

EMPLOYEE RELATIONS
CALIFORNIA STATE UNIVERSITY,
SAN MARCOS

Report Number 03-18
January 7, 2004

Members, Committee on Audit

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ABBREVIATIONS

APC	Academic Professionals of California
CFA	California Faculty Association
CSEA	California State Employees' Association
CSU	California State University
CSUSM	California State University, San Marcos
EO	Executive Order
FTE	Full-Time Employment
HEERA	Higher Education Employee-Employer Relations Act
HREO	Human Resources and Equal Opportunity
IUOE	International Union of Operating Engineers
MPP	Management Personnel Plan
OGC	Office of General Counsel
SAM	State Administrative Manual
SETC	State Employees Trades Council
SUPA	State University Police Association
UAPD	California Federation of the Union of American Physicians and Dentists

EXECUTIVE SUMMARY

As a result of a systemwide risk assessment conducted by the Office of the University Auditor during the last quarter of 2002, the Board of Trustees, at its January 2003 meeting, directed that *Employee Relations* be reviewed.

We visited the California State University, San Marcos (CSUSM) campus from August 18, 2003, through September 19, 2003, and audited the procedures in effect at that time.

In our opinion, the administration and management of the employee relations function needed improvement. The campus has hired an interim director to manage the human resources and equal opportunity department and address significant infrastructure issues that were self-identified by executive management prior to the audit.

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.

EMPLOYEE RELATIONS ADMINISTRATION [7]

Certain activities that impact the control environment and administration of the employee relations function needed improvement. Although the campus implemented various processes to acclimate and train staff in employee relations, campus practice did not require that all new staff and part-time instructors attend new employee orientation; not all staff attended mandatory workplace harassment training, which lacked adequate information for escalating employee complaints; and the campus had not developed a sexual harassment training plan to ensure the ongoing mandatory training of faculty, management, and non-management personnel. Training efforts for campus managers also needed strengthening since managers were not always aware of certain employee relations policies or whom to contact for complaints, whistleblower disclosures, and allegations of retaliation from staff employees. Further, controls were not in place to ensure that employee relations information on the campus website was updated, consistently presented, and/or complete. In addition, various unions were not billed for union leave that was provided to campus employees.

COMPLAINTS AND RECONSIDERATION REQUESTS [11]

The campus sexual harassment policy was outdated and recent revisions had not been officially approved for publication. In addition, written procedures for the internal investigation and handling of complaints, including complaint file maintenance, had not been developed.

PERFORMANCE MANAGEMENT [13]

Human resources and equal opportunity did not always receive performance evaluations for campus employees. Although the department implemented a process to track outstanding and past-due evaluations, the process did not include Management Personnel Plan employees or notifications to senior management of past-due performance evaluations from their respective supervisors. Further, although the campus referred to Office of General Counsel guidelines for progressive discipline, campus specific guidelines for imposing formal discipline had not been developed.

WHISTLEBLOWER DISCLOSURES [15]

Although annual internal notifications had been made to all employees regarding whistleblower disclosures, the campus had not developed and documented procedures for processing these items, including disclosures received by the California State Auditor. Procedures for handling allegations of retaliation, which included important presidential directives, were in draft form and had not been officially approved for publication.

INFORMATION SECURITY [16]

The campus had not developed and documented procedures regarding the protection of confidential employee information.

INTRODUCTION

BACKGROUND

With the passage of major employment legislation since the 1960s, human resources management practices at the California State University (CSU) have evolved from the traditional role of hiring and record keeping to include administering labor contracts, providing employee assistance, and ensuring civil rights and other regulatory compliance. These activities embody the employee relations function within the human resources area and help ensure mutually satisfying working conditions and a viable employee-employer relationship.

The campus human resources departments that provide support for all respective employees typically administer the employee relations function. At the CSU, there are two main classes of employees that are designated in accordance with the provisions of the Higher Education Employee-Employer Relations Act (HEERA) of 1979. These classes are as follows:

Represented employees are individuals who belong to one of ten bargaining units at the CSU and whose duties do not include managerial activities as defined by HEERA.

Non-represented employees are individuals who are not included in a bargaining unit and are hired as Management Personnel Plan (MPP), confidential, or excluded employees.

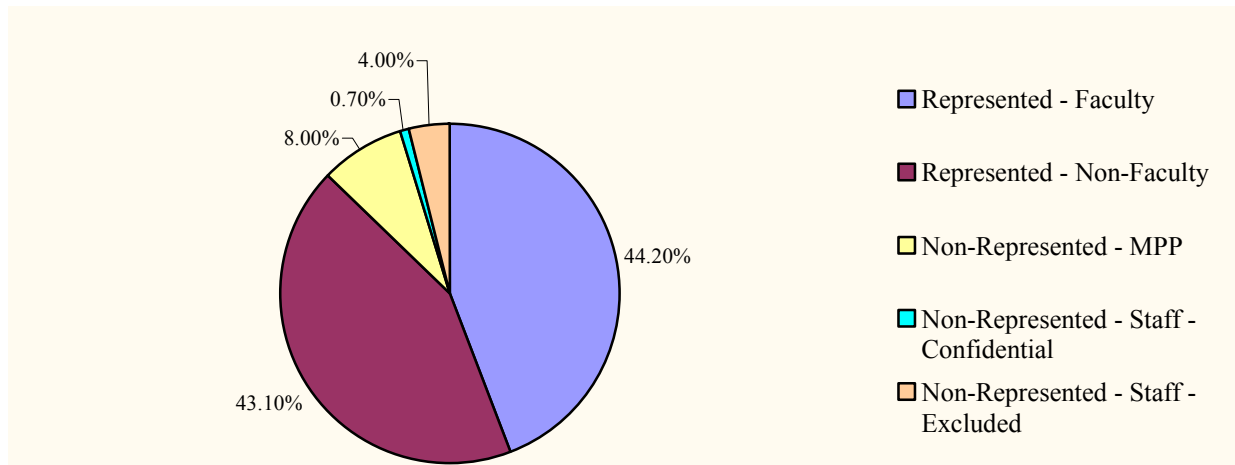
Total full-time employment (FTE) at the CSU has grown from 31,361 to 39,440 active and on-leave employees (excluding hourly employees), which represents a 25.7% increase from October 1995 to October 2002. For administrative and reporting purposes, the CSU has further grouped the represented and non-represented employees into staff, faculty, and MPP categories of which all are provided employee relations support by the campus and designated chancellor's office departments, and reported as follows:

Class	Employee Type	2002	%
Represented	Staff	16,997	43.1
	Faculty	17,422	44.2
Non-Represented	MPP	3,142	8.0
	Staff - Confidential	315	0.7
	Staff – Excluded	1,564	4.0
Total FTE		39,440	100.0

Presently, seven unions represent the 34,419 FTE employees that belong to ten bargaining units. In October 2002, the California Faculty Association (CFA) and the California State Employees' Association (CSEA) included 31,077 total FTE (17,422, and 13,655, respectively), with the remaining 3,342 FTE dispersed between the following unions:

Union	2002 FTE
California Federation of the Union of American Physicians and Dentists (UAPD)	71
Academic Professionals of California (APC)	1,996
State Employees Trades Council (SETC)	973
State University Police Association (SUPA)	288
International Union of Operating Engineers (IUOE)	13
Total	3,342

In the CSU Staffing Trends and Analysis report, dated February 2003, the percentage distribution of total FTEs at the CSU is graphically represented as follows:



PURPOSE

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

Within the overall audit, specific goals included making a determination as to whether:

- ▶ Administration and management of the employee relations function provide effective internal controls, clear lines of organizational authority, delegations of authority, and documented policies and procedures.

- ▶ Processes and procedures ensure timely and effective interpretation and communication of CSU policies and other directives impacting the employee-employer relationship, channels for reporting improprieties and escalating grievances and complaints, and resources for resolving both work and non-work related problems.
- ▶ Campus procedures provide for timely reimbursement of union leave.
- ▶ Managers are appropriately trained and knowledgeable of assigned employee relations responsibilities.
- ▶ Complaints and reconsideration requests are handled in compliance with applicable CSU policy and other directives.
- ▶ Employees are provided timely feedback and guidance for performance development and improvement.
- ▶ Disciplinary action is performed in accordance with collective bargaining agreements, CSU policy, and other directives.
- ▶ Whistleblower disclosures are handled in compliance with CSU policy and shared only with individuals who have a legitimate business reason to know.
- ▶ Confidential hardcopy and system information assets such as information pertaining to complaints, reconsideration requests, and performance management activities are reasonably secure.

SCOPE AND METHODOLOGY

The proposed scope of the audit as presented in Attachment B, Audit Item 2 of the January 28-29, 2003, meeting of the Committee on Audit stated that the review would include negotiating and administering collective bargaining agreements with represented employees, administering the management personnel plan for non-represented employees, and the systems for addressing staff grievances and complaints. Potential impacts include inordinate costs, unfavorable contracts, increased exposure to litigation, and unfair labor practices. The Office of the University Auditor has not previously reviewed *Employee Relations*.

Our study and evaluation were conducted in accordance with the *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 Trustee policies, and Office of the Chancellor and campus policies, letters, and directives. The audit review focused on procedures in effect during fiscal year 2002-2003. Throughout this report, we will refer to employee relations as the primary audit subject. At California State University, San Marcos (CSUSM), the assistant vice president for human resources and legal compliance and the associate vice president of academic resources administer the employee relations function.

We focused primarily upon internal, administrative, compliance, and operational controls over the management of the employee relations function. Specifically, we reviewed and tested:

- ▶ Administrative policies, procedures, and processes.
- ▶ Interpretation and communication of CSU policies, union provisions, and other directives.
- ▶ Reimbursements for union leave provided to represented employees in all bargaining units.
- ▶ Training provided to campus managers with employee relations responsibilities.
- ▶ Complaint handling for non-represented and certain represented employees.
- ▶ Reconsideration requests from non-represented employees.
- ▶ Performance management for non-represented and represented employees, excluding the CFA.
- ▶ Disciplinary actions for non-represented and represented employees, excluding the CFA.
- ▶ Processing of involuntary terminations for non-represented employees.
- ▶ Handling of whistleblower disclosures and complaints of alleged retaliation.
- ▶ Maintenance and protection of confidential employee relations information.

OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

EMPLOYEE RELATIONS ADMINISTRATION

CAMPUS TRAINING

Controls to ensure that staff were appropriately trained and knowledgeable of campus and California State University (CSU) employee relations policies needed improvement.

Human resources and equal opportunity (HREO) and the academic resources department implemented various processes to acclimate and train staff in the employee relations area. New staff and faculty were offered monthly and annual orientation-training sessions, respectively, that covered campus policies, benefits, and other employee information. During HREO roundtable sessions, campus managers and lead workers were provided training opportunities in the areas of employment law, including sexual harassment and labor relations. Additionally, all campus staff were offered focused training on preparing performance evaluations. However, our review disclosed that:

- ▶ Campus practice did not require that all new staff and part-time instructors attend the orientation sessions.
- ▶ Although employees were provided copies of the campus sexual harassment policy, new employee orientation activities did not include detailed discussions of this and other campus policies in the employee relations area or clear instructions for escalating employee complaints.
- ▶ Not all faculty (including part-time instructors) attended the mandatory training on preventing workplace harassment. In addition, although this training covered sexual harassment, it did not include campus specific information for escalating and handling employee complaints.
- ▶ The campus had not developed and documented a sexual harassment training plan to ensure the ongoing mandatory training of faculty (including part-time instructors), management, and non-management personnel.

In addition, we noted that efforts to train campus managers in certain employee relations areas needed strengthening. Interviews with five campus managers (including two college deans) disclosed that:

- ▶ Four were not aware of the sexual harassment policy, and none were aware of the responsible campus administrator for handling complaints.
- ▶ None were aware of the campus reconsideration procedures and had not received training in this area.
- ▶ None had received training on protecting confidential employee information, while two had not received training on handling disciplinary cases.

- ▶ Although internal notifications had been made to all employees regarding whistleblower disclosures, none were aware of the campus administrator handling these complaints and allegations of retaliation. In addition, two were not aware of the whistleblower hotline notice.

Executive Order (EO) No. 345, *Prohibition of Sexual Harassment*, dated May 29, 1981, states that to maintain a learning and working environment free from sexual harassment, the campuses are encouraged to educate the campus community, students, and employees regarding sexual harassment.

State Administrative Manual (SAM) §20050 states that the elements of a satisfactory system of internal accounting and administrative controls, shall include, but are not limited to, an established system of practices to be followed in performance of duties and functions and personnel of a quality commensurate with their responsibilities. Sound business practice mandates that a campus develop processes to ensure persons with managerial and oversight responsibilities are trained in campus and CSU policies and other employee relations areas.

The assistant vice president for human resources and legal compliance stated that since she assumed responsibility for the department in May 2003, one of her priorities has been the development of a mandatory orientation-training program for employees, and she recently submitted recommendations for this area to executive campus management. She further stated that the mandatory workplace harassment training preceded her hire and that the campus was currently researching methods to provide additional, enhanced staff training in a cost-effective and efficient manner. The associate vice president for academic resources stated that all faculty (including part-time instructors) were required to attend orientation activities; however, the focus had been on tenured faculty attendance. She added that the lack of attendance by the part-time instructors had been routinely discussed with the deans and at the provost's council.

Not providing effective training increases the risk of poor employee morale, employee complaints, and potential lawsuits against the campus and the CSU.

Recommendation 1

We recommend that the campus:

- a. Require employees (including part-time instructors) to attend campus orientation sessions.
- b. Enhance campus orientation activities to include discussions of sexual harassment and other employee relations policies.
- c. Provide clear instructions for filing complaints.
- d. Implement controls to ensure that faculty, including part-time instructors, attend campus sexual harassment training sessions.
- e. Develop and document a sexual harassment training plan that includes faculty (including part-time instructors) and non-management personnel.

- f. Develop a training plan for campus managers to ensure appropriate knowledge of campus policies and procedures for handling sexual harassment complaints, reconsideration requests, disciplinary actions, whistleblower disclosures, allegations of retaliation, and the protection of confidential employee information.

Campus Response

We concur with all recommendations.

Specifically:

- a. By April 7, 2004, the university will develop a plan for the implementation of an orientation program for staff, faculty, and managerial employees.
- b. By April 7, 2004, the revised orientation program will include the topics of discrimination and sexual harassment, confidentiality, conflict of interest/ethics, Whistleblower Protection Act, and other employee relations policies. The information will be presented in written format to provide employees with a continuing resource.
- c. By April 7, 2004, the revised Discrimination and Sexual Harassment policy and procedure which will contain detailed instructions for filing complaints will be published and disseminated to the campus community via the official CSUSM policies and procedures website.
- d. By June 1, 2004, academic affairs will develop a plan that will require faculty attendance at campus sexual harassment training sessions.
- e. By July 7, 2004, the university will develop an educational plan for sexual harassment training for faculty and non-management personnel. The plan will address initial and ongoing training efforts in this area.
- f. Prior to the audit in August 2003, the university was in the process of developing a new orientation/training program for managers, which would include an overview of federal and state laws and CSU and campus policies and procedures related to employee relations.

By May 7, 2004, the university will finalize the development of the managerial program. This program will include training modules on discrimination and sexual harassment, confidentiality, conflict of interest/ethics, whistleblower disclosures, allegation of retaliation, reconsideration requests, handling disciplinary actions, and other employee relations topics.

INTER-CAMPUS COMMUNICATIONS

Employee relations information was not updated timely, consistent, and/or complete.

We noted that the official California State University, San Marcos (CSUSM) policies and procedures website, 2002-2004 general catalog, and staff handbook included inconsistent policy information

regarding maintenance of a drug-free workplace, non-discrimination, sexual assault, sexual harassment, telecommuting, and workplace violence.

SAM §20050 states that one symptom of a deficient internal control system is policy and procedural or operational manuals that are either not currently maintained or are non-existent.

The assistant vice president for human resources and legal compliance stated that developing and updating employee relations policies had been a priority since her recent hire with the campus.

Untimely/incomplete updates of employee relations information increase the risk that employees will not be aware of campus policies, employment rights, and the correct channels for escalating complaints and other disclosures.

Recommendation 2

We recommend that the campus determine the appropriate method for communicating campus employee relations policies and as appropriate, review and revise the policy information in the official policies and procedures website to ensure complete, consistent information.

Campus Response

We concur. By April 7, 2004, the university will develop a procedure for communicating campus employee relations policies. The campus will be notified that official up-to-date employee relations policies will be posted on a campus website to ensure consistent, complete information.

UNION LEAVE

The campus had neither invoiced three unions (California State Employees' Association (CSEA), State Employees Trades Council (SETC), and State University Police Association (SUPA)) nor was the campus reimbursed for the cost of 12 employees who were given leave since June 2000.

In March 2003, the campus had invoiced SETC for union leave that was provided to one employee from September 2000 through June 2002. Although SETC reimbursed the campus, we could not locate invoices for union leave that was taken by this employee from June 2002 through August 2003.

Article 5.13 of the CSEA bargaining agreement, for July 1, 2002, through June 30, 2005, states that the CSU shall be reimbursed by the union for all compensation paid the employee on account of such leave and for any incidental costs.

Article 7.14 of the SETC bargaining agreement, for July 1, 2002, through June 30, 2005, states that the CSU shall be reimbursed by the union for all compensation paid the employee on account of such leave and for any incidental costs.

Article 5.11 of the SUPA bargaining agreement, for July 1, 2001, through June 30, 2004, states that the CSU shall be reimbursed by the association for all compensation paid the employee on account of such leave and for any incidental costs.

The assistant vice president for human resources and legal compliance stated that procedures to invoice the unions had not been implemented by the campus.

Inadequate control over union leave increases the risk of non-compliance with union contract provisions and the loss of funds expended for non-reimbursed positions.

Recommendation 3

We recommend that the campus:

- a. Prepare invoices and obtain reimbursement from the CSEA, SETC, and SUPA for union leave that was given employees since June 2000.
- b. Develop campus procedures for handling union leave requests and obtaining reimbursements thereof, including monitoring controls to ensure timely billing and reimbursement of union leave.

Campus Response

We concur.

Specifically:

- a. By April 7, 2004, the university will prepare and submit invoices to CSEA, SETC, and SUPA to obtain reimbursement for union release time granted to employees since June 2000, for which payment has not been received.
- b. By April 7, 2004, the university will develop campus procedures for handling union leave requests and billing the unions for reimbursable union leave.

COMPLAINTS AND RECONSIDERATION REQUESTS

SEXUAL HARASSMENT POLICY

The campus sexual harassment policy was outdated and recent revisions had not been officially approved for publication.

SAM §20050 states that one symptom of a deficient internal control system is policy and procedural or operational manuals that are either not currently maintained or are non-existent.

The assistant vice president for human resources and legal compliance stated that the existing sexual harassment policy had been recently revised but had not been officially approved for publication by the president's cabinet.

Failure to maintain effective policies for sensitive employee relations areas increases the risk of employee dissatisfaction, scrutiny by state regulatory agencies, and potential loss to the campus and the CSU.

Recommendation 4

We recommend that the campus finalize and distribute the revised sexual harassment policy.

Campus Response

We concur. By April 7, 2004, the university will publish and disseminate the revised Discrimination and Sexual Harassment policy to employees via the official CSUSM policies and procedures website.

COMPLAINT PROCESSING

The campus had not developed internal written investigation procedures for handling informal and formal employee discrimination complaints, including the maintenance of complaint files.

SAM §20050 states that one symptom of a deficient internal control system is policy and procedural or operational manuals that are either not currently maintained or are non-existent. In addition, the elements of a satisfactory system of internal accounting and administrative controls, shall include, but are not limited to, a system of authorization and record-keeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

CSU directive Human Resources/Equal Employment Opportunity 2002-01, *Employee Discrimination Complaint Processing*, dated June 3, 2002, states that campuses should have informal investigation procedures, which detail the manner in which investigations are to occur (e.g., the persons conducting them, privacy concerns and so on).

The assistant vice president for human resources and legal compliance stated that the department was researching the development of operating procedures in this area.

Failure to develop and implement effective procedures for handling and reporting employee complaints increases the risk of increased scrutiny by state regulatory agencies and potential loss to the campus and the CSU.

Recommendation 5

We recommend that the campus develop and document written procedures for the internal investigation and handling of informal and formal employee discrimination complaints, including the maintenance of complaint files.

Campus Response

We concur. By April 7, 2004, the Discrimination and Sexual Harassment policy and procedure which contains written procedures for filing, investigating, and handling informal and formal employee discrimination complaints, as well as complaint record-keeping and monitoring, will be disseminated to the campus via the official CSUSM policies and procedures website.

PERFORMANCE MANAGEMENT

PERFORMANCE EVALUATIONS

Performance evaluations for campus employees were not always received by HREO.

During a review of official personnel files for 20 represented and 20 non-represented employees, we noted that:

- ▶ A 3-, 6-, 11-, and/or 12-month performance evaluation could not be provided for four probationary employees.
- ▶ Annual evaluations could not be provided for nine represented employees. In addition, annual evaluations had not been provided for up to three years for seven of these employees.
- ▶ The most recent annual evaluation could not be provided for all confidential and 8 of 15 Management Personnel Plan (MPP) employees. In addition, a 6-month evaluation could not be provided for two MPP employees.
- ▶ For the seven represented employees who had an evaluation on file, evidence that the evaluator submitted a draft evaluation for the employees' review, input, and discussion could not be provided.

In addition, we noted that HREO's process for tracking performance evaluations did not include either MPP employees or notifications to senior management (e.g., associate vice presidents, vice presidents) of past-due performance evaluations from their respective department supervisors.

Title 5 §42722 states that MPP employees shall be evaluated after six months and one year of service, and subsequently at one-year intervals.

Title 5 §43550 states that it is the policy of the CSU to require periodic performance appraisals for each permanent, probationary, or MPP employee.

Article 10.3 of the CSEA bargaining agreement, for July 1, 2002, through June 30, 2005, states that a probationary employee shall be evaluated by the end of the third, sixth, and eleventh month of the probationary period, unless the employee has earlier been rejected during probation. Article 10.6 states that the evaluator shall submit a draft evaluation for the employee's review, input, and discussion.

Article 18.1.A.1. of the Academic Professionals of California (APC) bargaining agreement, for July 1, 2000, through June 30, 2003, states that employees shall be evaluated on at least an annual basis. Article 18.1.A.3. states that performance evaluations shall be prepared in draft form, and a copy will be given to the employee who shall have 14 days to submit a rebuttal (if any) to the evaluator before the evaluation is finalized.

Article 12.4 of the SETC bargaining agreement, for July 1, 2002, through June 30, 2005, states that a permanent employee shall be evaluated annually. Article 12.5 states that a probationary employee shall be evaluated periodically but not to exceed four times during his/her probationary period.

CSUSM Performance Evaluation Policy, dated June 15, 2000, states that it is the policy of the CSU to require periodic performance appraisals for each permanent, probationary, or MPP employee.

The assistant vice president for human resources and legal compliance stated that the department was transitioning performance evaluation data to PeopleSoft and would use this software to track for outstanding and past-due performance evaluations. As one of her priorities, she also stated that the campus was pursuing enhanced manager training that would include, but not be limited to, performance management responsibilities.

Inadequate control over the performance management process increases the risk of non-compliance with collective bargaining agreements, poor staff morale, and possible unjustifiable disciplinary and termination actions.

Recommendation 6

We recommend that the campus implement effective monitoring controls to ensure that performance evaluations are performed for all represented and non-represented staff on a timely basis.

Campus Response

We concur. By April 7, 2004, the campus will develop and implement written procedures to ensure that annual and probationary evaluations for represented and non-represented employees are performed on a timely basis. This process will include notification to senior management of past-due performance evaluations from their respective supervisors.

DISCIPLINARY GUIDELINES

Although the campus referred to Office of General Counsel (OGC) guidelines for progressive discipline, campus specific guidelines for imposing formal discipline had not been developed.

OGC Guidelines for Preparing Disciplinary Cases, dated September 1995, state that to facilitate the initiation of formal disciplinary action, internal procedures should be developed by the campus.

SAM §20050 states that one symptom of a deficient internal control system is policy and procedural or operational manuals that are either not currently maintained or are non-existent.

The assistant vice president for human resources and legal compliance stated that disciplinary guidelines were addressed in the various collective bargaining agreements and agreed that campus-specific guidelines could be developed as a resource for campus managers.

A lack of current and complete progressive discipline guidelines increases the risk of misunderstandings related to the performance of duties and functions and inconsistencies in complying with relevant CSU policies and/or directives.

Recommendation 7

We recommend that the campus develop and publish campus specific progressive discipline guidelines for imposing formal discipline that include, but are not limited to, internal procedures for preparing and/or reviewing investigatory reports, handling disciplinary cases, and maintaining confidential information.

Campus Response

We concur. By July 7, 2004, the campus will develop and publish campus specific progressive discipline guidelines for disciplinary cases, and maintaining confidentiality of information and documents related to discipline.

WHISTLEBLOWER DISCLOSURES

Campus procedures for handling whistleblower disclosures and allegations of retaliation had not been developed, documented and/or approved.

Although annual internal notifications had been made to all employees regarding whistleblower disclosures, we noted that:

- ▶ The campus had not developed and documented procedures for processing whistleblower disclosures, including those received by the California State Auditor.
- ▶ Procedures for handling allegations of retaliation, which included important presidential directives, were in draft form and had not been officially approved for publication.

EO No. 821, *Reporting Procedures for Protected Disclosure of Improper Governmental Activities and/or Significant Threats to Health or Safety*, dated May 23, 2002, was established to further the intent of the California Legislature as stated in §8547.1 of the Government Code, a part of the California Whistleblower Protection Act. It established a procedure for employees and applicants for employment at the CSU to make protected disclosures, as defined in the executive order, and it also directs the president of each campus to establish similar procedures.

EO No. 822, *Revised Complaint Procedures for Allegations of Retaliation for Disclosure under the California Whistleblower Protection Act*, dated May 23, 2002, states that all such complaints filed on a campus must promptly be referred to the vice chancellor of human resources in the chancellor's

office and that each campus president is responsible for developing and issuing a campus directive implementing this requirement.

The assistant vice president for human resources and legal compliance stated that the campus was developing procedures for handling whistleblower disclosures and once completed, the procedures would be submitted to the president's cabinet with the draft procedures for handling allegations of retaliation.

Failure to develop, implement, and comply with procedures that address sensitive employee disclosures increases the risk of employee dissatisfaction, scrutiny by state regulatory agencies, and potential loss to the campus and the CSU.

Recommendation 8

We recommend that the campus:

- a. Develop and document procedures for handling whistleblower disclosures that reflect current practice and compliance with EO No. 821.
- b. Obtain approval for and publish the procedures for handling allegations of retaliation.

Campus Response

We concur with these recommendations.

Specifically:

- a. The campus has developed a policy and procedure for handling whistleblower disclosures in compliance with Executive Order No. 821 and by April 7, 2004, will publish this information for employees on the official CSUSM policies and procedures website.
- b. The campus has developed and obtained approval for procedures for handling allegation of retaliation for filing whistleblower complaints and by April 7, 2004, will publish this information on the official CSUSM policies and procedures website.

INFORMATION SECURITY

The campus had not developed and documented procedures regarding the protection of confidential employee information.

CSU directive Human Resources 2003-05, *Requirements for Protecting Confidential Employee Information*, dated March 13, 2003, states that each campus and the chancellor's office must take necessary measures to protect confidential employee personal information. Sound business practice mandates that a campus develop, document, and communicate procedures to ensure that confidential

employee information is properly protected and all employees with access to such information are properly trained in such procedures.

SAM §20050 states that one of the elements of a satisfactory system of internal control includes methods to give reasonable assurance that measures to encourage adherence to prescribed managerial policies are being followed.

The assistant vice president for human resources and legal compliance stated that draft procedures regarding the confidentiality of employee, faculty, and student data were being submitted to the president's cabinet for review and approval.

A lack of current and complete procedures and guidelines concerning information security increases the risk that confidential employee information may be disclosed.

Recommendation 9

We recommend that the campus develop and document procedures regarding the protection of confidential employee data.

Campus Response

We concur. The campus will provide the Office of the University Auditor the recently developed procedure regarding the protection of confidential employee data. This procedure was disseminated to the vice presidents on September 9, 2003, for distribution to and discussion with employees. One training session on protecting confidential employee data and the university's confidentiality procedures was held on January 13, 2004, for managers. Additional sessions are being scheduled.

APPENDIX A: PERSONNEL CONTACTED

<u>Name</u>	<u>Title</u>
Karen S. Haynes	President
Roy McTarnaghan	Interim President (At time of review)
Tanis Brown	Coordinator of Training, Human Resources and Equal Opportunity
Ellen Cardoso	Assistant Director, Human Resources and Equal Opportunity
Kathleen Corona	Office Manager, Human Resources and Equal Opportunity
Deborah Coronado	Associate Director, Human Resources and Equal Opportunity
Barbara Dovenbarger	Director of Internal Audit
Stephen G. Garcia	Chief Financial Officer and Vice President, Finance and Administrative Services
Linda Hawk	Director, Student Financial Services
Dora Knoblock	Director, Campus Enterprises
Linda Leiter	Associate Vice President, Human Relations and Campus Enterprises
Steve Lilly	Dean, College of Education
Dean Manship	Special Assistant
Terry Miller	Training Support, Human Resources and Equal Opportunity
Holley Perez	Assistant Vice President, Human Resources and Legal Compliance
Robert Stakes	Dean, Extended Education
Mary Elizabeth Stivers	Associate Vice President, Academic Resources
Charles Walden	Interim Director, Facilities Services



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Tel: 760 750-4950; Fax: 760 750-4949
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MEMORANDUM

**RECEIVED
UNIVERSITY AUDITOR**

FEB 12 2004

**THE CALIFORNIA STATE
UNIVERSITY**

DATE: February 12, 2004

TO: Larry Mandel
University Auditor
The California State University

FROM: Stephen G. Garcia
Chief Financial Officer and Vice President
Finance and Administrative Services
California State University San Marcos

SUBJECT: Campus Responses to Audit Report
Employee Relations 03-18

Attached for your consideration and acceptance are campus responses to the recommendations of Employee Relations Audit 03-18, dated January 7, 2004, for California State University San Marcos.

Please contact Barbara Dovenbarger, Director of Internal Audit, if we can be of further assistance. She may be reached by email at dove@csusm.edu or by telephone at (760) 750-4955.

Attachments

SGG:kjh

cc: Karen Haynes
Barbara Dovenbarger

The California State University

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CALIFORNIA STATE UNIVERSITY,
SAN MARCOS

EMPLOYEE RELATIONS
AUDIT REPORT NO. 03-18

EMPLOYEE RELATIONS ADMINISTRATION

CAMPUS TRAINING

Recommendation 1

We recommend that the campus:

- a. Require employees (including part-time instructors) to attend campus orientation sessions.
- b. Enhance campus orientation activities to include discussions of sexual harassment and other employee relations policies.
- c. Provide clear instructions for filing complaints.
- d. Implement controls to ensure that faculty, including part-time instructors, attends campus sexual harassment training sessions.
- e. Develop and document a sexual harassment training plan that includes faculty (including part-time instructors) and non-management personnel.
- f. Develop a training plan for campus managers to ensure appropriate knowledge of campus policies and procedures for handling sexual harassment complaints, reconsideration requests, disciplinary actions, whistleblower disclosures, allegations of retaliation, and the protection of confidential employee information.

Campus Response

We concur with all recommendations. Specifically:

By April 7, 2004, the University will develop a plan for the implementation of an orientation program for staff, faculty, and managerial employees.

- b. By April 7, 2004, the revised orientation program will include the topics of Discrimination and Sexual Harassment, Confidentiality, Conflict of Interest/Ethics, Whistleblower Protection Act and other employee relations policies. The information will be presented in written format to provide employees with a continuing resource.

By April 7, 2004, the revised Discrimination and Sexual Harassment policy and procedure which contain detailed instructions for filing complaints will be published and disseminated to the campus community via the Official CSUSM Policies and Procedures website.

- d. By June 1, 2004, Academic Affairs will develop a plan that will require faculty attendance at campus sexual harassment training sessions.
- e. By July 7, 2004, the University will develop an educational plan for sexual harassment training for faculty and non-management personnel. The plan will address initial and ongoing training efforts in this area.
- f. Prior to the audit in August 2003, the University was in the process of developing a new orientation/training program for managers which would include an overview of federal and state laws, CSU and campus policies and procedures related to employee relations.

By May 7, 2004, the University will finalize the development of the managerial program. This program will include training modules on Discrimination and Sexual Harassment, Confidentiality, Conflict of Interest/Ethics, Whistleblower Disclosures, Allegation of Retaliation, Reconsideration requests, handling disciplinary actions and other employee relations topics.

INTER-CAMPUS COMMUNICATIONS

Recommendation 2

We recommend that the campus determine the appropriate method for communicating campus employee relations policies and as appropriate, review and revise the policy information in the official policies and procedures website to ensure complete, consistent information.

Campus Response

We concur. By April 7, 2004, the University will develop a procedure for communicating campus employee relations policies. The campus will be notified that official up-to-date employee relations policies will be posted on a campus website to ensure consistent, complete information.

UNION LEAVE

Recommendation 3

We recommend that the campus:

- a. Prepare invoices and obtain reimbursement from the CSEA, SETC, and SUPA for union leave that was given employees since June 2000.
- b. Develop campus procedures for handling union leave requests and obtaining reimbursements thereof, including monitoring controls to ensure timely billing and reimbursement of union leave.

Campus Response

We concur. Specifically:

- a. By April 7, 2004, the University will prepare and submit invoices to CSEA, SETC, and SUPA to obtain reimbursement for union release time granted to employees since June 2000, for which payment has not been received.
- b. By April 7, 2004, the University will develop campus procedures for handling union leave requests and billing the unions for reimbursable union leave.

COMPLAINTS AND RECONSIDERATION REQUESTS

SEXUAL HARASSMENT POLICY

Recommendation 4

We recommend that the campus finalize and distribute the revised sexual harassment policy.

Campus Response

We concur. By April 7, 2004 the University will publish and disseminate the revised Discrimination and Sexual Harassment policy to employees via the Official CSUSM Policies and Procedures website.

COMPLAINT PROCESSING

Recommendation 5

We recommend that the campus develop and document written procedures for the internal investigation and handling of informal and formal employee discrimination complaints, including the maintenance of complaint files.

Campus Response

We concur. By April 7, 2004 the Discrimination and Sexual Harassment policy and procedure which contains written procedures for filing, investigating, and handling informal and formal employee discrimination complaints, as well as complaint record-keeping and monitoring, will be disseminated to the campus via the Official CSUSM Policies and Procedures website.

PERFORMANCE MANAGEMENT

PERFORMANCE EVALUATIONS

Recommendation 6

We recommend that the campus implement effective monitoring controls to ensure that performance evaluations are performed for all represented and non-represented staff on a timely basis.

Campus Response

We concur. By April 7, 2004, the campus will develop and implement written procedures to ensure that annual and probationary evaluations for represented and non-represented employees are performed on a timely basis. This process will include notification to senior management of past-due performance evaluations from their respective supervisors.

DISCIPLINARY GUIDELINES

Recommendation 7

We recommend that the campus develop and publish campus specific progressive discipline guidelines for imposing formal discipline that include, but are not limited to, internal procedures for preparing and/or reviewing investigatory reports, handling disciplinary cases, and maintaining confidential information.

Campus Response

We concur. By July 7, 2004, the campus will develop and publish campus specific progressive discipline guidelines for disciplinary cases, and maintaining confidentiality of information and documents related to discipline.

WHISTLEBLOWER DISCLOSURES

Recommendation 8

We recommend that the campus:

- a. Develop and document procedures for handling whistleblower disclosures that reflect current practice and compliance with EO No. 821.
- b. Obtain approval for and publish the procedures for handling allegations of retaliation.

Campus Response

We concur with these recommendations. Specifically:

- a. The campus has developed a policy and procedure for handling whistleblower disclosures in

compliance with Executive Order No. 821 and by April 7, 2004 will publish this information for employees on the Official CSUSM Policies and Procedures website.

- b. The campus has developed and obtained approval for procedures for handling allegation of retaliation for filing whistleblower complaints and by April 7, 2004 will publish this information on the Official CSUSM Policies and Procedures website.

INFORMATION SECURITY

Recommendation 9

We recommend that the campus develop and document procedures regarding the protection of confidential employee data.

Campus Response

We concur. The campus will provide the Office of the University Auditor the recently developed procedure regarding the protection of confidential employee data. This procedure was disseminated to the Vice Presidents on September 9, 2003 for distribution to and discussion with employees. One training session on protecting confidential employee data and the University's confidentiality procedures was held on January 13, 2004 for managers. Additional sessions are being scheduled.

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR

BAKERSFIELD

March 4, 2004

CHANNEL ISLANDS

FICO

DOMINGUEZ HILLS

MEMORANDUM

FRESNO

FULLERTON

TO: Mr. Larry Mandel
University Auditor

HAYWARD

FROM: Charles B. Reed
Chancellor

HUMBOLDT

LONG BEACH

SUBJECT: Draft Final Report Number 03-18 on *Employee Relations*,
California State University, San Marcos

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

In response to your memorandum of March 4, 2004, I accept the response as
submitted with the draft final report on *Employee Relations*, California State
University, San Marcos.

NORTHRIDGE

POMONA

SACRAMENTO

CBR/bth

SAN BERNARDINO

Enclosure

SAN DIEGO

cc: Mr. Stephen G. Garcia, Chief Financial Officer and
Vice President, Finance and Administrative Services
Dr. Karen S. Haynes, President

SAN FRANCISCO

SAN JOSE

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS