AMERICANS WITH DISABILITIES ACT COMPLIANCE

CALIFORNIA STATE UNIVERSITY,
LOS ANGELES

Audit Report 11-45
August 23, 2011

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ABBREVIATIONS

AA  Academic Affairs
ADA  Americans With Disabilities Act
ATI  Accessible Technology Initiative
CSU  California State University
EO   Executive Order
OSD  Office for Students with Disabilities
EXECUTIVE SUMMARY

As a result of a systemwide risk assessment conducted by the Office of the University Auditor during the last quarter of 2010, the Board of Trustees, at its January 2011 meeting, directed that Americans with Disabilities Act (ADA) Compliance be reviewed. The Office of the University Auditor had previously reviewed ADA activities as part of the 2002 audits of Disability Support and Accommodations at ten campuses.

We visited the California State University, Los Angeles campus from May 23, 2011, through June 17, 2011, and audited the procedures in effect at that time.

Our study and evaluation revealed certain conditions that, in our opinion, could result in significant errors and irregularities if not corrected. Specifically, the campus did not maintain adequate internal control over the following areas: the advisory committee for services to students with disabilities, program and physical accessibility and employee qualifications and training. These conditions, along with other weaknesses, are described in the executive summary and body of this report. In our opinion, except for the effect of the weaknesses described above, the operational and administrative controls for ADA activities in effect as of June 17, 2011, taken as a whole, were sufficient to meet the objectives stated in the “Purpose” section of this report.

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

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

GENERAL ENVIRONMENT [7]

The campus had suspended meetings of the President’s Committee on Disability, the established forum for discussing services for students with disabilities.

PROGRAM AND PHYSICAL ACCESSIBILITY [7]

The campus had an outdated Americans with Disabilities Act transition plan and had not formalized procedures for identifying and prioritizing physical accessibility projects.

EMPLOYEE QUALIFICATIONS AND TRAINING [8]

Students with disabilities were not given the opportunity to participate in the office for students with disabilities support staff selection process. In addition, the campus had not documented nondiscrimination refresher training topics for both faculty and staff beyond the affirmative action training provided during new hire orientation, nor had it developed a related training policy.
INTRODUCTION

BACKGROUND

In 1973, Congress adopted the Rehabilitation Act, prohibiting discrimination on the basis of disability and ensuring equal opportunity for people with disabilities at any federal agency, including any program or institution that receives federal funds. Section 504 of the Rehabilitation Act ensures certain civil rights for people with disabilities, including access to federally funded programs or activities. In June 1977, the federal government issued regulations implementing Section 504, and in response, California State University (CSU) campuses prepared self-evaluations identifying the steps that would ensure that students with disabilities had equal access to educational opportunities.

In March 1980, CSU developed a policy statement, the Policy for the Provision of Services to Students with Disabilities, that formalized the objectives of the Disabled Students Program: to increase the enrollment of students with disabilities in the total student population, and to facilitate their access to all educational programs. It also detailed program goals and objectives, definitions of disabilities, and support services to be offered. In 1980, the CSU Systemwide Advisory Committee on Services to Students with Disabilities was established. The Policy for the Provision of Services to Students with Disabilities was revised in 1989, in part to incorporate disability services identified in 1987’s Assembly Bill 746, State Funded Disabled Student Programs and Services.

In 1990, the federal government enacted the Americans with Disabilities Act (ADA), which reaffirmed Section 504 of the Rehabilitation Act of 1973 and extended the discrimination prohibition to businesses and organizations that do not receive federal funds. The ADA also detailed additional criteria in the areas of employment, new construction or renovation, transportation, and telecommunications; and for public entities that employ 50 or more people, it required the appointment of an ADA coordinator, a self-evaluation, and a transition plan to itemize compliance steps.

In August 1998, President Bill Clinton signed into law the Rehabilitation Act Amendments of 1998. Among other things, the law requires federally funded programs and services to provide people with disabilities access to electronic and information technology. It also strengthened Section 508 of the Rehabilitation Act, which was enacted to eliminate barriers in information technology, make new opportunities available for people with disabilities, and encourage development of technologies that will help achieve these goals. The law applies to all federal agencies, which must ensure that any electronic and information technology that is developed, procured, maintained, or used is accessible to employees and members of the public with disabilities. Section 508 also describes various means for disseminating information, including computers, software, and electronic office equipment. It applies to, but is not solely focused on, federal web pages on the Internet. The law does not apply to private industry or state and local government, but those entities must comply with the law if they are receiving federal funds or under contract with a federal agency. Government Code §11135 requires the CSU and other state governmental entities to comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended.
In 2004, the CSU implemented Executive Order 926, *Policy on Disability Support and Accommodations*, to make information technology resources and services accessible to all CSU students, faculty, and staff, as well as the general public. Concurrently, the CSU developed the Center for Accessible Media to help expedite the delivery of electronic instructional texts to eligible CSU students with disabilities. In January 2006, the CSU launched its Accessible Technology Initiative (ATI) in order to develop the work plan, guidance, and resources to assist campuses in carrying out the accessible technology provisions of its revised *Policy on Disability Support and Accommodations*. CSU ATI plans are continuously developing and were revised and extended through policy every year from 2007 to 2010 based on experiences reported by the campuses and the understanding that ATI requirements and milestones should be flexible, allowing campuses to follow different plans for accomplishing them. It is anticipated that ATI will continue to evolve as new needs are identified.

In September 2008, the ADA Amendments Act of 2008 was signed into law, and it became effective on January 1, 2009. The amendments clarified and reiterated who is covered by the law’s civil rights protections and revises the definition of “disability” to more broadly encompass impairments that substantially limit a major life activity. The amended language also states that mitigating measures, including assistive devices, auxiliary aids, accommodations, medical therapies, and supplies have no bearing in determining whether a disability qualifies under the law.
PURPOSE

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

Within the audit objective, specific goals included determining whether:

- Administration of ADA compliance incorporates a defined mission, stated goals and objectives, and clear lines of organizational authority and responsibility, as well as formation of an Advisory Committee on Services to Students with Disabilities, a standing committee on Disability Access and Compliance, and an ATI Steering Committee.

- Policies and procedures are current and comprehensive, and distribution procedures are effective.

- The adequacy of and satisfaction with the ADA program are consistently monitored and assessed.

- Campus notification and complaints processes ensure appropriate compliance with regulatory requirements, as well as timely and adequate resolution of noted disability-related issues.

- People and campus areas providing disabled student services possess the necessary qualifications and are appropriately trained and aware of their roles and responsibilities.

- Reasonable access and accommodations are provided to applicants and employees in compliance with Title I of the ADA, and student disability services comply with state law, as well as CSU and campus policies.

- Verification of disabilities is timely and adequately performed, and appropriate documentation is provided in compliance with CSU and campus policies.

- Disability information and records are properly maintained, safeguarded, and retained in accordance with state and federal regulations and CSU policy.

- Campus programs, services, and activities are readily accessible to all people, and auxiliary aids and other equipment for people with disabilities are properly maintained and safeguarded.

- Campus disaster and evacuation plans include evacuation procedures for people with disabilities.

- Budgeting procedures adequately address program funding and ensure effective accounting and management control, and grant funds are administered in compliance with sponsor agreements.

- Chargebacks for disability support services are complete and accurate, valued properly, and processed in a timely manner, and credit is received.
The campus has developed and documented an ATI implementation plan, including ongoing updates and monitoring through self-assessments.

Equally effective alternative access to programs and facilities is developed, documented, and communicated.

Procedures to ensure compliance with the accessible electronic and information technology procurement program are adequate.

Campus training for ATI is adequate.
SCOPE AND METHODOLOGY

The proposed scope of the audit as presented in Attachment A, Audit Agenda Item 2 of the January 25 and 26, 2011, meeting of the Committee on Audit stated that ADA compliance includes compliance with federal, state, and local rules and regulations that relate to the ADA of 1990 (Title 42). Of primary concern is appropriateness of systemwide guidance, management culture, facility specifications and accommodations, program access considerations, and compliance with reporting standards and requirements. Proposed audit scope would include review of Trustee policy, systemwide directives, and campus policies and procedures; examination of management compliance efforts; review of facility initial or modification design process; analysis of reported campus and systemwide statistics; and testing of reasonable accommodation efforts.

Our study and evaluation were conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors, and included the audit tests we considered necessary in determining that accounting 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 policies, letters, and directives. The audit focused on procedures in effect from July 1, 2008, through May 13, 2011.

A preliminary risk assessment of campus ADA compliance information was used to select for our audit testing those areas or activities with highest risk. This assessment was based upon a systematic process using management’s feedback and professional judgments on probable adverse conditions and other pertinent information, including prior audit history in this area. We sought to assign higher review priorities to activities with higher risks. As a result, not all risks identified were included within the scope of our review.

Based upon this assessment of risks, we specifically included within the scope of our review the following:

- Monitoring of the quality and effectiveness of campus ADA program services.
- Resolution of complaints and grievances relating to program and physical accessibility.
- Qualifications of services to students with disabilities staff and campuswide training practices.
- Provision of reasonable access and accommodations to applicants and employees.
- Verification of disabilities and providing (or declining) of services to students with disabilities.
- Maintenance and protection of disability information from unauthorized disclosure.
- Provision of programs, services, and activities that are readily accessible to disabled individuals.
- Administration of program and grant funds for ADA compliance.
- Processing and collection of chargebacks for ADA-related services provided to self-supporting operations.
- Recording, safeguarding, and maintenance of inventory for auxiliary aids and equipment.
- Ongoing updates and monitoring of the ATI implementation plan.
- Prioritization of ATI implementation tasks and plans.
- Development, documentation, and communication of equally effective alternative access.
- Adequacy of ATI training.
- Compliance with the accessible electronic and information technology procurement program.
OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

GENERAL ENVIRONMENT

The campus had suspended meetings of the President’s Committee on Disability, the established forum for discussing services for students with disabilities.

Executive Order (EO) 926, *The California State University Board of Trustees Policy on Disability Support and Accommodations*, dated December 20, 2004, states that each campus shall establish an advisory committee on services to students with disabilities to assist in evaluation of current campus policies and procedures relating to students with disabilities, develop plans relating to programs and services for students with disabilities, recommend priorities, review barrier removal priorities as specified in the State University Administrative Manual, and develop timelines as defined in each campus’ transition plan.

Coded Memorandum Academic Affairs (AA) 2009-27, *Policy for the Provision of Accommodations and Support to Students with Disabilities*, dated December 17, 2009, states that each campus shall establish an advisory committee on services to students with disabilities to assist in the evaluation of current campus policies relating to students with disabilities and to develop plans and recommend priorities relating to programs and services for students with disabilities.

The vice president for student affairs stated that the President’s Committee on Disability meetings were suspended at the time the Accessible Technology Initiative Steering Committee was formed in 2007, as there was significant overlap in membership and subject matter.

Failure to convene the President’s Committee on Disability meetings increases the risk that the campus will not identify accessibility issues for facilities and programs.

**Recommendation 1**

We recommend that the campus reconvene meetings of the President’s Committee on Disability.

**Campus Response**

We concur. The President’s Committee on Disability will reconvene by December 31, 2011.

PROGRAM AND PHYSICAL ACCESSIBILITY

The campus Americans with Disabilities Act (ADA) transition plan was outdated, and procedures for identifying and prioritizing physical accessibility projects had not been formalized.

EO 926 states that the California State University campus transition plans should be updated to reflect current campus conditions. With academic program and other physical changes that have occurred over time, the transition plan should mirror the current status of the campus and be used as a planning tool to evaluate and confirm program compliance and priority of outstanding needs; listed barriers
should be reviewed to assess if they a) have been removed/corrected, b) deny program access, or c) have no effect on program access.

Code of Federal Regulations Title 28, Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services, §150(d)(4) states that if a public entity has already complied with the transition plan requirement of a federal agency regulation implementing Section 504 of the Rehabilitation Act of 1973, then the requirements of this paragraph (d) shall apply only to those policies and practices that were not included in the previous transition plan.

The vice president of administration and chief financial officer stated that ADA-related projects were addressed as funding was identified, but that the original transition plan had not been formally updated to reflect progress, nor had updated procedures for prioritizing physical accessibility projects been developed because those tasks and projects had been completed informally rather than by a procedure.

Failure to maintain a current ADA transition plan and formal procedures for identifying and prioritizing physical accessibility projects increases the risk that the campus will not identify and remediate accessibility projects and exposes the campus to potential sanctions and litigation.

**Recommendation 2**

We recommend that the campus update its ADA transition plan and formalize procedures for identifying and prioritizing physical accessibility projects.

**Campus Response**

The ADA transition plan will be updated and we will formalize procedures for identifying and prioritizing physical accessibility projects by January 1, 2012.

**EMPLOYEE QUALIFICATIONS AND TRAINING**

**STAFF SELECTION PROCEDURES**

Students with disabilities were not given the opportunity to participate in the office for students with disabilities (OSD) support staff selection process.

AA-2009-27 states that the campus director or designee for the program for services to students with disabilities shall be responsible for the recruitment of an adequate pool of qualified persons to serve as interpreters, real-time captioners, readers, note takers, and similar support service personnel. Students with disabilities needing assistance of such persons shall have an opportunity to be involved in the selection process to determine their appropriateness and to ensure that the person under consideration has an adequate skill level. Education Code §67306 provides that students may select readers who are not on a director’s list, if a written request is filed.
The director of the OSD stated that she was unaware of the policy requirement stating that students with disabilities should have the opportunity to get involved in the selection process for accommodation service providers.

Failure to involve students with disabilities in the OSD support staff selection process increases the risk that the most qualified candidates will not always be selected.

Recommendation 3

We recommend that the campus give students with disabilities the opportunity to participate in the OSD support staff selection process.

Campus Response

We concur. Procedures will be developed by December 31, 2011, and in the future when a position is open in OSD, information will be disseminated to registered OSD students regarding the opportunity to participate in the OSD support staff selection process.

NONDISCRIMINATION REFRESHER TRAINING

The campus had not documented periodic refresher training in ADA nondiscrimination topics for faculty and staff beyond the affirmative action training provided during new hire orientation, nor had it developed a related training policy.

EO 883 states that training should cover, but is not limited to, the types of discrimination (including sexual harassment, racial, ethnic, national origin, sex, and disability discrimination), the methods of reporting discrimination, and the respective responsibilities of management and staff in reporting, investigating, and resolving discrimination complaints. It is recommended that training be provided to all new employees shortly after their start dates and periodically thereafter. It is further recommended that information contained in the training be made accessible for reference by current employees annually.

The assistant vice president of human resources management stated her belief that the nondiscrimination refresher training was not required because EO 883 says that the training is “recommended.” She also stated that the university president, on an annual basis, sends to all employees the campus policies affirming the university’s commitment to nondiscrimination and compliance with the ADA, as well as prohibition of sexual harassment.

Failure to document periodic refresher training in ADA nondiscrimination topics and maintain a related campus training policy increases the risk that employees will not be fully aware of ADA nondiscrimination procedures and requirements, thereby increasing the risk of litigation.

Recommendation 4

We recommend that the campus document periodic refresher training in ADA nondiscrimination topics for faculty and staff, and develop a related training policy.
Campus Response

The campus training policy will be updated by December 31, 2011, to address the periodic refresher training in ADA nondiscrimination topics.
## 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>
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<tr>
<td>Joseph M. Aguirre</td>
<td>Executive Director, University Student Union</td>
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<tr>
<td>David Black</td>
<td>PhD Student, Member of Accessible Technology Initiative Committee</td>
</tr>
<tr>
<td>Lisa Chavez</td>
<td>Vice President for Administration and Chief Financial Officer</td>
</tr>
<tr>
<td>Kimberly Clapp</td>
<td>Director of Office for Students with Disabilities</td>
</tr>
<tr>
<td>Maria Dolores Costa</td>
<td>Director of Faculty Development</td>
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<tr>
<td>Stephen Fleischer</td>
<td>Director of Housing Services</td>
</tr>
<tr>
<td>Jose L. Galvan</td>
<td>Dean, College of Extended Studies and International Programs</td>
</tr>
<tr>
<td>Tanya Ho</td>
<td>Internal Auditor</td>
</tr>
<tr>
<td>Michelle Jordan</td>
<td>Associate Director of Housing Services</td>
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<tr>
<td>Alice K. Kawakami</td>
<td>University Librarian</td>
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<tr>
<td>Gregory King</td>
<td>Director of Public Safety and University Police</td>
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<tr>
<td>Monica Martinez</td>
<td>Equity and Diversity Coordinator</td>
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<tr>
<td>Peter Quan</td>
<td>Vice President and Chief Technology Officer</td>
</tr>
<tr>
<td>Victor Quevedo</td>
<td>Information Technology Consultant</td>
</tr>
<tr>
<td>Sal Rodriguez</td>
<td>Senior Auditor</td>
</tr>
<tr>
<td>Anthony R. Ross</td>
<td>Vice President for Student Affairs</td>
</tr>
<tr>
<td>Romelia Salinas</td>
<td>Access Services Librarian</td>
</tr>
<tr>
<td>Lisa Sanchez</td>
<td>Assistant Vice President of Human Resources Management</td>
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<tr>
<td>Randy Sharp</td>
<td>Director of Facilities Services</td>
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<tr>
<td>Sylvia Velasquez</td>
<td>Library Facilities Coordinator</td>
</tr>
<tr>
<td>Matthew C. Warren</td>
<td>Fiscal Resource Manager, Office of the Vice President for Student Affairs</td>
</tr>
<tr>
<td>Holly Yu</td>
<td>Electronic Resources Coordinator</td>
</tr>
</tbody>
</table>
September 30, 2011

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 11-45
Americans with Disabilities Act Compliance

Dear Mr. Mandel:

Attached are the University’s responses to the recommendations contained in Report Number 11-45, Americans with Disabilities Act Compliance audit.

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

Sincerely,

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
AMERICANS WITH DISABILITIES ACT COMPLIANCE
CALIFORNIA STATE UNIVERSITY,
LOS ANGELES
Audit Report 11-45

GENERAL ENVIRONMENT

Recommendation 1

We recommend that the campus reconvene meetings of the President’s Committee on Disability.

Campus Response

We concur. The President’s Committee on Disability will reconvene by December 31, 2011.

PROGRAM AND PHYSICAL ACCESSIBILITY

Recommendation 2

We recommend that the campus update its ADA transition plan and formalize procedures for identifying and prioritizing physical accessibility projects.

Campus Response

The ADA transition plan will be updated and we will formalize procedures for identifying and prioritizing physical accessibility projects by January 1, 2012.

EMPLOYEE QUALIFICATIONS AND TRAINING

STAFF SELECTION PROCEDURES

Recommendation 3

We recommend that the campus give students with disabilities the opportunity to participate in the OSD support staff selection process.

Campus Response

We concur. Procedures will be developed by December 31, 2011, and in the future when a position is open in OSD, information will be disseminated to registered OSD students regarding the opportunity to participate in the OSD support staff selection process.

Page 1 of 2
NONDISCRIMINATION REFRESHER TRAINING

Recommendation 4

We recommend that the campus document periodic refresher training in ADA nondiscrimination topics for faculty and staff, and develop a related training policy.

Campus Response

Campus training policy will be updated by December 31, 2011, to address the periodic refresher training in ADA nondiscrimination topics.
October 26, 2011

**MEMORANDUM**

**TO:** Mr. Larry Mandel  
University Auditor

**FROM:** Charles B. Reed  
Chancellor

**SUBJECT:** Draft Final Report 11-45 on  
*Americans with Disabilities Act Compliance*  
California State University, Los Angeles

In response to your memorandum of October 26, 2011, I accept the response as submitted with the draft final report on *Americans with Disabilities Act Compliance*, California State University, Los Angeles.

CBR/amd