ACADEMIC PERSONNEL
SAN JOSÉ STATE UNIVERSITY

Audit Report 11-57
December 9, 2011

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ABBREVIATIONS

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<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>AB</td>
<td>Assembly Bill</td>
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<tr>
<td>AP</td>
<td>Academic Personnel</td>
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<tr>
<td>AFD</td>
<td>Administration and Finance Division</td>
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<tr>
<td>CBA</td>
<td>Collective Bargaining Agreement</td>
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<tr>
<td>CFA</td>
<td>California Faculty Association</td>
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<tr>
<td>CSU</td>
<td>California State University</td>
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<tr>
<td>EO</td>
<td>Executive Order</td>
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<tr>
<td>PAF</td>
<td>Personnel Action File</td>
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EXECUTIVE SUMMARY

As a result of a systemwide risk assessment conducted by the Office of the University Auditor during the last quarter of 2010, the Board of Trustees, at its January 2011 meeting, directed that Academic Personnel (AP) be reviewed. The Office of the University Auditor has never reviewed AP as a subject audit, although some aspects were covered in the Human Resources audits conducted in 2004.

We visited the San José State University campus from August 22, 2011, through September 30, 2011, and audited the procedures in effect at that time.

Our study and evaluation revealed certain conditions that, in our opinion, could result in significant errors and irregularities if not corrected. Specifically, the campus did not maintain adequate internal control over the following areas: recruitment and hiring, employee evaluations and sabbatical leaves, and training and records. These conditions, along with other weaknesses, are described in the executive summary and body of this report. In our opinion, except for the effect of the weaknesses described above, the operational and administrative controls for AP activities in effect as of September 30, 2011, taken as a whole, were sufficient to meet the objectives stated in the “Purpose” section of this report.

As a result of changing conditions and the degree of compliance with procedures, the effectiveness of controls changes over time. Specific limitations that may hinder the effectiveness of an otherwise adequate system of controls include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, and management overrides. Establishing controls that would prevent all these limitations would not be cost-effective; moreover, an audit may not always detect these limitations.

The following summary provides management with an overview of conditions requiring attention. Areas of review not mentioned in this section were found to be satisfactory. Numbers in brackets [ ] refer to page numbers in the report.

RECRUITMENT AND HIRING [5]

Campus policies and procedures did not define which recruitment, hiring, and personnel documentation must be retained in faculty personnel action files, and the documentation maintained in faculty personnel action files was inconsistent.

EMPLOYEE EVALUATIONS AND SABBATICAL LEAVES [6]

Sabbatical leave procedures needed improvement. Specifically, sabbatical leaves were approved by the provost without delegated authority from the president, and the campus did not have written procedures for verifying that conditions of sabbatical leaves had been met.

TRAINING AND RECORDS [7]

Sexual harassment and other harassment training procedures needed improvement. For example, the campus had not clearly documented which faculty members or job categories were considered “supervisors” for sexual harassment training purposes. Also, campus policies and procedures for academic personnel record retention were outdated.
INTRODUCTION

BACKGROUND

Management of academic personnel (AP) involves facilitating the recruitment, development, and retention of the academic workforce. AP includes faculty and academic student assistants in collective bargaining units three and eleven, as well as faculty management employees who are part of the management personnel plan. In the California State University (CSU) system, campus AP offices coordinate with human resources to perform activities that include, but are not limited to:

- Planning for the movement of AP into, within, and out of employment with the university.
- Recruiting and selecting faculty, student, and management AP with the appropriate skills, knowledge, and abilities.
- Training and developing faculty and faculty management to enhance their capabilities.
- Providing compensation and benefits that attract, motivate, and retain talented employees.
- Appraising and reporting on faculty, student, and management performance to identify areas that need improvement, and providing positive reinforcement for effective performance.
- Maintaining effective employee relations.
- Minimizing the risk of illness and injury in the workplace.

The CSU must comply with collective bargaining agreements, systemwide mandates, and Board of Trustee policies, as well as major federal and state laws that could affect the academic personnel function. Such laws include, but are not limited to, Title VII of the Civil Rights Act of 1964, the Political Reform Act of 1974, Assembly Bill 1825 (passed in 2004), and other state regulations addressing topics such as safety, harassment, and nondiscrimination in the workplace.

AP management relies on effective information management systems for operational efficiencies and controls; however, most of the information that AP management uses through these systems must remain private in accord with laws such as the Information Practices Act of 1977 and the Health Insurance Portability and Accountability Act of 1996, as well as the Board of Trustees’ policies for personal information management.

In fiscal year 2009/10, the CSU expended approximately $1.8 billion on instruction. This investment underscores the importance of maintaining a dynamic AP function that attracts, develops, and retains qualified personnel.
PURPOSE

Our overall audit objective was to ascertain the effectiveness of existing policies and procedures related to the administration of the academic personnel function and to determine the adequacy of controls over related processes to ensure compliance with relevant collective bargaining agreements, governmental regulations, Trustee policy, Office of the Chancellor directives, and campus procedures.

Within the overall audit objective, specific goals included determining whether:

- Administration and management of the AP function incorporates effective internal controls, adequate local policies and operational procedures, and current written delegations of authority.
- Processes and procedures ensure timely and effective communication of CSU and campus employment policies and federal and state employment laws and regulations.
- Employees are sufficiently apprised of acceptable business practices and expected standards of ethical and moral behavior, as well as the need to report conflict-of-interest situations.
- Faculty and management are sufficiently trained in the appropriate policies and procedures to support compliance with applicable state and federal laws and regulations regarding nondiscrimination and affirmative action, harassment, and safety.
- Recruitment, selection, hiring, and appointment activities are properly authorized, employment eligibility is verified, and compliance with state and federal laws and regulations and collective bargaining agreements is maintained.
- Professional licenses, certificates, and/or registration requirements for applicable employees are properly maintained.
- Procedures governing faculty evaluations and the review of sabbatical leave events conform with the collective bargaining agreement.
- Separations comply with existing laws and regulations and observe good business practices in accordance with CSU policy.
- Compensation and benefit requests and confidential hard-copy and system information, such as information pertaining to recruitment, selection, and hiring activities, are reasonably secure.
The proposed scope of the audit as presented in Attachment A, Audit Agenda Item 2 of the January 25 and 26, 2011, meeting of the Committee on Audit stated that AP includes activities involved in the recruitment, hiring, evaluation, and retention of employees directly involved with the academic operations of the CSU system and the individual campuses. Proposed audit scope would include, but was not limited to, review of recruitment and hiring processes for compliance with employment laws and regulations; evaluation of employees as required per collective bargaining agreements; administration of the family medical leave and other employee programs; and protection of sensitive and confidential information.

Our study and evaluation were conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors and included the audit tests we considered necessary in determining whether operational and administrative controls are in place and operative. This review emphasized, but was not limited to, compliance with state and federal laws, Board of Trustee policies, and Office of the Chancellor and campus policies, letters, and directives. The audit focused on procedures in effect from July 1, 2009, through September 30, 2011.

We focused primarily on the internal administrative, compliance, and operations controls over academic personnel activities. Specifically, we reviewed and tested:

- Recruitment, selection, and hiring activities for academic employees, including training processes.
- Conflict-of-interest and employment eligibility forms and procedures.
- Maintenance and protection of confidential human resources information.
- Employee evaluations, sabbatical leaves and separation procedures.
- Record retention and disposition.
OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

RECRUITMENT AND HIRING

Campus policies and procedures did not define which recruitment, hiring, and personnel documentation must be retained in faculty personnel action files (PAF), and the documentation maintained in faculty PAFs was inconsistent.

We reviewed 12 faculty searches and noted that:

- Certain non-payroll and benefits forms, such as confidentiality agreements, appointment forms, and statements of understanding of the Family Educational Rights and Privacy Act, were maintained in human resources, while the related PAFs were maintained in faculty affairs.

- The campus could not locate the recruitment files for three temporary faculty searches, and job/vacancy announcements for six temporary faculty searches were not maintained in the PAFs.

- Existing procedures did not ensure that college departments would send recruitment documentation to faculty affairs to retain in the PAFs.

San José State University Applicant Pool Report for Temporary Faculty Positions, dated March 2007, states job announcement details, names of faculty on the recruitment/search committee, and selection criteria and procedures to be followed in screening all applicants in the pool.

Collective Bargaining Agreement (CBA), California Faculty Association (CFA), Unit 3, Article 11.1 states that the PAF shall be defined as the one official personnel file for employment information and information that may be relevant to personnel recommendations or personnel actions regarding a faculty unit employee.

Government Code §13402 and §13403 state that management is responsible for establishing and maintaining a system of internal administrative controls, which includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions. Further, a satisfactory system of internal administrative controls shall include, but not be limited to, an established system of practices to be followed in performance of duties and functions.

The manager of faculty personnel and records stated that faculty affairs maintained only personnel files, and it would be more appropriate for human resources to maintain various forms and payroll and benefits records. She also stated that temporary faculty search committee records and job announcements were not always in the PAFs because of resource constraints in the various colleges, and that it was especially difficult for the smaller colleges with less administrative staff to maintain the files and forward them to faculty affairs.

Failure to properly maintain recruitment files and develop policies and procedures for maintaining related documentation could hinder the campus’ ability to respond to potential complaints of discriminatory practices.
Recommendation 1

We recommend that the campus revise policies and procedures to define which recruitment, hiring, and personnel documentation must be retained in faculty PAFs.

Campus Response

We concur. The campus will revise policies and procedures to define which recruitment, hiring, and personnel documentation must be retained in faculty PAFs. This will be completed by the end of May 2012.

EMPLOYEE EVALUATIONS AND SABBATICAL LEAVES

Sabbatical leave procedures needed improvement.

We reviewed five sabbatical leaves that took place in academic years 2009 and 2010 and found that:

- Each of the sabbatical leaves was approved by the provost without delegated authority from the president.

- The campus did not have written procedures for verifying that conditions of sabbatical leaves had been met. In two instances, such verification was not documented in the related PAFs.

CBA, CFA, Unit 3, Article 27.8 states that prior to making a final determination regarding the sabbatical leave and the conditions of such an approved leave, the president shall consider the recommendations made by a professional leave committee and the department. It further states that the president shall respond in writing to the applicant and such a response shall include the reasons for approval or denial. Article 27.16 states that a faculty unit employee granted a sabbatical leave may be required by the president to provide verification that the conditions of the leave were met. The statement of verification shall be provided to the president and the professional leave committee.

CBA, CFA, Unit 3, Article 2.18 states that the term “President” as used in this agreement refers to the chief executive officer of a university or college or his/her designee.

The manager of faculty personnel and records stated that faculty affairs interpreted the CBA guidance to mean that the appropriate administrator (dean, associate dean, or provost) had the authority to approve sabbatical leaves. The associate vice president of faculty affairs stated that one of the verifications that sabbatical leave conditions had been met had not yet been submitted to faculty affairs, and the other verification had not yet been prepared by the faculty member.

Failure to obtain sabbatical leave approvals from the president or designee with formal delegation of authority could result in complaints from faculty or the faculty union, and failure to obtain and document verification that sabbatical leave conditions were met could result in faculty perception that completion of sabbatical leave conditions was no longer required.
**Recommendation 2**

We recommend that the campus:

a. Ensure that sabbatical leaves are approved by the president or the president’s designee with a written delegation of authority in place.

b. Develop and implement monitoring procedures to verify that sabbatical leave conditions were met, and document such verification in the related PAFs.

**Campus Response**

We concur. We will complete compliance actions by the end of May 2012 to:

a. Ensure that sabbatical leaves are approved by the president or the president’s designee with a written delegation of authority in place.

b. Develop and implement monitoring procedures to verify that sabbatical leave conditions were met, and document such verification in the related PAFs.

**TRAINING AND RECORDS**

**SEXUAL HARASSMENT AND OTHER HARASSMENT TRAINING PROCEDURES**

Sexual harassment and other harassment training procedures needed improvement.

We found that:

- The campus had not clearly documented which faculty members or job categories were considered “supervisors” for sexual harassment training purposes.

- The campus did not provide other harassment training to newly hired faculty and, when necessary, refresher training to continuing faculty on other harassment topics.

Coded Memorandum Human Resources 2005-35, *Sexual Harassment Mandatory Training*, dated August 26, 2005, states that sexual harassment training is now required for all California State University (CSU) employees who have supervisory responsibility as a result of Assembly Bill (AB) 1825. A “supervisor” is defined to include any individual with the authority “to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if … the exercise of that authority … requires the use of independent judgment.” It is the responsibility of each campus to determine who meets the definition of “supervisor.”

Executive Order (EO) 927, *Systemwide Policy Prohibiting Harassment in Employment and Retaliation for Reporting Harassment or Participation in a Harassment Investigation*, dated
January 6, 2005, states that to prevent harassment and encourage the reporting of harassment, training shall be provided by each campus to all employees upon their initial arrival at the campus. Such training shall explain, but not be limited to: what constitutes harassment under applicable law; the rights and responsibilities of each individual relating to workplace harassment; the protection against retaliation for individuals who report harassment or participate in an investigation; the internal complaint procedures for filing, investigating and resolving a harassment complaint; and the option and method for filing a harassment complaint with external government agencies such as the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission. The policy also states that after training has been given to employees upon their first arrival at the campus, training shall be provided, when necessary, to refresh and update employees’ knowledge of harassment and retaliation laws.

The assistant associate vice president of faculty affairs stated that faculty affairs followed the definition of faculty “supervisors” as the term was defined in AB 1825. She further stated that the CFA/CSU agreements require that the CFA agree to any campus-proposed change in a term or condition of employment for faculty, either in a new agreement or by meet-and-confer procedures. She stated her belief that for this reason, the campus could not mandate any of these types of training for faculty, and although both types of training were offered to faculty via human resources, few had completed the training.

Failure to clearly document which faculty members or job categories are considered “supervisors” for sexual harassment training purposes increases the risk that mandatory training will not always be completed and the campus will not be in compliance with state regulations, and failure to provide new-hire training and refresher training for faculty in other harassment topics increases the risk that faculty will not be fully aware of other harassment procedures and requirements, thereby increasing the risk of litigation.

**Recommendation 3**

We recommend that the campus:

a. Clearly document which faculty members or job categories are considered “supervisors” for sexual harassment training purposes.

b. Provide other harassment training to newly hired faculty and, when necessary, refresher training for faculty in other harassment topics.

**Campus Response**

We concur. We will complete compliance actions by the end of May 2012 to:

a. Clearly document which faculty members or job categories are considered “supervisors” for sexual harassment training purposes.

b. Provide other harassment training to newly hired faculty and, when necessary, refresher training for faculty in other harassment topics.
ACADEMIC PERSONNEL RECORD RETENTION

Campus policies and procedures for academic personnel record retention were outdated.

We found that:

- Campus academic senate policy S73-19, *Faculty Personnel Records*, was last revised in 1973. The policy identified the office and custodian for faculty PAFs, but the titles of the office and custodian had changed over the years, and the current office and custodian were not correctly named.

- The campus had not named a custodian for the academic personnel record retention schedule at the time of audit.

CBA, CFA, Unit 3, Article 11.1 states that for each faculty unit employee, the president shall designate an office in which the PAF shall be maintained and shall designate a custodian for the PAF.

EO 1031, *Systemwide Records/Information Retention and Disposition Schedules Implementation*, dated February 27, 2008, states, in part, that the records custodian is the campus-designated department head who maintains the official/original copy of the record/information. Retention schedules should specifically identify the campus-designated custodian responsible for identified records/information. Each campus must formally designate an official campus custodian(s) for each type of record who will be responsible for assuring that the campus is operating in compliance with the CSU records/information retention and disposition schedules and identifying records/information that may have historic or vital value for the campus.

The assistant associate vice president of faculty affairs stated that academic senate policy S73-19 did not include the correct name of an office or the custodian for PAFs due to oversight. She further stated that the failure to name a custodian for the record retention schedule was also due to oversight.

Failure to maintain policies that identify the office and custodian for faculty PAFs and failure to assign a custodian for the academic personnel record retention schedule increases the potential for record retention inaccuracies.

**Recommendation 4**

We recommend that the campus:

a. Update, revise, or amend campus policy to clearly identify the current office and custodian for faculty PAFs.

b. Formally name a custodian for the academic personnel record retention schedule.
Campus Response

We concur. We will complete compliance actions by the end of May 2012 to:

a. Update, revise, or amend campus policy to clearly identify the current office and custodian for faculty PAFs.

b. Formally name a custodian for the academic personnel record retention schedule.
## APPENDIX A:
### PERSONNEL CONTACTED

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
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<tbody>
<tr>
<td>Mohammad Qayoumi</td>
<td>President</td>
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<tr>
<td>Shawn Bibb</td>
<td>Vice President and Chief Financial Officer, Administration and Finance Division (AFD)</td>
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<tr>
<td>Rick Casillo</td>
<td>Director, Human Resources Operations</td>
</tr>
<tr>
<td>Maria De Guevara</td>
<td>Associate Vice President, Human Resources</td>
</tr>
<tr>
<td>Mike Dunefsky</td>
<td>Senior Director, Administrative Systems</td>
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<tr>
<td>Natalie King</td>
<td>Assistant Associate Vice President, Faculty Affairs</td>
</tr>
<tr>
<td>Joan Merdinger</td>
<td>Associate Vice President, Faculty Affairs</td>
</tr>
<tr>
<td>Angee Ortega McGhee</td>
<td>Manager, Faculty Personnel and Records</td>
</tr>
<tr>
<td>Ninh Pham-Hi</td>
<td>Director, Internal Control, AFD</td>
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</tbody>
</table>
December 20, 2011

Mr. Larry Mandel  
University Auditor  
The California State University  
401 Golden Shore, 4th Floor  
Long Beach, CA 90802  

Campus Response to Academic Personnel Audit (#11-57) at San José State University.

Enclosed is San José State University’s response to the Academic Personnel Audit (#11-57). The campus is committed to addressing the issues identified in this audit report.

Please let me know if I can provide you with additional information.

Shawn Bibb  
Vice President for Administration and Finance

Enclosure

cc: Mo Qayoumi, President  
Ninh Pham-Hi, Director, Internal Control
ACADEMIC PERSONNEL
SAN JOSÉ STATE UNIVERSITY
Audit Report 11-57

RECRUITMENT AND HIRING

Recommendation 1

We recommend that the campus revise policies and procedures to define which recruitment, hiring, and personnel documentation must be retained in faculty PAFs.

Campus Response

We concur. The campus will revise policies and procedures to define which recruitment, hiring, and personnel documentation must be retained in faculty PAFs. To be completed by end of May 2012.

EMPLOYEE EVALUATIONS AND SABBATICAL LEAVES

Recommendation 2

We recommend that the campus:

a. Ensure that sabbatical leaves are approved by the president or the president’s designee with a written delegation of authority in place.

b. Develop and implement monitoring procedures to verify that sabbatical leave conditions were met, and document such verification in the related PAFs.

Campus Response

We concur. We will complete compliance actions by end of May 2012 to:

a. Ensure that sabbatical leaves are approved by the president or the president’s designee with a written delegation of authority in place.

b. Develop and implement monitoring procedures to verify that sabbatical leave conditions were met, and document such verification in the related PAFs.
TRAINING AND RECORDS

SEXUAL HARASSMENT AND OTHER HARASSMENT TRAINING PROCEDURES

Recommendation 3

We recommend that the campus:

a. Clearly document which faculty members or job categories are considered “supervisors” for sexual harassment training purposes.

b. Provide other harassment training to newly hired faculty and, when necessary, refresher training for faculty in other harassment topics.

Campus Response

We concur. We will complete compliance actions by end of May 2012 to:

a. Clearly document which faculty members or job categories are considered “supervisors” for sexual harassment training purposes.

b. Provide other harassment training to newly hired faculty and, when necessary, refresher training for faculty in other harassment topics.

ACADEMIC PERSONNEL RECORD RETENTION

Recommendation 4

We recommend that the campus:

a. Update, revise, or amend campus policy to clearly identify the current office and custodian for faculty PAFs.

b. Formally name a custodian for the academic personnel record retention schedule.

Campus Response

We concur. We will complete compliance actions by end of May 2012 to:

a. Update, revise, or amend campus policy to clearly identify the current office and custodian for faculty PAFs.

b. Formally name a custodian for the academic personnel record retention schedule.
January 12, 2012

MEMORANDUM

TO: Mr. Larry Mandel
    University Auditor

FROM: Charles B. Reed
      Chancellor

SUBJECT: Draft Final Report 11-57 on Academic Personnel,
         San José State University

In response to your memorandum of January 12, 2012, I accept the response as submitted with the draft final report on Academic Personnel, San José State University.

CBR/amd