

# **City of Baltimore Department of Human Resources Response**

Case # 23-0017-I

**REPORT FRAUD, WASTE AND ABUSE**

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*This public synopsis is only a summary of a more comprehensive report of investigation submitted to the appropriate City management official*

Confidential



## Management Alert Response

Department of Human Resources  
Office of Policy and Compliance  
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# Management Alert Response

## A. Allegation

The Office of the Inspector General (OIG) issued a management alert dated March 3, 2023. The Management alert indicated that it initiated an investigation into a complaint regarding ██████████ Mayor's Office of Minority/Women's Office of Business Development (MWOBD) ██████████. More specifically, the complaint alleged that ██████████ held concurrent employment with the City of Baltimore (the City) and the Baltimore City Public School System (BCPSS) between March and October 2022. It is further alleged that ██████████ was paid by both the City of Baltimore and Baltimore City Public School System for work performed during the same days and hours.

The alert mentioned that the OIG independently corroborated the allegation that ██████████ was employed simultaneously by the City and the BCPSS. The OIG confirmed that ██████████ was authorized to work remotely for the City position between March and October 2022 and, during the same time, was physically present in the BCPSS offices Monday through Friday between March and May 2022 before switching to a hybrid schedule of three days in the BCPSS offices.

The OIG, therefore, noted that AM 200-13 does not explicitly address the matter of secondary employment while teleworking for the City. The OIG also stated that although AM 200-13 does not detail secondary employment while teleworking, AM 200-1: *Concurrent City Employment* prohibits concurrent city employment by a City employee with another City agency. They further pointed out that AM 200-1 is silent on dual employment between a City agency and a quasi-City agency such as BCPSS and needs to address if a City employee can have overlapping schedules while working for a City agency and a quasi-City agency.

Therefore, the OIG recommended that the City revise AM 200-1 and AM 200-13 to address dual simultaneous employment while teleworking and how the AM policies apply to concurrent employment with a quasi-City agency.

## B. Relevant Policy

This management alert response will analyze AM 200-13 (*Telework Policy*) and AM 200-1 (*Concurrent City Employment Prohibition*).

## C. Analysis

This management alert response will address the following questions:

1. Is the Baltimore City Public School Systems a quasi-agency and therefore subject to AM 200-1?

No, Baltimore City Public School System (BCPSS) is not a quasi-agency of the City of Baltimore. The State of Maryland created the Baltimore City Board of School Commissioners in 1997 as a partnership between the Mayor and City Council of Baltimore and the State. Senate Bill 795, 1997 explicitly states that the Baltimore City Board of School Commissioners of the Baltimore City Public School System "shall

have the authority and be responsible for all functions relating to the Baltimore City Public School System.” The Board is the local education authority in Baltimore City and provides a free public education to students residing there. §4-303, MD. CODE ANN., EDUC. Like all other local education authorities, the Baltimore City Board of School Commissioners is an arm and instrumentality of the State and not municipal government. Absent any separate defining authority or structure that subjects BCPSS to the City’s AM policy, it is distinct from municipal agencies and subject only to the governing rules in statute, COMAR and BCPSS promulgated policy.

2. Does the telework policy restrict a person from having concurrent employment?

The telework policy, AM 200-13 does not explicitly address the matter of secondary employment while teleworking for the City. However, Section A of “Terms for Teleworking” states clearly that all employees eligible to participate in the telework program must adhere to the approved telework schedule and **work from an approved worksite**. “Section A” also says that teleworking employees must account for, and report time spent at the alternative work location in the same manner **as if the employee reported for work at the primary office location**. “Section B of Terms for Teleworking” further explains that employees eligible to participate in the telework program must acknowledge and agree that:

1. *A specific workspace is designated at the alternate work location. The employee's alternate work location will be considered an extension of the City's primary office location. Therefore, the City will continue to be liable for job-related accidents of employees that occur in the alternate work location during the employee's working hours.*

██████████ listed ██████ home office in the telework agreement as ██████ alternative work location in ██████ signed telework agreement with MWOBD. ██████ however, was physically present in the BCPSS offices Monday through Friday between March and May 2022 before switching to a hybrid schedule of three days in the BCPSS offices during the same time as ██████ teleworking hours with MWOBD. ██████ working at the BCPSS office, therefore, violates ██████ telework agreement with MWOBD. Moreover, ██████ was performing work for BCPSS during time that ██████ was scheduled to be working remotely for the City of Baltimore. This also violates ██████ telework agreement with MWOBD as remote work is to be performed in the same manner “as if the employee reported for work at the primary office location.”

Consequently, while the Telework Policy does not explicitly address concurrent work, it does provide safeguards to ensure that employees working remotely are performing City business during scheduled work hours from a designated remote location in the same manner that they would if they reported to a city installation.

AM 200-1 - Concurrent City Employment Prohibition specifies that neither exempt nor nonexempt full-time employees of the City of Baltimore may have concurrent employment with the City of Baltimore. AM 200-1 only provides an exemption to part-time employees. They may have concurrent part-time employment with the City of

Baltimore; however, the employee may not work more than 20 hours per week in each job. Part-time employees may not have employment in more than two concurrent part-time positions with the City of Baltimore. This Policy has been referred to the Policy Review Committee to review and provide recommendations to more clearly articulate the prohibition on simultaneous employment during City work hours.

## Conclusion

Although AM 200-1 does not explicitly state in the policy the prohibitions for concurrent employment between a non-city agency and a city agency, the spirit of the policy is that employees should not be compensated twice for working simultaneously. AM 200-1 seeks to safeguard the City from double-paying employees for the same workday from multiple City agencies. ■■■ reporting that ■ worked at the same times for two agencies not only violates the spirit of AM 200-1, but also violates AM 205-10 Payroll Abuse.

The Policy Review Committee is currently reviewing AM 200-1 to provide recommendations that include language that makes clear that an overlapping schedule is prohibited while working secondary employment. Additionally, the recommendations will define secondary employment as a city employee employed full-time while simultaneously employed in a full or part-time position outside the City. Further recommendations should specify that secondary employment during the same hours as an employee's city employment is strictly prohibited.

The policy is still currently under revision, and updates are still ongoing. These updates will be subject to BoE approval. We have also provided guidance to the HR community that employees should be instructed to notify their agency before accepting secondary employment to avoid the possibility of overlapping work schedules.

It is worth noting that ■■■ conduct violated existing policy and merited discipline had ■ not resigned immediately upon being confronted with ■ concurrent employment with BCPSS.