

**ENROLLMENT MANAGEMENT - ENLACE
AUDIT OF STUDENT PAYROLL AND SELECTED EXPENSES**

THE UNIVERSITY OF NEW MEXICO

**Report 2009-01
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ABBREVIATIONS

ENLACE.....	ENgaging LAtino Communities for Education
Director	Director for ENLACE
HED	New Mexico Higher Education Department
IRS	Internal Revenue Service
RGEC.....	Rio Grande Educational Collaborative
UBP.....	University Business Policies and Procedures Manual
University.....	The University of New Mexico
UNM	The University of New Mexico

EXECUTIVE SUMMARY

The Director of Financial Aid requested Internal Audit's assistance regarding processing payments for two students who claimed The University of New Mexico (University) owed them for wages not paid. These unpaid wages were raises the students received that were not approved by the Student Employment Office.

We reviewed student employee payroll and reviewed other selected expenses. The purpose of our audit was to determine the amount overpaid to the student employees and to identify other potential financial issues with regard to ENgaging LAtino Communities for Education (ENLACE).

While we were auditing ENLACE, we received several complaints about other departments inaccurately reporting student payroll which indicates paying student employees improperly is a campus-wide problem. We also found ENLACE processed unauthorized raises for student employees by having stipends paid by a third party and by having student employees report hours not worked. We also noted issues regarding how other expenses were handled.

EDUCATING THE CAMPUS COMMUNITY REGARDING PAYROLL PAYMENTS

The administration should develop a mandatory training program for all employees on how, and why, to report time worked accurately. The President directed the Vice President of Human Resources to partner with Payroll and other employment areas to develop an online course that addresses the importance of complying with Federal laws and University policy. This course will be mandatory for managers and time keepers.

REPORTING HOURS NOT WORKED

The Interim Executive Director of the New Mexico ENLACE Collaborative should work with Human Resources to determine the appropriate disciplinary action for the staff involved in inflating the student hours and should work with University Counsel to determine the best course of action relating to the payroll overpayments. The Interim Executive Director is working with Human Resources to address disciplinary action and to set up a training session for the ENLACE staff. The Interim Executive Director of New Mexico ENLACE Collaborative determined that the student employees should repay the monies they received for hours they did not work.

PAYING UNAUTHORIZED RAISES THROUGH THE RIO GRANDE EDUCATIONAL COLLABORATIVE

The Interim Executive Director of the New Mexico ENLACE Collaborative should work with the University Counsel on whether to treat the stipends paid through the RGEC as overpayments and collect the monies from the student employees. The Interim Executive Director of ENLACE Collaborative determined the students would not need to reimburse the University for these monies as they did not sign that the approvals for the "performance award stipends."

PAYING UNIVERSITY WAGES THROUGH THE RIO GRANDE EDUCATIONAL COLLABORATIVE

The Interim Executive Director of the New Mexico ENLACE Collaborative should work with UNM Payroll to determine if the University needs to make internal payroll adjustments for the wages paid through the Rio Grande Educational Collaborative (RGEC). The Interim Executive Director is working with UNM Payroll to pay the payroll taxes where necessary.

INTRODUCTION

BACKGROUND

ENLACE is a comprehensive community based partnership working to improve educational outcomes for Hispanic students within the State of New Mexico. The partnership involves key educational institutions such as The University of New Mexico, Albuquerque Public Schools, Central New Mexico Community College, community based organizations, local and national businesses, parents, and students. The program had an award from the Kellogg Foundation and receives state appropriations. The term "ENLACE", from the Spanish word "enlazar", means to link or weave together to connect in such a way that the new entity is stronger than its parts. The belief is that to improve the education of Hispanic youth, strategies must be found to draw upon using the strengths of Hispanic people and communities to create a vibrant, healthy learning environment for today's young people.

Internal Audit issued *School of Law ENLACE Award Audit of Allegations Report 2008-06* dated December 3, 2007. In that report we addressed having a third party make payments on behalf of the University. ENLACE transferred monies to the RGEC and then ENLACE employees directed the RGEC staff to issue checks to expedite paying expenses. Because of our findings, ENLACE discontinued using the RGEC.

In January 2008, ENLACE's organizational structure was changed; they now report to the Vice President for Enrollment Management. Also, a new Interim Executive Director of the New Mexico ENLACE Collaborative was appointed. The issues addressed in this report, except for the last one on prepaying a vendor, started when ENLACE still reported to the Dean of the School of Law.

PURPOSE

The Director of Student Financial Aid notified the Internal Audit Department that ENLACE wanted to pay two students monies owed to them for a pay increase that Student Financial Aid did not authorize. The purpose of our audit was to determine the extent of the overpayments to the student employees and to provide recommendations for improvements.

SCOPE

Our audit procedures were limited to the student payroll for the 2006-2007 academic year and the summer of 2007, and other expenses that came to our attention. We reviewed ENLACE, UNM Payroll Department records and the records for the RGEC. We interviewed current and former University employees. During the audit, we expanded our scope to include a campus-wide issue of misreporting student payroll. The fieldwork was completed on September 9, 2008.

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES

EDUCATING THE CAMPUS COMMUNITY REGARDING PAYROLL PAYMENTS

The Manager of the Student Employment Office and Internal Audit identified university-wide student payroll issues in other departments as well as in ENLACE. Staff are misreporting student employee payroll in ways that violate State law, Fair Labor Standards Act, Internal Revenue Service (IRS) regulations and University policy. Examples are listed below.

- Student employees are paid for time they are not working because they are on vacation. The student employees are allowed to make up these hours over an extended period of time.
- Student employees are not paid for all of the hours that they worked in the pay period in which they worked them. The Student Employment Office allows the students to work up to 30 hours per week. If the student employee works more than 30 hours per week, some departments are “banking” the hours and then reporting them in a time period where the student worked less than 30 hours per week.
- Two student employees started working for a department in June 2008 but were not paid at that time. The department did not submit paperwork to put them on student payroll until August 2008. The student was instructed to report 30 hours per week until they had been paid for all of their summer hours. In September 2008, the Manager of the Student Employment Office is working with the department to pay the students for all of the hours worked.
- Student employees were asked to report hours not worked so that they could receive a \$1.00 per hour pay increase that was not approved by the Student Employment Office.
- Student employees were paid through a third party collaborative when the Student Employment Office rejected their payroll because they did not qualify for student employment. This third party paid the students as independent contractors when they were working as employees of the University.
- At the end of the fiscal year, a student employee was paid for hours not worked to spend budget balances. The following fiscal year, the student was supposed to make up the hours.

The staff and faculty who processed the payroll described above are trying to find ways to accomplish a task. However they are not aware of the consequences of not properly paying student employees. These consequences are:

- Potential fines from the IRS for not paying payroll taxes when an employee is hired as an independent contractor.
- Potential criminal charges for both the supervisor and the student employee for paying and reporting hours not worked.
- Potential violations of State statutes regarding paying wages in the proper pay period. Violations can result in fines of up to \$1,000.00 per incident.

Recommendation 1

The University should develop a mandatory training program for all faculty, staff and student employees on how, and why, to report time worked accurately.

Response from President of the University

The President has directed the Vice President of Human Resources to partner with Payroll and other employment areas to develop an online course that addresses the importance of prudence and adherence to the requirements of the Fair Labor Standards Act and University Policy in regards to proper time reporting. This course will be mandatory for employees identified to be in a management role. It will also be a prerequisite to supplement the existing training for both faculty and staff who function as Banner time keepers or approvers to enable them to provide accurate instruction and guidance to the employees they assist in reporting time. The course will be an optional resource for all other University employees. Standard language regarding the importance of accurate time reporting and the availability of the online course will be added to the University time sheet for biweekly employees and to the websites of employment areas. In addition, Human Resources will add this information to the Management Academy curriculum and continue to offer targeted, on-demand courses regarding the Fair Labor Standards Act to departmental groups upon request. The training is to be in place by January 31, 2009 and required individuals must complete the course by July 1, 2009.

REPORTING HOURS NOT WORKED

In August 2007, five student employees were paid for hours not worked to compensate for a \$1.00 per hour increase that was not approved by the University's Student Employment Office.

Los Companeros ENLACE offers tutoring to high school and middle school students in selected schools in the Albuquerque Public School District. Student employees, paid by the University, work in the schools to provide tutoring. During the academic year 2006-2007, some of these student employees were promised a \$1.00 per hour raise. Not all of the student employees qualified for the raise per the Student Employment Office's guidelines. To pay the additional \$1.00 per hour for the time worked, from May 12, 2007 through August 3, 2007, five student employees added hours to their timesheets that they did not work. This occurred for two time reporting periods in August of 2007. Per discussions with ENLACE employees and documentation they provided, five students were paid a total of \$1,251.00 for hours not worked. Funds from the State Work Study program were used to pay wages for one of these students.

The Regional Director for ENLACE came up with the plan on how to pay the students, and two other ENLACE employees calculated the hours, told the student employees to misreport their time, tracked the hours paid and signed the time sheets where the hours were misreported.

University policy requires that time be reported accurately. Section 3. Time and Leave Reporting” Policy 2610, University Business Policies and Procedures Manual (UBP) states,

Departments must complete internal time sheets for each nonexempt staff and student employee signed by each employee's respective supervisor. These internal time sheets must accurately record the time employees begin and end their work, as well as the beginning and ending time of each meal period.

Furthermore, State statutes prohibit paying for hours not worked and submitting a false public document. This situation was reported to the Office of the State Auditors and the UNM Police.

Recommendation 2

The Interim Executive Director of the New Mexico ENLACE Collaborative should work with the Human Resources Representative to determine the appropriate disciplinary action, if any, with regard to the employees who processed the paperwork and instructed the students to report hours not worked.

Response from the Interim Executive Director of the New Mexico ENLACE Collaborative

The Interim Executive Director concurs with recommendation two and met with an assigned Human Resources Representative to address disciplinary action with regard to the employees involved in this matter. In addition, a mandatory training session pertaining to appropriate payroll procedures and requirements is to be conducted for all staff by October 31, 2008.

Recommendation 3

The Interim Executive Director of the New Mexico ENLACE Collaborative should work with University Counsel to determine the best course of action relating to the payroll overpayments, and should work with the Student Employment Office and the Dean of Students Office with regard to appropriate disciplinary action, if any.

Response from the Interim Executive Director of the New Mexico ENLACE Collaborative

The Interim Executive Director concurs with recommendation three and met with the Dean of Students, the Director of Payroll, and the Director of Student Financial Aid to address these issues. It was determined that the five student employees would be required to reimburse the University of New Mexico for combined total payments in the amount of \$1,251 for hours not worked because they signed the associated documentation. Notification of this violation will be issued by the Interim Executive Director through correspondence to be forwarded along with invoices from the Director of Payroll by October 31, 2008.

Recommendation 4

The Interim Executive Director of the New Mexico ENLACE Collaborative should work with the Director of Student Financial Aid to restore monies to the State Work Study program.

Response from the Interim Executive Director of the New Mexico ENLACE Collaborative

The Interim Executive Director concurs with recommendation four and is working with the Director of Student Financial Aid to restore \$189.35 to the State Work Study program by October 31, 2008 for one of the five students.

PAYING UNAUTHORIZED RAISES THROUGH THE RIO GRANDE EDUCATIONAL COLLABORATIVE

Prior to paying the \$1.00 an hour increase through misreporting payroll hours, ENLACE instructed the RGEC to pay student stipends. From March 2007 through May 2007, eight student employees (the same ones as above plus three others) received a total of \$1,982.50 in “student stipends” The reason given for the payments was “performance award stipends.” The explanation goes on to say that the amounts for these awards are \$1.00 per hour worked. For the time frame when the students were paid these stipends, they were receiving their regular pay through the University payroll system. None of the staff involved in processing this increase through the RGEC still work for ENLACE.

This appears to be a payroll payment for the raise that was not approved by the Student Employment Office as discussed above.

Recommendation 5

The Interim Executive Director of the New Mexico ENLACE Collaborative should work with University Counsel to determine if monies need to be collected from the student employees for wages not earned and should take the appropriate action based on the advice given.

Response from the Interim Executive Director of the New Mexico ENLACE Collaborative

The Interim Executive Director concurs with recommendation five and met with the Executive Director of the Rio Grande Educational Collaborative to clarify this issue. It was determined that the eight student employees involved did not sign the approvals and should not be responsible for reimbursement of the "performance award stipends" authorized by former leadership no longer employed by the University of New Mexico.

PAYING WAGES THROUGH THE RIO GRANDE EDUCATIONAL COLLABORATIVE

In fiscal year 2006-2007, ENLACE used the RGEC to pay wages for student employees. The RGEC paid the students as independent contractors. The wages totaled \$2,403.30. In one case, the Student Employment Office could not pay the student because the student was ineligible. In the second case, the student employee had graduated and ENLACE paid the student through the RGEC.

Paying these students through the RGEC puts the University at risk because the RGEC treated the employees as contractors. University policy addresses this issue.

Section 1. "Purchasing Services from Independent Contractors" Policy 4325, UBP states,

Misclassification of individuals as independent contractors, which avoids withholding and payroll taxes, is illegal under the Internal Revenue Code. If an employment relationship is determined to exist, the individual must be hired as an employee.

Recommendation 6

The Interim Executive Director of the New Mexico ENLACE Collaborative should consult with UNM Payroll and University Counsel to determine whether the University has a responsibility to pay the payroll taxes for these two individuals.

Response from the Interim Executive Director of the New Mexico ENLACE Collaborative

The Interim Executive Director concurs with recommendation six and is working with the Director of Payroll to pay payroll taxes in the amount of \$238.68 by October 31, 2008 for one of the two individuals who was no longer a student when paid for their work.

TRANSFERRING MONIES TO THIRD PARTIES FOR SCHOLARSHIP PAYMENTS

Over a two-year period, ENLACE transferred \$70,000, to be used for scholarships, to Sparx Lorenzo Antonio Foundation, a nonprofit organization that fundraises for scholarships. In addition the Interim Executive Director of the New Mexico ENLACE Collaborative told us ENLACE transferred monies to educational institutions, such as Albuquerque High School and Central New Mexico Community College, for scholarships.

The funding source for these transfers is the New Mexico Higher Education Department (HED). The memorandum of understanding with HED allows for payment of scholarships. But the MOU also states, “The **University** shall not subcontract any portion of the service to be performed under this Agreement without prior written approval of the **Department [New Mexico Higher Education Department]** unless as provided by Section 1 “Scope of Work” of this Agreement.”

It appears the monies given to Sparx are used for scholarships for Albuquerque Public Schools students. However, we did not find evidence that ENLACE asked for HED’s approval. Without HED’s approval, it might appear that UNM is donating state funds to a nonprofit organization which violates University policy and the State constitution. Section 4.7. “Allowable and Unallowable Expenditures” Policy 4000, UBP states, “Political and charitable contributions to individuals or organizations *are prohibited.*” Section 5. states, “Any exceptions to this policy which are not otherwise provided for must be approved, in advance, in writing by the Executive Vice President for Administration.”

Recommendation 7

To avoid the appearance that the University is donating to a nonprofit, The Interim Executive Director of the New Mexico ENLACE Collaborative should obtain approval from HED for these relationships, especially the relationship with the nonprofit agency, and should ask the Executive Vice President for Administration for an exception to the UBP.

Response from the Interim Executive Director of the New Mexico ENLACE Collaborative

The scholarships presented to ENLACE students in collaboration with the Sparx Lorenzo Antonio Foundation have been a valuable resource and an inspiration to students in their pursuit of higher education. ENLACE students and families have benefitted tremendously by our association with a trusted foundation formed by respected role models in our community. The Interim Executive Director is honoring recommendation seven by working with the New Mexico Higher Education Department (HED) to address the concerns about providing scholarships in association with the nonprofit agency by October 31, 2008. In addition, requesting an exception to the UBP from the Executive Vice President for Administration may not be necessary if affiliation with this particular scholarship program is discontinued in the future at the request of the State of New Mexico.

PREPAYING FOR SERVICES

In June 2008, the Interim Executive Director of the New Mexico ENLACE Collaborative authorized a \$10,000 payment for services where the services had not been provided. The grant closed as of June 30th and the services were provided after the closing of the grant.

Paying for services not rendered is not allowed by State law and University policy. Section 3.3. "Receiving and Paying for Off Campus Purchases" Policy 4370, UBP states:

The University does not allow payment prior to the actual delivery of goods or services without written approval from the accounting office and the University Director of Purchasing. Prepayment is permitted only under Section 13-1-98 of the New Mexico Statutes Annotated, 1978, by exclusion of the purchase from the "Procurement Code." Once a prepayment is made, the burden for ensuring delivery of goods and services rests solely with the ordering department.

When prepayments are made, it is difficult to assure that the goods and services are received.

Recommendation 8

The Interim Executive Director of the New Mexico ENLACE Collaborative should contact UNM Purchasing about this policy violation to determine how to proceed at this time.

Response from the Interim Executive Director of the New Mexico ENLACE Collaborative

The Interim Executive Director concurs with recommendation eight and is working with UNM Purchasing to resolve this issue. Services have been provided and all staff responsible for purchasing have been undergoing extensive training since January 2008 due to the departure of employees that had been responsible for fiscal matters previously.

Recommendation 9

The Interim Executive Director of the New Mexico ENLACE Collaborative should work with UNM Purchasing on what training he and his staff should attend to hone their purchasing skills so that this type of error in judgment does not recur. After attending training, the Interim Executive Director of the New Mexico ENLACE Collaborative and his staff should develop written office procedures that will standardize the purchasing process for this area.

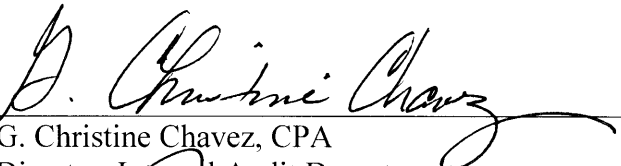
Response from the Interim Executive Director of the New Mexico ENLACE Collaborative

The Interim Executive Director concurs with recommendation nine and is working with UNM Purchasing to schedule any additional training required for staff by October 31, 2008 to prevent such occurrences in the future.

CONCLUSION

The University faculty, staff and student employees need training in how to properly report student payroll hours so that the University is in compliance with State and Federal laws governing employment. ENLACE inappropriately helped student employees report hours not worked and paid student employees through a third party causing problems with payroll taxes. ENLACE needs to work with University Counsel, Human Resources, the Dean of Students and the Student Employment Office to resolve the financial and personnel issues for these payments.

APPROVALS


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Approved for Publication


Chair, Audit Committee