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September 11, 2014

Kerry A. Delaney
Acting Commissioner
New York State Office for People with Developmental Disabilities
44 Holland Avenue
Albany, New York 12229

RE: NYS IG 0874-031-2013

Dear Acting Commissioner Delaney:

My office received a complaint alleging that Office of People With Developmental Disabilities (OPWDD) [REDACTED] improperly used a state vehicle to commute between his home and his duty station. I am writing to advise you of the results of our investigation of this matter.

During the period relevant to this matter, [REDACTED] served as [REDACTED] in the Finger Lakes Developmental Disabilities Service Office (DDSO) in Rochester. In this position, [REDACTED] supervised [REDACTED] assigned to the Monroe Developmental Center in Rochester and the Finger Lakes DDSO office in Canandaigua. [REDACTED] is assigned to the Canandaigua office.

Our investigation revealed that in September 2012, [REDACTED] personal vehicle broke down. [REDACTED] advised [REDACTED] of this situation, and she gave him permission to use a state vehicle to commute to work. As [REDACTED] resided in Rochester near the Monroe Developmental Center, he walked to that facility, retrieved a state vehicle and drove to the Canandaigua office, a distance of approximately 26 miles. At the end of his shift, he returned the vehicle to the Monroe Developmental Center and walked home.

When interviewed by my investigators, both [REDACTED] and [REDACTED] admitted to this arrangement. They stated that [REDACTED] used the state vehicle for commuting for approximately two weeks, but conceded that it may have been longer. Our review of vehicle usage logs definitively identified 14 days in September and October 2012 when [REDACTED] used the vehicle solely for commuting between the Monroe Developmental Center and the Canandaigua office. While it seems likely that [REDACTED] commuted on additional days, vehicle records were imprecise and incomplete, and therefore, do not allow for a more definitive analysis.

Our investigation also found that on November 7, 2012, OPWDD staff questioned [REDACTED] about [REDACTED] use of the vehicle for commuting. As a result, [REDACTED] completed an OPWDD Form 389 Change of Duty Station, changing [REDACTED] duty station from the Canandaigua office to the Monroe Development Center retroactive to September 1, 2012. When my investigators questioned [REDACTED] about this action, she conceded that [REDACTED] duty station never changed, and that the only reason she submitted the form was to justify his driving the state vehicle between the Monroe Developmental Center and the Canandaigua office. The completed form did not receive supervisory review, but was filed by [REDACTED] directly with the Finger Lakes DDSO's human resources unit, where it was accepted.

The actions of [REDACTED] and [REDACTED] violated New York State and Finger Lakes DDSO vehicle use policies that, except in limited circumstances not relevant to this matter, prohibit the use of state vehicles for non-business purposes, including commuting. Then, [REDACTED] engaged in additional misconduct by completing a Change of Duty Station form that was false and intended to conceal [REDACTED] misuse of the state vehicle.

I recommend that you review [REDACTED] conduct and take appropriate action. [REDACTED] retired during the pendency of the investigation on August 14, 2013, and therefore, is not subject to discipline. I also recommend that OPWDD review the process by which Change of Duty Station forms are submitted and authorized. OPWDD should consider instituting a substantive review process to ensure that duty station changes serve the interests of the agency and the state rather than merely benefit an individual employee.

With respect to vehicle usage, in February 2013 you along with the [REDACTED] Director of OPWDD's Office of Internal Control, and other staff participated in training on Code of Conduct and Uniform Guidelines provided by me. Among other areas, this training addressed the proper use of state vehicles, including the requirement that agencies adopt statewide vehicle usage policy. A September 27, 2013 letter from [REDACTED] delineated actions taken by OPWDD in response to my training, but was unclear as to whether statewide vehicle usage policy had been instituted. Consequently, in a February 3, 2014 letter, I specifically inquired of [REDACTED] if new state vehicle use policy, promulgated in November 2013, had been adopted and implemented. To date, I have received no reply to this inquiry. I request, therefore, that you provide me with information concerning OPWDD's actions on this matter. It should be emphasized that the new state

policy contains provisions directly relevant to the findings of this investigation: the prohibition on personal use of state vehicles and the requirement that detailed vehicle use logs be maintained.

Further, as [REDACTED] use of a state vehicle for commuting constituted a taxable benefit, OPWDD should ensure that this benefit is properly calculated and reported to the appropriate taxing authorities.

In addition, during our investigation we noted that many of the timesheets submitted by the [REDACTED] in the Canandaigua office were unsigned by the officers and their supervisor. OPWDD should take steps to ensure that timesheets in the Canandaigua office are properly completed, reviewed, and signed as required.

It is requested that within 45 days you advise this office of any actions or decisions taken in response to these recommendations. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

[REDACTED]
Catherine Leahy Scott
Inspector General

cc: New York State Department of Taxation and Finance