

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 LUNG CHIU, CIG, CPA INSPECTOR GENERAL SCHOOL BOARD
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MEMORANDUM

TO:

Honorable Chair and Members of the School Board

Dr. Robert Avossa, Superintendent

Chair and Members of the Audit Committee

KLC

FROM:

Lung Chiu, Inspector General

DATE:

12/12/2017

SUBJECT:

Transmittal of Final Investigative Report

Case #17-649

Maintenance & Plant Operations

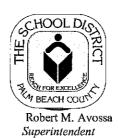
Overtime Abuse, Nepotism

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

The report addresses allegations of Overtime Abuse and Nepotism. Specifically, the allegation is that an administrative assistant is not justified in accruing overtime and that she supervises a relative in the department.

The results of the investigation determined the allegations to be 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: 17-649

Date of Complaint: July 25, 2017

Complainant:

Anonymous

Subject:

Karen Wagner

Witnesses:

Director of Maintenance & Plant Operations Steven Backhus Executive Administrative Assistant Linda Karen Wagner Chief of Facilities Wanda Paul

> 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 investigation was conducted by Investigator Tanya Lawson, I.D. #201, 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 Tuesday, July 25, 2017, the OIG received a referral from the Office of Professional Standards. The complaint is regarding a possible violation of School District Policies 6.12 (Overtime/Compensatory Time Off Under Certain Circumstances) and Policy 3.60 (Nepotism). The complaint alleges overtime abuse by Maintenance and Plant Operations (MPO) Executive Administrative Assistant Linda Karen (Karen) Wagner. Additionally, the complainant alleges that Ms. Wagner directly supervises her son Kevin Wagner.

BACKGROUND

Maintenance & Plant Operations is a division of Facilities Management of the Palm Beach County School District.

ALLEGATIONS AND FINDINGS¹

- 1. The allegation that Karen Wagner is not entitled to receive overtime and the overtime is unjustified is *Unsubstantiated*.
- 2. The allegation that Karen Wagner directly supervises Kevin Wagner and is in violation of the District's Nepotism policy is *Unsubstantiated*.

GOVERNING DIRECTIVES

- 1. Fair Labor Standards Act (FLSA)
- 2. Florida Statute 468.607 Certification of Building Code Administration and Inspection Personnel
- 3. Florida Statute 468.602 Exemptions
- 4. Florida Statute 1012.23(2) School District Personnel Policies
- 5. Florida Statute 112.3135 Restriction on Employment of Relatives
- 6. House Bill 1021 Florida Certification as a Building Code Inspector
- 7. School District Policy 6.12 Overtime/Compensatory Time off Under Certain Circumstances
- 8. School Board Policy 3.28 Whistleblower Protection Policy
- 9. School Board Policy 3.02 Code of Ethics
- 10. School District Policy 3.60 Nepotism
- 11. School Board Payroll and Time & Labor Training Manual; Merit Pay

ALLEGATION 1: EVIDENCE & TESTIMONY

Testimony of Executive Administrative Assistant Karen Wagner

On August 22, 2017, the OIG interviewed Karen Wagner. Ms. Wagner stated that she is an Executive Administrative Assistant. Ms. Wagner previously worked at the North County Support Center located at 3661 Interstate Park Road North. In August 2013, Mr. Backhus asked Ms. Wagner to assist him as his administrative assistant in his interim position as Chief of Facilities.

Ms. Wagner stated she received a promotion in May 2017 to Executive Administrative Assistant. Ms. Wagner stated at the current time, she supports two directors, Steve Backhus and Chief of Facilities Wanda Paul. Ms. Wagner stated that part of her duties include attending meetings for Mr. Backhus, responding to the emails that come in for Mr. Backhus, and responding to emails that come in for her. Ms. Wagner stated she currently has 142 emails in her District in-box, which is down from the 187 emails she had upon her arrival to work on Monday. Ms. Wagner stated Mr. Backhus receives approximately 100 emails per day, and she receives approximately 30-40 daily.

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

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Ms. Wagner further stated she assists Mr. Backhus in his duties as Director of the MPO Department, Ms. Paul, and helps to coordinate the Facilities Condition Assessment² project. Ms. Wagner stated her job will be easier once the new administrative assistant is hired for Mr. Backhus.

Ms. Wagner stated that on average, she arrives at work between 6 AM and 7 AM, and leaves work around 6:30 PM. Ms. Wagner stated she generally accrues between two and three hours per week in overtime. Ms. Wagner stated she catches up on anything she could not get done during the regular eight-hour work day. Ms. Wagner said that an example of the work she does during overtime hours is processing the payroll for the Administrative Group and the Financial Group, which consists of approximately 25 employees. Ms. Wagner stated Mr. Backhus approves her overtime.

Ms. Wagner explained that a secondary position (Facilities Management Support Technician) was created in July 2017 for her to receive overtime. Ms. Wagner stated when she received her promotion to Executive Administrative Assistant, she was no longer in the MPO division, and therefore, a temporary position was created for her to continue receiving overtime.

Testimony of Director Maintenance & Plant Operations Steven Backhus

On August 30, 2017, the OIG interviewed Director Maintenance & Plant Operations Steve Backhus. Mr. Backhus stated Karen Wagner has been his administrative assistant for the past four or five years. Mr. Backhus stated some of the duties Ms. Wagner is responsible for is project planning, secretarial duties and being his personal assistant. Mr. Backhus stated Ms. Wagner currently works for him and the new Chief of Facilities, Wanda Paul. Mr. Backhus stated Ms. Wagner has various duties and responsibilities including answering his emails, answering phone calls, and addressing complaints. Mr. Backhus stated he receives between 25-50 emails daily, and Ms. Wagner receives more.

Mr. Backhus verified that the documents presented to him during the interview, titled "Facilities Services Overtime Authorization Request" contained his signature authorizing Karen Wagner to receive overtime (Exhibit 1). Mr. Backhus stated that the Facilities Management Support technician position was created for Ms. Wagner because Facilities did not have money in their budget to pay overtime. Mr. Backhus stated he usually signs the authorization for overtime prior to the overtime being accrued, but stated that he has occasionally signed after the fact. Mr. Backhus stated Ms. Wagner's overtime does sometimes include her working on the weekends. Mr. Backhus stated Ms. Wagner's overtime should be greatly decreased once he hires an administrative assistant.

Mr. Backhus also stated Ms. Wagner does payroll for a small group in the maintenance group. Mr. Backhus stated Ms. Wagner does not do payroll for her son Kevin Wagner or him. Mr. Backhus said that as a part of Ms. Wagner's duties, she coordinated job interviews with H.R. Technician III Gloria Basante. In addition, Ms. Wagner had shared access to Mr. Backhus' emails, which gave Ms. Wagner the opportunity to view interview questions. Mr. Backhus stated Ms. Wagner does not supervise any staff.

² Facilities Condition Assessment assessed the condition of all schools/facilities in Palm Beach County.

Testimony of Chief of Facilities Wanda Paul

On September 22, 2017, the OIG interviewed Chief of Facilities Wanda Paul. Ms. Paul stated she was hired on May 22, 2017. Ms. Paul stated Ms. Wagner usually comes in around 7:15 AM. Ms. Paul stated Ms. Wagner is often still at work when she leaves for the day around 6:30 PM. Ms. Paul stated Ms. Wagner is always working and she does not have any issues with Ms. Wagner's work ethic. Ms. Paul stated Ms. Wagner is performing administrative duties for Steve Backhus and herself, but that will be changing in the near future because MPO has recently hired an administrative assistant for Steve Backhus.

Documentation Reviewed

The OIG obtained reviewed PeopleSoft, to determine the amount of overtime Ms. Wagner worked. The review determined that Ms. Wagner has accrued 408 hours of overtime in 2017. Ms. Wagner worked 236.25 hours of overtime as an Executive Administrative Assistant and 171.75 hours as a Facilities Management Support Technician (Table 1).

Table 1 illustrates the total overtime accrued by Karen Wagner.

DEPT.	POSITION	AMOUNT	OVERTIME HRS
Facilities	Executive Admin. Asst.	\$ 10,698.51	236.25
MPO	Tech Facilities Mgmt. Suppt.	\$ 5,763.54	171.75
	TOTAL:	\$16,462.05	408

Ms. Wagner provided timesheets that demonstrated she documented her overtime by completing School District Form PBSD 1970 Facilities Services Overtime Authorization Request. However, the forms did not specifically describe the duties/activities, and times worked (Exhibit 1). The Job Description says "work on various office tasks." This description is listed on the Facilities Services Overtime Authorization Request forms. Ms. Wagner did not specify the start and end times of the overtime hours worked.

Based on the evidence obtained, documents reviewed, and School Board approved Job Descriptions that state Executive 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), the OIG has concluded that as a non-exempt employee, Karen Wagner is eligible to accrue overtime.

Based on the information obtained during this investigation, the OIG has determined that the allegation that Karen Wagner is not entitled to receive overtime and the overtime is unjustified is *Unsubstantiated*.

ALLEGATION 2: EVIDENCE & TESTIMONY

Testimony of Director Maintenance & Plant Operations Steven Backhus

Steve Backhus confirmed during his interview with the OIG on August 30, 2017, that Karen Wagner does not supervise any staff.

School District Policy 3.60 Nepotism states in part:

• No School Board member or employee may directly supervise or be directly supervised by an employee to whom the person is related.

However, the OIG notes the following:

School District Policy 3.60 Nepotism

• It is the intent of this policy to avoid any situation where there can arise the appearance of conflict of interest either on the part of a School Board member or an employee of the School District.

Kevin Wagner was hired in the MPO department in June 2016, and was promoted to Area Facilities Maintenance Manager in July 2017. Kevin Wagner's résumé does not specifically list any prior experience in the field of maintenance, construction, or engineering etc. (**Exhibit 2**). Further review of Kevin Wagner's qualifications, the hiring process, the promotion process, and possible conflicts of interests to be addressed by the Office of Professional Standards.

Karen Wagner's daughter, Erin Monier was also hired in the MPO department in June 2017 for the position of Maintenance Services Representative (Exhibit 3). Further review of Erin Monier's qualifications, the hiring process, and possible conflicts of interests to be addressed by the Office of Professional Standards.

Documentation Reviewed

The OIG reviewed documentation received from H.R. Technician III Gloria Basante and H.R. Analyst III Judyann Terrell. The following documentation was reviewed for the positions of Area Manager, Coordinator I, and Maintenance Services Representative.

- Interview questions and responses.
- Interview score sheets.

The OIG has concluded that Steve Backhus is the supervisor for Karen Wagner, Kevin Wagner and Erin Monier. Ms. Wagner does not supervise either of her children

Based on the testimony obtained and documentation reviewed, the OIG determined the allegation that Karen Wagner directly supervises Kevin Wagner, and is in violation of the District's Nepotism policy is *Unsubstantiated*.

ADDITIONAL INFORMATION

Based on answers provided by H.R. Partner Melicia Charleston, H.R. Technician III Gloria Basante, and H.R. Analyst III Judyann Terrell, the OIG determined that no one in Recruitment and Retention was made aware that Kevin Wagner and Erin Monier were related to Karen Wagner during their application for employment phase. Ms. Charleston, Ms. Basante nor Ms. Terrell could recall being made aware of the family relationship during the application phase or the interview phase.

On November 29, 2017, Recruitment and Retention Secretary Jennifer Velez verified that the District's employment application does not ask the applicant to disclose if the applicant is related to anyone in the District. However, Ms. Velez stated the applicant should disclose that information when they apply online and prior to an interview.

School District Policy 3.60 Nepotism

Responsibility and Compliance

- The applicant/employee is responsible and accountable for providing accurate and complete information regarding the identity of his/her relatives on disclosure forms/statements required for employment, assignment, transfer or promotion.
- The Division of Human Resources will be responsible for implementing the provisions of this policy based upon the disclosure information furnished by the applicants and employees.
- Administrators/supervisors will be responsible for abiding by this policy, ensuring that
 employees within their jurisdiction are aware of the provisions of this policy, and
 reporting any inconsistencies or conflicts within three business days in writing to the
 Division of Human Resources. Failure to provide notification as provided herein is
 grounds for disciplinary action, up to and including dismissal.
- The Division of Human Resources, with the relevant work unit, is responsible for reviewing disclosure information submitted by the applicant/employee and considering the provisions of this policy prior to making assignments, transfers or promotions.

RECOMMENDATIONS

The OIG recommends that the question "are you related to working anyone in the District" be added to the District's online job application.

The OIG further recommends that School District Policy 3.60 5(b) be revised/amended to include the name of the specific disclosures and/or when in the application process family relationships should be disclosed. The OIG could not determine if specific disclosures are accessible to the applicant, and if the applicant is made aware of their responsibility to inform Human Resources or Recruitment and Retention of any relatives they may have working in the District.

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The OIG requests that the District advise this office in writing of the actions taken in response to the above recommendation(s) within 30 days of receipt of this report.

AFFECTED PARTY NOTICE

In accordance with School Board Policy 1.092 (8)(b)(iv), on October 20, 2017, Karen Wagner and Steve Backhus were notified of the investigative findings and provided with an opportunity to submit a written response to these findings. The OIG did not receive a written response from Karen Wagner or Steve Backhus (retired October 31, 2017).

DISTRIBUTION

Palm Beach County School Board Members Robert M. Avossa, Superintendent Audit Committee Members Dianna Weinbaum, Director Professional Standards OIG file Investigation Conducted by:

Tanya/Lawson

Date

Investigation Supervised by:

Oscar Restrepo, CIGI, Director of Investigations

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.





Facilities Services Overtime

Authorization Request

Complete this form and submit to Facility Coordinator for approval. After Team Leader's approval forward to General Manager of Facilities Services.

REQUESTER CHARLES TO 11			TEAM / AREA				DATE OF REQUEST
Stephen Backhus school center or facility		·	Administra	ation			01/15/2016
Maintenance and Plant Op	perations						
WORK ORDER NO.			JOB	DESCRI	TION		
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Facilities Services Overtime

Authorization Request

Complete this form and submit to Facility Coordinator for approval. After Team Leader's approval forward to General Manager of Facilities Services.

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Stephen Backhus school center or facility			Administra	tion		01/22/2016	
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PBSD 1970 (Rev. 03/15/2010)

THE SCHOOL DISTRICT OF PALM BEACH COUNTY

Facilities Services Overtime

Authorization Request

Complete this form and submit to Facility Coordinator for approval. After Team Leader's approval forward to General Manager of Facilities Services.

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ORIGINAL - Facilities Coordinator, forward to General Manager



PBSD 1970 (Rev. 03/15/2010)

THE SCHOOL DISTRICT OF PALM BEACH COUNTY

Facilities Services Overtime

Authorization Request

Complete this form and submit to Facility Coordinator for approval. After Team Leader's approval forward to General Manager of Facilities Services.

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ORIGINAL - Facilities Coordinator, forward to General Manager



Facilities Services Overtime

Authorization Request

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PBSD 1970 (Rev. 03/15/2010)

ORIGINAL - Facilities Coordinator, forward to General Manager



Facilities Services Overtime Authorization Request

Authorization Request
Complete this form and submit to Facility Coordinator for approval. After Team Leader's approval forward to General Manager of Facilities Services.

Stephen Backhus			TEAM/AREA			DATE OF REQUEST
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EXHIBIT

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Kevin Wagner

Crate & Barrel Outlet

Surrise, FL

Store Manager 2007-2011

- Manage all aspects of store operations, finance and personnel management in a store earning 33.5 million in annual revenue.
- Create, drive and oversee projects relating to improving customer experience in the store and increasing sales. I initiated and oversaw numerous marketing directives, coordinating their implementation through Crate's corporate office, as well as various sales training projects.
- Responsible for all aspects of customer interaction, including: customer service training of all personnel, development and retraining of associates, direct resolution of any customer service issues arising in store, as well as training and empowering management staff to also be able to handle service issues, and customizing point of sale interactions to meet specific sales goals.
- Responsible for all aspects of business operations, including: yearly budgeting of sales goals and payroll hours/staffing, hiring, firing and review of staff of 30, daily deposits, daily reconciliation of receipts, inventory control management and daily management of the store.
- Responsible for store morale and continuing education/training of personnel including: weekly sales meetings, sales contests, team building games, product knowledge and sales/customer service training, and general associate development.
- Oversee all aspects of inventory control, direct supervision of full-time stock staff of 4, overseeing all incoming/outgoing shipments, and conducting semi-annual physical inventory achieving a total inventory shrink of <1.4% for two years [goal was typically 2%].

Crate & Barrel Aventura & Sawgrass Outlet Aventura, FL/Sunrise, FL Assistant/Acting Store Manager 2002-2007

Managed all aspects of store operations, finance and personnel management in a store earning approximately \$6 million in annual revenue.

Supervisor for staff of 45 [approximately 65 during the holidays], including stock, sales, office and managerial support staff.

Responsibilities include: interviewing, hiring and termination, conducting performance reviews, sales floor management, stock room supervision.

Proficient with completing, troubleshooting daily reconciliation of sales, daily deposits, all back office finance.

Handled all aspects of customer service from resolving customer complaints and service issues to organizing product demonstrations and gifts/incentives for customers.

Reduced inventory shrinkage from approximately 3.5% to under 2%, consistently maintained for three years through direct supervision of stock staff and implementation of inventory management protocols.

Attended numerous regional management training seminars including Situational Leadership I & II.

Position also doubled as sales floor manager; store achieved a 60% employee retention rate and average annual sales increase of 9%.

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	☐ Position Management R	ecord			
Regulatory Region:	USA	United States			
Company:	PBC	School Dist of Pal	m Beach Co		
Business Unit:	SDPBC	School Dist of Pal	m Beach Co		
Department:	9450	Maintenance & Pla	ant Operations		
Department Entry Date:	06/05/2017				
Location:	9450	Maintenance & Pla	ant Operation		
Establishment ID:	SDPBC	School Dist Of Pa	lm Beach Co	Date Create	d: 05/12/2017
Last Start Date:	06/05/2017			and the desirement devices an extension and the second second second second second second second second second	mmma-varigeride/2004/vii/devikk-varianiyariiqeyayigegggggggg
Expected Job End Date:		☐ End Job Auto	matically	: Gristade Grist Addition (Common annual Maineanna annual de a saonnaga agus gristaficia (a se	
Job Data	Employment Data	Earnings	Distribution	Benefits P	rogram Participation

Work Location | Job Information | Job Labor | Payroll | Salary Plan | Compensation | PB Job Data