CONTENTS

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

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

OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

General Environment .................................................................................................................................... 6
  Delegations of Authority ........................................................................................................................... 6
  Nondiscrimination Notification ................................................................................................................. 8
CONTENTS

APPENDICES

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

ABBREVIATIONS

CSU    California State University
DCL    Dear Colleague Letter
DOE    Department of Education
EADA   Equity in Athletics Disclosure Act
EO     Executive Order
MPP    Management Personnel Plan
OCR    Office of Civil Rights
OUA    Office of the University Auditor
VSM    Voluntary Self-Monitoring (Report)
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, San Marcos campus from July 16, 2012, through August 17, 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 August 17, 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.

GENERAL ENVIRONMENT [6]

Campus delegations of authority were not always documented. In addition, campus nondiscrimination notifications did not always include the name or title and contact information for the Title IX coordinator, and the campus did not distribute information on Executive Order 928 to employees on an annual basis.
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.
INTRODUCTION

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 August 17, 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.
OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

GENERAL ENVIRONMENT

DELEGATIONS OF AUTHORITY

Campus delegations of authority were not always documented.

We found that written delegation letters were not available for the following roles related to Title IX:

- The campus administrator responsible for implementing systemwide policy prohibiting harassment in employment and retaliation for reporting harassment or participating in a harassment investigation.
- The individuals responsible for receiving and investigating harassment complaints from employees.
- The management personnel plan (MPP) employee responsible for implementation of, and compliance with, California State University (CSU) discrimination, harassment, and retaliation policies for students and applicants.
- The employees designated to receive discrimination, harassment, and retaliation complaints from students and applicants.

Executive Order (EO) 927, *Systemwide Policy Prohibiting Harassment in Employment and Retaliation for Reporting Harassment or Participation in a Harassment Investigation*, dated January 6, 2005, states that the president or designee shall be responsible for implementing this systemwide policy at each campus. It further states that the president or designee shall designate the individuals responsible for receiving and investigating complaints of harassment on the campus.

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 January 27, 2010, states that each campus president shall designate an MPP employee who shall be responsible for the implementation of, and compliance with, this EO. It further states that each campus shall designate specific employees to receive complaints filed against the CSU and/or CSU employees under this EO.

The assistant vice president of administration stated that the campus designated one MPP employee to be responsible for compliance with EO 1045 and to serve as the Title IX coordinator, but did not issue formal delegation letters due to oversight. The director of human resources and equal opportunity stated her belief that the campus’s generic delegation of authority letter applies to the delegations required in EO 927. She further stated that a policy statement in the campus’ affirmative action plan, which is signed by the president, states that the responsibility for ensuring that equal employment opportunity policies are adhered to has been assigned to the director of human resources and equal opportunity. In addition, she stated that the campus website prominently displays which MPP
employee is responsible for handling complaints for each different employee and non-employee group, and she stated her belief that a separate delegation of authority was not necessary because this information was publicized on the website.

Failure to maintain complete and current delegations of authority relating to Title IX duties increases the risk that personnel lacking the proper qualifications will perform sensitive tasks relating to complaints and investigations, as well as the risk of misunderstandings in expectations and responsibilities relating to these tasks.

**Recommendation 1**

We recommend that the campus document delegation of authority for:

a. The campus administrator responsible for implementing systemwide policy prohibiting harassment in employment and retaliation for reporting harassment or participating in a harassment investigation.

b. The individuals responsible for receiving and investigating harassment complaints from employees.

c. The MPP employee responsible for implementation of, and compliance with, CSU discrimination, harassment, and retaliation policies for students and applicants.

d. The employees designated to receive discrimination, harassment, and retaliation complaints from students and applicants.

**Campus Response**

We concur. The campus will document delegation of authority for:

a. The campus administrator responsible for implementing systemwide policy addressing harassment and retaliation.

b. The individuals responsible for receiving and investigating harassment complaints from employees.

c. The MPP employee responsible for implementation of, and compliance with, CSU discrimination, harassment, and retaliation policies for students and applicants.

d. The employees designated to receive discrimination, harassment, and retaliation complaints from students and applicants.

Anticipated completion date: February 15, 2013
NONDISCRIMINATION NOTIFICATION

Campus nondiscrimination notifications were incomplete.

We found that:

- The statements of nondiscrimination that the campus had published in various areas did not always include the name or title and contact information of the campus Title IX coordinator.
- The campus did not distribute information on EO 928 to employees on an annual basis.

Code of Federal Regulations, Title 34, Part 106, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, §106.9 states that (a) each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students, and employees that it does not discriminate on the basis of sex in the educational program or activity which it operates. Such notification shall state at least that the requirement not to discriminate extends to employment and to admission, and that inquiries concerning the application of Title IX can be referred to the employee designated as the Title IX coordinator or to the assistant secretary. It further states that (b) each recipient shall prominently include a statement of the policy described in paragraph (a) in each announcement, bulletin, catalog, or application form that is used in connection with the recruitment of students or employees.

Office of Civil Rights (OCR) Dear Colleague Letter dated April 4, 2011, states that the Title IX regulations require that each recipient publish a notice of nondiscrimination stating that the recipient does not discriminate on the basis of sex in its education programs and activities, and that Title IX requires it not to discriminate in such a manner. The notice must state that inquiries concerning the application of Title IX may be referred to the recipient’s Title IX coordinator or to OCR. It should include the name or title, office address, telephone number, and email address for the recipient’s designated Title IX coordinator. The notice must be widely distributed to all students, employees, applicants for admission and employment, and other relevant persons.

EO 928, Systemwide Complaint Procedure for Discrimination, Harassment, and Retaliation Complaints for Employees Not Eligible to File a Complaint or Grievance Under a Collective Bargaining Agreement or Whose Collective Bargaining Agreement Incorporates CSU Systemwide Complaint Procedure states that campuses shall distribute information on EO 928 to employees on an annual basis.

The assistant vice president of administration stated that the campus statements of nondiscrimination included the name and title of the MPP employee responsible to receive EO 1045 complaints, but the campus was unaware of the need to include the Title IX coordinator designation in addition to the name and contact information of the employee. The director of human resources and equal opportunity stated her belief that the continuous posting of EO 928 on the human resources and equal opportunity website under the Equal Employment Opportunity section met the requirement to post and distribute the policy on an annual basis.
Failure to include contact information for the Title IX coordinator in campus nondiscrimination statements and failure to distribute required materials on nondiscrimination to new employees increases the risk of non-compliance with CSU and campus nondiscrimination and harassment policies and with federal and state regulations.

**Recommendation 2**

We recommend that the campus:

a. Include the name or title and contact information of the campus Title IX coordinator in all published statements of nondiscrimination.

b. Distribute information on EO 928 to employees on an annual basis.

**Campus Response**

We concur. We will include the name or title and contact information of the campus Title IX coordinator in all published statements of nondiscrimination. Human Resources and Equal Opportunity will send out information on EO 928 to all employees by January 31, 2013, and every January thereafter.

Anticipated completion date: February 15, 2013
### APPENDIX A:
### PERSONNEL CONTACTED

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Karen S. Haynes</td>
<td>President</td>
</tr>
<tr>
<td>Bridget Blanshan</td>
<td>Dean of Students and Associate Vice President for Student Development Services</td>
</tr>
<tr>
<td>Lea Burgess-Carland</td>
<td>Director, Gender Equity Center</td>
</tr>
<tr>
<td>Ellen Cardoso</td>
<td>Director, Human Resources and Equal Opportunity</td>
</tr>
<tr>
<td>Marvin Castillo</td>
<td>Senior Labor and Employee Relations Manager, Human Resources and Equal Opportunity</td>
</tr>
<tr>
<td>Matt Ceppi</td>
<td>Chief of Staff, Office of the President</td>
</tr>
<tr>
<td>Linda Colker</td>
<td>Internal Operations Coordinator, Athletics</td>
</tr>
<tr>
<td>Sara Gallegos</td>
<td>Associate Executive Director, Associated Students, Inc.</td>
</tr>
<tr>
<td>Linda Hawk</td>
<td>Vice President, Finance and Administrative Services</td>
</tr>
<tr>
<td>Julie Mattingly</td>
<td>Associate Director, Student Life and Leadership</td>
</tr>
<tr>
<td>Robert McManus</td>
<td>Interim Chief, University Police Department</td>
</tr>
<tr>
<td>Douglass Miller</td>
<td>Interim Chief, University Police Department</td>
</tr>
<tr>
<td>Jennifer Milo</td>
<td>Director of Athletics</td>
</tr>
<tr>
<td>Dilcie Perez</td>
<td>Associate Dean of Co-Curricular Education</td>
</tr>
<tr>
<td>Janet Powell</td>
<td>Associate Vice President, Office of Faculty Affairs</td>
</tr>
<tr>
<td>Katy Rees</td>
<td>Assistant Vice President of Administration</td>
</tr>
<tr>
<td>Crystal Smith</td>
<td>Resource and Operations Analyst, Office of the President</td>
</tr>
<tr>
<td>Todd Snedden</td>
<td>Associate Athletic Director</td>
</tr>
<tr>
<td>Eloise Stiglitz</td>
<td>Vice President, Student Affairs</td>
</tr>
<tr>
<td>Gregory Toya</td>
<td>Associate Dean of Students</td>
</tr>
<tr>
<td>Lynn Wellborn</td>
<td>Advancement Services Coordinator</td>
</tr>
<tr>
<td>Sara Wibe-Norris</td>
<td>Director, University Village Apartments</td>
</tr>
</tbody>
</table>
November 2, 2012

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

Subject: Campus Response to Audit Report 12-22, Title IX  
California State University San Marcos

Dear Mr. Mandel:

Enclosed is our campus response to the two recommendations in Audit Report 12-22, Title IX. We anticipate sending our supporting evidence no later than February 15, 2013.

Please let us know if you have any questions or need additional information.

Sincerely,

Linda Hawk  
Vice President  
Finance and Administrative Services

Attachment

cc: President Karen S. Haynes
GENERAL ENVIRONMENT

DELEGATIONS OF AUTHORITY

Recommendation 1

We recommend that the campus document delegation of authority for:

a. The campus administrator responsible for implementing systemwide policy prohibiting harassment in employment and retaliation for reporting harassment or participating in a harassment investigation.

b. The individuals responsible for receiving and investigating harassment complaints from employees.

c. The MPP employee responsible for implementation of, and compliance with, CSU discrimination, harassment, and retaliation policies for students and applicants.

d. The employees designated to receive discrimination, harassment, and retaliation complaints from students and applicants.

Campus Response

We concur. The campus will document delegation of authority for:

a. The campus administrator responsible for implementing systemwide policy addressing harassment and retaliation.

b. The individuals responsible for receiving and investigating harassment complaints from employees.

c. The MPP employee responsible for implementation of, and compliance with CSU discrimination, harassment, and retaliation policies for students and applicants.

d. The employees designated to receive discrimination, harassment, and retaliation complaints from students and applicants.

Anticipated completion date: February 15, 2013
NONDISCRIMINATION NOTIFICATION

Recommendation 2

We recommend that the campus:

a. Include the name or title and contact information of the campus Title IX coordinator in all published statements of nondiscrimination.

b. Distribute information on EO 928 to employees on an annual basis.

Campus Response

We concur. We will include the name or title and contact information of the campus Title IX coordinator in all published statements of nondiscrimination.

HREO will send out information on EO 928 to all employees by January 31, 2013 and every January thereafter.

Anticipated completion date: February 15, 2013
November 14, 2012

MEMORANDUM

TO: Mr. Larry Mandel  
   University Auditor

FROM: Charles B. Reed  
      Chancellor

SUBJECT: Draft Final Report 12-22 on Title IX Compliance,  
         California State University, San Marcos

In response to your memorandum of November 14, 2012, I accept the response as submitted with the draft final report on Title IX Compliance, California State University, San Marcos.

CBR/amd