

Mass Workforce Issuance

Workforce Issuance No. 08-20

Policy **Information**

To: Chief Elected Officials
Workforce Investment Board Chairs
Workforce Investment Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Regional Directors

cc: WIA State Partners

From: David W. Mackley, Director
Department of Workforce Development

Date: June 13, 2008

Subject: **Functional Guidance by Non-State Management / Supervisory Personnel of DWD Employees Assigned to One-Stop Career Centers**

Purpose: To provide policy guidance to Local Workforce Investment Boards, One-Stop Career Center Operators and other local workforce investment partners with regard to the relationship of non-state management and supervisory personnel to on-site state merit-staff employees assigned to a career center location to carry out employment related services under the terms of the required Memorandum of Understanding (MOU) with the Department of Workforce Development DWD.

Background: In partnership with the Local Workforce Investment Boards (LWIBs), the designated local operator and other state and local organizations, the Division of Career Services assigns state merit-staff personnel to perform duties and carry out responsibilities associated with the provision of both core and specialized services as described in the executed MOU required under the Workforce Investment Act of 1998. While the seamless integration of both staff and functionality has been successfully implemented throughout the Massachusetts One-Stop Career Center System, planned organizational changes within the DWD purview warrant a review of the Commonwealth's policy with regard to the appropriate level of authority that may be exercised over its personnel assigned to One-Stop Career Center sites.

Policy: In carrying out their responsibilities as management and/or supervisory employees of the designated One-Stop Career Center Operator, non-state managers and supervisors may provide *functional guidance* to those DWD state merit-staff assigned to provide services at a career center site in conjunction with the terms set forth in the current Memorandum of Understanding between DWD and the LWIB. *Functional guidance* allows for a level of advisement and assistance with regard to how a DWD merit-staff employee carries out his or her assigned responsibilities that must be construed to be at a lower level of authority than the level of direction and oversight engendered in the term, *supervision*.

The Commonwealth's policy is based on the regulatory requirements of the Workforce Investment Act of 1998 as described in the Code of Federal Regulation at 20 CFR §652.216 which states in part:

“As part of the local Memorandum of Understanding, the State agency, as a One-Stop partner, may agree to have staff receive guidance from the One-Stop operator regarding the provision of labor exchange services. Personnel matters, including compensation, personnel actions, terms and conditions of employment, performance appraisals, and accountability of State merit-staff employees funded under the Act, remain under the authority of the State agency. The guidance given to employees must be consistent with the provisions of the Act, the local Memorandum of Understanding, and applicable collective bargaining agreements.”

For added clarity, “terms and conditions of employment” include (but are not limited to):

- the number of hours in the individual's work schedule,
- the individual's daily/weekly work schedule,
- compensation level and range,
- benefit package and schedule,
- job description,
- job responsibilities,
- sign off on specified DWD policies,
- tuition remission,
- travel expense reimbursement,
- overtime and any relevant items negotiated as part of a collective bargaining agreement such as vacation / personal / holiday / sick / military / court / bereavement leave, lunch breaks, and work breaks.

Additionally, the Code of Federal Regulation Final Rule (August 11, 2000) specifically addressed the appropriateness of the use of the word “guidance” in contrast to use of the term “supervision” to describe the level of authority a career center operator may exercise with regard to state agency merit-staff employees.

The Final Rule specifically states that the term *guidance* “best reflects the appropriate relationship that should exist between a non-State agency One-Stop operator and State merit-staff employees funded under the Wagner-Peyser Act in the day-to-day operation of the One-Stop center.”

To assure compliance with the regulatory requirements, each DWD merit-staff employee will have a direct reporting relationship with a designated DWD supervisor/manager for all “Personnel” matters as described in the regulations.

Notwithstanding the requirements of this policy, supervision and guidance of DWD staff assigned to the One-Stop Career Center(s) will be carried out by the respective parties with an expectation of mutual cooperation and consideration by the Operator, DWD and all partner organizations and with a focus on assuring the full and continued delivery of customer services without undue disruption and achieving the performance goals established for the One-Stop Career Center system.

Action

Required: Please assure that each One-Stop Career Center Operator and its management and supervisory personnel are informed of the content of this issuance. Additionally, please assure that no local policy or procedure is implemented that may be construed to be inconsistent with the requirements of this policy.

Effective: Immediately

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.