would allow the branded "Virginia is for Learners, Virginia Department of Education" in a commercial setting. Further, this type of usage may be a copyright violation and subject VDOE and/or Ms. Dozier-Walker to unfavorable legal consequences.
4	Untimely completion of weekly timesheets and leave activity into state timekeeping system – Time, Attendance & Leave (TAL). Per the Director of Human Capital, no timesheets were submitted from 3/5-6/10/2018. This is a 14-week gap.	VDOE Administrative Manual, sections 5.5 and 5.6.1	Email; copy of timesheets and analysis.	VDOE Admin. Manual, section 5.5: "A classified employee should submit their weekly time and leave activity reporting record via TAL each Friday or on their next working day." "The supervisor should ensure the accurate and timely reporting of hours worked and leave taken and certify TAL time reports by close of business each Tuesday."

February 26, 2020
 Page 6

Summary of Substantiated Violations of Policy and Procedures (Continued)

No.	Identified Issue	Prevailing Authority	Work Paper Evidence	Comments
5	Non-compliance with VDOE Telecommuting Policy – “Telecommuters will provide a written status report of their work performed while telecommuting to their supervisor as part of normal reporting procedures.”	See VDOE Telecommuting Policy, item #21.	Investigation notes.	Former and current supervisor responses indicate informal (verbal) updates. No written reports as required under policy.
6	Unexplained time, attendance, & leave exceptions (Jan. 1 - early Sept. 2019). An initial 125.5 hours of unexplained discrepancies were provided to Ms. Dozier-Walker during her due process meeting. <u>However, a net unexplained balance of 95.5 hours remain.</u>	DHRM Employee Handbook, pages 7-8. Also see VDOE Administrative Manual, section 2.1.3.3.	Spreadsheet analysis.	<p>DHRM Employee Handbook (page 7): “The standard workday is 8 hours. Unless otherwise indicated, official statements including policy and handbook references to “workday” mean an 8-hour period. If you work an alternate schedule, remember that official statements generally assume 8-hour days.”</p> <p>Also (page 8), “You are expected to report to work in accordance with the work schedule assigned by your supervisor, and you are responsible for letting your supervisor know as soon as possible if you expect to be late or absent. Ask your supervisor about your agency’s procedure for reporting absences. Failure to notify your supervisor appropriately may result in disciplinary action including termination.”</p>

February 26, 2020

Page 7

Recommendations

VDOE management should pursue a fair course of action consistent with the DHRM's Standards of Conduct, Policy 1.60. Any discipline that is metered out must be consistent with the disposition of similar cases. The following are recommendations for consideration:

Recommendations for Ms. Leah Dozier-Walker

Ms. Dozier-Walker should become in immediate compliance with all state and VDOE policies/procedures, including, but not limited to the following:

1. Remove all VDOE resources including, but not limited to pictures, documents, and videos from commercial website domains registered by her that are engaged in an outside business. This includes the following websites:
<https://leahdozierwalker.com/>
<https://leadingimpactnow.com/>
2. Refrain from engaging in any outside business or employment that may result in the appearance of a conflict of interest.
3. Obtain prior written approval before engaging in any outside employment or business using the appropriate VDOE form.
4. Submit weekly timesheets by their due date as specified in the VDOE Administrative Manual.
5. Maintain an up-to-date and highly visible work calendar indicating office hours, out of office events/appointments with location, and anticipated leave.
6. With the exception of approved training or conferences, maintain consistent office hours at VDOE as specified in an approved Hours of Work Form.
7. Cease altering and/or offsetting hours from day to day due to working off or extended hours.
8. Do not adjust work hours by forgoing a lunch break and leaving early. VDOE supports either a 30 or 45-minute unpaid lunch break for employees.
9. Obtain prior written permission from your supervisor to alter work hours and/or teleworking options.
10. Notify your supervisor in writing and in a timely manner when an unexpected adjustment to work hours is necessary.
11. Comply with established telecommuting rules including submission of a written summary of job tasks performed at the alternate work location (while telecommuting) as part of normal timesheet and leave activity reporting.
12. Make restitution of unresolved leave hours in the amount of 95.5 hours (or an agreed upon settlement) as a result of this investigation.

Recommendations for VDOE

1. Consider implementing an improvement plan for Ms. Dozier-Walker and conduct periodic meetings to discuss progress against this plan.
2. Suspend teleworking for a period of time (e.g., six mos.) or until management is satisfied that Ms. Dozier-Walker has demonstrated full compliance with state and VDOE policies/procedures.
3. Implement periodic time, attendance, and leave exception reports that identify patterns of policy violations of employees that will facilitate corrective action by management.
4. Stress to first-line supervisors, that senior management expects them to address attendance problems and gaps in timesheet submissions when they occur and that they will be held accountable for deviations of policy.

[REDACTED]
February 26, 2020

Page 8

5. Adopt a policy and add it to the VDOE Administrative Manual stating that leave restitution may occur for undocumented and unaccounted for employee absences.
6. Evaluate and implement employee monitoring software. Prior to using this software, ensure that comprehensive procedures are developed and adopted outlining under what circumstances employee monitoring software would be used, level of management approvals, and how results are protected and disclosed only on a need-to-know basis.
7. Periodically perform tests, as part of the state internal controls program (ARMICS), relating to time, attendance, and leave.

Conclusion

As summarized above, the two allegations are largely sustained with a caveat on allegation number two, where a determination on the accuracy of the SOEI filing cannot be conclusively made. Additional violations of state and VDOE policies/procedures are listed in the above table.

VDOE management should take immediate corrective action with the employee in question and ensure compliance with VDOE and state policies/procedures. The above recommendations should likewise be considered for implementation with the goal to improve internal control.

These recommendations were previously provided via a preliminary summary report to the State Superintendent of Public Instruction (agency head), Deputy Chief of Staff, and the Director of Human Capital on February 5, 2020. Finally, while Ms. Dozier-Walker may be performing her work effectively, the violation of multiple policies and procedures cannot be overlooked or tolerated.

Let me know if you have any questions. I may be reached at [REDACTED] or [REDACTED]

Sincerely,

[REDACTED]