

Final
Advisory
Memorandum

Oversight of the Montgomery College President's Expenses

Report # OIG-17-007

May 31, 2017

Montgomery County Maryland
Office of the Inspector General





OFFICE OF THE INSPECTOR GENERAL

FINAL ADVISORY MEMORANDUM

May 31, 2017

TO: Marsha Suggs Smith
Chair, Board of Trustees, Montgomery College

FROM: Edward L. Blansitt
Inspector General

SUBJECT: Oversight of the Montgomery College President's Expenses
OIG-17-007

On November 28, 2016, a local Washington, D.C. television station broadcast a report on the travel and other expenses of the Montgomery College (College) President (President). Subsequent to the report and additional published articles from other news outlets, the Office of the Inspector General (OIG), the County Executive, and County Council all received requests to conduct a review of these allegations.

Introduction and Background

Montgomery College is a public, fully accredited, open admission institution. The College's website states that the College is widely recognized for the quality and scope of its academic programs.

According to the College website, the College is the largest community college in Maryland and serves more than 60,000 students each year through credit and noncredit programs. The campuses are in Germantown, Rockville, and Takoma Park/Silver Spring. The College provides Workforce Development & Continuing Education centers and other off-campus sites throughout Montgomery County. The College offers more than 130 degree and certificate programs that prepare students to earn an associate's degree, transfer to a four-year college or university, enter the job market, upgrade career skills, complete an apprenticeship, or enhance life through enrichment experiences.

The President serves as the chief executive officer of the College, reports to the Board of Trustees, and serves as Secretary-Treasurer of the Board of Trustees. The President is responsible for the day-to-day administration, management, leadership, and oversight over the operations of the College.

The Board of Trustees is the College's legal governing body and is comprised of citizens of Montgomery County who volunteer their time to serve. The Board derives its authority from Title 16 of the Education Article of the Annotated Code of Maryland, which provides the legal basis for the control and administration of Maryland's community colleges.

The Board of Trustees consists of 10 members, one of whom is a student member. The members are appointed to staggered six-year terms except for the student member, who is appointed to a one-year term.¹ All Board members have full voting rights.

The Board of Trustees exercises general control over the College and oversees the duties of the President. The Board of Trustees is authorized to establish the salaries and tenure of the President, the faculty, and other employees; to acquire and dispose of property; to arrange for cooperative use of facilities with the Montgomery County Board of Education; to apply for and receive gifts and grants; to establish entrance requirements and approve offerings consisting of two-year transfer programs, career/technical programs, and continuing education programs; to set student tuition and fees; to sue and be sued; and to solicit bids and make contracts.

The Board of Trustees appoints the College President and is authorized to enter into collective bargaining agreements with elected bargaining agents of the College faculty and staff. Montgomery College initially entered into an employment agreement with the current President on May 12, 2010. The current agreement is an amended and restated Employment Agreement between the College and the current President that was signed on June 24, 2015 (Employment Agreement).

The Employment Agreement addresses matters including, but not limited to, compensation; an annual performance bonus; benefits; travel, entertainment, and other business expenses; an automobile allowance; professional membership expenses; and a housing allowance.

Section F of the Employment Agreement provides as a benefit of the President's employment the payment or reimbursement of reasonable travel and other business

¹ All Trustees are appointed or reappointed by the governor from nominees submitted by a nominating committee. Except for the student Trustee, the Trustees are appointed with the advice and consent of the State Senate.

expenses incurred by the President in the course of performing presidential duties.² These expenses must fall within the limits set in the College's annual operating budget, and such expenses incurred must follow the College's established policies and procedures.

The Employment Agreement states that the Chair of the Board of Trustees will appoint a special auditor to review the proposed expense reimbursement budget for the President before it is approved and to review the President's expense reimbursements.

The prior President encountered allegations of mismanagement and overspending, in areas including travel and extravagant dining, resulting in the Board putting the President on administrative leave, and subsequently accepting his resignation. That President's Employment Agreement did contain some provisions similar to Section F.2. of the current President's Agreement, but did not include the provision for the Chair of the Board of Trustees to appoint a special auditor to review the proposed expense reimbursement budget for the President before it is approved and to review the President's expense reimbursements.

The Chair of the Board of Trustees advised the Inspector General that the provision in the President's Employment Agreement regarding the appointment of a special auditor was written with a spirit of a renewed oversight of presidential activities for the appointed President in 2010.

Objectives, Scope, and Methodology

The OIG undertook this review to (1) determine if the College is following the provisions of the Employment Agreement, and (2) determine if travel and other expenses of the President were consistent with Montgomery College's established policies and procedures.

The OIG requested information and documents related to the expenses of the President from the Chair of the Board of Trustees on December 7, 2016. The request centered on: (1) appointments of an auditor to review the proposed expense reimbursement budget and/or the expense reimbursements of the President, (2) reports of audits and other reviews

² Section F.2. of the Employment Agreement, Travel, Entertainment and Other Business Expenses, states: "The College shall pay or reimburse the reasonable travel and other business expenses incurred by [the President] in the course of performing the Duties, provided that such expenses fall within the limits set in the College's annual operating budget and provided that [the President] has followed College policies and procedures for incurring such expenses and for requesting reimbursement of those expenses. When, for College purposes, [the President]'s partner accompanies [the President] on travel or entertainment, the College shall pay or reimburse the costs of the reasonable travel and entertainment expenses of [the President]'s partner, provided that such expenses fall within the limits set for such expenses in the College's annual operating budget and provided that the College policies and procedures for incurring such expenses and for requesting reimbursement of those expenses have been followed. The Chair of the Board will appoint a special auditor to review the proposed expense reimbursement budget for [the President] before it is approved and to review [the President]'s expense reimbursements."

of the proposed expense reimbursement budgets of the President, (3) reports of audits and other reviews of the travel and other expenses incurred by the President that were paid by or reimbursed by the College, (4) all employment agreements between the President and the College, (5) for the period from July 1, 2014 to the present, itemization(s) of travel and other expenses incurred by the President that were paid by or reimbursed by the College, (6) the College's policies and required procedures pertaining to travel and other expenses, and (7) all employment agreements between the College and the previous President.

To accomplish our objectives, we reviewed Employment Agreements of the current and previous Presidents and reviewed the College's policies and procedures relating to reimbursement for travel and other expenses. We reviewed monthly expense reports and corporate card expenses of the President from July 2014 through December 2016. We reviewed published news articles covering the President's spending, and the President's and the Board of Trustees' responses to those articles.

We conducted this audit in accordance with *Government Auditing Standards* issued by the U.S. Government Accountability Office, and *Principles and Standards for Offices of Inspector General* issued by the Association of Inspectors General.

Analysis

On February 1, 2017, we received a transmittal letter and most of our requested documentation from the Chair of the Board of Trustees. In that letter, the Chair of the Board of Trustees provided the Inspector General with background and context about the President and the oversight mechanisms that the Board of Trustees has in place. The Chair of the Board of Trustees indicated that, given the recent interest in the President's expenses, she had authorized a special audit focused specifically on these expenditures this year.

We reviewed the President's expense reports for the period July 2014 through December 2016. These expenses were charged to the President's corporate credit card. During this period, the expenses amounted to \$91,550³. The expenses appeared to be for travel, entertainment, and other business expenses incurred by the President in the performance of her duties as President of the College.

Our review of the expense reports indicates the monthly expense reports were generated by a designated staff person, validated by the President, and then approved by the President's Chief of Staff/Chief Strategy Officer and the Senior Vice President for Administration and Fiscal Services.

³ This amount was determined from review of generated expense reports prepared by the College for the period of July 2014 through December 2016.

The expense reports document the purchase date, merchant name, purchase amount, item description, budget account number, and description of business related purpose. Most of the expenses during the period of our review, which covered 30 months, were for out of state travel. We found that the President made trips in 20 out of the 30 months, and in several months, the President took more than one trip per month, which equated to 25 trips overall.

We did not obtain sufficient documentation to perform a full audit of the President's travel expenses because we anticipated that the special auditor would perform this work. We did not request and the College did not provide travel planning documentation stating the necessity of each trip.

Finding 1: A provision added to the President's Employment Agreement to improve oversight over travel and other business expenses of the College President was not fully implemented and could not itself have been effective.

The College's Employment Agreement with the President states in Section F. 2. Travel, Entertainment, and Other Business Expenses that the Chair of the Board will⁴ appoint a special auditor to (1) review the proposed expense reimbursement budget for the President before it is approved, and (2) review the President's expense reimbursements.

The Chair of the Board of Trustees' wrote to the OIG on February 1, 2017, "... my three chair predecessors and I have been confident that the purpose of F.2 was satisfied through the president's practices, and, therefore, exercised our prerogative not to incur the time and expense for an additional audit and inspection of records." The College Board of Trustees had not implemented this provision prior to the date in 2017 that the Chair of the Board of Trustees authorized a special audit focused specifically on these expenditures for the fiscal years ended June 30, 2015 and 2016.

On April 21, 2017, the Chair of the Board of Trustees wrote us that "While we appreciate the strict interpretation of the provision in [the President's] contract with respect to a review by a special auditor, I speak for the Board of Trustees in saying that we considered that provision to be unnecessary since other transparency measures that we had carefully

⁴ *Williamson v. State*, 25 Md. App. 338, 349, 333 A.2d 653, 659 (1975), quotes *The American Heritage Dictionary of the English Language* as listing seven possible meanings of "will" combined with another verb:

1. Simple futurity
2. Likelihood or certainty
3. Willingness
4. Requirement or command
5. Customary or habitual action
6. Capacity or ability
7. Probability or expectation

The *Williamson* court then interpreted the word "will" in that case to mean "a future intention."

established accomplished the audit function, namely, confidential weekly written reports by [the President] to the Board that detail travel, meetings, and speaking activity; weekly messages to faculty and staff frequently featuring the president's activities; and the Board's thorough annual performance review of the president."

We received a copy of a monthly newsletter and a weekly written update that the President provided to the Board of Trustees. The Chair of the Board of Trustees discussed the two written reports with us. We note that each was generally informative but we saw nothing in either written item that appear to be of a confidential nature. These documents appear to be general records of the President's activity that can provide an indication of her performance but are not evidently either personnel documents or appraisal records.

As indicated earlier in this report, the provision regarding a special audit in the current President's Employment Agreement was written following allegations of overspending, including spending on travel, by the prior President that had resulted in his resignation. This provision was evidently intended to help the College and its Board of Trustees avoid any potential future disputes over questionable expenses by the College President and the negative publicity that might accompany them.

This provision in the Employment Agreement is unclear regarding how reviews of the proposed expense reimbursement budgets for the President by a special auditor before they are approved would be implemented, and it is unclear that they could provide value. We are not aware of any objective measure that an outside third party could use to determine the necessity of a budgeted business trip. Further, we are not aware of the existence of a process for establishment of the President's travel budgets at Montgomery College such that an outside auditor would be able to evaluate the propriety of the planned travel. In the absence of such appropriate criteria, the value of a travel budget review would have been at best limited.

A review by a special auditor of the travel taken by the College's President would be expected to consist largely of ensuring that appropriate internal controls were followed and that receipts exist for the expenditures claimed. This work can test the effectiveness of internal controls and ensure that the travel expenses claimed were consistent with the College's business policies. While it is doubtful that an outside third party could determine the value and necessity of any business trip taken based only on an examination of these documents, the review can provide a low-cost safeguard against questionable expenses and reasonable assurance to stakeholders that the expenses are business related. We believe it would have been valuable to the Board of Trustees and to the President had this report been available at the time questions arose.

The special auditor's report for the two fiscal years ended June 30, 2016, was issued on April 13, 2017. The special auditor performed procedures that were agreed to by Montgomery College to assist the College in evaluating the President's expense and travel

compliance with Maryland State law, College by-laws, regulations, and policies and procedures. The special auditor reported that no exceptions to the policies and procedures were noted.

The special auditor issued two recommendations to the College that the auditor believes will assist in improving the expense and travel compliance tracking of expenditures at the College.

The special auditor recommended (1) that the Chair of the Board should review the President's expense reimbursement requests periodically to assess usage against expectations of the approved budget. Currently, the President's expense reimbursement requests are only approved by the Chief of Staff/Chief Strategy Officer and the Senior Vice President for Administration and Fiscal Services.

The special auditor also recommended (2) that the terms of the Chair of the Board be extended to at least two years to foster continuity within leadership and to increase the ability to identify issues, mitigate risks and strengthen succession planning.

The special auditor did not provide any indication of or mention of a review of the President's travel budget in the report. Although the special auditor provided a review of travel expenses and reasonable recommendations, the auditor did not identify any exceptions and did not question the business purpose or necessity of any travel.

The Vice President of the College signs documents related to the President's travel related expenses and may raise questions if necessary. It is ultimately the responsibility of the President to determine the necessity of the travel and ensure that incurring those expenditures supports her efforts to further the objectives of the College. The President should be able to demonstrate that:

- each trip was necessary to support the objectives of the College,
- if other faculty members accompanied the President on these trips, why that was appropriate,
- the President's trips were documented in a travel plan that was considered and discussed with her executive staff and the Board of Trustees in advance of travel, and
- performance measures were used to evaluate the effectiveness of individual trips.

Although business travel can be expensive to the organization and burdensome to the traveler, it is not necessarily unpleasant. Without context, some travel can easily appear to an outside observer to be wasteful, unnecessary, and extravagant, as some observers have expressed regarding the instant case.

To avoid the appearance of and any potential future disputes over questionable expenses by the College President and the negative publicity that might accompany them, transparency must extend beyond the Board of Trustees and the faculty. The Board of Trustees should work with the President to ensure that the President's travel and other business expenses are transparent to all stakeholders, including the student body, all staff members, taxpayers, and donors. Information provided should reflect whether travel and other expenses are necessary to support the objectives of the College and are consistent with the budget. An option to consider is making the weekly updates or an appropriate version publicly available.

Recommendations

1. The Montgomery College Board of Trustees should:

In future Employment Agreements with the President, omit the language stating that the Chair of the Board will appoint a special auditor to review the proposed expense budgets;

Obtain the special auditor review of the President's travel and other expense reimbursements annually. One option to accomplish this economically and with little additional impact on the staff is through a task order to be performed as part of the annual financial statement audit of the College.

2. The Board of Trustees should work with the President to ensure that the President's travel and other business expenses are made transparent to all stakeholders, including the student body, all staff members, taxpayers, and donors. Information provided should reflect how travel and other expenses are necessary to support the objectives of the College and are consistent with the budget.

Summary of the Montgomery College's Chair of the Board of Trustees Response:

The Chair of the Board of Trustees agreed with our finding and recommendations. Nothing in the response caused us to alter our report. The response from the Chair of the Board of Trustees is included in its entirety below.



Board of Trustees

May 26, 2017

Mr. Ed Blansitt, Inspector General
Office of the Inspector General
51 Monroe Street, Suite 802
Rockville, Maryland 20850

Dear Mr. Blansitt:

Thank you for the opportunity to respond to Report #OIG-17-007. The Montgomery College Board of Trustees appreciates the oversight function of the Office of the Inspector General (OIG), and worked productively with you and your office in providing transparency and accountability to Montgomery County.

The Board is pleased—and not surprised—that the report was clear in its finding that the Montgomery College President has not engaged in any spending practices that are inappropriate.

In finding that the College engaged in no practices that were in any way characterized by waste, fraud, or abuse, the report contains no conclusions or recommendations that suggest that spending was inappropriate or that decisions about spending should be conducted differently in the future. The report's two recommendations speak to the need for enhanced transparency and routinized audits, and the Board will adopt measures to address these.

Specifically, the Board will augment the President's communications with the Board Chair by tasking one of its committees to develop methods that better communicate the President's role, her activities, and travel in support of the College's mission. The Board has always worked to ensure that mechanisms are in place to provide transparency and accountability, and the report acknowledges those in its careful assessment of existing processes. The committee will work closely with the College's Office of Communications to disseminate this information more broadly with College and community stakeholders.

The Board believes that these measures to act on the OIG recommendations will improve how spending is understood by stakeholders. As the report states, the recommendations are made "[t]o avoid the appearance of and any potential disputes over questionable expenses by the College President and the negative publicity that might accompany them..." (p. 7 of 17-007). The Board and the College will be more mindful of the appearance that can be inadvertently created when communication about spending is not detailed. The President has already added a section to her internal weekly employee newsletter to announce when she is travelling, where she is going, and why.

In this same vein, the Board Chair will also regularly review the President's expense reimbursement requests. This will supplement the existing, regular reports that the President makes to the Board on her activities and travels. The OIG report also echoes the independent, special auditor's recommendation that the Board Chair's term be lengthened to two years "to foster continuity within leadership and to increase the ability to identify issues, mitigate risks, and strengthen succession planning." The Board is already reviewing its bylaws that pertain to the terms and qualifications of its officers.

Since the OIG's report states that the use of a special auditor to review "proposed budget expenses" (p. 8) would be of limited usefulness—"it is unclear that they could provide value"—I intend to ask the Board to

Office of the Inspector General
May 26, 2017
Page 2

consider removing this language from the President's contract. To routinize these mechanisms, the Board plans to move the function of the special auditor into the regular annual audit processes, as the OIG report recommends. I appreciate the OIG report's nuanced evaluation of the President's employment agreement and analysis of the potential for improved oversight.

With the focus of the OIG's inquiry on transparency in the President's spending, a few conclusions referenced in the report are worth observing. As you note, the special auditor examined the President's expense and travel compliance with Maryland state law and regulations, Board of Trustees' bylaws, and College policies and procedures, and reported no exceptions. We also note that the report does not find any College policies or procedures around the President's spending to be inadequate.

Finally, I appreciate your attention to the challenge of adequately quantifying the impact of the President's travel and professional activities on the College's mission. The OIG report notes (p. 6), that "[w]e are not aware of any objective measure that an outside third party could use to determine the necessity of a budgeted business trip...In the absence of such appropriate criteria, the value of a travel budget review would have been at best limited." The reasons for investment of resources at any large institution are complex and not always well understood by persons outside the professional expertise of the institution—thus the use of an independent auditor with the specialized training and experience to examine financial practices. The most relevant assessment of appropriate travel is, in my view, the judgment of the Board. The Board believes that the President's participation in travel for professional activities has been of tremendous benefit to the College, its students, employees, and to her as an institutional leader.

Again, thank you for the opportunity to provide additional information related to your report. The Board appreciates the importance of the OIG's role and this process, as well as its investment of time and resources in this public inquiry.

Sincerely,



Marsha Suggs Smith
Chair
Board of Trustees