TITLE IX COMPLIANCE

CALIFORNIA STATE UNIVERSITY,
LOS ANGELES

Audit Report 12-21
July 25, 2012

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# CONTENTS

Executive Summary ...................................................................................................................................... 1

Introduction................................................................................................................................................... 2
  Background............................................................................................................................................... 2
  Purpose...................................................................................................................................................... 4
  Scope and Methodology............................................................................................................................ 5

## OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

Complaints Process....................................................................................................................................... 6
APPENDICES

APPENDIX A: Personnel Contacted
APPENDIX B: Campus Response
APPENDIX C: Chancellor’s Acceptance

ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>CSU</td>
<td>California State University</td>
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<tr>
<td>DCL</td>
<td>Dear Colleague Letter</td>
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<td>DOE</td>
<td>Department of Education</td>
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<td>EADA</td>
<td>Equity in Athletics Disclosure Act</td>
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<td>EO</td>
<td>Executive Order</td>
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<td>OCR</td>
<td>Office of Civil Rights</td>
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<td>OUA</td>
<td>Office of the University Auditor</td>
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<tr>
<td>VSM</td>
<td>Voluntary Self-Monitoring (Report)</td>
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EXECUTIVE SUMMARY

As a result of a systemwide risk assessment conducted by the Office of the University Auditor (OUA) during the last quarter of 2011, the Board of Trustees, at its January 2012 meeting, directed that Title IX Compliance be reviewed. The OUA had previously reviewed Title IX Compliance in 1982.

We visited the California State University, Los Angeles campus from May 21, 2012, through June 22, 2012, and audited the procedures in effect at that time.

Our study and evaluation did not reveal any significant internal control problems or weaknesses that would be considered pervasive in their effects on Title IX compliance activities. However, we did identify other reportable weaknesses that are described in the executive summary and body of this report. In our opinion, the operational and administrative controls for Title IX compliance activities in effect as of June 22, 2012, taken as a whole, were sufficient to meet the objectives stated in the “Purpose” section of this report.

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

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

COMPLAINTS PROCESS [6]

Title IX complaints were not always monitored by the Title IX coordinator.
INTRODUCTION

BACKGROUND

In 1972, Congress passed Title IX of the Education Amendments to the Civil Rights Act of 1964, prohibiting discrimination on the basis of sex in all federally assisted educational programs and activities. Title IX states: “No person in the United States shall, on the basis of sex, be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

Title IX provides legal protection against gender-based discrimination for both students and employees and, with some exceptions, covers all aspects of educational programs and activities that receive federal funds. This includes admissions, access to programs and courses, counseling and guidance, housing, financial assistance, employment, and athletics, among other areas.

Regulations implementing Title IX were issued in 1975 by the Department of Health, Education and Welfare and were codified in Code of Federal Regulations, Title 34, Part 106. High schools and colleges had three years to comply with the implementing regulations. When the Department of Education (DOE) was established in 1980, primary oversight for Title IX compliance was transferred to the department’s Office of Civil Rights (OCR). Then, in 1994, Congress passed the Equity in Athletics Disclosure Act (EADA), requiring federally assisted, co-educational institutions of higher education to annually report information on the gender breakdown of their intercollegiate athletic programs to the DOE.

In addition to specific legislation, federal policy materials and case law influence how Title IX laws are interpreted and applied. Recent policy materials have focused on bullying and sexual harassment in the education environment. On October 26, 2010, OCR issued a Dear Colleague Letter (DCL) discussing how bullying could result in discriminatory harassment that could trigger Title IX responsibilities. On April 4, 2011, OCR issued a DCL discussing sexual harassment and sexual violence in the educational environment and schools’ responsibilities under Title IX to investigate and respond to these types of incidents.

The California State University (CSU) is committed to creating an atmosphere where all individuals can work and study free of unlawful discrimination. A number of CSU policies address Title IX issues relating to discrimination and harassment.

Executive Order (EO) 883, Systemwide Guidelines for Nondiscrimination and Affirmative Action Programs in Employment, dated October 31, 2003, discusses the requirement for each campus to develop and implement nondiscrimination policies and affirmative action programs in employment.

EO 927, Systemwide Policy Prohibiting Harassment in Employment and Retaliation for Reporting Harassment or Participation in a Harassment Investigation, dated January 6, 2005, and EO 928, Systemwide Complaint Procedure for Discrimination, Harassment and Retaliation Complaints for Employees, dated January 6, 2005, provide grievance procedures for employees, employee applicants, and independent contractors who believe they have been subjected to harassment. These policies also prohibit retaliation against any such individuals for reporting harassment or participating in a harassment investigation.
EO 993, *Implementation of the “California Campus Blueprint to Address Sexual Assault” and other Sexual Assault Legislation*, dated October 23, 2006, discusses the requirement for campuses to have a sexual assault policy, a plan to prevent sexual assaults, and education and prevention programs relating to sexual assault. This was expanded and superseded by EO 1072, *Implementation of Title IX of the Education Amendments of 1972 and Related Sexual Harassment/Violence Legislation for CSU Students*, dated April 6, 2012, which provided additional legislative requirements specific to Title IX. These include the requirement to post a Title IX notice of nondiscrimination, designate a Title IX coordinator, and adopt and publish complaint procedures for sexual discrimination, harassment, and violence complaints.

EO 1043, *Student Conduct Procedures*, dated August 3, 2009, discusses the complaint and investigation process for students who violate the student conduct code. Violations of the student conduct code, such as intimidation, harassment, or sexual misconduct, may trigger Title IX responsibilities.

EO 1045, *Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Applicants for Admission and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students and Applicants for Admission Against the CSU and/or CSU Employees*, dated March 1, 2010, addresses complaint and grievance procedures for students and applicants for admission who believe they have been subjected to discrimination, harassment, or retaliation.

EO 1043 and EO 1045 were superseded by EO 1073, *Student Conduct Procedures*, and EO 1074, *Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students*, respectively, on April 6, 2012. The revised policies were issued in response to the April 2011 DCL issued by OCR relating to sexual harassment and assault. They streamlined the complaint and investigation process for student complaints relating to discrimination, harassment, and retaliation and provided for all student complaints of this nature to be processed in accordance with the policy and procedures stated in EO 1074.

The CSU also voluntarily monitors gender equity in its athletics programs through the *Voluntary Self-Monitoring Report Regarding Equal Opportunity in Athletics for Women Students* (VSM). The origins of this report, which is published on an annual basis, stem from a 1993 consent decree between the CSU and the California National Organization for Women that required the CSU to increase female student participation in intercollegiate athletics, expenditures for women’s athletics programs, and grants-in-aid for female student athletes. After the consent decree was satisfied in 2000, the chancellor and CSU presidents decided to voluntarily continue to report on and monitor progress in these areas. Although the VSM and its goals are not specifically tied to Title IX, they demonstrate the CSU’s commitment to providing equal athletic opportunities for members of both sexes.
PURPOSE

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

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

- Administration of Title IX compliance is well-defined and includes clear lines of organizational authority and responsibility and documented delegations of authority.
- Processes and procedures ensure timely and effective notification and communication of Title IX legislation and CSU policies and directives.
- Individuals and campus areas involved in Title IX coordination, complaints, and investigations are appropriately trained and aware of their roles and responsibilities.
- Policies and procedures pursuant to Title IX are current and comprehensive, and distribution procedures are effective.
- Processes and procedures exist to ensure timely and adequate response to complaints from the OCR and other external entities.
- The processing of complaints and grievances ensures timely and adequate resolution of issues related to Title IX.
- Coordination and communication between campus departments and law enforcement personnel relating to Title IX incidents is adequate.
- Confidential hardcopy and system information assets, such as information pertaining to Title IX complaints and investigations, are reasonably secure.
- Management and oversight of athletics provides an adequate control environment for Title IX compliance.
- Data reported in the EADA report is accurate and can be supported by the campus.
- Campus controls provide reasonable assurance that the athletic interests and abilities of students of both sexes are effectively accommodated, that athletic scholarships are awarded on an equitable basis, and that the provision and maintenance of locker rooms and practice/competitive facilities are equitable.
**SCOPE AND METHODOLOGY**

The proposed scope of the audit as presented in Attachment A, Audit Agenda Item 2 of the January 24 and 25, 2012, meeting of the Committee on Audit stated that *Title IX Compliance* includes compliance with federal, state, and local rules and regulations that relate to the Education Amendments of 1972. Proposed audit scope would include, but was not limited to, review of compliance with federal and state laws, Trustee policy, systemwide directives, and campus policies and procedures; roles and responsibilities of Title IX coordinators; Title IX notification requirements; grievance and complaint procedures for students, faculty, staff, and third parties; testing of campus efforts to investigate and resolve complaints; processes to monitor and report gender equity in campus programs, including athletics; collection, analysis, and reporting of campus statistics; and protection of sensitive and confidential information.

Our study and evaluation were conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors and included the audit tests we considered necessary in determining whether operational and administrative controls are in place and operative. This review emphasized, but was not limited to, compliance with Board of Trustee policies and Office of the Chancellor and campus policies, letters, and directives. The audit focused on procedures in effect from January 1, 2010, through June 22, 2012.

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

- The campus framework for Title IX compliance, including designation of a Title IX coordinator, notice of nondiscrimination, and published grievance procedures.
- Qualifications of employees involved in the Title IX complaints process and campuswide training practices for Title IX issues.
- Resolution of student complaints and grievances related to discrimination, harassment, and retaliation.
- Coordination and communication with campus law enforcement personnel when Title IX violations involve a criminal complaint.
- Safeguards to secure confidential information pertaining to Title IX complaints and investigations.
- Management and oversight mechanisms to monitor gender equity in intercollegiate athletics.
- Accuracy of information reported in the EADA and the CSU VSM reports.
- Campus controls to provide reasonable assurance that athletic participation opportunities, financial aid, and locker rooms and facilities are provided in an equitable manner.
COMPLAINTS PROCESS

Title IX complaints were not always monitored by the Title IX coordinator.

We reviewed ten student complaint files from student judicial affairs and found that there was no documentation to demonstrate that the Title IX coordinator was made aware of the Title IX complaints received and investigated by student judicial affairs, and the complaint log maintained by the Title IX coordinator did not include such complaints.

Code of Federal Regulations Title 34, Part 106, Nondiscrimination on the Basis of Sex in Education Programs or Activates Receiving Federal Financial Assistance, §106.8 states that each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part.

Office of Civil Rights Dear Colleague Letter dated April 4, 2011, states that the Title IX coordinator’s responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. If a recipient designates more than one Title IX coordinator, the notice should describe each coordinator’s responsibilities (e.g., who will handle complaints by students, faculty, and other employees). The recipient should designate one coordinator as having ultimate oversight responsibility, and the other coordinators should have titles clearly showing that they are in a deputy or supporting role to the senior coordinator.

California State University, Los Angeles Administrative Procedure 394, Policy and Complaint Procedure for Discrimination, Harassment, and Retaliation for Applicants, Students, and Independent Contractors, dated June 30, 2011, states that the equity and diversity specialist shall be designated to receive harassment complaints. The office of equity and diversity must also maintain a confidential file of all documentation at the end of the investigation and following corrective action.

The vice president of administration and chief financial officer stated that the judicial affairs officer verbally notified and discussed the cases with the Title IX coordinator.

Failure to identify and communicate Title IX complaints to the Title IX coordinator increases the risk that the Title IX coordinator will be unaware of discrimination, harassment, or retaliation incidents occurring on campus, and failure to maintain documentation relating to the investigation of student complaints increases the risk of misunderstandings in expectations and responsibilities relating to these tasks.
Recommendation 1

We recommend that the campus document the communication of Title IX student complaints received and investigated by student judicial affairs to the Title IX coordinator, and ensure that all such complaints are included in the complaint log maintained by the Title IX coordinator.

Campus Response

Procedures were formalized and distributed in July 2012. This ensures that Title IX student complaints communication between student judicial affairs and the Title IX coordinator is in writing and that such complaints are included in the complaint log maintained by the Title IX coordinator.
## APPENDIX A:
### PERSONNEL CONTACTED

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
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<tbody>
<tr>
<td>James M. Rosser</td>
<td>President</td>
</tr>
<tr>
<td>Jonathan Avalos</td>
<td>Crime Prevention Coordinator, University Police</td>
</tr>
<tr>
<td>Dan Bridges</td>
<td>Athletic Director</td>
</tr>
<tr>
<td>Jennifer Celaya-Davis</td>
<td>Director, Student Development and Programs</td>
</tr>
<tr>
<td>Lisa Chavez</td>
<td>Vice President, Administration and Chief Financial Officer</td>
</tr>
<tr>
<td>Stephen Fleischer</td>
<td>Director, Housing Services</td>
</tr>
<tr>
<td>Joanna Gaspar</td>
<td>Senior Health Educator, Student Health Services</td>
</tr>
<tr>
<td>Letycia Gomez</td>
<td>Judicial Affairs Officer</td>
</tr>
<tr>
<td>Tanya Ho</td>
<td>University Internal Auditor</td>
</tr>
<tr>
<td>Sheila Hudson</td>
<td>Associate Athletic Director</td>
</tr>
<tr>
<td>Monica Jazzabi</td>
<td>Director and Medical Chief of Staff, Student Health Services</td>
</tr>
<tr>
<td>Lizette Juarez</td>
<td>Administrative Service Manager, University Police</td>
</tr>
<tr>
<td>Philip LaPolt</td>
<td>Acting Assistant Vice President for Academic Affairs, Academic Personnel</td>
</tr>
<tr>
<td>Rafael Navarro</td>
<td>Athletics Business Manager</td>
</tr>
<tr>
<td>Rebecca Palmer</td>
<td>Assistant Director for Residence Life, Housing Services</td>
</tr>
<tr>
<td>Sal Rodriguez</td>
<td>Senior Auditor</td>
</tr>
<tr>
<td>Lisa Sanchez</td>
<td>Assistant Vice President, Human Resources Management and Interim Title IX Coordinator</td>
</tr>
<tr>
<td>Nancy Wada-McKee</td>
<td>Assistant Vice President, Student Affairs</td>
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August 21, 2012

Mr. Larry Mandel, University Auditor
Office of the University Auditor
Office of the Chancellor – The California State University
401 Golden Shore, 4th Floor
Long Beach, CA 90802-4210

Re: University’s Response to Recommendations Contained in Report Number 12-21, Title IX Compliance

Dear Mr. Mandel:

Attached are the University’s responses to the recommendations contained in Report Number 12-21, Title IX Compliance audit.

Please contact Tanya Ho, University Internal Auditor, at (323) 343-5102, if you wish to discuss the matter contained herein.

Sincerely,

[Signature]

James M. Rosser
President

Attachment

cc: (with attachments)
   Lisa Chavez, Vice President for Administration and Chief Financial Officer
   Tanya Ho, University Internal Auditor
   Jill Carnahan, Administrative Compliance Officer
COMPLAINTS PROCESS

Recommendation 1

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September 6, 2012

MEMORANDUM

TO: Mr. Larry Mandel
     University Auditor

FROM: Charles B. Reed
       Chancellor

SUBJECT: Draft Final Report 12-21 on Title IX Compliance,
         California State University, Los Angeles

In response to your memorandum of September 6, 2012, I accept the response
as submitted with the draft final report on Title IX Compliance, California State
University, Los Angeles.

CBR/amd