

EMPLOYEE RELATIONS
SAN JOSÉ STATE UNIVERSITY

Report Number 03-19
February 12, 2004

Members, Committee on Audit

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BOARD OF TRUSTEES
THE CALIFORNIA STATE UNIVERSITY

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ABBREVIATIONS

APC	Academic Professionals of California
CFA	California Faculty Association
CSEA	California State Employees' Association
CSU	California State University
FTE	Full-Time Employment
HEERA	Higher Education Employee-Employer Relations Act
HRSG	Human Resources Service Group
IUOE	International Union of Operating Engineers
MPP	Management Personnel Plan
SAM	State Administrative Manual
SETC	State Employees Trades Council
SJSU	San José State University
SUPA	State University Police Association
UAPD	California Federation of the Union of American Physicians and Dentists

EXECUTIVE SUMMARY

As a result of a systemwide risk assessment conducted by the Office of the University Auditor during the last quarter of 2002, the Board of Trustees, at its January 2003 meeting, directed that *Employee Relations* be reviewed.

We visited the San José State University (SJSU) campus from August 18, 2003, through September 18, 2003, and audited the procedures in effect at that time.

In our opinion, controls within selected areas of the employee relations function at SJSU were operating effectively and in compliance with existing California State University policies.

The following summary provides management with an overview of conditions requiring attention. Areas of review not mentioned in this section were found to be satisfactory. Numbers in brackets [] refer to page numbers in the report.

EMPLOYEE RELATIONS ADMINISTRATION [6]

Certain activities that impact the control environment and administration of the employee relations function needed improvement. Although the campus implemented various processes to acclimate and train staff, training for campus managers needed strengthening. In certain instances, managers were not aware of the campus administrator responsible for handling sexual harassment and discrimination complaints, and the campus procedures for handling whistleblower disclosures and allegations of retaliation. In addition, union leave was neither invoiced nor reimbursed in a timely manner.

INTRODUCTION

BACKGROUND

With the passage of major employment legislation since the 1960s, human resources management practices at the California State University (CSU) have evolved from the traditional role of hiring and record keeping to include administering labor contracts, providing employee assistance, and ensuring civil rights and other regulatory compliance. These activities embody the employee relations function within the human resources area and help ensure mutually satisfying working conditions and a viable employee-employer relationship.

The campus human resources departments that provide support for all respective employees typically administer the employee relations function. At the CSU, there are two main classes of employees that are designated in accordance with the provisions of the Higher Education Employee-Employer Relations Act (HEERA) of 1979. These classes are as follows:

Represented employees are individuals who belong to one of ten bargaining units at the CSU and whose duties do not include managerial activities as defined by HEERA.

Non-represented employees are individuals who are not included in a bargaining unit and are hired as Management Personnel Plan (MPP), confidential, or excluded employees.

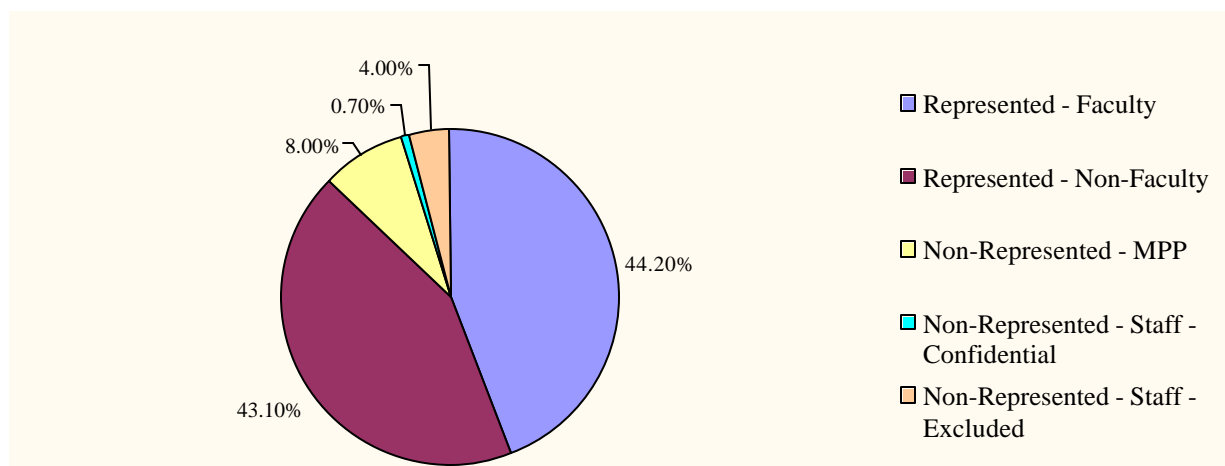
Total full-time employment (FTE) at the CSU has grown from 31,361 to 39,440 active and on-leave employees (excluding hourly employees), which represents a 25.7% increase from October 1995 to October 2002. For administrative and reporting purposes, CSU has further grouped the represented and non-represented employees into staff, faculty, and MPP categories of which all are provided employee relations support by the campus and designated chancellor's office departments, and reported as follows:

Class	Employee Type	2002	%
Represented	Staff	16,997	43.1
	Faculty	17,422	44.2
Non-Represented	MPP	3,142	8.0
	Staff - Confidential	315	0.7
	Staff - Excluded	1,564	4.0
Total FTE		39,440	100.0

Presently, seven unions represent the 34,419 FTE employees that belong to ten bargaining units. In October 2002, the California Faculty Association (CFA) and the California State Employees' Association (CSEA) included 31,077 total FTE (17,422, and 13,655, respectively), with the remaining 3,341 FTE dispersed between the following unions:

Union	2002 FTE
California Federation of the Union of American Physicians and Dentists (UAPD)	71
Academic Professionals of California (APC)	1,996
State Employees Trades Council (SETC)	973
State University Police Association (SUPA)	288
International Union of Operating Engineers (IUOE)	13
Total	3,341

In the CSU Staffing Trends and Analysis report, dated February 2003, the percentage distribution of total FTEs at the CSU, is graphically represented as follows:



PURPOSE

Our overall audit objective was to ascertain the effectiveness of existing policies and procedures related to the administration of the employee relations function and to determine the adequacy of controls over the related processes to ensure compliance with relevant governmental regulations, Trustee policy, Office of the Chancellor directives, and campus procedures.

Within the overall audit, specific goals included making a determination as to whether:

- ▶ Administration and management of the employee relations function provide effective internal control, clear lines of organizational authority, delegations of authority, and documented policies and procedures.

- ▶ Processes and procedures ensure timely and effective interpretation and communication of CSU policies and other directives impacting the employee-employer relationship, channels for reporting improprieties and escalating grievances and complaints, and resources for resolving both work and non-work related problems.
- ▶ Campus procedures provide for timely reimbursement of union leave.
- ▶ Managers are appropriately trained and knowledgeable of assigned employee relations responsibilities.
- ▶ Complaints and reconsideration requests are handled in compliance with applicable CSU policy and other directives.
- ▶ Employees are provided timely feedback and guidance for performance development and improvement.
- ▶ Disciplinary action is performed in accordance with collective bargaining agreements, CSU policy, and other directives.
- ▶ Whistleblower disclosures are handled in compliance with CSU policy and shared only with individuals who have a legitimate business reason to know.
- ▶ Confidential hardcopy and system information assets such as information pertaining to complaints, reconsideration requests, and performance management activities are reasonably secure.

SCOPE AND METHODOLOGY

The proposed scope of the audit as presented in Attachment B, Audit Item 2 of the January 28-29, 2003, meeting of the Committee on Audit stated that the review would include negotiating and administering collective bargaining agreements with represented employees, administering the management personnel plan for non-represented employees, and the systems for addressing staff grievances and complaints. Potential impacts include inordinate costs, unfavorable contracts, increased exposure to litigation, and unfair labor practices. The Office of the University Auditor has not previously reviewed *Employee Relations*.

Our study and evaluation were conducted in accordance with the *Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors, and included the audit tests we considered necessary in determining that operational and administrative controls are in place and operative. This review emphasized, but was not limited to, compliance with state and federal laws, Board of Trustee policies, and Office of the Chancellor and campus policies, letters, and directives. The audit review focused on procedures in effect during fiscal year 2002-2003. Throughout this report, we will refer to employee relations as the primary audit subject. At San José State University, the associate vice

president for academic personnel, the associate vice president for budget and human resources management, the director of employee relations, the director of staff personnel services, and other responsible individuals administer the employee relations function.

We focused primarily upon internal, administrative, compliance, and operational controls over the management of the employee relations function. Specifically, we reviewed and tested:

- ▶ Administrative policies, procedures, and processes.
- ▶ Interpretation and communication of CSU policies, union provisions, and other directives.
- ▶ Reimbursements for union leave provided to represented employees in all bargaining units.
- ▶ Training provided to campus managers with employee relations responsibilities.
- ▶ Complaint handling for non-represented and certain represented employees.
- ▶ Reconsideration requests from non-represented employees.
- ▶ Performance management for non-represented and represented employees, excluding the CFA.
- ▶ Disciplinary actions for non-represented and represented employees, excluding the CFA.
- ▶ Processing of involuntary terminations for non-represented employees.
- ▶ Handling of whistleblower disclosures and complaints of alleged retaliation.
- ▶ Maintenance and protection of confidential employee relations information.

OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

EMPLOYEE RELATIONS ADMINISTRATION

CAMPUS TRAINING

Efforts to train campus managers in certain employee relations areas needed strengthening.

The human resources service group (HRSG) and faculty affairs implemented various processes to acclimate and train staff in employee relations. New staff and faculty were offered orientation sessions that covered campus policies, benefits, and other employee information; during Tool Time training sessions, campus managers and department chairs, including new hires, were provided training opportunities in the areas of employment law, labor relations, and employee health and safety; and via HRSG's organizational development and compliance functions, campus administrators were provided just-in-time consulting and training services. However, interviews with five campus managers disclosed that:

- ▶ Three were not aware of how to handle whistleblower disclosures, and four were not aware of how to handle allegations of retaliation from staff employees.
- ▶ Three did not recall receiving an e-mail notification of the whistleblower hotline, and three were not aware of the printed whistleblower hotline notice.
- ▶ Two were not aware of the campus administrator responsible for handling sexual harassment and discrimination complaints, and one was not aware of campus complaint procedures.

State Administrative Manual (SAM) §20050 states that the elements of a satisfactory system of internal accounting and administrative controls, shall include, but are not limited to, an established system of practices to be followed in performance of duties and functions. Sound business practice mandates that a campus develop processes to ensure persons with managerial and oversight responsibilities are trained in campus and California State University (CSU) policies and other employee relations areas.

The associate vice president of HRSG stated that campus training in place was intended to adequately address these areas and that it would be enhanced to ensure that these shortcomings are addressed.

Not providing comprehensive training increases the risk of employee complaints and potential lawsuits against the campus and the CSU.

Recommendation 1

We recommend that the campus strengthen the mandatory annual training plan for campus managers to ensure that appropriate initial and refresher employee relations training is conducted on the handling

of sexual harassment and other complaints, whistleblower disclosures, allegations of retaliation, disciplinary actions, and reconsideration requests.

Campus Response

We concur. We will strengthen the mandatory annual training plan for campus managers on the handling of sexual harassment and other complaints, whistleblower disclosures, allegations of retaliation, disciplinary actions, and reconsideration requests. Please see our corrective action plan below.

Corrective Action Plan

1. Human resources took immediate action to strengthen the mandatory annual manager training at San José State University (SJSU) by including the following topics in the fall 2003 annual Management Personnel Plan (MPP) meeting held on November 19, 2003, and also at a make-up session on February 4, 2004:

- CSU MPP Policies and Programs
 - Employment Status (Title 5, § 42723)
 - Reconsideration (Title 5, § 42728)
 - Reassignment (Title 5, § 4275)
- Presidential Directive 84-03 (Reconsideration of Personnel Actions)
- Filing Complaints of Discrimination or Harassment
 - Protected Classes
 - Complaint Process
 - Office for Equity and Diversity
 - Bargaining Unit Members: Collective Bargaining Agreements
 - MPPs and Confidentials: Executive Order 675

- Whistleblower Complaints

CSU Executive Order 821
CSU Executive Order 822

A total of 132 university MPPs attended the sessions on November 19, 2003, and February 4, 2004, and received training on these subjects. Relevant materials on regulations and processes were provided, reviewed, and discussed. These topics will be included in all future annual mandatory MPP meetings.

2. The office for equity and diversity, partnering with organizational development and training, will continue to present:

- A voluntary one-and-a-half-hour “Tool Time” training program each semester for managers on documenting and reporting complaints.
- A four-hour workshop for new managers on preventing sexual harassment and illegal discrimination, offered each semester.
- A three-hour refresher course for managers on preventing sexual harassment and illegal discrimination, offered each semester.

MPPs at SJSU are required to attend a refresher course on preventing sexual harassment and illegal discrimination every three years. The organizational development and training unit of human resources tracks compliance with this requirement using an internal database and notifies appropriate administrators of the need to attend training.

In addition to the programs noted above, effective spring 2004, the office for equity and diversity will offer a voluntary workshop, open to all SJSU employees, on preventing illegal discrimination and sexual harassment.

3. New manager orientation, required of all new managers at SJSU, includes information on the whistleblower complaint process and the retaliation complaint process. The orientation also now includes information on the MPP plan, including the reconsideration process.

UNION LEAVE

Union leave was neither invoiced nor reimbursed in a timely manner.

We reviewed campus union leave procedures and invoices for union leave taken by two State Employees Trade Council (SETC) employees, one California Faculty Association, and six California State Employees’ Association (CSEA) employees in 2001, 2002, and 2003, and noted that:

- ▶ The procedures did not include invoicing requirements for reimbursable union leave or follow-up activities to ensure timely reimbursement from the unions.
- ▶ SETC was not timely invoiced for union leave that was taken by both employees. The campus invoiced the union in May 2002 for union leave that was taken up to 15 months prior to that time.
- ▶ The campus did not receive SETC’s payment of the May 2002 invoice until August 2003.

SAM §8776.3 requires invoices to be prepared as soon as possible after recognition of a claim.

SAM §20050 states that one symptom of a deficient internal control system is policy and procedural or operational manuals that are either not currently maintained or are non-existent. In addition, the elements of a satisfactory system of internal accounting and administrative controls, shall include, but

are not limited to, a system of authorization and record-keeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

Article 7.14.b. of the SETC bargaining agreement, for July 1, 2002, through June 30, 2005, states that the CSU shall be reimbursed by the union for all compensation paid the employee on account of such leave and for any incidental costs. The union shall reimburse the university for the employee's compensation plus 30 percent for incidental costs.

Article 5.13 of the CSEA bargaining agreement, for July 1, 2002, through June 30, 2005, states that the CSU shall be reimbursed by the union for all compensation paid the employee on account of such leave and for any incidental costs. Reimbursement by the union shall be made no later than 30 days after its receipt of the CSU certification of payment of compensation to the employee.

The associate vice president of HRSG stated that limited time and resources prevented invoicing and follow-up on a more frequent basis.

Inadequate control over union leave increases the risk of non-compliance with union contract provisions and the loss of reimbursable funds.

Recommendation 2

We recommend that the campus:

- a. Revise existing department procedures for handling reimbursable leave requests to include invoicing and monitoring requirements.
- b. Implement controls to ensure timely invoicing and reimbursement of applicable union leave.

Campus Response

We concur. We will revise existing department procedures for handling reimbursable leave requests, and implement controls to ensure timely invoicing and reimbursement of applicable union leave. Please see our corrective action plan below.

Corrective Action Plan

- a. The labor relations unit of human resources manages an efficient process to track all reimbursable release time for union business/activity at SJSU. Labor relations maintains a database containing all requested and approved release time for staff bargaining unit members on campus. This database has been revised to include additional date-tracking data for billing purposes, and the process has been modified to speed up invoicing and improve billing monitoring requirements for reimbursement of union leave as recommended (see b. below).

- b. The billing process now includes additional documentation of reimbursable release time through the use of a Request for Abatement form. This form allows labor relations to quickly obtain information (for each instance of reimbursable time) from appropriate managers to establish the correct department account numbers for reimbursement and the appropriate dollars owed.

Labor relations has also established a procedure with the budget department that utilizes the Request for Abatement form to initiate direct invoicing of the unions for reimbursable time. The budget department now receives payment directly from the unions and automatically reimburses the appropriate department and university accounts. Under this revised process, reimbursable time is now billed on an ongoing basis, with an invoice generated for each instance of release time. This process meets the recommended timely invoicing requirements.

As part of this improved process, the budget department notifies labor relations of the billing and payment transactions on an ongoing basis. Labor relations can therefore monitor each billing instance and then close the record when payment is received. This process allows labor relations to track the complete billing cycle and meets the recommended monitoring requirements. The budget department also informs department human resources contacts of these transactions, adding an additional monitoring function to the process at the departmental level.

In addition, labor relations uses the reimbursable time database to track all billing transactions weekly. This close monitoring process has been established to ensure timely collection and proper distribution of reimbursable funds.

APPENDIX A: PERSONNEL CONTACTED

<u>Name</u>	<u>Title</u>
Joseph N. Crowley	Interim President
Sylvia Andrew	Dean, College of Social Work
Dona Bertain	Associate Vice President, HRSG
Bradley Davis	Manager of Compliance
Sandra Dewitz	Associate Vice President, Institutional Planning and Academic Resources
Zayna Fakhreddine	Assistant to the Associate Vice President, HRSG
Gloria Gutierrez	Personnel Services Specialist
Daniel G. Hoebeke	Planned Giving Officer
Hannah Israel	Equity and Diversity Assistant
Don W. Kassing	Vice President for Administration and Finance
Peter Lee	Associate Vice President, Faculty Affairs
Bruce Lowe	Captain, University Police Department
Joan Merdinger	Associate Dean, Faculty Affairs
Carolyn Nakao	Labor Relations Specialist
Mark Novak	Associate Vice President and Dean of International and Extended Studies
Ninh Pham-Hi	Internal Audits/Special Projects Assistant to the Vice President
Raina Schally	Employee Relations Analyst
Patricia Turner	HRSG Project Specialist
Antonio S. Valenzuela	Associate Vice President, Facilities Development and Operations
Deborah Weakland	Organizational Development/Training Specialist



San José State
UNIVERSITY

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for Administration
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March 15, 2004

RECEIVED
UNIVERSITY AUDITOR

MAR 16 2004

THE CALIFORNIA STATE
UNIVERSITY

Mr. Larry Mandel
University Auditor
The California State University
401 Golden Shore, 4th Floor
Long Beach, CA 90802

Campus Response to Audit Report Number 03-19
EMPLOYEE RELATIONS
San José State University

Enclosed is San José State University's response to Audit No. 03-19.
The campus is committed to addressing the issues identified in this
audit report.

Please let me know if I can provide you with additional information.

A handwritten signature in black ink that reads "Don W. Kassing".

DON W. KASSING
Vice President for Administration and Finance

Enclosure

c: Joseph N. Crowley, Interim President
Ninh Pham-Hi, Director, Internal Control

**Campus Response to Recommendations
of Audit Report Number 03-19, Employee Relations,
at San José State University**



San José State
UNIVERSITY

submitted by

Dona Bertain
Associate Vice President, Human Resources

March 12, 2004

EMPLOYEE RELATIONS ADMINISTRATION

CAMPUS TRAINING

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UNION LEAVE

Recommendation 2

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Campus response:

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THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR

BAKERSFIELD

April 20, 2004

HANNEL ISLANDS

CHICO

DOMINGUEZ HILLS

MEMORANDUM

FRESNO

FULLERTON

TO: Mr. Larry Mandel
University Auditor

HAYWARD

FROM: Charles B. Reed
Chancellor

HUMBOLDT

LONG BEACH

SUBJECT: Draft Final Report Number 03-19 on *Employee Relations*,
San José State University

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

In response to your memorandum of April 20, 2004, I accept the response as
submitted with the draft final report on *Employee Relations*, San José State
University.

NORTHRIDGE

POMONA

SACRAMENTO

CBR/bth

SAN BERNARDINO

Enclosure

SAN DIEGO

cc: Dr. Joseph N. Crowley, Interim President
Mr. Don W. Kassing, Vice President for Administration and Finance

SAN FRANCISCO

SAN JOSE

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS