

BART Employee Collected Pay and Benefits for Time Not Worked

Office of the Inspector General



Investigation Results

A BART employee, who is not approved for remote work and whose duties are not conducive to remote work, was at their personal residence or other nonwork locations during most of their paid duty-hours. For example, the employee claimed to have worked 27 days during one 29-day span and would either report to their duty location for a brief period, such as an hour, and then leave their duty location for the remainder of their shift or not report to their duty location at all.

The employee generally used a time-collection device at their duty location to clock in and then, after spending most of the shift away from their duty location and not working, would go to a BART station near their residence to clock out when their shift was supposed to end. Sometimes, the employee would clock in and out at the duty location near their residence, whether they reported to work or not. At other times, the employee's manager would make a timekeeping-system adjustment to record the employee's clock in or out time for the day. The manager's adjustments indicate they may have known the employee was not working their full shift and that the manager, therefore, may be complicit in the theft of wages and benefits. The employee was typically paid for 12 hours of work per day. Despite the employee often not being at their work location or any District worksite as required, their earnings were more than double their base salary for 2022 due to extra earnings from shift pay, overtime, and double time (holiday overtime) paid in accordance with the terms of their collective bargaining agreement. The employee also received compensation in the form of paid pension benefits, sick leave and vacation accruals, and other benefits. BART timekeeping data suggests that the employee's scheme took place for at least a year and progressively became more egregious over time.

Our office received an allegation that a BART employee was not reporting for duty despite being paid for working upwards of 80 hours per week. We substantiated the allegation and referred the matter to the BART Police Department to assist with the investigation, which further substantiated the allegation. The employee submitted their resignation the day after learning they had been investigated and BART knew of their theft of time scheme; therefore, there will be no recommendation related to discipline of the employee.

Recommendations

1. Seek restitution from the former employee for an amount to be determined by BART management.
2. Coordinate with CalPERS to make the appropriate years-of-service adjustment for the employee's retirement calculation.
3. Investigate the time adjustments the manager made on behalf of the employee to determine if any District policies and procedures were violated, and if so, discipline the manager in accordance with their respective collective bargaining agreement.

Management agreed to our recommendations. See next page for details.



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Providing independent oversight of the District's use of revenue.



BART OFFICE OF THE GENERAL MANAGER RESPONSE TO OIG FINDING & RECOMMENDATIONS

Report Title: BART Employee Collected Pay and Benefits for Time Not Worked

1	Recommendation:	Seek restitution from the former employee for an amount to be determined by BART management.
	Responsible Department:	Controller/Treasurer; General Counsel; Human Resources
	Implementation Date:	February 2023
	Corrective Action Plan:	<p>Management will review all options for recovering wages (e.g., base, shift differential, overtime, holiday) and related benefits (e.g., sick leave and vacation accruals) fraudulently obtained by the employee.</p> <p>Management is dismayed at this egregious instance of fraud. Management will cooperate with any ensuing criminal and civil investigations.</p>
2	Recommendation:	Coordinate with CalPERS to make the appropriate years-of-service adjustment for the employee's retirement calculation.
	Responsible Department:	Human Resources; General Counsel
	Implementation Date:	February 2023; full implementation TBD
	Corrective Action Plan:	Management will provide the information necessary for CalPERS to determine if adjustments to pension benefits, including service years, are required. Management will inform CalPERS of any subsequent actions that may affect the employee's retirement benefits. Retirement benefit adjustments will be at the discretion of CalPERS per its policies and the District's policies and contract with CalPERS.
3	Recommendation:	Investigate the time adjustments the manager made on behalf of the employee to determine if any District policies and procedures were violated, and if so, discipline the manager in accordance with their respective collective bargaining agreement.
	Responsible Department:	Labor Relations; Human Resources; General Counsel
	Implementation Date:	February 2023 for review; appropriate actions TBD
	Corrective Action Plan:	<p>Management will conduct a thorough investigation regarding the practices of the supervisor/manager who adjusted and approved timesheets to determine if the supervisor/manager was complicit in the fraud. Appropriate action will be taken per the laws, policies, and the associated Collective Bargaining Agreement depending on the outcome of the investigation.</p> <p>To help prevent a similar situation from occurring, timekeeping policies and procedures will be analyzed for proper controls no matter the outcome of the investigation, including emphasizing to supervisors/managers the importance of properly approving time and developing management reports that will identify anomalies in overtime and days worked consecutively.</p>