

**Washington State Auditor's Office**  
**Whistleblower Investigation Report**

---

**Clark College**

**Report No. 1011976**

Issue Date  
**May 27, 2014**



**Washington State Auditor**  
**Troy Kelley**

---

Independence • Respect • Integrity



## Washington State Auditor Troy Kelley

May 27, 2014

Robert Knight, President  
Clark College

### *Report on Whistleblower Investigation*

Attached is the official report on Whistleblower Case No. WB 14-012 at Clark College.

The State Auditor's Office received an assertion of improper governmental activity at the College. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

Questions about this report should be directed to Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

**TROY KELLEY**  
STATE AUDITOR

cc: Tanya Kerr, Internal Auditor  
Governor Jay Inslee  
Evelyn Lopez, Acting Executive Director, Executive Ethics Board

# Whistleblower Investigation Report

## State of Washington Clark College

### *ASSERTION AND RESULTS*

In November 2013, our Office received an assertion that the President of Clark College allowed a private company to lease the Culinary Arts kitchen for a nominal fee, resulting in a financial gain for the company.

According to state law (RCW 42.52.160(1)), “No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.”

We found the College leased its kitchen to a private company for a nominal fee, but found no reasonable cause to believe the President allowed this to occur. We were unable to determine which College employee authorized its kitchen to be leased for the nominal fee.

### *ABOUT THE INVESTIGATION*

#### **Background**

In September 2013, Clark College agreed to lease its kitchen to a for-profit entity (Institute) to use for a culinary class. The lease stipulated that the Institute may use the kitchen from September 30, 2013 to May 23, 2014, Monday through Friday for six and one-half hours each night. Not counting holidays and scheduled breaks, the lease was for 32 weeks. According to the Institute's website, its students are charged \$16,000 for a nine-month culinary program.

The College leased the kitchen to the Institute for \$2,500. This equates to \$78.13 a week, or \$2.40 an hour over 32 weeks. An additional charge of \$5,440 for daily cleaning fees was also included in the lease; however, the Institute is only charged for the actual cleaning hours. Through February 2014, these charges totaled \$1,942.

According to emails provided by the College and the Colleges' fee schedule for facility rentals, the kitchen normally rents for \$25 an hour to nonprofit entities and \$50 an hour to for-profit entities. We spoke with the College's Event Services Special Projects and Activities Manager (Manager) who explained that at the time the Institute approached the College, the kitchen had never been leased for an extended period of time.

### Comparable Facilities

To determine what the appropriate lease fee should be, the Manager stated she researched comparable facilities using a classified advertisement website. The Manager identified three comparable facilities:

- Facility 1 - \$1,100 per month for unlimited use.
- Facility 2 - \$12-\$15 per hour.
- Facility 3 - \$800 for four full days per week.

After conducting her research, the Manager recommended in an email to the Vice President of Administration, that the College lease the kitchen for between \$500 and \$750 per month. Basing it on a five-month lease, the total would be from \$2,500 to \$3,750. She advised the College could charge more, but she did not think it should charge less than \$2,500. The Manager said the College tries to give good deals and considering the clean-up fees, the total lease value was comparable to what was being offered on the classified website.

The duration of the final lease (32 weeks or eight months), was not consistent with the Manager's use of five months to estimate the cost. Yet, the final lease amount appeared to be based on her recommendation of \$2,500 to \$3,750 for a five-month period.

When we asked the Manager to provide more detailed information about her research of comparable facilities she said she did not keep any documentation. We performed our own research using the same classified website and contacted two advertisers. One leased a comparable facility for \$12 an hour. The other leased a facility for \$14.50 an hour, which did not include fees for storage and clean-up. Using these rates, we calculated the costs for a 32-week lease for the first facility would be \$12,480 and \$15,080 for the second. **Table A** (below) summarizes the estimates for comparable facilities obtained by the manager and through our own research.

<b>Table A - Comparable Facility Estimates</b>		
<b>Source of Comparable Estimate</b>	<b>Rates</b>	<b>Total Estimated Lease Amount</b>
Manager Research - Facility 1	\$1,100 per month for unlimited use	\$8,800
Manager Research - Facility 2	\$12-\$15 per hour	\$12,480 to \$15,600
Manager Research - Facility 3	\$800 for four full days per week (\$200 per day)	\$32,000
SAO Research - Facility 1	\$12 per hour	\$12,480
SAO Research - Facility 2	\$14.50 per hour	\$15,080
<b>Actual Lease Amount</b>	<b>\$2.40 per hour</b>	<b>\$2,500</b>

### **Additional costs of operation**

According to the College's fee schedule, entities are only charged for utilities when its facilities are leased outside of the College's normal hours of operation, which are Monday through Thursday 6:30 a.m. to 10:30 p.m. and Friday through Sunday 6:30 a.m. to 6:00 p.m. The Manager said the Institute was not charged for utilities because its use is not outside the College's normal hours of operation.

Although the College deviated from its fee schedule when it established the lease amount for the Institute, it did not do so regarding the charge for utilities. The College provided us with an estimate of \$2,498 for the utilities costs for September 2013 through May 2014 for the building in which the kitchen is housed. Dividing that cost equally between the Institute and the College, which held a culinary class during the day, the Institute's share is \$1,249, or \$156 a month. After factoring in the Institute's share of the utility costs (see **Table B**), the College's net gain for leasing its kitchen was \$1,251, or \$1.20 per hour.

<b>Table B - Net Gain for College</b>	
Kitchen Lease Amount	\$2,500
Institute's Estimated Utility Cost	\$1,249
<b>Net gain</b>	<b>\$1,251</b>
<b>Lease rate per hour</b>	<b>\$1.20</b>

### **Interviews**

In addition to the Manager, we interviewed other College employees identified in emails as participants in the leasing process to determine who made the decision to deviate from the comparable prices developed through the Manager's research and the College's fee schedule for facility rentals. The Vice President of Administrative Services said that based on the figures presented by the Manager, he thought it was a fair price. However, he said he was not aware the Institute was using the facility for six and one half hours a night, five nights a week.

The Vice President of Instruction said he may have received an email stating what the fees were going to be, but did not pay attention because it was not his area. President Knight said that he did not have any involvement with the contract other than telling the Vice President of Instruction that the Institute was interested in leasing the space. He said "Events" checked out comparables and came up with the numbers. He said the College was benefiting by receiving money they would not have received if the facility remained empty at night. President Knight said that after he was made aware by our Office of the whistleblower investigation, he discussed the issue with the College's Internal Auditor who said she thought the lease fee was less than fair market value.

We spoke with the Internal Auditor who said as she was gathering documentation for our Office she noticed a gap between the comparable fees and the actual fees in the lease. She said she could not explain how that occurred.

### **Results of Investigation**

We found the College leased its kitchen to a private company for a nominal fee. Using the least expensive (\$1,100 per month) of the comparable facilities identified through the

Manager's research, the College could have charged the Institute at least \$8,800. After subtracting estimated utility costs for the kitchen, the net gain for College was \$1,251 for an eight month lease.

We found no reasonable cause to believe the subject of the investigation approved the lease amount.

We were unable to determine which College employee authorized its kitchen to be leased for the nominal fee because there was no signature on the lease and none of the employees we spoke with who participated in the leasing process took responsibility for approving the final lease amount.

### ***COLLEGE'S RESPONSE***

*Clark College leadership takes the findings in this whistleblower investigation seriously.*

*As highlighted in the report, this particular situation was unprecedented as the kitchen facilities had never been rented on a long term basis. Management will address any gaps in the current facility rental process that allowed for the nominal fee to be charged and will be seeking to improve that process to ensure accountability going forward. We want to make certain that fair market value is charged for Clark College facilities so there is no perception that state resources have been gifted in any way.*

### ***STATE AUDITOR'S OFFICE CONCLUDING REMARKS***

We thank Department officials and personnel for their assistance and cooperation during the investigation.

# Whistleblower Investigation Criteria

## State of Washington Clark College

We came to our determination in this investigation by evaluating the facts against the criteria below:

RCW 45.52.160 Use of persons, money, or property for private gain.

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

# Contacts

**Washington State Auditor**

Troy Kelley    auditor@sao.wa.gov    (360) 902-0360

**Deputy Director of State Audit**

Jan M. Jutte, CPA, CGFM    jan.jutte@sao.wa.gov    (360) 902-0363

**Whistleblower Manager**

Jim Brownell    jim.brownell@sao.wa.gov    (360) 725-5352

**Whistleblower Coordinator**

Jacque Hawkins-Jones    jacque.hawkins-jones@sao.wa.gov    (360) 725-5359

**Deputy Director of Communications**

Thomas Shapley    thomas.shapley@sao.wa.gov    (360) 725-5359

**Public Records Officer**

Mary Leider    publicrecords@sao.wa.gov    (360) 725-5617

Main phone number

(360) 902-0370

Website

[www.sao.wa.gov](http://www.sao.wa.gov)

**To receive electronic notification of audit reports, visit:  
<https://portal.sao.wa.gov/saoportal/Login.aspx>**