



Bureau of Human Resources
500 East Capitol Avenue
Pierre, South Dakota 57501-5070
Phone: 605.773.3148 Fax: 605.773.4344
<http://bhr.sd.gov>

January 23, 2014

Bureau of Human Resources Response to Eide Bailly's Internal Control Recommendations:

General Concerns

1. Area of Concern

The Bureau of HR's employee handbook fails to adequately discuss employee fraud and its consequences.

BHR's response:

BHR relies on South Dakota Codified Law and the Administrative Rules of discipline regarding what constitutes fraud in the workplace. BHR utilizes and communicates all statutes and administrative rules in disciplinary actions toward employees and in training for supervisors. Supervisors are required to attend such training every three years. BHR agrees to include a reference to such laws as stated below in the employee handbook and to include a section that addresses fraud and its consequences. Further BHR will include a link on the BHR intranet website to the Administrative Rules that govern the conduct of state employees.

SDCL 3-6D-22. Grievance for retaliation against whistleblower. An employee may file a grievance with the Civil Service Commission if the employee believes that there has been retaliation because of reporting a violation of state law through the chain of command of the employee's department or to the attorney general's office or because the employee has filed a suggestion pursuant to this section.

SDCL 3-8-3. Salaried state officer retaining money received as theft. Any officer receiving a salary from the state who shall keep or retain any money, emolument, fee, or perquisite, paid to or received by him for the performance of

any duty or duties connected with his office, or in any manner paid to him as such officer or by reason of his holding such office is guilty of theft. It is the intent and meaning of this section that no officer receiving a salary from the state shall keep or retain any money, emolument, fee, or perquisite paid to him by reason of his holding such office, other than the annual salary payable to such officer as provided by the Constitution.

SDCL 3-8-4. Dual salaries prohibited. Except as provided in §§ 3-8-4.1 to 3-8-4.3, inclusive, no person receiving a salary payable out of the state treasury or from the funds of any state institution or department, may, during the period for which such salary has been or is to be paid, receive any other salary from the state or any institution or department thereof.

ARSD 55:10:01:07. Dual compensation for state duties prohibited. Except as provided in §§ 3-8-4.1 to 3-8-4.3, inclusive, an employee may not receive dual compensation during the employee's performance of official state duties.

ARSD 55:10:01:06. Outside employment. An employee may take outside employment with the approval of the employee's appointing authority if there is no conflict with working hours, the employee's work efficiency, or the interest of state government. An employee may not engage in outside business or personal activities while on duty, nor may government property be used for anything but government functions.

ARSD 55:10:07:04. Causes for disciplinary action. Disciplinary action under this section may be taken for conduct within or outside the scope of employment. Disciplinary action may be taken for just cause as reported to the commissioner, including the just causes listed in this section:

(1) The employee admitted to committing, or has committed based on reasonable grounds, or was convicted of a felony, any sex offense, or any crime involving illegal drugs or illegal use of legal drugs, whether the felony, offense, or crime occurred prior to or during employment with the state;

(2) The employee has committed or contributed to any act of brutality, cruelty, or abuse to an inmate, prisoner, resident, or patient of an institution, to a person in custody, or to other persons, whether the conduct occurred prior to or during the course of employment, provided the act committee was not necessarily or lawfully done in self-defense, to protect the lives of others, or to prevent the escape of a person lawfully in custody;

(3) The employee has violated any of the provisions of SDCL chapter 3-6D or this article;

(4) The employee has violated any department, division, bureau, or institution regulation, policy, or order or failed to obey any oral or written directions given by a supervisor or other person in authority;

(5) The employee has consumed alcohol or other intoxicants or unauthorized controlled substances while on duty or is impaired while on duty or while operating state equipment or has unlawfully manufactured, distributed, dispensed, possessed, or used a controlled substance in the workplace;

(6) The employee is guilty of insubordination;

(7) The employee disrupts the efficiency or morale of the department;

(8) The employee is careless or negligent with the money or other property of the state of property belonging to any person receiving services from the state or has stolen or attempted to steal money or property of the state of property belonging to any person receiving services from the state;

(9) The employee has used, threatened to use, or attempted to use personal influence or political influence in securing employment, promotion, leave of absence, transfer, change of pay rate, or change in character or work for the employee or others;

(10) The employee has induced or has attempted to induce an officer or employee of the state to commit an unlawful act or to act in violation of any department, division, bureau, or institution regulation or order;

(11) The employee, in the course of work or in connection with it, has taken from any person for personal use a fee, gift, or other valuable thing when the fee, gift, or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons;

(12) The employee has engaged in outside business or personal activities on government time or has used state property for those activities in violation of § 55:10:01:06;

(13) The employee has failed to maintain a satisfactory attendance record based on the established working hours or has had unreported or unauthorized absences;

(14) The employee made a false or misleading statement or omitted relevant information during the application and selection process;

(15) The employee has misused or abused leave;

- (16) The employee has intentionally falsified a state record or document;
- (17) The employee failed to maintain the minimum requirements for appointment as established by a law enforcement agency;
- (18) The employee has harassed another person in the course of employment;
- (19) The employee has violated statutes or standard work rules established for the safe, efficient, or effective operation of the agency;
- (20) The employee discriminated against another person in the course of employment on the grounds contained in SDCL 20-13-10 or has taken wrongful actions against another person that affect the vicarious or imputed responsibility of the state or any other state employee;
- (21) The employee has failed to notify the appointing authority within five days after a conviction of a violation of a criminal drug statute occurring in the workplace;
- (22) The employee has failed to obtain, renew, or maintain a license or certification necessary to perform the duties of the employee's position;
- (23) The employee failed or refused to take a drug test administered pursuant to SDCL chapter 3-6F or 49 C.F.R. Part 382 (December 1, 1995);
- (24) The employee has failed to complete the counseling program outlined in § 55:10:02:10;
- (25) The employee has been found unacceptable as a result of an employment screening conducted by the appointing authority, the Bureau of Human Resources, or an authorized representative; or
- (26) The employee has engaged in conduct, either prior to or during employment with the state that reflects unfavorably on the state, destroys confidence in the operation of state services, or adversely affects the public trust in the state.

General Concerns continued.

2. Area of Concern

Employees are not aware of the available channels for reporting employee theft and fraud.

BHR's response:

BHR relies on South Dakota Codified Law 3-6D-22. The statute provides the proper chain of command for reporting a violation of state law to either the chain of command in the employees department or to the attorney general's office. This statute also provides for protection against the whistleblower. Human Resource Manager's within BHR communicate this to the agencies for which they are assigned. BHR agrees to include a SDCL 3-6D-22 in the employee handbook and will include a section to address fraud and its consequences.

SDCL 3-6D-22. Grievance for retaliation against whistleblower. An employee may file a grievance with the Civil Service Commission if the employee believes that there has been retaliation because of reporting a violation of state law through the chain of command of the employee's department or to the attorney general's office or because the employee has filed a suggestion pursuant to this section.

General Concerns Continued.

3. Area of Concern.

Background checks are not performed on all new hires at GOED.

BHR's response:

BHR would support GOED in the question of performing background checks on potential new hires. A number of agencies have advocated for this in State government and BHR has been supportive of such action.

Employee Expense Reimbursements:

The report did not make recommendations in this area of concern that included BHR. BHR has no comment.

Payroll.

1. Area of Concern

The Director of Administration adds and removes employees from the accounting system as well as processes employee payroll.

BHR's response:

BHR does have an audit function in the GHR payroll system that segregates duties from the Director of Administration. BHR would ask that Eide Bailly research this process further through BHR to better understand the segregation of duties within the GHR payroll system.

An example of a separation of duties from GOED's Director of Administration:

GOED's Director of Administration would load the new hire, rehire, transfer, or pay increase in the GHR payroll system. Any of these actions would work through a process flow (hard copy and electronic) to Ms. Flottmeyer, BHR Human Resource Specialist. Ms. Flottmeyer would then review and approve or return with questions to the GOED's Director of Administration. Once approved by Ms. Flottmeyer the payroll change becomes an updated record in with the GHR payroll system.



Laurie R. Gill
Commissioner

1-23-14
Date