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Chancellor George Pernsteiner
Oregon University System
P. O. Box 3175
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Dr. Richard Lariviere, President
University of Oregon
Office of the President
1226 University of Oregon
Eugene, Oregon 97403-1226

Dear Chancellor Pernsteiner and President Lariviere,

The Oregon Audits Division reviewed allegations relating to employment contracts the Oregon State Board of Higher Education (Board) and the University of Oregon (UO) had with a former UO president, for the period of July 1, 2009 through October 2010. In November 2010, the Audits Division received allegations through the Government Waste Hotline that the University may have violated Oregon Administrative Rule and/or Oregon Revised Statutes in the course of creating or administering the contracts with the former university president. The Secretary of State Hotline is established under Oregon Revised Statutes 177.170 and 177.180 to investigate allegations of fraud, waste or abuse with respect to state funds. The resulting reports only describe issues relating to the allegations that were substantiated, and do not address any allegations that were disproved or unsupported by evidence. Statutes further require that the identity of callers to our hotline be kept confidential.

To determine the validity of the allegations, we reviewed relevant contracts, agreements, and payroll records, as well as evidence initially submitted through the hotline. We also reviewed Oregon Administrative Rules pertaining to the allegations, focusing primarily on OAR 580-021-0220. We interviewed personnel at the Oregon University System and the UO, and collected additional documentation during those interviews. Our review focused on the contract process as related to the allegations and did not include an analysis to determine the extent or value of services provided under the contracts.

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Substantiated Allegation

The 2009 contract negotiated for the former UO president by the Oregon University System's General Counsel Ryan Hagemann, Chancellor Pernsteiner, and State Board of Higher Education Chair Paul Kelly does not include the clause regarding repayment of sabbatical as required by OAR.

Conclusion

This allegation is correct. The 2009 Presidential Agreement and Notice of Appointment referred to in the allegation, which granted a one-half academic year sabbatical, does not include an "Obligation to Return" as required by OAR 580-021-0220. Nor did we find any other agreement that fulfilled this requirement. The OAR requires each academic staff member, in applying for sabbatical leave, to sign an agreement to return to the institution for a period of at least one year's service on completion of the leave. According to a UO official, UO's practice is to require faculty who apply for a sabbatical to sign such an agreement. However, since the sabbatical was negotiated and approved by the Chancellor and the President of the State Board of Higher Education per the contract, there was no UO agreement regarding the sabbatical. We did note that the former president provided UO officials with a sabbatical plan and, after completing the sabbatical, a brief report on his sabbatical projects. We also noted the former president continued employment with the university for more than the required year after his sabbatical.

Other Matters

We noted that three of the four employment contracts covering our review period were signed after their effective date. In the Oregon University System, faculty are hired on contracts but accrue benefits and leave like employees. Two contracts, covering the periods June 1, 2010 through June 30, 2010 and July 1, 2010 through July 15, 2010, were signed on August 17, 2010. The third contract, the Presidential Agreement and Notice of Appointment, effective July 1, 2008, was signed on June 30, 2009. Since written contracts document the mutual agreement, substance and parameters of the work to be done, they should be signed by all parties prior to the commencement of work to minimize the possibility of contract dispute.

Payroll department personnel also told us they received late notification of the former president's change in employment status which resulted in an overpayment. The overpayment, which occurred on July 30, 2010, was promptly corrected and on August 9, 2010 the former president wrote a personal check paying the remaining balance owed.

In addition, according to contracting best practices, contracts should identify the responsibilities of the parties to the contract. We noted that the June and July 2010 contracts did not specify the services the former president would perform. A university official told us it was known the former president would be using accrued vacation, and therefore there were no work expectations in the contracts. A better explanation of the purpose of the contract can address these situations where no services are expected.

Chancellor George Pernsteiner
Oregon University System

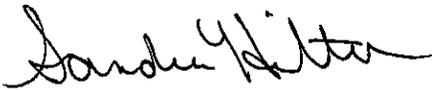
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Recommendations

We recommend the Oregon University System and the UO take steps to ensure sabbatical contracts contain the required provisions, all employment contracts are signed timely and clearly state their purpose and all parties' responsibilities, and necessary information is promptly communicated to payroll and other appropriate parties.

We appreciate the time, effort and cooperation your staff provided during this review. If you have any questions, please do not hesitate to contact me at (503) 986-6359.

Sincerely,
Oregon Audits Division



Sandra Hilton, CPA
Oregon Audits Division
Audit Manager

SKH:nmj

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