

Reporting Employee Malfeasance

Valdosta State University understands and recognizes that an ethical work environment, operating fully within the confines of the law, is essential and conducive to a productive and efficient atmosphere.

This page provides a summary of recent developments impacting the campus community.

Official Code of Georgia, Annotated (O.C.G.A.) 50-5-83, O.C.G.A. 50-5-80

Questions and Answers

1. *What is O.C.G.A. 50-5-83 and O.C.G.A. 50-5-80?*

O.C.G.A. 50-5-83 and O.C.G.A. 50-5-80 are laws resulting from the passage of House Bill (HB) 1113, which passed the senate and was signed into law by Governor Sonny Perdue on May 14, 2008. HB 1113 revised O.C.G.A. 50-5-80 and created 50-5-83. Therefore, effective July 1, 2008, O.C.G.A. 50-5-83 and O.C.G.A. 50-5-80 prohibit any person from obtaining any personal gain or benefit through the use of purchase orders, government contracts or credit cards (P-Cards), charge cards, debit cards or other payment methods. Violators of this legislation will face civil and criminal penalties. Some examples of purchasing methods at Valdosta State University include, but are not limited to purchase orders, check requests, petty cash accounts/advances, government contracts, credit cards, charge cards or debit cards. This also includes the submission of fraudulent requests for expense reimbursement. Any person, including but not limited to a supervisor, who knowingly assists another person in violating this law will also be subjected to civil and criminal penalties.

2. *What are the criminal penalties under the current laws?*

- If the total amount of misuse does not exceed \$500.00, a person will be charged with a misdemeanor of high and aggravated nature which shall be punishable by not more than 12 months imprisonment and a fine not to exceed \$5,000.00.
- If the total amount of misuse exceeds \$500.00, a person will be charged with a felony which shall be punishable by not less than one nor more than 20 years of imprisonment and a fine not to exceed \$50,000.00 or triple the amount of such unlawful purchases, whichever is greater.
- In either circumstance, a person will be subject to immediate termination of state employment and shall owe restitution to the state equal to the amount of such unlawful purchases, plus interest to be assessed at a rate of 12 percent per annum to be calculated from the date each unlawful purchase was made.
- Any person, including but not limited to a supervisor, who knowingly assists another person in violating this law will be subject to the same criminal charges and penalties outlined above.
- Any person who uses a travel advance received from public funds for nongovernmental purposes or submits or approves, knowingly or through willful and wanton neglect, a fraudulent request to the state for reimbursement of expenses will be subject to the same criminal charges and penalties outlined above.

3. What are specific requirements under the new laws with respect to purchasing cards or P-Cards that may result in a violation?

P-Card misuse that may result in civil and criminal penalties includes, but is not limited to:

- use of a purchasing card for personal gain;
- purchasing items on a card that are not authorized for purchase by such employee;
- purchasing items in violation of HB1113 (prohibited items include, gift cards, alcoholic beverages, tobacco products, personal items that are not job-related and items over \$5,000.00 unless the item is purchased in compliance with a valid state contract);
- retaining for an employee's personal use a rebate or refund from a vendor, bank or other financial institution resulting from a purchase or use of the purchasing card (for example, certain vendors will issue rebate checks or merchandise awards when customers accumulate points. Some vendors will issue prizes that are personal use items such as luggage, dishware, jewelry, etc.).

4. What are the requirements specific to the P-Card program?

O.C.G.A. 50-5-83 requires that:

- P-Cards only be issued to employees whose job duties require the use of a P-Card;
- Employees receiving a P-Card sign an ethical behavior agreement;
- Transaction logs be maintained to show specific information for each purchase;
- Purchases be reviewed and approved by supervisory personnel;
- Departments review annually, all P-Cards issued to employees and eliminate cards for employees with low usage;
- Employers perform criminal background checks and credit checks on persons hired for positions for which purchasing cards are issued;
- Purchases be accompanied by receipts and supporting documentation and if they are not supported, the employee will be personally responsible for the purchase;
- An employee's supervisor who knowingly intentionally, willfully, wantonly, or recklessly allows or who conspires with any employee who has a P-Card and violates the requirements under HB 1113, is subject to termination of employment and criminal prosecution.

5. If I suspect a violation has occurred, what, if any, is my obligation to report the incident?

Under O.C.G.A. 50-5-83, any person, including but not limited to a supervisor, who knowingly assists another person in violating this law will be subject to the same criminal charges and penalties.

Also, effective as of May 6, 2008 under BOR policy, all University System of Georgia institutions are expected to report all suspected employee malfeasance to the Chief Auditor's Office at the BOR. As defined by BOR policy, employee malfeasance generally includes instances of embezzlement, misappropriation, alteration or falsification of documents, false claims, theft of any asset, inappropriate use of computer systems to include hacking and software piracy, bribery or kickback, etc.

Therefore, ***any misuse, including inadvertent use (such as mistakenly using a P-Card for a personal purchase) is a violation of law and must be reported to the Board of Regents (BOR).***

6. How do I make a report of suspected employee malfeasance?

You may report employee suspected employee malfeasance to the University Attorney at Valdosta State. This information will be submitted to the Chief Auditor of the BOR. In addition, the State Attorney General's Office will review all cases of alleged employee malfeasance that have been reported to the BOR.

The decision whether to prosecute a case rests with the Georgia Attorney General's Office.

7. Is Valdosta State allowed to promise not to report employee malfeasance?

No. Valdosta State, as well as all other institutions within the University of Georgia system, are not authorized to negotiate a promise to not report employee malfeasance in return for the employee's resignation, restitution or otherwise.

8. In light of this law, is the Hotline no longer available?

You may continue to utilize the hotline to report suspected misconduct.

9. If I have further questions, how may I access additional information?

You may contact the University Attorney, at 229-333-5351. You may access the May 6, 2008 memo from Ronald Stark, Chief Audit Officer & Associate Vice Chancellor at access at: <http://www.valdosta.edu/legal/>.