

ATHLETICS ADMINISTRATION

SAN JOSÉ STATE UNIVERSITY

Audit Report 06-26

February 19, 2007

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ABBREVIATIONS

AEMA	Athletic Equipment Managers Association
AGR	Adjusted Gross Revenue
AIME	Athletic Injury Medical Expense
AIP	Athletic Injury Prevention
AMCIA	Appropriate Medical Coverage of Intercollegiate Athletics
APR	Academic Progress Rate
CABMA	Collegiate Athletic Business Management Association
COIA	The Coalition on Intercollegiate Athletics
COSO	Committee of Sponsoring Organizations
CSU	California State University
CSURMA	California State University Risk Management Authority
DIA	Division of Intercollegiate Athletics
EADA	Equity in Athletics Disclosure Act
EO	Executive Order
FARA	Faculty Athletics Representatives Association
FMV	Fair Market Value
FY	Fiscal Year
GC	Government Code
HR	Human Resources
IRS	Internal Revenue Service
ISS	Injury Surveillance System
MPP	Management Personnel Plan
N4A	National Association of Academic Advisors for Athletics
NAACC	National Association of Athletic Compliance Coordinators
NAADD	National Association of Athletic Development Directors
NACDA	National Association of Collegiate Directors of Athletics
NACMA	National Association of Collegiate Marketing Administrators
NAIA	National Association of Intercollegiate Athletics
NATA	National Athletic Trainers' Association
NCAA	National Collegiate Athletic Association
PMCP	Policy Manual for Contracting and Procurement
RFIN	Resolution of the Committee on Finance
SJSU	San José State University
WAC	Western Athletic Conference

EXECUTIVE SUMMARY

As a result of a systemwide risk assessment conducted by the Office of the University Auditor during the last quarter of 2005, the Board of Trustees, at its January 2006 meeting, directed that *Athletics Administration* be reviewed. The Office of the University Auditor has never reviewed *Athletics Administration*.

We visited the San José State University (SJSU) campus from July 10, 2006, through September 15, 2006, and audited the procedures in effect at that time.

In our opinion, the business side of athletics administration required a number of improvements in addition to recent accomplishments by the current division of intercollegiate athletics (DIA) leadership. Improvements were needed most in the generation or retention of documentation for several components of DIA operations that included responsibilities of multiple departments/offices campuswide as well as auxiliary organizations, risk management, certain personnel issues, and procurement. In addition, certain areas of program management warranted improvement in measuring efficiency and effectiveness of reporting results.

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.

GENERAL ENVIRONMENT [8]

Two important weaknesses in athletics administration involved the review of the program by parties outside the DIA. In one instance, the most recent independent accountant's report on financial information was not completed timely. In the second instance, the campus could not locate the response to the 2004 athletics compliance review. In addition, risk management was not involved in reviewing arrangements for use of off-campus athletic venues.

PROGRAM REVENUES [11]

Minimal security was provided at the athletic ticket office. Revenues from sports camps were not reconciled to corresponding fees and the number of registered participants, and administrative fees were not assessed against camp revenues.

COMPENSATION AND BENEFITS [14]

Appointment letters for intercollegiate athletic participants in the Management Personnel Plan frequently contained language and provisions inconsistent with Title 5. Further, the campus did not consistently consult with the chancellor's office in advance on supplemental compensation for some athletic administrators/coaches.

OPERATING EXPENDITURES AND EQUIPMENT [16]

There were multiple issues with procurement in the DIA. Vendors were providing services without executed contracts, an airline charter contract was issued without competitive bidding and chancellor's office review and approval, and inappropriate business arrangements existed directly between coaches and third parties. The SJSU Foundation inadequately managed and erroneously reported taxable benefits for 11 employer-provided cars in athletics based in part on questionable affidavits. Documentation for direct pay transactions and team travel needed improvement. In addition, catering, hotel, and restaurant trade was significantly underutilized. Further, records of athletic apparel, equipment, and stock did not yet provide for effective inventory control, and there was no system documentation for disposal of used athletic apparel and gear. Lastly, the inspection and maintenance of athletic facilities was not well documented.

MISCELLANEOUS [27]

Individuals who staffed sports camps were not subjected to criminal background checks. The campus had not documented its review and approval of data used in the calculation of the academic progress rate. The campus lagged behind industry averages for staffing in academic advising of student-athletes and in training rooms. In addition, training room records were not secured in lockable filing cabinets and did not include informed consent forms for student-athletes. Further, the DIA did not formally report to the campus on the effectiveness of the athletic injury prevention program.

INTRODUCTION

BACKGROUND

Administration and operation of athletic programs occur within the framework of regulations and rules imposed by national governing associations and the athletic conferences in which the players and teams compete.

Within athletics, some of the various industry organizations include:

AEMA	Athletic Equipment Managers Association
CABMA	Collegiate Athletic Business Management Association
COIA	The Coalition on Intercollegiate Athletics
FARA	Faculty Athletics Representatives Association
N4A	National Association of Academic Advisors for Athletics
NAACC	National Association of Athletic Compliance Coordinators
NAADD	National Association of Athletic Development Directors
NACDA	National Association of Collegiate Directors of Athletics
NACMA	National Association of Collegiate Marketing Administrators
NAIA	National Association of Intercollegiate Athletics
NATA	National Athletic Trainers' Association
NCAA	National Collegiate Athletic Association

The United States Department of Education also collects data on athletics based on the federal Equity in Athletics Disclosure Act (EADA). California State University (CSU) campuses are subject to EADA because they accept federal financial aid funds.

San José State University (SJSU) is one of 119 schools nationwide that are considered Division I-A for athletic purposes. The campus is affiliated with the Western Athletic Conference (WAC) that includes – Boise State, Fresno State, Hawaii, Idaho, Louisiana Tech, New Mexico State, Nevada, and Utah State.

SJSU athletic teams are nicknamed the Spartans. The campus supports intercollegiate teams in six men's and ten women's sports as follows:

SPORT	MEN'S	WOMEN'S
Baseball	√	
Basketball	√	√
Cross Country	√	√
Football	√	
Golf	√	√
Gymnastics		√
Rowing		√
Soccer	√	√
Softball		√
Swimming/Diving		√
Tennis		√
Volleyball		√

In fiscal year (FY) 2004/05, 388 SJSU student-athletes (195 men and 193 women) participated in the 16 intercollegiate athletics programs per the annual EADA report.

One unique aspect of athletics at SJSU is that the department administrative offices and facilities for the majority of sports are physically located approximately a mile and a half south of the main campus. Athletic facilities with spectator seating capacities at SJSU include:

Main Campus

- ▶ Events Center (seating capacity of 5,000 for men's and women's basketball)
- ▶ Aquatics Center
- ▶ Spartan Gym (seating capacity varies from 1,000 to 1,500 people depending on the gym setup)

South Campus

- ▶ Spartan Stadium (currently seats 30,456 for football and soccer)
- ▶ Blethen Field (selected baseball home games are played at Blethen Field. However, the Spartans play a majority of their home games at San José Municipal Stadium, the 5,200-seat stadium that also houses the San José Giants of the Class A California League)
- ▶ Softball Complex (after remodeling, stadium will be an enclosed facility with seating for over 700)
- ▶ Soccer Field (holds 500 spectators)

Athletics at SJSU is administered by a director of athletics (commonly referred to as the athletics director) who reports directly to the president through the president's executive assistant.

SJSU is one of eight universities in the country that has both a graduate and undergraduate athletic training education program. Both programs are part of the department of kinesiology in the College of Applied Sciences and Arts. The undergraduate program is accredited by the Commission on Accreditation of Athletic Training Education, and the graduate program is NATA accredited. SJSU intercollegiate athletics provides internship opportunities in the athletic department training rooms for students in the kinesiology athletic training programs.

The California State University Risk Management Authority (CSURMA) was created under Board of Trustees Resolution of the Committee on Finance (RFIN) 11-96-13, which delegated authority to the chancellor to enter into a joint powers agreement. Pursuant to Section 9.b.iv of the agreement, the CSURMA is authorized to approve any new coverage programs. Athletic Injury Medical Expense (AIME) is one of the main CSURMA programs. AIME provides secondary coverage for medical expenses from athletic injuries not paid by the student-athlete's primary insurance.

PURPOSE

Our overall audit objective was to ascertain the effectiveness of existing policies and procedures related to *Athletics Administration* activity and to determine the adequacy of controls that ensure compliance with relevant governmental regulations, Trustee policy, Office of the Chancellor directives, and campus procedures.

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

- ▶ Accountability for the athletics administration function has been clearly defined and documented, including provisions for formulation of goals/objectives and performance measurement reporting.
- ▶ Adequate athletic budgets and delegations of authority are in place and used effectively in various aspects of athletic programs administration.
- ▶ Athletics appropriately interacts with other campus departments/offices and auxiliary organizations; and arrangements/exceptions made for athletics that are not available elsewhere are appropriate.
- ▶ Athletic agreements/contracts, policies, and procedures are current, comprehensive, and aligned with relevant federal and state laws and regulations.
- ▶ Information security in systems owned by athletics is adequate and use of social security numbers for student identification in athletic department records is controlled.
- ▶ The campus deposits athletically related receipts in accordance with Executive Order 919, and any unrelated business income generated through the athletics program is properly reported.
- ▶ The campus establishes accountability for athletic ticketing operations at the earliest possible time after receipt to prevent misappropriation of funds, and that all collections are deposited intact or otherwise safeguarded in a timely manner.
- ▶ Campus officials are maintaining effective control over athletic fund-raising activities/events.
- ▶ Athletic salaries for administrators and coaches comply with CSU salary schedules, collective bargaining provisions, and requirements for supplemental compensation; and benefits provided to athletics employees are appropriate and proper.
- ▶ Athletic facilities are periodically inspected and properly maintained, and arrangements for use of off-campus, non-state athletic facilities are adequate.
- ▶ Athletic equipment rooms are operated based on best practices and with reasonable controls over apparel, equipment, and supplies.
- ▶ Athletic trade-out agreements are reasonably valued and recorded with acceptable usage documentation.

- ▶ Athletic teams are traveling by means and at a cost that are in the best interest of the CSU.
- ▶ Activities related to sports camps and clinics comply with relevant institutional requirements including background checks/authorizations, insurance, revenue accountability, inclusion of relevant expenditures, and reporting of income/profits.
- ▶ Acceptable academic support systems for athletes have been implemented.
- ▶ There are proactive injury prevention programs for student-athletes.

SCOPE AND METHODOLOGY

The proposed scope of the audit, as presented in Attachment B, Audit Item 2 of the January 31 through February 1, 2006, meeting of the Committee on Audit, stated that *Athletics Administration* includes a review of the general control environment and control activities undertaken to assure implementation of appropriate institutional systems, policies and procedures for financial oversight and stewardship of athletics.

One of the better-known and widely recognized frameworks for organizational reporting authored by the *Committee of Sponsoring Organizations (COSO) of the Treadway Commission* categorizes the diversity of potential operational/program objectives into three broad categories as follows:

Operations Objectives

These pertain to effectiveness and efficiency of the entity's operations, including attainment of performance goals and safeguarding assets against loss.

Financial Reporting Objectives

These pertain to the preparation of reliable published financial statements.

Compliance Objectives

These pertain to adherence to laws and regulations to which the entity is subject.

In this COSO context, the audit scope for *Athletics Administration* emphasizes athletics operations objectives and a subset of compliance objectives (i.e., compliance mainly with administrative regulations not promulgated by athletic regulatory bodies such as the NCAA and various athletic conferences). Based on a February 21, 2006, *USA Today* article, compliance exclusions would include such things as regulations on the number of scholarships, roster sizes, recruiting guidelines, eligibility requirements (such as grade point average and progress towards degree), extra benefits to student-athletes, and control of athletic boosters that give college athletics some semblance of competitive equity and educational connection — issues that largely fill the almost 500-page NCAA rules manual.

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 that 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 Trustees policies, and Office of the Chancellor and campus policies, letters, and directives. The audit review focused on procedures currently in effect. In instances wherein it was necessary to review annualized data, calendar year 2005 or FY 2005/06 was the primary period reviewed except when it was beneficial to see trends for multiple years.

OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

GENERAL ENVIRONMENT

AGREED-UPON PROCEDURES

The independent accountant's report on applying agreed-upon procedures to intercollegiate athletics for fiscal year (FY) 2004/05 was not completed timely.

The agreed-upon procedures process in which athletics related revenues, expenses, and capital expenditure data is reviewed by an independent accountant is an integral control in athletics administration. For FY 2004/05, San José State University (SJSU) contracted with KPMG LLP to perform agreed-upon procedures. Although dated April 4, 2006, the FY 2004/05 KPMG LLP report of agreed-upon procedures was not delivered to the campus until late September 2006. This report was due to the campus president by January 15, 2006.

The *National Collegiate Athletic Association's (NCAA) Constitution* includes agreed-upon procedures reporting legislation for Division I institutions as follows:

6.2.3 Financial Report – Procedures. All expenses and revenues for or on behalf of a Division I member institution's intercollegiate athletics program, including those by any affiliated or outside organization, agency, or group of individuals (two or more), shall be subject to annual agreed-upon procedures approved by the Division I membership (in addition to any regular financial reporting policies and procedures of the institution) conducted for the institution by a qualified independent accountant who is not a staff member of the institution and who is selected either by the institution's chief executive officer or by an institutional administrator from outside the athletics department designated by the chief executive officer.

6.2.3.1 Schedule. The report created pursuant to the agreed procedures shall be completed for one FY and presented to the chief executive officer on or before January 15 following the end of the institution's FY.

Article 2 of the *NCAA Constitution* addresses institutional reporting responsibilities as follows:

2.8.1 Responsibility of the Institution. Each institution shall comply with all applicable rules and regulations of the association in the conduct of its intercollegiate athletics programs. It shall monitor its programs to assure compliance and to identify and report to the association instances in which compliance has not been achieved.

The director of accounting and financial systems stated that the campus had received a draft report, but the independent accountants were unable to finalize all agreed-upon procedures without addressing further considerations and collecting additional information.

Failure to report the results of the agreed-upon procedures review to the campus president on a timely basis denigrates the value of the process, eliminates the opportunity for meaningful response to

suggested improvements contained in report recommendations, and potentially positions the campus in violation of NCAA requirements.

Recommendation 1

We recommend that the campus:

- a. Establish a process for consistently completing the agreed-upon procedures review on a timely basis.
- b. Consult with the NCAA on whether completion of FY 2004/05 agreed-upon procedures in September 2006 is a reportable violation.

Campus Response

We concur. By the end of May 2007, we will:

- a. Establish a process for consistently completing the agreed-upon procedures review on a timely basis.
- b. Consult with the NCAA on whether completion of FY 2004/05 agreed-upon procedures in September 2006 is a reportable violation.

COMPLIANCE REVIEW

The campus could not locate the response to the 2004 athletics compliance review.

The control environment in athletics for NCAA Division I institutions are impacted by three major reviews that are scheduled to occur cyclically pursuant to NCAA requirements as follows:

- ▶ Every ten years the campus is required to complete a recertification process for athletics that starts with a self-assessment by the campus and concludes with a peer review by external participants. (Article 6.3 of the *NCAA Constitution*)
- ▶ Every four years the campus is required to have an authority outside the athletics department review rules compliance. (Article 22.2.1.2(e) of the *NCAA Operating Bylaws*)
- ▶ Annually, a qualified independent accountant has to apply agreed-upon procedures to all athletic revenues and expenditures. (Article 6.2.3 of the *NCAA Constitution*)

After prompting in the 2003 recertification report of the peer reviewers, the campus arranged for a compliance review by the Western Athletic Conference (WAC), which provides this service to members at no charge. The compliance review was completed in March 2004 and the corresponding report included 78 recommendations. The review also disclosed four critical issues that the author recommended be addressed immediately. These four issues were:

- ▶ Review of inadequate systems in certification of continuing eligibility, certification of transfer eligibility, and student-athlete academic support services.
- ▶ Elimination of the “athletics department versus campus administration” state of mind.
- ▶ Enhance understanding that rules compliance is a shared responsibility involving individuals from outside the athletics department.
- ▶ Hiring additional staff members in both the compliance office and the STAR Center.

In transmitting the compliance review report to the campus, the WAC indicated that it wanted a written plan of action addressing the report’s recommendations by June 2004, and the campus indicated that such a plan was discussed and sent to the WAC. However, neither the campus nor the WAC was able to locate the response.

The director of compliance for the division of intercollegiate athletics (DIA) stated that the missing report response was due to turnover at both the campus and the WAC.

Because the compliance review included many substantive areas in the 78 recommendations and 4 major issues that required immediate attention, the lack of a documented response leaves many unanswered questions on how responsive the campus was to the results of the compliance review. Any uncorrected conditions cited in the report could also lead to future compliance issues and penalties that would be magnified because of the prior notification.

Recommendation 2

We recommend that the campus document its response to the 2004 compliance review.

Campus Response

We concur. By the end of July 2007, we will document our campus response to the 2004 compliance review.

RISK MANAGEMENT

Athletic arrangements for off-campus venues were not reviewed by campus risk management.

Certain athletic teams (particularly golf and tennis) regularly practiced and competed at off-campus venues – the Los Gatos Swim and Racquet Club for women’s tennis and various golf courses such as the Coyote Creek Golf Club and Pasatiempo Golf Club. The baseball team used the San José Municipal Stadium for many home games.

Campus risk management had neither been involved in reviewing the university’s liability and risk exposure for transportation of student-athletes back and forth between these locations nor were they involved in arrangements with the venue owners in terms of indemnification and insurance.

Executive Order (EO) 715, *California State University (CSU) Risk Management Policy*, dated October 27, 1999, states that each president shall develop campus risk management policies and procedures that include an ongoing process by which appropriate administrators identify risks, perform analysis of the frequency and severity of potential risks, select the best risk management techniques to manage the risk without unduly curtailing or modifying activities necessary to the CSU mission, implement appropriate risk management techniques and staffing standards, and monitor, evaluate, and document the results. Further, the campus should include methods to prioritize risks and evaluate costs that would be incurred to provide restoration for damages sustained as well as the evaluation of funding options to ensure availability of funds. The methods used should be documented, as part of the risk management policies and procedures, and the campus policy should include an evaluation process that includes the collection of relevant data and an annual risk management report to the campus president.

The purchasing manager stated that because SJSU had stadium rentals established as an authorized direct pay, the only documentation was a vendor invoice with an amount due. The university risk manager stated that he had not been requested to review off-campus arrangements with athletic venues.

Failure to fully develop and implement risk management policies, procedures, and reporting mechanisms imposes an undue risk of loss and/or injury to the public and the campus community.

Recommendation 3

We recommend that the campus require risk management review of athletic arrangements for off-campus venues.

Campus Response

We concur. By the end of May 2007, the campus will have implemented the procedure for risk management to review athletic arrangements for off-campus venues.

PROGRAM REVENUES

ATHLETIC TICKET OFFICE

Minimal security was provided at the athletic ticket office.

The athletic ticket office was physically located in the Simpkins Athletic Administration Building at the south campus that was accessible through an adjacent parking lot. The office lacked seller windows or barriers separating patrons from the employees that sold tickets. Access was typically available to anyone through a front door or an interior door. The front door was locked when the ticket office was closed. The interior door was generally kept open during the day.

Government Code (GC) §13402 and §13403 require a system or systems of internal accounting and administrative controls so that reasonable assurances can be given that measures to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies are being followed. The elements of a satisfactory system of internal accounting and administrative control include a plan that limits access to state agency assets to authorized personnel.

The director of ticketing operations stated that the physical layout of the ticket office had always been configured in the current setup.

Inadequate physical safeguards in cashiering areas expose employees to unnecessary dangers and increase the risk of theft.

Recommendation 4

We recommend that the campus improve the physical security in the athletic ticket office located in the Simpkins Athletic Administration Building.

Campus Response

We concur. By the end of August 2007, we will improve the physical security in the athletic ticket office located in the Simpkins Athletic Administration Building.

SPORTS CAMP REVENUES

Revenues from sports camps were not reconciled to corresponding fees and the number of registered participants, and administrative fees were not assessed against camp revenues.

Promotional literature and materials indicated that the following sports camps occurred in the summer of 2006 at SJSU:

SPORT	DESCRIPTION	2006 DATES
Baseball	Hitting and Pitching Camp	July 10-14
	Comprehensive Camp I	July 17-21
	Comprehensive Camp II	July 24-28
Basketball (Men's)	Individual Camp I	June 19-22
	Team Camp I	June 23-24
	Team Camp II	August 5-6
Basketball (Women's)	Individual Camp II	August 7-10
	Individual Camp	June 26-29
Basketball (Women's)	Team Camp	June 9-11
	Football	Dick Tomey Passing Camp
Football	Dick Tomey Team Camp	June 18-21
	Softball	Nike Camp
Volleyball (Women's)	Individual Camp	July 24-26

Accounting for the sports camps was performed by the SJSU Foundation through accounts assigned to the sponsoring sport.

The *SJSU Sports Camps and Clinics Manual* dated March 2004 states:

Camp directors should have in place a mechanism by which to document receipt of the camp or clinic fee and the type of payment (i.e., cash, check, free or reduced admission, etc.), a roster of all participants, records of all discounts, and returned checks for insufficient funds or reason the fee was not collected at the time of enrollment. Any refunds made to participants should also be documented. It is the responsibility of the camp director to ensure that registration fees corresponded with the number of attendees.

The athletic department will determine and assess on an annual basis an administrative fee to each institutional camp or clinic to cover the use of university facilities, clerical and administrative support, and other incidental support (e.g., office equipment and supplies, telephone, postage, etc.). This fee will be treated as an expense of the camp or clinic. The fee will be determined by July 1 of each year for the upcoming fiscal year. All other expenses, including any additional expenses from facilities services for special arrangements, will be charged directly to the camp or clinic's cost center account.

The SJSU Foundation controller stated that they were unable to reconcile sports camp revenues because accounts were established by sport and used for other purposes. The associate athletic director of business and finance stated that they would only bill for expenses directly related to the sports camps.

Inadequate sports camp accountability increases the risk that errors and irregularities will not be detected and could result in inappropriate activities, while the lack of adequate fee assessments for use of facilities and support staff for the summer camps could be considered an inappropriate subsidy and gift of public funds to operations that are to be self-supporting.

Recommendation 5

We recommend that the campus ensure that:

- a. Sports camp revenues are reconciled to corresponding fees and the number of registered participants.
- b. All costs of direct and indirect support provided to sports camps are charged to the camps.

Campus Response

We concur. By the end of July 2007, we will ensure that:

- a. Sports camp revenues are reconciled to corresponding fees and the number of registered participants.

- b. All costs of direct and indirect support provided to sports camps are charged to the camps.

COMPENSATION AND BENEFITS

APPOINTMENT LETTERS

Appointment letters for intercollegiate athletic participants in the Management Personnel Plan (MPP) frequently contained language and provisions inconsistent with Title 5.

Four appointment letters for recent DIA hires contained language that fixed specific reasons for non-retention. These same transactions also contained buy-out provisions guaranteeing a certain percentage of salary if a person was not retained for the term specified. One such multiple year term appointment letter with typical language stated:

Reasons for Non-Retention

The university may not commit to the expenditure of funds in fiscal years for which appropriations have not yet been made. Therefore, your appointment may be terminated by the university at any time for this reason.

Notwithstanding any other provision of this appointment letter, your appointment may be terminated by the university without further obligation of the university, if the president finds that you have committed one of the following acts of misconduct (12 things itemized such as gross negligence or conduct which is prejudicial to the best interests of the university or the athletic program).

Appointment Term and Buyout Provisions

The base term of this appointment is four years, commencing March 2005 and ending March 2009. Should you be non-retained pursuant to the MPP from this position prior to completion of the base term of appointment, for reasons not specified in Article 11 of this agreement, you will be compensated according to the following buyout schedule. You will be paid 80 percent of the total salary remaining due to you over the base term of this appointment if you are not non-retained during your first 12 months of employment. You will be paid 80 percent of the total salary remaining due to you through March 2009, if you are non-retained during the second year of the base term. You will receive no buyout monies other than three months salary under the MPP should you be non-retained during the third and fourth year of the base term of appointment.

The MPP program is defined in Title 5, Article 2.2 of the California Code of Regulations. MPP provisions that differ from the arrangements mentioned above include:

Title 5, §42723(a)

An MPP employee serves at the pleasure of the campus president or the chancellor, as appropriate.

Title 5, §42723(d)

Except in the case of layoff, the president or chancellor, as appropriate, shall give a MPP employee notice of termination at least three months prior to the employee's separation date or shall give a MPP employee corresponding salary in lieu of notice.

Nothing in the MPP explicitly mentions term appointments or buyouts.

The associate vice president of human resources (HR) stated that the personnel specialist who was knowledgeable on athletic department contracts had separated employment.

Inappropriate terms in appointment documents undermine the effectiveness of the MPP program and could result in misunderstandings of employment rights and excessive monetary separation settlements.

Recommendation 6

We recommend that the campus consult with the Office of the Chancellor to establish appropriate appointment documents for intercollegiate athletic personnel in the MPP.

Campus Response

We concur. By the end of May 2007, we will implement the procedure to consult with the Office of the Chancellor to establish appropriate appointment documents for intercollegiate athletic personnel in the MPP.

SUPPLEMENTAL COMPENSATION

The campus did not consistently consult with the chancellor's office in advance on supplemental compensation for some athletic administrators/coaches.

Supplemental compensation was paid to various DIA administrators/coaches through non-state funds in the SJSU Foundation. We found that supplemental compensation paid to the athletics director differed from what had been presented to the chancellor's office. In addition, four additional athletic administrators/coaches in the MPP received supplemental compensation via courtesy cars that had not been submitted to the chancellor's office.

CSU directive HR 2002-20, *Management Personnel Plan – Supplemental Compensation*, dated July 1, 2002, states that that the chancellor delegated authority to the vice chancellor of HR to approve MPP supplemental compensation exceptions. Approval for supplemental compensation for athletic coaches is the responsibility of the campus president in consultation with the vice chancellor of HR and General Counsel, as appropriate.

The SJSU Foundation associate director of business services stated that the foundation paid supplemental compensation based on instructions from the president's office.

An incomplete record of compensation discussions/consultations increases the risk of misunderstandings and potential legal liabilities.

Recommendation 7

We recommend that the campus consult with the chancellor's office to document existing supplemental compensation arrangements with athletic administrators/coaches in advance of payments.

Campus Response

We concur. By the end of May 2007, we will implement the procedure to consult with the chancellor's office to document existing supplemental compensation arrangements with athletic administrators/coaches in advance of payments.

OPERATING EXPENDITURES AND EQUIPMENT

ATHLETICS PROCUREMENT

Vendors were providing services without executed contracts, an airline charter contract was issued without competitive bidding and chancellor's office review and approval, and inappropriate business arrangements existed directly between coaches and third parties.

We noted the following:

Learfield Communications (Spartan Sports Properties)

At the time of the audit, the campus had engaged Learfield Communications to market media rights and negotiate trade-outs. Learfield employees were provided working space in the Simpkins Administration Building and had already begun working on the campus without a contract. We were told that this work commenced in approximately March 2006, but the draft contract indicated an effective date of July 1, 2006. The arrangement with Learfield was handled as a sole source purchase based on an understanding that it was a revenue contract. We were further told that the campus selected Learfield, in part, because it had heard what a good job the vendor was doing at another CSU campus and Learfield was represented as a prominent competitor in its industry.

A draft of the agreement still in negotiation with Learfield contained provisions such as:

- ▶ University grants to Learfield the exclusive rights to make live radio broadcasts of all pre-season, regular-season, and post-season football and all exhibition, pre-season, regular-season, and post-season games for men's basketball and women's basketball games together with all games broadcast over satellite radio and Spanish radio broadcasts.

- ▶ Learfield will manage and coordinate the various sponsorship sales of the university's official athletics website (www.sjsuspartans.com) and will endeavor to explore additional revenue and promotional avenues on the site.
- ▶ If Learfield and the university mutually agree that a season ending highlight video or DVD is warranted for a particular team, Learfield shall have the exclusive rights to sell such video or DVD and Learfield shall retain all of the revenue derived there from.
- ▶ Learfield shall have the exclusive right to sell advertising space in football and men's and women's game programs (or similar game day publications) beginning with the 2006 football season for all home games played by university.
- ▶ University grants Learfield the exclusive rights to sell advertising on the existing and any future permanent signage (electronic or otherwise) in all university athletic venues, including, but not limited to, Spartan Stadium and the Events Center.
- ▶ Should the university decide to work with an outside agency to secure naming rights for any of its athletic facilities, Learfield shall have the first right of refusal to market and sell such naming rights on terms and conditions and commission rates acceptable to university.
- ▶ Learfield will have the rights to secure sponsors or clients for each game day hospitality activity at football, men's and women's basketball games.
- ▶ University grants Learfield the right to use university's name, trademarks, service marks, logos, or symbols at no cost to Learfield and its sponsors with regard to any promotions, sponsorships, or any other marketing activities.
- ▶ University shall provide Learfield with access and use of luxury suites at all home university football and men's basketball games at no cost to Learfield, if such suites were historically provided.
- ▶ University will provide to Learfield the same number (and quality) of any no-cost, complimentary tickets, parking passes, and hospitality used to fulfill the sales and marketing obligations of this agreement.
- ▶ University will provide office facilities and furniture in a university athletic venue to Learfield rent-free during the term of the agreement. University will provide Learfield parking on all business days at or immediately adjacent to university athletic facilities. University will also provide all-access credentials and parking on all game days for Learfield's staff members and its senior executives. University will pay for the entire radio crew travel expenses (and, if applicable, television crew travel expenses) for all away games in which university's football, men's basketball, and (if applicable) women's basketball teams appear. University will make best efforts to provide Learfield with space on any chartered aircraft carrying the university's football and men's and women's basketball teams, for up to four people for Learfield's client development.

- ▶ Learfield will pay university a guaranteed rights fee of \$175,000. In addition to the annual guaranteed rights fee, Learfield will pay the university 50% of collected adjusted gross revenue (“AGR”) that exceeds the revenue share hurdle of \$650,000.
- ▶ Learfield will provide the university with the historical levels of trade income, as determined initially on April 30, 2006, during each year of this agreement plus \$25,000 per year in for additional trade.

There was no further contract documentation supporting whether the campus would receive a fair market value for the CSU property it was licensing and whether the value could not have been exceeded by any other potential competitor.

The associate vice president of administrative systems and finance stated that the Learfield arrangement was a revenue contract that did not legally require competitive bidding based on discussions with General Counsel.

Nike Sports Camp – Softball

Nike conducted a softball camp at SJSU during the summer 2006 based on an arrangement directly with the softball head coach. There was no campus or CSU contract for operation of this camp.

The director of compliance stated that Nike would only deal with the softball coach who has since separated employment. The senior associate athletic director stated that there might have been some confusion about the requirements and miscommunication.

Airline Charters

The campus had obtained charter airline services for the football team’s fall 2005 season without a sole source justification and approval by the Office of the Chancellor.

For the fall 2005 football season, the campus issued a \$536,000 purchase order to Delta Airlines for five team trips. There was no official explanation on file as to why Delta was the best value among prospective airline charters or why the acquisition would not have benefited from competition. Given the extent of documentation available, there could be no assurance that the charter costs were the best available.

The purchasing manager stated that the campus had done some advertising and competitive selections in prior seasons, and exceptions for athletics to enter into contracts using Spartan Foundation funds were made when approved by the assistant vice president of administrative systems and finance.

Nike Apparel Proposals

The campus had arrangements with Nike for exclusive use of Nike apparel in two sports – football and men’s basketball. These arrangements were based on proposal letters to the coaches for these sports without involvement of the campus purchasing office. Each of the proposal letters included provisions for a specified quantity of free T-shirts for summer sports camps owned by the coaches.

The associate athletic director of business and finance stated that Nike would not work with the campus on a contract basis because the campus would not provide Nike exclusive rights to all sports.

The *CSU Policy Manual for Contracting and Procurement (PMCP)*, §102, Delegation to the Campus Presidents, states that the delegated authority is conditional and subject to review and approval of certain transactions by the Office of the Chancellor including any transaction which exceeds \$250,000 and is awarded without the taking of competitive bids (sole source).

The *CSU PMCP*, §401, Bid Thresholds for Services, states that, except in cases where valid sole source justification exists, all written contracts for the acquisition of services in the amount of \$50,000 or more shall be formally bid and awarded to the lowest responsible bidder(s) meeting the invitation for bid specifications or the bidder(s) whose proposal is given the highest score by the evaluation committee.

The *CSU PMCP*, §210.04, Conflict of Interest, states that no CSU employee may make or participate in the making of any decision in which the employee has a personal financial interest.

GC §8314 states that it is unlawful for a state employee to use or permit others to use public resources for personal or other purposes which are not authorized.

These specific examples of athletic procurement create the appearance of impropriety and inappropriate activities. Inadequate control over athletic procurement activities could potentially damage the campus reputation and increases the risk of inappropriate expenditures.

Recommendation 8

We recommend that the campus:

- a. Improve athletic procurement documentation to ensure a fair value in exchanges.
- b. Submit any sole source procurements in athletics over \$250,000 to the Office of the Chancellor.
- c. Establish controls to preclude inappropriate involvement of coaches in athletic procurements.

Campus Response

We concur. By the end of May 2007, we will implement procedures to:

- a. Improve athletic procurement documentation to ensure a fair value in exchanges.
- b. Submit any sole source procurements in athletics over \$250,000 to the Office of the Chancellor.
- c. Establish controls to preclude inappropriate involvement of coaches in athletic procurements.

EMPLOYER-PROVIDED CARS

The SJSU Foundation inadequately managed and erroneously reported taxable benefits for 11 employer-provided cars in athletics based in part on questionable affidavits.

In summer 2005, the SJSU Foundation leased 11 vehicles that were assigned to athletic administrators and coaches under a trade-out arrangement with a local automobile dealership. Provisions in the lease documents were atypical including proper maintenance of the vehicles by the lessees and imposing additional fees for excessive mileage. The arrangement with the local auto dealership was called the “wheel club” by the DIA.

Lease Valuation

The SJSU Foundation policy, *Employer Provided Automobile – as Applicable to SJSU Intercollegiate Athletics*, dated June 3, 2006, established that the foundation adopted the “Annual Lease Value Rule” for determining the amount reported as employee income for personal use of employer-provided automobiles. This methodology prescribed a specific approach based upon the vehicle’s fair market value (FMV) applied against a standard table to derive reportable amounts as described in Internal Revenue Service (IRS) Publication 15-B, *Employer’s Tax Guide to Fringe Benefits*.

The SJSU Foundation did not follow the IRS table and instead valued the automobile benefits based on the lease payments, which resulted in lower reportable amounts for all 11 cars. As an example, car “A” had a FMV of \$31,692.18 and a monthly lease payment of \$495.54. The foundation took the monthly lease payment times the number of months the car was available in 2005 and calculated the base value as \$1,982.16 ($\$495.54 \times \text{four months}$). The amount that should have been derived from the IRS tables was \$2,750 (4/12ths of \$8,250 the value for an FMV range of \$30,000 to \$31,999). The IRS figure was higher because it accounted for other factors such as the cost of insurance, which was also paid by the foundation.

Prorating Personal Usage

In December 2005, all 11 DIA participants in the wheel club program declared via an affidavit filed with the SJSU Foundation that personal use of leased vehicles was exactly 52 percent of the total miles driven. For 2005 accounting and tax purposes, the foundation subsequently multiplied the lease value times 52 percent and issued 2005 IRS Form W-2s to the participants. In the example of car “A” stated above, the foundation calculation resulted in a W-2 issued to the wheel club participant of \$1,030.72 ($\$1,982.16 \times 52 \text{ percent}$) when it should have been \$1,430 ($\$2,750 \times 52 \text{ percent}$)

IRS Publication 463, *Travel, Entertainment, Gift, and Car Expenses*, describes recordkeeping requirements as follows:

You should record the elements of an expense or a business use at or near the time of the expense or use and support it with sufficient documentary evidence. A timely kept record has more value than a statement prepared later when generally there is a lack of accurate recall.

You do not need to write down the elements of every expense on the day of the expense. If you maintain a log on a weekly basis that accounts for use during the week, the log is considered a timely kept record.

The SJSU Foundation associate director of business services stated that the wheel club program was new and representations made on affidavits by the participants were considered acceptable.

In reality, it is highly unlikely and probably a red flag for tax problems to assert that all wheel club participants drove exactly the same percent for personal purposes. Additionally, once per year affidavits do not capture contemporaneous information on vehicle usage. Present practices on the wheel club expose the foundation and the program participants to tax concerns and potential fines and penalties.

Recommendation 9

We recommend that the campus require the SJSU Foundation to:

- a. Follow correct IRS methodology for calculating and reporting benefits for employer provided automobiles.
- b. Develop a periodic reporting system to capture contemporaneous and realistic usage records on vehicle mileage for personal and business purposes.
- c. Issue amended 2005 W-2s to reflect the corrected amounts that should have been reported for all wheel club participants.

Campus Response

We concur. By the end of July 2007, we will require the SJSU Foundation to:

- a. Follow correct IRS methodology for calculating and reporting benefits for employer provided automobiles.
- b. Develop a periodic reporting system to capture contemporaneous and realistic usage records on vehicle mileage for personal and business purposes.
- c. Issue amended 2005 W-2s to reflect the corrected amounts that should have been reported for all wheel club participants.

DIRECT PAY DOCUMENTATION

Documentation for direct pay transactions originating from the DIA needed improvement.

Our review of ten DIA direct pay transactions disclosed that:

- ▶ Nine of the ten transactions were approved for payment by the associate athletic director of business and finance and lacked approval by DIA managers who supervised the recipients.
- ▶ Two of ten transactions involved meetings with staff and lacked an adequate explanation of the business purpose.

IRS Publication 463, *Travel, Entertainment, Gift, and Car Expenses*, states that you must generally provide a written statement of business purpose of an expense.

GC §13402 and §13403 require a system or systems of internal accounting and administrative controls so that reasonable assurances can be given that measures to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies are being followed. The elements of a satisfactory system of internal accounting and administrative control include authorization and recordkeeping procedures adequate to provide effective control over revenues and expenditures.

The associate athletic director of business and finance stated that they were already changing their system and some of the paperwork in question had been inherited from her predecessor.

Inadequate controls over payment authorizations and weaknesses in documentation increase the risk of improper disbursements.

Recommendation 10

We recommend that the campus:

- a. Require approval of direct pay transactions by managers that supervise the recipients.
- b. Improve documentation to ensure an ample description of the business purpose.

Campus Response

We concur. By the end of May 2007, we will establish procedures to:

- a. Require approval of direct pay transactions by managers that supervise the recipients.
- b. Improve documentation to ensure an ample description of the business purpose.

TEAM TRAVEL

Travel documentation for football team trips needed improvement.

Travel in athletics was different from other travel within the university and included travel by groups consisting of staff and student-athletes (the team traveling party) and others. Some travel advances were issued to coaches for disbursement to student-athletes during trips for meal money. Travel costs were paid through a combination of purchase orders/invoices, travel account card transactions, and travel expense claims.

We reviewed expenditures from ten team trips taken in FY 2005/06. Documentation for nine of the ten trips was acceptable. The one exception involved the football team traveling to an October 29, 2005, away game against Louisiana Tech in Ruston, Louisiana. Besides student-athletes, the travel party also included coaches, trainers, team physicians, equipment managers, media relations personnel, and others – the combined total traveling was 84. The following documentation for this trip did not reconcile with the size of the travel party and did not support the claimed travel expenditures:

- ▶ Chartered a 162-seat capacity 737-800 for round trip air transportation.
- ▶ Reserved and used 80 rooms (50 doubles and 30 singles) at the Monroe, Louisiana hotel that could accommodate a minimum of 130 guests.
- ▶ Paid for 120 breakfasts at the hotel on October 29, 2005.
- ▶ Incurred individual meal expenses on 10/29 for all members of the travel party of \$56.90 – a rate that exceeded what was provided to institutional staff members on away-from-campus trips.

The *2005/06 DIA Policies and Procedures Manual* states:

- ▶ Coaches and athletic staff members are expected to be travel cost conscious.
- ▶ Teams must adhere to NCAA and Western Athletic Conference travel squad limitations in addition to SJSU athletics' travel party limitations.

NCAA Bylaw 16.8.1.2.3 on meal allowances states, “such allowances may not exceed the amount provided by the institution to institutional staff members on away-from-campus trips.”

CSU directive HR 2005-49, *CSU Policy and Procedures Governing Travel and Relocation Expense Reimbursement*, dated December 16, 2005, limits staff meal reimbursements to a maximum of \$41 per day.

The associate athletic director of business and finance stated that travel documentation was incomplete due to staff turnover and the quality of records maintained by her predecessor. She also

stated that there was some fund-raising component to the football team travel that was not separately stated.

The absence of acceptable travel documentation increases the risk of excessive costs and exposes the campus to compliance issues.

Recommendation 11

We recommend that the campus:

- a. Improve travel documentation for team trips in athletics to reconcile the capacity of accommodations with the size of the travel party.
- b. Break out fund-raising costs from team travel and consult with the NCAA to clarify meal allowances.

Campus Response

We concur. By the end of May 2007, we will establish procedures to:

- a. Improve travel documentation for team trips in athletics to reconcile the capacity of accommodations with the size of the travel party.
- b. Break out fund-raising costs from team travel and consult with the NCAA to clarify meal allowances.

TRADE-OUTS

Catering, hotel, and restaurant trade was significantly underutilized.

The concept of a trade or trade-out in athletics is typically a non-cash transaction with sponsors/partners. The sponsors/partners receive a combination of: a) recognition in game programs, stadium signage, or radio/television broadcasts, b) event tickets, which could also include preferred parking and access to hospitality areas, and c) other perquisites such as athletic clothing with a campus logo. In exchange for these benefits, the sponsors/partners provide products and services that they would have available in their normal course of business and which could be used to relieve the athletic program of costs that would otherwise be incurred such as what might be necessary for courtesy cars, hotel accommodations, and restaurant expenditures.

We tested trade authorization and usage records in the DIA and found that trade benefits were underutilized as follows:

Catering

The DIA had the same understanding with Spartan Shops in recent years. If the DIA spent \$200,000 in football related catering, it received \$30,000 in trade-out credit. In FY 2003/04 and 2004/05,

football related catering with Spartan Shops exceeded the threshold and the DIA used catering trade-out of \$27,200 in FY 2003/04 and \$26,000 in FY 2004/05. In FY 2005/06, football related catering with Spartan Shops declined to \$160,000 and no trade-out credit was earned.

Hotels

The DIA had available approximately 210 room nights in trade-out arrangements for FY 2005/06 with local hotels, but used only approximately one-third of those room nights.

Restaurants

The DIA negotiated \$30,250 in trade with six restaurants for FY 2005/06, but utilized only \$9,055.

GC §13402 and §13403 require a system or systems of internal accounting and administrative controls so that reasonable assurances can be given that measures to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies are being followed. The elements of a satisfactory system of internal accounting and administrative control include authorization and recordkeeping procedures adequate to provide effective control over assets.

The assistant athletic director of marketing stated that there was still some uncertainty on trade-out usage records.

Incomplete usage on trade increases the risk of accusations that state resources are being given away without fair value received in exchange.

Recommendation 12

We recommend that the campus adjust trade-out arrangements to closer approximate actual need.

Campus Response

We concur. By the end of May 2007, we will implement procedures to adjust trade-out arrangements to closer approximate actual need.

EQUIPMENT MANAGEMENT

Records of athletic apparel, equipment, and stock were generally maintained manually prior to fall 2006 and did not provide for effective inventory control. Additionally, there was no system documentation for disposal of used athletic apparel and gear.

The main DIA athletic equipment room was located in the Simpkins Stadium Center. Prior to the audit, the campus acquired an automated equipment inventory system (SportSoft) for equipment room management. In fall 2006, the campus began entering information into the system regarding apparel and gear checked out for football. However, implementation plans had not been finalized on the addition of other sports, and decisions were still being made on how the system would be further utilized.

Although various physical counts were taken of athletic inventory prior to the implementation of SportSoft, the counts could not be compared to what should have been on hand. Additionally, there were no written policies and procedures on the disposal of used apparel and gear.

GC §13402 and §13403 require a system or systems of internal accounting and administrative controls so that reasonable assurances can be given that measures to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies are being followed. The elements of a satisfactory system of internal accounting and administrative control include authorization and recordkeeping procedures adequate to provide effective control over assets.

The DIA director of equipment services stated that they were phasing in implementation of SportSoft.

Effective equipment room management systems, policies, and procedures reduce the risk of misuse of athletic resources and mismanagement of athletic program funds.

Recommendation 13

We recommend that the campus:

- a. Develop specifics plans on how it will utilize the automated software for the athletic equipment room and finalize implementation plans.
- b. Establish written policies and procedures for the disposition of used athletic apparel and gear.

Campus Response

We concur. By the end of May 2007, we will:

- a. Develop specifics plans on how the campus will utilize the automated software for the athletic equipment room and finalize implementation plans.
- b. Establish written policies and procedures for the disposition of used athletic apparel and gear.

ATHLETIC FACILITIES

The inspection and maintenance of athletic facilities was not well documented.

Although some inspection and maintenance records were available for certain athletic facilities, there were variations in how well activities were documented. For planned maintenance of a facility/structure, a work order might have existed in the physical plant department. In other instances, there were communications regarding inspection/maintenance requirements, but inspection records for all athletic facilities were not consistently documented and retained. The Student Union

had checklists for the setup of facilities that were signed and dated, but these checklists were not available for the Events Center athletic events that were included in our review.

Guideline 1.a. of the *2005/06 NCAA Sports Medicine Handbook* states that the adequacy and conditions of the facilities used for particular intercollegiate athletics events should not be overlooked, and periodic examination of the facilities should be conducted. Inspection of the facilities should include not only the competitive area, but also warm-up and adjacent area.

The associate vice president of facilities development and operations stated that they had just recently started to more thoroughly document work done by staff at the south campus. The technical services manager at the Student Union stated that they had a lot of turnover during the period reviewed during the audit.

The absence of inspection/maintenance records increases the risk of potential legal liabilities.

Recommendation 14

We recommend that the campus improve documentation for the inspection/maintenance of athletic facilities.

Campus Response

We concur. By the end of May 2007, we will improve documentation for the inspection/maintenance of athletic facilities.

MISCELLANEOUS

SPORTS CAMPS

Individuals who staffed sports camps were not subjected to criminal background checks.

A number of different sports camps and clinics operated on-campus, typically during the summer months. These camps were available to certain age groups, mainly 12- to 18-year-olds. The majority of these camps and clinics were owned by the campus and administered by the DIA. The exceptions included the Nike Softball Camp and two camps operated by the head football coach.

CSU directive HR 2005-10, *Background Checks*, dated March 1, 2005, states that it is the campus responsibility to perform background checks for sensitive positions, which are defined to include persons with responsibility for the care, safety, and security of people, including children and minors.

The associate vice president of administrative systems and finance stated that the sports camps were the responsibility of the SJSU Foundation. The SJSU Foundation associate director of business services stated that the foundation was only a fiscal agent for the camps.

The absence of criminal background checks increases the risk of inappropriate personnel assignments for sports camps and clinics, which could potentially damage CSU's reputation.

Recommendation 15

We recommend that the campus perform criminal background checks on personnel working at sports camps and clinics.

Campus Response

We concur. By the end of May 2007, we will implement procedures to perform criminal background checks on personnel working at sports camps and clinics.

ACADEMIC PROGRESS REPORTING

The campus had not documented its review and approval of data used in the calculation of academic progress rate (APR).

The NCAA had implemented a system for capturing and calculating APR based on input from the member institutions. SJSU had limited circulation of access rights to the NCAA system. There was anecdotal evidence that APR numbers reported externally were checked and double-checked by at least two individuals from the campus, but when this process occurred, it was done online, and there was no documentation retained or made available from the system to evidence who reviewed what.

The director of student success services stated that the NCAA had not yet made available a system feature to provide an audit trail of who logged onto the system and when and what they may have reviewed, approved, or edited.

Involvement of multiple individuals can be an important internal control, but it also increases the risk of erroneous data manipulation.

Recommendation 16

We recommend that the campus document its review and approval of APR data.

Campus Response

We concur. By the end of May 2007, we will document the review and approval of APR data.

ACADEMIC SUPPORT STAFFING

The campus lagged behind industry averages for staffing in academic advising of student-athletes.

The director of student success services with a dual reporting relationship to the athletics director and to the provost/vice president of academic affairs (through enrollment and academic services) had primary responsibility for academic advising of student-athletes. One of the facilities available to student-athletes was the Scott Gadway Academic Center located in the Simpkins Stadium Center at south campus.

The National Association of Academic Advisors for Athletics (N4A) regularly surveys higher education institutions concerning support positions provided for student-athlete academic advising and publishes its results in ranges based on the size of the student-athlete population. Excluding tutors, a comparison of N4A's *2005 Athletic Academic Support Survey* for programs similar in size to SJSU to the number of SJSU positions is presented below (the parenthetical breakdown in the column headings is the number of student-athletes):

FACTOR	N4A (< 400)	N4A (400 - 499)	SJSU
Average Number of Full-Time Employees*	3	8	4
Average Number of Part-Time Employees*	3	8	1
Average Number of Clerical Employees	1	2	0
Average Number of Graduate Assistants	2	3	2

* = excluding clerical employees

One measurement of academic performance of student-athletes is the NCAA's Academic Performance Program and specifically the APR. In the most recent reporting cycle, campus teams falling below a 925 APR were assessed contemporaneous penalties and loss of scholarships. In this cycle, it was widely reported in the media that 111 Division I teams at 72 schools produced failing marks under the NCAA's academic measurements and would begin losing scholarships in fall 2006. Four teams at SJSU were affected with the potential loss of scholarships.

EO 967, *California Student Athlete Fair Opportunity Act of 2005*, dated January 9, 2006, requires campuses to adopt a comprehensive plan providing for the academic support of student athletes.

The director of student success services stated that the N4A numbers might be on the high side and a better gauge would be 100-150 student-athletes per adviser, which they meet.

An undersized level of academic advising staff seriously constrains the provision of academic support services and is arguably at least one of the contributing factors to the low campus APR.

Recommendation 17

We recommend that the campus consider increasing athletic academic advising staff.

Campus Response

We concur. By the end of July 2007, we will implement a program to strengthen athletic academic advising, including to increase athletic academic advising staff size as to be determined by a complete study of needs.

TRAINING ROOMS

The campus lagged behind industry averages for training room staffing and did not secure training room records in lockable filing cabinets.

SJSU employed three full-time, certified athletic trainers and operated three athletic training rooms (Simpkins Stadium Center and East Field House at the south campus and Spartan Athletic Complex at the main campus). The trainers prepared injury reports when injuries occurred and kept records on treatments received by student-athletes. Recordkeeping on student-athlete injuries and treatments was facilitated by a computer software program called SportsWare. Although hard copies of documents were maintained in filing cabinets inside training room offices that could be locked, the filing cabinets were unsecured.

The National Athletic Trainers Association publishes some industry models and statistics for athletic training staffing in a document entitled *Recommendations and Guidelines for Appropriate Medical Coverage of Intercollegiate Athletics* (AMCIA) – last revised May 2003. According to AMCIA standards, SJSU should have 6.4 full-time athletic trainers based on the composition of the athletic program.

EO 943, *CSU Policy on Student Health Services*, dated April 25, 2005, stated, in part, that medical records shall be maintained in a secure area; when not in use, medical records shall be stored in either locked files or in a locked room, and confidentiality of medical records shall be maintained in accordance with the California Information Practices Act and applicable state and federal laws.

Guideline 1.b. of the *2005/06 NCAA Sports Medicine Handbook* states that a training record is a medical record and, therefore, is subject to state and federal laws with regard to confidentiality and content.

The Information Practices Act of 1977, Civil Code §1798.1(c) states in order to protect the privacy of individuals, it is necessary that the maintenance and dissemination of personal information be subject to strict limits.

The associate head athletic trainer stated that the number of trainers is a resource issue and training room file cabinets had been recently identified as a potential for improvement.

Operation of the training room with existing staff is a potential legal liability because universities can be sued over such matters as whether they have sufficient properly trained health care professionals with adequate treatment plans and recordkeeping, while inadequate control over medical records

increases the risk of unauthorized disclosure of personal information and campus liability due to inappropriate activities.

Recommendation 18

We recommend that the campus:

- a. Consider increasing the number of certified, full-time trainers providing services to student-athletes.
- b. Secure training room records in lockable filing cabinets.

Campus Response

We concur. By the end of July 2007, we will:

- a. Implement a program to strengthen the number of certified, full-time trainers providing services to student-athletes, as to be determined by a complete study of needs.
- b. Secure training room records in lockable filing cabinets.

INFORMED CONSENT FORMS

The campus did not use informed consent forms for student-athletes.

Guideline 1.a. of the *2005/06 NCAA Sports Medicine Handbook* states that components of a safe athletics program and an important part of injury prevention include:

Acceptance of Risk

An informed consent or waiver by student-athletes (or, if minors, by their parents) should be based on an awareness of the risks of participating in intercollegiate sports.

The associate head athletic trainer stated that informed consents at SJSU had only been used in extreme circumstances where there were dangerous medical conditions.

Failure to institute informed consent forms for student-athletes increases CSU's risk exposure.

Recommendation 19

We recommend that the campus implement an acceptable informed consent form for student-athletes and require completion prior to program participation.

Campus Response

We concur. By the end of May 2007, we will implement an acceptable informed consent form for student-athletes, and require completion of such form prior to program participation.

ATHLETIC INJURY PREVENTION EFFECTIVENESS

The DIA did not formally report to the campus on the effectiveness of the athletic injury prevention (AIP) program.

AIP was a shared responsibility among team physicians, certified athletic trainers, and student-athletes. While injury records were maintained, they were not compared to the NCAA Injury Surveillance System (ISS).

The NCAA ISS was developed in 1982 to provide current and reliable data on injury trends in intercollegiate athletics. The *2005-06 NCAA Division I Manual* states:

2.2 THE PRINCIPLE OF STUDENT-ATHLETE WELFARE

Intercollegiate athletics programs shall be conducted in a manner designed to protect and enhance the physical and educational welfare of student-athletes.

The California State University Risk Management Authority program entitled Athletic Injury Medical Expenses provides secondary insurance coverage for athletic injuries that are not covered by primary carriers.

The associate head athletic trainer stated that the campus already had some capability to report on injuries through the SportWare computer software.

The absence of program self-assessment and comparison with industry standards increases the risk that program improvements will not occur and AIP effectiveness will not be maximized.

Recommendation 20

We recommend that the campus:

- a. Restructure accumulation of athletic injury statistics in a form compatible with ISS statistics.
- b. Regularly compare injury profiles with ISS numbers and report outcomes.

Campus Response

We concur. By the end of July 2007, we will:

- a. Restructure accumulation of athletic injury statistics in a form compatible with ISS statistics.

- b. Establish a procedure to regularly compare injury profiles with ISS numbers and report outcomes.

APPENDIX A: PERSONNEL CONTACTED

<u>Name</u>	<u>Title</u>
Don W. Kassing	President
Wilma Babayan	Accountant, Accounting and Financial Systems
Shawn Bibb	Associate Vice President, Administrative Systems and Finance (At time of review)
Tom Bowen	Director of Athletics
Jeb Burns	Associate Head Athletic Trainer
Nancy Bussani	Associate Vice President, Advancement Operations and Tower Foundation Executive Director
Tatum Carroll	Assistant Athletic Trainer
Rick Casillo	Associate Director, Employee Support Services
Darren Coelho	Director of Ticketing Operations, Division of Intercollegiate Athletics (DIA)
Terry Crisp	Manager, Administrative Services, Facility Development and Operations
Ria Diaz	Business Office Analyst, DIA
Mike Dunefsky	Senior Director, Administrative Systems
Kellie Elliott	Senior Associate Athletic Director/Senior Women's Administrator
Todd Fouyer	Technical Services Manager, Student Union
Cynthia Haliasz	Director, Budget Management
Taylor Hanohano	Director of Equipment Services, DIA
Mark Harlan	Senior Associate Athletic Director (At time of review)
Mari Hernandez	Administrative Assistant, DIA
Cindy Kato	Director of Student Success Services
Kristin Kelly	Associate Director, Administrative Services (Student Union)
Babara Keltner	Contract Analyst
Bonnie King	Accounts Payable Manager
Kam Lam	Controller, SJSU Foundation
Rose Lee	Vice President for Administration and Finance
Rose Liu	University Budget Analyst
Mark Loftus	University Risk Manager
Stacy Martin	Associate Athletic Director, Business and Finance
Angie McKinnell	Student Services Coordinator
Jerry Mimnaugh	Executive Director, Spartan Shops
Paula Minklein	Assistant Director, Spartan Foundation
Angie Ortega McGhee	Office Coordinator, Faculty Affairs
Vince Otoupal	Associate Athletic Director, Spartan Foundation (At start of audit) Senior Associate Athletic Director (Promoted during audit)
Bill Penrod	Assistant Athletic Director, Marketing (At time of review)
Rita Peth	Purchasing Manager
Ninh Pham-Hi	Director of Internal Control
Mike Powell	Student Union Events Center Box Office Manager
Maria Rivera	Associate Vice President, Human Resources
Norma Rossiter	Associate Director of Business Services, SJSU Foundation
Mireya Salinas	Confidential Office Support Assistant, Office of the President

APPENDIX A: PERSONNEL CONTACTED

<u>Name</u>	<u>Title</u>
Gerry Selter	Executive Assistant to the President
Scott Shaw	Associate Head Athletic Trainer
Joan Shih	Division Director, Finance and Administration (Spartan Shops)
Paul Siegel	Director of Accounting and Financial Systems
Julie Stansberry	Administrative Assistant, DIA
Suzanne Sundholm	Risk Analyst
Etienne Thomas	Director of Compliance, DIA
Tony Valenzuela	Associate Vice President, Facilities Development and Operations
Matt Witty	Business Manager, DIA
Ricky Yoneda	Enterprise Program Analyst, SJSU Foundation



San José State
UNIVERSITY

**Office of the Vice President
for Administration and
Finance**

One Washington Square
San José, CA 95192-0006
Voice: 408-924-1500
Fax: 408-924-1515
<http://www.sjsu.edu>

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MAR 22 2007

THE CALIFORNIA STATE
UNIVERSITY

March 28, 2007

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

**Campus Response to ATHLETICS AUDIT (06-26)
at San José State University**

Enclosed is San José State University's response to the Athletics Audit. 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.

A handwritten signature in cursive script that reads "Rose L. Lee".

ROSE L. LEE
Vice President for Administration and Finance

Enclosure

c: Don W. Kassing, President
Ninh Pham-Hi, Director, Internal Control

The California State University:

Chancellor's Office, Bakersfield, Channel Islands, Chico, Dominguez Hills, East Bay, Fresno, Fullerton, Humboldt, Long Beach, Los Angeles, Maritime Academy, Monterey Bay, Northridge, Pomona, Sacramento, San Bernardino, San Diego, San Francisco, San José, San Louis Obispo, San Marcos, Sonoma, Stanislaus

**ATHLETICS ADMINISTRATION
SAN JOSÉ STATE UNIVERSITY**

**Audit Report 06-26
February 19, 2007**

GENERAL ENVIRONMENT

AGREED-UPON PROCEDURES

Recommendation 1

We recommend that the campus:

- a. Establish a process for consistently completing the agreed-upon procedures review on a timely basis.
- b. Consult with the NCAA on whether completion of FY 2004/05 agreed-upon procedures in September 2006 is a reportable violation.

Campus Response

We concur - by end of May 07, we will:

Establish a process for consistently completing the agreed-upon procedures review on a timely basis.

Consult with the NCAA on whether completion of FY 2004/05 agreed-upon procedures in September 2006 is a reportable violation.

COMPLIANCE REVIEW

Recommendation 2

We recommend that the campus document its response to the 2004 compliance review.

Campus Response

We concur - by end of July 07, we will document our campus response to the 2004 compliance review.

RISK MANAGEMENT

Recommendation 3

We recommend that the campus require risk management review of athletic arrangements for off-campus venues.

Campus Response

We concur - by end of May 07, the campus will have implemented the procedure for risk management to review athletic arrangements for off-campus venues.

PROGRAM REVENUES

ATHLETIC TICKET OFFICE

Recommendation 4

We recommend that the campus improve the physical security in the athletic ticket office located in the Simpkins Athletic Administration Building.

Campus Response

We concur - by end of August 07, we will improve the physical security in the athletic ticket office located in the Simpkins Athletic Administration Building.

SPORTS CAMP REVENUES

Recommendation 5

We recommend that the campus ensure that:

- a. Sports camp revenues are reconciled to corresponding fees and the number of registered participants.
- b. All costs of direct and indirect support provided to sports camps are charged to the camps.

Campus Response

We concur - by end of July 07, we will insure that:

Sports camp revenues are reconciled to corresponding fees and the number of registered participants.

All costs of direct and indirect support provided to sports camps are charged to the camps.

COMPENSATION AND BENEFITS

APPOINTMENT LETTERS

Recommendation 6

We recommend that the campus consult with the Office of the Chancellor to establish appropriate appointment documents for intercollegiate athletic personnel in the MPP.

Campus Response

We concur - by end of May 07, we will implement the procedure to consult with the Office of the Chancellor to establish appropriate appointment documents for intercollegiate athletic personnel in the MPP.

SUPPLEMENTAL COMPENSATION

Recommendation 7

We recommend that the campus consult with the chancellor's office to document existing supplemental compensation arrangements with athletic administrators/coaches in advance of payments.

Campus Response

We concur - by end of May 07, we will implement the procedure to consult with the chancellor's office to document existing supplemental compensation arrangements with athletic administrators/coaches in advance of payments.

OPERATING EXPENDITURES AND EQUIPMENT

ATHLETICS PROCUREMENT

Recommendation 8

We recommend that the campus:

- a. Improve athletic procurement documentation to ensure a fair value in exchanges.
- b. Submit any sole source procurements in athletics over \$250,000 to the Office of the Chancellor.
- c. Establish controls to preclude inappropriate involvement of coaches in athletic procurements.

Campus Response

We concur - by end of May 07, we will implement procedures to:

Improve athletic procurement documentation to ensure a fair value in exchanges.

Submit any sole source procurements in athletics over \$250,000 to the Office of the Chancellor.

Establish controls to preclude inappropriate involvement of coaches in athletic procurements.

EMPLOYER-PROVIDED CARS

Recommendation 9

We recommend that the campus require the SJSU Foundation to:

- a. Follow correct IRS methodology for calculating and reporting benefits for employer provided automobiles.
- b. Develop a periodic reporting system to capture contemporaneous and realistic usage records on vehicle mileage for personal and business purposes.
- c. Issue amended 2005 W-2s to reflect the corrected amounts that should have been reported for all wheel club participants.

Campus Response

We concur - by end of July 07, we will require SJSU Foundation to:

Follow correct IRS methodology for calculating and reporting benefits for employer provided automobiles.

Develop a periodic reporting system to capture contemporaneous and realistic usage records on vehicle mileage for personal and business purposes.

Issue amended 2005 W-2s to reflect the corrected amounts that should have been reported for all wheel club participants.

DIRECT PAY DOCUMENTATION

Recommendation 10

We recommend that the campus:

- a. Require approval of direct pay transactions by managers that supervise the recipients.
- b. Improve documentation to ensure an ample description of the business purpose.

Campus Response

We concur - by end of May 07, we will establish procedure to:

Require approval of direct pay transactions by managers that supervise the recipients.

Improve documentation to ensure an ample description of the business purpose.

TEAM TRAVEL

Recommendation 11

We recommend that the campus:

- a. Improve travel documentation for team trips in athletics to reconcile the capacity of accommodations with the size of the travel party.
- b. Break out fund-raising costs from team travel and consult with the NCAA to clarify meal allowances.

Campus Response

We concur - by end of May 07, we will establish procedure to:

Improve travel documentation for team trips in athletics to reconcile the capacity of accommodations with the size of the travel party.

Break out fund-raising costs from team travel and consult with the NCAA to clarify meal allowances.

TRADE-OUTS

Recommendation 12

We recommend that the campus adjust trade-out arrangements to closer approximate actual need.

Campus Response

We concur - by end of May 07, we will implement procedure to adjust trade-out arrangements to closer approximate actual need.

EQUIPMENT MANAGEMENT

Recommendation 13

We recommend that the campus:

- a. Develop specifics plans on how it will utilize the automated software for the athletic equipment room and finalize implementation plans.
- b. Establish written policies and procedures for the disposition of used athletic apparel and gear.

Campus Response

We concur - by end of May 07, we will:

Develop specifics plans on how the campus will utilize the automated software for the athletic equipment room and finalize implementation plans.

Establish written policies and procedures for the disposition of used athletic apparel and gear.

ATHLETIC FACILITIES

Recommendation 14

We recommend that the campus improve documentation for the inspection/maintenance of athletic facilities.

Campus Response

We concur - by end of May 07, we will improve documentation for the inspection & maintenance of athletic facilities.

MISCELLANEOUS

SPORTS CAMPS

Recommendation 15

We recommend that the campus perform criminal background checks on personnel working at sports camps and clinics.

Campus Response

We concur - by end of May 07, we will implement procedure to perform criminal background checks on personnel working at sports camps and clinics.

ACADEMIC PROGRESS REPORTING

Recommendation 16

We recommend that the campus document its review and approval of APR data.

Campus Response

We concur - by end of May 07, we will document the review and approval of APR data.

ACADEMIC SUPPORT STAFFING

Recommendation 17

We recommend that the campus consider increasing athletic academic advising staff.

Campus Response

We concur - by end of July 07, we will implement a program to strengthen athletic academic advising, including to increase athletic academic advising staff size as to be determined by a complete study of needs.

TRAINING ROOMS

Recommendation 18

We recommend that the campus:

- a. Consider increasing the number of certified, full-time trainers providing services to student-athletes.
- b. Secure training room records in lockable filing cabinets.

Campus Response

We concur - by end of July 07, we will:

Implement a program to strengthen the number of certified full-time trainers providing services to student-athletes, as to be determined by a complete study of needs.

Secure training room records in lockable filing cabinets.

INFORMED CONSENT FORMS

Recommendation 19

We recommend that the campus implement an acceptable informed consent form for student-athletes and require completion prior to program participation.

Campus Response

We concur - by end of May 07, we will implement an acceptable informed consent form for student-athletes, and require completion of such form prior to program participation.

ATHLETIC INJURY PREVENTION EFFECTIVENESS

Recommendation 20

We recommend that the campus:

- a. Restructure accumulation of athletic injury statistics in a form compatible with ISS statistics.
- b. Regularly compare injury profiles with ISS numbers and report outcomes.

Campus Response

We concur - by end of July 07, we will:

Restructure accumulation of athletic injury statistics in a form compatible with ISS statistics.

Establish a procedure to regularly compare injury profiles with ISS numbers and report outcomes.

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



BAKERSFIELD

April 11, 2007

CHANNEL ISLANDS

CHICO

MEMORANDUM

DOMINGUEZ HILLS

EAST BAY

FRESNO

TO: Mr. Larry Mandel
University Auditor

FULLERTON

FROM: Charles B. Reed
Chancellor

HUMBOLDT

LONG BEACH

SUBJECT: Draft Final Audit Report 06-26 on *Athletics Administration*,
San José State University

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

In response to your memorandum of April 11, 2007, I accept the response as submitted with the draft final report on *Athletics Administration*, San José State University.

NORTHRIDGE

POMONA

CBR/jt

SACRAMENTO

Enclosure

SAN BERNARDINO

cc: Mr. Don W. Kassing, President
Ms. Rose L. Lee, Vice President, Administration and Finance

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS