

SPECIAL INVESTIGATION – Project SOAR

**CALIFORNIA STATE UNIVERSITY,
EAST BAY**

**Investigative Report 08-91
April 10, 2008**

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ABBREVIATIONS

CSUEB	California State University, East Bay
Foundation	California State University, East Bay Foundation
GEAR UP	Gaining Early Awareness and Readiness for Undergraduate Programs
PI	Principal Investigator
Project SOAR	Successful Options for Academic Readiness

EXECUTIVE SUMMARY

INITIAL ALLEGATIONS

- ▶ Employees working on a federal grant administered by the California State University, East Bay Foundation (Foundation) were inappropriately logged into the online timekeeping system from a non-work location.
- ▶ Administrators approved, or made adjustments to, employees' attendance records in order to provide inappropriate pay.
- ▶ Employees were asked to work beyond their normal workday without appropriate compensation.

INVESTIGATION RESULTS – INITIAL ALLEGATIONS

Employees Logged into the Foundation Timekeeping System From a Non-Work Location

- ▶ One employee inappropriately logged into the system from a non-work location (home) and indicated that he was at work.

Adjustments to Employees' Attendance Records

- ▶ Inappropriate and inaccurate adjustments were made to employees' attendance records.

An Employee Did Not Report the Hours She Worked in Excess of Her Normal Workday

- ▶ One employee, who was approved to work a maximum of six hours a day, periodically worked seven to eight hours without appropriate compensation.

INVESTIGATION RESULTS – ANCILLARY FINDINGS

Certain Employees Were Less than Truthful

- ▶ An employee told the Foundation that she had the required degree for her position when she did not, and provided other information that was less than truthful.
- ▶ When questioned about telecommuting, an employee was less than truthful in her responses.

An Employee Improperly Accrued and Used Comp Time

- ▶ An employee improperly accrued comp time and used it to take time off (with the approval of the project director).

The Project Director Condoned Improper Behavior by Project Staff

- ▶ The project director failed to curtail behaviors she knew were improper.

INTRODUCTION

INITIAL ALLEGATIONS

Employees working on a federal grant administered by the California State University, East Bay Foundation (Foundation) were inappropriately logged into the online timekeeping system from a non-work location. Further, administrators approved, or made adjustments to, employees' attendance records in order to provide inappropriate pay. In addition, employees were asked to work beyond their normal workday without appropriate compensation.

BACKGROUND

Project SOAR

The Foundation administers Successful Options for Academic Readiness (project SOAR), a grant funded by United States Department of Education under its Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP). The discretionary grant program is designed to increase the number of low-income students who are prepared to enter and succeed in postsecondary education. The six-year grants are given to states and partnerships to provide services at high-poverty middle and high schools. Grantees serve an entire cohort of students beginning no later than the seventh grade and follow the cohort through high school. The grant amount is approximately \$2.8 million per year.

The mission of project SOAR is to prepare the students to graduate from high school and become college freshmen in 2011. Project staff work with the students by providing in-class tutoring assistance, academic counseling support, after-school academic intervention programs, parent education and support services, as well as additional enrichment activities. In its administrative role, the Foundation performs post-award administration of the grant including accounting and human resources/personnel services for the project. All of the project SOAR staff, with the exception of the project director, are employees of the Foundation. In addition, the Foundation partners with various entities including a local school district in which the cohort of students are enrolled. The principal investigator (PI) for the grant is an administrator with California State University, East Bay (CSUEB) who is also employed by the Foundation for her role with the grant. The project director is an employee of the Oakland Unified School District, and the Foundation reimburses the school district for her salary and benefits.

Prior Investigation

Due to previous concerns related to project SOAR and time reporting issues, the Foundation conducted an investigation in early 2007. The investigation found that now-former administrators with project SOAR had instructed staff to add time they had not worked to their time reports. For example, employees who worked six hours a day were instructed to report that they had worked eight hours to make up for low pay and as a way to reimburse them for mileage. At the conclusion of the investigation in March 2007, the project director and parent leader chose to resign. In addition, the PI met with project SOAR staff to go over policies and procedures related to time reporting and other issues. She told the employees that there would be zero tolerance for failure to comply with and adhere to policies, procedures, and standard expectations in the workplace. The current project director started with project SOAR on May 1, 2007.

Time Reporting System

In order to help properly track and account for employees' time, the Foundation implemented a new online timekeeping system in September 2007. The system is like an online time clock and employees are to clock in and clock out each day from a computer. Although the PI is the individual primarily responsible for oversight of the grant, the project director is the person responsible for reviewing and approving the time reported by project SOAR staff.

CSUEB and Foundation Actions and Notifications

Concerns regarding time reporting again came to the attention of Foundation staff in early 2008. The Foundation in turn brought the concerns to the attention of CSUEB administrators and the president notified the chancellor of the California State University on January 24, 2008. At the president's request, the chancellor requested the Office of the University Auditor to review the allegations.

Cooperation of CSUEB and Foundation Management and Staff

Throughout our investigation, CSUEB and Foundation management and staff were cooperative and provided full support for our efforts and, in fact, continued to bring other issues to our attention as they were discovered. Exceptions to that cooperation were some of the Foundation/project SOAR staff who we believe were less than completely truthful with us during our investigation; these exceptions are discussed in more detail later in this report.

SCOPE AND METHOD OF INVESTIGATION

To investigate the allegations, we reviewed the report prepared after the Foundation's previous investigation into time reporting problems related to project SOAR. We also reviewed the grant agreement, time reporting records, employees' email, and relevant policies and criteria. In addition, we interviewed numerous administrators and staff who work on project SOAR. Because another investigation into similar issues was completed approximately a year ago and the current allegations related to the use of the new timekeeping system, we limited our review to the time period between September 2007 and February 2008.

RESULTS OF INVESTIGATION

INVESTIGATION RESULTS – INITIAL ALLEGATIONS

Employees Logged into the Foundation Timekeeping System from a Non-Work Location

One employee inappropriately logged into the system from a non-work location (home) and indicated that he was at work.

An employee (employee A) logged into the California State University, East Bay Foundation's (Foundation's) timekeeping system indicating he was working on January 25, 2008, even though he had called in sick that day. We confirmed the employee called in sick; however, because the employee logged in and out, he was inappropriately paid for a regular workday when administrators failed to charge his sick leave.

Adjustments to Employees' Attendance Records

Inappropriate and incorrect adjustments were made to employees' attendance records.

We found that numerous adjustments to employees' attendance records were made in each pay period and some were inappropriate and incorrect as outlined below. Several of the employees we interviewed indicated that the Foundation's online timekeeping system presented challenges because the staff work at school sites where they do not always have easy access to a computer, increasing the need for the administrative assistants or project director to make adjustments to their log in or log out times. In addition, because the staff work at different geographic locations than the project director, she cannot directly observe their activities, even though she is responsible for approving their time.

Employee A

The December time report for employee A indicated he was sick on December 24, 2007, and December 31, 2007; however, he told us that he had not been sick on those days and he had not known how the time had been reported. The timekeeping system indicated that the project director originally entered vacation time for the employee for those days, but later changed it to sick leave. When we asked the project director why she made those changes, she told us that she could have changed those two dates in error; she could not think of any other reason.

Employee B

Employee B called in on January 9, 2008, to say that he was out sick for the day; however, adjustments to the timekeeping system indicated he worked from 8:30 a.m. to 1:00 p.m. and from 1:00 p.m. to 5:00 p.m. When we asked the employee about this, he told us that he had gone to work in the afternoon during the hours indicated; he had not seen the timecard before it was approved and therefore didn't realize his sick leave had not been charged for the morning hours. No adjustment was made to charge the employee's sick leave for the morning hours.

Employee C

Employee C edited and approved her own time for days she was working out of town,¹ as well as numerous other edits to her time beginning in November 2007. The employee stated that the project director asked her to make the edits in order to reduce the number of changes she (the project director) needed to make. Employee C further noted that she edited her reports because she often works more than eight hours a day, but because she is an exempt employee, she cannot report more than eight hours a day. The time reports confirm that the employee did not report more than eight hours on any workday. However, although the employee believes she was an exempt employee, she was not and, therefore, in accordance with the Fair Labor Standards Act, she should be paid for all hours worked.

Part of the intent of the new online timekeeping system was to improve accountability in the time-reporting process and to provide management with additional assurance that employees were working the hours they claimed to be. By giving employee C the ability to edit and approve her own time, the level of accountability and assurance is lessened.

Foundation policy allows overtime for non-exempt employees, but they must have supervisory approval before working overtime. Because unauthorized overtime is against Foundation policy, employees who work unauthorized overtime may be subject to discipline. However, a further concern in this situation is that according to the California Labor Code, Section 1194, if an employee received less than the legal overtime compensation applicable to the employee, he or she may recover the unpaid balance of the overtime compensation in a civil action. As a result, the situation creates a potential liability for the Foundation.

An Employee Did Not Report the Hours She Worked in Excess of Her Normal Workday

One employee, who was approved to work a maximum of six hours a day, periodically worked seven to eight hours a day without appropriate compensation.

Employee D reported fewer hours than she worked. The employee was classified as a tutor, a position which project SOAR policy limits to working six hours a day. However, we found evidence indicating the employee was sometimes working seven or eight hours a day and performing the duties of a higher-level position for which she did not meet the minimum qualifications.²

In addition, the project director confirmed that employee D had performed the work of the higher-level position during the time she was classified as a tutor; a fact that was corroborated when we reviewed the employee's email. The project director also stated that she knew the employee was doing the higher-level work and working more than the six hours a day that she reported and tutors are limited to; she said she reminded the employee she was supposed to be working as a tutor and was only supposed to work six hours a day, but the employee told her that the other work still needed to get done. The project director

¹ In this instance, although the employee initially approved her own time, the project director reversed the employee's approval and entered her own.

² The issue of employee D not meeting the minimum qualifications is discussed in more detail in the following section.

did not instruct the employee to stop doing the higher-level work, so the employee continued. The project director did not believe the employee did any tutoring as she was not assigned to a classroom or given anyone to tutor.

Though she performed the work of the higher-level position, the employee did not technically meet the requirements for it. Further, by working more hours than she reported, she, and the project director who knew about this but failed to stop it, created a potential liability to the Foundation because Section 204 of the California Labor Code requires payment of wages earned for labor in excess of the normal work period. Further, Section 210 outlines civil penalties if the wages are not paid.³

INVESTIGATION RESULTS – ANCILLARY FINDINGS

Certain Employees Were Less than Truthful

An employee told the Foundation that she had the required degree for her position when she did not and provided other information that was less than truthful.

In late 2006/early 2007, the Foundation conducted a degree audit to ensure that employees working in positions that required them to have a degree did in fact have one. Employee D signed a degree verification form stating that she had the required degree for her position; a representation she had made and repeatedly certified in the past. However, the employee's transcripts show that her degree was not awarded until December 21, 2007. After allowing the employee several months to provide proof of her degree, when she failed to, the Foundation reclassified the employee to a tutor position.⁴

Further, the employee stated in an email to the Foundation and in our interview with her, that she performed the duties of a tutor, not the higher-level position. She also told us that she worked only six hours a day while in that classification.

Based on the information provided by the project director, the tutoring logs we reviewed, and the employee's own email, employee D was less than truthful with both the Foundation and us about the duties she performed during that time, and the number of hours she worked.

According to the Foundation's Human Resources Policies and Procedures Manual, dishonesty, falsification of records or reports, and fraud in securing an appointment are all offenses that may result in disciplinary action.

When questioned about telecommuting, an employee was less than truthful in her responses.

³ When the Foundation asked the employee to provide information regarding the additional hours she worked so they could pay her for them, she denied having told them that she worked more than six hours a day.

⁴ The employee is in a position that has a one-year term and then must be re-applied for. When the employee failed to produce proof of her degree by the time her term ended in August 2007, in September 2007 she was rehired into the lower-level tutor classification that did not require a degree.

Employee E had been telecommuting (i.e., working from home), a practice only allowed by the Foundation with prior written permission from management and the executive director of the Foundation. We found no evidence that the employee had such permission. When we asked the employee about it, she stated that she had never worked from home either during or after her leave time.⁵ However, according to the project director, the employee told her that she was working from home and that she had done this under the previous project director. In addition, both the project director and the principal investigator (PI) had met with the employee to discuss the matter and the employee told the PI she would comply with the requirement that she complete all her work hours on site.

Based on the information provided by the project director and the PI, we believe the employee was less than truthful with us when we interviewed her. As noted previously, the Foundation's Human Resources Policies and Procedures Manual states that dishonesty may result in disciplinary action.

An Employee Improperly Accrued and Used Comp Time

An employee improperly accrued comp time and used it to take time off (with the approval of the project director).

Employee C logged into the timekeeping system while traveling out of state for a week in January 2008. The project director confirmed that the employee performed work while she was gone and emails we reviewed supported that she had performed some work, though it is unclear how much. During our interview with employee C, she stated that she was using some of her "comp time."⁶ However, according to the project director, she and the employee did not discuss ahead of time how many hours the employee would be working and how many she would be using as comp time. The project director said she met with employee C after she returned and told her that comp time was not allowed. Nevertheless, the project director approved the employee's time, including her use of comp time.

Employee C is in a non-exempt position as defined by the Fair Labor Standards Act, and she should, therefore, have charged her leave balances if she worked less than eight hours in a day. Further, because Foundation policies do not allow employees to earn compensatory time off, there are no official records of such time. As a result of the above, neither the project director nor the Foundation had adequate assurance that the employee was appropriately paid for hours she actually worked or that her leave time was appropriately charged.

The Project Director Condoned Improper Behavior by Project Staff

The project director failed to curtail behaviors she knew were improper.

As noted in the sections above, the project director admitted that she knew the employee in the tutor classification (employee D) continued to perform the work of a higher-level position and work more hours than tutors are allowed. Although she stated that she told the employee she should not be engaging

⁵ The employee was on leave between January and June 2007.

⁶ "Comp time" refers to compensatory time, a form of time off accrued by working extra hours (overtime). Although the Foundation pays non-exempt employees for overtime under certain circumstances, it does not allow any form of compensatory time off.

in those activities, she knew the employee continued to engage in them and did nothing to stop her. The project director also told us that she was uncomfortable with allowing employee C to log in while she was out of state and use comp time (an activity not allowed by the Foundation), but again, she did not put a stop to the activity.

RECOMMENDATIONS

Our investigation was administrative in nature. The conclusions we drew were made within that context. Recommendations that would mitigate the recurrence of similar findings are presented below.

1. Employees Logged into the Foundation Timekeeping System From a Non-Work Location

We recommend that the campus ensure that the Foundation:

- a. Corrects employee A's leave balances to reflect that he was out sick for eight hours on January 25, 2008.
- b. Provides additional, in-person training to all project SOAR staff regarding the online timekeeping system, including how to properly enter their time and the protocol for reporting absences, as well as reiterating the Foundation's policies regarding comp time and overtime.

Campus Response

- a. We concur. We have already corrected this.
- b. We concur. We will provide in-service training to all staff as well as increase online training for all staff. This will be complete by June 30, 2008.

2. Adjustments to Employees' Attendance Records

We recommend that the campus ensure that the Foundation:

- a. Corrects employee A's leave balances to reflect that he was on vacation for eight hours each day on December 24 and December 31, 2007.
- b. Corrects employee B's leave balances to reflect four hours of work and four hours of sick leave for January 9, 2008.
- c. Revokes employee C's ability to edit and approve her own time and ensure that she understands she is currently in a non-exempt position and the corresponding ramifications related to how she reports leave or overtime.
- d. Considers reclassifying employee C to an exempt position if deemed appropriate by the Foundation.
- e. Reiterates to all project SOAR staff the importance of accurately reporting their time worked and reviewing how their time is ultimately coded/reported to ensure it is accurate.

- f. Considers having the ranking employee at each work location be responsible for a preliminary review and approval of the time reported by the staff at the site in order to reduce the amount of review and follow-up time currently needed by the project director.

Campus Response

- a. We concur. We have already corrected this.
- b. We concur. We have already corrected this.
- c. We concur. We will correct this immediately.
- d. We concur. We will correct this by June 30, 2008.
- e. We concur. We will correct this by June 30, 2008.
- f. We feel a better solution, that would accomplish the same internal control, would be to ensure that employees notify appropriate administrators of log-in problems on the day they occur and that the project director or authorized staff is required to enter the time adjustment that day rather than after the fact. In addition, only the project director would be allowed to formally approve these changes. Also, if technical issues have caused the need for the adjustment (i.e., site log-in computer not working) that the Foundation be notified that same day so that the issue can be fixed immediately.

3. An Employee Did Not Report the Hours She Worked in Excess of Her Normal Workday

We recommend that the campus ensure that the Foundation provides additional training to the PI and project director regarding Foundation policies related to personnel requirements and time and attendance reporting.

Campus Response

We concur. We will ensure this is done by June 30, 2008.

4. Certain Employees Were Less than Truthful

We recommend that the campus ensure that the Foundation takes disciplinary or corrective action it deems appropriate.

Campus Response

We concur. We will ensure this is done by June 30, 2008.

5. An Employee Improperly Accrued and Used Comp Time

We recommend that the campus ensure that the Foundation:

- a. See recommendation under item 2.c. above.
- b. See recommendation under item 2.d. above.
- c. See recommendation under item 1.b. above.

Campus Response

We concur with a, b, and c above, and will ensure they are complete by June 30, 2008.

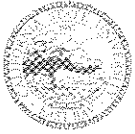
6. The Project Director Condoned Improper Behavior by Project Staff

We recommend that the campus ensure that the Foundation:

- a. Provides additional training to the project director; see recommendation under item 3 above.
- b. Takes disciplinary or corrective action it deems appropriate.

Campus Response

- a. We concur. We will complete by June 30, 2008.
- b. We concur. We will complete by June 30, 2008.



CALIFORNIA STATE UNIVERSITY EAST BAY

Office of the Vice President, Administration and Finance & Chief Financial Officer

CALIFORNIA STATE UNIVERSITY, EAST BAY 25800 Carlos Bee Boulevard, Hayward, CA 94542-3002 510.885.3803 • 510.885.4745 (fax) • www.csueastbay.edu

RECEIVED UNIVERSITY AUDITOR

APR 28 2008

THE CALIFORNIA STATE UNIVERSITY

April 25, 2008

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

RE: Campus Responses to Recommendations: Audit Report Number 08-91 Special Investigation at California State University, East Bay

Dear Mr. Mandel, Larry

Enclosed is our response to the recommendations in Audit Report Number 08-91, Special Investigation at California State University, East Bay. Upon acceptance of our response, we will follow up with your office in providing supporting documentation for each recommendation by the anticipated completion dates.

Please let us know if you have any questions or need additional information.

Sincerely,

Shawn Bibb

Shawn Bibb Vice President for Administration & Finance, CFO

SB/krb

Enclosure

c: Dr. Mohammad H. Qayoumi, President Mr. Christopher Brown, AVP, Enterprise Operations and Foundation.

SPECIAL INVESTIGATION – Project SOAR

**CALIFORNIA STATE UNIVERSITY,
EAST BAY**

Investigative Report 08-91

1. Employees Logged into the Foundation Timekeeping System From a Non-Work Location

We recommend that the campus ensure that the Foundation:

- a. Corrects employee A's leave balances to reflect that he was out sick for eight hours on January 25, 2008.
- b. Provides additional, in-person training to all project SOAR staff regarding the online timekeeping system, including how to properly enter their time and the protocol for reporting absences, as well as reiterating the Foundation's policies regarding comp time and overtime.

Campus Response

- a. We concur. We have already corrected this.
- b. We concur. We will provide in-service training to all staff as well as increase on-line training for all staff. This will be complete by 06/30/08.

2. Adjustments to Employees' Attendance Records

We recommend that the campus ensure that the Foundation:

- a. Corrects employee A's leave balances to reflect that he was on vacation for eight hours each day on December 24 and December 31, 2007.
- b. Corrects employee B's leave balances to reflect four hours of work and four hours of sick leave for January 9, 2008.
- c. Revokes employee C's ability to edit and approve her own time and ensure that she understands she is currently in a non-exempt position and the corresponding ramifications related to how she reports leave or overtime.
- d. Considers reclassifying employee C to an exempt position if deemed appropriate by the Foundation.
- e. Reiterates to all project SOAR staff the importance of accurately reporting their time worked and reviewing how their time is ultimately coded/reported to ensure it is accurate.

- f. Considers having the ranking employee at each work location be responsible for a preliminary review and approval of the time reported by the staff at the site in order to reduce the amount of review and follow-up time currently needed by the project director.

Campus Response

- a. We concur. We have already corrected this.
- b. We concur. We have already corrected this.
- c. We concur. We will correct this immediately.
- d. We concur. We will correct this by 06/30/08.
- e. We concur. We will correct this by 06/30/08.
- f. We feel a better solution, that would accomplish the same internal control, would be to ensure that employees notify appropriate administrators of log in problems on the day they occur and that the Project Director or authorized staff are required to enter the time adjustment that day rather than after the fact. In addition, only the Project Director would be allowed to formally approve these changes. Also, if technical issues have caused the need for the adjustment (i.e., site log in computer not working) that the Foundation be notified that same day so that the issue can be fixed immediately.

3. An Employee Did Not Report the Hours She Worked in Excess of Her Normal Workday

We recommend that the campus ensure that the Foundation provides additional training to the PI and project director regarding Foundation policies related to personnel requirements and time and attendance reporting.

Campus Response

We concur. We will ensure this is done by 06/30/08.

4. Certain Employees Were Less than Truthful

We recommend that the campus ensure that the Foundation takes disciplinary or corrective action it deems appropriate.

Campus Response

We concur. We will ensure this is done by 06/30/08.

5. An Employee Improperly Accrued and Used Comp Time

We recommend that the campus ensure that the Foundation:

- a. See recommendation under item 2.c. above.
- b. See recommendation under item 2.d. above.

- c. See recommendation under item 1.b. above.

Campus Response

We concur with a, b, and c above, and will ensure they are complete by 6/30/08.

6. The Project Director Condoned Improper Behavior by Project Staff

We recommend that the campus ensure that the Foundation:

- a. Provides additional training to the project director; see recommendation under item 3 above.
- b. Takes disciplinary or corrective action it deems appropriate.

Campus Response

- a. We concur. We will complete by 06/30/08.
- b. We concur. We will complete by 06/30/08.



THE CALIFORNIA STATE UNIVERSITY

 OFFICE OF THE CHANCELLOR

BAKERSFIELD

May 6, 2008

CHANNEL ISLANDS

CHICO

MEMORANDUM

DOMINGUEZ HILLS

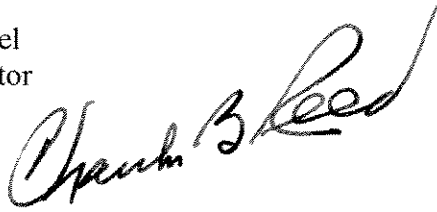
EAST BAY

FRESNO

TO: Mr. Larry Mandel
University Auditor

FULLERTON

FROM: Charles B. Reed
Chancellor



HUMBOLDT

LONG BEACH

SUBJECT: Draft Final Investigative Report 08-91, *Special Investigation – Project SOAR*, California State University, East Bay

LOS ANGELES

MARITIME ACADEMY

In response to your memorandum of May 6, 2008, I accept the response as submitted with the draft final report on *Special Investigation – Project SOAR* at California State University, East Bay.

MONTEREY BAY

NORTHRIDGE

POMONA

CBR/amd

SACRAMENTO

Enclosure

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS