

THE SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA

OFFICE OF INSPECTOR GENERAL 3318 FOREST HILL BLVD., C-306. WEST PALM BEACH, FL 33406 (561) 434-7335 FAX: (561) 434-8652 www.palmbeachschools.org

HOTLINE: (855) 561-1010

LUNG CHIU, CIG, CPA INSPECTOR GENERAL

SCHOOL BOARD
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MEMORANDUM

TO:

Honorable Chair and Members of the School Board

Dr. Donald E. Fennoy, Superintendent

Chair and Members of the Audit Committee

KLC

FROM:

Lung Chiu, Inspector General

DATE:

9/11/2018

SUBJECT:

Transmittal of Final Investigative Report

Case #18-771 Title: Theft of Time

In accordance with School Board Policy 1.092 we hereby transmit the above-referenced final report.

The report addresses the allegation of theft of time by West Boca Raton High School Secretary Valerie McWhite. Ms. McWhite comes in to work late, leaves early, but does not adjust her leave balance accordingly to reflect the hours taken.

The allegation is unsubstantiated.

The report is finalized and will be posted on the Inspector General's website; www.palmbeachschools.org/inspectorgeneral.



SCHOOL DISTRICT OF PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL



INVESTIGATIVE REPORT

Case Number: 18-771

Date of Complaint: 4/27/2018

Complainant:

Anonymous

Subject:

Valerie McWhite, Confidential Administrative Assistant, W. Boca Raton High School

Witnesses:

Craig Sommer, Principal, W. Boca Raton High School

Type of Report: FINAL

AUTHORITY

School Board Policy 1.092 provides for the Inspector General to receive and consider complaints, and conduct, supervise, or coordinate such inquiries, investigations, or reviews, as the Inspector General deems appropriate.

This investigative report was conducted by Investigator Tanya Lawson, in compliance with the Quality Standards for Investigations, Principles and Standards for Offices of Inspector General, promulgated by the Association of Inspectors General.

INTRODUCTION

On April 27, 2018, the OIG received an anonymous complaint alleging that Confidential Administrative Assistant Valerie McWhite had taken time off, but did not adjust her leave accordingly to reflect the hours taken. Specifically, the complaint alleged that Ms. McWhite comes into work late, leaves early, but does not adjust her leave to accurately reflect the hours taken. In addition, the complaint alleged that Ms. McWhite gets overtime pay to work from home.

BACKGROUND

West Boca Raton Community High School is located at 12811 Glades Road, Boca Raton, FL 33498, and is an accredited public high school. The school is part of the School District of Palm Beach County and is zoned for the far western area of Boca Raton, with students from any part of the Palm Beach County School District able to enroll if they are accepted into at least one of the school's academies. Its curriculum includes a set of magnet programs, or academies, available to all students who qualify. Academies offered at West Boca High include Medical Science,

Information Technology, Drafting and Design, Culinary Arts, Performing Arts, Cyber Security, and Investment Banking.

ALLEGATIONS1

- 1. Confidential Administrative Assistant Valerie McWhite, comes into work late, leaves early, and does not adjust her leave to accurately reflect the hours taken. *Unsubstantiated*.
- 2. Valerie McWhite gets overtime pay to work from home. Unsubstantiated.

GOVERNING DIRECTIVES

- Florida Statute §231.085 Duties of Principals
- School Board Policy 3.02-Code of Ethics
- School Board Policy 3.65-Assignment to Temporary Duty Elsewhere (TDE)
- School Board Policy 6.12-Overtime/Compensatory Time Off
- School Board Policy 1.014-Responsibilities of Principals
- Payroll and Time & Labor Training Manual (Fair Labor Standards Act)
- Palm Beach School District Administrative Policies and Procedures Manual
- PeopleSoft-Time Collection Device (TCD) report, Timesheets
- Temporary Duty Elsewhere (TDE)
- PBSD 2287-Flexible Work Schedule Request
- Bulletin #P-12974-CAO/COO

ALLEGATION 1: EVIDENCE & TESTIMONY

Allegation: Confidential Administrative Assistant Valerie McWhite comes into work late, leaves early, and does not adjust her leave to accurately reflect the hours taken.

Complaint

The anonymous complaint alleged that Confidential Administrative Assistant Valerie McWhite comes into work late, leaves early, and does not adjust her leave to accurately reflect the hours taken.

Testimony of Principal Craig Sommer, West Boca Raton Community High School

On May 7, 2018, the OIG conducted an interview with West Boca Raton Community High School Principal Craig Sommer. Mr. Sommer stated Ms. McWhite has done various work-related projects at times that required her to flex her work hours. For example, if she stayed late at work, she would come to work later in the morning the following day.

¹ The OIG findings were determined using the standards that appear on the signature page at the end of this report.

Mr. Sommer stated Ms. McWhite has worked from home some time with his approval, on an asneeded basis. Mr. Sommer also stated Ms. McWhite's requests for leave had the required Temporary Duty Elsewhere (TDE) documentation. Additionally, Mr. Sommer stated that all time off for Ms. McWhite are accounted for and approved.

Testimony of Confidential Administrative Assistant Valerie McWhite

On May 9, 2018, the OIG conducted an interview with Valerie McWhite. Ms. McWhite stated she estimated that she has been out about eight days this school year, and she used her annual leave. Ms. McWhite stated her leave requests were approved by Principal Sommer. Ms. McWhite denied not utilizing her accrued leave when she is absent from work. Ms. McWhite also stated that because she has an elderly mother who is ill, Mr. Sommer has been very understanding about her flexing her work time in order to escort her mother to the appointments.

Documentation Reviewed

The OIG received TDE documentation from Mr. Sommer via email for the seven days she took time off during the school year. The documentation provided by Ms. Sommer matched the information contained in the PeopleSoft report run by the OIG. The seven days' time-off for Ms. McWhite that appeared on the PeopleSoft report, have the required TDE that illustrated Ms. McWhite's annual leave had been expended to cover the seven days that she was not at work.

Based on the evidence obtained during this investigation, the OIG has determined that the allegation that Confidential Administrative Assistant Valerie McWhite comes into work late, leaves early, and does not adjust her leave balance to accurately reflect the hours taken is *Unsubstantiated*.

ALLEGATION 2: EVIDENCE & TESTIMONY

Allegation: Valerie McWhite gets overtime pay to work from home.

Complaint

The anonymous complaint alleged that Ms. McWhite gets paid overtime to work from home.

Testimony of Principal Craig Sommer, West Boca Raton Community High School

Mr. Sommer stated Ms. McWhite has worked from home depending on the need. Mr. Sommer stated that he approved each occasion that she worked from home. In a subsequent follow-up email response from Mr. Sommer clarifying if Ms. McWhite has worked at home for a full eight-hour day, Mr. Sommer stated that "the hours worked differs based on need, as dictated by the task." Mr. Sommer stated Ms. McWhite does not receive overtime; she adjusts her schedule based on the need.

Testimony of Confidential Administrative Assistant Valerie McWhite

Ms. McWhite stated that she has occasionally worked from home with the approval of Principal Sommer. Ms. McWhite stated since she is in charge of processing payroll, she uses her District chrome notebook to conduct work-related business from home. Ms. McWhite stated the work that she performed at home were processing payroll, checking, and replying to work-related emails.

Documentation Reviewed

The OIG reviewed the PeopleSoft payroll information for Ms. McWhite. Ms. McWhite did not receive overtime payments at her full-time primary position at Boca Raton High School. However, PeopleSoft records indicated that Ms. McWhite received overtime pay for two temporary positions at Boynton Beach Community High School and Lake Worth Community High School. Ms. McWhite stated she performed data entry duties at each high school two days per week after her eight-hour day is complete at W. Boca Raton High School (Ms. McWhite averages 2.75 hours per day at each temporary job). Ms. McWhite stated both temporary positions ended at the end of the 2017/18 school year. PeopleSoft shows that the temporary position at Lake Worth High School was terminated March 8, 2018. However, Boynton Beach High School continues to show the employment status as active.

According to the School Board approved Job Description, Confidential Administrative Assistants are classified as non-exempt employees and non-exempt employees are eligible for overtime pay (time and a half) after 40 hours worked in a week pursuant to the Federal Fair Labor Standards Act (FLSA).

Based on the testimony and evidence obtained during this investigation, the OIG has determined that the allegation that Valerie McWhite gets paid overtime to work from home is *Unsubstantiated*.

CONCLUSION

In conclusion, the management of the school is the prime responsibility of the principal. School District Policy 1.014 states,

The management of the school plant and of the financial affairs of the school shall be among the prime responsibilities of the principal.

The duties of all personnel at a school center shall be prescribed by the principal.

The OIG contacted Human Resources and the Payroll department to verify if there are any mandatory/required documents that should have been completed by Ms. McWhite and approved by Mr. Sommers. Specifically, the OIG referenced PBSD 2287 (Flexible Work Schedule Request). The OIG received the following responses:

Payroll/Accounting Manager Teri Jensen stated "the intent of PBSD 2287 was to place employees on flexible schedules for a defined period of time not to exceed a year. Occasional flex schedules

are managed by the location" (Exhibit 1). In addition, Ms. Jensen stated PBSD 2287 is mandatory for permanent schedule changes (Exhibit 2). During Mr. Sommer's testimony, he stated that Ms. McWhite flexes her schedule on an as-needed basis. Therefore, the situation is handled at the school level. As Principal of the school, Mr. Sommer has the authority to approve Ms. McWhite's work schedule.

Furthermore, the overtime pay that Ms. McWhite received was related to her temporary positions which, she was entitled to as provided by FLSA (Exhibit 3).

Human Resources Technician Marlen Garcia-Figueredo verified Ms. McWhite's temporary positions at Boynton Beach High School and Lake Worth High School were approved by the Board on May 11, 2016 and May 10, 2017 respectively (**Exhibit 4**).

RECOMMENDATIONS

The OIG recommends that the District Update *Bulletin #P-12974-CAO-/COO* (no updates since inception in 2008), and include language that specifically addresses the requirements needed (if any) when an employee is flexing the work schedule on a temporary/occasional basis versus a permanent schedule change.

The OIG recommends that Board Policy 3.95, adopted June 16, 1982, be reviewed and updated.

It is recommended that this information be forwarded to Human Resources for review and action deemed appropriate.

AFFECTED PARTY NOTICE

In accordance with School Board Policy 1.092 (8)(b)(iv), on 7/26/2018, Valerie McWhite was notified of the investigative findings and provided with an opportunity to submit a written response to these findings.

As of August 31, 2018, no response received from Ms. McWhite.

DISTRIBUTION

Palm Beach County School Board Members
Donald E. Fennoy II, Superintendent
Audit Committee Members
Gonzalo S. La Cava, Ed.D., Chief of Human Resources
OIG file

Investigation Conducted by:

Tanya Lawson, CIGI

Date

Investigation Supervised by:

Oscar Restrepo, CIGI, Director of Investigations

Date

Investigation Approved by:

K. Lung Chiu, CIG, Inspector General

Date

The evidentiary standard used by the School District of Palm Beach County OIG in determining whether the facts and claims asserted in the complaint were proven or disproven is based upon the preponderance of the evidence. Preponderance of the evidence is contrasted with "beyond a reasonable doubt," which is the more severe test required to convict a criminal and "clear and convincing evidence," a standard describing proof of a matter established to be substantially more likely than not to be true. OIG investigative findings classified as "substantiated" means there was sufficient evidence to justify a reasonable conclusion that the actions occurred and there was a violation of law, policy, rule, or contract to support the allegation. Investigative findings classified as "unfounded" means sufficient evidence to justify a reasonable conclusion that the actions did not occur and there was no violation of law, policy, rule, or contract to substantiate the allegation. Investigative findings classified as "unsubstantiated" means there was insufficient evidence to justify a reasonable conclusion that the actions did or did not occur and a violation of law, policy, rule, or contract to support the allegation could not be proven or disproven.



TANYA LAWSON <tanya.lawsor



₽BSD 2287

TERI JENSEN <teri.jensen@palmbeachschools.org> To: TANYA LAWSON <tanya.lawson@palmbeachschools.org>

Thu, Jun 28, 2018 at 2:29 PM

Attached is the bulletin that was published in 2008 regarding the Flexible Work Schedule.

We believe the intent of the form was to place employees on flexible schedules for a defined period of time not to exceed a year.

Occasionally flex schedules are needed and managed by the location. Payroll does not manage the occasional flex schedules by a location.

On Thu, Jun 28, 2018 at 6:31 AM, TANYA LAWSON <tanya.lawson@palmbeachschools.org> wrote: Teri.

To your knowledge, is the form mandatory, and is there a specific mandate/bulletin/policy (that you're aware of) that refers to them as being mandatory? If a director/principal has an employee that occasionally works a flex schedule, would that form be required to be provided to payroll every time even if the principal/director has knowledge of and approved the employee's schedule?

Thx

Tanya M. Lawson Office of Inspector General Investigator 561-434-8511 PX 48511

On Wed, Jun 27, 2018 at 4:04 PM, TERI JENSEN <teri.jensen@palmbeachschools.org> wrote: Those forms are submitted to Payroll to notify us of a schedule change.

On Wed, Jun 27, 2018 at 3:48 PM, TANYA LAWSON raya.lawson@palmbeachschools.org wrote:

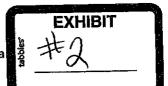
Are you familiar with PBSD 2287; Flexible Work Schedule Request?

Tanya M. Lawson Office of Inspector General Investigator 561-434-8511 PX 48511

Teri Jensen Payroll Manager Accounting Services/Payroll 561-434-8944; PX48944 teri.jensen@palmbeachschools.org



TANYA LAWSON <tanya.lawson@pa



₽BSD 2287

TERI JENSEN < teri.jensen@palmbeachschools.org> To: TANYA LAWSON tanya.lawson@palmbeachschools.org Thu, Jun 28, 2018 at 3:20 PM

The forms are mandatory for permanent schedule changes for an extended period of time.

We are not always informed of these changes. As soon as we are made aware, we request a form.

The reason is due to the fact that employees could be paid incorrectly if schedule changes are not managed properly on the time sheet at the location. [Quoted text hidden]



Fair Labor Standards Act (FLSA)

- Can an employee volunteer to work "after hours" to complete work and not be compensated?
 - Employees may not work "off the clock". An employee cannot volunteer to work beyond their regular workday without compensation.
 - An employee's good intention in performing additional work for the employer is still considered compensable under FLSA.
 - Employees may not volunteer to perform any work that benefits the employer without being compensated.
- ♦ Time Collection Devices (TCDs)
 - The District implemented time clocks to ensure accurate record keeping for FLSA compliance.
 - A centralized, electronic record is critical to meet the burden of proof when reporting time worked by employees.



Common Pitfalls to Avoid

- Assuming a salaried employee is not eligible for overtime
 - Salary basis and salary level are part of the determining criteria for overtime exemption. The job duties of the position, however, are the primary factors that are used in determining a job's eligibility for overtime under FLSA.
 - Human Resources, in collaboration with the District's Legal Department, administers specific tests to ensure that only jobs that meet exemption criteria are classified as FLSA overtime exempt.
- ♦ Improper application of an FLSA exemption
 - Specific testing must be conducted prior to applying any exemption from overtime.
 Advisement on exemption status for any District job must originate from Human Resources.
- Failing to pay for all hours "suffered or permitted" to work
 - Whether authorized or unauthorized, employees must be compensated for all hours worked. For hourly employees, time and one-half or compensatory time must be paid or earned for all hours worked over forty (40) in a workweek.
- ♦ Limiting the number of hours employees can record
 - All hours "suffered or permitted" to work must be accurately recorded. For this
 reason, time clocks were implemented to ensure accurate record keeping.
- Failing to add all hours worked in separate areas for the same employer when calculating overtime that is due
 - The District must ensure all hours an employee works are recorded regardless of their job assignments and locations throughout the District. Implementing time clocks helps ensure the District's compliance.

Both civil penalties and criminal penalties may be levied against an employer and individuals for violations of the Fair Labor Standards Act.

If you have any further questions about FLSA, please call Payroll at (561) 434-8944 (Px48944) or email Epaygroup@palmbeachschools.org for assistance.

3/12/2018





Jenda Item Details

Meeting

May 10, 2017 - 3. REGULAR BOARD MEETING at 5 p.m. in the Board Room

Category

14. Consent Agenda

Subject

P1 Personnel Agenda

Type

Action (Consent)

Recommended Action

I recommend the Board approve the Personnel Agenda as submitted.

DESCRIPTION:

Personnel Agenda for May 10, 2017

CONTACT

Gonzalo La Cava, Ed.D., Chief of Human Resources Mark Mitchell, Director, Compensation and Employee Info Services

FINANCIAL IMPACT:

The financial impact to the School District is absorbed within school, department, and grant budgets. Changes in employment status occur on a continual basis with little or no budgetary impact since terminations/leaves result in budgeted positions being vacant and appointments/promotions result in budgeted positions being filled. However, the net financial impact for the attached list of 3,316 transactions is \$-2,820,149. Detailed information is on file in the Office of Communications and Engagement and in the Department of Compensation and Employee Information Services.

ategic Themes (choose all that apply):

- x 1. Effective and relevant instruction to meet the needs of all students.
- x 2. Positive and Supportive School Climate
- x 3. Talent Development
- x 4. High-Performance Culture

Long-Term Outcomes (choose all that apply):

- x 1. Increase reading on grade level by 3rd grade.
- x 2. Ensure high school readiness.
- x 3. Increase the high school graduation rate.
- x 4. Foster Post-graduate success.

P1 May 10 Agenda.pdf (12 KB)	May 10 Agenda Separation Chart.pdf (147 KB)
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Financial Impact

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Last Name	Megragor Mokenzice Mownitie Mownitie Millien Moorie Moodie Moorie Oriezo Orie



Jenda Item Details

Meeting

May 11, 2016 - 1. REGULAR BOARD MEETING at 5 p.m. in the Board Room

Category

14. Consent Agenda

Subject

P1 Personnel Agenda

Type

Action (Consent)

Recommended Action

I recommend the Board approve the Personnel Agenda as submitted.

DESCRIPTION:

Personnel Agenda for May 04, 2016

CONTACT:

David Christiansen, Ed.D., Deputy Superintendent/Chief of Schools (david.christiansen@palmbeachschools.org)
Sandra Gero, Chief Human Resources (outgoing)
Gonzalo La Cava, Ed.D., Chief of Human Resources (incoming)
Mark Mitchell, Director, Compensation and Employee Info Services

FINANCIAL IMPACT:

The financial impact to the School District is absorbed within school, department, and grant budgets. Changes in employment status occur on a continual basis with little or no budgetary impact since terminations/leaves result in budgeted positions being vacant and appointments/promotions result in budgeted positions being filled. However, the net financial impact for the attached list of 13,929 transactions is \$1,134,590 and is inclusive of the salary increase processing of the bargaining unit settlements approved the Board for AESOP, PBA and SEIU/FPSU on March 16, 2016. Detailed information is on file in the Office of Communications and Engagement and in the Department of Compensation and Employee Information Services.

SCHOOL BOARD GOALS: (Check all that apply.)

- □ 1. Student First Philosophy
- 2. Family Matters
- 3. Qualified and Highly Effective Workforce
- X 4. Efficiency and Accountability
- □ 5. Community Engagement
- □ 6. Communication

May 11 Agenda.pdf (27 KB)	May11AgendaSeparationCount.pdf (147 KE	3)
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Prior Location

Prior Position /11/2016 Naters Edge Comm Elementary Waters Edge Comm Elementary Boynton Beach High Adult 未 Hammock Pointe Elementary Exceptional Student Ed OTS Exceptional Student Ed OTS Manatee Community Elem After School Programming Acreage Pines Elementary Manatee Community Elem Paniher Run Elementary Binks Forest Elementary Greenacres Elementary Palm Beach Lakes High Indian Pines Elementary Palm Beach Lakes High Greenacres Elementary Lighthouse Elementary Adult Virtual Academy Forest Hill Elementary S D Spady Elementary District Substitute Pool Berkshire Elementary ake Park Elementary District Substitute Pool Heritage Elementary Boynton Beach High Highland Elementary Heritage Elementary Spanish River High PERSONNEL AGENDA FC Spanish River High Conniston Middle ake Shore Middle Roosevelt Middle Santaluces High Santaluces High Santaluces High Jupiter Middle Jupiter Middle Atlantic High Atlantic High Coach P/T Athletic Cert Season Coach P/T Athletic Cert Season emp Instructor Comm Educ Couns AfterSchool Certified Couns AfterSchool Certified Couns AfferSchool Certified ch Day to Day Substitute ch Day to Day Substitute emp Theater Equip Tech emp Adult Ed Teacher Counselor AfterSchool emp Tch Homebound emp Tch Homebound Cunselor AfterSchool Counselor AfterSchool Counselor AfterSchool Counselor AfferSchool Coor Leased Facilities Counselor AfferSchool Temp Admin Support Counselor AfterSchool Counselor AfferSchool Counselor AfterSchool emp Tutor Certified emp Tutor Certified emp Tutor Certified Counselor AfferSchool Counselor AfferSchool emp Tufor Certified emp Tutor Certified emp Tutor Certified emp Tufor Certified emp Tutor Certified emp Tutor NonCert emp Tutor Certified emp Tutor Certified emp Tutor Certifled emp Tutor Certified emp Tutor Certified Tutor Certified emp Tutor Certified emp Tutor Certified Advisor Academic Advisor Academic Sustodian Custodian 36/01/2016 04/07/2016 34/22/2016 04/02/2016 04/05/2016 36/01/2016 33/30/2016 34/20/2016 34/13/2016)3/28/2016 34/02/2016 34/07/2016 33/02/2016 04/11/2016 36/01/2016 33/21/2016 04/01/2016 03/04/2016 33/12/2016 33/28/2016 04/12/2016 34/12/2016 34/01/2016 04/01/2016 34/06/2016 04/12/2016)4/06/2016 J4/11/2016 31/04/2016 34/12/2016 38/12/2015 34/04/2016 32/25/2016 34/13/2016)4/18/2016 34/01/2016 33/26/2016 34,02/2016 34/04/2016 4/02/2016 34/07/2016 04/01/2016 16/01/2016 34/01/2016 Esmeralda Christine Rebecca Nahomie Deborah Christina Melissa Gregory Orlando Varietta Monica Rachelle Valerie Vichele Alison Alberta Andrea Inthony Vielissa Austin Diana Gillian Zakiya Michel Ashley Angela essica Welissa Diane Tacey <u></u>5 Maria yrani Corey Mison Гугее Ana Morales Dominguez Page 4 of 30 Perez De Leon *dcal*exander Petit-Homme Manwaring Viccauilley Mastrapa Pendieton Marquez **Mcwhite** Millines Paredes McCoy McNab Merced Montilla Omeilia Pearson Milano Mundie Negron Viarks Nobles Oberto Orozco Owens Pender Moise Velson Muller Vallen Pirchio Pirchio Pirchio Pisano Phalin Moe £