



**2008-2009 SANTA CLARA COUNTY
CIVIL GRAND JURY REPORT**

**COMMUNITY COLLEGE HOURS BY ARRANGEMENT
MONEY FOR NOTHING?**

Summary

In 2005, it was brought to the State's attention by a student that the West Valley-Mission Community College District was overcharging the State for apportionment funds. It was alleged that West Valley-Mission Community College District was claiming hours by arrangement (HBA) that lacked the documentation necessary to prove they had been completed. Due to the lack of proper monitoring and recording, a special audit was ordered by the California Community Colleges System Office. The audit revealed an overpayment by the State to the District in the amount of approximately \$12M.

Issue

Has the District made sufficient progress to be sure these errors do not happen again?

Investigation

The 2008-2009 Civil Grand Jury investigated to determine how lack of proper HBA verification/certification occurred; to confirm that procedures are now in place for proper verification; that these procedures are known and understood by West Valley-Mission Community College District faculty and administration; and that these procedures are being employed and adhered to consistently.

Definitions

HBA	Hours by Arrangement	Note: HBA, TBA, and Supplemental Hours of Instruction are interchangeable
TBA	To be Arranged	
Supplemental Hours of Instruction		
FTES	Full-time equivalent students	
1 FTES	525 hours of instruction = Approximately \$4,500	
Recapture	Repayment	
Stability Revenue	Funding given to the District during times of declining enrollment to stabilize finances	

Background

HBAs are offered by college faculty as an adjunct to their classes, when faculty feel additional instruction would be beneficial to their students. HBAs are translated financially into full-time equivalent students (FTES). The more HBAs that appear in the curriculum, the greater the number of full-time equivalent students (FTES) reported to the State. The State uses FTES to determine the amount of funding, or apportionment, it will provide to the District. Accurate and legitimate documentation of HBAs is critical for proper funding.

The special audit (Audit) of March 2008, conducted by Vavrinek, Trine, Day & Co., LLP, covered the years 2004 to 2007. The audit was limited to this three-year period because the District is not required to retain FTES support documentation for longer than three years.

The Audit concluded that the District did not properly document or appropriately schedule HBAs. Mission College chose to discontinue all HBA offerings at its facilities. This meant decertifying 2000 FTES, for a potential loss of \$9,000,000. Mission College faculty were unable to formulate a consistent and standard procedure for including HBAs in their courses. It was the decision of administration that, pending the formulation of adequate procedures, the college would suspend the use of HBAs.

West Valley College administration acknowledged that the lack of documentation had occurred in part because some faculty were unsure of their obligation to teach HBAs, and some students were unaware of their obligation to attend, or document that they had in fact received HBAs cited in their class schedules. The college decertified 124 FTES, for a potential loss of \$558,000. Fines and penalties of nearly \$3M were assessed, bringing the total amount owed to the state to \$12M.

West Valley College chose to remove all HBAs from its course outlines, then reintroduce them one course at a time. It instituted a form that details requirements for compliance with Title V of the *California Code of Regulations*. The form requires multiple signatures and documentation by both faculty and students to verify both the offering and performance of HBA hours.

The District has also adopted the term "supplemental instructional hours" to replace the terms "hours by arrangement," "weekly supplemental hours," and "weekly hours by arrangement."

The District was impacted by the Audit on a financial as well as a procedural level. The financial loss of FTES was compounded by the imposition of fines and penalties. In December of 2008, negotiations between the District and the California Community Colleges System Office resulted in a *Resolution Agreement* that dealt with both financial and procedural concerns. The *Agreement* summarizes the District's acknowledgement of the findings of the Audit, the amount owed in overpayment of apportionment, and the schedule of recapture. The \$12,000,000 potential loss was reduced as part of this agreement to \$5,644,227.

The California Code of Regulations requires all community college districts to conduct an annual audit in accordance with the requirements of the *Contract District Audit Manual*. As a result of the *Resolution Agreement*, signed December 5, 2008, the West Valley Mission Community College District has additional requirements, which appear in the *Resolution Agreement*.

Conclusion

Awareness of the HBA issue was raised in 2005. Administrators should have made the HBA question a top investigative priority. Such an investigation would have revealed a lack of procedure surrounding the teaching and documentation of HBAs. Instead, top administration appeared unaware of attendance procedure for HBA sessions, and unaware of the actual definition of HBAs versus supplemental hours.

It was reported to the Grand Jury that the lack of documentation was an innocent oversight on the part of faculty. Teachers were unaware of their requirement to provide HBAs and the need to document the teaching of HBAs. In addition, students were not aware of their own obligation to participate in HBAs.

Nonetheless, faculty should have questioned the confusing and ill-defined nomenclature in the class schedule to clarify at least to themselves the hours for which they were being held responsible. No one was held accountable for accurate definition or documentation, but neither did anyone question the issue until a student raised the alarm.

Findings and Recommendations

Findings have been reviewed with the subject agency.

Finding 1

Prior to October 2008, there did not exist a statewide standardized procedure for the accurate accounting and verification of HBAs.

Recommendation 1

The West Valley-Mission Community College District should adhere to the terms outlined in the *Resolution Agreement* of December 5, 2008.

Finding 2

At Mission College, there had not been consistent review of HBAs over time to ensure all faculty and staff were clear as to their implementation.

West Valley conducted a comprehensive review of HBA practices and accounting in 2005, which resulted in its documentation of courses that carry HBAs.

There were several different terms employed within the District to refer to HBAs, making it difficult to decipher the number of hours offered.

Recommendation 2

The District should conduct a yearly review of its catalog, course outline, and syllabi to ensure information on supplemental hours of instruction is identical.

Finding 3

The required yearly financial audits did not include an adequate inspection and evaluation of the district's system of internal control over its financial reporting with regard to reported enrollment in HBAs per class. The audit did not employ a sufficiently rigorous examination of FTES accounting used to calculate apportionment. The level of depth in the audit was insufficient to uncover the long-term and ongoing deficiencies in the method of determining HBAs and the FTES that were claimed on the basis of that determination.

Recommendation 3

The yearly financial audit should focus in particular on the treatment of supplemental instructional hours and the FTES claimed, beyond the time frame stated in the *Resolution Agreement*. Those charged with the audit should be thoroughly trained as to what their investigation should cover, what their findings should include, and the response they are required by Code to demand from the District.

Finding 4

As a result of incomplete HBA documentation, the District is required to repay the state \$5,644,227.

Recommendation 4

No recommendation.

Finding 5

As of the date of this report, Mission College has eliminated all unscheduled HBAs. West Valley Community College has continued offering supplemental hours of instruction utilizing procedures in compliance with Title 5 of the California Education Code.

The West Valley-Mission Community College District now utilizes a multi-page form all faculty must complete before making supplemental instructional hours part of their courses. The Grand Jury believes that the District is now providing adequate documentation of supplemental hours, and careful accounting of FTES.

Recommendation 5

No recommendation.

PASSED and ADOPTED by the Santa Clara County Civil Grand Jury on this 26th day of March, 2009.

Don Kawashima
Foreperson

Mary Nassau
Secretary