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February 1, 2021

Performance Audit  
Recommendations and  
Corrective Actions for Audit:  
17-03

STATE EMPLOYEE  
MISCONDUCT

Handling of Allegations by the  
Department of Human Resources  
and Selected Organizations  
Needs Improvement in  
Documentation and Timeliness

Dated: June 23, 2017

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# Overview

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The State Auditor's Office (SAO) makes recommendations designed to improve the operations of state government. For our work to produce benefits, auditees or the General Assembly must implement these recommendations, although we cannot require them to do so. Nevertheless, a measure of the quality and persuasiveness of our performance audits is the extent to which these recommendations are accepted and acted upon. The greater the number of recommendations that are implemented, the more benefit will be derived from our audit work.

In 2010, the SAO began to follow-up on the recommendations issued in our performance audits. Experience has shown that it takes time for some recommendations to be implemented. For this reason, we perform our follow-up activities one and three years after the calendar year in which the audit report is issued. Our annual performance reports summarize whether we are meeting our recommendation implementation targets.

<http://auditor.vermont.gov/about-us/strategic-plans-and-performance-reports>

This report addresses the requirements of Act 155 (2012) to post the results of our recommendation follow-up work on our website. The report does not include follow-up on recommendations issued as part of the state's financial statement audit and the federally mandated Single Audit, which are performed by a contractor. However, our current contract for this work requires the contractor to provide the results of its recommendation follow-up.

Rec #	Recommendation	Follow-Up Date	Status	Review Comments
DHR-1	Department of Human Resources (DHR) - Modify the DHR Investigation Unit's (IU) SharePoint® system or develop a new system to be a repository of allegations, investigations, and resolutions of all employee misconduct decisions, and include edits to help ensure that records are complete and accurate.	2018	Partially Implemented	While DHR did not report that it made changes to the system it uses to track employee misconduct cases, the Department's revised employee misconduct process requires that the system be used to record decisions on all allegations, including those in which a decision was made not to investigate.
		2020	Partially Implemented	While DHR did not report that it made changes to the system it uses to track employee misconduct cases, the department's revised employee misconduct process requires that the system be used to record decisions on all allegations, including those in which a decision was made not to investigate.
DHR-2	Develop and implement a procedure for ensuring that extensions of employees' Temporary Relief From Duty (RFD) status beyond 30 workdays is approved, and ensure that the subject employee is notified in writing of such extensions.	2018	Not Implemented	DHR did not provide evidence that it had implemented this recommendation.
		2020	Partially Implemented	DHR held a meeting with its field staff on 1/30/2019 when the requirement for RFD extension letters was reviewed.
DHR-3	Develop a report to send to appointing authorities (AA) periodically with a list of all employees in RFD status and their duration in this status.	2018	Partially Implemented	DHR provided an example of a report that lists all employees in RFD status. However, DHR indicated that it distributes such reports only when requested and not on a scheduled basis.
		2020	Partially Implemented	DHR created a report that lists all employees in RFD status. However, DHR indicated that it distributes such reports only when requested and not on a scheduled basis.
DHR-4	Require that the assigned investigator, whether at the DHR IU, department, or DHR field operations unit, summarize the procedures conducted and information collected on all employee misconduct cases. This could be an investigation report, memorandum, or other summary documentation.	2018	Partially Implemented	DHR reported that summaries are prepared when warranted and provided evidence that supported why it did not prepare such summaries in eight cases. However, DHR's employee misconduct process does not explicitly require that investigation reports or summaries be prepared or provide criteria when they do not need to be prepared.
		2020	Partially Implemented	DHR reported that summaries are prepared when warranted. However, DHR's employee misconduct process does not explicitly require that investigation reports or summaries be prepared or provide criteria when they do not need to be prepared.
DHR-5	Require that AAs or designees document their rationale (e.g., analysis of the 12 factors) for the decision to impose a particular type of discipline.	2018	Not Implemented	DHR responded that it does not intend to implement this recommendation.
		2020	Not Implemented	DHR reported that it took no action on this recommendation.

Rec #	Recommendation	Follow-Up Date	Status	Review Comments
DHR-6	Develop a mechanism to maintain a comprehensive and easily accessible record of all discipline and stipulated agreements for all employees, and make this information available to appointing authorities and designees.	2018	Not Implemented	DHR responded that they do not intend to implement this recommendation.
		2020	Not Implemented	DHR reported that it took no action on this recommendation.
DHR-7	Consider requiring DHR staff to provide a written summary of the subject employee's discipline history to staffing meeting attendees.	2018	Not Implemented	DHR responded that it does not intend to implement this recommendation.
		2020	Not Implemented	DHR reported that it took no action on this recommendation.
DHR-8	Develop a user manual for the DHR IU SharePoint® system that includes descriptions of each field and expected values.	2018	Not Implemented	DHR responded that it does not intend to implement this recommendation.
		2020	Implemented	DHR developed a new user guide, which it reviewed with its field staff on October 8, 2020.
DHR-9	Develop a target for when investigations are expected to be completed regardless of the organization of the investigator, and track the extent to which this target is being met.	2018	Partially Implemented	DHR responded that investigation completion targets are reported annually in results-based accountability
		2020	Partially Implemented	DHR reported that investigation completion targets are reported annually in results-based accountability documents. The reported targets are tracked for investigations conducted by the DHR IU or other DHR staff only and does not include investigations conducted by others.
DHR-10	Develop a target for when AAs or designees are expected to finalize the disposition of a case, and track the extent to which this target is being met. There could be separate targets depending on the type of expected outcome (e.g., unsubstantiated, suspensions, or stipulated agreements).	2018	Not Implemented	DHR responded that it does not intend to implement this recommendation.
		2020	Not Implemented	DHR reported that it took no action on this recommendation.
AOT BGS DOL DPS VVH*  -1-	Develop a process in conjunction with DHR to document the decisionmaker for each disposition of an employee misconduct case, when the decision was made, and confirmation that the disposition was carried out.	2018	Not Implemented	The five agencies and departments have not implemented new or changed processes as a result of our recommendations. They report that they follow DHR guidance, advice, policies and procedures with respect to employee discipline, and associated procedures/processes and DHR has advised that the recommendations in question not be implemented.
		2020	Implemented	DHR's 2020 Sharepoint User's Guide emphasizes the need to update information in its Investigative Unit's system, which includes fields for the name and title of the appointing authority, type of case disposition, and date of disposition.
AOT BGS DOL DPS VVH  -2-	When considering imposing discipline in an employee misconduct case and in conjunction with DHR, document the rationale used in the decision-making process, including how the 12 factors were applied.	2018	Not Implemented	The five agencies and departments have not implemented new or changed processes as a result of our recommendations. They report that they follow DHR guidance, advice, policies and procedures with respect to employee discipline, and associated procedures/processes and DHR has advised that the recommendations in question not be implemented.
		2020	Not Implemented	The five agencies and department reported that they have not taken action on this recommendation.

Rec #	Recommendation	Follow-Up Date	Status	Review Comments
AOT BGS DOL DPS VVH  -3-	Develop a process in conjunction with DHR to notify DHR of all employee misconduct allegations and resolutions.	2018	Not Implemented	The five agencies and departments have not implemented new or changed processes as a result of our recommendations. They report that they follow DHR guidance, advice, policies and procedures with respect to employee discipline, and associated procedures/processes and DHR has advised that the recommendations in question not be implemented.
		2020	Not Implemented	The five agencies and department reported that they have not taken action on this recommendation.

\*Identical recommendation made to each of the following five entities:

- AOT            Agency of Transportation
- BGS            Department of Buildings and General Services
- DOL            Department of Labor
- DPS            Department of Public Safety
- VVH            Vermont Veterans Home