

Human Resources Policy

Commonwealth of Pennsylvania
Office of Administration

Work Release Requests and Approvals

Number HR-WS005	Effective Date January 20, 2023
Category Workforce Support	Supersedes None
Contact 717.787.8575	Scheduled Review N/A

1. Purpose

To establish a Commonwealth-wide policy on the review and approval of work release requests submitted by Commonwealth employees who are incarcerated due to a criminal conviction or pending criminal charges.

2. Scope

This Human Resources Policy (HRP) applies to all departments, offices, boards, commissions, and councils under the Governor's jurisdiction for human resources management (collectively "agencies").

3. Background

The Commonwealth is committed to maintaining public trust in its workforce and the services provided to its citizens. Employee behavior has a large impact on the public's perception of, and confidence in, the Commonwealth, and in many cases, employees are the first direct contact between the Commonwealth and the citizens we serve. Therefore, it is imperative that the Commonwealth carefully evaluate situations in which an employee is incarcerated due to a criminal conviction or pending criminal charges and subsequently requests approval for work release. For purposes of this HRP, the term "incarcerated" includes confinement at a prison, jail, or similar correctional facility; house arrest or confinement; and court-ordered monitoring (for example: location, blood alcohol level, etc.).

4. Policy

Consistent with the Commonwealth's longstanding policy and practice, the Secretary of Administration hereby directs agencies to adhere to the policy and procedures outlined below regarding the review and approval of work release requests submitted by Commonwealth employees who are incarcerated due to a criminal conviction or pending criminal charges.

- a.** An employee seeking approval for work release must submit a request for work release to their supervisor, who shall forward the request to the agency Human Resources (HR) Office or to the Office of Administration (OA), Human Resources Delivery Center (HRDC) supporting their agency. Where possible, the request should include a copy of the court order or other document making the employee eligible for work release, as well as any conditions or restrictions imposed by the court, probation/parole office, or correctional facility.
- b.** The HR Office or OA, HRDC shall review the employee's request for work release, gather any additional information, and make a recommendation as to whether the request should be granted or denied. In reviewing an employee's request for work release, the HR Office or OA, HRDC shall:
 - (1)** Ensure that all conditions and restrictions associated with the employee's work release have been identified. This may require the HR Office or OA, HRDC to contact the court, the prosecuting authority, the employee's probation/parole officer, and/or the employee's attorney.
 - (2)** Consult with the employee's supervisor to determine the impact that the conditions and restrictions associated with the employee's work release may have upon the Commonwealth operations and the employee's ability to perform their job duties, and determine if any modifications to the employee's job duties would be necessary if the work release request was approved. Conditions and/or restrictions associated with the employee's work release must not result in unacceptable impact upon Commonwealth operations, such as a requirement that the employee's computer be available for inspection by court officers.

- (3)** Consider the extent to which the employee interacts with the public and the extent to which public trust and confidence in the Commonwealth would be undermined if the work release request was approved.
 - (4)** Ensure that the employee has reported all criminal charges (both current and past) as required by the *Executive Order 1980-18 Amended, Code of Conduct* and internal agency policies.
- c.** The agency's Chief Counsel shall review the recommendation of the HR Office or OA, HRDC for any legal issues or concerns.
 - d.** The Agency Head, or their designee, shall review the recommendation of the HR Office or OA, HRDC, as well as any legal issues or concerns noted by the agency's Chief Counsel, and determine whether approval of the employee's request for work release is appropriate.
- (1)** Employees are not entitled to an automatic approval of a request for work release, and an Agency Head or designee may exercise their discretion in disapproving an employee's request for work release where they determine that approval of the request is inappropriate.
 - (2)** If the Agency Head or designee determines that approval of the employee's request for work release is appropriate, the following information shall be provided to OA, Bureau of Workforce Support (BWS), at ra-workplacesupportservices@pa.gov:
 - i.** The employee's name, job title, and work location, including bureau, division, and/or work unit.
 - ii.** The number of years the employee has worked for the Commonwealth.
 - iii.** The employee's previous discipline history and performance reviews.
 - iv.** A description of the charges that led to the employee's incarceration. The description should indicate whether the charges are pending or whether the employee has been convicted of the charges.

- v.** A summary of the employee's previous convictions, if any, including the dates and nature of the charges.
 - vi.** The projected period of the employee's incarceration, including whether the incarceration will be intermittent, and the location/type of the employee's incarceration.
 - vii.** A copy of the court order or other document making the employee eligible for work release, as well as any conditions or restrictions imposed by the court, the probation/parole office, or correctional facility.
 - viii.** An analysis of the impact that the conditions and restrictions associated with the employee's work release may have upon Commonwealth operations and the employee's ability to perform their job duties. The analysis must include any modifications to the employee's job duties that would be necessary if the work release request was approved.
 - ix.** A copy of the preliminary determination made by the Agency Head or their designee, in accordance with Part III, 3.b. of *Executive Order 1980-18 Amended, Code of Conduct*.
 - x.** Whether there have been previous requests for, or approvals of, work release for the employee.
 - xi.** A summary, from the agency's Chief Counsel, of the legal issues or concerns associated with approving the employee's request for work release, if any.
 - xii.** Written approval of the Agency Head or designee.
- e.** OA, BWS shall review the information provided by the agency and will make a final decision regarding the approval or disapproval of the employee's request for work release.

- (1) Absent extenuating and mitigating circumstances, an employee will not be granted more than one approval for work release during their Commonwealth employment. In such circumstances, a Condition of Continued Employment (COCE) or a last chance agreement will be required as a condition of a subsequent work release approval. A COCE will only be considered as part of an initial work release approval if there is a nexus between the nature of the charges that led to the conviction and the employee's job.
- (2) A request for work release will not be granted where the employee's conviction would require termination of their employment under Part III of *Executive Order 1980-18 Amended, Code of Conduct*.

Nothing in this HRP shall be construed to impair or otherwise affect the authority granted by law to an executive department, agency, or the head thereof. This HRP is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth of Pennsylvania, its departments, agencies, or entities, its officers, employees, or agents or any other person.

Should you have any questions or require additional assistance related to the implementation of this policy, please contact OA, BWS at 717.787.8575 or ra-workplacesupportservices@pa.gov.

5. Effective Date

The Effective Date of this HR Policy is January 20, 2023.

6. Related References

Commonwealth policies, including Executive Orders, Management Directives, IT Policies, and HR Policies are published on the [Office of Administration's public portal](#).

7. Publication Version Control

It is the user's responsibility to utilize the latest version of this publication, which appears on the [OA Human Resources website](#) for Commonwealth personnel and on the Office of Administration public portal. Questions regarding this publication are to be directed to 717.787.9872.

This chart contains a history of this publication's revisions:

Version	Date	Purpose of Revision
Original	1/20/2023	Base Document
Revision	3/6/2023	Updated Background Section