

STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE DEVELOPMENT
EQUAL RIGHTS DIVISION

SUZANNE M. WEBER,

Complainant,

v.

ERD Case Nos. CR200700993
CR200703984
CR200802627
CR200902702
CR200903227
CR201001231

STATE OF WISCONSIN
DEPARTMENT OF WORKFORCE
DEVELOPMENT, DIVISION OF
EMPLOYMENT AND TRAINING,

Respondent.

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

The parties, Suzanne Weber, complainant (hereinafter Ms. Weber), and the State of Wisconsin Department of Workforce Development, Division of Employment and Training, respondent, (hereinafter, DWD), hereby stipulate and agree as follows:

1. The parties wish to effect a final settlement of all complaints, claims, charges, demands and liabilities, of any kind or nature, known or unknown, whether filed or unfiled, arising out of the facts and circumstances which gave rise to the present actions, and the parties further wish to avoid the expense and burden of further litigation.

2. The parties understand and agree that this agreement is in resolution of disputed claims and causes of action in ERD Case Nos. CR200700993, CR200703984, CR200802627, CR200902702, CR200903227 and CR2010001231 (hereafter "the Cases"). This resolution does not constitute an admission of liability by the DWD for any claim or cause of action, nor an admission by Ms. Weber of unsoundness of her stated legal and factual position, nor an admission by either party of any wrongdoing.

3. DWD agrees to credit Ms. Weber's sabbatical leave account with 280 hours. This will be accomplished within 30 days of the date the settlement agreement is fully executed by both parties. Once applied to Ms. Weber's account, the credited sabbatical hours will be treated the same as any other accrued sabbatical time available to Ms. Weber. Ms. Weber agrees that she hereby releases and foregoes any claims to accrued professional time which she had previously made in the Cases

4. DWD agrees to continue Ms. Weber's current work at home arrangement, which allows her to work every other Friday from her residence, consistent with the terms and conditions of DWD's Telecommuting Policy, as updated on May 15, 2009. A copy of the policy is attached hereto as Exhibit A. DWD and Ms. Weber's current work at home arrangement shall henceforth be considered to be approved via the Telecommuting Policy. The parties understand and agree that any future adjustments to these arrangements shall be made consistent with that policy or its successors.

5. The parties agree that Ms. Weber's telecommute arrangement allows her to work every other Friday from her residence, provided that Ms. Weber complies with the Telecommuting Policy and follows the procedure set forth below: 1) Ms. Weber will identify and obtain approval in writing no later than noon on the day prior to her work at home day from her supervisor for her planned work during her day at home, and 2) Ms. Weber will report in writing to her supervisor on the next business day she is at work what progress she made or work she completed on the project during her work at home day.

6. Ms. Weber agrees not to work in excess of 80 hours during any given pay period unless she receives written approval in advance of working such hours from her supervisor. Ms. Weber further agrees that any hours worked for DWD, whether at her office or from her home or other remote location shall be conducted between the hours of 6 a.m. and 6 p.m. on Mondays,

Wednesdays and Fridays and between the hours of 9 a.m. and 9 p.m. on Tuesdays and Thursdays, so long as she does not exceed 80 hours in any given pay period. Ms. Weber agrees to waive any claim she may have for shift differential pay under her collective bargaining agreement in exchange for being granted this schedule.

7. DWD will pay \$15,000 toward the legal fees incurred by Ms. Weber in this matter, which will be tendered to the trust account of the law firm of Lawton and Cates, S.C. of Madison, Wisconsin. Counsel for Ms. Weber agrees that this amount will be disbursed only after receipt of the signed Order from the Administrative Law Judge dismissing Ms. Weber's pending claims. Ms. Weber affirmatively agrees that she is responsible for any costs and fees owed her counsel beyond the amount set forth above.

8. Ms. Weber agrees that the Cases set forth in paragraph 2, above, in which she is the complainant shall be dismissed with prejudice and without further costs to either party. Ms. Weber further agrees to obtain the dismissal with prejudice of any and all proceedings which she has initiated and which are pending in any other forum against the defendant or any of its agents or employees, past or present, including but not limited to matters before the Equal Employment Opportunities Commission, and to request dismissal of any or all labor grievances under Ms. Weber's control which may be pending pursuant to the collective bargaining agreement between the parties.

9. Ms. Weber agrees to release and forever discharge the State of Wisconsin and its agencies, including but not limited to DWD, its agents, current and former employees, legal representatives, heirs, successors and assigns, from liability for any and all complaints, claims, charges, demands and liabilities, of any kind or nature, known or unknown, whether filed or unfiled, arising out of the facts and circumstances which gave rise to the present actions as set

forth in the Cases and any other claims of any kind whatsoever up to and including the date this settlement agreement is fully executed by all parties and counsel of record.

10. Ms. Weber and her attorneys agree to release and discharge the State of Wisconsin and its agencies, the defendant, its agents, current and former employees, legal representatives, heirs, successors and assigns, from liability for any and all claims for attorney's fees and costs under 42 U.S.C. § 1988 and any other provisions regarding attorney's fees and costs, other than those paid pursuant to paragraph 7 above.

11. Ms. Weber agrees to bear all responsibility for the determination of whether or not any portion of the attorneys' fees paid pursuant to this agreement are subject to state or federal income tax and specifically agrees to indemnify and hold harmless the State of Wisconsin, its officers, agents and employees against any expenses occasioned by any failure to promptly pay such sums, if any, owing to state or federal tax authorities as a result of this settlement. DWD agrees to provide a Federal Form 1099 to Lawton & Cates, S.C. for the amount of attorneys' fees paid as part of the settlement of these matters.

12. Ms. Weber and DWD acknowledge that although this settlement agreement and its terms are a public record, it is in the parties' best interests not to discuss the terms of the agreement with third parties, including co-workers. The parties therefore agree to limit their discussions to simple acknowledgment that the matter has been resolved to the benefit of everyone concerned. The parties agree that this provision shall not be construed to limit the rights of either party to discuss the terms of the agreement with appropriate supervisory personnel, human resources or labor relations professionals as part of the agreement's implementation.

13. Ms. Weber and DWD acknowledge and recognize that it is important for all of the individual employees who were involved in the litigation of Ms. Weber's claims to be able to

return to collegial and professional working relationships. Toward that end, DWD extends to Ms. Weber the Department's regret for any personal hardship the testimony elicited and events related to the litigation caused Ms. Weber while these matters were pending.

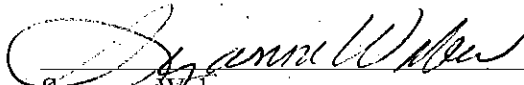
14. Ms. Weber and DWD affirmatively state that they were both represented by counsel during the negotiation and execution of this agreement and had the opportunity to review the terms and conditions of settlement with their respective counsel, whose signatures appear below.

15. Ms. Weber and DWD understand and agree that, except as necessary to implement paragraphs 3, 4, and 6 above, nothing in this agreement shall be construed or considered to be a modification of the terms of any collective bargaining agreements or civil service requirements applicable to Ms. Weber's employment relationship with DWD or any other agency of the State of Wisconsin. All rights to the benefit of either DWD or Ms. Weber pursuant to the terms of such agreements, laws or regulations shall remain in full force and effect.

16. The parties agree that this settlement agreement shall not be treated as precedent for settlement of the complaint or claim of any other person other than Ms. Weber.

17. The above provisions constitute the full settlement of this case.

Dated: 5/12/2010

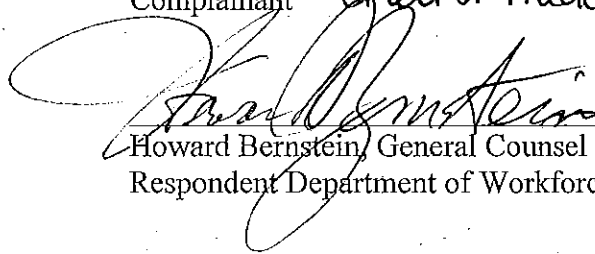

Suzanne Weber

Complainant

Cheri & medical

Paralegal/witness

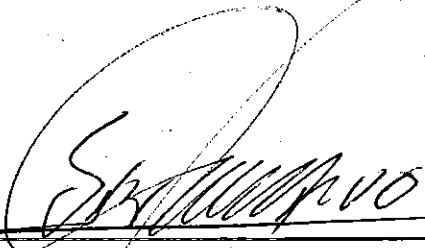
Dated: 5/12/2010


Howard Bernstein, General Counsel

Respondent Department of Workforce Development

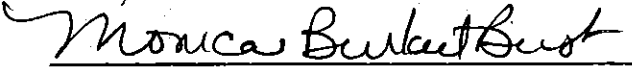
As to form:

Dated: 5/12/10



Attorney Victor Arellano
Complainant's Attorney

Dated: 5/12/10



Monica Burkert-Brist, Assistant Attorney General
Respondent's Attorney

Telecommuting

Section 431
Subject Work Hours/Scheduling/Location
Last Updated May 15, 2009
Contact Jerry Guenther -(608) 266-6496
Backup Chris Wolle -(608) 266-7757
ASD Bureau Human Resource Services

Except for the "Related Resources" section, any information referenced within is considered to be a part of this policy.

Summary:

Work Hours, Scheduling, and Location

Policy:

Telecommuting is working outside an employee's normal worksite either on an on-going or ad hoc basis. It can be a benefit to both the department and employees in certain situations. The provisions of this policy are not meant to supersede provisions of any applicable bargaining agreements. Telecommuting does not cover standby or call-back situations as described in some bargaining unit agreements. These are situations where an employee may be called upon, in emergency situations, to perform some of their duties from home during off-hours.

The Department supports the use of telecommuting where the criteria listed below are met.

Eligibility Criteria

- Normally, the employee must have permanent status. However, there may be situations where non-permanent employees (e.g., LTE or project appointments) may be allowed to telecommute where special circumstances warrant (e.g., no office space available)
- The employee must be able to independently perform job duties satisfactorily
- The employee's work output or performance must be measurable. Work should be results oriented and provide a reasonable basis for measuring performance from a quantitative or qualitative standpoint. Measurable standards shall be the same for all telecommuting and office-based employees who are performing similar work.

Customer Service Criteria

- The work to be performed at home should not reduce or otherwise adversely affect the level of internal and external customer service.
- The employee must not need to interact in person with the public.



Employees may interact with customers at the customer's place of business (e.g., inspections, audits, hearings, etc.)

Benefits vs. Cost Criteria

- The benefits of telecommuting to the employee and the department should outweigh the costs. However, the fact that higher costs to the work unit may result from a telecommuting arrangement does not automatically rule out approval.

Work Unit Criteria

- The supervisor needs to identify minimum staffing levels based on documented operational needs in that office
- The work performed at home must not disrupt the overall work flow of the unit or in any way inhibit the ability of other employees in the unit to complete their assigned tasks. The employee must be available to report to the office as the needs of the unit require
- The employee must not need to interact in person with other staff in an office setting

Other Considerations:

Overtime - Telecommuting employees may not work a schedule that produces an overtime or differential pay liability unless approved in advance by the supervisor. Telecommuting employees must complete positive time reports that report all hours actually worked on a weekly basis. If an employee is working from home and is unable to perform his/her job duties due to a home Internet connection being temporarily unavailable, the employee must:

- Perform other appropriate work assigned by his/her supervisor or;
- Go to an appropriate site where the employee can perform appropriate work or;
- Take available leave

Insurance Coverage - The employee is expected to maintain and provide proof of their own homeowner's insurance and liability coverage for their work-at-home situation. Proof of coverage must be provided annually if requested by management. An employee injured while working at home is covered by the Worker's Compensation program to the same extent as employees working in a traditional office setting.

Equipment and Utilities - The employee must have appropriate equipment at the telecommuting site. Reimbursement for expenses may be provided by management, per the agreement between the employee and management, based upon budget, security of data, the availability of the employee's personal equipment, etc.

The employee must account for any confidential work materials as well as office materials taken from the office to a temporary work location. If any confidential materials are taken home, the quantity

must be limited and the employee must provide a secure and confidential work and storage area.

No in-person customer contacts may take place in the employee's home or other site not envisioned in the description of the position.

Termination of Telecommuting Arrangement

At any point in time, a telecommuting employee may determine that the arrangement is no longer feasible and request a return to work in the work unit. Such requests should be accommodated within a reasonable time frame as operations permit.

Once an employee has begun an approved telecommuting arrangement, the supervisor is responsible for ongoing monitoring to ensure its continued effectiveness. A decision may be made by the Division to terminate the arrangement. Any decision by management to discontinue the arrangement must be made based on identifiable problems and communicated to the employee in writing.

If a management decision is made to terminate the arrangement, notice to the employee will be determined by the situation. Generally, except in cases of immediate operational need, employees will be given up to 30 days to make arrangements to return to their office. However, the agreement may be terminated immediately for an alleged egregious work rule violation.

Procedures and Responsibilities:

Normally, it is the employee's responsibility to initiate a written request for telecommuting, but there may be times when telecommuting is initiated by management due to special operational needs. In either case, requests must be in writing and include rationale as to how the request meets the criteria previously identified.

The supervisor should review employees' requests, apply the criteria and make an initial determination of appropriateness. As necessary, the supervisor may meet with the employee to obtain additional information, etc. The request should then be forwarded, along with a recommendation for approval/denial, through the Bureau Director to the Division Administrator. The Division Administrator should make the final decision on the request. If multiple staff, performing similar duties, request to telecommute but not all requests can be granted, seniority will be the criteria used to identify priority in granting requests. If the request is denied a written response including the rationale will be provided the employee.

If the request is approved, the essential details of the telecommuting arrangement must be set out in writing for the employee. Details may include:

- Start date
- Work schedule
- Time reporting process
- Employee availability for phone calls, pick up/drop off of work (where applicable)
- Availability for reporting to office for meetings, etc.

- Performance review process (timing, etc.)
- Responsibility for equipment and utilities
- The potential for a telecommuting site inspection
- Equipment recovery procedure
- Other Information as necessary
- "the arrangement can be terminated if conditions warrant" should be stated in the agreement

The employee's headquarters designation will remain at the employer's office location unless otherwise specified in the telecommuting agreement.

The employee must ensure that his/her supervisor has their current telecommuting site phone number should it be necessary to reach the employee.