



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report

Bates Technical College

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Cathy Pearsall-Stipek, Chair
Board of Trustees
Bates Technical College

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 18-034 at the Bates Technical 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.

If you are a member of the media and have questions about this report, please contact Director of 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
Linn Zhou, President
Kate Reynolds, Executive Director, Executive Ethics Board
Jennifer Wirawan, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and Results

Our Office received a complaint asserting the former president (subject) of Bates Technical College (College) requested reimbursement for unnecessary travel for his personal convenience.

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

About the Investigation

We reviewed the subject's travel reimbursements for March 1, 2017, through March 31, 2018, and identified three trips that did not appear to be for the benefit of the College, two of which were out of state.

Trip 1

Between August 27 and 29, 2017, the subject claimed and received reimbursements for mileage, hotel, and meal expenses for a retreat in Portland, Oregon, which included the chief academic officer. The subject received a reimbursement of \$685, and the academic officer received \$463 for the same type of expenses. The academic officer stayed in a hotel only one night.

We spoke with the academic officer, who said he participated in the retreat at the request of the subject. He said the subject had been in Oregon tending to a relative and contacted him over the weekend and asked him to come to Portland on Monday to conduct his evaluation. The academic officer explained that the subject told him he was late getting the evaluation completed and needed him to come to Portland. The academic officer said that he was not comfortable staying out of state, so he stayed in a hotel in Vancouver and drove into Portland for the meetings.

The academic officer said he and the subject worked all of the first day and most of the second day, after which he headed back to Tacoma. He said this was the first evaluation he had participated in which was conducted in this manner, but did as he was directed.

We spoke with the subject, who said that the retreat was to conduct the academic officer's evaluation away from the College and interruptions. He said he had his assistant look for convenient locations, but the two or three options she suggested were too expensive. The subject said that eventually they got in a pinch and he chose Portland because the traffic heading north "was a concern" and with the wildfires, going east was not a viable option. He said he grew up in Oregon and his mother lives there, so he was familiar with the location.

The subject stated he arrived the night before so he could prepare the evaluations without distractions. Regarding the late notice he gave the academic officer, he stated that was not his recollection, he recalled they planned the trip a few weeks in advance.

State travel policies also mandate that travel be for the institution's benefit, not the traveler's convenience. According to the subject's calendar, he was out of state on annual leave Wednesday through Friday, before the Monday meeting. Moreover, the academic officer said he received a call from the subject that Saturday asking him to join the subject in Portland on Monday.

Regarding the out of state entry on his calendar, the subject said that although he had planned an out-of-state trip, he was unable to take it. Instead, he took leave to move his household, attend a street fair and left for Portland on Sunday afternoon.

Trip 2

Between September 13 and 15, 2017, the subject claimed and received reimbursements for mileage, hotel, and meal expenses for a retreat in Portland, Oregon, and included the chief student services officer. The subject received a reimbursement of \$854; the student services officer received \$530 for the same type of expenses. However, she stayed in a hotel only one night.

We spoke with the student services officer, who told us she was hesitant to travel to Oregon to participate in her evaluation, but after talking with the academic officer, she agreed to attend. She said that although the retreat was productive, working one and one half days, she did not believe it was a proper use of state resources. She agreed with working off campus, but did not see the necessity of going to Oregon or staying in a hotel. She said she believed the retreat was in Oregon because the subject has family there, not that it was necessary for work.

As stated above, the subject said Oregon was the best option for the retreat. As with the first trip, he said he arrived the day before to prepare for the evaluation.

We spoke with the subject's assistant, who said the evaluations were planned a couple of weeks in advance. She said the subject asked her to find dates to schedule the evaluations, but not to find the location. She said had that been her responsibility, she would have found an in-state hotel.

According to state travel policies, out-of-state trips must receive prior authorization from the agency head or authorized designee. The subject did not have pre-authorization to make either trip. According to his assistant, she did not create the out-of-state travel authorization until after the trip because she was not aware until then that it was out of state. The authorization occurred one month after the trip.

We found reasonable cause to believe an improper governmental action occurred when the subject traveled out of state without properly documented authorization.

Trip 3

On September 26 and 27, 2017, the subject traveled to Walla Walla, received \$310 for mileage reimbursement and used the College credit card to pay for a hotel room at a cost of \$103.

According to the travel documentation, the purpose of the trip was to attend an “Aspen Award Team” meeting to discuss the Aspen Award.¹

We found a calendar entry inviting the subject and his spouse to the WWCC former president’s home for dinner and asking that they bring a salad or dessert. When we spoke with the subject, he said that the former president invited him and other former staff to celebrate the award WWCC had received in 2013. He said he attended to “create a presence” with key players who had been instrumental in winning the award, with the goal of the College receiving the Aspen Award. He thought it was a good use of state resources even though none of the attendees is a current employee of WWCC.

This appears to be a personal event, unrelated to the subject’s position at the College. Therefore, we found reasonable cause to believe an improper governmental action occurred when he received reimbursement for a non-work-related trip.

College’s Plan of Resolution

Bates Technical College takes this finding very seriously and appreciates the opportunity to respond to the auditor's report. The College recognizes the importance of legal compliance with the laws, rules, and policies governing travel and ethics. To that end, the College will be reviewing its travel policies and procedures to ensure that they are compliant with these legal requirements. We will also provide training to those involved in directing, making, and authorizing travel arrangements to ensure that they understand their obligations. The following motion was made and unanimously passed on October 29, 2018 at the Board of Trustees regular meeting: "Trustee Bladow moved to research and make certain we are aligned with state, ethics and travel laws, and training is administered to those who approve travel. Trustee Anderson seconded the motion."

State Auditor’s Office Concluding Remarks

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

¹ <https://highered.aspeninstitute.org/aspen-prize/>. The Aspen is awarded for community college excellence.

WHISTLEBLOWER INVESTIGATION CRITERIA

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

RCW 42.52.160 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.

WAC 292-110-010(1) and (3) - 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.

(3) Permitted personal use of state resources. This subsection applies to any use of state resources not included in subsection (2) of this section.

(a) A state officer or employee's use of state resources is de minimis only if each of the following conditions are met:

(i) There is little or no cost to the state;

(ii) Any use is brief;

(iii) Any use occurs infrequently;

(iv) The use does not interfere with the performance of any state officer's or employee's official duties;

(v) The use does not compromise the security or integrity of state property, information systems, or software;

(vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and

(vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

RCW 43.88.160 - Fiscal management—Powers and duties of officers and agencies.

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

State Administrative and Accounting Manual

10.10.10(1) – Agency responsibilities

Agency heads, and their designees for directing travel and approving reimbursement, are to:

1. Ensure that any travel costs incurred are:
 - Directly work related,
 - Obtained at the most economical price, and

- Both critical and necessary for state business.

10.10.20 - These criteria must be used for selecting and approving travel

In addition to complying with state travel policies and procedures, an agency head or authorized designee must use the following criteria to determine whether to authorize a person to travel on official state business, and to determine what travel alternatives to authorize.

1. Select the travel alternative that is most economical to the state.

Agencies must use this criteria except in the situations noted in Subsection 10.10.20, #2.

All costs should be considered--travel, labor, etc.--in making the determination. For example: Is it less expensive to drive than fly out of Sea-Tac Airport? Is it cheaper to fly out of Sea-Tac than out of Port Angeles?

2. Select the travel alternative that is most advantageous to the state.

An agency may use this advantageous criterion only in the following situations:

- To ensure the health and safety of agency travelers (Subsection 10.10.35)
- To comply with the Americans with Disabilities Act (Subsection 10.10.40)
- Process and travel situations for meals with meetings (Subsection 10.40.60)
- Use of privately owned motor vehicles (Subsection 10.50.20)
- The personal travel plans of the traveler shall not influence this criterion.

10.10.25 - Implement alternatives to travel

Agencies are to develop and implement alternatives to travel, as well as less expensive means of travel. These methods should include, but are not limited to:

- Teleconferencing and video conferencing;
- Video recordings and published reports;

- Car-pooling and greater use of public transportation;
- Reduced frequency of regularly scheduled out-of-town meetings;
- Restrictions on the number of staff traveling to the same destination; and
- Coordinating between agencies for joint travel arrangements when more than one agency is involved.