



May 31, 2017

Sharon Ortiz  
Executive Director  
Washington State Human Rights Commission  
711 S. Capitol Way, Suite 402  
P.O. Box 42490  
Olympia, Washington 98504-2490

**RE: Request for Investigation**

Dear Director Ortiz:

Please accept this letter as a request for a formal investigation of recent actions involving discrimination at The Evergreen State College. The actions of the Evergreen State College, its administrators, faculty, and students, have received national media attention in the past few days due to the inflammatory and sensitive nature of the situation. It is my hope the Washington State Human Rights Commission investigate and shed light on the actions of The Evergreen State College and its affiliates and take action to correct discriminatory practices or policies.

**I. Background**

The Evergreen State College (“Evergreen”) is a public liberal arts and sciences college in Olympia, Washington. Evergreen is a state college that has statutory authority under RCW 28B.40 and a substantial portion of its operating budget is funded by the state near general fund. Evergreen also acts as an employer to more than eight persons and is not a religious or sectarian organization.<sup>1</sup>

Evergreen has a long-standing tradition known as the “Day of Absence” which began on campus in the 1970s and, according to Evergreen, “grew to become an opportunity for all students, faculty and staff at Evergreen to explore and celebrate the richness of our diversity by facilitating conversations about issues of difference.”<sup>2</sup> The Day of Absence encourages a particular group of individuals to leave campus for a day. The Day of Absence is followed by a “Day of Presence” where the students and faculty reunite on campus and shares ideas.

---

<sup>1</sup> RCW 49.60.040(11).

<sup>2</sup> Evergreen State College Website <http://evergreen.edu/multicultural/day-of-absence-day-of-presence>

In 2017, the Day of Absence event asked white faculty and students to leave campus. Evergreen hosted a separate off-campus, full-day program focusing on allyship and anti-racism work from a majority culture or white perspective. Simultaneously, Evergreen offered a full-day, on-campus educational and social program designed to address issues from the perspective of people of color. While white people were asked to leave campus for this year's Day of Absence, Evergreen did state on its website, "... because many of us are mixed, and may not wholly identify ourselves with one community or the other, we invite each person to attend the program of their choice, wherever they feel most comfortable."

Biology professor Bret Weinstein, who is white, issued an email to a fellow Evergreen faculty member explaining his decision not to participate in Day of Absence that called for white people to leave campus.<sup>3</sup> The email, addressed to Rashida Love,<sup>4</sup> who coordinates the Day of Absence, states:

*Dear Rashida,*  
*When you first described the new structure for Day of Absence / Day of Presence at a past faculty meeting (where no room was left for questions), I thought I must have misunderstood what you said. Later emails seemed to muddy the waters further, while inviting commitments to participate. I now see from the boldfaced text in this email that I had indeed understood your words correctly.*  
*There is a huge difference between a group or coalition deciding to voluntarily absent themselves from a shared space in order to highlight their vital and under-appreciated roles (the theme of the Douglas Turner Ward play Day of Absence, as well as the recent Women's Day walkout), and a group or coalition encouraging another group to go away. The first is a forceful call to consciousness which is, of course, crippling to the logic of oppression. The second is a show of force, and an act of oppression in and of itself.*  
*You may take this letter as a formal protest of this year's structure, and you may assume I will be on campus on the Day of Absence. I would encourage others to put phenotype aside and reject this new formulation, whether they have 'registered' for it already or not. On a college campus, one's right to speak—or to be—must never be based on skin color.*  
*If there was interest in a public presentation and discussion of race through a scientific/evolutionary lens, I would be quite willing to organize such an event (it is material I have taught in my own programs, and guest lectured on at Evergreen and elsewhere). Everyone would be equally welcome and encouraged to attend such a forum, irrespective of ethnicity, belief structure, native language,*

---

<sup>3</sup> <http://www.cooperpointjournal.com/2017/04/10/dl-on-the-faculty-dl-update-on-the-email-chain/>

<sup>4</sup> Ms. Love serves as director of First Peoples Multicultural Advising Services at The Evergreen State College.

*political leanings, or position at the college. My only requirement would be that people attend with an open mind, and a willingness to act in good faith.*

*If there is interest in such an event, please let me know at -----.*

*Bret*<sup>5</sup>

After issuance of the email, several student protests and confrontations occurred on campus. Media footage shows students protesting and harassing campus employees of different race and ideology.<sup>6</sup> Students demanded for the campus administration to suspend Mr. Weinstein without pay because of his refusal to participate in Day of Absence and the remarks he made in the email to Ms. Love. Campus police informed Mr. Weinstein that it was not safe for him to be on campus and recommended he stay off campus for a few days.<sup>7</sup> As a result, Mr. Weinstein held class off-campus, effectively excluded from his place of work. The lack of administrator control and campus security have allowed students to create a hostile environment, constructively barring Mr. Weinstein from his workplace due to his refusal to leave campus as a white person for the school's Day of Absence event.

## II. Legal Background

### a. State Law

Washington State has strong protections against discrimination. The Washington Law Against Discrimination (WLAD) declares the right to be free from discrimination based on race, color, and national origin.<sup>8</sup> The WLAD, among other things, applies to employment discrimination.

First, the WLAD provides that it is an unfair practice for an employer to refuse to hire any person because of race, color, or national origin.<sup>9</sup> Furthermore, the statute provides that it is unlawful for an employer to discharge or **bar** any person from employment because of the foregoing protected categories.<sup>10</sup> A prima facie case of hostile work environment harassment based on racial discrimination can be shown if the harassment: (1) was unwelcome, (2) was because of race, (3) affected the terms or conditions of employment, and (4) may properly be imputed to the employer.<sup>11</sup>

Second, Initiative Measure No. 200, passed by the people of the state of Washington in 1998, explicitly prohibits state discrimination and preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of **public employment**,

<sup>5</sup> <http://www.cooperpointjournal.com/2017/04/10/dl-on-the-faculty-dl-update-on-the-email-chain/>; Email address redacted for confidentiality.

<sup>6</sup> <http://college.usatoday.com/2017/05/30/protests-erupt-over-racism-at-evergreen-state-college/>  
<http://www.theolympian.com/news/local/education/article152516624.html>

<sup>7</sup> <http://www.king5.com/news/local/olympia/professor-told-hes-not-safe-on-campus-after-college-protests/443098670>

<sup>8</sup> RCW 49.60.030.

<sup>9</sup> RCW 49.60.180.

<sup>10</sup> RCW 49.60.180(2).

<sup>11</sup> Fisher v. Tacoma School Dist. No. 10, 53 Wash. App. 591,595, 769 P.2d 318, 320 (Div. 2. 1989) (citing Glasgow v. Georgia Pacific Corp., 103 Wash. 2d 401 (1985)).

public education, or public contracting.<sup>12</sup> The initiative defines “state” to include public colleges and universities.

b. Federal Law

Similarly, the Federal Civil Rights Act of 1964 (Title VII) prohibits discrimination based on race, color, and national origin. The U.S. Equal Employment Opportunity Commission (EEOC) is charged with enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person’s race, color or national origin. The EEOC’s E-RACE program is tasked with eradicating racism and colorism from employment and provides best practices and tips for employees. In its best practices publication,<sup>13</sup> the EEOC suggests employees “refuse to initiate, participate, or condone discrimination and harassment” to prevent race and color discrimination in the workplace.

### III. Commission Jurisdiction

a. Authority of Law to Investigate

The legislature granted the Washington State Human Rights Commission with the authority to receive, impartially investigate, and pass upon complaints alleging unfair practices under RCW 49.60.<sup>14</sup> Under this investigatory authority, the commission is charged with the power to hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the commission.

### IV. Request for Investigation

The Washington State Human Rights Commission has an interest under RCW 49.60 in The Evergreen State College’s Day of Absence policy of inviting people who are white to leave campus, as it is suspect to racial discrimination. Furthermore, the Washington State Human Rights Commission has an interest in investigating a public college atmosphere that is unsafe, hostile, and constructively excludes a member of staff based on his race. It is for these reasons that I request the Washington State Human Rights Commission act under its authority to investigate potential violations of RCW 49.60 and take action to correct any discriminatory practices or policies.

Any race-based exclusion of a person in employment or in a public accommodation is, on its face, unconscionable discrimination. Our state has a proud tradition of inclusivity and protection of individuals regardless of their race, ethnicity or national origin.

Thank you for your consideration and diligent work in striving enforce our state’s constitutional and statutory protections against race-based discrimination. Please contact my office if you need additional information.

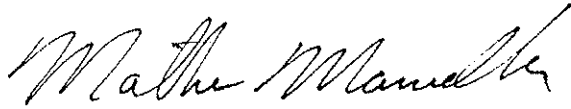
---

<sup>12</sup> Initiative Measure No. 200 (1998) is codified in RCW 49.60.400.

<sup>13</sup> <https://www.eeoc.gov/eeoc/initiatives/e-race/upload/bestpractices-employees.pdf>

<sup>14</sup> RCW 49.60.120(4).

Sincerely,



Matt Manweller  
Representative—13<sup>th</sup> District  
House of Representatives  
State of Washington

CC:

The Honorable Governor Jay Inslee  
Office of the Governor  
PO Box 40002  
Olympia, Washington 98504-0002

The Honorable Robert F. Ferguson  
Washington State Office of the Attorney General  
P.O. Box 40100  
Olympia, WA 98504-0100

President George Bridges  
Office of the President  
The Evergreen State College  
2700 Evergreen Parkway NW  
Olympia, WA 98505-0001

The Evergreen State College Board of Trustees  
Gretchen Sorensen, Chair  
Fred Goldberg, Vice Chair  
Rhianna Hruska, Student Trustee  
David Nicandri, Secretary  
Anne Proffitt  
James Wigfall  
Irene Gonzales  
Keith Kessler  
The Evergreen State College  
2700 Evergreen Parkway NW  
Olympia, WA 98505-0001