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Yves Salomon-Fernandez, Ph.D.
Interim President
Massachusetts Bay Community College
50 Oakland Street
Wellesley Hills, MA 02481-5307

Re: Certain Activities of Massachusetts Bay Community College Employees

Dear Dr. Salomon-Fernandez:

This letter concerns two employees at Massachusetts Bay Community College ("MBCC"), John Virgilio and Federico Virgilio, as well as oversight and internal control problems in MBCC's Facilities Department. After conducting an extensive investigation, the Office of the Inspector General ("OIG" or "Office") has determined that the two employees used their public positions for personal gain by operating a private business during their official MBCC work hours and by using state-owned assets for that business.

The OIG also discovered significant internal control weaknesses and management deficiencies that made it possible for John and Federico Virgilio to run their business on MBCC's time and with MBCC's resources. These same weaknesses and deficiencies render MBCC susceptible to further fraud, waste and abuse of its funds, property and resources. For each investigative finding identified below, the OIG has recommended corrective actions. The OIG requests that MBCC review these recommendations and provide the OIG with a written corrective action plan by March 31, 2016.

I would like to thank the college's management team for cooperating with the investigation from its onset and granting complete access to MBCC's employees, facilities and records.

Summary of Findings

The investigation revealed that:

1. John and Federico Virgilio used MBCC's vehicles, equipment, supplies, employee labor and assets to operate a private landscaping business.

2. John and Federico Virgilio submitted falsified timesheets and exploited weaknesses in MBCC's overtime practices for personal gain.
3. John and Federico Virgilio concealed the official license plate on MBCC's vehicles to avoid detection when using the equipment for their business.
4. John Virgilio misused his position at MBCC to hire one of MBCC's vendors to perform carpentry work at a relative's home.
5. John Virgilio either gave away or sold MBCC's equipment without permission.

As discussed below, evidence indicates that the Virgilios' misconduct began earlier than 2012. This letter, however, focuses on 2012 and 2013.

In addition, the investigation found that:

1. MBCC's Facilities Director, Marco Brancato, failed to properly oversee his department and employees. His lack of oversight allowed John and Federico Virgilio to misuse MBCC's resources.
2. Marco Brancato allowed John Virgilio to supervise his father, which created an apparent conflict of interest and violated a directive from the Human Resources Department.
3. The manner in which the Facilities Department orders and receives supplies and materials has allowed MBCC employees to spend significant time off campus with virtually no accountability or supervision.
4. The Facilities Department's inventory system is deficient and places the college at risk for theft and loss of property.

The OIG's findings and recommendations are further detailed below.

Background

John Virgilio has worked for MBCC since 1996 and currently is the Institutional Maintenance Foreman in MBCC's Facilities Department. He reports to Marco Brancato, who is the Facilities Director. Federico Virgilio is John Virgilio's father. He has worked for MBCC as a Maintainer for approximately four years and is supervised by his son.

Since at least 2009, John and Federico Virgilio have owned and operated a private business called Virgilio's Landscaping, which performs lawn mowing services, seasonal cleanups, light earth removal and site preparatory work. The business is not registered with the Commonwealth of Massachusetts Secretary of State's Corporations Division.

Investigative Findings

I. The Virgilios Worked for Private Clients on MBCC's Time, Using MBCC's Property, Equipment and Employee Labor.

The OIG's investigation revealed that the Virgilios performed landscaping work for private clients on MBCC's time. Another MBCC employee, who John Virgilio supervised, sometimes also worked with the Virgilios on their private landscaping jobs. Further, the Virgilios used MBCC's dump truck and trailer for their landscaping work. Finally, the Virgilios replaced the official state license plate on one of MBCC's trailers with a license plate belonging to John Virgilio. Below are specific examples.

A. 44 Grenville Road, Watertown

On Wednesday, April 3, 2013, John Virgilio, Federico Virgilio and another MBCC employee spent at least four hours each – from 11:00 a.m. to 3:00 p.m. – preparing and digging a trench for an electrical conduit at a private residence located at 44 Grenville Road in Watertown. Also at the site were an MBCC-owned white dump truck, an MBCC trailer and John Virgilio's mini-excavator.

According to MBCC's payroll policy, each employee must electronically report all hours he works for the college. The employee's supervisor must then approve the employee's reported hours. MBCC's payroll records show that John Virgilio, Federico Virgilio and another MBCC employee reported working a full day at MBCC when they were actually working at the private residence.

On Saturday, April 6, 2013, John and Federico Virgilio again worked at 44 Grenville Road. In the morning, Federico Virgilio drove a Virgilio's Landscaping truck onto MBCC's campus and disposed of a full truckload of landscaping debris behind the MBCC storage yard. A short time later, John Virgilio removed the license plate from his trailer, which was parked on MBCC's campus. With his father's help, he then attached his trailer's license plate to one of MBCC's trailers, concealing that trailer's official state license plate. The Virgilios then drove the MBCC dump truck with the attached trailer to 44 Grenville Road and retrieved John Virgilio's mini-excavator. MBCC's payroll records show that John and Federico Virgilio each submitted for five hours of overtime for April 6, 2013.

B. 25 Rangeley Road, Waltham

In the spring of 2013, John and Federico Virgilio performed landscaping work at 22 Rangeley Road in Waltham. The property belonged to HouseCraft LLC, a Waltham-based company that purchases, renovates and sells homes. HouseCraft renovated the property at 25 Rangeley Road and hired Virgilio's Landscaping to landscape the property.

Evidence indicates that John Virgilio worked at the private residence for several days, including when he was paid to work for MBCC. A HouseCraft employee stated that John Virgilio was at the private residence between one and five full workdays during the regular work

week (*i.e.*, Monday through Friday from 9:00 a.m. to 5:00 p.m.). Federico Virgilio also worked at 25 Rangeley Road, but not as frequently as John Virgilio.

Furthermore, on Saturday, April 13, 2013, at approximately 7:00 a.m., John and Federico Virgilio were on MBCC's Wellesley campus, near the maintenance facility. John Virgilio removed the license plate from his trailer and placed it over the license plate on an MBCC trailer, which was attached to a white MBCC dump truck. John and Federico Virgilio then loaded John Virgilio's mini-excavator onto the MBCC trailer and drove the white dump truck and attached trailer to Federico Virgilio's residence in Needham.

Later that day, John and Federico Virgilio performed landscaping services at 25 Rangeley Road. MBCC's white dump truck and trailer were at the site. At the end of the workday, John and Federico Virgilio loaded John Virgilio's mini-excavator onto MBCC's trailer and drove away in MBCC's dump truck. MBCC's payroll records for John and Federico Virgilio show that each certified on their timesheets and received wages for eight hours of overtime that day.

C. 464 Forest Street, Waltham

The owner of HouseCraft hired Virgilio's Landscaping to do landscaping and excavating work on several other occasions, including at a home located at 464 Forest Street in Waltham. HouseCraft's owner stated that John Virgilio re-seeded the lawn, planted bushes and flowers around the property, and dug holes in the backyard for a patio foundation. Both HouseCraft's owner and his employee recalled that John Virgilio used a white dump truck with an attached trailer to transport his mini-excavator to the work site.

D. 20 Warren Avenue, Waltham

HouseCraft's owner confirmed that his company renovated a property at 20 Warren Avenue in Waltham and that he hired Virgilio's Landscaping to complete landscaping work at the site in the fall of 2012. The owner and an employee of HouseCraft could not recall the specific dates John Virgilio was at the property, but both remember that he performed the work during the regular work week.

E. Other Landscaping Clients

Evidence indicates that, as early as 2009, John Virgilio was running his landscaping business using MBCC's equipment and while he was getting paid to work at MBCC. For example, John Virgilio's personal bank records revealed several patterns of payments from what appear to be private landscaping clients. John Virgilio deposited checks that noted in the memo line the services and/or time period for which the payment was being made, such as "fall clean up," "spring cleanup," "balance due 2009," and "Aug/Sept."

Further, the owner of 44 Grenville Road confirmed that, in the past, he hired Virgilio's Landscaping to landscape and mow several of his properties, including the property located at 44 Grenville Road. Other clients of Virgilio's Landscaping similarly stated that they hired the company to perform landscaping services at their homes in 2010 and 2011. Two clients recalled

seeing John Virgilio working at their homes during morning hours (after 8:00 a.m.) on weekdays. Both said that he used a riding lawn mower that was unloaded from a trailer attached to a black pickup truck. MBCC has a black pickup truck and a riding lawn mower. In addition, according to records from the Massachusetts Registry of Motor Vehicles, neither John nor Federico Virgilio owned a black pickup truck in 2010 or 2011.

Finally, a former employee in the Facilities Department also worked for Virgilio's Landscaping while at MBCC. The individual stated that he worked for Virgilio's Landscaping both to "help Johnny [Virgilio]" and to "learn landscaping." He stated that he worked for free, even though he admitted to working "a dozen to two dozen times" for John Virgilio. The OIG did not find these statements to be credible. Further, an eyewitness stated that this former MBCC employee worked for Virgilio's Landscaping "every day" during his scheduled work hours for MBCC.

F. MBCC's Vehicles and Equipment

MBCC's facilities vehicles and heavy equipment do not have an MBCC insignia or otherwise display the school's ownership. This made it easier for John and Federico Virgilio to use MBCC's assets for their landscaping business. In addition, at times when the Virgilios drove the white MBCC dump truck on their landscaping jobs, the blue-and-white official state license plate was bent upward, hiding the majority of the plate behind the vehicle's mud flap. It appears that the Virgilios used this tactic to intentionally obstruct the official state license plate from public view so that they could use the vehicle and equipment for personal gain.

Conclusion:

The OIG's investigation revealed that John and Federico Virgilio performed private landscaping work while also being paid to work for the college. In addition, they used MBCC's campus, employees, property and assets for their personal benefit. The Virgilios also submitted falsified timesheets to the college and concealed the state's ownership of MBCC's vehicles to avoid detection when using the vehicles for their business.

The above-described conduct likely constitutes larceny and false claims by wrongfully submitting and receiving payment from MBCC while working for private clients. In addition, the use MBCC's equipment for their private business constitutes an unwarranted privilege under M.G.L. c. 268A, § 23(b)(2).

Finally, the absence of insignia or any other distinguishing markings on MBCC's vehicles and heavy equipment made it much easier for John and Federico Virgilio to use MBCC's assets for their landscaping business.

Recommendations:

MBCC should take the following corrective measures.

1. Conduct an internal investigation and proceed with disciplinary action as appropriate.

2. Consider requesting that the Norfolk County District Attorney's Office file criminal charges against both John and Federico Virgilio. Possible charges include larceny and violating M.G.L. c. 266, § 67A (making false statements in the procurement of supplies, services or construction) by submitting falsified timesheets.
3. Refer the above-detailed matters to the Massachusetts State Ethics Commission for possible violations of M.G.L. c. 268A.
4. Immediately place decals displaying the college's insignia on MBCC's vehicles, heavy equipment, machinery and trailers.
5. Institute a policy requiring employees to disclose all outside employment. Review each disclosure to ensure that the employee's outside employment complies with state ethics laws and MBCC's policies.
6. Evaluate Mr. Brancato's management and oversight of the Facilities Department and take appropriate corrective actions.

II. Supplies and Materials

John Virgilio is responsible for scheduling maintenance and repair work on MBCC's heavy equipment. As a maintenance foreman, John Virgilio also orders certain supplies and materials for MBCC's Wellesley and Framingham locations. Evidence indicates that John Virgilio likely ordered and received items from MBCC's vendors and then used those supplies for his landscaping business.

A. Cavicchio Greenhouses, Inc.

The OIG found credible evidence that on two occasions John Virgilio picked up supplies that MBCC purchased from Cavicchio Greenhouses, Inc. ("CGI") – including flowers, bushes and shrubbery – and then used those supplies for his landscaping business. Specifically, evidence indicates that John Virgilio used at least some of these supplies when he worked at 25 Rangeley Road and 20 Warren Avenue in Waltham (see pages 3-4).

CGI is a commercial greenhouse that is not open to the public; the company only sells to those businesses that have been approved as legitimate landscaping companies or related entities. Moreover, businesses must set up customer accounts to purchase and receive items. Representatives from approved businesses can only receive items purchased at CGI if they provide a membership identification card in person. According to CGI's records, John Virgilio first opened an account at CGI for Virgilio's Landscaping on July 25, 2014. Therefore, John Virgilio and Virgilio Landscaping could not have purchased supplies at CGI before July 2014.

As previously discussed, HouseCraft owned the properties at 20 Warren Avenue and 25 Rangeley Road in Waltham. HouseCraft hired John Virgilio to perform landscaping services at both homes in the fall of 2012 and spring of 2013, respectively. The current homeowners purchased their respective properties from HouseCraft. The owners of each property confirmed that the flowers and bushes currently planted at their homes were, in fact, the same as when they purchased the properties. Investigators photographed and inventoried all plants at each address.

Based on CGI's invoices, in the relevant time periods, MBCC purchased plants and bushes similar to those at 20 Warren Avenue and 25 Rangeley Road. In addition, a CGI manager matched specific plants in the photographs taken at the Waltham residences to items that CGI sold to MBCC. The manager also compared four inventory tags found on plants at 25 Rangeley Road and 20 Warren Avenue (two at each residence) with invoices for purchases MBCC made at CGI. He stated that the descriptions listed on the inventory tags were consistent with product descriptions on invoices for items CGI sold to MBCC. The manager did state, however, that he could not definitely determine whether the plants at 25 Rangeley Road and 20 Warren Avenue were the exact same plants that CGI sold to MBCC.

B. Schmidt Equipment

From 2009 to 2013, John Virgilio was responsible for scheduling maintenance and repair work on an MBCC John Deere model JD-250, also known as a "Skid Steer." According to Mr. Brancato, MBCC historically used a John Deere affiliate, Schmidt Equipment ("Schmidt") in Billerica, to service and repair the Skid Steer. The Skid Steer would be transported to Schmidt for service or a Schmidt representative would repair the equipment at MBCC. Mr. Brancato approves and signs all service and purchase orders from Schmidt. However, he admitted that he does not see each item that is purchased; he relies upon John Virgilio to determine which parts and supplies to buy. When asked if he had ever signed or approved purchase orders for John Deere parts or supplies unrelated to MBCC's Skid Steer, Mr. Brancato replied, "No."

A Schmidt invoice numbered 936555 and dated June 27, 2012, shows that John Virgilio ordered, signed for and received the following John Deere parts and supplies:

Schmidt Invoice No. 936555		
Part #	Description	Price
4454526	2 Oil Filters	\$13.03
M131802	2 Fuel Filters	\$42.00
AT308568	Filter Element	\$49.27
4621929	O-Ring	\$8.88
Total:		\$113.18

The parts operation manager at Schmidt stated that the items listed above are unique to a John Deere Compact Excavator, model number JD-27D, and cannot be used on MBCC's Skid Steer. As previously discussed, John Virgilio owns a John Deere JD-27D.

Mr. Brancato could not explain why MBCC would purchase John Deere items that are not compatible with MBCC's Skid Steer.

Further, most invoices that Schmidt sent to MBCC between 2009 and 2013 listed the make, model and serial number of MBCC's Skid Steer.¹ In addition, the invoices included a listing and description of the parts needed and the services performed. However, five invoices

¹ Specifically, the invoices listed "JD-250" and "KV0250A351303."

from that time period did not contain the above-listed categories (make, model, serial number) to identify which piece of equipment was repaired and what services were rendered. The five invoices in question total \$1,162.19.²

Conclusion:

The circumstantial evidence strongly supports the conclusion that John Virgilio bought plants and shrubs using MBCC's account, but used the plantings for his landscaping clients. The evidence also indicates that John Virgilio ordered, signed for and received parts for his John Deere mini-excavator. The OIG cannot definitively link the parts and supplies listed on the five invoices discussed above to John Virgilio's mini-excavator because the items are not unique to that specific John Deere model. However, based on inconsistencies with the other invoices from Schmidt – specifically, the failure to list the make, model or serial number of MBCC's Skid Steer – it is more likely than not that the materials were used on John Virgilio's personal equipment.

Finally, the Facilities Department's process for ordering and receiving supplies is flawed. One individual should not have the authority to both order and receive supplies. Further, Mr. Brancato does not adequately oversee purchases, and does not consistently reconcile inventory purchased and received, which allows for potential theft and other misuses of MBCC's assets.

Recommendations:

MBCC should take the following corrective measures.

1. Establish a written policy detailing the appropriate use of MBCC's equipment and other resources. At a minimum, this policy should comply with the state ethics statute, which prohibits employees from using any public assets for personal use. The policy should also outline disciplinary procedures for the inappropriate use of MBCC's equipment and resources.
2. Complete a two-year review of MBCC's purchase history from Cavicchio Greenhouses and Schmidt Equipment, and perform an inventory reconciliation to account for all items purchased.
3. Examine the existing purchasing protocols and segregate the duties for ordering supplies, receiving supplies and approving payments. For example, employees who order supplies should not receive the supplies or approve payments.

III. John Virgilio Hired an MBCC Vendor to Perform Carpentry Work at a Relative's Home.

The OIG found that John Virgilio used his position at MBCC to hire one of MBCC's vendors to perform work at his mother-in-law's home.

² These five invoices are in addition to the June 27, 2012 invoice discussed above.

James Landry holds a Massachusetts Supervisory Construction license. Mr. Landry has bid on and been awarded several contracts to perform carpentry work for MBCC over the past several years.³ John Virgilio's supervisor, Mr. Brancato, awarded the contracts to Mr. Landry. According to Mr. Landry, John Virgilio approached him in the summer of 2012 and asked if he was interested in performing work at his mother-in-law's home. The work included constructing a back porch, replacing storm doors and hanging window shutters. Mr. Landry accepted the work from John Virgilio. Upon the job's completion, John Virgilio's mother-in-law and her sister paid Mr. Landry in the form of two personal checks.

Conclusion:

John Virgilio used his position at MBCC to hire one of the college's vendors to perform work on his mother-in-law's home. Massachusetts law prohibits state employees from using their positions to get an unwarranted privilege not available to the public. *See* M.G.L. c. 268A, § 23(b)(3). Consequently, John Virgilio may have violated Massachusetts' ethics laws. At a minimum, due to the existing relationship between this vendor and MBCC, it was inappropriate for a foreman in the Facilities Department to hire the vendor for private work. This creates an environment in which the vendor may feel obligated to either accept the private job or jeopardize his relationship with MBCC. For the same reason, the vendor may feel pressure to do the work at a discounted price.

Recommendations:

MBCC should take the following corrective measures.

1. Consider referring this matter to the Massachusetts State Ethics Commission for possible action.
2. Conduct an internal investigation and take disciplinary action as appropriate.
3. Consider adopting a policy prohibiting employees from conducting business with MBCC's vendors. At a minimum, employees should be required to disclose any business or personal relationships they have with vendors.

IV. John Virgilio Improperly Disposed of MBCC Equipment.

The OIG determined that John Virgilio disposed of a heavy-duty sander⁴ and snowplow belonging to MBCC without the authority to do so. Mr. Virgilio denied that he sold the items, but admitted that he gave them away. Mr. Virgilio refused to say who received them. Based on the OIG's investigation, it is likely that Mr. Virgilio either gave or sold the equipment to friends and relatives. Whether he sold the equipment or gave it away, however, Mr. Virgilio did not have the authority to take state assets and dispose of them. His conduct likely both constitutes larceny and violates state ethics laws (*see* M.G.L. c. 268A, § 23(b)).

³ Mr. Landry is also married to a switchboard operator in MBCC's Facilities Department.

⁴ The sander attached to the top of one of MBCC's pickup trucks.

Lax management and poor inventory controls made it easier for Mr. Virgilio to take MBCC's equipment without permission. When the OIG conducted its investigation, Mr. Brancato did not know that John Virgilio had given away the sander and snowplow; he did not even know that the equipment was missing. To the contrary, he stated that none of MBCC's snowplows were missing and that all were accounted for. Mr. Brancato speculated that it was possible that when MBCC purchased a new sander, the old sander may have been traded in to the vendor. However, he did not have a record showing that such a transaction had occurred. Similarly, Mr. Brancato did not have any records demonstrating that his department had disposed of a sander under a formal disposition policy, such as under the Operational Services Division's ("OSD") surplus-property guidelines.

Additionally, at the time of the OIG's investigation, the Facilities Department had a poor inventory system. The department's "inventory log" was simply a list of assets. The list did not contain information necessary to identify and track the assets, such as each asset's model number, description, location at MBCC, purchase date and purchase price. Further, the department did not attach identification tags to its equipment or supplies. Identification tags, which have unique inventory numbers, are an inexpensive but effective way to track assets.

Conclusion:

By his own admission, John Virgilio took a sander and snowplow that belonged to MBCC and gave them away. As discussed above, this conduct likely is both criminal and a violation of state ethics laws.

As the Facilities Director, it is Mr. Brancato's responsibility to keep track of the Facilities Department's equipment, and to discover when property is missing. The fact that Mr. Brancato never realized that the equipment was missing indicates that he was not adequately overseeing the Facilities Department. Likewise, Mr. Brancato failed to implement a meaningful inventory system for the department's assets. The department's current system exposes the college to potential theft, loss of property, and the inappropriate use of MBCC's equipment and supplies.

Recommendations:

MBCC should take the following corrective measures.

1. Consider requesting that the Norfolk County District Attorney's Office file criminal charges against John Virgilio.
2. Conduct an internal investigation and bring disciplinary action as appropriate.
3. Implement a comprehensive asset inventory system for the Facilities Department and reconcile its list of assets. As part of this system, attach identification tags to assets with a minimum value (*e.g.*, \$100), including vehicles, heavy machinery, equipment and tools.
4. Conduct an inventory audit once a year.

5. Dispose of all surplus property in accordance with the OSD's surplus-property guidelines.

V. *The Virgilios Regularly Stored Their Landscaping Equipment on MBCC's Property.*

During his employment at MBCC, John Virgilio has owned three heavy-duty landscaping trucks, a trailer and a John Deere JD-27D mini-excavator. One of the trucks and the mini-excavator are labeled with a "Virgilio's Landscaping" insignia. The OIG found that the Virgilios regularly garaged or stored these vehicles and equipment on MBCC's property. The OIG further determined that, during winter of 2012-2013, John Virgilio refurbished his mini-excavator in MBCC's maintenance garage. These actions are inappropriate because the Virgilios used their positions at MBCC to gain unwarranted privileges that are unavailable to the public. See M.G.L. c. 268A, § 23(b)(2). To the extent that John Virgilio used any of MBCC's supplies (e.g., equipment parts) to refurbish his mini-excavator, his conduct would constitute theft.

The Facilities Director, Marco Brancato, admitted that he gave John Virgilio permission to park his business' trucks on campus for approximately one month. After the trucks had been on campus for about two months, Mr. Brancato claims that he instructed John Virgilio to remove the vehicles and that John Virgilio complied with his request. However, witnesses recalled seeing Virgilio's Landscaping vehicles parked on MBCC's campus "on and off for years." Because MBCC's campus is public property, Mr. Brancato did not have the authority to allow John Virgilio to store personal property on campus.

Recommendation:

MBCC should take the following corrective action.

1. MBCC should implement a written policy prohibiting the use of MBCC's property to store or service personal vehicles and equipment.

VI. *Mr. Brancato Failed to Properly Oversee His Employees to Ensure They Worked When They Were Paid to Work.*

As discussed above, John and Federico Virgilio performed landscaping work for private clients while they were being paid to work at MBCC. According to MBCC documents, moreover, both individuals indicated on their timesheets that they worked full days for MBCC when they were actually performing private landscaping services. Mr. Brancato was responsible for approving their timesheets. In addition, both John and Federico Virgilio submitted requests to work overtime on Saturday, April 6, 2013 and Saturday, April 13, 2013, when they were performing private landscaping services. Marco Brancato approved the overtime requests in advance.

Mr. Brancato does not properly supervise his employees to ensure that they are working. He explained that he receives work orders for certain jobs in and around the school and sends them to John Virgilio. Once John Virgilio has a work order, it then rests on him or a designated Facilities Department employee to fulfill it. In addition to responding to work orders, the

Facilities Department is responsible for daily, weekly and monthly tasks at MBCC, such as maintaining and landscaping the campus grounds. Mr. Brancato stated that he does not typically inspect his employees' work to determine whether all work orders and maintenance are completed or whether the work is satisfactory. Instead, he trusts that Facilities Department employees have carried out their daily workloads in a complete and professional manner.

Further, Mr. Brancato does not adequately oversee the use of overtime. Mr. Brancato stated that due to the nature of certain work orders, he might request that an employee perform the work on a weekend when classes are not in session. Mr. Brancato also explained that some employees, specifically John and Federico Virgilio, request to complete certain tasks on weekends for overtime pay. John Virgilio's justifications for working overtime included not being able to finish assignments during the normal work week. Mr. Brancato stated that he denies approximately twenty-five percent of John Virgilio's weekend overtime requests. Mr. Brancato stated that he "usually inspects" weekend work when he returns to MBCC on the following Monday.

Conclusion:

The OIG concluded that a number of the overtime requests that Mr. Brancato approved were not justified. John and Federico Virgilio worked at private homes in Watertown and Waltham on Saturday, April 6, 2013 and Saturday, April 13, 2013, yet were paid for a combined total of twenty-six hours of overtime.⁵ If Mr. Brancato had inspected the work that was supposed to have been completed over the weekend, he would have noticed either that no work had been completed or that the amount of work done did not justify paying John and Federico Virgilio for the hours they claimed to have worked.

The current overtime practices within the Facilities Department are unsound. Certain Facilities Department employees are able to assign themselves overtime hours for work that is unnecessary, unsupervised and rarely subject to inspection upon completion.

Recommendations:

MBCC should take the following corrective measures.

1. Evaluate its overtime policy for the Facilities Department. The policy should, at a minimum:
 - a. Outline the limited circumstances in which overtime is appropriate. Landscaping and grounds work that can be performed during the regular work week should not be done for overtime pay on weekends unless there are exceptional circumstances (e.g., graduation, athletic events or outdoor ceremonies).
 - b. Require the Facilities Director to:

⁵ John and Federico Virgilio submitted and were paid for working twenty-six hours of overtime on two days: five hours each on April 6, 2013, for a total of ten hours; and eight hours each on April 13, 2013, for a total of sixteen hours.

- i. meaningfully review all overtime requests, paying particular attention to requests that cite reasons such as “classes in session;” and
 - ii. assign overtime work orders based on priority and inspect all work performed upon its completion.
2. Evaluate Mr. Brancato’s management and supervision of the Facilities Department and take appropriate corrective actions.

VII. The Hiring and Supervision of Federico Virgilio, John Virgilio’s Father, Created a Conflict of Interest.

Mr. Brancato stated that MBCC hired Federico Virgilio after conducting a “normal hiring process” and that he was the “best applicant” for the position. Mr. Brancato also stated that MBCC’s Human Resources Department approved the hiring with the understanding that Federico Virgilio would not directly report to or be supervised by his son, John Virgilio.

Despite the Human Resource Department’s instructions, John and Federico spent much of their workdays together, with John Virgilio supervising his father’s work. Mr. Brancato claimed that he had “spoken to them about it,” and advised them to work separately. Mr. Brancato acknowledged that they nevertheless continued to work together and that he should not have allowed it to happen as often. This situation created a conflict of interest due to John Virgilio’s supervisory position over his father. *See* M.G.L. c. 268A, § 6 (one family member may not supervise another family member unless the employees’ appointing official makes the appropriate written determination required by statute).

Conclusion:

As the Institutional Maintenance Foreman in MBCC’s Facilities Department, John Virgilio supervises Maintainers (such as Federico Virgilio), including assigning them work orders to complete. The Office’s investigation confirmed that John Virgilio directly supervised his father, Federico Virgilio, on a regular basis. This is a direct violation of the guidelines set forth by Mr. Brancato and the Human Resources Department. This also appears to be a violation of the state ethics laws regarding a relative’s supervision of another family member. *See* M.G.L. c. 268A, § 6.

The Human Resources Department addressed the familial relationship by explicitly prohibiting John Virgilio from supervising his father. John Virgilio consistently violated that prohibition. Further, Mr. Brancato failed to enforce the Human Resource Department’s directive and allowed John Virgilio to supervise his father.

Recommendations:

MBCC should take the following corrective measures.

1. Consider referring this matter to the Massachusetts State Ethics Commission for possible violations of M.G.L. c. 268A.

2. Conduct an internal investigation and bring an internal disciplinary action as appropriate.
3. Evaluate Mr. Brancato's management and supervision of the Facilities Department and take appropriate disciplinary action.

VIII. The Facilities Department's Process for Ordering and Receiving Supplies and Materials Allows Employees to Spend Significant Time Off Campus With Virtually No Accountability or Supervision.

The OIG found that John and Federico Virgilio were allowed to leave MBCC's campus for significant periods of time, at will and with little or no accountability for their whereabouts. Witnesses reported that John and Federico Virgilio frequently travel off campus, purportedly for work-related tasks, such as to pick up supplies and materials, to drop off equipment for repairs and to refuel MBCC's vehicles.

The Office's investigation revealed, however, that one individual could complete many of these tasks and there was no reason to send two people. Moreover, it is questionable whether they left campus for work-related errands; as previously discussed, in 2012 and 2013, both individuals performed private landscaping work during their normal work hours.

Conclusion:

A lack of supervision created a work environment in which the Virgilios had virtually no accountability for their daily whereabouts.

Recommendation:

MBCC should take the following corrective measure.

1. Examine the procedures for performing off-campus tasks, such as picking up supplies and materials, servicing equipment and refueling vehicles. The procedures should limit the number of employees who perform these tasks.

IX. Additional Recommendations.

The OIG makes the following additional recommendations in order to prevent fraud, waste and abuse within the Facilities Department. Implementing these recommendations also will allow MBCC's Facilities Department to be more efficient and to hold employees more accountable. The OIG recommends that MBCC:

1. Conduct ethics and procurement training for all Facilities Department employees.
2. Consider attaching or activating GPS devices on all of the Facilities Department's vehicles and equipment to help ensure that employees are using MBCC's vehicles and equipment only for MBCC's purposes.

3. Consider implementing a payroll policy disclaimer informing MBCC's employees that falsifying their timesheets may result in termination or criminal prosecution.

Conclusion

The OIG found that John and Federico Virgilio used their public positions for personal gain by operating a private business during work hours and by using MBCC's vehicles, equipment, supplies, employee labor and assets for that business. John and Federico Virgilio also falsified their timesheets and improperly concealed the official license plates on MBCC's equipment to avoid detection when using that equipment for their landscaping business. Further, John Virgilio gave away or sold MBCC property without permission and misused his position to hire one of MBCC's vendors to perform carpentry services for a relative.

The OIG also found that MBCC's Facilities Department lacks the supervision, oversight, controls and safeguards necessary to ensure the accountability of its employees and to protect the college's resources and assets. MBCC must take immediate action to reduce the college's vulnerability to the fraud, waste and abuse of public resources and assets.

The OIG looks forward to the college's response outlining its corrective action plan. I again would like to thank you and your management team for cooperating with the investigation and granting access to MBCC's employees, facilities and records. Please do not hesitate to contact me if you have any questions.

Sincerely,



Glenn A. Cunha
Inspector General

cc: ADA Gregory Connor, Norfolk District Attorney's Office