

**BIOLOGY DEPARTMENT
NONCOMPLIANCE WITH POLICY**

THE UNIVERSITY OF NEW MEXICO

**Report 2010-01
January 15, 2010**



Audit Committee Members

J.E. "Gene" Gallegos, Chair
Carolyn Abeita
James Koch

Audit Staff

G. Christine Chavez, Audit Director
Bill Cottrell, Senior Auditor

CONTENTS

EXECUTIVE SUMMARY 1

 NONCOMPLIANCE WITH UNIVERSITY BUSINESS POLICY 1

 Purchasing and Purchase Card Violations 1

 Unauthorized “Bonus Plan” 1

 Implementation of Prior Internal Audit Recommendations..... 1

 Human Resources Division Investigation..... 2

INTRODUCTION..... 3

 BACKGROUND 3

 PURPOSE..... 3

 SCOPE 3

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES 4

 NONCOMPLIANCE WITH UNIVERSITY BUSINESS POLICY 4

 Purchase Card Violations..... 4

 Ineligible Purchase Cardholders 6

 Temporary Employees 8

 Purchasing Procedures 8

 Segregation of Duties..... 9

 Unauthorized “Bonus Plan” 11

 Implementation of Prior Internal Audit Recommendations..... 12

 SUMMARY OF RESULTS OF THE HUMAN RESOURCES DIVISION

 INVESTIGATION..... 15

CONCLUSION 18

APPROVALS 19

ABBREVIATIONS

Biology.....	Department of Biology
Department Administrator.....	Administrative Employee in Biology Department
FLSA.....	Fair Labor Standards Act
HR.....	Human Resources Division
IT.....	Information Technologies
PCard.....	Purchasing Card
Payroll.....	University Payroll Department
Purchasing.....	University Purchasing Department
UBP.....	University Business Policies and Procedures Manual
UNM.....	The University of New Mexico
UNM Temps.....	Temporary Employee Services at the University of New Mexico

EXECUTIVE SUMMARY

In spring 2009, the University of New Mexico (UNM) Payroll Department (Payroll) alerted Internal Audit to potential payroll violations within the Department of Biology (Biology). Certain administrative employees within Biology incurred excessive overtime hours which were reported and paid at straight time rates. Internal Audit referred the matter to the Human Resources Division (HR) due to the potential violations of the Fair Labor Standards Act (FLSA). HR identified possible policy and procedural violations and submitted them to Internal Audit. Internal Audit focused on the policy and procedural violations, while HR investigated the payroll and overtime issues. Internal Audit and HR collaborated on the Biology issues. We summarized the HR investigation (our summary is included at the end of this report) as support for our finding that Biology did not adequately implement the prior recommendations of audit 2006-05. However, HR's investigative report is confidential per University Business Policies and Procedures (UBP) 2200, "Whistleblower Protection And Reporting Suspected Misconduct And Retaliation" Section 7. "Report of Investigation." The HR investigation summary is presented for informational purposes. Internal Audit has not audited or reviewed the HR investigative work.

NONCOMPLIANCE WITH UNIVERSITY BUSINESS POLICY

Purchasing and Purchase Card Violations

Biology did not follow proper purchasing procedures and Purchase Card (PCard) policies, resulting in improper purchasing arrangements and the revocation of certain PCards by the UNM Purchasing Department (Purchasing). The Biology Department Administrator needs training on correct purchasing procedures, and could benefit from additional managerial training. The Biology Chair agreed to provide managerial training for the Department Administrator and to correct all outstanding violations.

Unauthorized "Bonus Plan"

Biology established an unauthorized "bonus" plan granting administrative employees time off with pay for days or hours not worked. The Dean of the College of Arts and Sciences should determine whether other departments in the College of Arts and Sciences have unauthorized leave plans, and notify all departments to cease the practice of such plans. Biology ceased the unauthorized "bonus" plan, and the Dean of Arts and Sciences will review all departments within the College for any unauthorized leave plans.

Implementation of Prior Internal Audit Recommendations

Biology did not fully implement the recommendations in the Internal Audit Report 2006-05, Department of Biology, Audit of Allegations of Misreporting Payroll Hours. The Dean of the College of Arts and Sciences should verify that all prior and current audit recommendations are

adequately implemented. The Dean of the College of Arts and Sciences agrees with the finding and will oversee implementation of the recommendations in both the current and prior audits.

Human Resources Division Investigation

HR confirmed the allegation stating that Biology was paying employees straight time for hours worked in excess of 40 hours per week. HR also found that time sheets contained false information, resulting in inaccurate payroll payments for two Biology employees. Biology did not follow University policy regarding preparation and submission of time sheets, and regarding allowance of unauthorized paid leave under an unauthorized “bonus” plan. HR notified Biology that they must immediately cease the practice of paying overtime at the straight time rate. In addition, Biology was informed to immediately cease the “bonus” plan. HR also recommended appropriate disciplinary action for the employees involved.

INTRODUCTION

BACKGROUND

Biology is one of UNM's largest academic units, and is comprised of approximately 35 tenure track faculty (plus two full-time administrators with biology appointments and a faculty member on long-term leave), 9 faculty lecturers, more than 1,300 undergraduate students, over 100 graduate students, and 89 staff and research support positions.

In 2006, Internal Audit issued report 2006-05, an audit of Biology involving misreporting of payroll hours, noncompliance with payroll policies, and weak internal processes and procedures. The report made recommendations for documenting and improving controls over the payroll process.

In May 2009, Payroll informed Internal Audit that certain Biology employees were paid at straight time rates for overtime hours worked, and that the overtime hours reported appeared excessive. Internal Audit referred the payroll issues to HR, and HR discovered other policy violations in addition to the payroll and overtime issues. Internal Audit investigated purchasing transactions, business procedures, and policy violations, while HR continued with the investigation of the payroll and overtime issues.

UBP 2200 "Whistleblower Protection and Reporting Suspected Misconduct And Retaliation" Section 7. "Report of Investigation" states: "7.1. When the investigation is completed, a confidential report of the investigation will be sent for appropriate action to the vice president responsible for the unit where the investigation was conducted or to the President for units that report to the President. If the investigation is conducted by the Internal Audit Department, the report will be filed in accordance with Internal Audit Department policies..."

PURPOSE

The purpose of our audit was to determine the appropriateness of purchasing procedures and PCard transactions within the administrative unit of Biology, and the status of implementation of prior audit recommendations.

SCOPE

Internal Audit limited the audit work to certain PCard transactions and business procedures within the administrative area of Biology. We completed fieldwork on December 7, 2009. Our audit procedures included analyzing certain transactions and business procedures currently in use within Biology.

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES

NONCOMPLIANCE WITH UNIVERSITY BUSINESS POLICY

Purchase Card Violations

In February and August 2009, Purchasing revoked two department administrative assistants' PCards due to numerous PCard violations. The PCard manual governs transactions including, but not limited to: approved and prohibited use of the card; purchasing card record keeping; change in employment status; reconciliation of monthly statements; and, training in the use of PCards. Cardholders, supervisors, directors, and department heads must all sign an agreement acknowledging the terms of use. Under the agreement, failure to adhere to the policies and procedures may result in disciplinary action. Further, University Business Policies and Procedures (UBP) 2000 "Responsibility And Accountability For University Information And Transactions" Section 2.2 "Departmental Approvers" states:

Approvers are individuals designated by deans, directors, or department heads to review and approve electronic transactions and/or forms before they are released for processing. Depending on the type of transaction and the level of risk, there may be more than one individual required to approve a transaction. However, the first-level approver is responsible for:

- conformity with budget;
- verifying the appropriateness of the transaction; and
- compliance with University policies and procedures.

Subsequent approvers are primarily responsible for acceptance of the added risk associated with high dollar and/or risk transactions. Approvers will be accountable for fulfilling the above responsibilities, exercising good judgment, and upholding ethical standards.

Misuse of the cards by the Biology administrative assistants included the following prohibited transactions and reporting violations:

- Failure to obtain special exception for cell phone service, gift cards and meals;
- Failure to substantiate purchases with proper receipts;
- Failure to submit PCard reconciliation logs to Purchasing by the due date;
- Failure to reallocate transactions to proper account indexes;
- Failure to attempt to obtain reimbursement from vendors for payment of gross receipts tax; and
- Failure to complete and submit property accounting inventory forms for computer purchases.

The Department Chair reviews and approves all PCard transactions on a reconciliation log. The Department Administrator is responsible for reviewing transactions and approving transactions, but has not had adequate training in PCard procedures. Some of the PCard violations remain outstanding and unresolved.

UBP 2000 “Responsibility And Accountability For University Information And Transactions” Section 2 “Deans, Directors, and Department Heads” reads as follows:

Deans, directors, and department heads are responsible for ensuring designated individuals have attended the necessary training required to effectively and efficiently complete authorized business and/or administrative processes and transactions. Deans, directors, and department heads are accountable for exercising good judgment, upholding ethical standards, and should have internal procedures in place to ensure periodic review of designations and related training.

By signing the PCard agreement, the previous Department Chair and the current Department Administrator should have been aware of their responsibility for knowing the requirements relating to the PCard, and their responsibility for verifying compliance with the policies. When there is turnover, new appointees and hires should be aware of their responsibilities for compliance with University policies and procedures. Training for compliance with University policy and procedures benefits management and staff, and reduces the risk of noncompliance.

Recommendation 1

Biology should provide management training to promote the professional development of the Department Administrator. The Biology Chair and Department Administrator should obtain PCard training and resolve outstanding PCard violations within Biology.

Response from the Biology Department Chair

We acknowledge that PCard violations did occur with regard to these two administrative assistants, and that they were not resolved in a timely manner. We also note that all of these violations have now been resolved to the satisfaction of all parties. To prevent these issues from arising in the future:

1. The Departmental Administrator is scheduled to take Management Training on January 20th, 2010, and we will inform Audit once this training has been completed. More broadly, we are strongly encouraging all of our supervisor-level staff to take management and leadership courses in order to enhance their supervisorial skills.

2. *The Department Chair currently has PCard training. The Department Administrator does not currently have PCard training and will take it during the first quarter of 2010 and report the training to Audit.*

3. *I acknowledge that it is inappropriate that an individual who has a PCard should have a Supervisor that does not have PCard training. We will investigate if this is a chronic problem in the Department of Biology and, in consultation with the Purchasing Department, we will determine if it is necessary to develop a Departmental Policy to address it. This might be something that is looked at more broadly within the University as well. Additionally, it would be helpful that when policies change instead of notices just going to PCard holders, notice is either placed on the purchasing website and/or an e-mail is sent to both PCard holders and their listed supervisors. In that way, those individuals that do not have a PCard but who are responsible for reallocation and approving transactions are informed as well.*

Recommendation 2

The Dean of Arts and Sciences should work with the Provost/EVP for Academic Affairs and the Human Resources Division regarding responsibilities of all Biology employees relating to PCard violations, and take appropriate disciplinary action.

Response from the Dean of College of Arts and Sciences

The Dean of the College of Arts and Sciences agrees with the Audit findings and will work with the Provost/EVP for Academic Affairs and the Human Resources Division to ensure that the Chair of the Department of Biology and the Department Administrator receive appropriate PCard training and resolve all outstanding PCard violations. In addition, the Dean will work with the Provost/EVP for Academic Affairs, the Human Resources Division and the Chair of the Department of Biology to ensure that appropriate disciplinary action is taken. These actions will be completed by March 31, 2010.

Ineligible Purchase Cardholders

In October 2008, a temporary employee in Biology was issued a PCard. This authorization was approved by the Department Chair, the Department Administrator, and Purchasing. According to staff, Purchasing does not currently have a verification process in place for employee classification in order to prevent temporary employees from obtaining PCards. In addition, a student employee at Biology was granted a PCard for use while traveling abroad conducting research projects. Purchasing has placed limits on the card and will monitor activity while the student is overseas; however, Purchasing has no documented process or procedures for exceptions for student PCards, or for use of PCards while traveling abroad.

Current online PCard policies state that temporary employees and students are not eligible PCard holders, and the documented procedures do not provide for any exceptions to the policy. At the time Biology issued a PCard to a temporary employee, the PCard training manual did not clearly state that temporary employees were ineligible cardholders.

Recommendation 3

Biology should establish internal controls to prevent PCard issuance to temporary employees.

Response from the Biology Department Chair

We acknowledge that PCards have been issued to temporary employees, however we also note that: (1) In the first instance, at the time Biology issued a PCard to a temporary employee, the PCard training manual did not clearly state that temporary employees were ineligible cardholders (see audit finding in the above paragraph); and (2) In the second instance, we specifically requested authorization from the Purchasing Department for the student to obtain a PCard, and we also double-checked this decision with Purchasing before the request was signed at the Department level.

In the future, the employment status of each PCard applicant will be researched by the Department Administrator (or her/his assistants), and indicated on the application form, such that when supervisor-level signatures are recorded, they will be done so with the specific knowledge of the employment status. We will begin this practice immediately.

I respectfully suggest that if the PCard application form contained a check box for the applicant to indicate that they are not a student or temporary employee (or other disallowed category), this might serve as an additional level of security. Alternatively, if there were a location where the applicant indicates their employment status (faculty, staff, temporary staff, student, etc), that would also enable us and PCard individuals to police this issue more effectively.

Recommendation 4

Purchasing should implement controls to ensure that temporary employees are not issued PCards. Purchasing should document policies and procedures for allowing exceptions for student PCard holders.

Response from the Director of Purchasing Department

We agree with the first part of this recommendation to implement controls to ensure that temporary employees are not issued PCards, and have implemented it, effective 1/4/10. Purchasing will implement an internal memo no later than 2/15/10 that defines the process for allowing rare exceptions for student PCard holders.

Temporary Employees

Biology employed a temporary administrative employee beyond the initial 6-month period without receiving an approved extension of time. UBP 3200 “Employee Classification” Section 3.5 “Temporary Employee” reads as follows:

A temporary employee is hired to work a reasonably predictable schedule, full-time or part-time, for a period not to exceed six (6) months. Temporary positions are normally not renewable; however, extensions may be granted with the approval of the employee's dean, director, or department head, and the Division of Human Resources. Individuals hired on six (6) month professional service appointments are classified as temporary employees.

UBP 3200 “Employee Classification” Section 5.2 “Ineligible Positions” reads as follows:

Part-time employees scheduled to work less than twenty (20) hours per week, temporary employees, and on-call employees are covered by unemployment compensation and workers' compensation insurance, but are not eligible for other University approved benefits.

UNM Temps did not have a process in place to monitor assignments when Biology hired the temporary employee.

Recommendation 5

UNM Temps should establish controls to prevent temporary employees from exceeding the term of employment without a valid extension.

Resolution

During the course of the audit, UNM Temps implemented controls to monitor temporary employee assignment terms.

Purchasing Procedures

Biology purchased departmental cell phones with the PCard without obtaining the proper exemption. The department purchased the cell phones from a service provider in the Department Administrator’s name, rather than UNM. Upon revocation of the PCard, the Administrator paid the departmental cell phone bill personally, and was reimbursed by Biology.

According to the PCard manual, using a PCard to pay University cell phone bills is a prohibited use requiring special exception to make payment with a PCard.

Recommendation 6

Biology should apply for a special exception from Purchasing for all PCard purchases of cell phone services.

Response from the Biology Department Chair

We acknowledge that PCards have been used by individuals in the department to pay for cell phone services. We are working with Telecom to have the phone accounts transferred to Telecom, however since we are working with a third party to achieve this (Telecom) we cannot indicate a specific date when this will be achieved. These requests to Telecom have been previously made, yet we are still waiting on resolution. However, we note that the practice of paying for cell phones on PCards has been allowed by purchasing for more than seven individuals in the department over an extended period of time, so I would respectfully comment that we are to a certain degree receiving mixed messages on this. As an alternative, we suggest that PCard folks relax this rather strict requirement regarding cell phone usage, and permit individuals to use their PCards for cell phone services. Until this issue can be resolved via Telecom, we will request a special exception from the Purchasing Department and will note that the bills have been reviewed.

Recommendation 7

Purchasing should monitor existing controls and review transactions to identify cell phone bills paid with PCards.

Response from the Director of Purchasing Department

We agree with the recommendation and have implemented it, effective 12/1/09. In addition to the 100% audit of all PCard transactions, we have also supplemented our controls by developing a monthly report that identifies cell phone transactions posted to PCards.

Segregation of Duties

Two Biology administrative employees have access rights to both enter and approve payroll time. This constitutes a control weakness, since a single employee acts as both the initiator for payment and the approver for payment of payroll. The time approval rights were granted to the administrative employees upon promotion, or to provide back up approval access in an emergency.

A fundamental element of internal control is the segregation of certain key duties. The basic idea underlying segregation of duties is that no employee or group should be in a position both to perpetrate and to conceal errors or fraud in the normal course of their duties. In general, the principal incompatible duties to be segregated include:

- Custody of assets
- Authorization or approval of related transactions affecting those assets
- Recording or reporting of related transactions
- Execution of the transaction or transaction activity

An essential feature of segregation of duties/responsibilities within an organization is that no one employee or group of employees has exclusive control over any transaction or group of transactions. If staffing does not allow for proper segregation of duties, Biology should implement compensating controls, such as an independent review by the supervisor.

Adequate internal controls require that no one employee be allowed to initiate and approve the same transaction. Combining these duties increases the risk that employees may have the ability to modify their paychecks by reporting unearned overtime or under reporting sick and annual leave.

Recommendation 8

Biology should segregate payroll time entry and payroll approver duties or implement suitable compensating controls.

Response from the Biology Department Chair

We acknowledge that the Department Administrator has both time entry and payroll approver access. Nevertheless, these duties have been segregated in the Department as part of our normal procedure. Our current policy is that the Administrative Assistant or the Program Coordinator have entered both bi-weekly and monthly payroll information; and the Department Administrator has approved these entries based on signed timesheets. For the Departmental Administrator, the timesheets are verified by the Department Chair, time is entered by the Program Coordinator, and the Department Administrator does approve her own time reporting. Nevertheless, please note that the Department Administrator, as payroll approver, cannot alter the time reported by the time entry individual. To ensure that there is an additional level of oversight, effective immediately the Chair will also be provided a copy of the Department Administrator's timesheet plus a record of the actual time entered, to ensure that the time entry was accurate.

Prior to the initiation of the audit, we commenced a discussion of this matter with HR, since we had also identified it as a potential problem. Our goal was to alter the electronic approvals list

so that it could accurately reflect what is our practice, although achieving this has been hampered by our current paucity of suitable staff: we have barely enough suitable folks to have representation at the different levels of approval; and we would ideally like some redundancy in the approval queues in order to accommodate any staff absences. It is for this reason that the Department Administrator, who is responsible for all time reporting activities in the Department, has had to have both forms of access in order to cover for staff absences.

It is surprising to me that there are not safeguards in Banner that would preclude the same individual having both entry and approval duties; or at the very least, there should be some software that prevents any transaction being both entered and approved by the same person.

Unauthorized “Bonus Plan”

Biology established an unauthorized “bonus” plan, granting administrative employees paid leave for birthdays, and for the last hours of the workday before certain holidays and semester breaks. This issue is discussed later in the report as part of the Human Resources Division Investigation.

The employees participating in the unauthorized plan are Biology staff employees paid out of Instruction & General (I&G) funds. The paid time off for hours not worked amounts to 17 hours/year per employee. Management posts the notice of the bonus on the office bulletin board and distributes the policy to new employees upon orientation. Biology provided Internal Audit with documents that show the plan dates back to at least 2002; however, the exact origin of the unauthorized plan is unknown.

UBP 3235 “Staff Recognition and Awards” Section 3.2 “Formal Recognition” states:

Formal recognition programs are intended to recognize a limited number of staff members who demonstrate an extraordinary achievement in one (1) or more of the following areas:

- provide extraordinary service to the University or community;
- exemplify University values in an exceptional manner;
- submit suggestions that result in innovative solutions to University-wide challenges; or
- contribute substantially to significant team accomplishments.

To ensure the appropriate use of public funds, consistency, and fairness this policy establishes guidelines for recognition programs that include awards. Recognition may be either non-monetary or monetary, must comply with University policies and procedures, and be commensurate with the achievement.

The programs can be University-wide recognition programs or programs designed by colleges, divisions, schools, or departments.

The “bonus” plan is not based on merit or achievement, and has not been approved by the President, Provost, or Dean of the College of Arts and Sciences. Therefore, it is unauthorized and does not qualify under UBP 3235.

Recommendation 9

Biology should not allow or give unauthorized paid time off to employees for hours not worked, and management should immediately notify the department in writing of the termination of the unauthorized bonus plan.

Response from the Biology Department Chair

I acknowledge that this plan has been in place for Biology front office staff. This plan was cancelled directly following the meeting in which the concern was first raised, and HR was immediately notified as well as Internal Audit. All I&G staff impacted have been verbally informed, and we reported that action to the HR audit individuals. However we did not do it in writing at the time, upon the recommendation of those individuals. Based on this recommendation, we have informed all affected individuals via a group email, a copy of which can be provided upon request. This action was completed January 6th, 2010.

Recommendation 10

The Dean of the College of Arts and Sciences should determine whether other departments in the College of Arts and Sciences have unauthorized leave plans, and implement immediate termination of such plans.

Response from the Dean of the College of Arts and Sciences

The Dean of the College of Arts and Sciences agrees with the audit findings. The Dean will survey all departments within the College to determine whether other departments have unauthorized leave plans. If any such plans are found to exist, they will be immediately terminated. These actions will be completed by March 31, 2010.

Implementation of Prior Internal Audit Recommendations

Biology did not implement some recommendations provided in report 2006-05, Department of Biology, Audit of Allegations of Misreporting Payroll Hours. Issued July 5, 2006, the report addressed misreporting of payroll hours, and deficiencies with timesheet and payroll procedures

within Biology. Biology implemented some of the audit recommendations; however, they have not put into practice recommendations addressing policies and procedures. In addition, based on documents provided by HR, and audit procedures performed, there appears to a recurrence of payroll and timesheet issues including the following items:

- Payroll policies developed by the prior Department Administrator could not be located;
- Missing signatures;
- Supervisor changes to time entries on employee's timesheets;
- Timesheets that do not document in and out times;
- Non-descriptive entries on timesheets and/or estimated hours on next pay period;
- Control weaknesses due to dual role (timekeeper and time approver) for Department Administrator; and
- Incorrect time sheets approved by current and prior Department Chairs.

Subsequent to Internal Audit's prior Biology audit report, Biology changed management and there is a new Dean for the College of Arts and Sciences; however, these issues indicate a systemic problem of noncompliance within Biology. The Department Administrator was employed with Biology at the time of the prior audit, but did not have direct involvement in the audit or implementation of recommendations. It would best serve the interest of the University to provide training for faculty and staff. To reduce the possibility of policy violations, administrators should be fully aware of the responsibilities they are assuming, and be equipped to manage the administrative duties.

Recommendation 11

The Dean of the College of Arts and Sciences should oversee implementation of the audit recommendations in both the current and prior audit.

Response from the Dean of College of Arts and Sciences

The Dean of the College of Arts and Sciences agrees with the audit findings and will oversee implementation of the recommendations in both the current and prior audit. The initial actions will be completed by May 1, 2010, and the Dean will continue to monitor compliance on an annual basis.

Recommendation 12

The Dean should provide training to faculty in administrative positions to assist them in managing departments within the University's policy framework. Training should include, but

not be limited to proper internal controls, purchasing and PCard procedures, and payroll processes.

Response from the Dean of College of Arts and Sciences

The Dean of the College of Arts and Sciences agrees with the audit finding and will initiate additional training for faculty in administrative positions to assist them in managing departments within the University's policy framework. Currently, all faculty members who assume Chair or Director positions within the College are required to attend a 3-day Chair and Directors School that is held annually before the beginning of each academic year. The new chairs and directors receive training in a wide variety of management responsibilities, including (but not limited to) personnel issues, instructional requirements, legal ramifications and responsibilities, and budgeting. Vice Presidents or their representatives from various offices across campus participate in the training. To comply with the recommendation above, the Dean will initiate two actions. First, all current chairs and directors will be required to attend a training session that will focus proper internal controls, purchasing and PCard procedures, and payroll processes. Vice Presidents or their representatives from the appropriate units will be asked to contribute their expertise to the training. This session will be completed before the end of the Spring Semester, 2010. Second, a similar training session will be added to the annual Chair and Directors School and will be required for all new chairs and directors. The first such session will be added to the School in August, 2010, and will be included in all future Schools.

SUMMARY OF RESULTS OF THE HUMAN RESOURCES DIVISION INVESTIGATION

The HR Investigation dated December 16, 2009 is confidential and is summarized in this report as support for the finding that Biology has not fully implemented recommendations in the prior audit report. UPB 2200 “Whistleblower Protection And Reporting Suspected Misconduct And Retaliation” Section 7. “Report of Investigation” states:

“7.1. When the investigation is completed, a confidential report of the investigation will be sent for appropriate action to the vice president responsible for the unit where the investigation was conducted or to the President for units that report to the President. If the investigation is conducted by the Internal Audit Department, the report will be filed in accordance with Internal Audit Department policies...”

Overtime Hours and Other Inaccuracies in Pay

The Department Administrator and the Administrative Assistants confirmed that Biology paid employees straight time for hours worked in excess of 40 hours per week. Biology paid an Administrative Assistant 2 and [REDACTED] straight time for overtime hours worked, instead of time and one-half.

Supported by timesheet analysis, HR found that the Department Administrator implemented a “pay differential” for the Administrative Assistant 2. The Department Administrator approved the Administrative Assistant 2’s timesheets, which allowed the employee to be paid for time not worked, and also straight time for hours worked and documented as overtime hours. Based on information received from the employee, Human Resources determined the employee was overpaid \$395.16 for time not worked and underpaid \$2,061.15 for overtime paid as straight time; therefore, UNM owes the employee \$1,665.99. The Department Administrator was informed to immediately cease the “pay differential” program.

UPB 3305 “Overtime” Section 4, states,

“When a nonexempt employee works authorized overtime, he or she is paid at one and a half (1-1/2) times the employee's regular rate of pay (base pay plus shift differential, if applicable).” In addition, the Department Administrator’s act of not paying time and one-half for hours worked in excess of 40 hours per week is a violation of the US-UNM Labor Agreement, Article 12.I.5. which states, “when a bargaining unit employee works authorized overtime, the employee will be paid at one and a half (1-1/2) times the employee's regular rate of pay (base pay plus shift differential, if applicable).”

██████████ appears to have falsified ██████████'s (temporary employee) timesheets, allowing the employee to receive paid annual, sick, bereavement leave, and holiday pay. UBP 3400 "Annual Leave" UBP 3410 "Sick Leave" UBP 3405 "Holidays" and UBP 3300 "Paid Time" specifically state an employee must be a regular full-time or part-time staff employee who works twenty (20) hours or more per week to be eligible for paid annual leave, sick leave, holiday pay, bereavement leave.

██████████ was underpaid \$1,320.00 for hours worked in excess of 40 hours per week, paid at a straight time rate. The employee was also overpaid \$2,555.00 for leave benefits, which under University policy is not allowed for temporary employees. Therefore the employee owes UNM \$1,235.00.

Timesheets for the Administrative Assistant 2 and ██████████ did not document appropriate "in-and-out" times, and were not signed by either the employee or the Department Administrator. According to UBP 2610 "Time and Leave Reporting" Section 3, 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. They must also record the beginning and ending time of any split shift or departure from work for personal reasons other than for the employee's fifteen (15) minute break. Entries should be made daily to the nearest tenth of an hour.

██████████ approved inaccurate timesheets and admitted knowing the "pay differential" was wrong. By approving the Administrative Assistant 2's time, ██████████ appears to have violated both Federal regulation and University policy.

The Department Administrator is solely responsible for overseeing Biology's payroll practices. The current Department Chair and the previous Department Chair both stated they entrusted the Department Administrator to follow all federal regulations, union contracts, and University policies. The current and previous Department Chairs stated that they were not aware of Biology paying overtime as straight time. Both adamantly stated that they were in full support of the Department Administrator, and communicated their appreciation and trust in the level of competence.

The Department Administrator's job description includes overseeing and coordinating the payroll administration, purchasing and administration of department polices, ensuring that the fiscal and personnel practices are in compliance with university regulations, policies, and appropriate laws. The Department Administrator knew or should have known that the acts of paying an employee for time not worked, paying straight time instead of time and one-half for overtime, allowing a temporary employee paid time off, and approving time cards with inaccurate and inadequate information is a violation of FLSA and University policy.

Bonus Plan

Biology employees received additional paid time off through a “bonus” plan. The “bonus” plan allowed staff to take time off with pay for birthdays and leave early on the day before major breaks and holidays. Biology posted the “bonus” plan in the front office and distributed it during department employee orientation. According to the previous Department Chair, this plan dates back to at least 1985.

HR found that Biology inconsistently tracked “bonus” time. Review of the timesheets indicated there is no clear indication on how many employees Biology allowed time off under the “bonus” plan. The Biology Chair clarified that 14 I&G employees participated in the “bonus” plan. HR calculated the “bonus” plan for these participants cost the University approximately \$19,993.15 over the past five (5) years. HR instructed Biology to immediately terminate the “bonus” plan.

According to University Counsel, the actions of the employees involved in the false reporting of time potentially violates two sections of the New Mexico criminal code. With respect to the unauthorized “bonus” plan, it appears that illegal activities “may have occurred.” Internal Audit forwarded the information to the University Police Department and the New Mexico Office of the State Auditor.

Human Resources Division Recommendations

The “bonus” plan does not follow current University policies and procedures and is unauthorized paid leave, and HR directed the Chair to immediately terminate the “bonus” plan.

Appropriate disciplinary action should be taken against [REDACTED], the [REDACTED], the Administrative Assistant 2, and [REDACTED] based on violation of FLSA, union contracts, and University policy infractions.

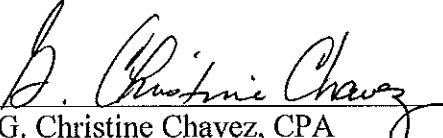
The Biology Department’s Human Resources Consultant, serves as Biology’s first point of contact and will work closely with College of Arts and Sciences management to assist in facilitating the proper level of disciplinary action. In addition, the Human Resources Consultant will assist upper management with future compliance to University policy. The Human Resources Consultant and the Senior Human Resources Consultant will also work with management to conduct the following training programs:

- Fair Labor Standard Act for Management and Staff
- Time and Leave Reporting for Management and Staff

CONCLUSION

The University of New Mexico Biology Department has recurring issues related to compliance with policies and procedures. The Department Chair should require that the Department Administrator obtain necessary training to monitor processes and to comply with proper policies and procedures. Biology can benefit from developing a formal written policies and procedures manual for the department. Additionally, the Dean of the College of Arts and Sciences should oversee implementation of recommendations included in Internal Audit reports 2006-05 and 2010-01, and in the Human Resources Division Investigation dated December 16, 2009.

APPROVALS


G. Christine Chavez, CPA
Director, Internal Audit Department

Approved for Publication


Chair, Audit Committee