



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report
Department of Social and Health
Services

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July 12, 2018

Cheryl Strange, Secretary
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 18-021 at the Department of Social and Health Services.

The State Auditor's Office received an assertion of improper governmental activity at the Department. 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.

If you are a member of the media and have questions about this report, please contact Director for Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

Pat McCarthy
State Auditor
Olympia, WA

cc: Governor Jay Inslee
Andrew Colvin, Public Disclosure/Ethics Administrator
Kate Reynolds, Executive Director, Executive Ethics Board
Jennifer Wirawan, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and Results

Our Office received a whistleblower complaint asserting a Department of Social and Health Services (Department) supervisor (subject) failed to submit leave for all of his absences from work.

We found reasonable cause to believe an improper governmental action occurred.

Background

The subject had an approved education plan that allowed him to attend college classes during his workday. The plan allowed him to extend his lunch break to attend class, with the understanding that he make up the additional time.

The subject attended both day and night classes. As a result, he worked an irregular schedule that changed slightly depending on the day of the week. The subject emailed his manager each time his school schedule changed. The most recent schedule approved by his manager totaled only 37.1 hours, leaving the subject 2.9 hours short each week.

We spoke with the subject's manager, who said when he met with the subject they went over his school schedule. They knew he was going to have to make up time throughout the week, and the subject said he would come in at 7 AM or stay until 6 PM, if he needed to. He said making up the time was a clear expectation and he has no doubt the subject knew he had to make it up.

About the Investigation

We requested the subject's leave reports, emails, door entry logs and computer records for the past year. This combined information is sufficient to determine whether an employee is working. When one of these elements is missing, we cannot make a determination. Because computer records are stored according to the settings of the individual computer, the amount and quality of data varies. In this instance, the computer's normal processes had overwritten some of the computer records from the past year. As a result, we were able to review only from November 6, 2017, through February 3, 2018.

We found, during the reviewed period, the subject worked or submitted leave for 469.3 hours, instead of 520 hours. Even though the subject told his manager he would start work at 7:30 AM, he regularly came in at 8 AM. Additionally, he did not stay late to make up the missed time. Because of his extended lunch breaks, his late arrivals, and his failure to make up the missed time, the subject worked an average of 36.1 hours each week.

During an interview, the subject said he must have "made a math mistake" when creating his schedule, and that he "should have been staying later" to make up the time. He said he had not worked outside his reported schedule because he did not realize he needed to make up time. The

subject said he arrived for work at 7:30 AM, but sat in his car and listened to the radio until about 7:50 AM, which he said made up some of his missing time. When asked how that made up time, he said, “I’m here, I thought it counted.”

We found the subject did not submit leave for 50.7 hours when he arrived late and failed to make up time attending college classes. Therefore, we found reasonable cause to believe an improper governmental action occurred.

Department’s Plan of Resolution

Thank you for the opportunity to review and respond to the State Auditor’s Office (SAO) report on Whistleblower Case Number 18-021. The Department of Social and Health Services appreciates the assistance of the SAO by providing the Department with important facts from its investigation.

The report states the SAO found reasonable cause to substantiate the allegation. According to the report:

The SAO found reasonable cause to believe the subject did not submit leave for 50.7 hours when he arrived late and failed to make up time attending college classes.

The Department immediately initiated an administrative investigation into the alleged misconduct. Upon completion of this investigation and in accordance with the Collective Bargaining Agreement between the State of Washington and the Washington Federation of State Employees Article 27 - DISCIPLINE, the Department will afford the employee an opportunity to respond to the Auditor’s report, as well as to any additional investigation results. The Department will then make a final determination on whether misconduct by the employee occurred.

If the Department determines that the employee acted improperly and in violation of state law, the Collective Bargaining Agreement, and/or agency policies, the Department will take appropriate action, which may include remedial action, such as requiring the employee to submit leave, as well as disciplinary action, which may include the employee’s termination from employment. The Department will notify the State Auditor of the outcome of its review and resulting actions.

State Auditor’s Office Concluding Remarks

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

WHISTLEBLOWER INVESTIGATION CRITERIA

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

RCW 42.52.160(1) - 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.

WAC 292-110-010(1) - Use of state resources.

(1) Statement of principles. All state employees and officers are responsible for the proper use of state resources, including funds, facilities, tools, property, and their time. This section does not restrict the use of state resources as described in subsections (2) and (3) of this section.